

Mowing & Haying in the State Right of Way

Stakeholder Group

District 7: Mankato MnDOT, Northwoods and River Center Rooms

2151 Bassett Drive, Mankato, MN

November 15, from 9:00 a.m. to 1:30 p.m.

Meeting Notes

In attendance: Jennifer Berquam, Cole Rupperecht, Thom Petersen, Don Arnosti, Eran Sandquist, Major Jeff Huetl, Krist Wollum, Nancy Daubenberger, Cori Calhoun, Dan MacSwain, Bob Meier, Joe Smentek, Craig Mcdonnell, Erin Rupp, Gary Pedersen, Angela Fortsythe

Charlie Peterson welcomed the group and led introductions.

Listening sessions update:

The stakeholder group discussed themes from the listening sessions:

Crookston themes included: beautification aspect of mowing, the potential costs of mowing to the state, concerns regarding fire prevention related to cat tails, safety related to deer visibility in cat tails, questions regarding enforcement, the desire to have forage removed from ditch to help with drainage, a desire to mow in July and August, the Roadsides for Wildlife Program, concerns regarding the prevalence of noxious weeds and concerns regarding the permit specifying the height of the cut.

St. Cloud themes included: Deer on the roadways, lack of historical enforcement of permit requirement, cost concerns related to taxes, timeliness of cutting (citizens cut when they have available time), garbage in the roadway, citizens desire to maintain the Right of Way (removal of garbage in addition to mowing/haying), concerns regarding cost of permit, August mowing dates, and insurance requirements.

Marshall themes included: Land rights/ownership, mowing shows pride in the land, desire for flexible or earlier mowing dates, noxious weed concerns, safety related to deer/other wildlife, desire for an electronic permit, desire for a permit lasting more than one year, request for public notice of spraying, desire to coordinate safety cuts with MnDOT permit staff, reports of no visible pheasants in the ditches.

Mankato themes included: Desire for consistency in permit process (require permits for anyone who mows/hays), inquiry regarding how township and county roads will be permitted and enforced, noxious weed concerns, land ownership, concerns about the quality of hay in August, need for habitat/green space, questions regarding who will enforce permits, requests to change the dates (graduated date system), suggestions for a simpler permit or no permit for adjacent property owners, inquiry about the Roadsides for Wildlife program, and concerns regarding permit specifying the height of the cut.

Sharing out of what you want to know and what you think others need to know

Logistics of Mowing and Haying

Krist Wollum volunteered to share information regarding the process of mowing and haying in response to the activity from the October 18th meeting where stakeholders identified what they want to know and what they want others to know. Note: Krist allowed for questions throughout his sharing. For the sake of clarity, questions and comments are listed below the talking points he shared.

Krist shared that he felt 95% of landowners either mow their own ditch or know who is mowing it. In his area, you don't do something without asking. He suggested that if MnDOT needs to know who is mowing, they could look at a plat book and call the landowner or ask a neighbor. He shared that he is the fourth generation living on his farm, and his family has been caring for ditches for many years. He expressed a desire to have their history and knowledge honored in this process.

Krist shared about what is required to mow ditches. In order to meet MnDOT's requirement, [farmers] would have to replace equipment or add items, which adds cost, anger, and confusion. Ditches are the most expensive feed. All ditches are different and require different equipment. Generally speaking, it requires a tractor, cutting equipment of different types/sizes (9 foot, 16 foot, which doesn't fall within the 15 foot limit), rake, baler, truck/trailer, and manpower. A rotary mower can range from 7-9 feet and a hay bine, which is towed behind a tractor, may be 12-16 feet wide. The depth and height of your equipment can be adjusted on most mowers, but as a farmer travels the ditches, the equipment will bounce up and down so it is hard to get a consistent height. Five to six inches is a realistic height for the equipment, as a higher height can make it difficult to rake out.

Krist explained that most people harvesting for feed stay close to home. Landowners take pride in the roadsides and clean up litter in spring as they don't want foreign material to hurt livestock. People who live along the highways take care of ditches because don't want a pop can in the bale. In regards to property rights, property owners feel like they own ditches, and want them to look good so they take care of them. If property owners don't take care of them, who will? A land owner may also use mowing/haying to find out if there's a problem in the ditch, such as holes, ruts, and new trees. Other group members shared that there's a higher risk of mowing later in the season because you can't see hazards in the ditch. If metal goes through a mower, it's a big safety concern. Roadkill or dead animals in the ditch can lead to botulism toxicity in the hay bale. Krist expressed support for the fact that people who apply for a permit are expected to mow/hay the ditch.

Krist shared that every farmer is different and will mow at different times due to a variety of factors. Krist mows when spring fieldwork is done. Weather is a big factor in mowing, as you need a window of clear weather. It takes about 5 days from when you start to when you finish mowing, plus a few more days to remove the bales. The time required to mow and hay can vary a lot depending on humidity. A farmer may not know in advance if it will be high, which may slow things down. It's a slow process – four to five miles a day is a big day. Could take many days to do the cut over several miles. Then a farmer would need to dry, rake, bale, and remove. Grass requires three days or more to dry, and then you move to raking and baling. Krist felt the middle of June would be the optimal time for quality of hay, as the feed quality diminishes every week after the middle of June, and livestock owners want quality hay to feed for livestock. Krist felt that if August is the only allowable time for mowing, everyone will mow/hay starting on August 1st, as the window to get it done is short. In August, farmers also need to apply fertilizers and work on small grain. In June/July, farmers would have more time to take care

of mowing and haying. Krist felt that staggering dates across different regions of the state would provide a better opportunity for pollinators to move back and forth.

Krist ended his sharing by saying that if MnDOT needs to know who is cutting, call the landowner. Good producers take care of the ditch because they'll be doing it again next year. A rut in the ditch is a hassle. If there's a problem, MnDOT should come talk to the producer respectfully. Krist shared that he spoke with several insurance companies, and they couldn't find a claim from someone hitting haying equipment or bales, however there have been tractor roll overs from steep ditch banks. Krist shared that his family has been mowing for generations, and wondered if there is a better opportunity for pollinator habitat on other public ground.

Questions and comments on sharing about the logistics of mowing and haying:

Question: What percent of the state do you [Krist] feel is represented in these talking points?

Krist's answer: In rural Minnesota, it's largely the landowner or local producers who use the hay for livestock. Most aren't loading it up to sell for a profit. Clarified that the 95% mentioned earlier was a speculation.

Question: Where are you [Krist] from?

Krist's answer: Southwest Minnesota. Krist noted that it is getting harder for folks to have livestock, but we're seeing a resurgence of livestock. Ditch hay is something [livestock producers] need to use to help save on production costs. County feed lot rules disincentivizes raising cows, as selling a pig is more profitable than selling a cow because of the input you put into the animal. Hog barns are incentivized by feed lot rules, which has resulted in the loss of alfalfa and grass.

Question: What regions of the state have less livestock?

Krist's answer: Rotational grazing will help pollinator habitat.

Question: How many folks abide by the August dates?

Krist's answer: Not many, because most people don't know about it. Finding out about the date window caused a lot of concerns and troubles.

Question: What are the safety differences between mowing four lane roads and two lane roads?

Krist's answer: Safety concerns are greater on four lane roads when mowing. Two lane roads have fewer safety concerns.

Comment: Our group [Soybean producers] has surveyed members about knowledge of law. Most only knew about it from a DNR brochure from the 80s which mentioned the "road authority" – farmers aren't the road authority, so they didn't interpret it to apply to them.

Question: If people don't abide by the August dates, does that mean they are not getting a permit?

Krist's answer: Yes, it means they are not getting a permit because they feel they own the property. They are paying taxes to the center of the road, and they feel they own the property.

Question to MnDOT: What's the response to the land ownership concerns?

MnDOT answer: If it says easement, that's where the permit comes up. With a few exceptions, MnDOT's easement language covers the vegetation management as a responsibility of the state. It would state that in the deed.

Question to MnDOT: But what if deed hasn't been updated for 120 years?

MnDOT answer: It's public information. A person can go to the county assessors office for this information (NOTE: This information has been updated to reflect the correct answer – initial answer was the county courthouse which is incorrect).

Comment from Charlie: This is a sharing piece for future meetings – clarity on legal concerns related to land ownership on MN trunk highways in future meetings.

Question: Are people confusing county/township with state trunk highways?

Answer [from several stakeholders who attended listening sessions]: Many individuals in listening sessions stated which highway they were talking about – there did not appear to be confusion on this. Most who live along the highway know if it is a state, county, city, or township road but often there is confusion about what statutes apply to which roads.

Question to MnDOT: Can stakeholder group get the easement language?

Answer: Yes, at the next meeting. MnDOT will come with examples.

Question: Is 16 feet the max width for equipment?

Krist's answer: Typically, yes. 18 feet would cover it if the rule were to change, as that would cover most pieces of equipment.

Question: Is the piece that doesn't quite fit the mower?

Krist's answer: Rake, baler – doesn't make a difference. It's the mower.

Question: Farmers have concerns about needing a rotating light –older equipment doesn't have this, and it can be a barrier. Is a rotating light a requirement or a recommendation?

MnDOT answer: Flashers are required, not rotating light. (Stakeholders confirmed a flasher isn't a burden.)

Comment: With various types of farming, with normal food plots – are they all deemed agricultural on the designation of land for tax purposes? Agricultural land vs commercial land vs residential – if we're looking for a specific way with the easements, deeds – knowing classification of land may be part of the solution. It's largely Ag land in SW part of the state. Central MN – to be land – not as productive. People may do the ditch but not farm the land adjacent. Classification of property might be something to explore in the future.

Question: Krist stated that June/July is convenient for famers. Are farmers out seeding crops then?

Answer from several stakeholders: No, seeding crops is generally completed by June.

Question: What are farmers doing in June?

Answer from several stakeholders: If you use split fertilizer, you're doing a second round. They're also spraying for weed control. But it's more flexible, farmers have more time. Every year is different, depends on Mother Nature.

Question: What percent of your feed is the ROW hay?

Krist's answer: For hobby farmers, their feed is generated from the ditch. Krist shared that for him personally, it makes up less than 10% of his feed. Alfalfa fields, meadows are other sources.

Comment: The land protected via Pheasants Forever's efforts includes about 5000 acres of land maintained last year, however, hundreds of thousands of other acres were lost at the same time – Eran emphasized that the state is losing habitats, not gaining. Roadsides are just one option for habitat. Grassland needs to be managed. The August first date is after primary nesting season. Staggered mowing across multiple dates might just push pheasants around – not resulting in a brood. Coyotes don't typically catch pheasants/nests. But they prey on other nest predators, such as skunks, raccoons. Eran shared that the benefits of burning prairie in June outweighs loss of nests and acknowledged that grazing is a possible alternative to burns.

Comment: Hope to find commonalities between pollinators and haying. Would like to see more targeted haying to promote natural resources. We do have a pollinator problem – lack of grazers on the landscape, a flowerless landscape – it's a problem. Pesticides and insecticides being used make habitat more important.

Comment: It's not what farmers have been doing in the ditch. It's that we have a pollinator crisis due to land use changes, agricultural practice changes – whereas before pollinators were in harmony with agriculture. The clean movement with no weeds in field and other changes have pushed native pollinators to the wall. Environmentalists are looking for scraps of public land to help maintain pollinator habitat. What's changed is everything else around farmers.

Comment: In rural crop farming, the economy makes a big difference. Keeping weeds down is important to have the best production to make a living. Cover crops, other things are changing now. Population increases, the moving of people, monocultures... Since, say, the 1950s – our state has added 2.5 million people, almost doubled population. It's a big question.

Question: Of the 5 points Krist covered, what are the biggest barriers?

Krist's answer: Biggest barrier is the date for feed quality issues. If we're going to mow for feed, we want quality.

Comment: USDA does a survey of agricultural land. Agricultural land has lost 400,000 acres from 2000-2010. Agricultural land is shrinking, leaving less land for CRP. Rents go down, so we had 1.2 million acres previously, and the last two years we've had 1.15 and 1.5. An amazing thing about that is the allocation for state of MN was 900,000 acres. We suck up CRP from other states who don't meet their goals. Rural farmers would like to do

more CRP, but need the program to be more fully funded to do it. We've lost unknown acres of CRP because the money isn't there to re-enroll. Some lands don't get CRP funds, but are still left as habitat.

Question: I've heard you can get up to 3 cuts. Is this true?

Krist's answer: Most practices are one cut.

Question: How much money per acre roadside hay?

Answer: Right now, hay is about \$60/ton – round bale is about 1000 lbs. – about \$30/bale. Cost of equipment/labor – it's the most expensive feed for livestock owners.

Question to all agricultural associations: How many cuts would you want out of the ditch in your perfect world?

Answer: Depends on the year. On average, want one good cut. May do a second if needed. It really varies – some years you may not want to mow ditches at all. Those who want yards to look nice may wish to mow more frequently.

Sharing out of what you want to know and what you think others need to know:

Honeybees

The below talking points were provided by Dan Whitney, who was not able to attend the meeting. Sarah Small presented on behalf of Dan, with Erin Rupp elaborating and sharing additional information as needed regarding honeybees.

Roadsides are critical for bees because farmland doesn't have the diverse flowers that it used to. There's fewer cover crops and fence posts. This is a striking transition in the last 10-20 years, as farmers are tilling all available acreage. Less spraying of the roadsides would allow for more clover, which is a reliable source of food for bees.

For honeybees, the earlier you cut the ditches, the better the re-bloom is later in the fall. Basswood trees are done blooming around the 15th or 20th of July, and after that there's not much left for honey bees. Bees make honey from about July 1st to August 5th. After that, need flowers from mid-August to Sept. 10th for good forage to overwinter. The honey industry is valued at 17 billion dollars in the US, with MN as the 7th largest honey producing state. Honeybees are critical to national food security, and roadsides are an important piece for them.

Questions and comments on sharing out about honeybees:

Question: Regarding when habitat is flowering and honey production. It's during honey production time that they really need to have flowers? Or is it up to that time?

Erin's Answer: Bees gather nectar from flowers, process it, and turn it into honey. Bees need nectar flow in order to make honey, which requires 80 degree days. Nectar is variable depending on rain, temperature, and humidity. July time is the main nectar flow time for the two main crops – basswood, clover. Other legumes beekeepers rely on, fall within those dates as well.

Question: I've heard about larger commercial bee keepers taking hives to CA. Do we have anything that happens within Minnesota with our state crops? How do honey bees benefit MN crops?

Erin's answer: Everything we eat that comes to us from a flower has an insect pollinator need, usually honey bees. Blueberries, cranberries, squash, fruit, and veggies – rely on pollinators. Corn and soybeans don't rely on insect pollinators, they are pollinated by the wind. Flowers are pollinated by honeybees. Large variety of other insects also do pollination.

Question: If we did an earlier cut on ditches – how soon would a regrowth of flowers be available? If early June cut, would flowers return in time?

Erin's answer: Talk to Dan about this. Early cutting might be hard, unsure. June 20th – July 1st would be ideal. July 15th would be ok. After that, bees wouldn't benefit much from re-bloom.

Comment: Soybeans aren't dependent on pollinators but crop is bumped by pollinators. One local resident shared that there are productive hives located near soybean and corn fields. The producer and beekeeper have good communication about when they're spraying by soybean fields.

Comment: It's hard to be a bee keeper these days and find a good spot for the apiary. Beekeepers and farmers are partners.

Comment: Specialty crop farming can be done in many settings. Many species of bees – cover crops, rely on bees. Complimentary relationship – apiaries are in mind, but native bees play a role.

Sharing out of what you want to know and what you think others need to know:

MnDOT

Presented by Jed Falgren, Maintenance Engineer for District 7.

Jed's remarks focused on the operational side of why we mow and permit the Right of Way. The cornerstone of what MnDOT is concerned about is the safety of motoring public, and the safety of individuals in the ROW. Visibility of individuals in ROW is important, whether it's a MnDOT employee or a member of the public. Drivers are paying less attention to what's around them, so we try to do anything we can do to help them see people in the ROW. MnDOT needs a permit process so that communication can occur between MnDOT and people on the ROW. While we're talking about the smallest portion of highways in the state within this context, these roads also have the greatest number of travelers at the highest speeds, making safety a crucial communication point. MnDOT has a responsibility to control noxious weeds, and needs to have a conversation about herbicides being used with permittees. The permit process also allows MnDOT to communicate to individuals that MnDOT will have done a safety top cut prior to the August mowing dates, and also share about upcoming projects. MnDOT may need to reach a permittee to share updates about construction projects and related timelines. MnDOT also received calls about damage to the ROW. Having a permit process helps MnDOT understand who has been in the ROW when issues arise.

Jed emphasized that the general experience is that farmers take care of the property, and have been mindful of repairing ruts when needed. MnDOT has had some damages in the right-of-way in the past (to fences, etc) when they used to bid out mowing on interstate. MnDOT takes it seriously that we need to comply with federal and state laws – it's a statutory requirement that we permit, so we do it.

Jed emphasized reasons why MnDOT mows, including visibility, sight corners, and clear zones. MnDOT's mowing gives motorists the opportunity to see what's approaching. MnDOT also mows for vegetation control and management, such as brush control. It is more cost effective to mow more frequently for brush control, rather than doing significant tree/brush removal less frequently. Limiting brush growth is important, as trees might have invasive root systems or limit visibility. Jed mentioned MnDOT does some controlled burning, but not much on state highways. It's tough to do on state highways, but this method is used occasionally for the restoration of native plants. Another operational piece is snow control. In the western parts of the state that are mowed heavily, those areas are wind prone. MnDOT wants to stop snowflakes before they get to the highway using structural snow fences and living snow fences. Using these methods to stop snow before it gets to ROW is the first priority. If snow gets to ROW, MnDOT wants it to blow across roadway and go somewhere else. There's artistry in snow plowing – we want to be careful that we don't produce drifts – we want to create a flat area of land. Jed said there's also an aspect of aesthetics related to mowing, especially in urban areas, while still using resources in a responsible way.

Questions and comments regarding MnDOT's sharing:

Question: Jed described a logical, appropriate set of policies. In my experience, MnDOT employees may not follow what Jed described. There's a level of auto pilot, like the mowing along highway 218, a wildflower route, where a five-year mow out was done in August, which is the wrong time of year for weed control. Is MnDOT following their own policies?

MnDOT answer: If you don't see the brush, it doesn't mean the brush isn't there. Once it gets larger and you can see it, it requires much more manpower to do. District 6 – has a very set schedule – 218 was a five year mow out. Regarding the time of year mowing is completed, note that individuals who mow also do other maintenance. There's a need to try to blend all of those interests/tasks. Ideally, we're not mowing that late. MnDOT would like to have the first safety cut done before 4th of July weekend. MnDOT strives for consistency – we work on it heavily, connect monthly with peers around the state. Feedback is welcomed. For Highway 218, the district is looking at mow out cycles and reviewing why they mowed. On Highway 218, the adjacent land is prairie, so there's still habitat available.

Question: How does it work with MnDOT mowers and training for noxious weeds? For the safety cut/top cut – how are they trained thru MnDOT?

MnDOT answer: There's many input loops, such as a specific complaint, the supervisor or crew seeing it in D7, staff are licensed/trained to apply herbicide, manage vegetation overall.

Question: What type of bid numbers were there for interstate haying?

MnDOT answer: It was so long ago – don't have the numbers. The hassle of the process and resulting damage is why we stopped. Didn't bring enough revenue to the department to continue. Maybe it was 20 years ago.

Question: What's the training duration for operators? Are they botanists?

MnDOT answer: No, they are not trained botanists. In MnDOT, there are eight districts – central office experts go out to the districts to help train and answer questions. Each district may vary slightly in training –

most have a mower training course that includes safety, mechanics, and vegetation management – weed ID is different out on the land. We do a training where it's pictures of weeds. MnDOT has a weed book available to staff – includes look-a-likes. Training is usually done at the end of winter before spring. Also work with the Department of Agriculture, the Department of Natural Resources, and the U of MN Extension to do summer training sessions in person on noxious weed identification, and MnDOT encourages districts to send staff. The central office will also come out to help individuals. Herbicide applicators are local and have a better understanding of how to identify noxious weeds than some of the mowers, so they help mowers. MnDOT encourages mowers to talk to herbicide applicators so they can follow up and do a 1-2 punch.

Question: For snow control, we've talked about in slope and back slope. Where are you mowing?

MnDOT answer: It's situation dependent. Fetch distance is the distance from the roadway to the snow barrier. If we historically know that leaving it on the back slope builds a drift, they may go mow it for the same reason. It is a site by site assessment – do we stop the snow or let it blow. Snow trap inventory looks at snow drifting, potential for "blow ice."

Question: Could the snow trap inventory be put on a GPS map?

MnDOT answer: Possibly – not currently available. We're working on the technology.

Question: Regarding the aesthetics aspect of mowing in urban areas, if a rural area asked for this would MnDOT do it?

MnDOT answer: If a rural area asked for aesthetic mowing, MnDOT would encourage the individual to get a permit, rather than using MnDOT's resources to mow in that instance.

Question: how does the budget work for ditch mowing?

MnDOT answer: Our mowing budget is tied to the highway maintenance budget – some years we spend more on mowing than others. The resources required to accomplish what's needed vary by year. MnDOT has more opportunities for work than dollars. MnDOT funds state road construction, and also has an operating budget. Within MnDOT, the budget is divided up by district, and they manage within the budget they have.

Question: What happens if citizens stop mowing, and MnDOT has more to cut?

MnDOT answer: MnDOT would mow the top cuts, but the ditch bottoms and back slope wouldn't be mowed in all circumstances. MnDOT would mow more than the currently do, but would not mow to the extent that haying/mowing is done by individual citizens.

Question: Regarding an electronic permitting system, can this group explore what the legislative ask would be for that?

MnDOT answer: MnDOT is in the process of getting the mowing/haying permit to an electronic system. Moving into the testing phase, however geospatial is a bigger and different step.

Question: There's a lot of focus on permitting/cutting – MnDOT should have a public system that says no permit available here.

MnDOT answer: MnDOT has an internal map for this, which provides guidance for permit review. Has non-public data on it, so can't release it at this time. Working with the DNR to figure out what we could do publically.

Review of Permit Process

Charlie led the group in a conversation about MnDOT's permitting process, using the items identified in a previous meeting on the permit application as a guide. The group focused on the document titled "Instructions for completing application for permit."

The stakeholder group had a robust conversation regarding the potential for an online process and related topics. MnDOT clarified that the online permitting process being considered would allow folks to submit a permit application online, and then MnDOT staff would review and approve it. This would not include a geospatial component at this time. Geospatial mapping related to mowing and haying permits is probably 3-5 years out and would require a compelling case to become a funding priority.

A stakeholder asked if moving the permit process online would allow law enforcement/state staff to access the permit in real time, thus eliminating the need for carrying the permit with you. MnDOT said no, the system they are testing would not be accessible by law enforcement. The group discussed that having a PDF link to the permit on a cell phone would be sufficient in place of a paper back up. The permit itself contains instructions for the beginning point, ending point, and what to mow/not mow for the permittee. It contains instructions on how to do the work – so individuals need to have access to it while doing the work in order to do it effectively.

From an enforcement perspective, the person doing the work should be able to provide the permit on demand. The example was given that if there's a trespassing complaint, having the permit immediately available would help the Officer clarify the situation. Several group members felt there may be extenuating circumstances where an individual might not have access to the permit on demand while doing work, but could provide it later. The group discussed that if someone continually doesn't have their permit with them while doing work in the ROW, it may lead to denial of future permit.

The group discussed that the adjacent landowners get priority for permits for the ROW next to their property, and then it is open to others.

Stakeholders also discussed the security deposit, which is determined by the individual permit tech. The amount depends on past permit performance, and would likely be \$500 - \$1000 for a new permittee. For someone who has had a permit for many years, it may be waived. The deposit check is sent to MnDOT and kept in a lock box. It is not cashed. The group discussed whether someone who is mowing and haying many miles of ROW should have a different deposit than an individual mowing and haying their adjacent property. MnDOT emphasized they do not have authority to charge a fee for mowing and haying, and the deposit is truly a performance bond. MnDOT staff also give permittees the opportunity to fix any damage prior to cashing the check.

Finally, the group discussed the possibility of allowing an exemption for the space in front of a house or lawn. A stakeholder noted there may be push back from farmers on this idea. Stakeholder discussed the idea of allowing a certain number of feet on either side of a driveway to be mowed without a permit, or land historically kept as lawn.