

Mowing & Haying in the State Right of Way Stakeholder Group Meeting Notes

Minnesota Revenue Stassen Building
600 N Robert Street; St Paul, MN
Skjedstad Conference Room (2nd Floor public area)
August 23, 2017 from 10:30 to noon

Primary Contacts Invited: Nancy Daubenberger, Charlie Petersen, Sarah Small, Corrine Calhoun, Thom Petersen, Kevin Paap, Krist Wollum, Lucas Sjostrom, Joe Smentek, Eran Sandquist, Erin Rupp, Dan MacSwain, Dan Whitney, Don Arnosti, Whitney Place, Greg Hoch, Wayne Sandberg, Jeff Huettl, Bill Hutton, Emily Pugh, Jed Falgren, Jon Huseby, Terry Condon, Scott Peterson, Angela Forsythe, Tina Markeson, Joe Pignato, Ann Driver, Bob Vasek, Kevin Gutknecht

Secondary Contacts Invited: Bryan Klabunde, Cole Rupprecht (Amber Hanson alt), Ashley Kohls, Marcie Forsberg, Lori Cox, Shawn Gillis, Craig McDonnell, Annalee Garletz, Lon Aune, Erik Rudeen, Tim Sexton

A call-in option was offered to facilitate remote participation: Kevin Gutknecht MNDOT Communications

Meeting Objectives

- I. Discuss background, need for stakeholder input, MnDOT's current permitting process, and group charge
- II. Decide on meeting schedule, location(s), time of day, other stakeholder group logistics

Welcome and Introductions:

Cori Calhoun, Division Business Manager for the Engineering Services Division at MnDOT, asked everyone in attendance to update their contact information on the forms provided and to be sure to include their city in the address field. That information will be important later for determining the location of future stakeholder meetings. She then introduced Nancy Daubenberger, Assistant Commissioner for the Engineering Services Division at MnDOT, to the group. Nancy welcomed the stakeholders and thanked them for their time, involvement and input in the process. She highlighted that the reasons for gathering this group were twofold:

1. MnDOT has been planning to gather a stakeholder group to work through this issue.
2. The Legislature put a hold on enforcing the mowing law and directed MnDOT to conduct public engagement in order to make permitting recommendations.

Nancy introduced Charlie Petersen and Sarah Small from [Management Analysis and Development](#), who have been hired to serve as neutral facilitators to usher the group through this process. Charlie reviewed the agenda for the day with the group, emphasizing that this meeting focused on organization and laying the groundwork for the next few months. Stakeholder group members introduced themselves and the groups they represent, and shared one expectation they

have for the stakeholder group. Group members all shared a sentiment that they would like to find a process that can work for all groups, not just a blanket solution.

Other stakeholder expectations included:

- Interested in representing bee-forage needs, but want to work with others
- Addressing pollinator priorities within policymaking
- Recognizing the rights of the landowners involved
- Greater Minnesota meetings
- Finding a process that works for all types of roads
- Field trip or two for the group – see local examples to help us grasp the situation
- Considering the safety of residents and the highway system
- Group members will have discussion
- Come to a resolution that works for all constituencies
- Recommended changes to permitting process that will be conducive to people seeking a permit, and help manage the right of way
- Vegetation management is site-specific. There's a need to balance wildlife, safety, pollinator, and farmers' perspectives
- Safety on the highway rights of way

Background and legislation

Nancy Daubenberger shared a PowerPoint that highlighted why MnDOT manages their right of way and competing interests in it. She provided historical context for legislation, and gave an overview of the permit process. Notably, the 2017 Legislature required MnDOT to put a temporary hold on enforcing permits (however, MnDOT is not an enforcement agency) and conduct public engagement resulting in recommendations to the legislature regarding the establishment of a permit or notification system to mow or hay in the state highway right of way.

Use of MnDOT Right of Way and Current Permitting Process

Joe Pignato, Assistant Office Director for Land Management, shared information regarding the types of permits and the number of permits approved. He subsequently developed a one page document to detail this information – see the attached document.

Questions from stakeholders regarding Joe's permitting presentation included:

- What is the number of miles or acres of permits requested/issued for mowing and haying?
 - Answer: MnDOT will research this and have an answer at the next stakeholders meeting.
- Are there areas of the state that have more permits historically?
 - Answer: MnDOT will research this and have an answer at the next stakeholders meeting.
- Haying and mowing has been going on for decades – why now are we putting it forward?

- Answer: MnDOT has always required mowing and haying permits. The reason why MnDOT is putting this forward is:
 - a. MnDOT is required to manage the public right of way.
 - b. MnDOT is required to communicate with individuals that will be doing work within MnDOT's right of way. Permits are the way MnDOT accomplishes this requirement.
 - c. MnDOT is required to be consistent on the way the right of way is managed. Permits are a way MnDOT accomplishes this requirement.
 - d. MnDOT is required to assure that work within MnDOT's right of way is being done safely. Permits are a way MnDOT accomplishes this requirement.
- What kind of accidents have happened with baling equipment in the right-of-way?
 - Answer: To my knowledge, MnDOT has not recorded any accidents directly related to bailing activities. MnDOT is trying to assure that accidents do not happen and that both the traveling public and individuals doing mowing and haying activities are safe. A permits is a way of communicating safety requirements and best practices associated with performing activities within MnDOT's right of way.
- Can the stakeholders have a map of MnDOT districts?
 - Answer: Yes. MnDOT will have these maps at the next stakeholder meeting.
- A stakeholder asked to have the 490 permits number clarified.
 - Answer: The 490 number comes from MnDOT's database PACER. The numbers are from 2006 through 2015/2016.
- A stakeholder asked that at a future meeting information be shared about when birds are done nesting and the use of herbicides.
 - MnDOT is looking to other expert stakeholders to answer this question
- What if two people ask for a permit for the same place?
 - Answer: The adjacent landowner gets first priority. If it's two individuals who are not adjacent landowners, its first come first serve.
- Could a party request a permit to preserve pollinator habitat?
 - Answer: MnDOT issues permits to do work within the right of way.

Group purpose, ground rules, and future meetings

Charlie reviewed the scope document with the group, emphasizing the 5 areas laid out in legislation. Stakeholder group meetings and listening sessions may identify other areas to include in the scope. The commissioner's recommendation on stakeholder group activities is due to the Legislature on March 1, 2018. Therefore, the stakeholder group must have their final recommendations to the Governor by February 1, 2018. Management Analysis and Development will use the stakeholder's words through our process to develop the report. These stakeholder meetings and findings from the listening sessions will be the foundation for the resulting document. Charlie also reviewed the ground rules for stakeholder meetings.

Questions and comments from stakeholders regarding Charlie's scope document included:

- Can the group add to the scope?
 - Answer: The group may identify priority areas to include in the scope.
- A stakeholder inquired how Executive order 1607, which charges MNDOT to restore, protect, and enhance habitat, was related to this process. The stakeholder encouraged the group to include recommendations to MNDOT about how this executive order will be executed.
 - Answer: Tina Markeson from MnDOT shared that this is a related topic, and there is a state interagency pollinator team and a Governor's Council on Pollinator Health that meet to address the executive order. This group is focused on permitting, but the work is tied together. Tina, along with others who are part of both groups, can serve as a bridge between this stakeholder group and the groups related to the executive order. Nancy Daubenberger stated the group could continue to meet and discuss these related issues past the February 1, 2018 deadline after recommendations are submitted to the legislature and if there is value to keeping the group discussions going. Currently, this group is focused on the permitting process and how to design a process and meet all the demands on our roadsides from multiple stakeholders while maintaining the safety of the travelling public and balancing MnDOT's need for communication with those using their right of way.
- If we're focused on the process, might that include ranking particular factors/conditions of a roadside that might result in denial of a permit?
 - Answer: Possibly, if the group feels that's important to include in the permitting process.
- What about property owners who want to preserve adjacent right of way for pollinator habitat?
 - Answer: Tina shared that MnDOT has a map with areas that require a closer look prior to issuing a permit. This map highlights things like adjacent conservation land, DNR land, parks, and some noxious weeds. This map is taken into consideration when determining if a permit should be approved or denied.
- Need to determine how to best map what's out there to make informed decisions.

Charlie led the group in a discussion about listening session logistics and future stakeholder group meetings.

MnDOT's current plan is to host four listening session around the state. These will be facilitated conversations, where members of the public would respond to questions about the current process, concerns, and suggestions. They would also complete a worksheet. MnDOT staff may provide background and context. In addition to the four listening sessions, MnDOT would like offer the opportunity to provide online input, so that those who can't make the listening sessions but want to have their voices heard can submit comments.

MnDOT had planned to schedule listening sessions in September and October. The group asked MnDOT to consider scheduling some in November, due to harvest season. The group did not think four sessions would be enough.

However, the group concurred that the following locations would make sense if four sessions are offered:

- Marshall
- Austin or Rochester

- Detroit Lakes or Thief River Falls
- St Cloud/Wilmar

There was a request from a stakeholder to include a listening session in the Twin Cities Metropolitan Area. Another stakeholder provided feedback that more than four listening sessions need to be conducted.

MnDOT would like the stakeholder group to help get the word out about the listening sessions to the constituencies they represent and especially once they are scheduled.

Future stakeholder group meetings and next steps

Next steps: MnDOT and MAD develop a roadmap of the process to share with the group. Expect monthly stakeholder group meetings lasting 3-4 hours. Future meetings will be part presentation and part conversation. Stakeholders all concurred that these meetings should rotate to different locations in the state. This was done by vote and it was unanimous.

Questions and comments regarding listening sessions and next steps:

- What is the objective of listening sessions? Will it be clear to attendees why they should go?
 - Answer: A formal structure with an objective for the listening sessions will be developed.
- Stakeholders requested more background information from MnDOT on issues, such as
 - What MnDOT spends on mowing
 - What's the cost to the state if farmers aren't mowing?
 - How does MnDOT handle noxious weeds? What herbicides are used?
- A presentation from DPS or MnDOT on data related to safety and mowing would be helpful.
- More information on permit data was requests such as averages acres, highest number of acres/miles permitted for an individual, etc.