

Drainage Work Group Meeting Notes October 11, 2007

Attendance

Kurt Deter, Rinke-Noonan; Gary Botzek, MCF; Larry Kramka, DNR; Doug Thomas, RCWD; Craig Austinson, Blue Earth Co.; Ron Ringquist, MVA; Gerald Amiot, MACO; Mark Nisley, GOP Research MN House; Annalee Garletz, AMC; Larry Gunderson, MPCA; Jeremy Geske, MFB; Shannon Fisher, MSU-M WRC, MRB; Lowell Enerson, SRWD; Allan Kuseske, MADI, NFCRWD; Greg Roiger, MASWCD; Dan Wilkens, MADI, RRWMB, SHRWD; Greg Knopff, Senate Counsel, Research and Fiscal Analysis; Ray Bohn, MAWD; Jonathan Bohn, MAWD, Paul Burns, MDA; John Waller, MFU; Al Kean, BWSR

Handouts Prior to or During Meeting:

1. Drainage Work Group Meeting Logistics and Agenda for 10-11-07
2. Drainage Work Group Meeting Notes for 9-13-07
3. Section 103E.812 Transfer of All or Part of a Drainage System, Overview, 10-11-07
4. Section 103E.812 Transfer of All or Part of a Drainage System (provided by Kurt Deter)
5. Example petition and Findings of Fact and Orders for Transfer (provided by Kurt Deter)
6. Metro area map with 103E drainage systems identified.

Introductions and Agenda Overview

All in attendance introduced themselves. Al Kean provided an overview of the meeting agenda and objectives and noted that Lowell Enerson, Administrator, Sauk River Watershed District, would be presenting in place of Noah Czech, who was listed on the meeting agenda.

Approval of 9-13-07 Meeting Notes

Al handed out extra copies of the subject meeting notes and asked if there were any comments or corrections. Allan Kuseske noted that his last name was misspelled.

Update Regarding Proposed Clarifications of 103E.227 and 103E.805

Al indicated that he has been coordinating with Ron Ringquist and Kurt Deter regarding response to the DWG comments on the first draft of recommended clarifications. Because some additional coordination was needed and the agenda for this meeting was full, these discussion topics will be on the November meeting agenda.

Overview of Section 103E.812 Transfer of all or Part of a Drainage System

Handout number 3 above was distributed and briefly reviewed as background for subsequent presentations. Larry Gunderson, MPCA, raised a question about the potential effects of transfer from a county drainage authority to a municipality on TMDL requirements and construction stormwater permitting. Waste Load Allocation vs. Load Allocation, which relates to TMDL process and requirements for point source vs. nonpoint source, and requirements for stormwater permitting. Larry will look into these questions and Al will consider if/how to bring associated information to the DWG. It was suggested that the MPCA fact sheet regarding drainage ditches and construction stormwater permitting be forwarded to DWG members.

Example Application of Section 103E.812 from Viewer Perspective

Ron Ringquist presented information about the use of Section 103E.812 to transfer part of Martin County tile drainage systems to the jurisdiction of the city of Fairmont, which had expanded out over the system. The county tile and city storm sewers were interconnected to some extent over the years. Various infrastructure was built over the county tile. Because some of these county tile systems remain outside the city limits, portions of the systems were not transferred. It was noted that Section 103E.812 includes provisions for the transferee water management authority to guarantee rights to an outlet of at least equal hydraulic efficiency as the rights that existed on the date of transfer. Discussion also noted that 103E.812 indicates that if only a portion of a drainage system is transferred, the transferee water management authority may be assessed for improvements or repairs on the portion not transferred, in accordance with associated provisions of Chapter 103E.

Example Applications of Section 103E.812 from Drainage Attorney Perspective

Kurt Deter provided an overview of Section 103E.812 and presented examples of application in the cities of Winnebago and Waseca, Minnesota. He noted that partial transfer is common, because cities typically don't want to be responsible for portions of public drainage systems outside the city limits. During DWG discussion, it was noted that 103E.812 seems to be working well and a question was raised as to the need for further discussion about abandonment of urban drainage ditches. In response, it was also suggested that as ag land transitions to urban use, landowners typically don't want one landowner to have the right to force drainage system repair or improvement.

Outstate Watershed District Experience with Rural-Urban Drainage Systems

Lowell Enerson, Administrator, Sauk River Watershed District, presented information about drainage and stormwater management in and through the city of Eden Valley (Stearns County). The ditches through the city are not a public system, but the city has petitioned under 103D.605 to make them a public system with a defined right-of-way. A stormwater utility is proposed. Assessment is proposed on a parcel basis. Within the project watershed (4,800 acres), there are 559 parcels in the city and 130 parcels outside the city. Stearns County Ditch 17, which involves diverse land use, including the cities of St. Joseph and Waite Park, was also reviewed. A stormwater utility district is also involved in that situation.

Metro Watershed District Experience with Rural-Urban Drainage Systems

Doug Thomas, Administrator, Rice Creek Watershed District, presented information about rural-urban drainage systems in his district. He noted that challenges often include lack of past drainage system maintenance, poor records to define legal ditch or tile profiles, costly repairs associated with roads and WCA mitigation and various potential metro watershed district authorities (103E, 103D, 103B). Protecting right of entry for inspection and maintenance is also challenging. A tabular lien statement is becoming less workable, because of land subdivision and ownership changes. Kurt Deter noted that he is working with county auditors to help define how best to record and preserve drainage system right-of-way.

Next Meeting

The next scheduled meeting is November 8, 2007. Al indicated that prioritized discussion topic number 3 on the 9-7-07 DWG list is a likely candidate for discussion, along with further discussion of recommendations to clarify Sections 103E.227 and 103E.805.