

Drainage Work Group Meeting Notes December 13, 2018

11:00 a.m. - 2:00 p.m., Minnesota Farmers Union Building, St. Paul, MN

Attendance

Tom Loveall, BWSR Brd.; Mark Dittrich, MDA; Mark Morreim, MNLICA; John Kolb, Rinke Noonan; Ron Ringquist, MVA; Alan Perish, MFU, MVA; Matt Detjen, Wright Co.; Leif Fixen, TNC; Emily Javens, MAWD; Allen Wold, BdSWD; Julie Ekman, DNR; John Jaschke, BWSR; Greg Knopff, MN Senate Analyst; LeAnn Buck, MASWCD; Doug Krueger, MRC; Jennifer Berquam, AMC; Randy Kramer, AMC; Lisa Frenette, RRWMB; Greg Holmvik, RRWMB; Jerome Deal, RRWMB; Dan Wilkens, SHRWD; Josie Lonetti, MFB; Amanda Bilek, MCGA; Hannah Mathews, IWLA; Harvey Kruger, HLWD; Tom Gile, BWSR; Jim Stark, LWC; Michelle Ulrich, CCWD; Darrell Gerber, MCEA; Mark Hiles, BWSR; Thom Peterson, MFU; Jill Crafton, IWLA; Craig Austinson, Blue Earth Co., MADI; Bill Thompson, MASWCD; Dwight Wilcox, MDA; Al Kean, BWSR

Handouts prior to or during the meeting

- 1) Meeting logistics and agenda for 12-13-18
- 2) Meeting notes for 11-8-18
- 3) DWG - DSRCAO - Section 103E.729 Only - Draft 12-5-18
- 4) SF-3181 1st Engrossment 3-21-8
- 5) DWG - DSRCAO - Overview 11-27-18
- 6) Chapter 103E Drainage System Repair Cost Apportionment 11-27-18
- 7) DWG - DSACBS Recommendations S2, S3, S6, P4 - Draft 12-7-18
- 8) DWG - DSACBS Overview of Recommendations - Draft 12-7-18
- 9) DWG - Fact Sheet 12-7-18

Introductions and agenda overview

All in attendance introduced themselves. Al Kean provided extra copies and an overview of the agenda.

Approval of 11-8-18 meeting notes

Extra copies of the notes were distributed. Corrections or additions were invited. None were identified.

Share information about recent and upcoming drainage related events

- ISU-UMN-SDSU Annual Drainage Research Forum, Tues. Nov. 13, 2018, Cabela's, Owatonna
- MAWD Pre-Conference Drainage Seminar, Thurs., Nov. 29, 2018, Arrowwood, Alexandria
- Traverse CD-37, Lateral 1 retrofit story, involving BWSR CWF Multipurpose Drainage Mgmt. grant
- Legislative Water Commission, 2019 Legislative Proposals, Nov. 2018
- Minnesota Viewers Association, Training Seminar, Jan. 17, 2019, Jackpot Junction, Morton
- MNLICA Annual Conference, Jan. 17-18, 2019, Best Western Hotel, New Ulm
- Rinke Noonan Drainage and Water Conference, Feb. 14, 2019, River's Edge Conf. Center, St. Cloud

Drainage System Repair Cost Apportionment Option, alternative approach for a bill

Based on discussions around the MAWD Annual Meeting, an approach was identified to separate the Drainage System Repair Cost Apportionment Option revisions proposed in Section 103E.728 into a new Section 103E.729. This is intended to help address the BdSWD concern about the option being more clearly separate in Chapter 103E and clearly not required.

Greg Knopff drafted bill language for a new Section 103E.729, with Subdivisions 1 - 8, starting with "Notwithstanding any conflicting provision of this chapter" (Handout 3)). This alternative approach would include the two definitions proposed to be added to existing Section 103E.005 Definitions, but would not include the remainder of the DWG proposed revisions of Chapter 103E intended to integrate this option throughout the chapter. This option enables making paragraphs a) - j) of the prior proposed addition of Subd. 1a. in Section 103E.728 into subdivisions and paragraphs of a new Section 103E.729, with a descriptive

headnote for each subdivision. This was discussed as advantageous for understanding the various provisions of the proposed option. It was suggested, discussed and agreed to revise the Section 103E.729 title to "Alternative Repair Cost Apportionment Option."

In response to a concern expressed, it was noted that the option provisions include a requirement in proposed Section 103E.729, Subd. 3 for a hearing on a repair cost apportionment report, and for appeal of repair cost apportionment findings in proposed Subd. 7. (These were in paragraphs d), e) and f), and paragraph j), respectively, of the prior proposed addition of Section 103E.728, Subd. 1a.)

The Drainage System Repair Cost Apportionment Option, Overview document dated 11-27-18 (Handout 5)) was discussed, with no suggested revisions. Al Kean will remove the "Draft" watermark and revise the date. The Chapter 103E Drainage System Repair Cost Apportionment steps document dated 11-27-18 for existing drainage law and under the option (Handout 6) was reviewed and discussed with agreement to delete "(not for a "drainage project)" and "easily", and add information about appeals for both the existing Chapter 103E method and the recommended option. Al Kean will incorporate these revisions and revise the date.

DWG members were in consensus with the Section 103E.729 approach, with the exception of Allen Wold, who agreed to discuss with the BdSWD and legislators before the next DWG meeting on Jan. 10, 2019. These recommendations will move forward with either full consensus, or consensus and non-consensus report(s).

SF-3181, 1st Engrossment, 3-21-18

The 1st Engrossment of this bill, dated 3-21-18, had not been previously discussed by the DWG, although HF-2876 / SF-3181 were in the Summary of Drainage Related Bills during the 2018 Legislative Session, 6-6-18 document, reviewed at the 6-14-18 DWG meeting. This bill proposes session law that would not change Chapter 103E, applying only to the Bois de Sioux WD, allowing updating of benefits based on average estimated market values for petitioned repairs only, with a report to the legislature after 5 years. The DWG does not support, nor oppose, this bill.

Drainage System Acquisition and Compensation of Buffer Strips

Handout 7) was reviewed and discussed. Based on discussions at the 11-8-18 DWG meeting, the recommended revisions to update Section 103E.351 Redetermining Benefits and Damages were revised to clarify a required determination by the drainage authority on a petition, based on the same criteria as for a separate determination by the drainage authority without a petition. The recommended Section 17.117 AgBMP Loan Program revisions reflect experience to date in Renville County using the AgBMP Loan Program for financing of ditch buffer strips, and were coordinated with MDA. Dwight Wilcox, MDA AgBMP Loan Program Coordinator, attended the meeting and verified that MDA is OK with these revisions to clarify use of the program by Chapter 103E drainage systems and drainage authorities for ditch buffer strips.

The Overview of Recommendations document dated 12-7-18 reflected these revisions of DWG recommendations. It was suggested and agreed to add "separate" before "project cost limitation" in Summary of Recommendations 4).

These DWG recommendations will be put into draft bill format and move forward with full consensus, or consensus and non-consensus report(s), depending on Allen Wold's local coordination and position at the January 10, 2019 DWG meeting.

Thanks to Dan Wilkens and Jennifer Berquam for participation on the DWG

Dan Wilkens is retiring as the Administrator of the Sand Hill Watershed District and Jennifer Berquam is leaving AMC for a position with Olmsted County. All present thanked Dan and Jennifer for their dedicated participation on the DWG. Dan from the beginning of the DWG representing the RRWMB, MADI and SHRWD, and Jennifer for a number of years representing AMC.

Next DWG meeting

Thursday, January 10, 2018, Minnesota Farmers Union building, St. Paul.