

**BOARD OF WATER AND SOIL RESOURCES  
7083 153<sup>rd</sup> STREET WEST  
APPLE VALLEY, MN 55124  
THURSDAY, AUGUST 24, 2023**

**BOARD MEMBERS PRESENT:**

Joe Collins, Jill Crafton, Jayne Hager Dee, Kurt Beckstrom, Mike Runk, Neil Peterson, Lori Cox, Ted Winter, LeRoy Ose, Kelly Kirkpatrick, Eunice Biel, Todd Holman, Ronald Staples, Mark Zabel, Katrina Kessler, MPCA; Joel Larson, University of Minnesota Extension; Jeff Berg, MDA; Steve Robertson, MDH; Sarah Strommen, DNR

**BOARD MEMBERS ABSENT:**

Rich Sve

**STAFF PRESENT:**

John Jaschke, Rachel Mueller, Tom Gile, Annie Felix-Gerth, Tom Gile, Julie Westerlund, Craig Engwall, Travis Germundson, Justin Hanson, Ed Lenz, John Shea, James Adkinson, Marcey Westrick, Jenny Gieseke, Ryan Hughes, Dave Copeland, Jill Sackett Eberhart

**OTHERS PRESENT:**

Brian Martinson, AMC; Jan Voit, Minnesota Watersheds; LeAnn Buck, MASWCD; Sheila Vanney, MASWCD; Alex Trunnell, Sarah Boser, Scott Salisbury, Eric Miller

Chair Todd Holman called the meeting to order at 8:31 AM

#### PLEDGE OF ALLEGIANCE

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23-44 **ADOPTION OF AGENDA** - Moved by Eunice Biel, seconded by LeRoy Ose, to adopt the agenda as presented. *Motion passed on a roll call vote.*

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23-45 **MINUTES OF JUNE 28, 2023 BOARD MEETING** – Moved by Jill Crafton, seconded by Ted Winter, to approve the minutes of June 28, 2023, as circulated. *Motion passed on a roll call vote.*

#### PUBLIC ACCESS FORUM

No members of the public provided comments to the board.

#### CONFLICT OF INTEREST DECLARATION

**Chair Holman read the statement:**

*“A conflict of interest, whether actual, potential, or perceived, occurs when someone in a position of trust has competing professional or personal interests, and these competing interests make it difficult to fulfill professional duties impartially. At this time, members are requested to declare conflicts of interest they may have regarding today’s business. Any member who declares an actual conflict of interest must not vote on that agenda item. All actual, potential, and perceived conflicts of interest will be announced to the board by members or staff before any vote.”*

Chair Holman stated there is a sheet in the day of packet to declare a conflict. John Jaschke stated another option would be to express on your roll call vote that you have no conflict or if you do have a conflict.

#### REPORTS

**Chair & Administrative Advisory Committee** – Chair Todd Holman appreciated the tour yesterday and thanked everyone for their work on it. He also thanked Board Members who have new roles in committees. Chair Holman recognized the reappointment of Kelly Kirkpatrick, Jill Crafton, and Neil Peterson and introduced new board members Mike Runk and Lori Cox. Board Members introduced themselves to the new members. Chair Holman stated he attended the EQB meeting last week where they are working on updating their Strategic Plan.

**Executive Director’s Report** - John Jaschke reported he appreciated all the work that went into the tour. The legislative session is still a ways away but the process is underway. They are working on policy ideas and bonding items.

**Audit and Oversight Committee** – Joe Collins reported the committee has not met.

**Dispute Resolution and Compliance Report** – Travis Germundson reported there are presently five appeals pending and there have been two new appeals filed since the last report.

File 23-6 appeal of two after the fact replacement plan decisions in Brown County. The appeal regards the denial of those decisions. A previous decision on one of those applications have been appealed, file 22-7. That appeal was remanded back to develop an adequate record and the decision made under remand is being appealed along with another application for the same impact/project.

File 23-5 is an appeal of a WCA notice of decision in Meeker County. The appeal regards the approval of a no loss determination to replace and lower existing road culvert. The petition challenges the LGUs authority to issue a decision on an individual that is not the landowner and does not have the property rights to perform the activity. The appeal was remanded back to Meeker County to develop an adequate record on the application requirements.

File 23-4 a decision was recently made to grant and hear the appeal. The LGU has since compiled the official written record and is in the process of scheduling a prehearing conference, which is tentatively set for September 20<sup>th</sup>. They'll discuss the possibility of settlement and then they'll go into a schedule for filing briefs and then a tentative date for a DRC hearing.

Travis stated if an appellant contacts board members on issues related to an appeal they should refrain from communication and direct the inquiry to Travis or the Board Attorney General's Office staff.

Travis gave a buffer and compliance update. Stated numbers have stayed relatively consistent throughout the last couple months.

Jill Crafton asked about file 23-1 if we should be encouraging a more vertical expansion of the parking lot. Travis stated its the local land use authority's role to assess those type of land use practices. John Jaschke stated there are three criteria provided in statute for an appeal request decision.

**Grants Program & Policy Committee** – Mark Zabel reported there are two items on the agenda for today.

**RIM Reserve Committee** – Jayne Hager Dee reported the committee has not met.

**Water Management & Strategic Planning Committee** – Joe Collins reported the committee met in July and there are two items on the agenda for today.

**Wetland Conservation Committee** – Jill Crafton reported the committee has not met.

**Buffers, Soils & Drainage Committee** – Tom Gile reported the committee had a meeting yesterday. They discussed the preparatory for future grants and the program policy item for discussion will be around multipurpose training management grants.

John Jaschke stated that the state allocated funds for soil health and water storage aren't ready to allocate to programs or projects because they're waiting for the federal response to the NRCS-RCPP applications that were submitted.

Lori Cox asked if BWSR is doing a match for federal. John Jaschke stated a match is required and that some entity be the agent to run the federal pass-through funding. Stated the applications that were submitted also require or expect a matching contribution of about half.

**Drainage Work Group (DWG)** – Tom Gile reported Rita Weaver is leading a technical group that is spending time looking through the background and the methodologies for assessing outlook adequacy in the drainage law. They also spent time discussing the notification requirements and 103D. Stated the legislative directive includes a consideration of the drainage registry portal concept. A report will be provided to legislature by February 1, 2024.



Lori Cox asked if the legislative directives have timelines. Tom stated the legislative directive for the outlet adequacy review and the notification requirements need to be reported to the legislature by February 1, 2024. It will include any consensus recommendations.

#### **AGENCY REPORTS**

**Minnesota Department of Agriculture** – Jeff Berg thanked Dakota County and partnerships for the tour yesterday. Stated they have been monitoring the drought. There are new legislative appropriations for Soil Health Equipment Grants that's open until September 15<sup>th</sup>.

**Minnesota Department of Health** – Steve Robertson reported he appreciated the work that went into the tour yesterday. Stated after a long pause due to COVID response activities, state work on developing a path forward for promoting safe and sustainable water reuse is resuming. Over the last year a group of high-level leaders from MPCA, DNR, Met Council, DLI (Dept. of Labor and Industry), and MDH met to design a process for prioritizing and implementing the recommendations from the first phase of water reuse. Phase One resulted in a 2018 report with eight recommendations. One recommendation was fulfilled by an MDH white paper on risk management options to protect public health in stormwater capture and reuse applications. That paper is available, along with the Phase One report, on MDH's website.

The Phase Two process to work on the remaining seven recommendations is being facilitated by a third-party contractor, Emmons and Olivier Resources, and will begin in September. The process includes a Steering Team with members from state agencies and stakeholders, a core engagement group of about 20 members, and two open meetings to solicit feedback more broadly. The core engagement group consists of representatives from local governments, designers, academia, and state agency staff. The role of this group will be to provide input and recommendations to the Steering Team on statewide guidance or policy on stormwater capture and use systems that ensure projects protect the public's health, environment, and eco-systems; balance risks and benefits; support water sustainability; are feasible; and reflect the realities of the industry. The recommendations from this process will then be submitted to the various agency Executive Offices for their review and further action. The process is expected to take about 10 months.

Lori Cox asked if the 20 stakeholders are all agency or others. Jeff Berg stated there is a range but does not know the specifics and can get back to Lori. Lori asked if this is being looked at with both a climate action framework and an equity lens. Jeff stated those two things frame much of the work they do and will be there for consideration.

Jill Crafton asked if grassroots people who already have some of these projects in place will have input. Steve stated there will be opportunity for public input.

Joe Collins stated we need to be more practical about rainwater use.

**Minnesota Department of Natural Resources** – Sarah Strommen reported she was preparing for the fair yesterday and invites everyone to stop by the DNR space. Stated they are also monitoring the drought. They provided notice last week in the suspensions of 23 surface water appropriation permits due to low flow conditions. They had an Enforcement Conservation Officer Academy graduation and have 16 new officers. Stated they released their state parks visitor survey.

Lori Cox noted that it's not just a surface water problem but also a groundwater problem and asked if there would be further review with the board of this nature for opportunities to talk about it.

Commissioner Strommen stated this is an issue based on increasing research that they're doing in certain parts of the state where groundwater resources are not as plentiful as the demands and will be an issue that they'll be discussing.

**Minnesota Extension** – Joel Larson reported he enjoyed the tour yesterday and the sites visited. They will be hiring three new Extension Educators across the state. One will focus on irrigation and water quality. The second is a position being managed through the Minnesota Climate Adaptation Partnership and will work on agricultural climate resiliency. The third is an educator who will work on soil health. The annual Water Resources Conference is October 17-18 at the St. Paul RiverCentre. The Midwest Climate Resilience Conference is October 25-27 in Duluth.

**Minnesota Pollution Control Agency** – Katrina Kessler reported Minnesota was offered the opportunity along with Met Council and the metro area, and with Tribes to apply for planning grants from the EPA. As the head of the climate subcabinet the MPCA applied for the grant on behalf of the state and received \$3 million. They will be applying for their portion of the implementation grants in the spring.

Stated the MPCA has a portal available until September 4<sup>th</sup> to submit ideas for potential legislative proposals. Will also be taking input for renaming the agency in the survey. Stated they have a lot going on in readying the Eco Experience at the State Fair.

Jill Crafton asked if water vapor is being considered when focusing on greenhouse gas emissions. Katrina stated agriculture evapotranspiration is a part of what they'll be looking at. Jill commented that she would like to see more done.

#### **ADVISORY COMMENTS**

**Association of Minnesota Counties** – Brian Martinson thanked the agencies for the efforts tied to county government during and after the legislative session. AMC will be hosting their Fall Policy Conference that begins their process for revising their platform and setting their priorities for 2024.

**Minnesota Association of Conservation District Employees** – No report was provided.

**Minnesota Association of Soil & Water Conservation Districts** – LeAnn Buck reported their Board of Directors met on August 16<sup>th</sup>. They talked about the completion of WRAPS and having all the watersheds with that data and information. They also talked about leveraging federal funds. A big priority for their Association was to utilize the \$79 million dollars for Watershed Based Implementation from the Clean Water Funds.

**Minnesota Association of Townships** – Eunice Biel reported in August they had district meetings throughout Minnesota. They also held elections and was well attended by township officers. Eunice noted upcoming trainings for townships.

**Minnesota Watersheds** – Jan Voit reported they have been working on a handbook that includes policies for Watershed Districts and Watershed Management Organizations. Stated it has been added to their members part of their website and will be giving training at their annual conference in November. Stated she has been attending the Drainage Work Group meetings and appreciates working with Tom Gile. Stated their lobbyist is retiring and they are working on a succession plan. Their resolution process has begun, and their annual conference is being held in late November.



**Natural Resources Conservation Service** – No report provided.

Chair Holman called a recess at 10:09 a.m. and called the meeting back to order at 10:24 a.m.

## **COMMITTEE RECOMMENDATIONS**

### **Southern Region Committee**

**Le Sueur River Comprehensive Watershed Management Plan** – Ted Winter, Jill Sackett Eberhart, and Eric Miller presented Le Sueur River Comprehensive Watershed Management Plan.

The Le Sueur River Watershed encompasses a total of 1,112 square miles, or approximately 711,000 acres, in portions of Blue Earth, Faribault, Freeborn, Le Sueur, Steele, and Waseca counties. The predominant land use is agriculture at over 83% of the watershed. There are a total of 20 municipalities also found within the watershed.

The Le Sueur River Watershed One Watershed, One Plan Partnership (Partnership) was established in 2020 through adoption of a Memorandum of Agreement for the purposes of developing a Comprehensive Watershed Management Plan. The membership of the Partnership includes Blue Earth County, Blue Earth County Soil and Water Conservation District (SWCD), Faribault County, Faribault County SWCD, Freeborn County, Freeborn County SWCD, Waseca County, and Waseca SWCD. Per the BWSR Operating Procedures, if less than 10% of the jurisdictional land area of the local government is within the watershed planning boundary, participation by that local government is optional. Le Sueur County, Le Sueur County SWCD, Steele County, and Steele County SWCD opted out of the planning process.

On May 1, 2023, the Board received the Plan, a record of the public hearing, and copies of all written comments pertaining to the Plan for final State review. The Planning Partnership responded to all comments received and incorporated appropriate revisions to the final Plan. The State agencies recommended that BWSR approve the Plan as submitted.

BWSR staff completed its review and subsequently found the Plan meets the requirements of Minnesota Statutes and BWSR Policy.

On July 25, 2023, the Southern Regional Committee (Committee) met to review and discuss the Plan. The Committee's decision was to recommend approval of the Le Sueur River Watershed Comprehensive Watershed Management Plan to the full Board per the attached draft Order.

Joe Collins stated it's nice to see the plans getting more sophisticated.

Jill Crafton stated she was impressed with the questions that were asked.

Lori Cox asked how the measurable goals are set and how we are moving forward with voluntary implementation. Jill Sackett Eberhart stated they had all the tools for this watershed plan and used Hydrologic Simulation Program Fortran (HSPF) the Scenario Application Manager (SAM), Agricultural Conservation Planning Framework (ACPF), and the Prioritize, Target, and Measure Application (PTMApp) to set the measurable goals. Jill Crafton stated voluntary implementation comes down to staff needing to build a rapport and talking to landowners.

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23-46 Moved by Ted Winter, seconded by Eunice Biel, to approve the Le Sueur River Comprehensive Watershed Management Plan. **Motion passed on a roll call vote.**

**City of Beardsley Dry Lake Grant** – Ed Lenz presented City of Beardsley Dry Lake Grant

In the winter of 1996-97 over 100 inches of snowfall covered the City of Beardsley and surrounding areas. Runoff during the 1997 spring melting period caused flooding in Dry Lake, located just north of town. The lake's water surface rose 19 feet and the surface of the lake grew eleven times larger than levels recorded in the last DNR survey. The flooding of Dry Lake inundated the Beardsley wastewater treatment system, overtopped two state highways and a county road. It caused wide-spread basement flooding to those within the city limits of Beardsley. The City of Beardsley worked with the Federal Emergency Management Agency (FEMA) and the Minnesota Department of Natural Resources (MnDNR) to install 2.6 miles of 36-inch RCP outflow pipe in 1997, under emergency action. This project, known as the Beardsley-Dry Lake Diversion Project, was built to provide water quality and flood damage reduction to flooding issues related to Dry Lake. The pipe has since experienced seepage, sinking, and erosion issues resulting in sinkholes forming during the summer of 2019. Current estimates for total project cost range between \$4 Million and \$5 Million.

The City of Beardsley is eligible to receive a \$2,000,000 FY 2024 grant through Minnesota Statutes 2023 Regular Session, Chapter 72, Article 2, Section 5 from the Minnesota Board of Water and Soil Resources (BWSR). This grant can be used to pay for the removal, and replacement or repair of a portion of drain tile in the gravity pipe system designed to remove excess water from Dry Lake and prevent flooding in the City of Beardsley. The City must undertake this project in coordination with the Upper Minnesota River Watershed District. Funding for the FY 2024 City of Beardsley Dry Lake Grant is a pass-through grant that requires BWSR approval before funds can be appropriated to the City of Beardsley.

Jill Crafton asked if the funds are coming from the Clean Water Fund. John Jaschke stated they are not Clean Water Funds.

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23-47 Moved by Ted Winter, seconded by Joe Collins, to approve the City of Beardsley Dry Lake Grant. **Motion passed on a roll call vote.**

**Area II Minnesota River Basin Projects Biennial Plan & Area II Floodplain Management Grant** – John Shea presented Area II Minnesota River Basin Projects Biennial Plan & Area II Floodplain Management Grant

The funding provided to the Area II Board via specific legislation is targeted at administration of this nine-county joint powers board in the amount of \$190,000 each for fiscal years 2024 and 2025. This grant requires a 25% local match.

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23-48 Moved by Ted Winter, seconded by Joe Collins, to approve the Area II Minnesota River Basin Projects Biennial Plan & Area II Floodplain Management Grant. **Motion passed on a roll call vote.**

**Area II Minnesota River Basin Projects Bonding Work Plan & Grant** – John Shea presented Area II Minnesota River Basin Projects Bonding Work Plan & Grant

Legislative appropriation (Bonding) to Area II Minnesota River Basins Project Inc. to assist its nine member counties flood control projects in southwestern Minnesota. A cost share rate of 75% state



funding and 25% non-state sources is required for project implementation; oversight is provided by BWSR.

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23-49 Moved by Ted Winter, seconded by Joe Collins, to approve the Area II Minnesota River Basin Projects Bonding Work Plan & Grant. ***Motion passed on a roll call vote.***

**Water Management and Strategic Planning Committee**

**One Watershed, One Plan Operating Procedures and Plan Content Requirements** – Joe Collins and Julie Westerlund presented One Watershed, One Plan Operating Procedures and Plan Content Requirements

Revisions to the One Watershed, One Plan Operating Procedures clarify the procedures for amending comprehensive watershed management plans. Previous policy was silent on amendment procedure. Revisions to the One Watershed, One Plan – Plan Content Requirements include modifications to the list of issues that may be addressed in comprehensive watershed management plans and new language acknowledging the important connection between these plans and the Minnesota Climate Action Framework. All modifications to policies are summarized in a table at the end of each policy.

Mark Zabel wanted to clarify this would be for plans moving forward. Julie stated these policies would apply to future planning efforts and amendments to plans.

Katrina Kessler stated she appreciates the linkage to the climate action framework and the additions of other topics that may be addressed. Katrina asked if they need to consider climate resiliency. Julie stated they may assess it but don't have to.

Jill Crafton thanked the committee for their work.

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23-50 Moved by Joe Collins, seconded by Neil Peterson, to approve the One Watershed, One Plan Operating Procedures and Plan Content Requirements. ***Motion passed on a roll call vote.***

John Jaschke reminded members on voting procedures for a conflict of interest.

**Grants Program and Policy Committee**

**One Watershed, One Plan Planning Grants Authorization** – Julie Westerlund presented One Watershed, One Plan Planning Grants Authorization

The calendar year 2023 (FY24 grants) One Watershed, One Plan Planning Grants request for proposal (RFP) period opened on March 24, 2023 and closed on June 19, 2023. BWSR received three proposals. Staff reviewed the three proposals (locations shown on attached map) against the RFP selection criteria. BWSR's Senior Management Team reviewed staff recommendations on June 12, 2023 and recommended funding all three proposals. Grants Program and Policy Committee reviewed this recommendation on July 25, 2022. A draft board order is attached.

Funds are from the 2022-2023 biennium, Laws of Minnesota, 2021, 1st Special Session, Chapter 1, Article 2, Section 6 (i) and the 2024-2025 biennium, Laws of Minnesota, 2023, Chapter 40, Article 2, Section 6 (i) for assistance, oversight, and grants to local governments to transition local water management plans to a watershed approach as well as previously returned clean water fund grants.

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23-51 Moved by Mark Zabel, seconded by Joe Collins, to approve the One Watershed, One Plan Planning Grants Authorization. ***Motion passed on a roll call vote.***



**One Watershed, One Plan Mid-Point Grants** – Julie Westerlund presented One Watershed, One Plan Mid-Point Grants

The Board previously approved Mid-Point grants for assessing and amending comprehensive watershed management plans. Pilot assessments are underway and staff more plan implementation groups are approaching the point in time for doing and assessment. To accommodate varying timelines for individual groups' assessments, staff have asked, and the Grants Program and Policy Committee has recommended, that the authority to approve these grants be delegated to the executive director.

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23-52 Moved by Ted Winter, seconded by Eunice Biel, to approve the One Watershed, One Plan Mid-Point Grants. *Motion passed on a roll call vote.*

**FY 2024 & FY 2025 Buffer Implementation Grants** – Tom Gile presented FY 2024 & FY 2025 Buffer Implementation Grants

This is the annual Grant support funding for SWCD's role to provide Planning, Technical and implementation assistance to landowners under 103F.48 (Buffer Law) as well as their annual monitoring and reporting on compliance status.

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23-53 Moved by Kelly Kirkpatrick, seconded by Jayne Hager Dee, to approve the FY 2024 & FY 2025 Buffer Implementation Grants. *Motion passed on a roll call vote.*

**Fiscal Years 2024 and 2025 Soil and Water Conservation District Grants Authorization** – James Adkinson presented Fiscal Years 2024 and 2025 Soil and Water Conservation District Grants Authorization

State Statute 103C.501 "Cost-Sharing Program for Erosion Control and Water Management" has been amended as the "Conservation Contracts Program" and requires adjustments to our current Erosion Control and Water Management Policy. In addition to approving the policy, staff are also recommending the authorization of the Conservation Delivery and Conservation Contract allocations. The Grants Program and Policy Committee met on May 22 and July 24, 2023 and recommend approval to the full board.

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23-54 Moved by Jill Crafton, seconded by Ron Staples, to approve the Fiscal Years 2024 and 2025 Soil and Water Conservation District Grants Authorization. *Motion passed on a roll call vote.*

**FY24-25 Watershed Based Implementation Funding Program** – Annie Felix-Gerth presented FY24-25 Watershed Based Implementation Funding Program

BWSR staff have met over the past 6 months with an internal staff team (Clean Water Team), BWSR Senior Management Team, and BWSR Grants Program and Policy Board Committee to discuss the policy, and allocations for the Watershed-based Implementation Funding Program.

The BWSR Grants Program and Policy Committee reviewed the policy and allocation authorizations on August 14 2023 and made a recommendation to the full Board. The draft FY2024-2025 Clean Water Fund Watershed Based Implementation Funding Program policy and board order are attached based on the recommendations of the Grants Program and Policy Committee.

Jill Crafton asked about the fish description and using a different phrase than rough fish. Annie stated they have not had a discussion but will be initiating those conversations. Sarah Strommen stated the intent is clear focusing on carp. As they learn more, they'll be moving away from the term rough fish to be more of a specific fish species.

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23-55

Moved by LeRoy Ose, seconded by Ted Winter, to approve the FY24-25 Watershed Based Implementation Funding Program. ***Motion passed on a roll call vote.***

#### **UPCOMING MEETINGS**

- Next BWSR Meeting is scheduled for 9:00 AM, September 27, 2023, in St. Paul and by MS Teams.

Chair Holman adjourned the meeting at 11:37 AM

Respectfully submitted,



Todd Holman  
Chair