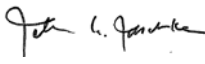




DATE: January 16, 2018

TO: Board of Water and Soil Resources' Members, Advisors, and Staff

FROM: John Jaschke, Executive Director 

SUBJECT: BWSR Board Meeting Notice – January 24, 2018

The Board of Water and Soil Resources (BWSR) will meet on Wednesday, January 24, 2018, beginning at 9:00 a.m. The meeting will be held in the lower level Board Room, at 520 Lafayette Road, Saint Paul. Parking is available in the lot directly in front of the building (see hooded parking area).

The following information pertains to agenda items:

COMMITTEE RECOMMENDATIONS

Grants Program and Policy Committee

1. **Statewide Cover Crop Training Grant** – The Statewide Cover Crop Grant to Fillmore SWCD is an effort of the Technical Training and Certification Program to utilize a regionally-recognized technical expert and create statewide training opportunities. Training on Cover Crops is a high priority training needed in all areas of Minnesota. Dean Thomas, a Fillmore SWCD employee, is an expert in soil health and cover crop management and will fulfill the deliverables of the cover crop training grant. The grant is on a reimbursement basis, up to \$15,000 to cover the cost of curriculum and training material development, staff time to deliver six full-day trainings, and lodging, mileage and per diem for the trainer. The funding for this grant is an existing NRCS Contribution agreement and Clean Water Fund AIG for technical training. This grant with Fillmore SWCD will deviate from the standard CWF grant agreement procedures in that it will not require a local match and will be paid on a reimbursement basis. **DECISION**
2. **Wellhead Protection RIM-Red Rock Rural Water System** – Red Rock Rural Water System is a public body organized under Minnesota State Statute 116A. It is a system of pipelines, storage reservoirs, pumping stations, wells and treatment facilities located in Cottonwood, Jackson, Redwood, Murray, Lyon, Martin, Brown, Watonwan and Nobles counties. It serves farms, rural residences, small towns and unincorporated communities.

The proposal is for a new wellhead area for RRRWS recently coming on line under an approved wellhead management plan from the Minnesota Department of Health. This plan identifies critical areas of vulnerability of which the parcel in question is mapped as Very High Vulnerability. Upon completion, Pheasants Forever would work with the DNR to develop this area as a Wildlife Management Area open for public hunting. This addition would be part of a larger habitat complex. This project would help to protect the Very High Vulnerability area and provide public recreation. It is modeled after the successful Worthington Wells WMA project which BWSR was a part of. **DECISION**

RIM Reserve Committee

1. **Oeltjenbruns RIM Easement Alteration (17-46-01-01 & 17-08-90-01)** – Kevin Oeltjenbruns is seeking BWSR approval to remove 7.7 acres from RIM riparian easement 17-46-01-01, and add additional 20 acres to RIM sensitive groundwater easement 17-08-90-01. Both easements are in Delton Twp., Cottonwood County. **DECISION**

2. **Reinvest in Minnesota (RIM) Reserve – Camp Ripley Army Compatible Use Buffer (ACUB) Program Rates** – Federally funded ACUB easements are intended to reduce human density within the ACUB buffer area to enable Camp Ripley to continue its training mission which involves firing heavy cannons and low level helicopter and airplane flights. These activities all generate considerable noise. Federally funded ACUB easements allow for the continued use of the land for agricultural purposes in perpetuity thus ensuring continued economic use while achieving the goal of reduced density.

In 2006, the State began taking federally funded ACUB easements using the board authorized per acre payment rate of 50% of RIM rate. Over the past few years there has been a significant reduction in the number of landowners interested in enrolling their land due to the perceived low payment being offered.

The Department of Defense and Army National Guard continue to be highly motivated to acquire additional lands within the ACUB Camp Ripley buffer zone. To this end, the Board was recently awarded \$6.7M by the Department of Defense to acquire additional easements.

In order to meet federal and state goals for this program, Camp Ripley, BWSR and SWCD personnel have identified a proposed change to the payment formula of 75% of the current RIM cropland rate for these parcels. This is for federally funded easements only as the payment rate for other ACUB easements (aka “ACUB high value riverfront easements”) are calculated using a different methodology. **DECISION**

Audit and Oversight Committee

1. **2017 PRAP Legislative Report** – BWSR staff have prepared the 2017 Performance Review and Assistance Program (PRAP) Legislative Report which presents a summary of PRAP reviews and activities conducted in 2017. The report also contains a list of planned program objectives, including three new items for PRAP in 2018; Evaluate implementation progress of at least 3 Targeted Watershed Demonstration Program projects as part of Level II reviews, evaluate and update protocol for PRAP Level I and Level II reviews for performance based funding for implementation of watershed-based One Watershed-One Plans and develop protocol for evaluating Technical Service Area (TSA) performance including development of performance standards and evaluate one TSA. The report is scheduled to be reviewed by the Board’s Audit and Oversight committee on January 23, 2018. There is a February 1, 2018 deadline for report submittal to legislative environmental policy committees, as required by M.S. 103B.102, Subd. 3. **DECISION**

Administrative Advisory Committee

1. **Farmer-Led Council (FLC) Pilot Startup** – The Farmer-Led Council (FLC) initiative was born out of the work of the Agricultural Water Quality Solutions Workgroup that was convened by the Minnesota Department of Agriculture and Environmental Initiative in 2016-17. The vision for the Farmer-Led Council initiative is to empower local communities of farmers to make their own decisions regarding how they want to improve water quality in their watershed. Through the establishment of Farmer-Led Councils the Workgroup, the MDA and BWSR, in partnership with local governments and private sector participants, hope to spur farmers to work with their neighbors to take the lead in improving water quality in their watershed. **DECISION**

Buffers, Soils, and Drainage Committee

1. **Working Lands Watershed Restoration Program – Report to the Legislature** – In 2016, the Minnesota Legislature directed BWSR to prepare a plan and feasibility study for a Working Lands Watershed

Restoration Program to incentivize the establishment and maintenance of perennial crops. The crops evaluated include perennial grasses and winter annual cover crops that keep roots in the soil and vegetation on the land throughout the year, improving soil health, storing carbon, and capturing excess nitrogen. These crops can be grazed, used for food products and livestock feed, or processed for electricity, thermal energy, advanced biofuels such as bio-jet fuel, renewable chemicals, or similar applications. A draft of this project's final report is now available for review. A final version will be submitted to the Legislature by February 1, 2018, as required by the enabling legislation (Laws 2016, c. 189, s. 4). **DECISION**

2. **Public Comment for the Administrative penalty Order (APO) Plan for Enforcement of Excessive Soil Loss Requirements** – The Board is requested to consider a request to establish a public review and comment period for the draft Administrative Penalty Order (APO) Plan for Enforcement of Excessive Soil Loss Requirements. The Buffers, Soils and Drainage Committee is considering this proposal on January 23, 2018. **DECISION**
3. **Legislative Report: Recommendations for Accelerating Public Drainage System Acquisition and Establishment of Buffer Strips and Alternative Practices** – The 2017 Legislature directed BWSR to coordinate the stakeholder Drainage Work Group to evaluate and develop recommendations for accelerating public drainage system acquisition and establishment of buffer strips and alternative practices. The evaluation and recommendations were required to be reported to the House and Senate agriculture and environment policy committees by February 1, 2018. In September 2017, the Drainage Work Group formed an advisory committee, staffed by BWSR, to evaluate and recommend appropriate actions consistent with the legislative directive. On January 11, 2018, the Drainage Work Group conducted a final review and revision of the advisory committee's draft recommendations and report and approved them for submittal to the legislature. The action before the Board is to accept the report direct its transmittal to the legislative committees. **DECISION**

NEW BUSINESS

1. **Groundwater Restoration and Protection Strategies (GRAPS)** – The presentation will be an introduction to the GRAPS process and discuss about how GRAPS can be used in the 1W1P effort. **INFORMATION**
2. **Interagency and University Drainage Management Team Report** - The Drainage Management Team was established in 2008 at the request of the Drainage Work Group. While originally envisioned to provide technical assistance to LGUs that were implementing conservation practices on Minnesota's agricultural landscape's, its present purpose is to be "an interagency team comprised of staff members from state and federal agencies and academic institutions that meet regularly to coordinate and network regarding agricultural drainage topics." (DMT Charter, 2013) It is technically focused and is not involved in policy development. **INFORMATION**

If you have any questions regarding the agenda, please feel free to call me at 651-296-0878. We look forward to seeing you on January 24.

**BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL BOARD ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, JANUARY 24, 2018**

PRELIMINARY AGENDA

9:00 AM CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

ADOPTION OF AGENDA

MINUTES OF DECEMBER 20, 2017 BOARD MEETING

PUBLIC ACCESS FORUM (10-minute agenda time, two-minute limit/person)

CONFLICT OF INTEREST DECLARATION

INTRODUCTION OF NEW EMPLOYEES

- Jeremy Olson, Chief Financial Officer
- Annie Mueller, Human Resources Office and Administrative Specialist
- Scott Smith, Regional Training Engineer
- Aaron Peter, Regional Training Engineer
- Paul Erdmann, Buffers and Soil Loss Specialist
- Darren Mayers, Buffers and Soil Loss Specialist
- John Hansel, Wetland Specialist

REPORTS

- Chair & Administrative Advisory Committee - Gerald Van Amburg
- Audit & Oversight Committee - Gerald Van Amburg
- Executive Director - John Jaschke
- Dispute Resolution Committee - Gerald Van Amburg
- Grants Program & Policy Committee - Steve Sunderland
- RIM Reserve Committee – Gene Tiedemann
- Water Management & Strategic Planning Committee - Jack Ditmore
- Wetland Conservation Committee - Tom Schulz
- Buffers, Soils & Drainage Committee - Kathryn Kelly
- Drainage Work Group - Tom Loveall/Al Kean

COMMITTEE RECOMMENDATIONS

Grants Program and Policy Committee

1. Statewide Cover Crop Training Grant – Megan Lennon – ***DECISION ITEM***
2. Wellhead Protection RIM-Red Rock Rural Water System – Bill Penning – ***DECISION ITEM***

RIM Reserve Committee

1. Oeltjenbruns RIM Easement Alteration (17-46-01-01 & 17-08-90-01) – Tim Fredbo – ***DECISION ITEM***
2. Reinvest in Minnesota (RIM) Reserve – Camp Ripley Army Compatible Use Buffer (ACUB) Program Rates – Bill Penning – ***DECISION ITEM***

Audit and Oversight Committee

1. 2017 PRAP Legislative Report – Gerald Van Amburg – ***DECISION ITEM***

Administrative Advisory Committee

1. Farmer-Led Council (FLC) Pilot Startup – Craig McDonnell, MDA, and John Jaschke – ***DECISION ITEM***

Buffers, Soil Loss, and Drainage Committee

1. Working Lands Watershed Restoration Program – Report to the Legislature – Suzanne Rhees and David Weirens – ***DECISION ITEM***
2. Public Comment for the Administrative penalty Order (APO) Plan for Enforcement of Excessive Soil Loss Requirements – Suzanne Rhees and David Weirens – ***DECISION ITEM***
3. Legislative Report: Recommendations for Accelerating Public Drainage System Acquisition and Establishment of Buffer Strips and Alternative Practices – Don Buckhout and Al Kean – ***DECISION ITEM***

NEW BUSINESS

1. Groundwater Restoration and Protection Strategies (GRAPS) – Chris Elvrum and Carrie Raber (MDH) – ***INFORMATION ITEM***
2. Interagency and University Drainage Management Team Report – Tim Gillette – ***INFORMATION ITEM***

AGENCY REPORTS

- Minnesota Department of Agriculture – Susan Stokes
- Minnesota Department of Health – Chris Elvrum
- Minnesota Department of Natural Resources – Tom Landwehr
- Minnesota Extension Service
- Minnesota Pollution Control Agency – Rebecca Flood/Shannon Lotthammer

ADVISORY COMMENTS

- Association of Minnesota Counties – Jennifer Berquam
- Minnesota Association of Conservation District Employees – Chessa Frahm

- Minnesota Association of Soil & Water Conservation Districts – LeAnn Buck
- Minnesota Association of Townships – Nathan Redalen
- Minnesota Association of Watershed Districts – Emily Javens
- Natural Resources Conservation Service – Cathee Pullman/Curtis Elke

UPCOMING MEETINGS

- Next BWSR Meeting is March 28, 2018 at 9:00am in the Lower Level Board Room

ADJOURN

**BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL BOARD ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, DECEMBER 20, 2017**

BOARD MEMBERS PRESENT:

Jill Crafton, Jack Ditmore, Kathryn Kelly, Tom Landwehr, DNR; Tom Loveall, Nathan Redalen, Tom Schulz, Brad Redlin, MDA; Steve Sunderland, Rich Sve, Gene Tiedemann, Gerald Van Amburg, Paige Winebarger, Rebecca Flood, MPCA, Joe Collins, Chris Elvrum, MDH; Duane Willenbring

BOARD MEMBERS ABSENT:

Patty Acomb, Neil Peterson

STAFF PRESENT:

John Jaschke, Hannah Pallmeyer, Tim Gillette, Al Kean, Dan Shaw, Marcey Westrick, Melissa Lewis, Megan Lennon, Kevin Bigalke, Bill Penning, Tim Fredbo, Doug Thomas, Travis Germundson, Paul Erdmann, Julie Westerlund, Angie Becker Kudelka, Don Buckhout, Dave Weirens, Dan Steward

OTHERS PRESENT:

Emily Javens, Minnesota Association of Watershed District
Jason Garms, Minnesota Department of Natural Resources
Brian Martinson, Southern Minnesota Beet Sugar Cooperative
James Wisker, Minnehaha Creek Watershed District
Becky Christopher, Minnehaha Creek Watershed District

Chair Gerald VanAmburg called the meeting to order at 9:00 AM

PLEDGE OF ALLEGIANCE

**
17-91 **ADOPTION OF AGENDA** – Moved by Kathryn Kelly, seconded by Rich Sve, to adopt the agenda as presented. *Motion passed on a voice vote.*

**
17-92 **MINUTES OF October 25, 2017 BOARD MEETING** – Moved by Jill Crafton, seconded by Tom Schulz, to approve the minutes of the October 25, 2017, meeting, as circulated, with various minor voice amendments. *Motion passed on a voice vote.*

PUBLIC ACCESS FORUM – No members of the public provided comments to the board.

CONFLICT OF INTEREST DECLARATION

Executive Director John Jaschke reviewed updates to the Conflict of Interest Declaration form with the board.

Chair VanAmburg 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.”

BOARD PACKET REVIEW

Executive Director John Jaschke reviewed the updated board documents with the board. Melissa Lewis explained that BWSR has approximately 3500 open grants. John Jaschke announced that Gene Tiedemann and his family received an Outstanding Conservationist Award from the Minnesota Association of Soil and Water Conservation Districts and the board congratulated him on this award. John Jaschke also introduced Emily Javens, the new Executive Director of the Minnesota Association of Watershed Districts.

COMMITTEE RECOMMENDATIONS

Grants Program and Policy Committee

FY2018 Drainage Records Management Grants – Steve Sunderland presented the FY2018 Drainage Records Management Grants. In August 2017, the BWSR Board authorized the Drainage Records Modernization (DRM) Match Grants program funded by a FY 2018 Environment and Natural Resources Trust Fund appropriation to BWSR. This program was created to assist counties and watershed districts that administer public drainage systems in accordance with Minnesota Statutes Chapter 103E to preserve and upgrade their records in an electronic GIS database. This purpose includes enabling enhanced drainage system management by required use of a recently developed GIS database template that is based on prior drainage records modernization experience, and updated Drainage Records Modernization Guidelines. The purpose also includes populating an associated statewide GIS database with hydrographic data (e.g., drainage system location, type, alignment, profile and dimensions) for Chapter 103E drainage systems administered by users of the database template, to better enable data access for watershed-based modeling, water planning and implementation. The DRM Match Grants RFP drew sixteen (16) applications. Twelve of those applications were recommended for funding, including one that would receive partial funding.

The total amount of funding available and allocated was discussed by the board. There was discussion about the possibility of funding additional applications if more funding becomes available. Rebecca Flood asked if a map was available that would show which areas have their drainage records modernized. Staff indicated that a survey would be going out in 2018 to see how much work has been done and how much work needs to be done in the future. An amendment to the resolution was proposed to reallocate Drainage Records Modernization Match funds that become available if funded projects are withdrawn or do not receive work plan approval by March 13, 2018 unless extended for cause, or are modified to reduce the state funding needed to accomplish the project, or funds are returned; in rank order, unless superseded by a future Board resolution. Steve Sunderland moved the amendment, with a second by Rebecca Flood. **Motion passed on a voice vote.**

**
17-93 Moved by Steve Sunderland, seconded by Kathryn Kelly, to approve the FY2018 Drainage Records Management Grants Resolution, as amended. **Motion passed on a voice vote.** Tom Loveall abstained from the vote due to a potential conflict of interest.

FY18-19 Cooperative Weed Management Areas – Steve Sunderland presented the FY18-19 Cooperative Weed Management Areas Grant Awards. The purpose of the Cooperative Weed Management Area Program is to establish strong and sustainable CWMA's across Minnesota for the collaborative and efficient control of invasive species and protection of conservation lands and natural areas. In August 2017 the Board gave approval to complete and open the FY 2018/19 Cooperative Weed Management Area Grants RFP to grant a total of \$200,000. The application period was open from August 28, 2017 to October 2, 2017. Twenty five (25) applications were received requesting a total of \$410,000. Ranking was done by the CWMA Interagency Advisory Team on October 16, 2017. The funding recommendations presented to the board were the result of that meeting.

**
17-94 Moved by Steve Sunderland, seconded by Tom Schulz, to approve the FY18-19 Cooperative Weed Management Areas Grant Award Resolution. **Motion passed on a voice vote.**

FY18 CWF Competitive Grant Program Awards – Steve Sunderland presented the FY18 CWF Competitive Grant Program Awards. On June 28, 2017 the Board adopted resolution #17-57 which authorized staff to conduct a request for proposals from eligible local governments for Clean Water Fund projects in two program categories: Projects and Practices and Multipurpose Drainage Management. The FY2018 Clean Water Fund Competitive Grants applications were accepted from July 5 through August 9, 2017. Local governments submitted 93 applications requesting \$23,311,622 in Clean Water Funds. BWSR staff conducted multiple processes to review and score applications, involved staff of other agencies, and developed recommendations for grant awards per the spreadsheets provided to the board. The BWSR Senior Management Team reviewed the recommendations on November 14th and made the recommendation to the Grants Program and Policy Committee. The BWSR Grants Program and Policy Committee reviewed the recommendations on November 28th, and made a recommendation to the full Board. A draft Resolution based on the recommendations of the Grants Program and Policy Committee was provided to the board.

A letter was sent to the Board from a citizen, Michael Sauer, from St. Cloud, regarding the Little Rock Lake draw down project. Melissa Lewis noted that this letter prompted updated language to the board resolution that would require consultation with the City of St. Cloud, MN Department of Health, MN Department of Natural Resources, and MN Pollution Control Agency before the work plan and grant

agreement for the Little Rock Lake project could be approved. The board discussed other updated language in the resolution.

**
17-95 Moved by Steve Sunderland, seconded by Tom Landwehr, to approve the FY18 CWF Competitive Grant Program Awards Resolution. ***Motion passed on a voice vote.***

FY18 CWF Watershed-based Funding Pilot Program Authorization – Steve Sunderland presented the FY18 CWF Watershed-based Funding Pilot Program Authorization Resolution. BWSR staff have met regularly over the past 8 months with an internal staff team (Clean Water Team), local government partners (Local Government Water Roundtable Work Group), BWSR Executive Team, and BWSR Board Committees (Grants Program and Policy and Water Management and Strategic Planning) to discuss the guiding principles, policy, assurance measures, and allocations for this pilot program. The Committees met jointly several times to develop recommendations to be included in the policy and grants authorization, with the Grants Committee assigned the final responsibility for making recommendations to the Board. On August 9th, the Draft Guiding Principles were reviewed and recommended to go to the full Board in December by the joint committees and were provided to the board.

The BWSR Grants Program and Policy Committee reviewed the policy and allocation authorizations on November 28th and made a recommendation to the full Board. A draft Policy and Resolution based on the recommendations of the Grants Program and Policy Committee were provided to the board.

Steve Sunderland discussed the edits to the resolution. Melissa Lewis reviewed the various aspects of the resolution with the board, including how funding levels were decided. There was discussion amongst committee members about the levels of allocations and what future available funds may look like. Concerns were expressed by Jill Crafton about establishing funding levels by counties in the metro area instead of by watershed or other approach. Doug Thomas reminded the board that this is a pilot project and that the metro area is fully planned. There was a discussion about why the One Watershed, One Plan pilots had funding levels decided based on square miles of private lands, which could penalize counties with large amounts of state, federal, and/or tribal lands. Doug Thomas responded that the focus of BWSR's programs is to work with private landowners, which influenced how the funding decision was made. Rebecca Flood inquired about the length of the pilot projects. Doug Thomas responded that, subject to legislative action, these would next be in front of the board sometime in the second half of 2019.

**
17-96 Moved by Steve Sunderland, seconded by Jill Crafton, to approve the FY18 CWF Watershed-based Funding Pilot Program Resolution. ***Motion passed on a voice vote. Rich Sve abstained from the vote due to a potential conflict of interest.***

Technical Training Acceleration Grant – Steve Sunderland presented the Technical Training Acceleration Grants. The 2018 Pilot Technical Training Acceleration Grant program is a short-term pilot grant program intended to increase the delivery of technical trainings for topics identified as local priorities by the six Area Technical Training Teams. Currently, one of the main bottlenecks to offering technical training for local Soil and Water Conservation District (SWCD) staff has been a lack of trainers. In the past the conservation partnership has relied on Natural Resources Conservation Service (NRCS) staff to provide technical training, but recent decreases in budgets and staffing have prevented training from being offered at a rate that is needed. Funding priority is given to training topics that are identified as

high need either at an area, or state-wide level, especially those topics which will lead to increased or enhanced Job Approval Authority (JAA) for local SWCD and NRCS staff.

This program would make \$60,000 of funding available to SWCD and Technical Service Areas to coordinate and deliver technical training to address locally identified training priorities. The funding for this program will come from an existing NRCS Contribution Agreement # 63-6322-15-500 and Accelerated Implementation funds that have been appropriated to the Board in the Laws of Minnesota 2017, 1st Special Session, Chapter 2, Article 2, and the Laws of Minnesota 2017, 1st Special Session, H. F. 707 4th Engrossment, Article 2, Sec. 7, for technical training.

Applications for the funding would be accepted from January 15, 2018 through May 1, 2018. Submissions would be reviewed and approved as they are submitted.

Examples of eligible activities include curriculum development, classroom training delivery, facility rental, training materials, and travel reimbursement for trainers. Contracting with an outside vendor to provide training would be allowable.

Jill Crafton noted that watershed district staff are unable to obtain Job Approval Authority (JAA) credentials, however she would like watershed district staff to be able to attend technical training opportunities offered through the Technical Training and Acceleration Grant program. Doug Thomas explained that JAA credentialing is a quality assurance system developed and used by the Natural Resources Conservation Service (NRCS). The State of Minnesota has adopted the NRCS JAA system to ensure technical capabilities of SWCDs implementing state-funded conservation projects and practices. JAA is available to NRCS employees, SWCD and BWSR staff (via formal partnership agreements). Technical training would be made available to watershed district staff and other conservation partners. There was a discussion about when it is appropriate for the state to fill the gap created by NRCS's decreasing technical and training capacity. Currently NRCS is helping BWSR to support the development and deployment of a more robust and regular training program through a Contribution Agreement. Jill Crafton thanked staff for their work on these grants.

**
17-97 Moved by Steve Sunderland, seconded by Joe Collins, to approve the Technical Training Acceleration Grant Resolution. ***Motion passed on a voice vote.***

Southern Region Committee

Faribault County 2018-2027 Local Water Management Plan – Kathryn Kelly presented the Faribault County 2018-2027 Local Water Management Plan. The current Faribault County Comprehensive Local Water Management Plan (Plan) was approved on December 13, 2006, and was set to expire on December 31, 2016. A one-year extension was granted by the Board on August 25, 2016, resulting in a new expiration date of December 31, 2017. On January 19, 2016, the Faribault County Board of Commissioners adopted a resolution to update the Plan. The initial step in the update process, the Priority Concerns Scoping Document (PCSD), was approved by the BWSR Board on December 14, 2016. Development of the Plan ensued. The required public hearing regarding the draft Plan was held on September 19, 2017. The final draft Plan was submitted to the required parties on September 21, 2017. Written comments were received from the Minnesota Department of Agriculture, Minnesota Department of Health, Minnesota Pollution Control Agency, and BWSR. The updated Faribault County Local Water Management Plan duration will be from January 1, 2018 to December 31, 2027. The Plan

includes the priority concerns of “protect and restore the quality and manage the quantity of surface water” and “protect drinking water supplies and groundwater quality and quantity.”

On November 27, 2017, the Southern Region Committee voted unanimously to recommend approval of the Plan to the full Board.

Water monitoring and watershed districts were discussed by the board. Jack Ditmore commended Faribault County on their plan with regards to taking into consideration climate change and changes in precipitation.

**
17-98 Moved by Kathryn Kelly, seconded by Nathan Redalen, to approve the Faribault County 2018-2027 Local Water Management Plan. **Motion passed on a voice vote.** Tom Loveall abstained from the vote due to a potential conflict of interest.

Winona County SWCD Nomination Districts – Kathryn Kelly presented the Winona County SWCD Nomination Districts resolution. The current Winona County SWCD Nomination Districts were approved on March 28, 2012. A revised nomination district resolution was approved by the Winona SWCD District Supervisors on September 13, 2017. The proposed boundaries serve the purpose of breaking up the County in a simple manner and offer representation from each unique area of the County, separating topographic and land use changes.

On November 27, 2017, the Southern Region Committee voted unanimously to recommend approval of the Nomination Districts to the full Board. Kathryn Kelly explained the differences in the nomination district proposal from the current districts.

**
17-99 Moved by Kathryn Kelly, seconded by Chris Elvrum, to approve the resolution authorizing new district boundaries. **Motion passed on a voice vote.**

Central Region Committee

Richfield-Bloomington Watershed Management Organization Watershed Management Plan Update – Kevin Bigalke presented the Richfield-Bloomington Watershed Management Organization Watershed Management Plan Update. On December 19, 1983, the Richfield-Bloomington Watershed Management Organization (RBWMO) was established via Joint Powers Agreement (JPA). BWSR approved their second generation plan in January 2001 under the Metropolitan Surface Water Management Act. The Board of Commissioners consist of all city council members from both member cities, five from Richfield and seven from Bloomington. Their most recent plan was approved in August 2008.

The RBWMO spans 7.6 square miles in southeastern Hennepin County. There are portions of two local government units within RBWMO, as the name implies: the Cities of Richfield and Bloomington. The WMO is fully developed. There are no major creeks or rivers in the watershed and the storm water runoff flows primarily through the storm sewer system southeasterly into a series of large storm ponds and then into the Minnesota River. Unique features within RBWMO include Wood Lake Park and Nature Center, Smith Park, and the Mall of America. The waterbodies within the WMO include: Smith Pond, Wright’s Lake, Running Pond, Sheridan Pond, Richfield Lake, Wood Lake, Augsburg Pond, and Wilson Pond.

RBWMO is bound by the Minnehaha Creek Watershed District to the north, Lower Minnesota River Watershed District to the south and east, and on the west by Nine Mile Creek Watershed District.

Plan Highlights: The Plan focuses on seven major issues with associated goals within the RBWMO. Where possible, the RBWMO seeks to apply the strategies throughout each of their cities.

The issues include the following:

- Issue 1: Surface water quality
- Issue 2: Water quantity and volume management
 - Localized flooding
 - Infrastructure adequacy concerns resulting from development and climate change
- Issue 3: Redevelopment opportunities and strategies
 - Fully developed watershed
- Issue 4: Public education and outreach
 - Lack of well-defined education and outreach plan
- Issue 5: Wetland protection
 - Impact of water quality and invasive species
 - Wetlands connection to storm sewer system
- Issue 6: Invasive species strategies and management
 - Existing infestation
 - Early species detection
- Issue 7: Standardized wellhead protection strategies
 - Inconsistent vulnerability areas' definition and development approach

The RBWMO's first few years will include focus on opportunities of known redevelopment, outreach to increase the awareness of the RBWMO and its goals, as well as an update to its Hydrology & Hydraulics model which will include Atlas 14.

Water sources for the WMO and how the WMO would address future development proposals were discussed by the board.

Moved by Joe Collins, seconded by Duane Willenbring, to approve the Richfield-Bloomington Watershed Management Organization Watershed Management Plan Update, with a date change amendment.

Motion passed on a voice vote.

**
17-100

Minnehaha Creek Watershed District Watershed Management Plan Update – Kevin Bigalke presented the Minnehaha Creek Watershed District Watershed Management Plan Update. The Hennepin County Commissioners asked the Minnesota Water Resource Board (MWRB) to form the Minnehaha Creek Watershed District (MCWD) on April 12, 1966. The MWRB established the District on March 9, 1967 under the authority of Minnesota Statutes Chapter 103D (formerly Chapter 112), the Watershed Act. In 1972, the District accepted authority over the eight county and judicial ditches located within the watershed. The District's first Water Resources Management Plan was approved in 1969.

The MCWD's legal boundary encompasses about 178 square miles within the western Twin Cities metropolitan area. Of this area, about 148 square miles lie within Hennepin County and about 30 square miles lie within Carver County. The watershed comprises two distinct hydrologic basins. The "Upper Watershed" drains through 104 square miles of rural and suburban land to Lake Minnetonka, a 22 square-mile lake that is the tenth largest, and one of the most heavily recreated, waterbodies in Minnesota. Lake Minnetonka outlets through a dam controlled by the MCWD into Minnehaha Creek, which flows for roughly 23 miles and discharges into the Mississippi River in Minneapolis. About 52

square miles, constituting the “Lower Watershed,” drain into Minnehaha Creek through the Minneapolis Chain of Lakes or directly by means of stormwater conveyances or overland flow.

Local government units within the District include two counties, two townships and 27 cities. Twelve of these cities are located entirely within the District. In Hennepin County, the local governments within MCWD include: Deephaven, Edina, Excelsior, Golden Valley, Greenwood, Hopkins, Independence, Long Lake, Maple Plain, Medina, Minneapolis, Minnetonka, Minnetonka Beach, Minnetrista, Mound, Orono, Plymouth, Richfield, St. Bonifacius, St. Louis Park, Shorewood, Spring Park, Tonka Bay, Wayzata, and Woodland. In Carver County, the governmental units include: Chanhassen, Victoria, Laketown Township, and Watertown Township. Two regional park authorities exist within the Minnehaha Creek Watershed District, the Minneapolis Park and Recreation Board and the Three Rivers Park District. There are 65 lakes and numerous miles of stream in the watershed district. The DNR Public Waters Inventory identifies 104 protected waters and 229 protected waters wetlands.

Plan Highlights: The Plan focuses on the District’s Balanced Urban Ecology policy. This new approach of collaborative and integrated planning is allowing the District to better align public and private interests while improving and protecting water resources throughout its boundary.

The policy rests on the following three principles:

- Intensifying and maintaining focus on high-priority projects.
- Partnering with others to pursue watershed management goals.
- Being flexible and creative in adapting to the needs of partners.

The District has also identified four strategic goals to focus and guide its work:

- Water Quantity - To manage the volume and flow of stormwater runoff to minimize the impacts of land use change on surface and groundwater.
- Water Quality - To preserve and improve the quality of surface and groundwater.
- Ecological Integrity - To restore, maintain, and improve the health of ecological systems.
- Thriving Communities - To promote and enhance the value of water resources in creating successful, sustainable communities.

The District has identified two key geographies to focus its efforts at the start of this Plan. They include the Minnehaha Creek Corridor which the MCWD has demonstrated significant gains over the past five years in an area that is the most degraded section of Minnehaha Creek. The other focal geography is at the headwaters of the watershed where development is providing a greater opportunity for partnerships and the identification of resources in need of protection and improvement.

The committee discussed the role of development in water quality and conservation and the benefit of positive relationships with the business community to achieving conservation goals.

**
17-101 Moved by Joe Collins, seconded by Jill Crafton, to approve the Minnehaha Creek Watershed District Watershed Management Plan Update. ***Motion passed on a voice vote.***

RIM Reserve Committee

Solar Farms as an Allowable Use on ACUB Easements – Bill Penning presented the Solar Farms as an Allowable Use on ACUB Easements Resolution. Federally funded Army Compatible Use Buffer (ACUB) easements are intended to reduce human density within the ACUB buffer area to enable Camp Ripley to

continue its training mission which involves firing heavy cannons and low level helicopter and airplane flights. These activities all generate considerable noise. Federally funded ACUB easements allow for the continued use of the land for agricultural purposes in perpetuity thus ensuring continued economic use while achieving the goal of reduced density.

As part of its mission Camp Ripley has embraced alternative energy and has recently installed a 60 acre solar farm within the camp. BWSR, in conjunction with DNR, has developed a pollinator friendly solar farm certification process as a result of legislation passed in 2016. In 2017, the BWSR Board adopted a Pollinator Plan and is actively promoting pollinator friendly habitat plantings on conservation lands. The Camp Ripley solar farm has met the BWSR pollinator friendly solar farm certification requirements by establishing a low growing native plant community that has continuously flowering native forbs throughout the growing season thus providing additional environmental benefits.

There is a landowner with an existing ACUB easement that wishes to install a 50 acre solar farm on the easement. This activity is currently prohibited within the conservation easement. The requested Board Action is to approve the "Solar Farms as an Allowable Use on ACUB Easements" resolution which would allow staff to work with other parties to amend easements to allow solar farms on federally funded ACUB easements as long as the solar farms become pollinator friendly certified. This is for federally funded easements only as other ACUB easements (aka "LSOHC ACUB easements") were paid for with sources of funding that would not allow solar farms.

There was discussion by the board about pollinator friendly standards, clarification that this policy is only for federal ACUB easements. The funding priorities of the Lessard-Sams Outdoor Heritage Council (LSOHC) are quite different. Construction stormwater permits are required for these types of solar facilities, and the Pollution Control Agency will follow up on solar construction projects impacted by this resolution. Board members are interested in learning more about the habitat and water quality benefits on solar farms.

Tom Landwehr proposed an amendment to clarify that solar farms would be built on cropland or grass pastureland, to be clear that the proposal does not allow forests to be cut for the land to be put in a solar farm. This was accepted as a friendly amendment.

**

17-102

Moved by Gene Tiedemann, seconded by Kathryn Kelly, to approve the Solar Farms as an Allowable Use on ACUB Easements Resolution, as amended. ***Motion passed on a voice vote.***

Reinvest In Minnesota (RIM) Reserve - Standard Easement Payment Rates: Northern Forest Region – Bill Penning presented the Reinvest In Minnesota (RIM) Reserve - Standard Easement Payment Rates: Northern Forest Region resolution. The BWSR Board has been given the authority to set payment rates for RIM conservation easements in Minnesota Statutes, Section 103F.515. This resolution would expand the process for rate determination used in the RIM Wild Rice program (Board Resolution 13-107) to other land protection programs in the northern forested portions of the state (except ACUB) for land without cropping history and utilizes the standard rate determination for land with cropping history from Board Resolution 13-109.

A friendly amendment was proposed by Jack Ditmore to clarify that this resolution applies specifically to the Northern Forest Region.

**
17-103 Moved by Gene Tiedemann, seconded by Kathryn Kelly, to approve the Standard Easement Payment Rates: Northern Forest Region Resolution, as amended. **Motion passed on a voice vote.**

Reinvest In Minnesota (RIM) Reserve – Crow Wing Watershed Protection – Bill Penning presented the Reinvest In Minnesota (RIM) Reserve – Crow Wing Watershed Protection resolution. ML 2017, Ch. 91 Art. 2 Sect. 7(l) appropriated \$2M of Clean Water Fund money to BWSR “to purchase permanent conservation easements to protect lands adjacent to public waters with good water quality but threatened with degradation”. This project would utilize RIM easements to protect priority riparian parcels in the Crow Wing River Watershed, an important and threatened tributary to the Mississippi River and the source water for St. Cloud and several Twin Cities communities while providing numerous other benefits. This resolution would authorize staff to utilize these funds and develop and implement this program.

The role of other organizations in the impacted area working on clean water and the importance of protecting watersheds were discussed by the board.

**
17-104 Moved by Rich Sve, seconded by Tom Schulz, to approve the Crow Wing Watershed Protection Resolution. **Motion passed on a voice vote.**

RIM Reserve Easement Alteration Policy – Bill Penning presented the RIM Reserve Easement Alteration Policy. The current Board Policy on this issue has not been updated since 2006. During the last few years several scenarios have arisen which suggest that the policy needs to be modified. Under the 2006 policy when a private landowner requests an easement alteration BWSR staff must nearly always recommend denial because of very restrictive language contained within the policy. The policy also requires approval by both the SWCD Board and DNR Area Wildlife Manager. This goes above and beyond rule requirements and removes some of the Boards decision making authority. This has been changed to require letters from the SWCD Board and DNR Area Wildlife Manager recommending either approval or denial of the request. Replacement ratios have been clarified and increased to 4:1 when cropland acres are replaced with non-cropland acres. A purpose statement has been added.

There was a discussion by the board about the differences between private and public-benefitted projects.

**
17-105 Moved by Gene Tiedemann, seconded by Tom Schulz, to approve the updated policy. **Motion passed on a voice vote.**

Tom Landwehr moved the following easements as a block, with a second from Rebecca Flood:

- **RIM Reserve Easement 48-04-87-01 Alteration, Toby Kranz**
- **RIM Reserve Easement 86-02-90-01 and 86-07-91-01 Alteration, Clayton Johannes**
- **RIM Reserve Easement 12-26-00-01 Alteration, Fagen Farms, LLP**
- **RIM Reserve Easement 49-13-87-01-A Alteration, Brad MacKissock**

The motion was rescinded by the makers of the motion following discussion by the board of the Kranz Easement Alteration request.

RIM Reserve Easement 48-04-87-01 Alteration, Toby Kranz – Bill Penning presented the Kranz alteration request. The Kranz’s are requesting that the BWSR revise the boundary of the conservation easement on their property to enable them to build a home on land currently under easement. The

Kranz's purchased this property in April of this year and were never aware, or informed, that the land they wanted to build on was subject to a RIM easement. The Kranz's proceeded to get all the necessary permits from the local Township and County zoning authorities, hired a contractor, and started clearing for the home site and driveway, and no one mentioned anything about a conservation easement.

The Mille Lacs SWCD was doing a routine RIM site inspection of this site in September 2017 and came across the home site and driveway clearing in process. The contractor on the site was stopped, and Toby Kranz was notified that he was in violation of his RIM easement. His letter to the SWCD, which is contained in the attached supporting documents, is his response offering to give the state more land in exchange for releasing the land he needs to build his house.

This RIM easement was originally put in to the program as a marginal agricultural land easement, meaning highly erodible soils, and all the cropland was placed under the easement at the time. All the other land on the site was not cropped because it was too low and wet. The site that the Kranz's own has no buildable sites that are not in RIM because of this poorly drained condition of the non-cropland areas. This also means he has no cropland he can offer in trade for possible replacement acres for this request.

Staff recommended approval of this request. The replacement acres that would be gained will permanently protect important wetland wildlife habitat in this developing area near Princeton. The meeting that was had on site with the local planning and zoning officials made them aware that the tools are available for them on BWSR's website to start locating RIM easements on sites proposed for developments and building permits. In addition, Mille Lacs County has agreed to load the RIM easement shapefiles layer into its County GIS system and will use it as an additional consideration when addressing permitting issues in the future.

The board discussed how this alteration would impact the easement, the intent of the easement, and the role of the previous owner. There was discussion amongst the board about if this alteration should be approved and how it relates to the overall integrity of the easement alteration process. The board also discussed the benefits to the state from the proposed land exchange and actions that have been taken to help prevent a similar situation from happening again in Mille Lacs County and the investigation that staff undertook. Staff clarified that this alteration request (and the following requests) should be considered under the older version of the Easement Alteration Policy, not the new policy adopted today.

Jack Ditmore proposed a friendly amendment to the resolution to acknowledge the benefit of the alteration for the public interest.

**
17-106 Moved by Jill Crafton, seconded by Joe Collins, to approve the 48-04-87-01 Easement Alteration Resolution, as amended. **Motion passed on a voice vote.** *Duane Willenbring abstained due to a potential conflict of interest.*

RIM Reserve Easement 86-02-90-01 and 86-07-91-01 Alteration, Clayton Johannes – Tim Fredbo presented the Johannes alteration request. Clayton Johannes and Deb Becker request a change to RIM conservation easement 86-02-90-01. Johannes and Becker purchased the SW1/4 of the SW1/4 of Sec. 4, T. 121, R. 27 in Wright County that contains this 1990 riparian pastured hillside easement on March 10, 2017. Their purchase also includes RIM easement 86-07-91-01, which is also a riparian pasture easement.

Their access to this property is directly off of MN State Highway 24 which borders the east edge of the parcel they now own. The State has access control along this highway. There is an existing vehicle access on to their property that enters directly in to RIM easement 86-02-90-01. In order for Johannes and Becker to be able to utilize this access point for their new driveway, they will need to cross the RIM easement for approximately 150 feet to get to land not under easement where they plan on building a new home. They are requesting the release of approximately .2 acres from the easement, and they have offered to replace it with .8 acres of existing cropland.

They also offered an additional 4.5 acres of wetland on the west edge of their property, but since this is a DNR protected wetland the BWSR avoids placing these lands under easement in most circumstances. The 1.0 acre strip of land between easements 86-02-90-01 and 86-07-91-01 is not supposed to be there on the map that was prepared by the Wright SWCD. These two easements were intended to be adjacent to each other, and the gap that appears on the map was created by an error in the digitizing effort that put these older easements in to our GIS layer. If the easement is amended, that error can also be fixed.

All items that need to be submitted per RIM Rule and BWSR Easement Alteration Policy have been submitted. The Wright SWCD, as well as the DNR Area Wildlife Manager have both recommended approved of this proposed alteration.

Staff recommended approval of this request. The .8 acres of cropland that Johannes and Becker are offering in exchange for the release of the .2 acres will more than satisfy the current 2:1 replacement minimum, and increase the total habitat associated with these two conservation easements.

Jack Ditmore proposed a friendly amendment to the resolution to acknowledge the benefit of the alteration for the public interest.

**
17-107 Moved by Chris Elvrum, seconded by Steve Sunderland, to approve the 86-02-90-01 and 86-07-91-01 Easement Alteration Resolution, as amended. ***Motion passed on a voice vote.***

RIM Reserve Easement 12-26-00-01 Alteration, Fagen Farms, LLP – Tim Fredbo and Bill Penning presented the Fagen Farms alteration request. Fagen Farms, LLP requested that the BWSR revise the boundary of the conservation easement on their property to enable them to complete a transfer of the 5 acre parcel that contains the 1.8 acre CREP/RIM easement to the Maynard Lutheran Church.

The 5 acre parcel with the 1.8 acre RIM easement on it is located in the SE1/4 of the NE1/4 of Section 31, T 117 N, R 38 W, in Chippewa County. The 1.8 acre MN RIVER CREP easement was originally recorded on May 9, 2001. Fagen Farms purchased this parcel, along with the rest of the farm that belonged to Ray and Zola Lighter, on May 14, 2010.

In August 2017, Maynard Lutheran Church approached Fagen Farms about the possibility of acquiring the land where the RIM easement is located, which lies across 60th Ave. SE from the Maynard Lutheran Cemetery. As these negotiations occurred, Fagen Farms was unaware that a RIM easement even existed on this parcel. The church was interested in this land because the bridge on 60th Avenue that goes over Hawk Creek just to the south of the cemetery is being removed and will not be replaced. The church wanted some land to enable vehicles that visit the cemetery to park and turn around since they will no

longer be able to continue south on 60th Avenue. The church wanted to avoid vehicles having to turn around on the cemetery grounds.

On August 24, 2017 Fagen Farms was in the process of transferring the 5 acre parcel to the church and had earlier given approval to a contractor hired by the church to begin hauling fill on to the site for the parking lot and turn around area. On that same day, Les Bergquist, Farm Manager for Fagen Farms, got an email from Tom Warner at the Chippewa SWCD that they were placing fill on a RIM easement and they needed to stop work immediately. This fill on the site was discovered by the SWCD on an annual RIM site inspection on the prior day, August 23, 2017. The fill operation did stop, and the Chippewa SWCD mailed Fagen Farms a Corrective Actions Transmittal form on September 11, 2017 that outlined the violation of the RIM easement, and that the fill needed to be removed. Fagen Farms responded to the SWCD on September 19, 2017, and proposed the current easement alteration request that is before the board.

Fagen Farms proposed to replace the current 1.8 acre RIM parcel with a 10.3 acre parcel just to the south of Hawk Creek. This site is in the floodplain and contains 3.6 acres of cropland and 6.7 acres of woodland. Fagen Farms has submitted all the required items for the BWSR to consider this alteration request. Both the SWCD and the DNR Area Wildlife Manager are in support of this proposal.

Staff recommended approval of this request. This was not a willful violation on the part of Fagen Farms, LLP. They claim they never realized that the small 1.8 acre RIM easement even existed on this parcel, and there were no RIM boundary stakes or signs ever placed on this easement. The replacement acres that would be gained would permanently protect 3.6 acres of flood prone cropland and 6.7 acres of flood plain woodland wildlife habitat.

Fagen Farms, LLP would pay all costs associated with seeding replacement acres to a native seed mix specified by the Chippewa SWCD, and all required title and recording fees.

Jack Ditmore proposed a friendly amendment to the resolution to acknowledge the benefit of the alteration for the public interest.

**
17-108 Moved by Kathryn Kelly, seconded by Gene Tiedemann, to approve the 12-26-00-01 Easement Alteration Resolution, as amended. ***Motion passed on a voice vote.***

RIM Reserve Easement 49-13-87-01-A Alteration, Brad MacKissock – Tim Fredbo presented the MacKissock alteration request. Brad MacKissock requested a change to RIM conservation easement 49-13-87-01-A in Belle Prairie Township in Morrison County. Mr. MacKissock purchased 10 acres in the SE1/4 of the SE1/4 of Sec. 30, T. 41, R. 31 in Morrison County, that contains a 1.6 acre portion of a 1987 RIM living snow fence easement, on October 5, 2017. He is planning on building a new home on the property and needs a driveway through the easement strip that runs parallel with the road that he has access from.

His access to this property is directly off Hawthorn Road, which borders the south edge of the parcel. Mr. MacKissock is requesting a release of approximately .06 acres of the existing easement so he can construct a new driveway off of Hawthorn Road. He is offering to replace the released acres with .15 acres along the north edge of the RIM easement.

The original RIM snow fence easement was recorded on August 11, 1989, and was part of a 220 ft wide windbreak planting adjacent to the Hawthorne Road right-of-way. Mr. MacKissock has also agreed to replant 500 new trees, at his cost, in to the replacement acres and the existing easement to refurbish the windbreak if this proposal is approved.

The Morrison SWCD and the DNR Area Wildlife Manager have both recommended approved of this proposed alteration.

Staff recommended approval of this request. The .15 acres that Mr. MacKissock offered in exchange for the release of the .06 acres satisfies the current 2:1 replacement minimum. The additional trees that he has offered to plant will improve the future effectiveness of this snow fence easement as well. Mr. MacKissock will also pay all title and recording fees associated with this amendment if it is approved.

There was a question from the board if the landowner had attempted to contact any neighboring land owners about using their right of ways to enter his land. The answer to that question was not known.

Jack Ditmore proposed a friendly amendment to the resolution to acknowledge the benefit of the alteration for the public interest.

**
17-109 Moved by Chris Elvrum, seconded by Jill Crafton, to approve the 49-13-87-01-A Easement Alteration, as amended. ***Motion passed on a voice vote.***

RIM Reserve Easement 17-46-01-01 and 17-08-90-01 Alteration, Kevin Oeltjenbruns

**
17-110 Moved by Tom Schulz, seconded by Jack Ditmore, to table the Easement Alteration. ***Motion passed on a voice vote.***

AGENCY REPORTS

Minnesota Department of Agriculture – no report provided.

Minnesota Department of Natural Resources – no report provided.

Minnesota Pollution Control Agency – no report provided.

Minnesota Department of Health – no report provided.

ADVISORY COMMENTS

Association of Minnesota Counties – no report provided.

Minnesota Association of Conservation District Employees – no report provided.

Minnesota Association of Soil & Water Conservation Districts – no report provided.

Minnesota Association of Townships – no report provided.

Minnesota Association of Watershed Districts – no report provided.

Natural Resources Conservation Services – no report provided.

REPORTS

Chair & Administrative Advisory Committee – no report provided.

Audit and Oversight Committee – no report provided.

Executive Director's Report - no report provided.

Dispute Resolution Committee - Travis Germundson provided an update to the board. There are six appeals pending. No new appeals have been filed since the October 2017 board meeting. The Dispute Resolution Committee is scheduled to meet on April 25, 2018 to hear the WCA Appeal of a Replacement Plan Decision in Wright County (File 17-5) and notice was provided about that hearing on December 4, 2017.

Grants Program & Policy Committee – no report provided.

RIM Reserve Committee – no report provided.

Water Management & Strategic Planning Committee – no report provided.

Wetland Conservation Committee – no report provided.

Buffers, Soils & Drainage Committee – no report provided.

Drainage Work Group (DWG) - Al Kean provided a report to the board. There have been three advisory committee meetings regarding acceleration drainage system acquisition of ditch buffer strips and alternative practices. This will be brought before the board in January and a report is due to the legislature on February 1, 2018. The Clean Water Council policy committee received a report from the Drainage Work Group regarding a draft policy statement about goals for storage to mitigate altered hydrology and recommendations to better align drainage law and One Watershed, One Plan objectives. Input was provided to the work group regarding runoff sediment delivery options for drainage system repair cost apportionment. Two meetings of the work group have been scheduled before the legislative session begins: January 11 and February 1, 2018.

UPCOMING MEETINGS

- Next BWSR Meeting is scheduled for 9:00am, January 24, 2017 in St. Paul.

Chair VanAmburg adjourned the meeting at 12:09 PM

Respectfully submitted,

Gerald VanAmburg
Chair

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Dispute Resolution Committee Report

Meeting Date: January 24, 2018

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Central Office

Contact: Travis Germundson

Prepared by: Travis Germundson

Reviewed by: _____ Committee(s)

Presented by: Travis Germundson/Gerald VanAmburg

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

None

LINKS TO ADDITIONAL INFORMATION

See attached Report

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

The report provides a monthly update on the number of appeals filed with BWSR.

Dispute Resolution Report
January 11, 2018
By: Travis Germundson

There are presently **six** appeals pending. All of the appeals involve WCA. There has been **one** new appeal filed since the last report (December 20th Board Meeting).

Format note: New appeals that have been filed since last report to the Board.
~~Appeals that have been decided since last report to the Board.~~

File 17-7 (12-29-17) This is an appeal of a restoration order in Wright County. The appeal regards the unauthorized drainage impacts to approximately 4.74 acres of wetland associated with the placement of agricultural drain tile. *No decision has been made on the appeal.*

~~File 17-5 (7-13-17) This is an appeal of a replacement plan decision in Wright County. The appeal regards the denial of a replacement plan application for the construction of a residential driveway. The appeal was withdrawn and the case dismissed.~~

File 17-4 (5-22-17) This is an appeal of a restoration order in Caver County. The appeal regards the unauthorized impacts to wetlands resulting from excavation of a private ditch system. The appeal has been placed in abeyance for submittal of additional documentation in support of the appeal and for the county to make a final decision on the wetland applications. The Board's Order has since been amended to extend the time period of the stay for the TEP to convene and develop a revised written report.

File 16-12 (9-30-16) This is an appeal of a restoration order in Nicollet County. The appeal regards the unauthorized impacts to 11.2 acres of wetland associated with the installation of agricultural drain tile. The appeal has been placed in abeyance for submittal of additional documentation and for the TEP to convene onsite and develop written findings of fact. The order placing the appeal in abeyance was amended for a second time extending time period on the stay of the restoration order until the LGU makes a final decision on the wetland applications.

File 15-7 (7-20-15) This is an appeal of a Restoration Order in Olmsted County. The appeal regards the unauthorized placement of drain tile in a purported wetland. Applications for exemption and no-loss determinations have been submitted to the local unit of government concurrently with the appeal. The appeal has been placed in abeyance until the LGU makes a final decision on the applications for exemption and no-loss. That decision has been appealed (File 16-5). The appeal will remain in abeyance until there is a final decision on the exemption and no-loss appeal.

File 11-1 (1-20-11) This is an appeal of a restoration order in Hennepin County. The appeal regards the filling of approximately 1.77 acres of wetland and 0.69 acres of excavation. The appeal has been placed in abeyance and the restoration order stayed until there is a final decision on an after-the-fact wetland application and confirmation of required mitigation. Site certification is scheduled to take place during the 2017 calendar year.

File 09-10 (7-9-09) This is an appeal of a banking plan application in Aitkin County. The appeal regards the LGU's denial of a banking plan application to restore 427.5 acres of wetlands through the use of exceptional natural resource value. The appeal has been accepted and settlement discussions are on hold while the appellant addresses permitting issues with the Corps of Engineers. The appeal has been placed in abeyance by mutual agreement. A revised wetland bank plan application has been approved with conditions. Those conditions require the approval of partial ditch abandonment along with a Conditional Use Permit for alterations in the floodplain.

Summary Table

Type of Decision	Total for Calendar Year 2016	Total for Calendar Year 2017
Order in favor of appellant		1
Order not in favor of appellant	1	
Order Modified	1	
Order Remanded	1	1
Order Place Appeal in Abeyance	7	2
Negotiated Settlement	1	
Withdrawn/Dismissed	9	4

COMMITTEE RECOMMENDATIONS

Grants Program and Policy Committee

1. Statewide Cover Crop Training Grant – Megan Lennon – ***DECISION ITEM***
2. Wellhead Protection RIM-Red Rock Rural Water System – Bill Penning – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Statewide Cover Crop Training Grant

Meeting Date: January 24, 2018

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Statewide

Contact: Megan Lennon, Technical Training and Certification Coordinator

Prepared by: Megan Lennon, Technical Training and Certification Coordinator

Reviewed by: Grants Program and Policy Committee(s)

Presented by: Megan Lennon, Technical Training and Certification Coordinator

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|--|---|
| <input type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input checked="" type="checkbox"/> Other:
<u>NRCS Contribution Agreement</u> | <input checked="" type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

Approve Statewide Cover Crop Training Grant to Fillmore SWCD for the development and delivery of cover crop training to meet the needs of local conservation partners.

LINKS TO ADDITIONAL INFORMATION

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

Currently, one of the main bottlenecks to offering technical training for local conservation partner staff is a lack of trainers. In the past the conservation partnership has relied on Natural Resources Conservation Service (NRCS) staff to provide technical training, but recent decreases in budgets and staffing have prevented training from being offered at a rate that is needed. The Technical Training and Certification Program is utilizing multiple strategies to

address the shortage of trainers and to ensure delivery of high-priority training to conservation partners. One strategy is to harness the knowledge and experience of local subject matter experts and create opportunities for them widen their training audience and deliver trainings throughout the State.

The Statewide Cover Crop Grant to Fillmore SWCD is an effort of the Technical Training and Certification Program to utilize a regionally-recognized cover crop expert and deliver statewide training opportunities. Training on Cover Crops is a high priority training needed in all areas of Minnesota. Dean Thomas, a Fillmore SWCD employee, is an expert in soil health and cover crop management and will fulfill the deliverables of the cover crop training grant. The sole source grant will be executed on a reimbursement basis, up to \$15,000, to cover the cost of curriculum and training material development, staff time to deliver six full-day trainings, and lodging, mileage and per diem for the trainer. There is not a match requirement.

Statewide Cover Crop Grant deliverables:

- 1) Delivery of six full day trainings (Rochester, Fergus Falls, Pine County, Redwood Falls, St. Cloud, Crookston)
- 2) Curriculum and course design
- 3) Presentation and course material development
- 4) Coordination with Natural Resources Conservation Service
- 5) Training evaluation

The funding for this grant will come from an existing NRCS Contribution Agreement # 63-6322-15-500 and Accelerated Implementation funds that have been appropriated to the Board in the Laws of Minnesota 2017, 1st Special Session, Chapter 2, Article 2, and the Laws of Minnesota 2017, 1st Special Session, H. F. 707 4th Engrossment, Article 2, Sec. 7, for technical training.

BOARD ORDER**Statewide Cover Crop Training Grant****PURPOSE**

Provide Fiscal Year 2018 Clean Water Fund Cover Crop Training Grant to the Fillmore Soil and Water Conservation District (SWCD).

RECITALS

1. The Board of Water and Soil Resources (Board) has mutually committed, along with the Natural Resources Conservation Service (NRCS), the Minnesota Association of Soil and Water Conservation Districts, and the Minnesota Association of Conservation District Employees to provide resources for technical training and certification of local staff.
2. The Board has entered into a Contribution Agreement 63-6322-15-500 with the NRCS to develop, coordinate and implement the Technical Training and Certification Strategy.
3. The Board receives requests for specialized assistance to address technical training needs that cannot be addressed by routine Board staff support.
4. The Laws of Minnesota 2017, 1st Special Session, in H.F. 707 4th Engrossment, Article 2, Sec. 7 appropriated funds to the Board for accelerated implementation of training and certification.
5. The Grants Program and Policy Committee, at their January 18, 2018 Meeting, reviewed this request and recommended the Board approve this grant.

ORDER

The Board hereby:

1. Approves the allocation of \$15,000 to Fillmore SWCD for development and delivery of statewide cover crop training, and
2. Authorizes staff to enter into a grant agreement for this purpose; and
3. Requires this grant follow the Clean Water Fund Policy except no match is required and the eligible activity is to provide training.

Dated at St. Paul, Minnesota, this January 24, 2018.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

Gerald Van Amburg, Chair
Board of Water and Soil Resources

Date: _____

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Wellhead Protection RIM-Red Rock Rural Water System

Meeting Date: January 24, 2018

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Easements

Contact: Bill Penning

Prepared by: Tabor Hoek

Reviewed by: Grants Program and Policy & RIM Committee Committee(s)

Presented by: Bill Penning

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input checked="" type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

Request board authorization to grant \$10,000 in RIM CWF Wellhead (cite appropriation) to the Red Rock Rural Water System (RRRWS) in SW MN for purposes of partnering with Pheasants Forever in the fee acquisition of the Irruption WMA, a key parcel of land within the newly established RRRWS Wellhead in Murray county.

LINKS TO ADDITIONAL INFORMATION

Parcel PF acquisition map
Wellhead map

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)

Rural Water System is a public body organized under Minnesota State Statute 116A.

Red Rock Rural Water System is a public body organized under Minnesota State Statute 116A. It is a system of pipelines, storage reservoirs, pumping stations, wells and treatment facilities located in Cottonwood, Jackson, Redwood, Murray, Lyon, Martin, Brown, Watonwan and Nobles counties. It serves farms, rural residences, small towns and unincorporated communities.

This is a new wellhead area for RRRWS recently coming on line under an approved wellhead management plan from the MN Dept. of Health. This plan identifies critical areas of vulnerability of which the parcel in question is mapped as Very High Vulnerability. Upon completion, Pheasants Forever will work with the DNR to develop this area as a Wildlife Management Area open for public hunting. This addition is part of a larger habitat complex. This project will help to protect the Very High Vulnerability area and provide public recreation. It is modeled after the successful Worthington Wells WMA project which BWSR was a part of.

BOARD ORDER**Red Rock Rural Water District Wellhead Protection Grant****PURPOSE**

Provide fiscal year 2018 Clean Water Fund Wellhead Protection Grant to the Red Rock Rural Water System.

RECITALS

1. The Laws of Minnesota 2017, 1st Special Session, Ch.91, Article 2, Sect 7(g) appropriated funds to the Board for grants to local units of government for fee title acquisition to permanently protect groundwater supply sources areas.
2. The Dept. of Health has approved the required wellhead management plan for this high priority area.
3. The Grants Program and Policy Committee, at their January 18, 2018 Meeting, reviewed this request and recommended the Board approve this grant.

ORDER

The Board hereby:

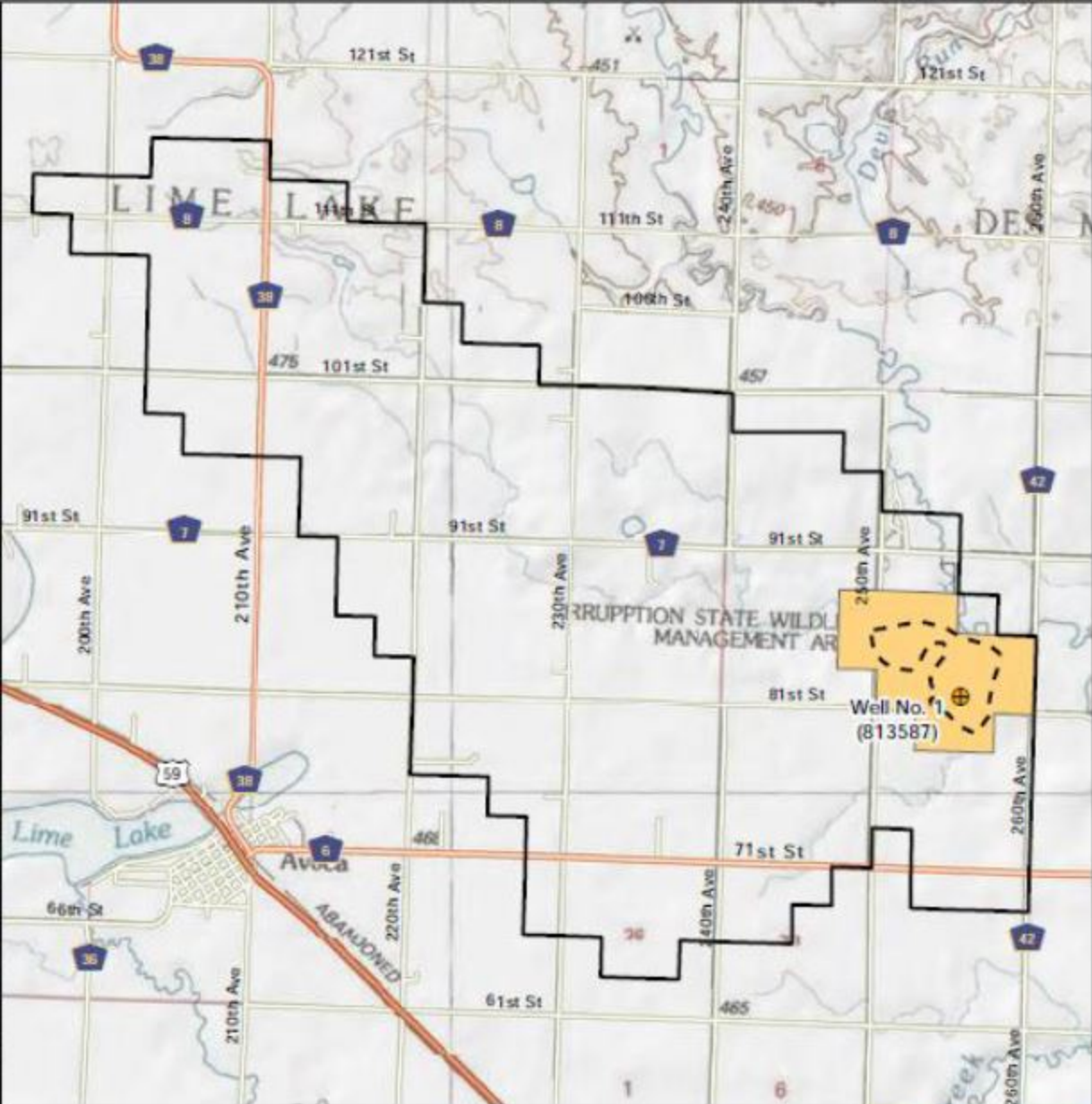
1. Approves the allocation of \$10,000 to the Red Rock Rural Water System to partner with Pheasants Forever for the fee acquisition of the Irruption WMA and authorizes staff to enter into a grant agreement for this purpose.

Dated at St. Paul, Minnesota, this January 24, 2018.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

Gerald Van Amburg, Chair

Date: _____



-  City Well
-  10-Year Composite Capture Zone (porous flow)
-  Drinking Water Supply Management Area
- DWSMA GWCA Vulnerability
-  High



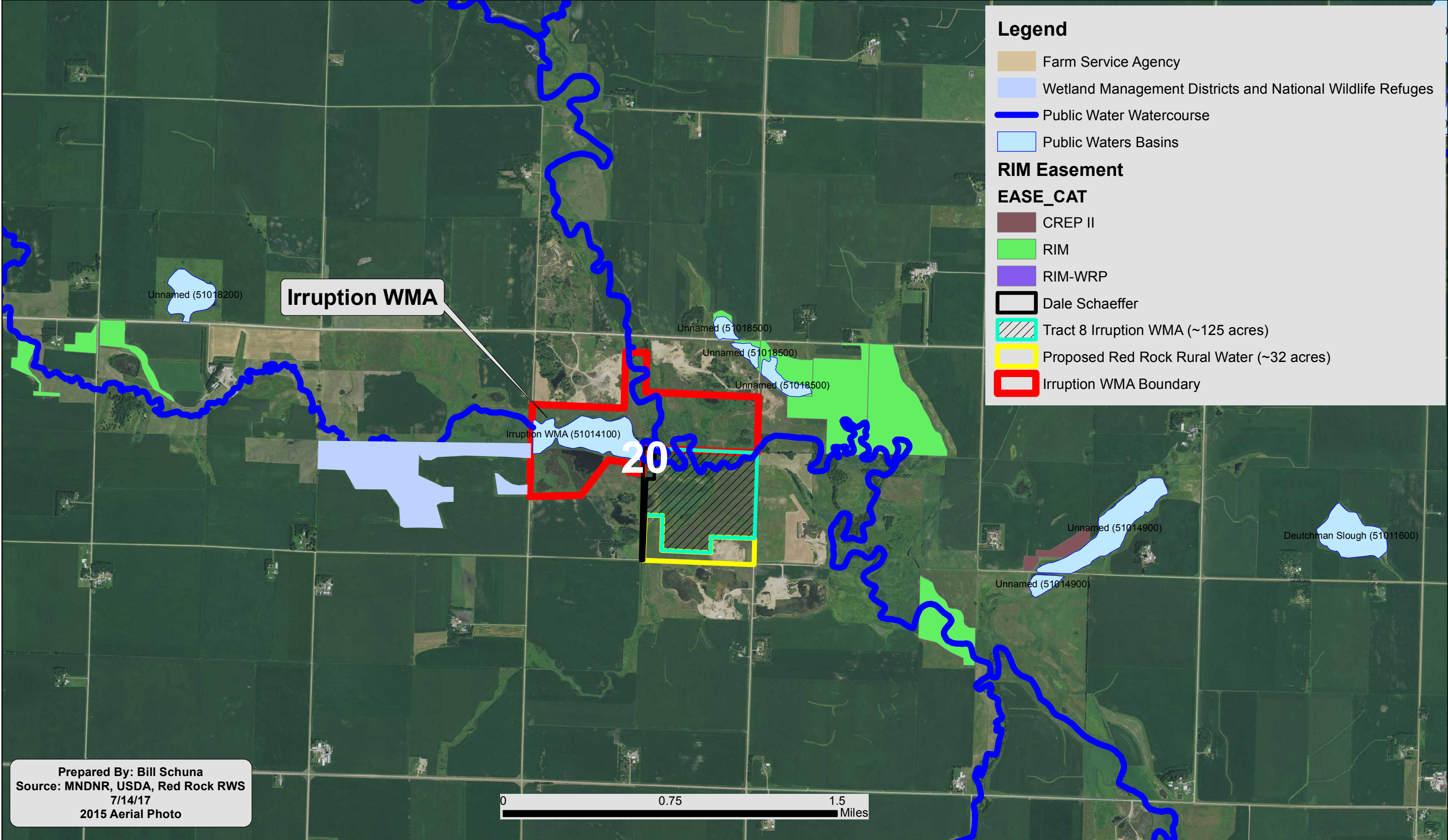
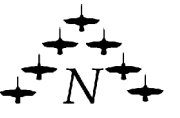
Service Layer Credits: Copyright: © 2013 National Geographic Society, i-cubed
 Copyright: © 2013 National Geographic Society, MN Well Index.



Prepared by:
LEGGETTE, BRASHEARS & GRAHAM, INC.
 Professional Groundwater and
 Environmental Engineering Services
 8 Pine Tree Drive, Suite 250
 SL Park, Minnesota 55117
 (651) 490-1406

RED ROCK RURAL WATER		
JEFFERS, MINNESOTA		
DWSMA GROUNDWATER CAPTURE AREA VULNERABILITY ASSESSMENT		
LINDSTROM WELL FIELD		
FILE: q3rmlwstwhp01-Fig 11.MXD	DATE: 4/25/2017	FIGURE: 11

**Tract 8 Irruption WMA - Zoom Out
Des Moines River TWP
T106N R39W Part of SE1/4 Section 20**



Legend

- Farm Service Agency
- Wetland Management Districts and National Wildlife Refuges
- Public Water Watercourse
- Public Waters Basins

RIM Easement

EASE_CAT

- CREP II
- RIM
- RIM-WRP
- Dale Schaeffer
- Tract 8 Irruption WMA (~125 acres)
- Proposed Red Rock Rural Water (~32 acres)
- Irruption WMA Boundary

Prepared By: Bill Schuna
Source: MNDNR, USDA, Red Rock RWS
7/14/17
2015 Aerial Photo

0 0.75 1.5 Miles

COMMITTEE RECOMMENDATIONS

RIM Reserve Committee

1. Oeltjenbruns RIM Easement Alteration (17-46-01-01 & 17-08-90-01) – Tim Fredbo – ***DECISION ITEM***
2. Reinvest in Minnesota (RIM) Reserve – Camp Ripley Army Compatible Use Buffer (ACUB) Program Rates – Bill Penning – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Oeltjenbruns RIM Easement Alteration (17-46-01-01 & 17-08-90-01)

Meeting Date: January 24, 2018

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Conservation Easement Section

Contact: Bill Penning, Section Mgr.

Prepared by: Tim Fredbo, Easement Specialist

Reviewed by: RIM Committee(s)

Presented by: Tim Fredbo

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

Board approval to formally amend RIM easements 17-46-01-01 and 17-08-90-01 in Cottonwood County.

LINKS TO ADDITIONAL INFORMATION

Easement alteration policy http://www.bwsr.state.mn.us/easements/easement_alteration_policy.pdf

Oeltjenbruns support docs.pdf (attached)

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

Background

Kevin Oeltjenbruns is requesting a release of 7.7 acres from RIM conservation easement 17-46-01-01, and proposes to replace these acres by adding 20 acres on to RIM easement 17-08-90-01. Easement 17-46-01-01 is currently a 23 acre MN River CREP riparian easement, where the CRP contract has just expired. Easement 17-09-90-01 is a 40 acre sensitive ground water protection RIM easement. Both easements are in Delton Twp. in Cottonwood County.

Easement 17-46-01-01 is adjacent to a DNR protected stream and the release of 7.7 acres will still enable the remaining buffer to comply with the public waters buffer law requirements. The 20 acre area proposed for replacement adjacent to easement 17-08-90-01 contains 15.4 acres of cropland and 4.6 acres of non-crop. These acres are shallow to bedrock and will provide further protection of groundwater resources. These replacement acres are also adjacent to a much larger tract of restored native grasses that are contained in a new DNR wildlife management area and Nature Conservancy tract. Mr. Oeltjenbruns has also offered to enroll the expanded easement into the Walk In Access program and seed the new cropland acres down to a native grass mix at his cost.

Mr. Oeltjenbruns has submitted all the necessary documents to support his proposal as required by RIM rule and Alteration Policy. Both the Cottonwood SWCD and the DNR Area Wildlife Mgr. recommended approval of this proposed alteration.

Recommendation

Staff recommends approval of this request. The 20 acres that Mr. Oeltjenbruns is offering in exchange for the release of 7.7 acres more than satisfies our current 2:1 replacement minimum. The additional acres will also help create a larger block of contiguous grassland wildlife habitat in Sections 11 and 14 of Delton Twp. The riparian buffer easement remaining in Section 1 will still leave a 200 foot buffer in place adjacent to the stream.

Board Resolution # 18- _____

RIM Reserve Easement 17-46-01-01 and 17-08-90-01 Alteration, Oeltjenbruns

WHEREAS, Kevin Oeltjenbruns owns the land under RIM/CREP easement 17-46-01-01 in Sec.1, Delton Twp., Cottonwood County, and the land under RIM easement 17-08-90-01 in Sec. 14, Delton Twp.; and,

WHEREAS Mr. Oeltjenbruns wants to remove 7.7 acres of the 23 acre 17-46-01-01 riparian land easement; and

WHEREAS Mr. Oeltjenbruns is proposing to add 20 acres to the 40 acre 17-08-90-01 sensitive groundwater protection easement; and

WHEREAS the removal of 7.7 acres from 17-46-01-01 will still leave an adequate buffer adjacent to the DNR protected public water stream; and

WHEREAS the addition of 20 acres adjacent to 17-08-90-01 will provide increased groundwater protection in an area that is shallow to bedrock; and

WHEREAS the additional 20 acres will also benefit wildlife by adding acreage to the large block of contiguous prairie restoration in the area; and

WHEREAS Mr. Oeltjenbruns has also offered to enroll easement 17-08-90-01, which lies adjacent to Rock Ridge WMA, in to the Walk In Access program; and

WHEREAS the 20 acres proposed as replacement contains 15.4 acres of current cropland and 4.6 acres of non-crop, so this satisfies our 2:1 cropland replacement policy, and the State will realize a net gain of 12.3 acres under RIM if this proposal is approved; and

WHEREAS both the Cottonwood SWCD and the DNR Area Wildlife Manager are in support of this proposal; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources (BWSR) approves the alteration of RIM easements 17-46-01-01 and 17-08-90-01 as proposed, and authorizes staff to work with the Oeltjenbruns and Cottonwood SWCD staff to officially amend the necessary RIM easement documents;

BE IT FURTHER RESOLVED THAT, Mr. Oeltjenbruns shall pay all title insurance and recording fees associated with the amendments, and all cost associated with seeding down the new 15.4 acre cropland acres consistent with a prairie restoration plan developed and/or approved by the Cottonwood SWCD;

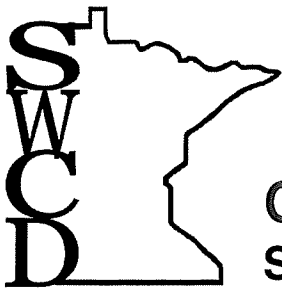
Dated at Saint Paul, Minnesota this 24th day of January, 2018.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

Gerald Van Amburg, Chair

Board of Water and Soil Resources

Date: _____



**COTTONWOOD
SOIL AND WATER CONSERVATION DISTRICT**

339 9th Street
Windom, MN 56101

Phone: 507-831-1153 Ext. #3
Fax: 507-831-2928

RECEIVED

NOV 15 2017

Bd. of Water & Soil Resources
St. Paul

DATE: November 9, 2017
TO: BOARD OF WATER AND SOIL RESOURCES
FROM: COTTONWOOD SOIL AND WATER CONSERVATION DISTRICT
SUBJECT: LANDOWNER REQUEST FOR EASEMENT ALTERATION

To whom it may concern:

Please find the enclosed documentation on behalf of Landowner Kevin Oeltjenbruns requesting an alteration of existing conservation easements. Mr. Oeltjenbruns proposal is to remove 7.7 acres from conservation easement #17-46-01-01 and add the additional acres at a rate of 2:1 (with additional donated non-crop land) to conservation easement #17-08-90-01.

The Cottonwood SWCD board was unanimous in supporting this decision for the swap with the acres because of the groundwater sensitivity, considering the landowner is leaving at least a 200 foot minimum buffer on 17-46-01-01, and the additional acres in proximity to other wildlife habitat. Mr. Oeltjenbruns has also offered to submit an application to the Walk-In-Access program for new land.

Please contact the Cottonwood SWCD with any questions.

Sincerely,

Cottonwood SWCD

KEVIN C. OELTJENBRUNS BETTY ANN OELTJENBRUNS FARM ACCOUNT 52872 290TH ST. MOUNTAIN LAKE, MN 56159		75-425 912 8	7388
DATE 10-19-17			
PAY TO THE ORDER OF <u>BWSR</u>		\$	500 ⁰⁰
<u>Five Hundred + 00/100</u>		DOLLARS	
	FIRST NATIONAL BANK 2 S. Marshall Avenue P.O. Box 125 Springfield, MN 56087	<u>K. Oeltjenbruns</u>	
MEMO		MP	

To the Cottonwood Soil and Water Conservation District,

I am requesting to alter my RIM easements #17-46-⁰¹10-01 and #17-08-90-01 to facilitate a land trade. I am proposing to enter 20 acres of land into RIM adjacent to the Easement #17-08-90-01 of which 15.4 acres is cropped, and the 4.6 acres of non-crop land will be donated into RIM. I then request to remove 7.7 acres from the easement #17-46-⁰¹10-01 as seen on the maps provided.

Benefits of the trade:

The land I wish to put into RIM is crop land with very shallow bedrock and thus is in a highly vulnerable ground water area.

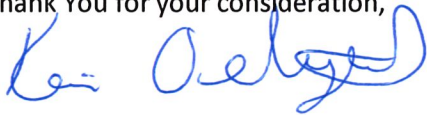
The land I wish to remove from RIM is in an extended upland buffer. After the trade, a minimum 200 foot buffer to continue to protect the stream from surface water runoff. The remaining 200'+ buffer would also still provide room and elevation for a wetland enhancement on the stream sometime in the future.

The new land is also next to a quarter section of Department of Natural Resources land which is connected to over 500 acres of Nature Conservancy land, adding to the largest contiguous prairie restoration in our area.

I will also offer the new RIM land into the Walk in Access Program as it is adjacent to the MN DNR land which is also open to public hunting.

The RIM Program will receive an additional 12.3 acres of highly vulnerable land that would then be protected. I will use the CP 25 standard for the seeding which I understand will be at my cost as well as the easement recording fees.

Thank You for your consideration,



Kevin Oeltjenbruns.

RCRCA: Lingbeek

GBERBA: Lingbeek, Bucklin and Gross

SOUTHWEST PRAIRIE TSA: Muller, Gross

SOUTHWEST PRAIRIE TSA VOUCHERS and FINANCIAL REPORT:

Motion by Duroe, second by Muller, to approve the Southwest Prairie Vouchers and Monthly Financials for August and September and September Administrator Report.

Affirmative: Nerem, Duroe, Lingbeek, Tasler and Muller.

Opposed: None.

Motion carried.

MASWCD: Lingbeek

COTTONWOOD COUNTY COMMISSIONER: Not in Attendance.

ADMINISTRATOR REPORT: Kay Gross

NRBG – Well Sealing Cost-Share Contract Approval

Rod Junker

2017-09

Well Sealing

Cost: \$975.00

C-S: \$487.50

Motion by Lingbeek, second by Duroe to approve the NRBG Well Sealing contract approval for Rod Junker (\$487.50).

Affirmative: Nerem, Duroe, Lingbeek, Tasler, and Muller.

Opposed: None.

Motion carried.

STATE OF MINNESOTA PROFESSIONAL AND TECHNICAL SERVICES WORK ORDER CONTRACT

Motion by Lingbeek, second by Tasler to approve the State of Minnesota professional and technical services work order contract for \$2,000.00.

Affirmative: Nerem, Duroe, Lingbeek, Tasler and Muller.

Opposed: None.

Motion carried.

MDA TOWNSHIP WELL TESTING PROGRAM

Motion by Muller, second by Duroe to recommend including Amboy township to the MDA township testing program along with Germantown and Southbrook townships.

Affirmative: Nerem, Duroe, Lingbeek, Tasler and Muller.

Opposed: None.

Motion carried.

CREP OUTREACH AND IMPLEMENTATION ASSISTANCE

OPERATIONAL AGREEMENT AND COOPERATIVE WORKING AGREEMENTS

PUBLIC RECORDS REQUEST

OCTOBER SWCD BOARD MEETING CHANGE

Motion by Muller, second by Duroe to change the October Cottonwood SWCD Board meeting from Thursday, October 26, 2017 at 8:30 a.m. to Friday, October 27, 2017 at 2:00 p.m.

Affirmative: Nerem, Duroe, Lingbeek, Tasler and Muller.

Opposed: None.

Motion carried.

MASWCD RESOLUTION BALLOT

REQUEST TO ALTER EASEMENT ACRES

Motion by Lingbeek, second by Tasler to approve the easement exchange proposed by Kevin Oeltjenbruns to exchange area in Delton township section 1 for area in Delton township section 14.

Affirmative: Nerem, Duroe, Lingbeek, Tasler and Muller.

Opposed: None.

Motion carried.

Minnesota Department of Natural Resources

DNR - Wildlife, 175 County Road 26, Windom, MN 56101
507-831-2900 Ext 226

10/9/17



Cottonwood Co SWCD
339 9th St
Windom, MN 56101

Re: Kevin Oeltjenbruns RIM Easement Alteration Request

Dear Board:

This letter is in response to Kevin Oeltjenbruns' request to modify a RIM easement, in Section 1, Delton Twp, by removing 7.4 acres from the easement and adding 15.4 acres to the RIM easement in Section 14, Delton Twp. I have no concerns with this proceeding as long as the RIM easement requirements for this are met.

This is based upon the increase in acres protected under RIM easements, and the buffer to the stream in Section 1 remaining in place. The new acres will also be of benefit to the adjacent WMA and TNC properties.

Thank you for the opportunity to review and comment on this activity. Feel free to contact me with any questions.

Sincerely,

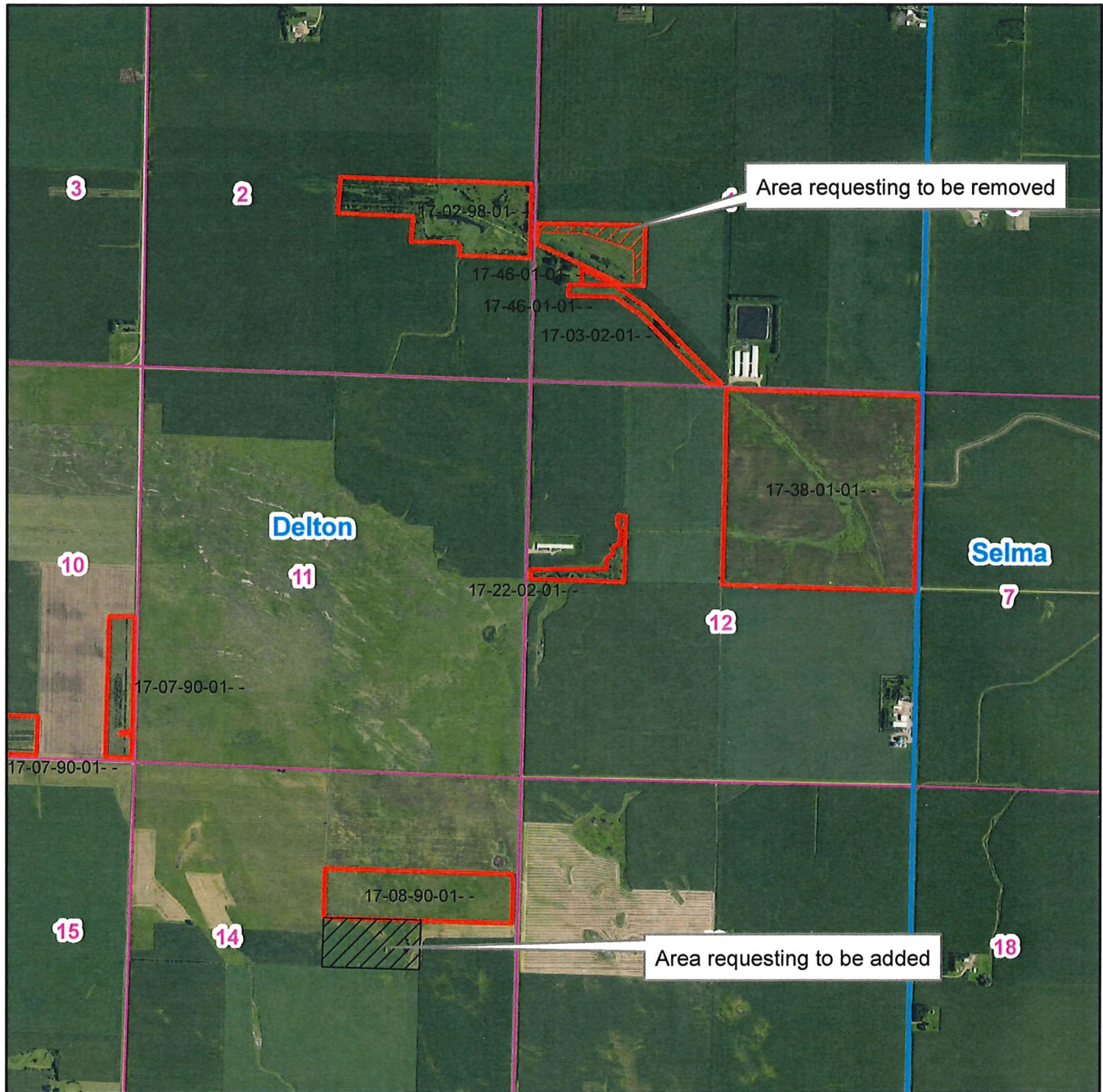
A handwritten signature in black ink that reads "Randy Markl".

Randy Markl
Area Wildlife Supervisor







Cottonwood County

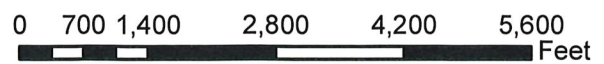
Delton Township Section 1 & 14
RIM Amendment Proposal

17-08-90-01
17-46-01-01



Legend

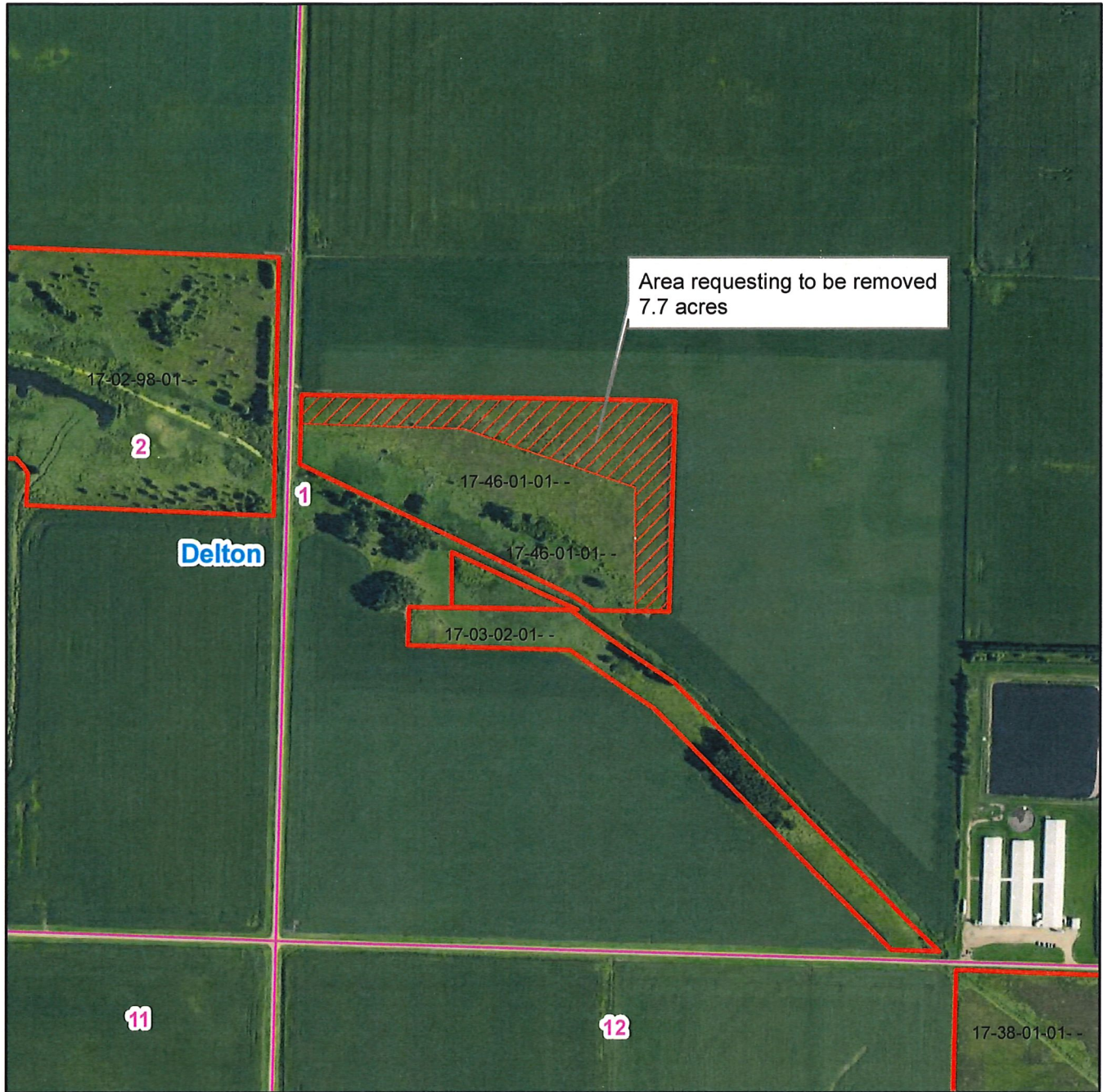
-  17-08-90-01_Addition
-  17-46-1-01_Removal
-  Cottonwood RIM Easements
-  County
-  Townships
-  Sections









Cottonwood County

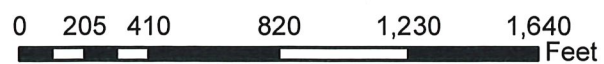
Delton Township Section 1 & 14 RIM Amendment Proposal

17-08-90-01
17-46-01-01



Legend

-  17-08-90-01_Addition
-  17-46-1-01_Removal
-  Cottonwood RIM Easements
-  County
-  Townships
-  Sections



Cottonwood County

Delton Township 1 & 14






RIM Amendment Proposal

17-08-90-01

17-46-01-01



Legend

-  17-08-90-01_Addition
-  Cottonwood RIM Easements
-  County
-  Townships
-  Sections

N



0 200 400 800 1,200 1,600 Feet

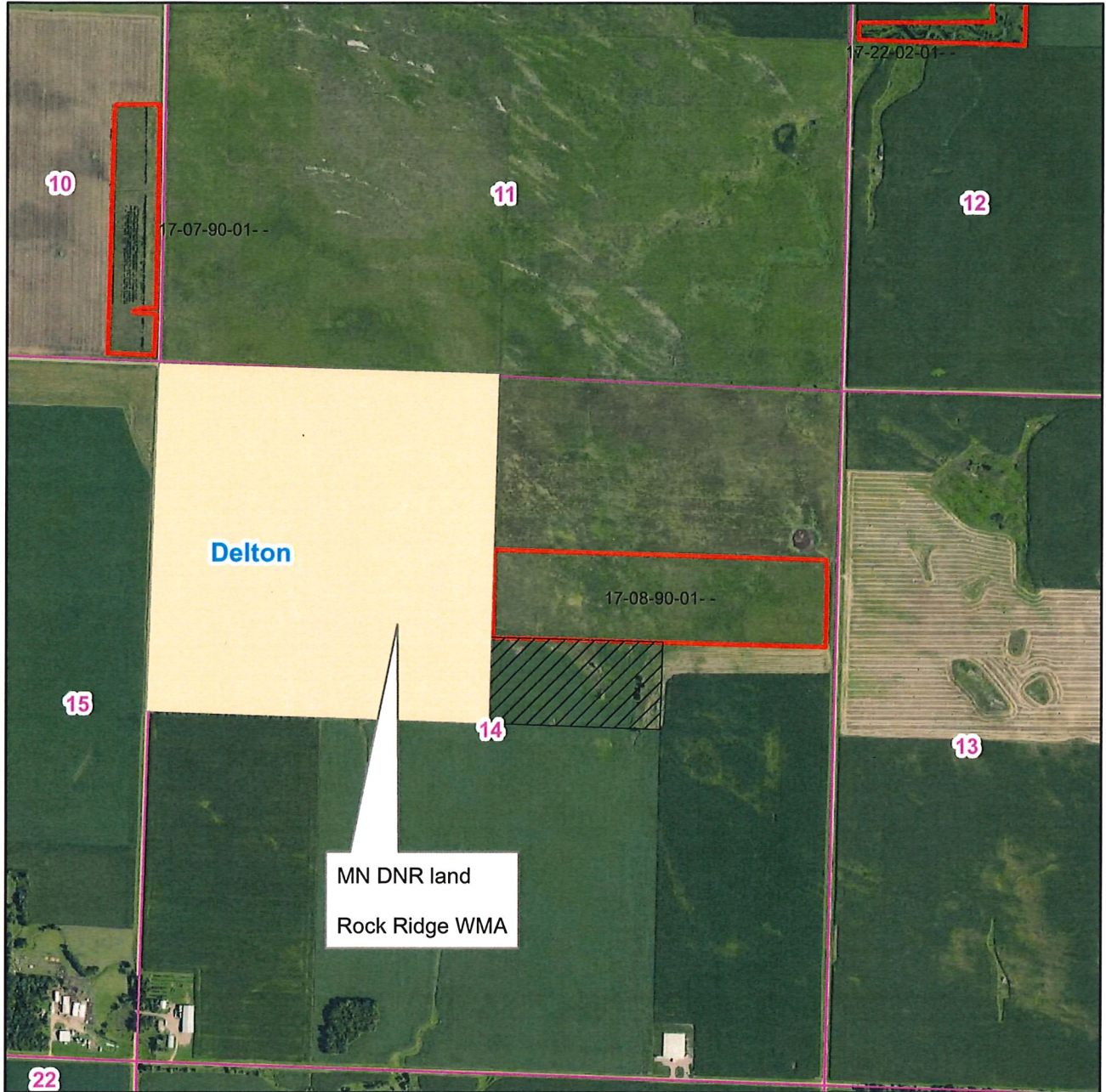
Cottonwood County

Delton Township 1 & 14

RIM Amendment Proposal

17-08-90-01

17-46-01-01



Legend

-  Rock_Ridge_WMA
-  17-08-90-01_Addition
-  Cottonwood RIM Easements
-  County
-  Townships
-  Sections

N



0 400 800 1,600 2,400 3,200 Feet

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Reinvest in Minnesota (RIM) Reserve – Camp Ripley Army Compatible
Use Buffer (ACUB) Program Rates

Meeting Date: January 24, 2018
Agenda Category: Committee Recommendation New Business Old Business
Item Type: Decision Discussion Information
Section/Region: Easement Section
Contact: Bill Penning
Prepared by: Bill Penning
Reviewed by: RIM Reserve Committee(s)
Presented by: Bill Penning

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|--|---|
| <input type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input checked="" type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

Board approval to allow increase of ACUB payment rates to 75% of RIM rate.

LINKS TO ADDITIONAL INFORMATION

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)

Federally funded ACUB easements are intended to reduce human density within the ACUB buffer area to enable Camp Ripley to continue its training mission which involves firing heavy cannons and low level helicopter and airplane flights. These activities all generate considerable noise. Federally funded ACUB easements allow for the continued use of the land for agricultural purposes in perpetuity thus ensuring continued economic use while achieving the goal of reduced density.

In 2006, the State began taking federally funded ACUB easements using the board authorized per acre payment rate of 50% of RIM rate. Over the past few years there has been a significant reduction in the number of landowners interested in enrolling their land due to the perceived low payment being offered.

The Department of Defense and Army National Guard continue to be highly motivated to acquire additional lands within the ACUB Camp Ripley buffer zone. To this end, the board was recently awarded \$6.7M by the Department of Defense to acquire additional easements.

In order to meet federal and state goals for this program, Camp Ripley, BWSR and SWCD personnel have identified a proposed change to the payment formula of 75% of the current RIM cropland rate for these parcels. This is for Federally funded easements only as the payment rate for other ACUB easements (aka "ACUB high value riverfront easements") are calculated using a different methodology.

Board Resolution # 18- _____

**Reinvest in Minnesota (RIM) Reserve – Camp Ripley Army Compatible Use Buffer (ACUB) Program
Rates**

WHEREAS the Minnesota State Legislature has appropriated Reinvest In Minnesota (RIM) Reserve funds to the Board of Water and Soil Resources (BWSR) to acquire and restore permanent RIM conservation easements under Minnesota Statutes, Section 103F.515; and

WHEREAS the Board of Water and Soil Resources is authorized by Minnesota Statutes 103B.101, subdivision 9, authorizes BWSR to accept gifts, donations, or contributions in money, services, materials, or otherwise from the United States, a state agency, or other sources to achieve an authorized purpose. The Board may receive and expend money to acquire conservation easements, as defined in Chapter 84C, on behalf of the state and federal government consistent with Camp Ripley’s Army Compatible Use Buffer (ACUB) Program; and

WHEREAS the Camp Ripley ACUB has identified a three mile zone around Camp Ripley to create and enhance a natural buffer to ensure that the military training mission is not impeded by encroachment; and

WHEREAS the ACUB will greatly benefit the natural resources of central Minnesota by minimizing the fragmentation of surrounding lands and subsequent loss of valuable habitat for sensitive species; and

WHEREAS landowners of non-high value parcels within the 3-mile buffer areas have not been adequately interested in enrolling into the Camp Ripley ACUB because the existing ACUB payment rates for conservation easements are not sufficient to attract interest by landowners; and

WHEREAS the Camp Ripley ACUB and their staff have been working with BWSR and the Morrison SWCD to identify a change to the payment formula which would create a more equitable payment rate for these parcels; and

WHEREAS the equitable payment rate for these parcels would be 75% of current RIM Cropland Rate; and

WHEREAS the State of Minnesota, acting through BWSR and the National Guard Bureau (NGB) have entered into an agreement for implementation of the ACUB Program; and

WHEREAS the RIM Reserve Conservation Easement Program is administered by the BWSR in cooperation with local Soil and Water Conservation Districts (SWCDs); and

WHEREAS SWCDs will be reimbursed for their services using the most current RIM Reserve services rate; and

WHEREAS this resolution is supplemental but controlling to previously approved BWSR Board resolutions and will remain in effect until material changes in the program warrants an amendment; and

WHEREAS the Board of Water and Soil Resources RIM Reserve Management Planning Committee met on January 22nd, 2018 and recommends the following provisions.

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources authorizes staff to:

1. Utilize appropriated funds to implement this program; and
2. For high value riparian lands continue to implement a payment rate of 60% of the most recent assessed market value of the land as determined by the county assessor of the county where the land is located as established by the Board by Board Resolution 13-107; and
3. Implement a non-high value riparian lands rate of 75% of the RIM cropland rate; and
4. Continue to enter into Cooperative Agreements with the Camp Ripley ACUB that continue the successful implementation of this program and that are consistent with the provisions of this resolution.

Dated at Saint Paul, Minnesota this 24th day of January, 2018.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

Gerald Van Amburg, Chair

Board of Water and Soil Resources

Date: _____

COMMITTEE RECOMMENDATIONS

Audit and Oversight Committee

1. 2017 PRAP Legislative Report – Gerald Van Amburg – ***DECISION ITEM***

funding for implementation of watershed-based One Watershed-One Plans and develop protocol for evaluating Technical Service Area (TSA) performance including development of performance standards and evaluate one TSA. The report has been reviewed by the Board's Audit and Oversight committee. The recommendation for Board action comes from the Committee, and is timed to meet a February 1, 2018 date for report submittal to legislative environmental policy committees, as required by M.S. 103B.102, Subd. 3.

Board Resolution # 18- _____

Performance Review and Assistance Program

2017 Report to the Minnesota Legislature

WHEREAS, the 2007 Legislature authorized the Board of Water and Soil Resources (Board) to develop and implement a program to evaluate and report on the performance of each local water management entity, and

WHEREAS, in 2007 the Board developed a set of guiding principles and directed staff to implement a program for reviewing performance, offering assistance, and reporting results, now called the Performance Review and Assistance Program (PRAP), in consultation with stakeholders and consistent with the guiding principles, and

WHEREAS, according to Minnesota Statutes Chapter 103B.102, Subdivision 3, beginning February 1, 2008, and annually thereafter, the Board shall provide a report of local water management entity performance to the chairs of the House and Senate committees having jurisdiction over environment and natural resources policy, and

WHEREAS, the eleventh annual PRAP Report to the Minnesota Legislature contains the summaries of the 24 local water management entity performance reviews conducted by BWSR staff in 2017 and a summary of findings describing the performance of 239 local water management entities regarding compliance with plan revision and basic reporting requirements, and

WHEREAS, the 2017 PRAP Report to the Minnesota Legislature was reviewed by the Board's Audit and Oversight committee on January 23, 2018, was revised based on committee comments, and was recommended for Board approval by the committee.

NOW THEREFORE BE IT RESOLVED, that the Board of Water and Soil Resources approves the 2017 Performance Review and Assistance Program Report to the Minnesota Legislature for transmittal to the Legislature and publication on the Board's website, with allowance for any minor editing modifications necessary for publication.

Date: _____

Gerald Van Amburg, Chair

Board of Water and Soil Resources

2017 Performance Review and Assistance Program

Report to the Minnesota Legislature
(Draft 1/4/18)

February 2018

Minnesota Board of Water and Soil Resources

520 Lafayette Road North

St. Paul, MN 55155

651-296-3767

www.bwsr.state.mn.us

This report has been prepared for the Minnesota State Legislature by the Minnesota Board of Water and Soil Resources (BWSR) in partial fulfillment of Minnesota Statutes Chapter 103B.102, subdivision 3.

Prepared by Dale Krystosek, PRAP Coordinator (dale.krystosek@state.mn.us 218-820-9381)

The estimated cost of preparing this report (as required by Minn. Stat. 3.197) was:

Total staff time: \$3,500

Production/duplication: \$300

Total: \$3,800

BWSR is reducing printing and mailing costs by using the Internet to distribute reports and information to wider audiences. This report is available at www.bwsr.state.mn.us/PRAP.index and available in alternative formats upon request.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES Performance Review and Assistance Program (PRAP)

Executive Summary

Since 2008, BWSR's Performance Review and Assistance Program has assessed the performance of the local units of government constituting Minnesota's local delivery system for conservation of water and related land resources. These local units of government include 89 soil and water conservation districts, 87 counties, 45 watershed districts and 18 watershed management organizations. The program goal is to assist these local government partners to be the best they can be in their management of Minnesota's land and water resources.

PRAP focuses on three aspects of Local Governmental Unit (LGU) performance:

- 1) Plan Implementation—how well an LGU's accomplishments meet planned objectives.
- 2) Compliance with performance standards—administrative mandates and best practices.
- 3) Collaboration and Communication—the quality of partner and stakeholder relationships.

BWSR's PRAP uses four levels of review to assess performance ranging from statewide oversight in Level I, to a focus on individual LGU performance in Levels II and III, and to remediation in Level IV.

2017 Program Summary

- Completed 24 Level II performance reviews. These reviews included 11 soil and water conservation districts, 10 counties, 2 watershed districts and one watershed management organization. See pages 10-12 for discussion of findings for the Level II reviews.
- Surveyed 15 LGUs reviewed in 2015 to assess implementation of BWSR's recommendations for organizational improvements and action items. Of the 14 LGUs that completed the survey, LGUs reported fully completing 45% of their recommendations, and reported partially completing another 45% of their recommendations in their Level II performance review reports. This means that LGUs took some action on 90% of their recommendations. *(Note: A watershed-based PRAP was completed for the Crow Wing Watershed in 2015, including the SWCDs and Counties of Becker, Cass, Crow Wing, Hubbard and Wadena. Because all of these reports had joint recommendations for both the SWCD and county, the follow-up survey was sent only to the SWCDs. The SWCDs were asked to report on implementation of recommendations to prevent duplicative information. All 5 SWCDs involved in the Crow Wing River Watershed PRAP responded to the survey.)*
- Completed two Level III PRAP Assessments (one soil and water conservation district and 1 watershed district) in 2017.
- Tracked 239 LGUs' Level I performance.
- Incorporated metrics for Wetland Conservation Act program implementation responsibilities into Level II and Level III assessments for the first time to measure local government unit compliance with this program.
- Evaluated and updated potential key performance measures for PRAP Level II reviews within the framework of the watershed-based One Watershed-One Plan approach to LGU water plan implementation. Developed draft concepts for performance based funding for One Watershed-One Plan implementation.
- Updated the PRAP page of the BWSR website to provide more accessible information about the program.
- Executed three new PRAP Assistance Grant agreements to enhance LGU organizational effectiveness.

- Completed a BWSR Program Review for the Performance Review and Assistance Program, evaluating effectiveness and future direction for the program.

2017 Results of Annual Tracking of 239 LGUs' Plans and Reports (PRAP Level I)

Overall compliance with LGU plan revision and reporting requirements improved slightly in 2017. All drainage buffer reports were submitted on time, and WMO compliance continued to improve to 89% this year compared to 78% in 2016 and 44% in 2015. However, staff efforts will continue in 2018 to improve compliance, particularly among Watershed Districts.

- **Long-range Plan Status: the number of overdue plans total 3 in 2017 (down from 8 in 2016).**
 - Counties: one local water management plan is overdue.
 - Watershed Districts: One watershed management plan is overdue. (down from four overdue plans in 2016)
 - Watershed Management Organizations: one watershed management plan is overdue.
- **LGUs in Full Compliance with Level I Performance Standards: 90%.**
 - Soil & Water Conservation Districts: 93% compliance (83/89).
 - County Water Management: 94% compliance (82/87).
 - Watershed Districts: 80% compliance (36/45).
 - Watershed Management Organizations: 89% compliance (16/18).

Selected PRAP Program Objectives for 2018

- Track 239 LGUs' Level I performance.
- Continue efforts to improve WMO and WD reporting with a goal of achieving 90% compliance with Level I performance standards by the end of 2018.
- Maintain the target of 24 Level II performance reviews per year.
- Complete up to two Level III performance reviews if needed in 2018.
- Maintain the focus on resource outcomes in Level II performance reviews.
- Survey LGUs from 2016 Level II PRAP reviews to track LGU implementation of PRAP recommendations.
- Continue monitoring and reviewing compliance with Action Items identified during a Level II review. This will allow us to determine if we are meeting the goal of 100% compliance within 18 months established in 2016 for required Action Items.
- Continue the promotion and use of PRAP Assistance Grants to enhance LGU organizational effectiveness.
- Continue evaluating and updating protocol for PRAP Level I and Level II reviews for performance based funding for implementation of watershed-based One Watershed-One Plans.
- Evaluate implementation progress of at least 3 Targeted Watershed Demonstration Program projects as part of Level II reviews. *(New for 2018)*
- Develop protocol for evaluating Technical Service Area (TSA) performance including development of performance standards and evaluate one TSA if time permits. *(New for 2018)*

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What is the Performance Review & Assistance Program?

Supporting Local Delivery of Conservation Services

PRAP is primarily a performance assessment activity conducted by the Minnesota Board of Water and Soil Resources (BWSR). The subjects of the assessments are the local governmental units (LGUs) that deliver BWSR's water and land conservation programs and the process is designed to evaluate how well LGUs are implementing their long-range plans. The LGUs reviewed include soil and water conservation districts (SWCDs), watershed districts (WDs), watershed management organizations (WMOs), and the water management function of counties—a total of 239 distinct organizations. PRAP, authorized in 2007 (see Appendix A), is coordinated by one BWSR central office staff member, with assistance from BWSR's 18 Board Conservationists and 3 regional managers, who routinely work with these LGUs.

Guiding Principles

PRAP is based on and uses the following principles adopted by the BWSR Board.

- Pre-emptive
- Systematic
- Constructive
- Includes consequences
- Provides recognition for high performance
- Transparent
- Retains local ownership and autonomy
- Maintains proportionate expectations
- Preserves the state/local partnership
- Results in effective on-the-ground conservation

The principles set parameters for the program's purpose of helping LGUs to be the best they can be in their operational effectiveness. Of particular note is the principle of proportionate expectations. This means that LGUs are rated on the accomplishment of their own plan's objectives. Moreover, BWSR rates operational performance using both basic and high performance standards specific to each type of LGU. (For more detail see www.bwsr.state.mn.us/PRAP/index.html.)

Multi-level Process

PRAP has three operational components:

- performance review
- assistance
- reporting

The **performance review** component is applied at four levels (see pages 9-12).

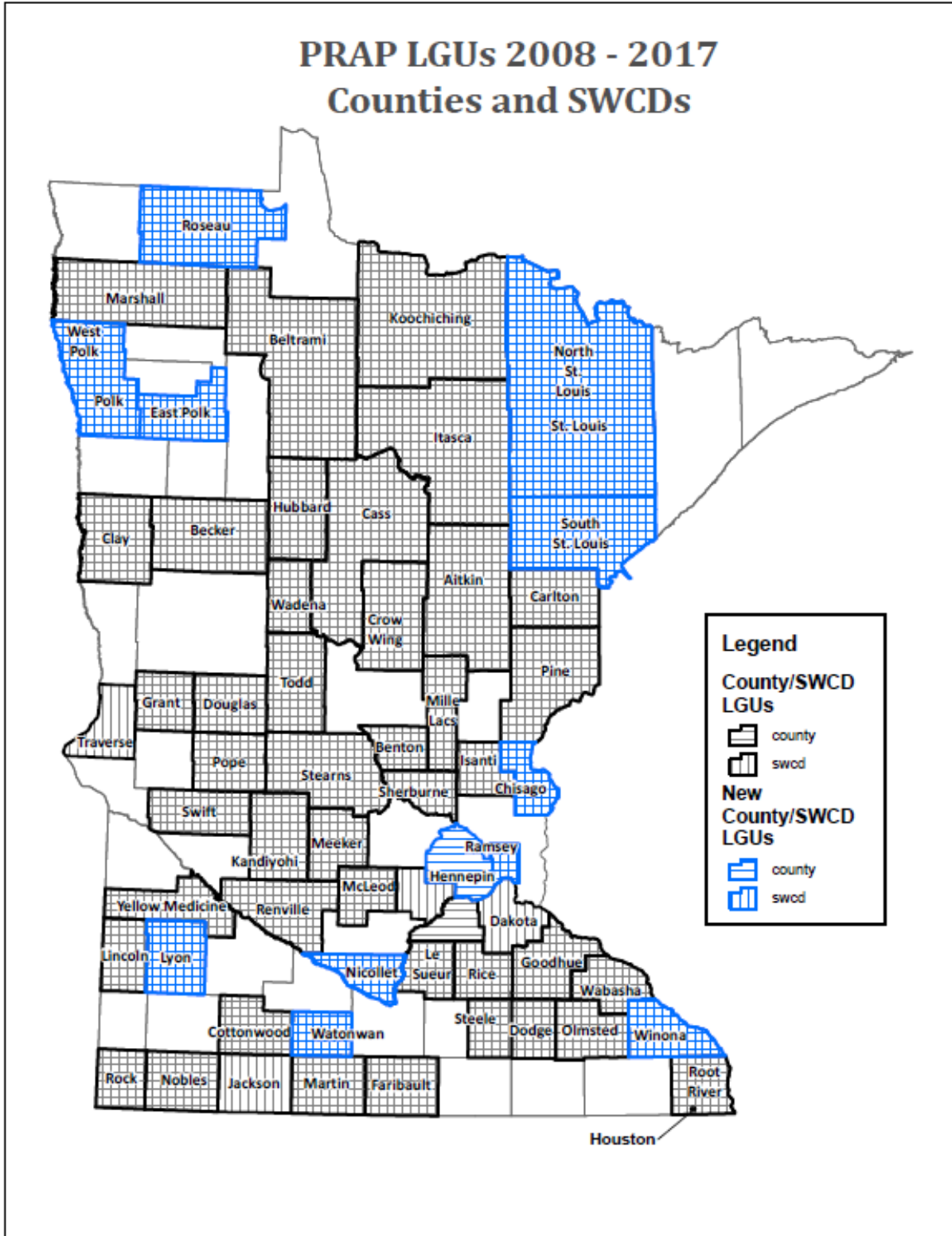
Level I is an annual tabulation of required plans and reports for all 239 LGUs. Level I is conducted entirely by BWSR staff and does not require additional input from LGUs.

Level II is a routine, interactive review intended to cover all LGUs at least once every 10 years. A Level II review evaluates progress on plan implementation, operational effectiveness, and partner

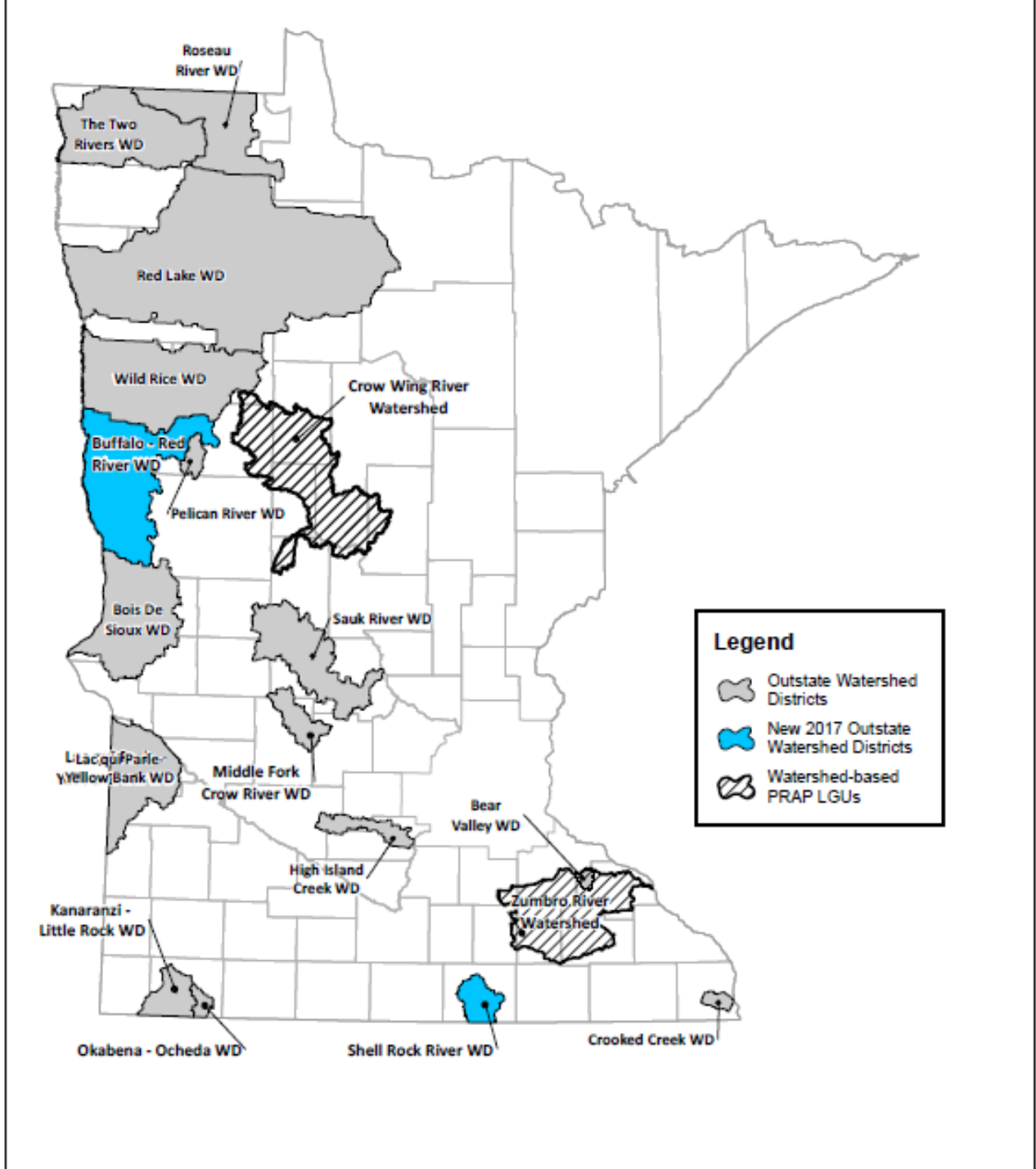
relationships. This review includes assessing compliance with Level II performance standards. The maps on pages 3-5 show which LGUs have gone through a Level II review since the program started in 2008.

Level III is an in-depth assessment of an LGU's performance problems and issues. A Level III review is initiated by BWSR or the LGU and usually involves targeted assistance to address specific performance needs. Since 2008 BWSR has conducted Level III reviews for three LGUs at their request and in 2017 we completed two more. BWSR regularly monitors all LGUs for challenges that would necessitate a Level III review.

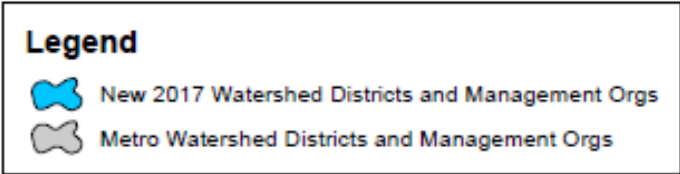
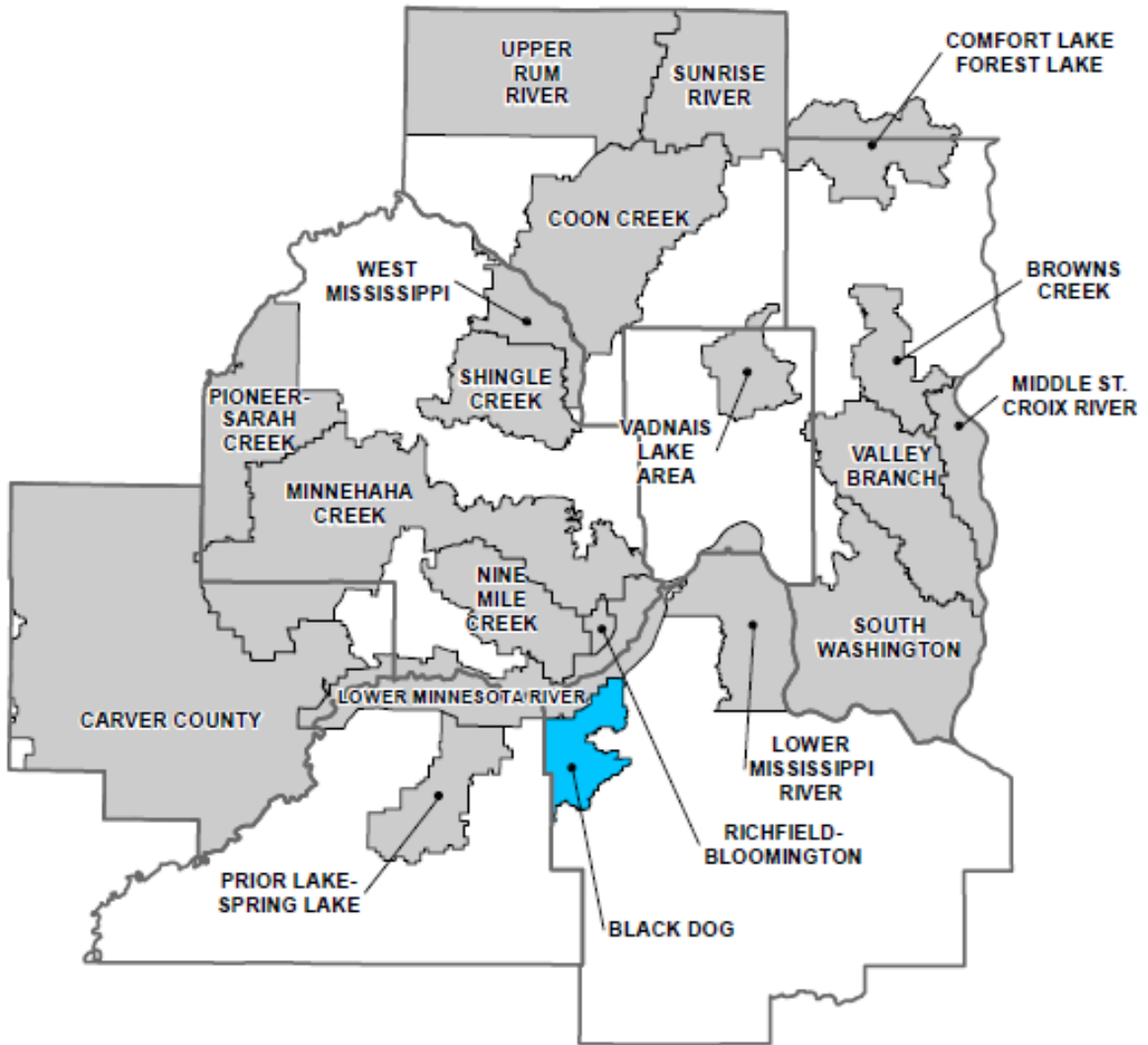
Level IV is for LGUs with significant performance deficiencies, and includes BWSR Board action to assign penalties as authorized by statute. Levels I-III are designed to avoid the need for Level IV. To date there have not been any Level IV reviews.



PRAP LGUs 2008 - 2017 Outstate Watershed Districts and Watersheds



PRAP LGUs 2008-2017 Metro Watershed Districts and Management Organizations



Assistance (page 13) In 2012, BWSR began awarding PRAP assistance grants to assist LGUs in obtaining practical and financial assistance for organizational improvements or to address performance issues. The grants are typically used for consultant services for activities identified by the LGU, or recommended by BWSR in a performance review.

Reporting (pages 15-16) makes information about LGU performance accessible to the LGUs' stakeholders and constituents. Reporting methods specific to PRAP include links to performance review summaries and this annual report to the legislature, which can be accessed via the PRAP page on BWSR's website <http://www.bwsr.state.mn.us/PRAP/index.html>. In addition, the PRAP Coordinator presents results from Level II performance reviews to LGU boards at the completion of the review, and to additional boards/committees upon request.

Accountability: From Measuring Effort to Tracking Results

The administration of government programs necessitates a high degree of accountability. PRAP was developed, in part, to deliver on that demand by providing systematic local government performance review and then reporting results. One significant change was made to the program in 2017. BWSR incorporated metrics for Wetland Conservation Act program implementation responsibilities into Level II and Level III assessments for the first time to measure local government unit compliance with this program. This addition to PRAP helped BWSR evaluate LGU performance in implementing the program and resulted in recommendations for LGUs on how to better implement the wetland protection program.

Report on PRAP Performance

BWSR's Accountability

BWSR continues to hold itself accountable for the objectives of the PRAP program. In consideration of that commitment, this section lists 2017 program activities with the corresponding objectives from the 2016 PRAP legislative report.

PERFORMANCE REVIEW OBJECTIVES	
What We Proposed	What We Did
Track 239 LGUs' Level I performance.	All LGUs were tracked for basic plan and reporting compliance. Level I Compliance is documented in the PRAP Legislative report. Overall, Level I performance continued its upward trend in 2017, reaching 90%. Overdue long-range water management plans decreased from 8 in 2016 to 3 in 2017.
Take measures to improve WMO and WD reporting.	Reminders were sent by PRAP Coordinator to Board Conservationists and LGUs to remind them of deadlines. WMO and WD compliance increased again in 2017, although about one-fourth of Watershed Districts still do not meet reporting or audit requirements.
Maintain the target of 24 Level II performance reviews per year.	In 2017, 24 Level II performance reviews were completed.
Complete the 2 Level III performance reviews initiated in 2016.	Both Level III performance reviews initiated in 2016 were completed in 2017. One Level III Assessment was completed for a Watershed District in western Minnesota and a Level III assessment was completed for a soil and water conservation district in the southeastern region of the state.
Survey LGUs from 2015 Level II PRAP reviews to track LGU implementation of PRAP recommendations.	Surveyed 15 LGUs reviewed in 2015 to assess implementation of BWSR's recommendations for organizational improvements and action items. Of the 14 LGUs that completed the survey, LGUs reported fully completing 45% of their recommendations, and reported partially completing another 45% of their recommendations in their Level II performance review reports, meaning that LGUs took action on 90% of the recommendations. A summary of survey results is in the report.
Develop a process for monitoring and reviewing compliance with Action Items identified during a Level II review. This will allow us to determine if we are meeting the goal of 100% compliance	All Action Items identified during 2017 PRAP Level II reviews were assigned an 18 month timeline for completion. BWSR will follow up with these LGUs to verify completion within 18 months. Starting in

within 18 months established in 2016 for required Action Items.	2017, the PRAP follow-up survey will ask LGUs about correction of action items.
Evaluate incorporation of metrics into Level II and Level III assessments to measure local government unit compliance with Wetland Conservation Act program implementation responsibilities.	Completed incorporation of metrics for Wetland Conservation Act (WCA) program implementation responsibilities into Level II and Level III assessments for the first time to measure local government unit compliance with this program. All four LGU performance standards checklists were updated to include WCA metrics. Added a WCA assessment and section to the report for all Level II LGUs who were responsible for WCA implementation.
Evaluate and update protocol for PRAP Level II reviews within the framework of watershed-based One Watershed-One Plan approach to LGU water plan implementation.	Evaluated and updated potential key performance measures for PRAP Level II reviews within framework of watershed-based One Watershed-One Plan approach to LGU water plan implementation. Developed draft concepts for performance based funding for One Watershed-One Plan implementation.
Update the PRAP page of the BWSR website to provide more detailed information about the program.	Developed a PRAP link on the homepage of BWSR website so that LGUs and interested parties can more easily access PRAP information.

ASSISTANCE OBJECTIVES	
What We Proposed	What We Did
Continue the promotion and use of PRAP Assistance Grants to enhance organizational effectiveness.	Board Conservationists were encouraged to work with LGUs who could benefit from PRAP Assistance grants. LGUs undergoing a Level II PRAP review were also notified of PRAP assistance funding when recommendations were made for activities that would be eligible for PRAP funds. In fiscal year 2017, PRAP Assistance Grants were provided for Cottonwood SWCD, Wabasha SWCD and the Middle-Snake-Tamarac River Watershed District for a total of \$13,503.

REPORTING OBJECTIVES	
What We Proposed	What We Did
Maintain the focus on resource outcomes in Level II performance reviews.	All 24 Level II performance reviews included a review and assessment of resource outcomes in the LGU's water plan.

2017 LGU Performance Review Results

Level I Results

The Level I Performance Review monitors and tabulates all 239 LGUs’ long-range plan updates and their annual reporting of activities, ditch buffer reports, grants, and finances. BWSR tracks these performance measures each year to provide oversight of legal and policy mandates, but also to screen LGUs for indications of potential problems. Chronic lateness in financial or grant reporting, for example, may be a symptom of operational issues that require BWSR assistance.

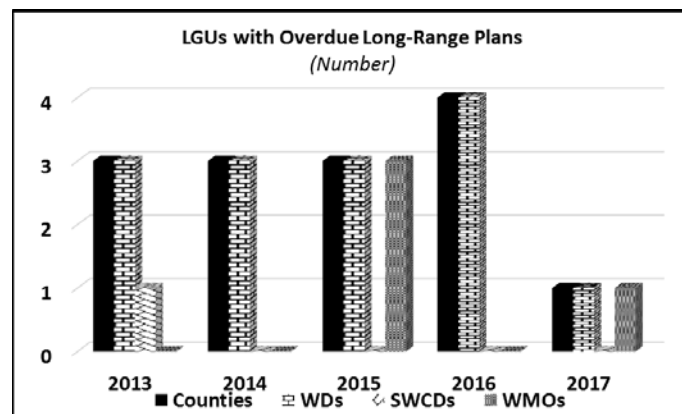
	2017	2016	2015	2014	2013
239 LGUs	90%	87%	81%	79%	68%
SWCDs (89)	93%	93%	87%	88%	82%
Counties (87)	94%	91%	91%	87%	62%
WMOs (18)	89%	78%	44%	28%	61%
WDs (45)	80%	73%	65%	65%	57%

Overall, LGU compliance with Level I standards improved somewhat in 2017. BWSR began tightening Level I compliance tracking in 2013, and as can be seen in the table above, improvement in overall compliance has occurred since that time.

Long-range plans. BWSR’s legislative mandate for PRAP includes a specific emphasis on evaluating progress in LGU plan implementation. Therefore, helping LGUs keep their plans current is basic to that review. Level I PRAP tracks whether LGUs are meeting their plan revision due dates. For the purposes of Level I reviews, LGUs that have been granted an extension for their plan revision are not considered to have an overdue plan. At the time of this report, 18 Local Water Management plans were operating under extensions granted by the BWSR Board. The number of overdue plans decreased to three

in 2017 compared to 8 in 2016. One Watershed District has an overdue plan. One Watershed Management Organization plan is overdue. There is one county with an overdue Local Water Management Plan, but it is in the update process and is expected to be reviewed early in 2018. Until these plans are revised and approved, these organizations are ineligible for Clean Water Fund grants. The Carver County Groundwater management plan was approved by the BWSR Board in January, 2016. Ramsey County and Scott County metro area county groundwater plans need updating, but are not considered overdue because the plans are optional and these counties are still eligible for Clean Water Fund grants.

Appendix D (page 23) lists the LGUs that are overdue for plan revisions.



Annual activity and grant reports. LGU annual reports are an important means of providing citizens and BWSR with information about LGU activities and grants expenditures. The Level I review tracks both missing and late reports.

As in 2016, there was complete on-time submittal of drainage system buffer strip reports by both County and WD drainage authorities in 2017. Of the 96 LGUs that

must submit annual buffer reports, 100% met the February 1, 2017 deadline, compared to 100% in 2016 and 2015, 91% in 2014 and 67% in 2013. This continued compliance is attributed to persistent efforts by BWSR staff to contact LGUs with missing reports before the due date.

SWCDs and counties showed a slight improvement in their on-time submittal of grant status reports via BWSR's on-line eLINK system, with 97% of LGUs meeting the deadline compared with 96% in 2016, 95% in 2015, 93% in 2014 and 86% in 2013.

Watershed district compliance with the annual activity report requirement was slightly higher in 2017 at 84% compliance compared 82% in 2016 and 80% in 2015, but is not as good as it should be. Continued improvement in WMO and WD reporting will continue to be an objective of BWSR staff in 2018.

Appendix E (page 24) contains more details about reporting.

Annual financial reports and audits. All SWCDs submit annual financial reports to BWSR, and most are required to prepare annual audits of their financial records. SWCDs whose annual expenditures fall below a certain threshold do not have to prepare audits. In 2017, only one SWCD financial report was not submitted on time, leaving 88 of 89 SWCDs in full compliance (99%), an improvement from last year. 97% met the audit performance standard for SWCDs.

Watershed Districts and WMOs are also required to prepare annual audits. In 2017, 80% of WDs met the audit performance standard compared to 76% in 2016 and 80% in 2015. In 2017, 94% of WMOs met this standard, continuing the trend toward better compliance in recent years. In 2016, 78% of WMOs met the standard, which was a significant improvement from 2015 when only 56% were in compliance with the audit standard. See Appendix F (page 25) for financial report and audit details.

BWSR does not track county audits because counties are accountable to the Office of the State Auditor.

Level II Performance Review Results

The Level II performance review process is designed to give both BWSR and the individual LGUs an overall assessment of the LGU's effectiveness in both the delivery and the effects of their efforts in conservation. The review looks at the LGU's implementation of their plan's action items and their compliance with BWSR's operational performance standards. Level II reviews also include surveys of board members, staff and partners to assess the LGU's effectiveness and existing relationships with other organizations.

Standard Level II Performance Reviews

BWSR conducted standard Level II reviews of 24 LGUs in 2017: **Nicollet County and SWCD, Buffalo-Red River Watershed District, Roseau County and SWCD, Shell Rock River Watershed District, North St. Louis SWCD, South St. Louis SWCD and St. Louis County, Hennepin County, Black Dog WMO, Winona County and SWCD, Chisago County and SWCD, East Polk SWCD, West Polk SWCD and Polk County, Watonwan County and SWCD, Ramsey Conservation District and Ramsey County and Lyon County and SWCD.** In the instances where the County and the SWCD share the same local water plan (*Nicollet, Roseau, St. Louis, Winona, Chisago, Polk, Watonwan, Ramsey and Lyon*) the reviews were conducted jointly. The remaining LGUs received individual reviews. Appendix G (page 26-40) contains summaries of the performance review reports. Full reports are available from BWSR by request.

While none of the findings or conclusions from these reviews apply to all LGUs, there were general observations about LGU performance worth noting.

1. Add PTM specifics into water plan. All of the non-watershed based Level II PRAP reviews resulted in a recommendation that organizations include, or expand on existing

use of Prioritized, Targeted and Measured as criteria in their next water planning efforts. This recommendation is a result of most plans failing to include resource outcomes. The PTM criteria are the new standard for One Watershed-One Plan efforts currently underway and beyond those pilot projects, the degree to which this criteria is currently being used varies. However, continued and expanded use of these criteria by all organizations will be beneficial even before One Watershed-One Plan becomes the prevailing format for water planning efforts.

2. Use the major or minor watershed scale for plan organization.

BWSR has been recommending for both county water plan updates and new One Watershed-One Plan efforts currently underway that priority concerns be identified by major or minor watershed and action items also be carefully targeted to differing watershed priorities. While some recent water plans had begun to organize plans by watershed, this approach has been a standard recommendation for most PRAP Level II reports.

3. Ensure that input from citizens and stakeholder groups within the LGU is incorporated into the development of watershed planning initiatives.

This recommendation recognizes the importance of keeping the water plan task force members engaged in the watershed plan development and the implementation phase. Participation in the development of watershed plans in the future will require significant engagement with the task force members.

4. Evaluate, maintain or improve implementation of the Wetland Conservation Act.

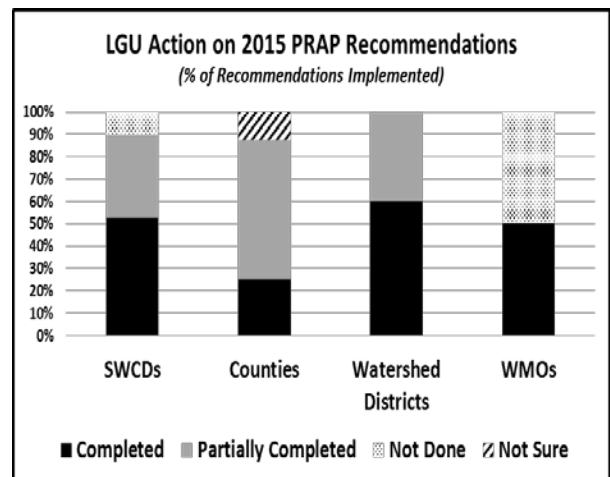
For the first time in 2017, Level II reviews included an evaluation of the LGU’s performance in implementing the Wetland Conservation Act. In general, most local government units were doing a good job implementing the program. This new initiative helped identify some

weaknesses in LGU program implementation resulting in recommendations for improvement. The addition of the Wetland Conservation Act to PRAP resulted in better coordination among LGU and state agency staff for surface water management.

Coordination with One Watershed-One Plan. Elements of the watershed-based performance review process were used in BWSR’s *One Watershed-One Plan* initiative. In a few years, BWSR will use the PRAP watershed-based process to assess the implementation of these new watershed plans.

Survey of LGU Implementation of PRAP Recommendations

A PRAP program goal for 2017 was to find out to what extent LGUs are following through on the recommendations BWSR offers as part of each performance review.



BWSR surveyed 15 LGUs that had a Level II performance review in 2015. Lead staff were asked to indicate the level of completion for each recommendation included in their PRAP reports. (Note: A watershed-based PRAP was completed for the Crow Wing Watershed in 2015, including the SWCDs and counties of Becker, Cass, Crow Wing, Hubbard and Wadena.

Because all of these reports had joint recommendations for both the SWCD and the County, the follow-up survey was sent only to the SWCDs. The SWCDs were asked to report on implementation of recommendations to prevent duplicative responses and information. All five SWCDs involved in the Crow Wing River Watershed PRAP responded to the survey.)

Fourteen of the 15 LGUs surveyed responded. This survey response rate in 2017 (93%) was much better than in 2016 (61%). Additional reminders were sent in an effort to improve the survey response rate in 2017. Survey results showed that LGUs self-reported fully completing 45% of the recommendations and partially completing another 45%, meaning that 90% of BWSR's recommendations for these LGUs were addressed to some degree. All action items (requirements) were implemented.

These survey results indicate that LGUs find the majority of the recommendations contained in the PRAP reports to be useful for their organizations. Additional follow up is needed to determine why some recommendations are implemented while others are not.

Level III Results

Two Level III performance reviews were completed in 2017. One assessment was for a SWCD in southeastern Minnesota and the second was for a Watershed District in western Minnesota.

Below is a brief summary of the recommendations and progress made for the two Level III reviews completed in 2017:

Wabasha SWCD Level III recommendations included:

- Contracting with a consulting SWCD to provide guidance to staff and board to improve organizational performance,
- Monitor Staff Delivery of Programs,
- Conduct a strategic assessment of the District to determine whether existing mission, goals, staff capacity is sufficient to meet the needs

and demands for conservation services in the district,

- Begin utilizing existing programs such as Clean Water Funds to implement land treatment to accelerate progress toward solving the District's top priority concerns,
- Develop orientation and continued education plan for the board of supervisors and staff and keep records of trainings attended,
- Address items from MASWCD Self-Assessment and select PRAP high performance standards as goals to implement to improve organizational performance, and
- Present Wabasha SWCD 2018 Annual Work Plan to the Wabasha County Board of Commissioners.
- Address 2 action items within 18 months (*Develop a data practices policy and submit eLINK Grant Reports on time, up to date and complete per BWSR guidance*).

The Wabasha SWCD has hired a consultant to provide guidance and assistance and is making good progress in implementing several of the recommendations. Both action items have been addressed and four of the recommendations have been completed, with another two that are currently in progress and the remaining two to be addressed in 2018.

Bois de Sioux Watershed District Level III recommendations included:

- The Watershed District should provide opportunities for staff for networking and mentoring with high performing Watershed Districts,
- Conduct a strategic assessment of the District to determine whether the existing mission, goals, bylaws and board member responsibilities are understood

and remain relevant, and to ensure staffing is sufficient,

- Develop an Annual Work Plan to address high priority items with specific, measurable action items and monitor Staff Delivery of Programs and Projects,
- Strengthen Partnerships with Local, State and Federal agencies and Non-Government Organizations to accelerate use of outside funding and programs to support multi-purpose projects,
- Develop orientation and continued education plan for the board and staff to provide for continued growth of the District and Board members through education, succession of positions and outreach to partners,
- Select two to three PRAP high performance standards as goals to implement to improve organizational performance,
- Develop and Implement a Communication Plan for the Watershed District, and
- Continue and strengthen use of the Project Team of the Flood Damage Reduction Workgroup to balance Flood Damage Reduction and Natural Resource Enhancement.
- Action Item: Re-establish a functioning advisory committee which provides recommendations on projects, reports and maintains a two way communication with the board.

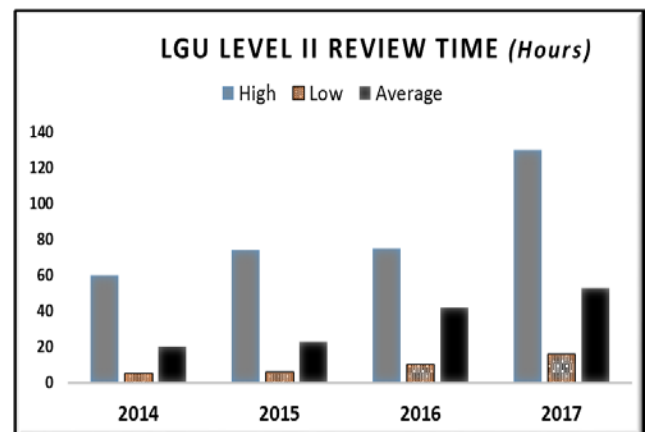
Bois de Sioux Watershed District has corrected the action item identified in the Level III report and has made progress in addressing several of the recommendations. In addition, they are participating in development of One Watershed, One Plan for the Mustinka-Bois de Sioux Watershed. They are also partnering with the Wilkin SWCD to implement the FY18 Multipurpose Drainage Management grant for Wilkin County Ditch 8.

Level IV Results

No Level IV actions were conducted in 2017.

PRAP Performance Review Time

BWSR tracks the time spent by LGUs in a performance review as a substitute for accounting their financial costs. Factors affecting an LGU's time include the number of action items in their long-range plan, the number of staff who help with data collection, and the ready availability of performance data. In 2017 LGU staff spent an average of 52 hours on their Level II review, about 20% higher than previous years, primarily due to the addition of the Wetland Conservation Act program review to PRAP Level II reviews.



This additional LGU workload is likely offset by improved efficiencies for LGUs by eliminating the need to do a separate WCA program review.

Not including overall performance review administration and process development, BWSR staff spent an average of 71 hours for each Level II performance review, significantly higher than the past few years, due primarily to the addition of review of the Wetland Conservation Act, where BWSR Wetland Specialists spent time with LGU staff reviewing program implementation and writing a section of the report.

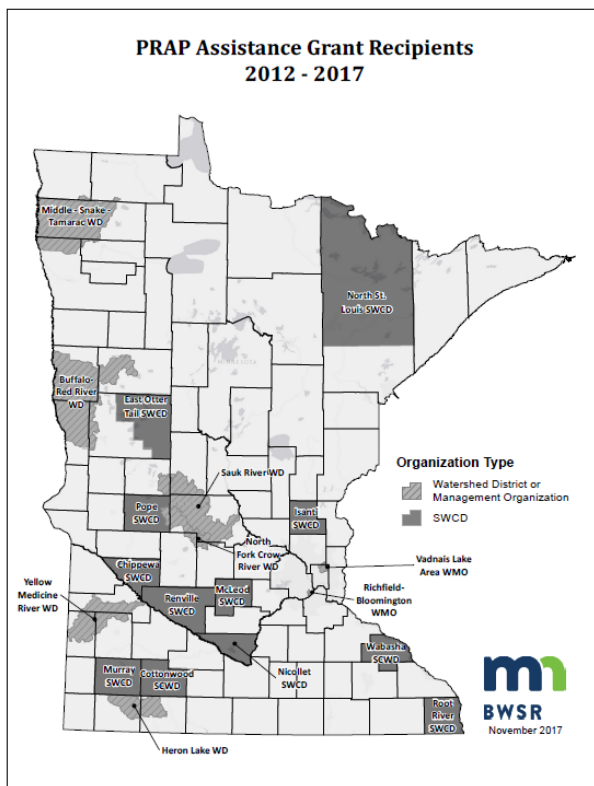
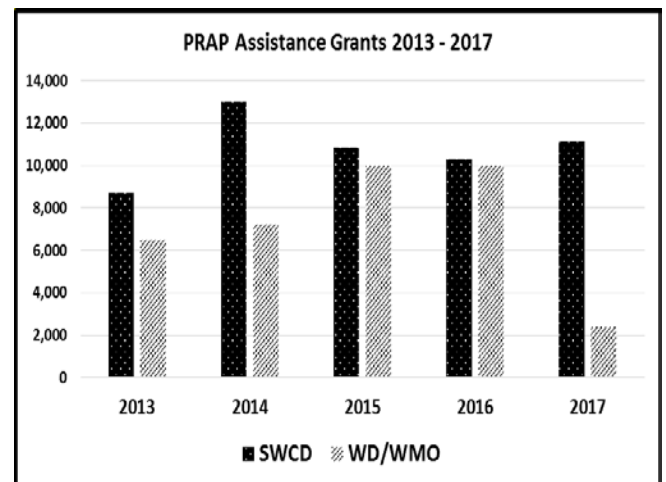
BWSR seeks to maintain a balance between getting good information and minimizing the LGU time required to provide it. Our goal is to gather as much pertinent information as needed to assess the performance of the LGU, and offer realistic and useful recommendations for improving performance.

Assistance Services to Local Governments

PRAP Assistance Program

In 2012, BWSR developed the PRAP Assistance program to provide financial assistance to LGUs for improving operating performance and executing planned goals and objectives. Since the program started, more than \$90,000 has been awarded to LGUs around Minnesota. Priority is given to applicants submitting projects related to eligible PRAP Level II, III, or IV recommendations, but other organizations are also eligible. The grants are made on a cost-share, reimbursement basis with a cap of \$10,000 per LGU. The application process requires basic information about the need, the proposed use of funds, a timeline, and the source of match dollars. BWSR staff assess the LGU need as part of the application review process, and grants are awarded on a first-come, first-serve basis as long as funds are available.

In 2015, the BWSR Board delegated authority to the Executive Director to award grants or contracts for the purpose of assisting LGUs in making organizational improvements (see resolution in Appendix B). The board will continue to receive annual updates on the program, but will not need to renew the resolution each biennium until they choose to modify the program.



During FY 2017 Grants totaling \$13,503 were issued to Cottonwood SWCD, the Middle-Snake-Tamarac River Watershed District, and the Wabasha Soil and Water Conservation District. The awarded funds will be used for the development of operating policies, organizational assessments, strategic planning and goal setting.

In 2015, BWSR changed some of the application requirements for PRAP assistance funds, and provided more clarity about what types of activities and expenses are eligible for the grants. The new guidance and application information maintains the streamlined process used in the past, but now asks applicants to describe how their Board will be involved in the project, to outline a scope of

work, and to provide more detailed budget information as part of the application. The revised application information can be found in Appendix C.

The BWSR Executive Director regularly informs Board members of assistance grant status. Potential applicants can find information on the BWSR website <http://www.bwsr.state.mn.us/PRAP/index.html>.

Reporting

Purpose of Reporting

BWSR reports on LGU performance to:

- meet the legislative mandate to provide the public with information about the performance of their local water management entities, and
- provide information that will encourage LGUs to learn from one another about methods and programs that produce the most effective results.

Report Types

PRAP either relies on or generates different types of reports to achieve the purposes listed above.

LGU-Generated

These include information posted on the LGU websites and the required or voluntary reports submitted to BWSR, other units of government, and the public about fiscal status, plans, programs and activities. These all serve as a means of communicating what each LGU is achieving and allow stakeholders to make their own evaluations of LGU performance. PRAP tracks submittal of required, self-generated LGU reports in the Level I review process.

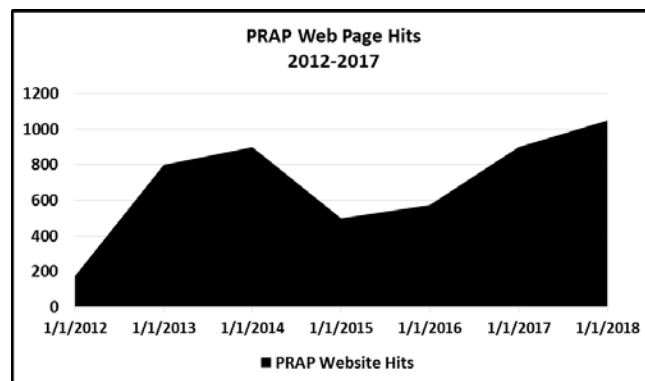
BWSR Website

The BWSR website contains a webpage devoted to PRAP information. The site provides background information on the program including:

- Guiding principles for the program
- a description of the 4 Levels of PRAP
- Application information for PRAP grants
- Background on the PRAP Legislative Report
- Description of Level I Reporting

For more information

see: <http://www.bwsr.state.mn.us/PRAP/index.html>



The BWSR website also includes regularly updated maps of long-range plan status by LGU type. Visitors to the PRAP webpage can find general program information, tables of current performance standards by LGU type, summaries of Level II performance review reports, and copies of annual legislative reports.

Performance Review Reports

BWSR prepares a report containing findings, conclusions, and recommendations for each LGU subject of a Level II or Level III performance review. The LGU lead staff and board or water plan task force members receive a draft of the report to which they are invited to submit comments. BWSR then sends a final report to the LGU. A one page summary from each review is included in the annual legislative report (see Appendices G and H). In 2014 BWSR added a resource outcomes feature to all Level II reports, highlighting those changes in resource conditions related to LGU projects and program.

Annual Legislative Report

As required by statute, BWSR prepares an annual report for the legislature containing the results of the previous year's program activities and a general assessment of the performance of the LGUs providing land and water conservation services and programs. These reports are reviewed and approved by the BWSR board and then sent to the chairpersons of the senate and house environmental policy committees, to statewide LGU associations and to the office of the legislative auditor.

Recognition for Exemplary Performance

The PRAP Guiding Principles include a provision for recognizing exemplary LGU performance. Each year this legislative report highlights those LGUs that are recognized by their peers or other organizations for their contribution to Minnesota's resource management and protection, as well as service to their local clientele. (See Appendix I, page 47.)

For those LGUs that undergo a Level II performance review, their report lists a "commendation" for compliance with each high performance standard, demonstrating practices over and above basic requirements. All 2017 standard Level II LGUs received such commendations.

Program Conclusions and Future Direction

Conclusions from 2017 Reviews

- Reminders and incentives contribute significantly to on-time reporting by LGUs.** Overall reporting performance and plan status improved slightly in 2017. Buffer strip reporting reached 100% compliance in 2015 and was maintained at full compliance in 2016 and 2017, which can be attributed to close attention from BWSR staff. In the last year WMO overall compliance improved to 89% in 2017 compared to 78% in 2016 and 44% compliance in 2015. WD reporting improved to 84% compliance in 2017 from 73% in 2016 and 65% in 2015.
- In 2017, for the first time, LGU implementation of the Wetland Conservation Act was incorporated into Level II PRAP reviews.** Completed incorporation of metrics for Wetland Conservation Act (WCA) program implementation responsibilities into Level II and Level III assessments to measure local government unit compliance with this program. All four LGU performance standards checklists were updated to include WCA metrics. Added a WCA assessment and section to report for all Level II LGUs who were responsible for WCA implementation. WCA program specific recommendations were incorporated where appropriate.
- The watershed based PRAP level II process is most useful if there is an existing watershed based plan in place.** BWSR PRAP staff spent significant time working on an internal staff team evaluating key performance measures that may be used in the future to measure LGU progress in implementing One Watershed, One Plans. Implementation of plans developed through the One Watershed One Plan initiative has begun, but several years will be needed to evaluate implementation progress.
- A common recommendation for several local government units in 2017 was to conduct a strategic assessment** of the LGU to determine whether existing mission, goals and staff capacity are sufficient to meet the demands and need for conservation services in the district. This recommendation was used where there appeared to be underperformance of the LGU due to shortage of staff or lack of focus on targeted land treatment and resource improvement.
- Staff and board training was identified as a need in multiple LGUs in 2017.** New programs and increasing water management expectations for local governments require a commitment to continued training. A simple training plan provides a means of ensuring that staff is able to continue to build the knowledge and skills necessary to carry out duties and responsibilities. Several LGUs received recommendations that new board members be provided with orientation training and all board members have an individual training plan for continuing education in leadership, organizational management and water resource management. The individualized training plan would provide a means of ensuring that staff and board members can continue to build the knowledge and skills necessary to carry out duties and responsibilities.
- Website reporting of resource trends could be improved.** Many of the LGUs included in 2017 Level II reviews participate in or lead water quality monitoring programs, yet the use of websites to report trends and results is limited. Additional efforts to make these results easily accessible to the public would be beneficial.

- **A 2017 LGU survey showed that 90% of 2015 PRAP Level II recommendations for LGU improvements were seen as useful or necessary, as shown by the rates at which LGUs have adopted them** (*from a follow-up survey of LGUs who participated in PRAP Level II in 2015*). This compares to 87% from the follow-up survey conducted in 2016 and 76% from the follow-up survey

conducted in 2015. This data shows a trend of more LGUs implementing recommendations in recent years. However, BWSR must do more to follow-up with LGUs to find out why some recommendations are not being adopted, and promote PRAP Assistance Grants as a means to implement improvements.

PRAP Program Objectives for 2018

Selected PRAP Program Objectives for 2018

- Track 239 LGUs' Level I performance.
- Continue efforts to improve WMO and WD reporting with a goal of achieving 90% compliance with Level I performance standards by the end of 2018.
- Maintain the target of 24 Level II performance reviews per year.
- Complete up to two Level III performance reviews if needed in 2018.
- Maintain the focus on resource outcomes in Level II performance reviews.
- Survey LGUs from 2016 Level II PRAP reviews to track LGU implementation of PRAP recommendations.
- Continue monitoring and reviewing compliance with Action Items identified during a Level II review. This will allow us to determine if we are meeting the goal of 100% compliance within 18 months established in 2016 for required Action Items.
- Continue the promotion and use of PRAP Assistance Grants to enhance LGU organizational effectiveness.
- Continue evaluating and updating protocol for PRAP Level I and Level II reviews for performance based funding for implementation of watershed-based One Watershed-One Plans.
- Evaluate implementation progress of at least 3 Targeted Watershed Demonstration Program projects as part of Level II reviews. (*New for 2018*)
- Develop protocol for evaluating Technical Service Area (TSA) performance including development of performance standards and evaluate one TSA if time permits. (*New for 2018*)

Appendix A

PRAP Authorizing Legislation

103B.102, Minnesota Statutes 2013

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103B.102 LOCAL WATER MANAGEMENT ACCOUNTABILITY AND OVERSIGHT.

Subdivision 1. Findings; improving accountability and oversight.

The legislature finds that a process is needed to monitor the performance and activities of local water management entities. The process should be preemptive so that problems can be identified early and systematically. Underperforming entities should be provided assistance and direction for improving performance in a reasonable time frame.

Subd. 2. Definitions.

For the purposes of this section, "local water management entities" means watershed districts, soil and water conservation districts, metropolitan water management organizations, and counties operating separately or jointly in their role as local water management authorities under chapter 103B, 103C, 103D, or 103G and chapter 114D.

Subd. 3. Evaluation and report.

The Board of Water and Soil Resources shall evaluate performance, financial, and activity information for each local water management entity. The board shall evaluate the entities' progress in accomplishing their adopted plans on a regular basis as determined by the board based on budget and operations of the local water management entity, but not less than once every ten years. The board shall maintain a summary of local water management entity performance on the board's Web site. Beginning February 1, 2008, and annually thereafter, the board shall provide an analysis of local water management entity performance to the chairs of the house of representatives and senate committees having jurisdiction over environment and natural resources policy.

Subd. 4. Corrective actions.

(a) In addition to other authorities, the Board of Water and Soil Resources may, based on its evaluation in subdivision 3, reduce, withhold, or redirect grants and other funding if the local water management entity has not corrected deficiencies as prescribed in a notice from the board within one year from the date of the notice.

(b) The board may defer a decision on a termination petition filed under section [103B.221](#), [103C.225](#), or [103D.271](#) for up to one year to conduct or update the evaluation under subdivision 3 or to communicate the results of the evaluation to petitioners or to local and state government agencies.

History:

[2007 c 57 art 1 s 104](#); [2013 c 143 art 4 s 1](#)

Appendix B

Board Authorization of Delegation for PRAP Assistance Grants



Board Resolution # 15-37

**Minnesota Board of Water and Soil Resources
Board Authorization of Delegation for PRAP Assistance Grants to LGUs**

WHEREAS the Board of Water and Soil Resources (BWSR) is mandated under Minnesota Statutes Chap 103B.102 to regularly review the performance of local government water management entities in the state and provide assistance for "underperforming entities," and

WHEREAS BWSR routinely monitors the performance of Minnesota's local government water and land management entities, and during the course of those reviews has identified the need for specialized assistance to improve their operational performance, and

WHEREAS BWSR receives other requests for specialized assistance to address particularly difficult operational or performance problems that cannot be addressed by routine BWSR staff support, and

WHEREAS the legislature has specifically authorized use of cost share rollover funds for local government assistance to address specialized assistance needs, and

WHEREAS the BWSR board has previously authorized the PRAP Assistance Grants as a delegated authority to the Executive Director,

NOW THEREFORE BE IT RESOLVED THAT the BWSR Board authorizes the Executive Director to expend up to \$10,000 per grant or contract for specialized assistance to local government water management entities to address operational or service delivery needs identified through a PRAP assessment or specialized assistance request, and

BE IT FURTHER RESOLVED THAT the BWSR Board requires that all such funds awarded be cost shared by the grantee at a percentage dependent on the size of the grant and determined by the Executive Director, and

BE IT FURTHER RESOLVED THAT the aggregate amount of expenditures for the PRAP program and awards are consistent with any appropriation conditions set by the legislature and are reported to the Board at least once per year.


Brian Napstad, Chair

Minnesota Board of Water and Soil Resources

Date: 6/24/15

Appendix C

PRAP Assistance Grant Application Information

The PRAP Assistance program provides financial assistance to LGUs to improve operating performance and execution of planned goals and objectives. Funding priority is given to activities recommended as part of a Level II, III or IV PRAP review.

Examples of eligible activities: facilitation, mediation or consulting services related to organizational improvement such as reorganizations/mergers, strategic planning, organizational development, assessments for shared services, benchmarking, non-routine audits, and staff and board capacity assessments.

Activities that are not eligible for grant funds, or to be used as LGU match: Technology upgrades (computer equipment, software, smartphones, etc.), infrastructure improvements (vehicles, office remodel, furniture), staff performance incentives (bonuses, rewards program), basic staff training (BWSR Academy fees and expenses; Wetland Delineator Certification, subjects offered at BWSR Academy, training for promotion, basic computer training), water planning, conservation practices design or installation, publication or publicity materials, food & refreshments, (other than costs associated with meetings and conferences where the primary purpose is an approved, eligible grant activity) lodging, staff salaries, and regular board member per diems.

Note: Board member per diems and associated expenses outside of regular meetings, and associated with an approved, eligible activity are eligible for grant funds or can be used as match.

Grant Limit: \$10,000. In most cases a 50 percent cash match will be required.

Who May Apply: County water management/environmental services; SWCDs; watershed districts; watershed management organizations. In some cases, LGU joint powers associations or boards, or other types of LGU water management partnerships will be eligible for grants. Priority is given to applicants submitting projects related to eligible PRAP Level II, III, or IV recommendations.

Terms: BWSR pays its share of the LGU's eligible expenditures as reimbursement for expenses incurred by the LGU after the execution date of the grant agreement. Reporting and reimbursement requirements are also described in the agreement. Grant agreements are processed through BWSR's eLINK system.

How to Apply: Submit an email request to Dale Krystosek, PRAP Coordinator (dale.krystosek@state.mn.us) with the following information:

- 1) Description, purpose and scope of work for the proposed activity (If the activity or services will be contracted, do you have a contracting procedure in by-laws or operating guidelines?)
- 2) Expected products or deliverables
- 3) Desired outcome or result

- 4) Does this activity address any recommendations associated with a recent Level II, III or IV PRAP Assessment? If so, describe how.
- 5) How has your Board indicated support for this project? How will they be kept involved?
- 6) Duration of activity: proposed start and end dates
- 7) Itemized Project Budget including
 - a. Amount of request
 - b. Source of funds to be used for match (cannot be state money nor in-kind)
 - c. Total project budget
- 8) Have you submitted other funding requests for this activity? If yes, to whom and when?
- 9) Provide name and contact information for the person who will be managing the grant agreement and providing evidence of expenditures for reimbursement.

Appendix D

Level I: 2017 LGU Long-Range Plan Status as of December 31, 2017

Soil and Water Conservation Districts

(Districts have a choice of option A or B)

A. Current Resolution Adopting County Local Water Management Plan

All resolutions are current.

B. Current District Comprehensive Plan

All comprehensive plans are current.

Counties

Local Water Management Plan Revision Overdue: Plan Revision in Progress

- Koochiching

Metro County Groundwater Plan Revision Not Updated (*These Plans are Optional*)

- Ramsey
- Scott

The Carver County Groundwater Plan update was approved by BWSR in 2016. Anoka and Hennepin Counties have chosen not to participate in this optional program authorized under 103B.255. Ramsey and Scott County have decided to not update their groundwater plan. Washington County's groundwater plan was approved in 2014. Dakota County's groundwater plan was last approved in 2000 and they are currently working on an update. Development of these groundwater plans is optional and so they are not considered overdue.

Watershed Districts

10-Year Watershed Management Plan Revision Overdue: Plan Revision in Progress

- High Island Creek WD

Watershed Management Organizations

- Upper Rum River WMO (*currently updating*)

Appendix E

Level I: Status of Annual Reports for 2016 as of December 31, 2017

Soil and Water Conservation Districts

eLINK Status Reports of Grant Expenditures

One SWCD report was late and one was not submitted.

Late Reports:

- Lake SWCD

Reports Not Submitted:

- Sibley SWCD

Counties

Drainage Authority Buffer Strip Reports

All reports submitted on time.

eLINK Status Reports of Grant Expenditures

Four counties submitted late reports.

Late Reports:

- Hennepin County
- Scott County
- Stevens County

Reports Not Submitted:

- Lincoln County

Watershed Districts

Drainage Authority Buffer Strip Reports

All reports submitted on time.

Annual Activity Reports Not Submitted:

- Ramsey Washington Metro WD
- Joe River WD

Annual Activity Reports Submitted Late:

Four reports were submitted late:

- Cormorant Lakes WD
- Sand Hill River WD
- Bear Valley WD
- Stockton-Rollingstone-MN City WD

Metro Joint Powers Watershed Management Organizations

Annual Activity Reports not submitted

- Egan Inver Grove Heights

Appendix F

Level I: Status of Financial Reports and Audits for 2016 as of December 31, 2017

Soil and Water Conservation Districts

Annual Financial Reports (all 89 Districts)

Due to the difficult new accounting standard that SWCDs are adjusting to in 2016-2017, BWSR did not consider any late provided they were received by April 30, 2017. However, there was one SWCD that did not fully complete the annual financial report.

Incomplete Financial Reports:

- East Polk SWCD

Annual Audits (68 required)

Annual Audits Not Submitted

- Cottonwood SWCD
- Crow Wing SWCD
- Pipestone SWCD

Watershed Districts

Annual Audits Not Completed:

- Cormorant Lakes WD
- Joe River WD
- High Island Creek WD
- Stockton-Rollingstone-MN City WD
- Ramsey-Washington Metro WD

Metro Joint Powers Watershed Management Organizations

Annual Audits Not Submitted:

- Eagan Inver Grove Heights

Appendix G

Standard Level II Performance Review

Final Report Summaries

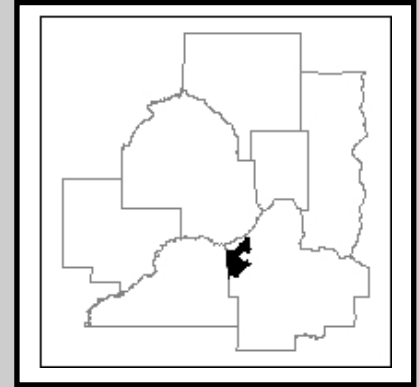
Black Dog Watershed Management Organization

Key Findings and Conclusions

The Black Dog WMO has a good record of accomplishment in implementation of their current water management plan which covers the years 2012-2022.

The WMO's compliance with BWSR performance standards is very good in meeting the essential, administrative, planning and communication practices that lead to an effective, efficient organization.

The WMO's partners reinforce these conclusions in their high marks` for communication, quality of work, relations with customers and follow-through.



Resource Outcomes

The Black Dog WMO watershed management plan contains specific, measureable resource outcomes goals for water quality. The WMO annual water quality report contains information about the water quality results achieved in area surface waters. The Black Dog WMO has completed 3 of 28 action items in the current plan with another 16 activities ongoing.

Action Item:

Work with the cities of Lakeville and Eagan to come into compliance with requirement for water plan approval by BDWMO.

Commendations

The Black Dog WMO is commended for meeting 5 out of 9 High Performance Standards (applicable to WMOs).

Recommendations:

Recommendation 1: Develop and implement training plan for each board member.

Recommendation 2: Make water quality data and trends easily accessible to the public.

Recommendation 3: Conduct a strategic planning initiative and workload analysis to assess the WMO's ability to comply with the 8410.0105 Subpart 1, and 8410.0140 Subpart 1. C. requirements that the WMO shall evaluate progress for the implementation of plan actions at a minimum of every two years.

Recommendation 4: Address the action item by working with the cities of Lakeville and Eagan to come into compliance with requirement for water plan approval by BDWMO.

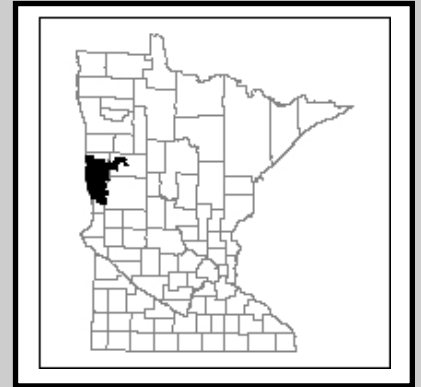
Buffalo-Red River Watershed District

Key Findings and Conclusions

Buffalo-Red River Watershed District is doing a very good job of administering local water management and conducting water monitoring programs and projects. The organization is getting important work done in the areas of flood damage reduction, drainage maintenance, and water quality protection.

With the upcoming opportunity to participate in One Watershed, One Plan development, there is an opportunity for the Buffalo-Red River Watershed District to focus its local water plan to problems and priorities specific to the watershed's major waterbodies, and to provide resource specific outcomes.

The Buffalo-Red River Watershed District shows excellent compliance with BWSR's basic and high performance standards.



Resource Outcomes

The Buffalo-Red River Watershed District Plan does contain some resource outcome goals and objectives. However, progress toward those goals is not routinely reported.

Commendations

The Buffalo-Red River Watershed District is commended for meeting 12 out of 15 High Performance Standards.

Action Item – The Buffalo-Red River Watershed District has one action item which should be addressed within the next 18 months, or by November 2018:

- The Watershed Management Plan should be amended by November, 2018 to include the petitioned enlargement of the Watershed District approved by BWSR on April 25, 2012 or the Watershed District should initiate a One Watershed, One Plan in cooperation with other LGUs by November 2018.

Recommendations:

Recommendation 1: Continue and expand the use of Prioritized, Targeted and Measureable as criteria for Goals and Objectives in the next water management plan as appropriate.

Recommendation 2: Develop orientation and continued education plan for both board and staff and keep records of trainings attended.

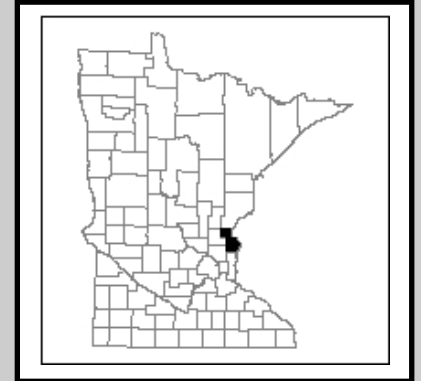
Recommendation 3: Participate in the development of One Watershed One plans for watersheds within the District using the major or minor watershed scale for plan organization.

Recommendation 4: Structure website information to report progress and trends made in achieving resource outcome goals.

Chisago County Environmental Services/Zoning and Parks Chisago Soil and Water Conservation District

Key Findings and Conclusions

The Chisago County Environmental Services/Zoning and Parks (County) and the Chisago Soil and Water Conservation District (SWCD) need to continue to build a strong working relationship to meet the water management and conservation challenges in the county. For the most part, their partners believe both entities are doing good work and are good to work with. New water management challenges have created the necessity to forge new working relationships among partners, but there is a strong base to build upon for future local water management in Chisago County. With the upcoming opportunities for development of One Watershed, One Plan, there will be an opportunity for Chisago County and SWCD to reorient its local water plan to specific problems and priorities for the county's waterbodies.



The partners who responded to the PRAP survey provided good to strong marks in their judgement of the performance of the County, and good to strong marks in the performance of the SWCD.

Resource Outcomes

The Chisago Local Water Management Plan does not include targets or objectives for resource outcomes.

Commendations:

The Chisago Soil and Water Conservation District is commended for meeting 9 of 13 high performance standards for SWCDs and the Chisago County Environmental Services/Zoning and Parks Office is commended for meeting 8 of 14 high performance standards for counties.

Recommendations:

Joint Recommendation 1: Use the major or minor watershed scale for plan organization.

Joint Recommendation 2: Consider using Prioritized, Targeted and Measureable criteria for Goals and Objectives in the next water management plan.

Joint Recommendation 3: Structure website information to report progress and trends made in achieving resource outcome goals and implementation of County Water Plan.

Chisago County Recommendation 1: Address action items in the next year.

Chisago SWCD Recommendation 1: Conduct a strategic assessment of the SWCD to determine whether existing mission, goals and staff capacity are sufficient to meet the demands for conservation services in the district.

Action Items:

Chisago SWCD has no action items.

Chisago County has 2 action items which should be addressed in the next 18 months:

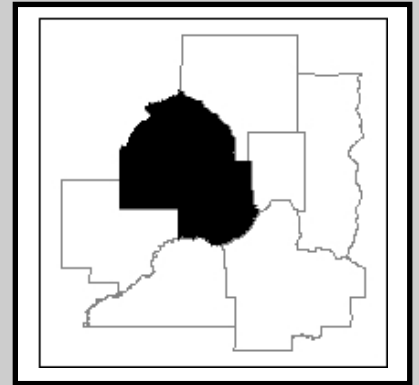
- The County did not submit all eLINK Grant Reports on time in 2015.
- The County has not posted all BWSR grant reports on their website.

Hennepin County Environment and Energy

Key Findings and Conclusions

Hennepin County Environment and Energy has been effective in providing conservation services to the residents of the county that are typically provided by soil and water conservation districts in Minnesota. A survey of the agency partners resulted in acceptable to strong ratings for communication, quality of work, customer relations, initiative and timelines/follow through.

New resource challenges have created the need to forge new working relationships among partners, and build stronger programs for future local water management in Hennepin County. With the upcoming opportunity to participate in development of One Watershed-One Plan, there will be an opportunity for Hennepin County to reorient its Natural Resources Strategic Plan to specific problems and priorities for the county's watersheds.



Resource Outcomes

The Natural Resources Strategic Plan does not include targets or objectives for resource outcomes.

Commendations:

Hennepin County Environment and Energy is commended for meeting 6 of 12 high performance standards for SWCDs and for meeting 6 of 13 high performance standards for counties.

Recommendations:

Recommendation 1: Use the major or minor watershed scale for plan organization.

Recommendation 2: Consider developing a supporting water management plan that uses Prioritized, Targeted and Measureable criteria for Goals and Objectives to support the Natural Resources Strategic Plan.

Recommendation 3: Structure website information to report progress and trends made in achieving resource outcome goals.

Recommendation 4: Develop and adopt a Groundwater Plan under Minnesota Statutes 103B.255.

Recommendation 5: Improve coordination with Watershed Districts and Watershed Management Organizations regarding watershed protection priorities and water quality data collection and trends analysis.

Recommendation 6: Provide annual report to Hennepin County Board on the Environment and Energy activities to better align upcoming needs.

Recommendation 7: Increase participation in Wetland Conservation Act Technical Evaluation Panels.

Recommendation 8: Continue to make it a priority to have staff attend BWSR Academy, WDCP, WPA and other wetland training sessions.

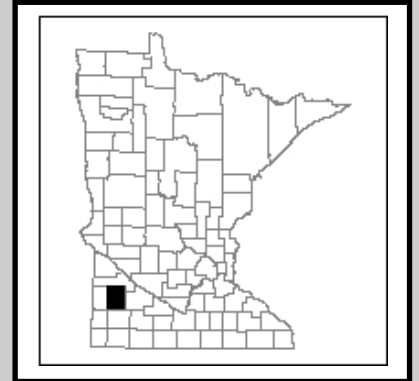
Hennepin County Environment and Energy Department does not have any action items.

Lyon County Planning and Zoning Department and Lyon Soil and Water Conservation District

Key Findings and Conclusions

The Lyon County Planning and Zoning Department (P&Z) and the Lyon Soil and Water Conservation District (SWCD) need to have an effective working relationship in order to provide needed services to the residents of the county.

A survey of the agency's partners demonstrates that the agencies are well regarded by their partners who gave generally good marks in rating their performance. New challenges have created the need to forge new working relationships among partners, and build stronger programs for future local water management in Lyon County.



With the current opportunities to participate in development of One Watershed-One Plans, there will be the ability for Lyon County and the SWCD to reorient the plans to specific problems and priorities for the county's watersheds.

Resource Outcomes

The Lyon Local Water Management Plan does not include targets or objectives for resource outcomes.

Commendations:

The Lyon Soil and Water Conservation District is commended for meeting 5 of 14 high performance standards for SWCDs and the Lyon County Planning and Zoning Office is commended for meeting 5 of 13 high performance standards for counties.

Recommendations:

Joint Recommendation 1: Use the major or minor watershed scale for plan organization.

Joint Recommendation 2: Consider using Prioritized, Targeted and Measureable criteria for Goals and Objectives in future watershed management plans.

Joint Recommendation 3: Structure website information to report progress and trends made in achieving resource outcome goals.

Joint Recommendation 4: Meet annually with Water Plan Task Force to review annual accomplishments and set priorities for the next year.

Lyon SWCD Recommendation 1: Consider adding high performance standards to improve organizational performance.

Lyon SWCD Recommendation 2: Conduct a strategic assessment of the SWCD to determine whether existing mission, goals and staff capacity are sufficient to meet the demands of conservation services in the district.

WCA Administrative Recommendation #1: The Local Government Unit should reconsider the current decision-making delegation consisting of three staff and identify a single staff as responsible for decision making..

Nicollet County Property Services Department and Nicollet Soil & Water Conservation District

Key Findings and Conclusions

The Nicollet County Property Services Department (PSD) and the Nicollet Soil and Water Conservation District (SWCD) need to have an effective working relationship in order to provide needed services to the residents of the county. A survey of both agencies partners demonstrates that there may be a need to evaluate and improve performance. New challenges have created the need to forge new working relationships among partners, and build stronger programs for future local water management in Nicollet County.



With the upcoming opportunity to participate in development of One Watershed-One Plan, there will be an opportunity for Nicollet County and SWCD to reorient its local water plan to specific problems and priorities for the county's watersheds.

Resource Outcomes

The Nicollet Local Water Management Plan does not include targets or objectives for resource outcomes.

Commendations:

The Nicollet Soil and Water Conservation District is commended for meeting 7 of 14 high performance standards for SWCDs and the Nicollet County Property Services Office is commended for meeting 7 of 14 high performance standards for counties.

Recommendations:

Joint Recommendation 1: Evaluate and consider restructuring Wetland Conservation Act LGU Responsibilities.

Joint Recommendation 2: Use the major or minor watershed scale for plan organization.

Joint Recommendation 3: Consider using Prioritized, Targeted and Measureable criteria for Goals and Objectives in the next water management plan.

Joint Recommendation 4: Structure website information to report progress and trends made in achieving resource outcome goals.

Nicollet SWCD Recommendation 1: Address action item and consider adding high performance standards to improve organizational performance.

Nicollet SWCD Recommendation 2: Conduct a strategic assessment of the SWCD to determine whether existing mission, goals and staff capacity are sufficient to meet the demands of conservation services in the district.

Nicollet County Property Services Department Recommendation 1: Select high performance standards to implement to improve organizational performance.

Action Items:

Nicollet County Property Services does not have any action items. Nicollet SWCD has one action item:

- The SWCD does not have a data practices policy that has been updated in the last 5 years.

East Polk Soil and Water Conservation District

Key Findings and Conclusions

The East Polk Soil and Water Conservation District (SWCD), West Polk SWCD and the Polk County Environmental Services Office need to continue to work toward developing a strong working relationship that will serve all three agencies well. This performance assessment has confirmed their effective administration of local water management and land conservation programs and projects. For the most part, their partners believe the three agencies are doing good work and are good to work with. The partners who responded to the PRAP survey generally provided good to high marks in their judgement of the performance of the East Polk SWCD, West Polk SWCD and the Polk County Environmental Services Office.



Resource Outcomes

The Polk County Local Water Management Plan does not include targets or objectives for resource outcomes. Therefore, resource outcomes are not reported in this review of plan accomplishments.

Commendations:

The East Polk Soil and Water Conservation District is commended for meeting 7 of 14 high performance standards for SWCDs, the West Polk SWCD is commended for meeting 7 of 14 high performance standards for SWCDs and the Environmental Services Office is commended for meeting 5 of 13 high performance standards for counties.

Action Item for East Polk SWCD - The following action item should be addressed within the next 18 months, or by December 2018.

- Provide annual financial statements that are on time and complete.

Recommendations:

SWCD Joint Recommendation 1: Create a unified message and vision to address the county Board at times when programs affect all entities.

SWCD Joint Recommendation #2: SWCDs should communicate more effectively to deliver programs consistently throughout the county.

SWCD Joint Recommendation #3: Active participation and involvement in watershed district activities.

SWCD Joint Recommendation #4: Employ a method of grant tracking to adequately monitor and report on all specific individual grant funds.

East Polk SWCD Recommendation #1: Modernize financial record keeping to accurately monitor, report, and track financial records for an increased grant and financial workload.

Joint Recommendation 1: Participate in the development of One Watershed One plans for watersheds within the county using the major or minor watershed scale for plan organization.

Joint Recommendation 2: Participate in development of Prioritized, Targeted and Measureable criteria for Goals and Objectives in the development of the One Watershed, One Plan for watershed plans within the county.

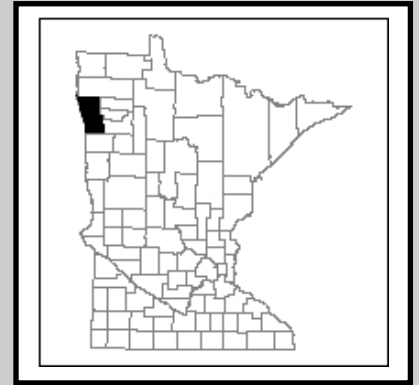
Joint Recommendation 3: Structure website information to report progress and trends in achieving resource outcome goals as resource outcome goals are determined as part of 1W1P development.

Joint Recommendation 4: Ensure that input from citizens and stakeholder groups within Polk County are incorporated into the development of the One Watershed One Plan watershed planning initiatives.

West Polk Soil and Water Conservation District

Key Findings and Conclusions

The East Polk Soil and Water Conservation District (SWCD), West Polk SWCD and the Polk County Environmental Services Office need to continue to work toward developing a strong working relationship that will serve all three agencies well. This performance assessment has confirmed their effective administration of local water management and land conservation programs and projects. For the most part, their partners believe the three agencies are doing good work and are good to work with. The partners who responded to the PRAP survey generally provided good to high marks in their judgement of the performance of the East Polk SWCD, West Polk SWCD and the Polk County Environmental Services Office.



Resource Outcomes

The Polk County Local Water Management Plan does not include targets or objectives for resource outcomes. Therefore, resource outcomes are not reported in this review of plan accomplishments.

Commendations:

The West Polk SWCD is commended for meeting 7 of 14 high performance standards for SWCDs and the Environmental Services Office is commended for meeting 5 of 13 high performance standards for counties.

Action Items for West Polk SWCD

The following action items should be addressed within the next 18 months, or by December 2018.

- Develop a data practices policy.
- Provide annual financial statements that are on time and complete.

Recommendations:

SWCD Joint Recommendation #1: Create a unified message and vision to address the county Board at times when programs affect all entities.

SWCD Joint Recommendation #2: SWCDs should communicate more effectively to deliver programs consistently throughout the county.

SWCD Joint Recommendation #3: Active participation and involvement in watershed district activities.

SWCD Joint Recommendation #4: Employ a method of grant tracking to adequately monitor and report on all specific individual grant funds.

West Polk SWCD Recommendation #1: Evaluate current office structure to determine the needs of the district in regards to capacity and providing professional services.

West Polk SWCD Recommendation #2: WCA Administrative Recommendation for Increased Staff Training.

West Polk SWCD Recommendation #3: Execution and Coordination Recommendation regarding compliance with Minnesota Statutes 15.99.

Joint Recommendation #1: Participate in the development of One Watershed One plans for watersheds within the county using the major or minor watershed scale for plan organization.

Joint Recommendation #2: Participate in development of Prioritized, Targeted and Measureable criteria for Goals and Objectives in development of the One Watershed, One Plan for watershed plans within county.

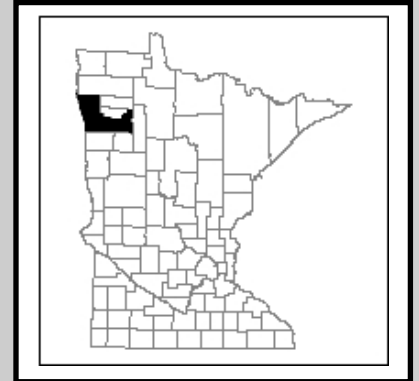
Joint Recommendation #3: Structure website information to report progress and trends in achieving resource outcome goals as resource outcome goals are determined as part of 1W1P development.

Joint Recommendation #4: Ensure that input from citizens and stakeholder groups within Polk County are incorporated into the development of the One Watershed One Plan watershed planning initiatives.

Polk County Environmental Services

Key Findings and Conclusions

The East Polk Soil and Water Conservation District (SWCD), West Polk SWCD and the Polk County Environmental Services Office need to continue to work toward developing a strong working relationship that will serve all three agencies well. This performance assessment has confirmed their effective administration of local water management and land conservation programs and projects. For the most part, their partners believe the three agencies are doing good work and are good to work with. The partners who responded to the PRAP survey generally provided good to high marks in their judgement of the performance of the East Polk SWCD, West Polk SWCD and the Polk County Environmental Services Office.



Resource Outcomes

The Polk County Local Water Management Plan does not include targets or objectives for resource outcomes. Therefore, resource outcomes are not reported in this review of plan accomplishments.

Commendations:

The Polk County Environmental Services Office is commended for meeting 5 of 13 high performance standards for counties.

Action Items for Polk County Environmental Services Office

Polk County Environmental Services Office has no action items.

Recommendations:

Joint Recommendation 1: Participate in the development of One Watershed One plans for watersheds within the county using the major or minor watershed scale for plan organization.

Joint Recommendation 2: Participate in development of Prioritized, Targeted and Measureable criteria for Goals and Objectives in the development of the One Watershed, One Plan for watershed plans within the county.

Joint Recommendation 3: Structure website information to report progress and trends in achieving resource outcome goals as resource outcome goals are determined as part of 1W1P development.

Joint Recommendation 4: Ensure that input from citizens and stakeholder groups within Polk County are incorporated into the development of the One Watershed One Plan watershed planning initiatives.

SWCD Joint Recommendation 1: Create a unified message and vision to address the county Board at times when programs affect all entities.

SWCD Joint Recommendation #2: SWCDs should communicate more effectively to deliver programs consistently throughout the county.

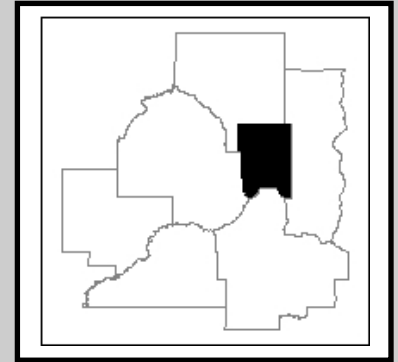
SWCD Joint Recommendation #3: Active participation and involvement in watershed district activities.

SWCD Joint Recommendation #4: Employ a method of grant tracking to adequately monitor and report on all specific individual grant funds.

Ramsey Conservation District and Ramsey County

Key Findings and Conclusions

The Ramsey Conservation District and Ramsey County have fostered a good working relationship that serves both agencies well. For the most part, the Conservation District partners believe they are doing good work and are good to work with. Recent board member changes at the Conservation District has created some challenges and new opportunities for future local water management in Ramsey County. With the recent revision of the Ramsey Conservation District comprehensive plan, there will be an opportunity for Ramsey Conservation District and Ramsey County to prioritize implementation activities to address specific problems and priorities for the county's water resources. The partners who responded to the PRAP survey provided strong to good marks in their judgement of the performance of the Conservation District and Ramsey County.



Commendations:

The Ramsey Conservation District is commended for meeting 9 of 14 high performance standards for SWCDs. Ramsey County is commended for meeting 6 of 9 of the relevant high performance standards.

Ramsey Conservation District Recommendations:

Ramsey Conservation District Recommendation 1: Improve communication and interaction among Board members by working with a conflict management or mediation specialist and conduct a strategic assessment of the District to determine whether the existing mission, goals, bylaws and board member responsibilities are understood and remain relevant.

Ramsey Conservation District Recommendation 2: Organize Annual Work Plan to address high priority items with specific, measurable action items and monitor staff and Board delivery of programs and projects.

Ramsey Conservation District Recommendation 3: Develop a fiscal management agreement between Ramsey Conservation District and Ramsey County.

Ramsey Conservation District Recommendation 4: Develop orientation and continued education plan for the board and staff to provide for continued growth of the District and Board members through education, succession of positions and outreach to partners.

Ramsey Conservation District Recommendation 5: Continue to build on the use of major or minor watershed scale in the comprehensive plan by the use of PTM criteria in implementation of action items of the plan.

Ramsey County Recommendations:

Ramsey County Recommendation 1: Develop and adopt a Groundwater Plan under Minnesota Statutes 103B.255.

Ramsey County Recommendation 2: Develop a fiscal management agreement between Ramsey County and Ramsey Conservation District.

Ramsey County Recommendation 3: Review and update delegation agreements for natural resource management programs, as needed, with LGUs within the county.

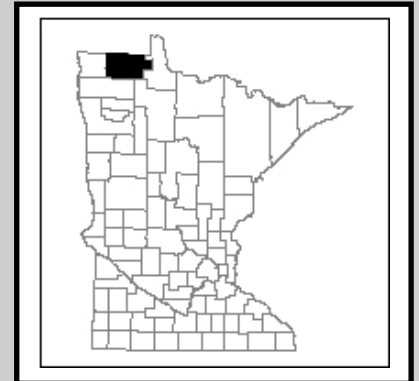
Ramsey County Recommendation 4: Ramsey County should provide clarity on the website regarding the structure and cooperative agreements for water resource management within the county.

Roseau Soil and Water Conservation District and Roseau County Environmental Office

Key Findings and Conclusions

The Roseau Soil and Water Conservation District (SWCD) and the Roseau County Environmental Office need to have an effective working relationship in order to provide needed services to the residents of the county. New challenges have created the need to forge new working relationships among partners, and build stronger programs for future local water management in Roseau County.

Roseau County and the Roseau Soil and Water Conservation District are participating in the development of a One Watershed, One Plan for the Lake of the Woods Watershed. This will be an opportunity for Roseau County and SWCD to reorient its local water plan to specific problems and prioritize the county's waterbodies.



Resource Outcomes

The Roseau Local Water Management Plan does not include targets or objectives for resource outcomes.

Commendations:

The Roseau Soil and Water Conservation District is commended for meeting 4 of 14 high performance standards for SWCDs and the Environmental Office is commended for meeting 2 of 13 high performance standards for counties.

Action Item for Roseau SWCD

The following action item should be addressed within the next 18 months, or by October 2018.

- Develop a data practices policy

Recommendations:

Joint Recommendation 1: Participate in the development of One Watershed One plans for watersheds within the county using the major or minor watershed scale for plan organization.

Joint Recommendation 2: Structure website information to report progress and trends in achieving resource outcome goals as resource outcome goals are determined as part of 1W1P development.

Joint Recommendation 3: Ensure that input from citizens and stakeholder groups within Roseau County is incorporated into the development of the One Watershed One Plan for the Lake of the Woods Watershed and other new watershed planning initiatives.

Joint Recommendation 4: Update Wetland Conservation Act Joint Powers Agreement

Joint Recommendation 5: The Wetland Conservation Act Technical Evaluation Panel (TEP) should include full membership in TEP meetings.

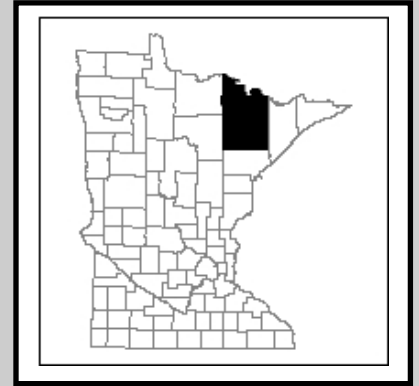
SWCD Recommendation 1: Conduct a strategic assessment of the SWCD to determine whether existing mission, goals and staff capacity are sufficient to meet the demands of conservation services in the district.

SWCD Recommendation 2: Develop orientation and continued education plan for the board of supervisors and staff and keep records of trainings attended.

North St. Louis Soil and Water Conservation District

Key Findings and Conclusions

The St. Louis County Planning and Community Development Department (PCDD), the South St. Louis Soil and Water Conservation District (SSLSWCD) and the North St. Louis SWCD (NSLSWCD) have fostered a good working relationship that serves the three agencies well. For the most part, their partners believe both entities are doing good work and are good to work with. Recent staff additions at the North St. Louis SWCD have created the necessity to forge new working relationships among partners, but there is a strong base to build upon for future local water management in St. Louis County.



With the upcoming revision of the comprehensive local water plan, there will be an opportunity for St. Louis County and the South St. Louis SWCD and North St. Louis SWCD to reorient its local water plan to specific problems and priorities for the county's waterbodies.

The partners who responded to the PRAP survey provided good marks in their judgement of the performance of the North St. Louis SWCD.

Resource Outcomes

The St. Louis Local Water Management Plan does not include targets or objectives for resource outcomes.

Commendations:

The North St. Louis Soil and Water Conservation District is commended for meeting 7 of 14 high performance standards for SWCDs.

Recommendations:

Joint Recommendation 1: Use the major or minor watershed scale for plan organization.

Joint Recommendation 2: Consider using Prioritized, Targeted and Measureable criteria for Goals and Objectives in the next water management plan.

Joint Recommendation 3: Structure website information to report progress and trends made in achieving resource outcome goals.

Joint Recommendation 4: Revisit membership of the Water Plan Technical Advisory Task Force to ensure that agency representation is adequate and schedule annual meetings.

Joint Recommendation 5: Update Wetland Conservation Act contracts between St. Louis County and South St. Louis SWCD and North St. Louis SWCD to reflect current workloads and responsibilities.

North St. Louis SWCD Recommendation 1: Address action items and consider adding high performance standards to improve organizational performance.

Action Items:

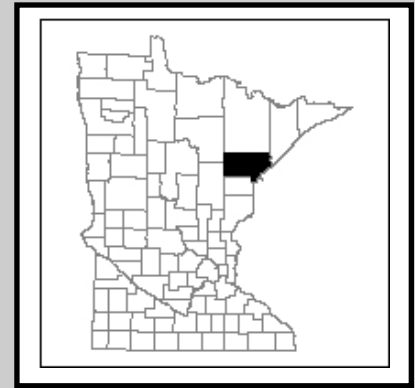
North St. Louis SWCD has 2 action items which should be addressed in the next 18 months.

- The North St. Louis SWCD data practices policy has not been updated in the last 5 years.
- The North St. Louis SWCD personnel policy has not been updated in the last 5 years.

South St. Louis Soil and Water Conservation District

Key Findings and Conclusions

The St. Louis County Planning and Community Development Department (PCDD), the South St. Louis Soil and Water Conservation District (SSLSWCD) and the North St. Louis SWCD (NSLSWCD) have fostered a good working relationship that serves the three agencies well. For the most part, their partners believe both entities are doing good work and are good to work with. Recent staff additions at the North St. Louis SWCD have created the necessity to forge new working relationships among partners, but there is a strong base to build upon for future local water management in St. Louis County.



With the upcoming revision of the comprehensive local water plan, there will be an opportunity for St. Louis County and the South St. Louis SWCD and North St. Louis SWCD to reorient its local water plan to specific problems and priorities for the county's waterbodies.

The partners who responded to the PRAP survey provided good marks in their judgement of the performance of the South St. Louis SWCD.

Resource Outcomes

The St. Louis Local Water Management Plan does not include targets or objectives for resource outcomes.

Commendations:

The South St. Louis Soil and Water Conservation District is commended for meeting 8 of 14 high performance standards for SWCDs.

Recommendations:

Joint Recommendation 1: Use the major or minor watershed scale for plan organization.

Joint Recommendation 2: Consider using Prioritized, Targeted and Measureable criteria for Goals and Objectives in the next water management plan.

Joint Recommendation 3: Structure website information to report progress and trends made in achieving resource outcome goals.

Joint Recommendation 4: Revisit membership of the Water Plan Technical Advisory Task Force to ensure that agency representation is adequate and schedule annual meetings.

Joint Recommendation 5: Update Wetland Conservation Act contracts between St. Louis County and South St. Louis SWCD and North St. Louis SWCD to reflect current workloads and responsibilities.

South St. Louis SWCD Recommendation 1: Address action items and consider adding high performance standards to improve organizational performance.

Action Items:

South St. Louis SWCD has 2 action items which should be addressed in the next 18 months.

- The South St. Louis SWCD data practices policy has not been updated in the last 5 years.
- The South St. Louis SWCD personnel policy has not been updated in the last 5 years.

St. Louis County Planning and Community Development Department

Key Findings and Conclusions

The St. Louis County Planning and Community Development Department (PCDD), the South St. Louis Soil and Water Conservation District (SSLSWCD) and the North St. Louis SWCD (NSLSWCD) have fostered a good working relationship that serves the three agencies well. For the most part, their partners believe both entities are doing good work and are good to work with. Recent staff additions at the North St. Louis SWCD have created the necessity to forge new working relationships among partners, but there is a strong base to build upon for future local water management in St. Louis County.



With the upcoming revision of the comprehensive local water plan, there will be an opportunity for St. Louis County and the South St. Louis SWCD and North St. Louis SWCD to reorient its local water plan to specific problems and priorities for the county's waterbodies.

The partners who responded to the PRAP survey provided good marks in their judgement of the performance of the St. Louis County Planning and Community Development Department.

Resource Outcomes

The St. Louis Local Water Management Plan does not include targets or objectives for resource outcomes.

Commendations:

St. Louis County PACDD is commended for meeting 3 of 13 high performance standards for counties.

Recommendations:

Joint Recommendation 1: Use the major or minor watershed scale for plan organization.

Joint Recommendation 2: Consider using Prioritized, Targeted and Measureable criteria for Goals and Objectives in the next water management plan.

Joint Recommendation 3: Structure website information to report progress and trends made in achieving resource outcome goals.

Joint Recommendation 4: Revisit membership of the Water Plan Technical Advisory Task Force to ensure that agency representation is adequate and schedule annual meetings.

Joint Recommendation 5: Update Wetland Conservation Act contracts between St. Louis County and South St. Louis SWCD and North St. Louis SWCD to reflect current workloads and responsibilities.

Action Items:

The St. Louis County Planning and Community Development Department does not have any action items.

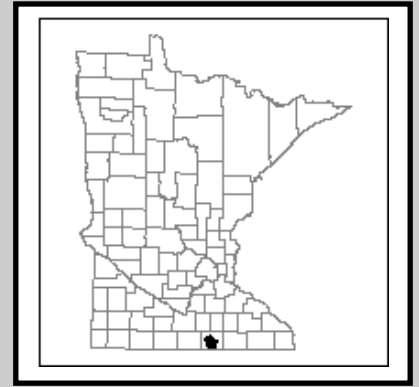
Shell Rock River Watershed District

Key Findings and Conclusions

Shell Rock River Watershed District is doing a good job of administering local water management and conducting watershed management programs and projects. The organization is getting important work done, but will need to continue to adapt to achieve higher performance in watershed management.

With the upcoming opportunity to participate in One Watershed, One Plan development, there is an opportunity for the Shell Rock River Watershed District to reorient its local water plan to problems and priorities specific to the watershed's major waterbodies, and to provide resource specific outcomes.

The Shell Rock River Watershed District shows good compliance with BWSR's basic and high performance standards.



Resource Outcomes

The Shell Rock River Watershed District Plan does contain some resource outcome goals and objectives. However, progress toward those goals is not routinely reported.

Commendations

The Shell Rock River Watershed District is commended for meeting 9 out of 15 High Performance Standards

Action Items

Action Items are those Basic Practice Standards from the Part 2 Performance Standards checklist that must be addressed because of non-compliance. The Shell Rock River Watershed District has no action items.

Recommendations

Recommendation 1: Continue and expand the use of Prioritized, Targeted and Measureable as criteria for Goals and Objectives in the next water management plan as appropriate.

Recommendation 2: Accelerate implementation of watershed Management Plan

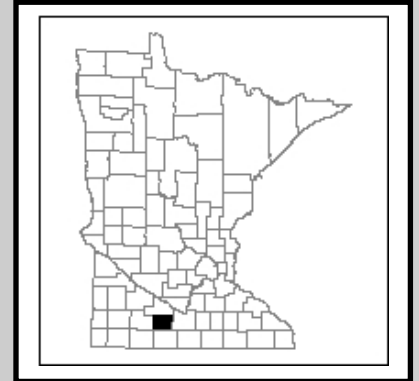
Recommendation 3: Conduct a strategic assessment of the watershed district to determine whether its existing mission, goals and staff capacity are sufficient to meet the demands of conservation services in the district and how to ensure it is complying with Minnesota Statutes 103D.

Recommendation 4: Develop orientation and continued education plan for both board and staff and keep records of trainings attended.

Watonwan County Land Management and Zoning Department and Watonwan Soil and Water Conservation District

Key Findings and Conclusions

The Watonwan County Land Management and Zoning Department (LMZD) and the Watonwan Soil and Water Conservation District (SWCD) need to have an effective working relationship in order to provide needed services to the residents of the county. A survey of both agencies partners demonstrates that there may be some need to improve performance. New challenges have created the need to forge new working relationships among partners, and build stronger programs for future local water management in Watonwan County. With the upcoming opportunity to participate in development of One Watershed-One Plan, there will be an opportunity for Watonwan County and SWCD to reorient its local water plan to specific problems and priorities for the county's watersheds.



Resource Outcomes

The Watonwan Local Water Management Plan does not include targets or objectives for resource outcomes.

Commendations:

The Watonwan Soil and Water Conservation District is commended for meeting 4 of 14 high performance standards for SWCDs and the Watonwan County Land Management and Zoning Office is commended for meeting 3 of 13 high performance standards for counties.

Action Items - Watonwan County Land Management and Zoning Office has one action item:

- WCA Requirement: Ensure that all Notice of Decisions are filled out completely.

Recommendations:

Joint Recommendation 1: Use the major or minor watershed scale for plan organization.

Joint Recommendation 2: Consider using Prioritized, Targeted and Measureable criteria for Goals and Objectives in the next water management plan.

Joint Recommendation 3: Structure website information to report progress and trends made in achieving resource outcome goals.

Joint Recommendation 4: Meet annually with Water Plan Task Force to review annual accomplishments and set priorities for next year.

Watonwan SWCD Recommendation 1: Conduct a strategic assessment of the SWCD to determine whether existing mission, goals and staff capacity are sufficient to meet the demands of conservation services in the district.

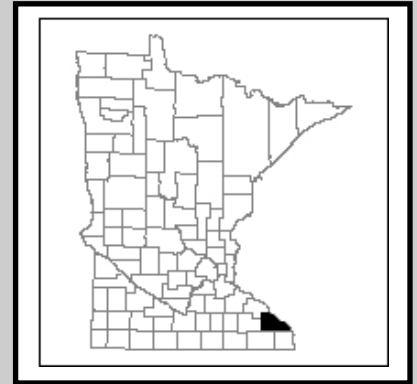
Watonwan County Recommendation 1: Conduct a strategic assessment of the Environmental Services Department to determine whether the existing mission, goals, staff capacity is sufficient to meet the needs and demands for conservation services in the district.

Watonwan County Recommendation 2: For Wetland Conservation Act Implementation - Consistently make written record of Technical Evaluation Panel meetings.

Winona County Planning and Environmental Services and Winona County Soil and Water Conservation District

Key Findings and Conclusions

The Winona County Planning and Environmental Services Department and the Winona County Soil and Water Conservation District (SWCD) have fostered a good working relationship that serves both agencies well. New challenges have created the need to forge new working relationships among partners, and build stronger programs for future local water management in Winona County. For the most part, their partners believe both entities are doing good work and are good to work with. There appears to be a strong base to build upon for future local water management in Winona County. With past and future participation in One Watershed, One Plan development, there will be an opportunity for Winona County and SWCD to reorient the local water plan to specific problems and priorities county's watersheds. Some of the recommendations address an approach that will bring the plan into line with the statewide trend of conducting local water management within a watershed framework.



Resource Outcomes

The Root River One Watershed, One Plan contains prioritized, targeted and measurable outcomes for part of the county, however the Winona County Local Water Management Plan does not include targets or objectives for resource outcomes.

Commendations:

The Winona County Soil and Water Conservation District is commended for meeting 7 of 14 high performance standards for SWCDs and the Winona County Planning and Environmental Services Office is commended for meeting 5 of 12 high performance standards for counties.

Recommendations:

SWCD Recommendation 1: Address action items and consider adding high performance standards to improve organizational performance.

SWCD Recommendation 2: Develop orientation and continued education plan for the board of supervisors and staff and keep records of trainings attended.

SWCD Recommendation 3: Conduct a strategic assessment of the SWCD to determine whether existing mission, goals and staff capacity are sufficient to meet the demands of conservation services in the district.

Winona County (as they apply to BWSR programs) Recommendation #1: Conduct a strategic assessment of the Department to determine whether existing mission, goals and staff capacity are sufficient to meet the demands of conservation services in the county.

Winona County (as they apply to BWSR programs) Recommendation #2: For Wetland Conservation Act (WCA) program administration, continue development of a joint agreement with neighboring counties to hire a wetland specialist that would be a shared employee.

Winona County (as they apply to BWSR programs) Recommendation #3: Develop orientation and continued education plan for staff and keep records of trainings attended.

Joint Recommendation 1: Continue to use the major or minor watershed scale for plan organization with participation in future One Watershed, One Plan development.

Joint Recommendation 2: Structure website information to report progress and trends made in achieving resource outcome goals.

Winona County SWCD has 2 action items which should be addressed in the next 18 months:

- The SWCD financial statement has not been submitted on time.
- The SWCD does not have a personnel policy that has been updated in the last 5 years.

Appendix H

Performance Standards Checklists used in Level II Reviews

COUNTY LOCAL WATER MANAGEMENT PERFORMANCE STANDARDS

LGU Name: _____

Performance Area	Performance Standard	Level of Review	Rating	
	<ul style="list-style-type: none"> ■ Basic practice or statutory requirement ★ High Performance standard (see instructions for explanation of standards)	I Annual Compliance II BWSR Staff Review & Assessment (1/10 yrs)	Yes, No, or Value	
			YES	NO
Admin	■ eLINK Grant Report(s): submitted on time	I		
	■ County has resolution assuming WCA responsibilities and delegation resolutions (if needed).	II		
	■ County has knowledgeable and trained staff to manage WCA program or secured a qualified delegate.	II		
	■ Drainage authority buffer strip report submitted on time	I		
	★ Public drainage records: meet modernization guidelines	II		
Planning	■ Local water mgmt plan: current	I		
	★ Metro counties: groundwater plan up-to-date	I		
	■ Biennial Budget Request submitted on-time	I		
	★ Prioritized, Targeted & Measureable criteria are used for Goals & Objectives in local water management plan as appropriate.	II		
	★ Water quality trend data used for short- and long-range plan priorities	II		
Execution	■ WCA decisions and determinations are made in conformance with WCA requirements.	II		
	■ WCA TEP reviews and recommendations are appropriately coordinated.	II		
	★ Certified wetland delineator on staff or retainer	II		
	★ Water quality data collected to track outcomes for each priority concern	II		
	★ Water quality trends tracked for priority water bodies	II		
Communication & Coordination	■ BWSR grant report(s) posted on website	I		
	★ Communication piece sent within last 12 months: indicate target audience below	II		
	Communication Target Audience:			
	★ Obtain stakeholder input: within last 5 yrs	II		
	★ Partnerships: liaison with SWCDs/WDs and cooperative projects/tasks done	II		
	★ Annual report to water plan advisory committee on plan progress	II		
	★ Track progress for I & E objectives in Plan	II		
	★ County local water plan on county website	II		
★ Water management ordinances on county website	II			

SOIL AND WATER CONSERVATION DISTRICT PERFORMANCE STANDARDS

LGU Name: _____

Performance Area	Performance Standard	Level of Review	Rating	
			YES	NO
	<ul style="list-style-type: none"> ■ Basic practice or Statutory requirement ★ High Performance standard (see instructions for explanation of standards) 	<ul style="list-style-type: none"> I Annual Compliance II BWSR Staff Review & Assessment (1/10 yrs) 	Yes, No, or Value	
Administration	■ Financial statement: annual, on-time and complete	I		
	■ Financial audit: completed as required by statute (see guidance) or as per BWSR correspondence	I		
	■ eLINK Grant Report(s) submitted on-time	I		
	■ Data practices policy: exists and reviewed/updated within last 5 yrs	II		
	■ Personnel policy: exists and reviewed/updated within last 5 yrs	II		
	■ Technical professional appointed and serving on WCA TEP	II		
	■ SWCD has an adopting resolution assuming WCA responsibilities and appropriate decision delegation resolutions as warranted (If WCA LGU)	II		
	★ Job approval authorities: reviewed and reported annually	II		
	★ Operational guidelines and policies exist and are current	II		
	★ Board training: orientation & cont. ed. plan and record for each board member	II		
★ Staff training: orientation and cont. ed. plan/record for each staff member	II			
Planning	■ Comprehensive Plan: updated within 5 yrs or current resolution adopting unexpired county LWM plan	I		
	■ Biennial Budget Request submitted on time	I		
	★ Prioritized, Targeted and Measureable criteria are used for Goals and Objectives in the local water management plan as appropriate.	II		
	★ Annual Plan of Work: based on comp plan, strategic priorities	II		
Execution	■ Are state grant funds spent in high priority problem areas	II		
	■ Total expenditures per year (over past 10 yrs)	II	see below	
	■ Months of operating funds in reserve	II		
	■ Replacement and restoration orders are prepared in conformance with WCA rules and requirements.	II		
	■ WCA TEP member is knowledgeable/trained in WCA technical aspects	II		
	■ WCA TEP member contributes to TEP reviews, findings & recommendations	II		
	■ WCA decisions and determinations are made in conformance with all WCA requirements (If WCA LGU)	II		
	■ WCA TEP reviews/recommendations appropriately coordinated(if LGU)	II		
	★ Certified wetland delineator: on staff or retainer	II		
★ Outcome trends monitored and reported for key resources	II			
Communication & Coordination	■ Website contains all required content elements	I		
	★ Website contains additional content beyond minimum required	II		
	★ Track progress on I & E objectives in Plan	II		
	★ Obtain stakeholder input: within last 5 yrs	II		
	★ Annual report communicates progress on plan goals	II		
	★ Partnerships: cooperative projects/tasks with neighboring districts, counties, watershed districts, non-governmental organizations	II		
	★ Coordination with County Board by supervisors or staff	II		

METRO WATERSHED DISTRICT and WMO PERFORMANCE STANDARDS

LGU Name: _____

Performance Area	Performance Standard	Level of Review	Rating	
			YES	NO
	<ul style="list-style-type: none"> ★ High Performance standard ■ Basic practice or statutory requirement (see instructions for explanation of standards) 	<ul style="list-style-type: none"> I Annual Compliance II BWSR Staff Review & Assessment (1/5 yrs) 	Yes, No, or Value	
Administration	■ Activity report: annual, on-time	I		
	■ Financial report & audit completed on time	I		
	■ Drainage authority buffer strip report submitted on time	I		
	■ eLink Grant Report(s): submitted on time	I		
	■ Rules: date of last revision or review	II	mo/yr	
	■ Personnel policy: exists and reviewed/updated within last 5 yrs	II		
	■ Data practices policy: exists & reviewed/updated within last 5 yrs	II		
	■ Manager appointments: current and reported	II		
	■ Consultant RFP: within 2 yrs for professional services	II		
	■ WD/WMO has resolution assuming WCA responsibilities and appropriate delegation resolutions as warranted(N/A if not LGU)	II		
	■ WD/WMO has knowledgeable & trained staff that manages WCA program or has secured a qualified delegate. (N/A if not WCA LGU)	II		
	★ Administrator on staff	II		
	★ Board training: orient.& cont. ed. Plan, record for each board member	II		
	★ Staff training: orient. & cont. ed. plan and record for each staff person	II		
	★ Operational guidelines for fiscal procedures and conflicts of interest exist and current	II		
★ Public drainage records: meet modernization guidelines	II			
Planning	■ Watershed management plan: up-to-date	I		
	■ City/twp. local water plans not yet approved	II		
	■ Capital Improvement Program: reviewed every 2 yrs	II		
	★ Biennial Budget Request submitted on time	II		
	★ Strategic plan identifies short-term priorities	II		
Execution	■ Engineer Reports: submitted for DNR & BWSR review	II		
	■ WCA decisions and determinations are made in conformance with all WCA requirements. (if delegated WCA LGU)	II		
	■ WCA TEP reviews & recommendations appropriately coordinated. (if delegated WCA LGU)	II		
	■ Total expenditures per year (past 10 yrs)	II	see below	
	★ Water quality trends tracked for key water bodies	II		
	★ Watershed hydrologic trends monitored / reported	II		
Communication & Coordination	■ Website: contains information as required by MR 8410.0150 Subp. 3a, i.e. as board meeting, contact information, water plan, etc.	II		
	■ Functioning advisory committee(s): recommendations on projects, reports, 2-way communication with Board	II		
	■ Communication piece: sent within last 12 months	II		
	Communication Target Audience:			
	★ Track progress for I & E objectives in Plan	II		
	★ Coordination with County Board, SWCD Board, City/Twp officials	II		
	★ Partnerships: cooperative projects/tasks with neighboring organizations, such as counties, soil and water districts, watershed districts and non-governmental organizations	II		

GREATER MN WATERSHED DISTRICT PERFORMANCE STANDARDS

LGU Name: _____

Performance Area	Performance Standard	Level of Review	Rating	
			YES	NO
	<ul style="list-style-type: none"> ★ High Performance standard ■ Basic practice or Statutory requirement (see instructions for explanation of standards) 	<ul style="list-style-type: none"> I Annual Compliance II BWSR Staff Review & Assessment (1/10 yrs) 	Yes, No, or Value	
Administration	■ Annual report: submitted by mid-year	I		
	■ Financial audit: completed within last 12 months	I		
	■ Drainage authority buffer strip report submitted on time	I		
	■ eLink Grant Report(s): submitted on time	I		
	■ Rules: date of last revision or review	II	mo/yr	
	■ Personnel policy: exists and reviewed/updated within last 5 yrs	II		
	■ Data practices policy: exists and reviewed/updated within last 5 yrs	II		
	■ Manager appointments: current and reported	II		
	■ WD has resolution assuming WCA responsibilities & appropriate delegation resolutions as warranted. (N/A if not LGU)	II		
	■ WD has knowledgeable & trained staff that manages WCA program or has secured a qualified delegate. (N/A if not WCA LGU)	II		
	★ Administrator on staff	II		
	★ Board training: orientation & cont. ed. Plan/record for each board member	II		
	★ Staff training: orientation & cont. ed. Plan/record for each staff	II		
	★ Operational guidelines exist and current	II		
★ Public drainage records: meet modernization guidelines	II			
Planning	■ Watershed management plan: up-to-date	I		
	★ Biennial Budget Request submitted on time	II		
	★ Strategic plan identifies short-term activities & budgets based on state and local watershed priorities	II		
	★ Member of County Water Plan Advisory Committee(s)	II		
Execution	■ Engineer Reports: submitted for DNR & BWSR review	II		
	■ WCA decisions and determinations made in conformance with all WCA requirements. (N/A if not LGU)	II		
	■ WCA TEP reviews/recommendations coordinated (N/A if not LGU)	II		
	■ Total expenditures per year for past 10 years	II	attach	
	★ Water quality trends tracked for key water bodies	II		
★ Watershed hydrologic trends monitored / reported	II			
Communication & Coordination	■ Functioning advisory committee: recommendations on projects, reports, maintains 2-way communication with Board	II		
	■ Communication piece sent within last 12 months	II		
	★ Website: contains annual report, financial statement, board members, contact info, grant report(s), watershed management plan, meeting notices, agendas & minutes, updated after each board	II		
	★ Obtain stakeholder input: within last 5 yrs	II		
	★ Track progress for I & E objectives in Plan	II		
	★ Coordination with County Board, SWCD Board, City/Twp officials	II		
	★ Partnerships: cooperative projects/tasks with neighboring districts, counties, soil and water districts, non-governmental organizations	II		

Appendix I

2017 Local Government Performance Awards and Recognition

(Awarding agency listed in parentheses.)

Outstanding SWCD Employee

(Board of Water and Soil Resources)

Peter Mead, Becker SWCD Manager

Outstanding SWCD Supervisor Award

(Minnesota Association of Soil and Water Conservation Districts)

Paul Krabbenhoft, Clay SWCD Supervisor

SWCD of the Year

(Minnesota Association of Soil and Water Conservation Districts)

Crow Wing SWCD

SWCD Appreciation Award

(Department of Natural Resources)

Olmsted SWCD

Community Conservationist Award

(Minnesota Association of Soil and Water Conservation Districts /Minnesota Pollution Control Agency)

Cheryl Seeman, Anoka Conservation District

Outstanding Forest Steward Award

(Minnesota Association of Soil and Water Conservation Districts / Department of Natural Resources)

Dave Parent, Itasca SWCD

Outstanding Watershed District Employee

(Board of Water and Soil Resources)

Phil Belfiori, Rice Creek Watershed District Administrator

Watershed District of the Year

(Department of Natural Resources)

Cedar River Watershed District

WD Project of the Year

(Minnesota Association of Watershed Districts)

Keller Golf Course, Ramsey-Washington Metro Watershed District

County Conservation Award

(Association of Minnesota Counties and Board of Water and Soil Resources)

**Flood Disaster Recovery Assistance Program,
Rock County**

COMMITTEE RECOMMENDATIONS

Administrative Advisory Committee

1. Farmer-Led Council (FLC) Pilot Startup – Craig McDonnell, MDA, and John Jaschke – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Farmer-Led Council (FLC) Pilot Startup

Meeting Date: January 24, 2018

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: _____

Contact: Doug Thomas/Ed Lenz

Prepared by: Doug Thomas/John Jaschke
Admin. Advisory Committee

Reviewed by: (1/24/18 scheduled) Committee(s)

Presented by: John Jaschke, BWSR
Craig McDonnell, MDA

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input checked="" type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |
- Initiation of Pilot Startup

ACTION REQUESTED

Approval of Pilot Startup for Farmer-Led Council (FLC) Initiative in partnership with MDA.

LINKS TO ADDITIONAL INFORMATION

<http://www.environmental-initiative.org/our-work/past-work/agricultural-water-quality-solutions>

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

The Farmer-Led Council (FLC) initiative was born out of the work of the Agricultural Water Quality Solutions Workgroup that was convened by the MDA and Environmental Initiative in 2016-17. The vision for the Farmer-Led Council initiative is to empower local communities of farmers to make their own decisions regarding how they want to improve water quality in their watershed. Through the establishment of Farmer-Led Councils the

Workgroup, the MDA, and BWSR in partnership with local governments and private sector participants hope to spur farmers to work with their neighbors to take the lead in improving water quality in their watershed.

Board Resolution # 18- _____

Farmer-Led Council (FLC) Pilot Startup

WHEREAS; The Farmer-Led Council (FLC) concept emanated from the Agricultural Water Quality Solutions Workgroup that was convened by the Minnesota Department of Agriculture (MDA) and Environmental Initiative in 2016; and

WHEREAS; In 2017 the Agricultural Water Quality Solutions Workgroup was expanded to include input and participation from the Minnesota Association of Soil and Water Conservation Districts, the Board of Water and Soil Resources (BWSR), the USDA-Natural Resources Conservation Service (NRCS), and the University of Minnesota; and

WHEREAS; Through the establishment of Farmer-Led Councils the Workgroup, MDA, BWSR and industry organizations, in partnership with local governments and private sector participants, hope to provide a mechanism for farmers to work with their neighbors to take the lead in improving water quality in their watershed; and,

WHEREAS; Local FLCs will be established and facilitated by a coordinator paid initially with pass-through funds from the MDA; and

WHEREAS; Local coordinators will possess or develop ties to the local communities and could be farmers, community organizers, private sector staff, local government staff or other qualified community members; and

WHEREAS; The MDA and BWSR will work with an advisory group and local stakeholders to ensure coordinators possess the knowledge, skills, and abilities to be successful; and

WHEREAS; The work and structure of local councils will be self-determined but a major component of that work will be to prioritize and submit funding requests for conservation practices to local, state, federal and private sector funders; and

WHEREAS; Coordinators will be responsible for facilitating meetings and recruiting farmers to participate and will be responsible for promoting the FLC approach and building support for the local council's work; and

WHEREAS; To realize the goal of developing and implementing local Farmer-Led Councils that aid in the deployment of water protective agricultural practices, the Working Group suggested that an expanded advisory group be invited to guide the startup and pilot effort.

NOW THEREFORE BE IT RESOLVED; The Board hereby authorizes BWSR staff to coordinate with MDA staff to:

1. Assign staff to coordinate and facilitate the Farmer-Led Council (FLC) Pilot Startup, and

2. Convene and facilitate an advisory group of agricultural organizations that includes members of the Agricultural Water Quality Solutions Workgroup to develop criteria for the pilot program startup, and
3. In consultation with the advisory group, issue a Request for Interest (RFI) to solicit potential pilot program participants, and
4. In consultation with the advisory group, select the initial group of pilot FLCs based on available or potential funding, producer interest, preparedness to organize, potential to improve or protect surface or groundwater resources, and other relevant criteria, and
5. Report to the Board and the MDA Commissioner on the status and progress of the pilot startup effort.

Date: _____

Gerald Van Amburg, Chair

Board of Water and Soil Resources

COMMITTEE RECOMMENDATIONS

Buffers, Soil Loss, and Drainage Committee

1. Working Lands Watershed Restoration Program – Report to the Legislature – Suzanne Rhees and David Weirens – ***DECISION ITEM***
2. Public Comment for the Administrative penalty Order (APO) Plan for Enforcement of Excessive Soil Loss Requirements – Suzanne Rhees and David Weirens – ***DECISION ITEM***
3. Legislative Report: Recommendations for Accelerating Public Drainage System Acquisition and Establishment of Buffer Strips and Alternative Practices – Don Buckhout and Al Kean – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Working Lands Watershed Restoration Program – Report to the Legislature

Meeting Date: 1/24/18

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Programs and Policy Development

Contact: Suzanne Rhees

Prepared by: Suzanne Rhees

Reviewed by: BSD Committee(s)

Presented by: Suzanne Rhees, David Weirens

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

Accept the recommendation of the Buffers, Soils and Drainage Committee to accept this report for submittal to the Legislature.

LINKS TO ADDITIONAL INFORMATION

<http://www.bwsr.state.mn.us/planning/WLWRP/wlwrp.html>

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

In 2016 the Minnesota Legislature directed BWSR to prepare a plan and feasibility study for a Working Lands Watershed Restoration Program to incentivize the establishment and maintenance of perennial crops. The crops evaluated include perennial grasses and winter annual cover crops that keep roots in the soil and vegetation on the land throughout the year, improving soil health, storing carbon, and capturing excess nitrogen. These crops can be grazed, used for food products and livestock feed, or processed for electricity, thermal energy, advanced biofuels such as bio-jet fuel, renewable chemicals, or similar applications. A draft of this project’s final report is

now available for review. A final version will be submitted to the Legislature by February 1, 2018, as required by the enabling legislation ([Laws 2016, c. 189, s. 4](#))

Board Resolution # 18- _____

Acceptance of the Working Lands Watershed Restoration Program Report

WHEREAS, the Board of Water and Soil Resources was directed by Laws of Minnesota 2016, Chapter 189, Article 3, Section 4 to develop and submit to the Legislature a plan by February 1, 2018 “for the development of a detailed plan to implement a working lands watershed restoration program to incentivize the establishment and maintenance of perennial crops” that includes 11 specific elements, and;

WHEREAS, the goal of this report is to improve water quality by increasing living cover on the landscape at a watershed scale, and;

WHEREAS, in the development of this report staff worked with other state agencies, University of Minnesota researchers, agricultural and commodity groups, environmental organizations, local governments, and other groups engaged in water resources management, and;

WHEREAS, a stakeholder group comprised of groups identified in the prior Whereas met seven times throughout the project;

WHEREAS, two workshops were held during the project, one addressing grazing, forage and animal feed and the other focused on emerging market opportunities for biomass, and;

WHEREAS, BWSR contracted with the University of Minnesota Water Resources Center to identify and quantify the economic and social factors affecting farmer’s willingness to grow alternative crops, and;

WHEREAS, BWSR contracted with the Environmental Initiative to conduct an assessment of existing federal Farm Bill programs that relate to working lands and perennial cropping systems and to identify opportunities and barriers of existing programs relating to the establishment of perennials and living cover crops, and;

WHEREAS, the report includes recommendations relating to landowner incentive payments, federal Farm Bill opportunities, state program opportunities, local partner opportunities, and funding and implementation, and;

WHEREAS, the BWSR Buffers, Soils and Drainage Committee discussed the project on December 19, 2017 and reviewed the draft report on January 23, 2018.

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources accepts the Working Lands Watershed Restoration Program report by February 1, 2018 and authorizes staff to make editorial and formatting changes prior to submittal.

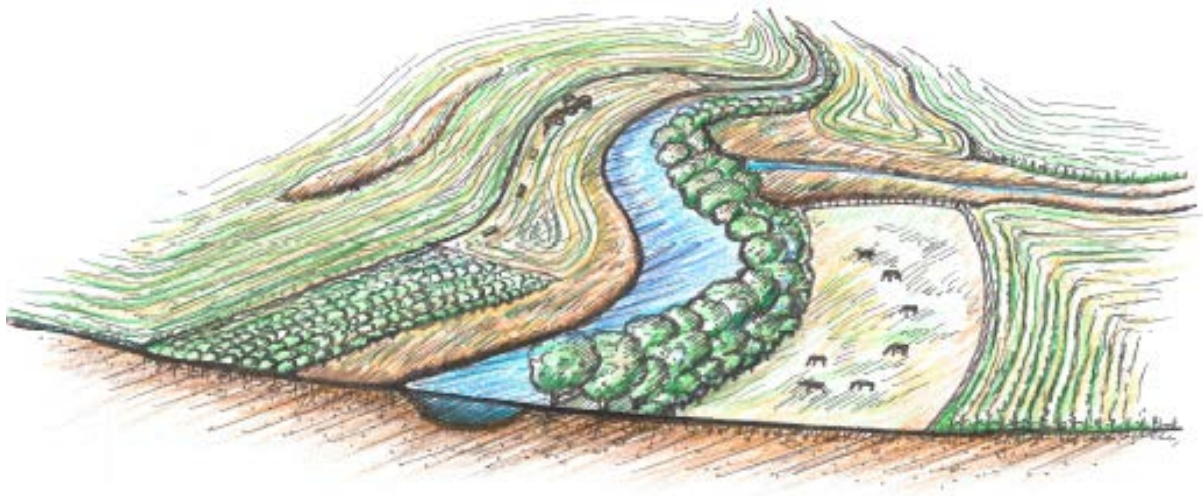
Gerald Van Amburg, Chair
Board of Water and Soil Resources

Date: _____

Attachments:
Working Lands Watershed Restoration Program report

Working Lands Watershed Restoration Program: Executive Summary

DRAFT Report to the Minnesota Legislature



January 8, 2018

Board of Water and Soil Resources
520 Lafayette Road N.
St. Paul, MN 55155

(Phone) 651-296-3767

<http://www.bwsr.state.mn.us/>

This report was prepared to comply with Laws of Minnesota 2016, Chapter 189, Section 4.

As requested by Minnesota Statute 3.197: This report cost approximately \$ _____ to prepare, including staff time, printing and mailing expenses.

Upon request, this material will be made available in an alternative format such as large print, Braille or audio recording. Printed on recycled paper.

Prepared by:

Suzanne Rhees, Conservation Projects Coordinator, Minnesota Board of Water and Soil Resources,
St. Paul

David Weirens, Assistant Director for Programs and Policy, Minnesota Board of Water and Soil
Resources, St. Paul

Consultants

University of Minnesota Water Resources Center: Dr. Jeffrey Peterson, Ann Lewandowski, Dr. Lucia
Levers, Dr. William Lazarus, Dr. Amit Pradhananga

Environmental Initiative: Greg Bohrer, Meleah Houseknecht, Erin Neihoff

Minnesota Pollution Control Agency: Ted Fuller, Terri McDill, Dr. Charles Regan

Stakeholder and Interagency Advisory Group

Amanda Bilek, Minnesota Corn Growers Association

Tanner Bruse, Pheasants Forever

Whitney Clark, Trevor Russell, Friends of the Mississippi River

Jason Garms, Greg Hoch, Minnesota Department of Natural Resources

Randy Ellingboe, Karen Voz, Minnesota Department of Health

George Boody, Land Stewardship Project

Scott Hanson, Minnesota Rural Water Association

Steve Hockett, Susie Carlin, Great River Greening

Brendan Jordan, Great Plains Institute

Nicholas Jordan, Forever Green Initiative, University of Minnesota

Ashley Kohls, Minnesota Cattlemen's Association

Rod Larkins, Agricultural Utilization Resource Institute

Michelle Medina, Minnesota Farmers' Union

Steve Morse, Minnesota Environmental Partnership

Bob Patton, Bill Fitzgerald, Minnesota Department of Agriculture

Cole Rupprecht, Minnesota Farm Bureau

Shawn Schottler, St. Croix Research Station, Science Museum of Minnesota

Carissa Slotterback, University of Minnesota Humphrey Institute

Joe Smentek, Minnesota Soybean Growers

Kent Solberg, Sustainable Farming Association of Minnesota

John Voz, Tim Koehler, Minnesota Board of Water and Soil Resources

Thanks to the following workshop presenters:

Workshop on Grazing, Forage and Feed, April 27, 2017

Kelly Anderson, MDA Grazing Exchange Program

Grant Breitreutz, Stoney Creek Farm

Joe Tomandl, Dairy Grazing Apprenticeship Program

Dean Thomas, Fillmore County NRCS grazing specialist

Alan Doering, Agricultural Utilization Resource Institute (AURI)

Gary Onan, University of Wisconsin – River Falls

Jared Goplen, University Extension, U of MN – Morris

Workshop on Market Opportunities for Cover Crops and Perennials, December 15, 2017

Brendan Jordan, Great Plains Institute, Convenor

Steve Csonka, Commercial airline Advanced Fuels Initiative

Don Wyse, U of MN Forever Green

Laura Hansen, General Mills

Gabe Gusmini, PepsiCo

Bill Belden, Prairie Lands Bioenergy

Jennifer Wagner-Lahr, AURI

Eric Singaas, Natural Resources Research Institute, U of MN – Duluth

Jerry Lynch, General Mills

Craig Sheaffer, U of MN Forever Green

Bill Lazarus, U of MN Applied Economics

Thanks also to the many other participants who attended workshops and meetings and who shared information on their research and experiences with perennials and cover crops.

DRAFT

Executive Summary

Improving the quality of Minnesota’s waters can be a slow and frustrating process. In spite of decades of investment in conservation programs and the efforts of many individual farmers and landowners, many rivers, streams, and lakes do not meet water quality goals. Changes in weather patterns bring more intensive rainstorms, increasing the risks of flooding and soil loss. Economic pressures and fluctuating commodity prices create incentives for farmers to increase the acres planted to corn and soybeans.

There is growing recognition among conservation professionals, researchers, farmers and other engaged citizens that in order to increase the pace of progress on water quality, more vegetation is needed on the land for longer periods of time. Programs such as the federal Conservation Reserve Program, the Minnesota Conservation Reserve Enhancement Program, and the Reinvest in Minnesota conservation easement program all protect environmentally sensitive land by restoring it to perennial vegetation, temporarily or permanently. But is it possible to increase this ‘conservation footprint’ on the landscape without taking additional land out of production?

One of the answers that is now emerging is diversification of the agricultural landscape through introduction of perennial crops and increased use of cover crops that build soil health, capture pollutants, and hold water during heavy rains. By developing or enhancing markets for these alternative crops, it may be possible to improve both water quality and Minnesota’s agricultural economy.

In 2015 and 2016, a coalition of renewable energy, environmental and agricultural organizations promoted a bill that would incentivize planting of perennial crops to improve water quality, and in 2016 the Minnesota Legislature directed the Board of Water and Soil Resources (BWSR) to prepare a plan and feasibility study for a Working Lands Watershed Restoration Program. Table 1 lists the elements of the legislation and the responses by BWSR and its partners as laid out in this report.

Table 1. Summary of Working Lands Legislation and Project Activities

Elements of the Legislation	Project Activities
Develop a detailed plan to implement a working lands watershed restoration program to incentivize the establishment and maintenance of perennial crops, including:	Detailed below
<ul style="list-style-type: none"> a process for selecting pilot watersheds that are expected to result in the greatest water quality improvements and exhibit readiness to participate in the program; 	Six major watersheds were selected for study based on defined criteria; minor watersheds within each major watersheds were selected for more detailed modeling based on local partner recommendations.
<ul style="list-style-type: none"> an assessment of the quantity of agricultural land that is expected to be eligible for the program in each watershed; 	Assessed in terms of predominant crops and soil productivity, with a focus on identifying lands less suitable or less economically rewarding for row crop production.
<ul style="list-style-type: none"> an assessment of landowner interest in participating in the program; 	Assessed through a survey of landowners and operators in each of the major watersheds and selected meetings with local conservation organizations.

Elements of the Legislation	Project Activities
<ul style="list-style-type: none"> an assessment of the contract terms and any recommendations for changes to the terms, including consideration of variable payment rates for lands of different priority or type; 	<p>Being assessed through development of a spreadsheet tool that generates comparisons of farm income and expenses of current annual row crop systems compared to alternative crops, for different locations within each watershed that vary by soil productivity.</p>
<ul style="list-style-type: none"> an assessment of the opportunity to leverage federal funds through the program and recommendations on how to maximize the use of federal funds for assistance to establish perennial crops; 	<p>Assessed through discussions with federal agricultural agencies and agricultural interests. An evaluation of federal farm bill programs and potential adjustments or new initiatives is included in Section VIII and Appendix 3.</p>
<ul style="list-style-type: none"> an assessment of how other state programs could complement the program; 	<p>Assessed through discussions with state agencies that manage easement programs, incentive programs, cost-share programs, and wildlife habitat management programs. See Section IX.</p>
<ul style="list-style-type: none"> an estimate of water quality improvements expected to result from implementation in pilot watersheds; 	<p>Assessed through modeling of water quality impacts of land use/land cover changes in selected watersheds. See discussion in Sections V and VII and Appendix 4.</p>
<ul style="list-style-type: none"> an assessment of how to best integrate program implementation with existing conservation requirements and develop recommendations on harvest practices and timing to benefit wildlife production; 	<p>Assessed through discussions with state wildlife and biomass managers. See discussion in Section IX.</p>
<ul style="list-style-type: none"> an assessment of the potential viability and water quality benefit of cover crops used in biomass processing facilities; 	<p>Due to the growing level of interest among producers and potential end users, cover crops have been integrated into the suite of potential alternative crops being assessed. There is a particularly high level of interest in cover crops for managed grazing and for relay or double cropping with row crops.</p>
<ul style="list-style-type: none"> a timeline for implementation, coordinated to the extent possible with proposed biomass processing facilities; 	<p>See Section X, Findings and Recommendations</p>
<ul style="list-style-type: none"> a projection of funding sources needed to complete implementation. 	<p>See Section X, Findings and Recommendations</p>

Challenges and Changing Attitudes

Participants in this project recognize the significant challenges of shifting the crop mix away from the well-established row crops to alternative crops and livestock operations. The biofuel market presents particular challenges at present. That market is focused on a search for the cheapest feedstock, which is typically a waste product or residue of another crop or process – for example, corn stover, distillers’ grains, used cooking oil, or wood waste. Crops grown specifically for biofuel have not been able to compete against these cheaper and widely available feedstocks.

Many of the most promising crops still need significant research and development: in agronomic, plant breeding, food science, and environmental impacts. Some crops have generated great market interest,

but are still at least two or three years from being fully scalable. BWSR and project stakeholders are keenly aware of the “chicken or the egg” problem: large-scale processors of biomass crops will not invest in Minnesota facilities without a guaranteed supply chain, while farmers are unlikely to grow biomass crops for which a guaranteed market does not yet exist.

It is important to recognize that establishing and maintaining perennial cover on sensitive lands is part of a suite of best management practices, ranging from riparian buffers to no-till or strip till cultivation, to controlled drainage and stream restoration. The effects of these practices can’t be viewed in isolation.

In spite of these caveats, we see increasing interest in more sustainable agricultural practices that benefit soil, water, and wildlife. Interest in and awareness of cover crops is high, as indicated in the landowner survey. Awareness of newer crops, such as Kernza and oilseeds, is still limited, but will increase as market opportunities are identified. Keeping the agronomic, marketing, and outreach efforts moving forward in a coordinated way will be challenging but necessary.

The following are among the most promising implementation strategies for initiating a working lands program, as well as some of the challenges that a program would need to address. Section X. Findings and Recommendations, contains a more detailed discussion of these strategies.

Landowner Incentive Payments

The central objective of the Working Lands Watershed Restoration Program is to define the parameters of a contract program that will, as specified in the enabling legislation, create incentives for the establishment and maintenance of perennial and cover crops to improve water quality, while protecting landowners’ income and managing risk.

How could a working lands program lead to more widespread adoption of alternative crops that improve water quality and soil health, but currently lack dependable markets? Essentially, the program needs to subsidize the alternative crops while working to create or improve their markets, with the goal of achieving a fully market-based program where subsidies are unnecessary.

Different contract terms for different “classes” of crops: The program would establish different contract terms for 1) perennials (where the primary crop is replaced), 2) cover crops (where the primary crop remains) and 3) cash cover crops (where the primary crop remains but its yields may be reduced).

Livestock enterprises, such as grass-fed beef, cow-calf enterprises, or grazing dairy, could fall into one or more of these categories, depending on the mix of forage and feed crops. These enterprises could be categorized based on the crop mix or on other factors to be determined.

Flexibility on What to Plant: Landowners should have the ability to choose which alternative crops to plant in any growing season, so long as living cover is maintained – that is, soil is not left bare during critical spring and fall periods, and is protected as much as possible against extreme rainfall events.

Flexibility on End Uses of Crops: An important factor in developing markets for alternative crops is freedom for producers to experiment and pursue a variety of market opportunities with those crops, provided the program’s goal of continuous living cover is maintained. For example, a producer might

choose to pursue Kernza in a wide riparian buffer or mixed perennials and cover crops for a grazing enterprise without needing renegotiate the terms of a contract.

Watershed or “Supplyshed” Focus: To be able to model and monitor water quality improvements, a continued focus on specific watersheds is preferred. The watersheds analyzed and surveyed throughout this project offer a starting point for a pilot program, although other watersheds with landowner interest and organizational capacities could also be considered. However, if a potential processing facility wanted to work with producers establish a reliable supply chain, a “supplyshed” spanning multiple watersheds could be considered.

Prioritize environmentally-sensitive lands and multiple benefits: Many questions about program priorities have been discussed. Should the program be structured similar to CRP, with rates based on cropland productivity? Or should it be designed to prioritize water quality and other ecosystem benefits? Project stakeholders and advisors strongly recommend assigning the highest rates to those lands that contribute the highest loads of pollutants to waterways. Lands that offer multiple benefits in addition to water quality, such as wildlife and pollinator habitat, should also be prioritized.

Risk management: A contract should provide assurance of a base level of payment for a defined period (e.g., 5 or 10 years to protect the landowner’s income and investments in new crops and methods. Because perennials and cover crops take several years to establish, a five-year contract is likely the minimum that would be effective. In addition to providing a guaranteed payment for the length of a contract, future eligibility for the federal crop insurance program should be maintained if feasible. (See the related recommendations below regarding the federal crop insurance program.)

Federal Farm Bill Opportunities

As discussed in Section VIII. Federal Programs., there are two primary opportunities to leverage federal Farm Bill programs that emerged from discussions with agricultural and conservation organizations.

Use Crop Insurance to Provide Incentives for and Gather Data on Conservation Practices: Work with the RMA and state agencies to develop a program similar to the Iowa Cover Crop – Crop Insurance Demonstration Project, under which participating farmers will receive a \$5.00 discount on their crop insurance premiums for “new” acres on which they establish cover crops. A Minnesota program could incentivize a wider range of conservation practices and could make aggregated data available to crop insurance providers to develop new insurance policy products or risk pools that reward conservation practices. Iowa’s discount program is funded by the state at \$21.7 million for an initial three-year demonstration period. A Minnesota program would also require a state funding source.

Improving Opportunities and Incentives for Working Lands in CRP Contracts: Allow greater flexibility in the use of Conservation Reserve Program (CRP) land—specifically increased ability to harvest or graze lands under CRP contract—in exchange for reduced payment. CRP could be modified in several ways:

- Changes to allowed land uses – for example, allowing harvesting and grazing as a designated use within an existing CRP conservation practice or creating a new conservation practice specific to grazing and harvesting.

- Changes to contract terms – for example, allowing a wide number of markets and uses by not specifying the end use for harvested vegetation.
- Changes to payment rates – for example, reducing penalties for harvesting or grazing so that the rates more accurately reflect the value of these practices.

Establishing pilot areas for testing these approaches would likely be more feasible than seeking to change national program rules.

State Program Opportunities

Revise the RIM-Clean Energy Program legislation as a basis for a working lands RIM program. The RIM-CE statute ([§103F.518](#)) establishes priorities for selection of land as “bioenergy crop production, water quality, soil health, reduction of chemical inputs, soil carbon storage, biodiversity, and wildlife habitat.” It limits agricultural crop production and harvest to “native, perennial bioenergy crops.” The statute could be revised to encompass the full range of perennial and cover crops discussed in this report, as well as other crops still under development, and to establish the other parameters of a “RIM-Working Lands” program.

Integrate working lands concepts into existing water quality programs. Evaluate and modify, where feasible, existing water quality programs to ensure that perennial and cover crops are eligible for cost-share and other incentives. This evaluation should identify criteria under which perennial and cover crops can be established, maintenance and harvest requirements, duration of practices, and disposition of any revenue earned from harvest.

Integrate working lands concepts into soil health initiatives. Work to ensure that the development of the Soil Health Action Plan, to be developed by the new State Office of Soil Health, includes priorities and actions to increase the establishment of perennial and cover crops to improve soil health and resilience, and protect water quality. Among the components of soil health are runoff volume control, water holding capacity, organic matter, and crop productivity.

Create linkages between public conservation lands and working lands. Grazing of livestock on public lands such as wildlife management areas, establishment of perennial crops on conservation lands currently in row crop agriculture, or requiring the use of cover crops on leased WMA lands are all strategies that could enhance wildlife and pollinator habitat while increasing public awareness of perennial and cover crops.

Coordinate with existing and planned water quality trading programs. Water quality trading has been coordinated by the MPCA between point sources and nonpoint sources on a case-by-case basis since 1997. Typically, the point source – an industrial processor or wastewater treatment plant – purchases credits from upstream nonpoint sources in order to offset an increase in the discharge of a pollutant or to avoid the need for an upgrade to its wastewater treatment facility. While water quality trading is usually limited and temporary in nature, it has potential to accelerate establishment of perennial and cover crops, along with other BMPs, in watersheds with high levels of pollutant loading.

Focus on vulnerable Drinking Water Supply Management Areas (DWSMAs) as pilots for a working lands program. There is increasing interest in protecting DWSMAs in areas with high risks for nitrate contamination of groundwater. Several rural water systems, community water suppliers, and the Minnesota Rural Water Association are actively exploring the potential for planting Kernza, other harvestable perennials, and cash cover crops in vulnerable DWSMAs. These areas offer significant opportunities for piloting a working lands program at a focused and measurable scale.

Local Partner Opportunities

Explore options for sharing equipment for interseeding of cover crops and cultivation and harvesting of hay and other perennial crops. Since haying for on-farm consumption has become less common, many farmers now lack the necessary equipment. Interseeding equipment, likewise, is a costly investment, although interseeding can increase the success rate of cover crops. Private or public entities such as farmers' co-ops and SWCDs could lease or loan out equipment or contract for its use, creating new economic opportunities.

DRAFT

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Public Comment for the Administrative penalty Order (APO) Plan for Enforcement of Excessive Soil Loss Requirements

Meeting Date: January 24, 2018

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: _____

Contact: Dave Weirens/Suzanne Rhees

Prepared by: Dave Weirens

Reviewed by: Buffers, Soils and Drainage Committee(s)

Presented by: Dave Weirens/Suzanne Rhees

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

The Board is requested to adopt the recommendation of the Buffers, Soils and Drainage Committee to authorize public review and comment of the BWSR Administrative Penalty Order (APO) Plan for Enforcement of Excessive Soil Loss Requirements.

LINKS TO ADDITIONAL INFORMATION

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)

Amendments to Minn. Stat. 103B.101 that authorized the Board to enforce the riparian protection requirements of Minn. Stat. 103F.48 (Buffer Law) through the use of administrative penalty orders also authorized enforcement of the excessive soil loss requirements of Minn. Stat. 103F.415 and 103F.421 through this mechanism.

This Plan is required to follow the same statutory directive as for the Buffer Law, namely “monetary penalties of up to \$500 for noncompliance commencing on day one of the 11 month after the noncompliance notice was issued”. With this requirement in place, the public comment draft of this APO Plan closely follows the Administrative Penalty Order Plan for Buffer Law Implementation.

The Buffers, Soils, and Drainage Committee reviewed this draft Plan on December 19, 2017 and January 23, 2108 prior to Board consideration of the staff request to authorize a public review and comment period.

Following this review and comment period, staff will review the Plan in light of the submitted comments and ask the Buffers, Soils and Drainage Committee to consider the Plan as amended prior to requesting Board adoption this coming spring.

Board Resolution # 18- _____

Public Comment for the Administrative Penalty Order (APO) Plan for Enforcement of Excessive Soil Loss Requirements

WHEREAS, Minnesota Statutes §103F.401 to §103F.455 establishes a prohibition on excessive soil loss, and;

WHEREAS, Minnesota Statutes §103B.101, subd. 12a authorizes BWSR to “issue an order requiring violations of the water resources riparian protection requirements under Minnesota Statutes §103F.415, 103F.421, and 103F.48 to be corrected and administratively assess monetary penalties of up to \$500 for noncompliance”, and;

WHEREAS, Minnesota Statutes §103B.101, subdivision 12(b) requires BWSR to adopt a “plan containing procedures for the issuance of administrative penalty orders by local government and the board as authorized in this subdivision”. This plan, and any subsequent amendments, will become effective 30 days after being published in the State Register. The initial plan must be published in the State Register no later than July 1, 2017”, and;

WHEREAS, the Board adopted the initial APO Plan for Buffer Law Implementation on June 28, 2017, and;

WHEREAS, staff are proposing to request public review and comment on the draft Administrative Penalty Order (APO) Plan for Excessive Soil Loss Requirements prior to a request for Board adoption of this Plan to ensure openness and transparency, and;

WHEREAS, the BWSR Buffers, Soils and Drainage Committee reviewed the draft APO Plan and request to establish a public review and comment period on this Plan on December 19, 2017 and January 23, 2018.

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources authorizes staff to seek public review and comment on the Administrative Penalty Order (APO) Plan for Enforcement of Excessive Soil Loss Requirements.

Date: _____

Gerald Van Amburg, Chair
Board of Water and Soil Resources

Attachments:

Administrative Penalty Order (APO) Plan for Enforcement of Excessive Soil Loss Requirements

Administrative Penalty Order (APO) Plan for Enforcement of Excessive Soil Loss Requirements

DRAFT December 14, 2017

This document was developed by the Board of Water and Soil Resources (BWSR) pursuant to Minn. Statutes §103B.101, subd. 12(a) and (b) and Minn. Statutes §103F.401 through 103F.455, to provide procedures for the issuance of APOs by local governments and BWSR. It is a guide, not a rule. It is not a statement of general applicability and future effect. It is not designed to amend statute or rules. Statutes are subject to change and if the language of this Plan differs from statute, the statute controls. In addition, users of this document are encouraged to obtain legal advice of an attorney regarding their specific application of Minn. Stat. §103F.401 through §103F.455.

This document is organized as follows:

- A. Part A contains guidance for counties that elect to use Administrative Penalty Orders to enforce the excessive soil loss prohibitions of Minn. Stat. §103F.415; and
- B. Part B shall be used when BWSR is the enforcement authority for the excessive soil loss prohibitions of Minn. Stat. §103F.415.

Background

Minnesota's soil erosion law is found in Minn. Statutes §103F.401 through 103F.455. The law, which dates back to 1984, sets forth a strong public policy stating that a person may not cause excessive soil loss. However, the law was entirely permissive in that it only encouraged local governments to adopt soil erosion ordinances and could not be implemented without a local government ordinance. The soil erosion law was changed in 2015 when a number of revisions were made by the Legislature and approved by the Governor to broaden its applicability.

Minnesota Laws 2015, regular and 1st special sessions changed the law by: 1) repealing Minn. Statutes §103F.451 "Applicability", which eliminates the requirement that the law is only applicable with a local government ordinance; 2) creating specific Administrative Penalty Order (APO) authority in Minn. Statutes §103B.101, subd. 12a, for BWSR and counties to enforce the law; and 3) amending Minn. Statutes §103F.421 "Enforcement" to remove local enforcement only through civil penalty and to revise requirements for state cost-share of conservation practices required to correct excessive soil loss.

Excessive soil loss is defined as "soil loss that is greater than established soil loss limits. Excessive soil loss may be evidenced by sedimentation on adjoining land or in a body of water." (Minn. Statutes §103F.401, subd. 6.)

The result of the combined changes now sets forth statewide regulation of excessive soil loss regardless of whether or not a local government has a soil loss ordinance¹.

Statute also directs BWSR to "adopt a plan containing procedures for the issuance of administrative penalty orders by local governments and the board" (Minn. Statutes §103B, subd. 12a (b)). The APO Plan for Buffer Law Implementation was adopted by the Board on June 28, 2017 and published in the State Register on July 31, 2017, becoming effective 30 days after publication. This APO Plan for the Enforcement of Excessive Soil Loss

¹ Counties with an existing soil loss ordinance are Fillmore, Goodhue, Mower, Olmsted and Winona

Requirements is a companion document based on the same statutory authority, but pertaining to excessive soil loss rather than riparian protection. Unlike riparian protection, Minnesota's soil erosion law does not include watershed districts as a local government, as such this APO authority is restricted to counties and BWSR.

This BWSR APO Plan, and any subsequent amendments, becomes effective 30 days after publication in the State Register. The procedures that BWSR will use when it is the enforcement authority are contained in Part B of this Plan.

This Plan provides guidance for counties and BWSR to use APO authority to ensure that complaints regarding excessive soil loss are investigated and documented, financial and technical assistance are offered, and an equitable settlement is arrived at. The primary goal is to prevent excessive soil loss through compliance rather than to exact penalties. Thus, the responsible party or parties will have the opportunity to come into compliance before any penalties are assessed.

Enforcement responsibilities of Counties and BWSR

Counties and BWSR are authorized under Minn. Stat. §103B.101, subdivision 12a, to require that violations of the excessive soil loss requirements in §103F.421 be corrected and to assess administrative penalties for noncompliance.

Counties choosing to enforce the excessive soil loss requirements of Minn. Stat. §103F.421 may elect to enforce by adopting a local APO plan. Guidance for county APO plans is provided in part A. In areas where the county has not elected to enforce, BWSR is authorized under §103B.101, subd. 12a, to carry out enforcement responsibilities.

Minn. Stat. §103F.48, subdivision 9, establishes an appeals process that land occupiers can use to appeal APOs issued by counties or BWSR.

Enforcement authorities of local governments other than counties

Local governments, as defined in Minn. Stat. §103F.401, include the elected governing bodies of counties, home rule charter or statutory city, or town, or their designated agents, which include SWCDs, watershed districts, water management organizations, and other resource management entities. However, authority to issue administrative penalty orders for violation of soil loss requirements is restricted to counties and to BWSR. Other local governments are authorized to pursue enforcement under the provisions of §103F.421, subd. 4. and 103F.425, as well as Rules part 8400.4040 – 8400.40.

Investigation of reported excessive soil loss associated with agricultural activities

Soil and Water Conservation Districts (SWCDs) are required under Minn. Stat. §103F.421, subdivision 2, to investigate an excessive soil loss complaint when requested by the local government, to determine whether soil loss from the tract of land in question is excessive, and to report the results to the local government.

Part A. County Administrative Penalty Order Plan Guidance

1. Enforcement Procedures

A county that elects to enforce the requirements of Minn. Stat. 103B.101, subd. 12a and §103F.415-455 must adopt an official control to provide procedures for the issuance of administrative penalty orders, enforcement and appeals. BWSR has the authority to adopt orders under Minn. Stat. §103B.101 and county enforcement authority is pursuant to Minn. Stat. Chapter 394, which is in addition to any other official control or authority available to BWSR and counties.

2. Administrative Penalty Order (APO) Provisions

A county that chooses to use the APO authority granted in Minn. Stat. §103B.101, subd. 12a must adopt an ordinance or other official control that includes provisions for the use of APOs to enforce the excessive soil loss prohibition of statute and rule. This part provides guidance and recommended procedures to a county that elects to use APOs to enforce the soil erosion requirements of Minn. Statutes §103F.401-455.

A. Investigation of Complaints Associated with Agricultural Activities

The following procedural steps are guided by Minn. Stat. §103F.401 – 103F.455, together with the companion Minnesota Rules 8400.4000 through 8400.4080 (Excessive Soil Loss Control).

Step 1 - County or its designated agent² receives a written complaint which complies with part 8400.4040, subpart 1. Complaints are confidential data and are not public information.

Step 2 - County forwards the complaint to the SWCD to initiate an investigation and develop a report (Rules 8400.4040, subparts 2. & 3.)

- a. The SWCD notifies the land occupier of the complaint and provides an opportunity for the land occupier to be at a site visit (Rules 8400.4040, subpart 2.). Note the Data Practices Act requirements regarding confidential data, referenced below under Section E.
- b. The SWCD makes a site visit to investigate any evidence of excessive erosion and/or sedimentation, in accordance with Minn. Stat. §103F.421, subd. 2. (Permitted soil loss and sedimentation limits are defined in Rules 8400.4025, subparts 1 and 2.) Based on the investigation, the SWCD prepares a written report that includes:
 - i. Evidence of rill and/or gully erosion;
 - ii. Extent of adverse impacts on adjoining land or a waterbody from sedimentation;
 - iii. Average rate of soil loss from water or wind erosion in tons per acre per year;
 - iv. If excessive soil loss is determined, a conservation plan with practicable soil conservation practices to prevent excessive soil loss or reduce the soil loss to the most practicable extent; and
 - v. A summary of the findings, and a conservation plan with one or more options, as applicable.

Step 3 - The SWCD submits the report to the county and BWSR. If the report documents that excessive soil loss is not occurring, the county, or its designated agent, must dismiss the complaint.

Step 4 - If the report documents excessive soil loss, written notice, by the county, must be given to the land occupier, in accordance with Rules 8400.4040, subpart 4.

² “Agents [of a local government] may include soil and water conservation districts, water management organizations, joint powers boards, watershed districts, and other governmental entities responsible for resource management within the local government’s jurisdiction.” Minn. Stat. §103F.401, subd. 8.

B. Offer of Technical and Financial Assistance

If the SWCD's investigation documents excessive soil loss, the SWCD must offer technical assistance to the land occupier and make state cost share funds available to implement permanent conservation practices (Minnesota Statutes §103F.445).

C. APO Issuance and Penalties

The county may issue an APO as provided for in Minn. Stat. §103B.101, subdivision 12a against a land occupier who does not comply with a mediation agreement or a conservation plan.

1. Initial Violation. The penalty range for a land occupier on the same parcel that has not previously been the subject of an APO issued by the county may be based on the following schedule, which is consistent with BWSR's schedule:

- a. \$0 for 11 months after issuance of the APO;
- b. \$100 per month for six (6) months (180 days) following the time period in a; and
- c. \$500 per month after six (6) months (180 days) following the time period in b.

Counties may modify the timeline for compliance for a modification that imposes a substantial new action or significantly accelerates the completion date for an action.

2. Repeat violation. The penalty range for a land occupier on the same parcel that has previously been the subject of an APO issued by the county may be based on the following schedule, which is consistent with BWSR's schedule:

- a. \$100 per day for 180 days after issuance of the APO; and
- b. \$500 per day for after 180 days following the time period in a.

Counties may modify the timeline for compliance for a modification that imposes a substantial new action or significantly accelerates the completion date for an action.

3. Order. The APO should include:

- a. The facts constituting a violation of the excessive soil loss prohibition;
- b. The statute, rule, and/or official control that has been violated;
- c. Prior efforts to work with the land occupier to resolve the violation;
- d. Actions identified in a mediated agreement or conservation plan that would correct the violation;
- e. Documentation that cost-share program funds are available to assist the land occupier;
- f. The amount of the penalty to be imposed;
- g. The date the penalty will begin to be assessed;
- h. The date that payment of the penalty is due;
- i. The date by which all or part of the penalty may be forgiven if the land occupier complies with the mediated agreement/conservation plan; and
- j. The land occupier's right to appeal the APO.

All or part of the penalty must be forgiven if it is determined that the violation has been corrected by the land occupier by the date specified in the APO. If part or all of the penalty is forgiven, the county is encouraged to document the reasons and the amount of the penalty that has been forgiven.

A copy of the issued APO must be sent to the SWCD and BWSR.

According to Minn. Stat. §103F.48, subd. 9, an APO that is not appealed to the executive director of BWSR within 30 days of receipt by the land occupier is final.

D. Administrative Penalty Order Procedures

1. Statute of limitations. According to Minn. Stat. §541.07, subd. 2 (2), the county has two years in which to commence an administrative penalty order action after the violation is discovered. The goal is to complete the action as soon as reasonably practical, recognizing that situations for which data must be gathered, field investigations must be completed and/or modeling must be performed will require adequate time to complete the work and communicate with the land occupier involved.
2. Compliance verification. Once a land occupier has submitted written evidence of correction of the violation, compliance must be verified. The county should:
 - a. Review and evaluate all information related to the APO to determine if the violation has been corrected;
 - b. Verify compliance by a site visit, re-inspection, examination of documentation, or other means as may be reasonable under the facts of the case; and
 - c. Document compliance verification.

The county may consult with the SWCD when conducting a compliance verification. Permanent conservation practices must be recorded with the county recorder on the tracts where they occur if the cost-sharing funds are issued to the landowner.

3. Right to appeal. Minn. Stat. §103F.48, subdivision 9, establishes the rights and procedures for a land occupier to appeal an APO issued for a violation of the excessive soil loss prohibition. A land occupier may appeal, in writing, the terms and conditions of an APO issued by a county within 30 days of receipt of the APO. The appealing party must provide a copy of the APO that is being appealed, the basis for the appeal and any supporting evidence. The appeal may be submitted personally, by U.S. mail, or electronically, to the executive director of BWSR. At the discretion of the executive director, APOs for the same or similar violations on a parcel may be combined and addressed as a single appeal. The executive director will review the appeal and supporting evidence and issue a decision within 60 days of receipt of the appeal. The executive director's decision is appealable to the Minnesota Court of Appeals pursuant to Minn. Stat. §14.63 to 14.69.
4. Penalty due, interest assessed. Unless the land occupier appeals the APO within 30 days of receipt of the APO, the penalty is due and payable to the county as specified in the APO. If the land occupier submits written evidence within 30 days of the date specified in the APO, which may include a validation of compliance issued by the SWCD, that the violation was corrected, but the county determines it was not fully corrected, the violator has 20 days to pay the penalty after receipt of a letter of determination from the county that the violation has not been fully corrected, or the time period specified in the APO as issued, whichever is later.

Interest will accrue at the rate established pursuant to Minn. Stat §549.09 beginning on the 1st day of the 12th month after the issuance of the corrective action notice consistent with Minn. Stat. §103B.101, subd. 12a.

5. Referral for collection of penalty. All penalties and interest assessed under an APO must be paid by the land occupier within the specified time and made payable to the county. Any penalty or interest not received in the specified time may be collected by any lawful means by the county.
6. Reporting and documentation. Effective compliance reporting and documentation will ensure that proper enforcement action is taken, and that a record is maintained of these actions. When the investigation by the SWCD identifies excessive soil loss, staff should follow record keeping procedures to assess and document the following to the extent known or available:

- a. Cause of the violation;
- b. Magnitude and duration of the violation;
- c. Whether the violation presents an actual or imminent risk to public health and safety, or to the environment or the natural resources of the state;
- d. Past violations;
- e. Efforts by the SWCD, county, watershed district or BWSR to assist the land occupier to become compliant, including written and oral communications with the land occupier and results of mediation, where applicable; and
- f. Past and present corrective action efforts by the land occupier.

E. Confidential Data

Under Minn. Stat. §13.44, subd. 1 of the Minnesota Government Data Practices Act, “The identities of individuals who register complaints with government entities concerning violations of state laws or local ordinances concerning the use of real property are classified as confidential data.” Confidential data are not public, and are accessible only to BWSR, county, SWCD, or other government personnel whose work assignments reasonably require access, and to those authorized by state or federal law. They are not accessible to the subject of the data (i.e. the person whom the complaint is alleged against). Thus, neither the data subject, nor the public at large, can know the identity of the complainant. (The identity of the person whom the complaint is alleged against is not classified.)

Part B: BWSR Administrative Penalty Order Plan

1. Administrative Penalty Order Authority

BWSR's authority to enforce the excessive soil loss prohibition of Minn. Stat. §103F.415 by APO is pursuant to Minn. Stat. §103B.101, subdivision 12(a) and (b). If the county has not adopted an APO plan, BWSR will pursue enforcement through an APO process following the investigation of complaints and offer of technical and financial assistance listed under Part A, County APO Plan Guidance.

2. Administrative Penalty Order Provisions

A. Investigation of Complaints; Enforcement Team

The procedural steps for investigation of complaints associated with agricultural activities listed in Part A, Section 2.A and 2.B, must precede any issuance of an APO by BWSR.

Prior to issuance of an APO, BWSR staff may establish an enforcement team to review the specific facts and develop an APO.

B. APO Issuance and Penalties

1. Initial Violation. The penalty for a land occupier on the same parcel that has not previously been the subject of an APO issued by BWSR shall be based on the following schedule:
 - a. \$0 for 11 months after issuance of the corrective action notice;
 - b. \$100 per month for six (6) months (180 days) following the time period in a; and
 - c. \$500 per month after six (6) months (180 days) following the time period in b.

BWSR may modify the timeline for compliance for a modification that imposes a substantial new action or significantly accelerates the completion date for an action.

2. Repeat violation. The penalty for a land occupier on the same parcel that has previously been the subject of an APO issued by BWSR shall be based on the following schedule:
 - a. \$100 per day for 180 days after issuance of the APO; and
 - b. \$500 per day after 180 days following the time period in a.

BWSR may modify the corrective actions and timeline for compliance for a modification that imposes a substantial new action or significantly accelerates the completion date for an action.

3. Order. The APO should include:
 - a. The facts constituting a violation of the excessive soil loss prohibition;
 - b. The statute and/or rule that has been violated;
 - c. Prior efforts to work with the land occupier to resolve the violation;
 - d. The amount of the penalty to be imposed;
 - e. The date the penalty will begin to be assessed;
 - f. The date that payment will be due;
 - g. The date by which all or part of the penalty may be forgiven if the land occupier has complied with the corrective action notice; and
 - h. The land occupier's right to appeal the order.

Pursuant to §103F.48, subd. 7(d) all or part of the penalty may be forgiven based on the correction of the noncompliance by the date specified in the APO by the land occupier. If part or all of the penalty is forgiven, the reasons and the amount of the penalty that has been forgiven will be documented in the enforcement file.

A copy of the APO should be sent to the SWCD.

According to Minn. Stat. §103F.48, subd. 9, an APO that is not appealed to the executive director of BWSR within 30 days of receipt by the land occupier is final.

C. Administrative Penalty Order Procedures

1. Statute of limitations. According to Minn. Stat. §541.07, subd. (2), BWSR has two years in which to commence an APO action after the violation is discovered. The goal is to complete the action as soon as reasonably practical, recognizing that situations for which data must be gathered, field investigations must be completed and/or modeling must be performed will require adequate time to complete the work and communicate with the person(s) involved.
2. Compliance verification. Once a land occupier has submitted written evidence of correction of the violation, compliance must be verified. BWSR should:
 - a. Review and evaluate all information related to the APO to determine if the violation has been corrected;
 - b. Verify compliance by site visit, re-inspection, examination of documentation, or other means as may be reasonable under the facts of the case; and
 - c. Document compliance verification.

BWSR may consult with the SWCD when conducting a compliance verification.

3. Right to appeal. Minn. Stat. §103F.48, subdivision 9, establishes the rights and procedures for appeal of an APO issued for a violation of the excessive soil loss requirements. A land occupier may appeal, in writing, the terms and conditions of an APO issued by a county or BWSR within 30 days of receipt of the APO. The appealing party must provide a copy of the APO that is being appealed, the basis for the appeal and any supporting evidence. The appeal may be submitted personally by U.S. mail, or electronically, to the executive director of BWSR. At the discretion of the executive director, APOs for the same or similar violations on a parcel may be combined and addressed as a single appeal. The executive director will review the appeal and supporting evidence and issue a decision within 60 days of receipt of the appeal. The executive director's decision is appealable to the Minnesota Court of Appeals pursuant to Minn. Stat. §14.63 to 14.69.
4. Penalty due, interest assessed. Unless the land occupier appeals the APO within 30 days of receipt of the APO, the penalty is due and payable to BWSR as specified in the APO. If the land occupier submits written evidence, which may include a validation of compliance issued by the SWCD, within 30 days of the date specified in the APO that the violation was corrected, but BWSR determines it was not, the land occupier has 20 days to pay the penalty after receipt of the letter from BWSR that the violation has not been fully corrected, or the time period specified in the APO as issued, whichever is later.

Interest will accrue at the rate established pursuant to Minn. Stat §549.09 beginning on the 1st of the 12th month after issuance of the corrective action notice consistent with Minn. Stat. §103B.101, subd. 12a.

5. Referral for collection of penalty. All penalties and interest assessed under an APO must be paid by the land occupier within the specified time and made payable to BWSR. Penalties and interest that have not

been paid by the land occupier within 12 months of the date specified in the APO will be referred to the Minnesota Department of Revenue for collection. Any penalty or interest not received in the specified time may be collected by any lawful means.

6. Reporting and documentation. Effective compliance reporting and documentation is strongly recommended to ensure that proper enforcement action is taken, and that a record is maintained of these actions in the appropriate enforcement file. When BWSR identifies a violation of the excessive soil loss prohibition, BWSR staff should follow record keeping procedures to assess and document the following to the extent known or available:
 - a. Cause of the violation;
 - b. Magnitude and duration of the violation;
 - c. Whether the violation presents an actual or imminent risk to public health and safety, or the natural resources of the state;
 - d. Past violations;
 - e. Efforts by the SWCD, county, watershed district or BWSR to assist the land occupier to become compliant, including written and oral communications with the land occupier and results of mediation, where applicable; and
 - f. Past and present corrective action efforts by the land occupier.

D. Confidential Data

Under Minn. Stat. §13.44, subd. 1 of the Minnesota Government Data Practices Act, “The identities of individuals who register complaints with government entities concerning violations of state laws or local ordinances concerning the use of real property are classified as confidential data.” Confidential data are not public, and are accessible only to BWSR, county, SWCD, or other government personnel whose work assignments reasonably require access, and to those authorized by state or federal law. They are not accessible to the subject of the data (i.e. the person whom the complaint is alleged against). Thus, neither the data subject, nor the public at large, can know the identity of the complainant. (The identity of the person whom the complaint is alleged against is not classified.)

Even though individuals cannot access confidential data about themselves, they have a right to know whether confidential data is maintained by BWSR or a local government. If an individual asks whether he or she is the subject of a property complaint, that inquiry should be confirmed, and they should be advised that the data is classified as confidential.

Definitions

1. “BWSR” means the Board of Water and Soil Resources.
2. “Conservation practices” is as defined in Minn. Stat. §103F.401, subd. 3.
3. “Excessive soil loss” is as defined in Minn. Stat. §103F.401, subd. 6.
4. “Land occupier” is as defined in Minn. Stat. §103F.401, subd. 7.
5. “Local government” is as defined in Minn. Stat. §103F.401, subd. 8.

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Legislative Report: Recommendations for Accelerating Public Drainage System Acquisition and Establishment of Buffer Strips and Alternative Practices

Meeting Date: January 24, 2018

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Statewide

Contact: Don Buckhout

Prepared by: Don Buckhout

Reviewed by: Buffers, Soils and Drainage Committee(s)

Presented by: Don Buckhout, Al Kean

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Report

Fiscal/Policy Impact

- | | |
|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

Accept the Report to the Legislature and direct its transmittal to the legislative committees.

LINKS TO ADDITIONAL INFORMATION

Drainage System Acquisition of Buffer Strips and Alternative Practices
 (<http://www.bwsr.state.mn.us/drainage/dwg.html>) (to open this document scroll down to Resources for Topic Discussions to Topic: 2017 Legislative Directive Regarding Public Drainage System Acquisition of Buffer Law Ditch Buffer Strips and Alternative Practices; click on the hyperlink)

SUMMARY (Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)

The 2017 Legislature directed BWSR to coordinate the Drainage Work Group (DWG) to evaluate and make recommendations that would accelerate the acquisition and establishment of buffer strips or alternative practices along public drainage systems in advance of the November 1, 2018 deadline and thereafter. Those

recommendations are to be reported to the senate and house ag-environment policy committees by February 1, 2018. The DWG formed an advisory committee that evaluated what impedes drainage systems from buffer strip establishment. The committee developed recommended actions for overcoming those impediments. The DWG revised the recommendations that were then incorporated in a report prepared by BWSR staff and approved by the DWG. The DWG's report has been reviewed by the Buffers, Soils and Drainage Committee and is recommended by that committee for the Board's acceptance and transmittal to the legislature.

Board Resolution # 18- _____

Recommendations for Accelerating Public Drainage System Acquisition and Establishment of Buffer Strips and Alternative Practices: A Report to the Legislature

WHEREAS, 2017 Minnesota Session Laws, Chapter 93, Article 1, Sec.4(h) directs the Board of Water and Soil Resources to “coordinate the stakeholder Drainage Work Group in accordance with Minnesota Statutes, section 103B.101, subdivision 13, to evaluate and make recommendations to accelerate drainage system acquisition and establishment of ditch buffer strips under Minnesota Statutes, chapter 103E, or compatible alternative practices required by Minnesota Statutes, section 103F.48;” and

WHEREAS, the legislative directive further requires that “the evaluation and recommendations must be submitted in a report to the senate and house of representatives committees with jurisdiction over agriculture and environment policy by February 1, 2018;” and

WHEREAS, BWSR staff coordinated the Drainage Work Group (DWG) to form a Project Advisory Committee to evaluate and draft recommendations consistent with the purpose of the legislative directive, and

WHEREAS, the Project Advisory Committee met in October, November and December and developed a set of consensus recommendations which were included in a draft report prepared by BWSR staff and forwarded to the DWG on December 14, 2017; and

WHEREAS, the DWG reviewed the draft report and recommendations, modified the content and adopted it as a final report and recommendations at their meeting on January 11, 2018; and

WHEREAS, the BWSR Buffers, Soils, and Drainage Committee received and reviewed the final report from the Drainage Work Group and, on January 23, 2018, recommended it be accepted by the BWSR Board and transmitted to the Legislature.

NOW THEREFORE, BE IT RESOLVED THAT, the BWSR Board hereby accepts the report, “Recommendations for *Accelerating* Public Drainage System Acquisition and Establishment of Buffer Strips and Alternative Practices,” and directs that it be transmitted to the Senate and House of Representatives agriculture and environment policy committees by February 1, 2018.

By: _____
Gerald Van Amburg, Chair
Board of Water and Soil Resources

Date: _____

Attachment: “Recommendations for *Accelerating* Drainage System Acquisition and Establishment of Buffer Strips and Alternative Practices” report

BWSR FINAL DRAFT (v. 3.1)

January 12, 2018

**Recommendations for *Accelerating* Public
Drainage System Acquisition and Establishment of
Buffer Strips and Alternative Practices**

**A Report to the Legislature
from the Board of Water and Soil Resources
in Coordination with the Drainage Work Group**

February 1, 2018

BWSR FINAL DRAFT

Minnesota Board of Water and Soil Resources
February 2018
520 Lafayette Road North
St. Paul, MN 55155
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BWSR is an equal opportunity employer.
Information in this report can be made available in alternative format upon request.

www.bwsr.state.mn.us

Limited printed copies of this report are available. See the BWSR web site for an electronic copy.

Cost of preparing this report:

Report preparation cost data, in accordance with Minnesota Statutes, Chapter 3.197

BWSR Staff:	\$ 17,300
<u>Printing, postage and supplies:</u>	<u>100</u>
Total:	\$ 17,400

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Executive Summary

The 2017 Minnesota Legislature directed the Board of Water and Soil Resources (BWSR) to coordinate with the stakeholder Drainage Work Group to evaluate and develop recommendations to help Minnesota Chapter 103E drainage authorities *accelerate* the acquisition and establishment of buffer strips and alternative practices adjacent to public drainage ditches, and the associated compensation of landowners. The impetus for this action is the 2015 Buffer Law (Minnesota Statutes Section 103F.48), which requires landowners to establish buffer strips along all public drainage ditches, or alternative practices, by November 1, 2018. These buffer strips and the associated landowner compensation must be consistent with the provisions of Minnesota Drainage Law (M.S. Chapter 103E).

The Drainage Work Group formed a 16-member Project Advisory Committee with BWSR staff support to evaluate the issue and develop recommendations for Drainage Work Group consideration. During three meetings in the fall of 2017 the Advisory Committee evaluated the impediments to drainage system acquisition and establishment of buffer strips and then formulated actions for statutory, funding, and administrative policy changes, and outreach, to address the impediments. The Drainage Work Group used the products from their Advisory Committee to develop the recommendations in this report and encourages their implementation. The BWSR Board subsequently accepted the report of the Drainage Work Group for transmittal to the designated Legislative Policy Committees.

Recommendations

The Recommendations are categorized according to the type of action required (e.g., statutory change, administrative policy change) and grouped according to the potential for the recommended actions to *accelerate* the acquisition and establishment of drainage system buffer strips and alternative practices in 2018, or by their potential long-term benefits in 2019 and beyond. Several of the Recommendations are mutually supportive and may be developed as a package for legislative and agency implementation. The Recommendations section of this report (pages 6-9) contains an explanation of the purpose and intent of each Recommendation.

Recommendations to *Accelerate* Establishment of Drainage System Buffer Strips in 2018

Session Law or Statutory Changes (2018 Session)

S1. Add a temporary legislative provision to allow, with landowner consent, a drainage authority to seed and establish ditch buffer strips in advance of drainage law proceedings to determine damages and acquire a permanent easement.

S2. Clarify Section 103E.021, Subd. 6, to expressly state that, upon findings and an order, the drainage authority is vested with jurisdiction over property rights acquired for 16.5-ft. ditch buffer strips.

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S3. Revise Section 103E.351 Redetermination of Benefits and Damages to enable 26 percent of benefited landowners, or owners of 26 percent of the benefited lands, to petition for a redetermination of benefits in order to update benefited area(s) and benefits on record and more equitably apportion drainage system costs, including for ditch buffer strips.

S4. Create an exemption for landowners under Section 103F.48 for drainage systems, which do not have a specific DNR shoreland classification, where a buffer has been acquired, established, maintained and enforced under Chapter 103E.

Funding

F1. Increase and extend the funding for the Buffer Cost Share program based on an estimate of need.

Administrative Policy and Procedure Changes

P1. Clarify the Buffer Cost-Share program to allow drainage authorities to access funds on behalf of the drainage system, in coordination with applicable landowners and Soil and Water Conservation Districts, to establish buffer strips, but not to acquire land rights, along Chapter 103E ditches in accordance with Section 103F.48.

P2. In consultation with the Drainage Work Group, provide priority consideration for eligible external sources of funding to drainage authorities based on progress toward acquisition and establishment of buffer strips under Chapter 103E.

Outreach, Information and Education

O1. AMC, MAWD and BWSR, with appropriate funding and in cooperation with MASWCD and other partners, should develop a coordinated outreach effort to landowners, drainage authorities and their advisors, to inform them of the applicable buffer law provisions, drainage law provisions and procedures, and potential external financial assistance for acquisition and establishment of ditch buffer strips, as well as to provide an overall review of drainage law. The Drainage Work Group must be consulted in the development and dissemination of these products.

Recommendations with Long-term Benefits (2019 and beyond)

Statutory changes

S5. Explore the feasibility of modifying Section 103E.305 to clearly enable county appraisers to serve as viewers.

S6. Clarify Section 103E.071 County Attorney, to make it clear that drainage authorities, including counties, may hire outside legal counsel per Section 388.09, Subd. 1.

Funding

F2. Provide increased multipurpose drainage management program funding for water quality purposes.

Administrative Policy and Procedure Changes

P3. Develop a more efficient method to do redeterminations of benefits or funding to cover the costs of redeterminations of benefits.

P4. For a ditch system that does not have adequate cash flow capability, modify an existing or create a new loan program for buffer strip acquisition and establishment.

P5. Drainage authorities should consider inventorying alternative practices, such as side inlets and other infrastructure (e.g. tile outlets), that may affect the integrity and management of the system.

Outreach, Information and Education

O1. AMC, MAWD and BWSR, with appropriate funding and in cooperation with MASWCD and other partners, should develop a coordinated outreach effort to landowners, drainage authorities and their advisors, to inform them of the applicable buffer law provisions, drainage law provisions and procedures, and potential external financial assistance for acquisition and establishment of ditch buffer strips, as well as to provide an overall review of drainage law. The Drainage Work Group must be consulted in the development and dissemination of these products.

Proposed Next Steps

Drainage Work Group

The Drainage Work Group will:

- Develop, in consultation with state agency and legislative staff, proposed legislation consistent with Recommendations S1 through S6.
- Advise BWSR and other agencies on the Administrative Policy and Procedure recommendations P1 and P2, and Outreach, Information and Education Recommendation O1.

Board of Water and Soil Resources

The Board of Water and Soil Resources will:

- Coordinate and assist the Drainage Work Group.
- Convene and support an ad hoc work group with leadership from the Association of Minnesota Counties and the Minnesota Association of Watershed Districts, and other relevant partner organizations, to address Recommendation O1.
- Estimate the need for additional Buffer Cost Share funding and evaluate the allocation formula and eligibility criteria for possible modifications consistent with Recommendations F1, P1 and P2.

Introduction

Minnesota contains approximately 19,150 miles of Minnesota Statutes Chapter 103E public drainage ditches, most of which have been in place since the early 1900s. Most of Minnesota’s drainage systems serve agricultural production by receiving and conveying excess surface and subsurface runoff downstream. Drainage systems are managed by drainage authorities: a county board of commissioners, joint county board, or watershed district board of managers, who act on behalf of the landowners served by the drainage system. These drainage authorities act under the provisions of Minnesota’s Drainage Law (Minnesota Statutes Chapter 103E Drainage, hereinafter Chapter 103E) that defines the responsibilities and procedures by which these systems are established, improved, maintained/repared, and paid for.

In 1959, drainage authorities were given permissive authority to require open ditches to be protected with a 1-rod (16½-foot) grass buffer strip along one or both sides in order to maintain ditch function and reduce maintenance. In 1977, Drainage Law was changed to make permanent ditch buffer strips a requirement whenever viewers are appointed by the drainage authority to determine the benefits and damages of the system. Viewers are appointed whenever a drainage system is established, improved, undergoes certain major repairs, or when the drainage authority orders a redetermination of benefits and damages.

In 2015, the Legislature enacted what has become known as the Buffer Law (Minnesota Statutes Section 103F.48, hereinafter Section 103F.48), which ties the establishment of permanent vegetative buffers along watercourses and public drainage ditches to the protection of the state’s water quality. Under the Buffer Law’s requirements, which were modified in 2016 and 2017, landowners adjacent to public drainage ditches must establish buffer strips as defined in the Buffer Law, or establish comparable alternative practices, by November 1, 2018.

Practices or Measures?

Buffer Law (Section 103F.48) refers to “alternative practices” while Drainage Law (Chapter 103E) uses the term “alternative measures.” Which is correct?

For the purposes of this report, the term that is generally used is “alternative practices” because it is more currently in use in connection with discussions about buffers.

However, any recommended changes to Drainage Law that make reference to alternative practices to buffer strips will use the term “measures” to be consistent with other sections of Chapter 103E.

See further discussion of this issue on page 13.

Legislative Directive for Evaluation and Recommendations to Accelerate Drainage System Acquisition of Buffer Strips and Alternative Practices

The 2017 Minnesota Legislature passed, and Governor Dayton signed, a directive to the Board of Water and Soil Resources (BWSR) to “coordinate the stakeholder drainage work group in accordance with Minnesota Statutes, section 103B.101, subdivision 13, to evaluate and make recommendations to accelerate drainage system acquisition and establishment of ditch buffer strips under Minnesota Statutes, chapter 103E, or compatible alternative practices required by Minnesota Statutes, section 103F.48. The evaluation and recommendations must be submitted in a report to the senate and house of representatives committees with jurisdiction over agriculture and environment policy by February 1, 2018.”

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Drainage Work Group Approach and Methodology

Following this legislative directive, BWSR staff coordinated the Drainage Work Group to establish a stakeholder Project Advisory Committee. The Committee met three times (October 31, November 16, and December 8, 2017). The process and outcomes included: 1) identification and prioritization of the impediments to drainage system acquisition of ditch buffer strips and alternative practices, 2) identification of potential solutions to overcome the impediments, and 3) selection of proposed recommendations for Drainage Work Group consideration. Persons serving on the Committee included the following with their relevant affiliation:

Bruce Albright- Buffalo-Red River Watershed District Administrator

Craig Austinson-Blue Earth County Drainage Administrator

Tyler Carlson-Sauk River Watershed District Manager

Matt Detjen-Wright County Drainage Coordinator

Darrell Gerber-MN Center for Environmental Advocacy

Robert Hiivala-Wright County Auditor/Treasurer

Emily Javens-MN Association of Watershed Districts

John Kolb-Rinke Noonan Law Firm

Randy Kramer-Renville County Commissioner

Harlan Madsen-Kandiyohi County Commissioner

Chris Otterness-Houston Engineering Inc.

Alan Perish-MN Farmers Union

Ron Ringquist-MN Viewers Association

Joe Smentek-MN Soybean Growers

Gene Tiedemann-Red Lake Watershed District Manager

Kale Van Bruggen-Rinke Noonan Law Firm

The Project Advisory Committee received staff support from BWSR Chief Engineer and Drainage Work Group Coordinator, Al Kean, and from BWSR Project Manager/Facilitator, Don Buckhout.

Report Development and Review

BWSR staff and the PAC submitted a preliminary draft report with the results of its deliberations to the Drainage Work Group on December 14, 2017. The Drainage Work Group members reviewed the draft report and developed their final consensus recommendations on January 11, 2018. BWSR staff prepared a final report with those recommendations for BWSR Board action. At its January 24, 2018 meeting, the Board accepted the final report and directed that it be sent to the legislature.

As directed by 2017 Minnesota Session Laws, Chapter 93, SF-844, Article 1, Sec. 4 (h), this report contains recommendations to *accelerate* buffer strip and alternative practices acquisition and establishment by public drainage systems in Minnesota.

Recommendations

These Recommendations are submitted to the Minnesota Legislature by the Board of Water and Soil Resources and the stakeholder Minnesota Drainage Work Group. They are categorized according to the Drainage Work Group's determination of types of actions needed and grouped according to their potential to *accelerate* the acquisition and establishment of buffer strips and alternative practices, as included in the legislative directive. Each Recommendation is followed by a brief explanation of its purpose and the number of the Impediment(s) that the Recommendation is intended to address. Impediment numbers reflect prioritization by the Project Advisory Committee, with number 1 signifying their highest priority and number 15 their lowest priority Impediment. See pages 12-13 for a list of the Impediments.

Recommendations to Accelerate Drainage System Buffer Strip Establishment in 2018

2018 Session Law or Statutory Changes to promote Acceleration

S1. Add a temporary legislative provision to allow, with landowner consent, a drainage authority to seed and establish ditch buffer strips in advance of drainage law proceedings to determine damages and before acquiring permanent easements.

This provision is intended as a potential benefit to landowners who must comply with Section 103F.48 by November 1, 2018, and could serve to accelerate the establishment of drainage system buffer strips before viewers are appointed to redetermine drainage system benefited lands, benefits and the associated apportionment of drainage system costs. If landowners request assistance from the drainage authority for buffer strip establishment, this provision would give the drainage authority the ability to authorize the drainage system to establish ditch buffer strips using drainage system or external funding prior to acquiring easements and compensating landowners for damages. The use of this provision by the drainage authority requires the consent of the affected landowners. The establishment of buffer strips by the drainage authority on behalf of multiple landowners may cost less per acre than what landowners acting alone would spend. (Impediments 3,9)

S2. Clarify Section 103E.021, Subd. 6 to expressly state that, upon findings and an order, the drainage authority is vested with jurisdiction over property rights acquired for 16.5-ft. ditch buffer strips.

This statutory modification is intended to make explicit that the drainage authority has jurisdiction over property rights acquired for drainage system buffer strips under Section 103E.021, Subd. 6. This will address a Court of Appeals ruling (Court of Appeals file A15-0782, Zimmerman vs. Sauk River Watershed District, 2-16-2016). (Impediment 9)

S3. Revise Section 103E.351 Redetermination of Benefits and Damages to enable 26 percent of benefited landowners, or owners of 26 percent of the benefited lands, to petition for a redetermination of benefits in order to update benefited area(s) and benefits on record and more equitably apportion drainage system costs, including for ditch buffer strips.

This statutory revision would clarify benefited landowners' rights to petition their drainage authority to order a redetermination of benefits and damages where the landowners have reason to believe that the existing determination is outdated or inequitable. The 26 percent threshold is consistent with other provisions for benefited landowners petitioning an improvement or certain repairs in Chapter 103E. (Impediments 1,4,7,8,13)

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S4. Create an exemption for landowners under Section 103F.48 for drainage systems that do not have a specific DNR shoreland classification, where a buffer strip has been acquired, established, maintained and enforced under Chapter 103E.

This exemption would more clearly remove the burden for compliance with Section 103F.48 from the landowner in those cases where a buffer strip has previously been acquired, established, maintained, and enforced by the drainage authority under Chapter 103E. However, for those drainage system reaches that are also designated as public waters and have a specific shoreland classification, Section 103F.48 requires a buffer strip width of at least 30 feet, a 50 ft. average, or establishment of an alternative practice(s). (Impediment 1)

2018 Funding to support Acceleration

F1. Increase and extend funding for the Buffer Cost Share program based on an estimate of need.

The \$5 million FY 18-19 biennial appropriation from the Clean Water Fund for Section 103F.48 buffer strip establishment is generally seen as inadequate to meet the demand, particularly if drainage authorities can act on behalf of multiple landowners to establish buffer strips. However, any increase and extension of funding should be based on an estimate of need, appropriateness of funding sources, and, possibly, a modification of the apportionment formula to Soil and Water Conservation Districts. (Impediment 5)

2018 Administrative Policy and Procedure Changes to Support Acceleration

P1. Clarify the Buffer Cost-Share program to allow drainage authorities to access funds on behalf of the drainage system, in coordination with applicable landowners and Soil and Water Conservation Districts, to establish buffer strips, but not to acquire land rights, along Chapter 103E ditches in accordance with Section 103F.48.

This clarification would verify that drainage authorities may apply for and receive buffer cost share program dollars from Soil and Water Conservation Districts to establish buffer strips on behalf of multiple landowners on a Chapter 103E drainage system. These funds cannot be used for acquisition of buffer strip land rights. (Impediments 5,6)

P2. In consultation with the Drainage Work Group, provide priority consideration for eligible external sources of funding to drainage authorities based on progress toward acquisition and establishment of buffer strips under Chapter 103E.

Those drainage authorities that are aggressively pursuing buffer strip acquisition and establishment should receive priority for funding that will support their efforts. Rather than a penalty on less ambitious drainage authorities, this provision is intended to be an incentive to them to step up their efforts. (Impediments 4,5,6,12)

Recommendations with Long-term Benefits (2019 and beyond) for Drainage System Buffer Strip and Alternative Practices Acquisition and Establishment

Statutory Changes

S5. Explore the feasibility of modifying Section 103E.305 to clearly enable county appraisers to serve as viewers.

Although not prohibited by existing drainage law, this statute may need to be modified to address the reported perspective of some county attorneys that county appraisers are not eligible to serve as viewers because of a potential conflict of interest. Before a specific statutory change can be proposed, additional consultation is needed with county officials and representatives of the Minnesota Association of Assessing Officers. (Impediment 2)

S6. Clarify Section 103E.071 County Attorney, to make it clear that drainage authorities, including counties, may hire outside legal counsel per Section 388.09, Subd. 1.

This modification would clear up a reported misconception among some county attorneys that county drainage authorities must rely only on county attorneys for legal advice on drainage law proceedings. (Impediment 3)

Funding

F2. Provide increased multipurpose drainage management program funding for water quality purposes.

The history of multipurpose drainage management program funding has included establishment of buffer strips and alternative practices but not acquisition of drainage system land rights. (Impediments 1,4,5,7,8)

Administrative Policy and Procedure Changes

P3. Develop a more efficient method to do redeterminations of benefits or funding to cover the costs of redeterminations of benefits.

This recommendation is intended to address a significant impediment to redeterminations of benefits, which is the time and cost required. A more efficient method or external funding could increase landowner willingness to support redeterminations of benefits and damages, which update drainage system cost apportionment and require the acquisition and establishment of ditch buffer strips. (Impediment 1)

P4. For a ditch system that does not have adequate cash flow capability, modify an existing or create a new loan program for buffer strip acquisition and establishment.

This recommendation provides for buffer strip acquisition and establishment financing using an external source of funds available through an existing or new loan program. For example, the current AgBMP Loan program, which some drainage authorities use to establish buffer strips, may have eligibility limitations on borrowers that could be temporarily waived. For a new loan program, there may be a need for a new appropriation or establishment of a new cooperative lending program among drainage authorities. This issue will require further investigation. (Impediment 4)

P5. Drainage authorities should consider inventorying alternative practices, such as side inlets and other infrastructure (e.g. tile outlets), that may affect the integrity and management of the system.

This recommendation addresses the need to determine which Buffer Law alternative practices might make sense for the drainage system to acquire or be cognizant of in addition to 16.5-ft. buffer strips.

Recommendation for Outreach, Information, Education

01. AMC, MAWD and BWSR, with appropriate funding and in cooperation with MASWCD and other partners, should develop a coordinated outreach effort to landowners, drainage authorities and their advisors, to inform them of the applicable buffer law provisions, drainage law provisions and procedures, and potential external financial assistance for acquisition and establishment of ditch buffer strips, as well as to provide an overall review of drainage law. The Drainage Work Group must be consulted in the development and distribution of these products.

Suggested elements to include:

- Provide training & education opportunities to disseminate information and knowledge about applicable Chapter 103E provisions, procedures and benefits of buffer strips to the drainage system.
- Inform drainage authorities and their advisors how they can determine damages for buffer strip acquisition per Section 103E.021, Subd. 6.
- Promote distribution and understanding of the BWSR document summarizing Drainage Law and Buffer Law provisions about acquisition and compensation of ditch buffer strips and alternative practices. (See Appendix A, page 16.)
- Develop a list(s) of steps necessary to use the applicable provisions of Chapter 103E, including the redetermination of benefits and damages provision, the incremental buffer strips provision, provisions pertinent to alternative practices, and the use of external sources of funding provision. This would not eliminate the need for applicable legal counsel.
- Develop a Questions and Answers document about this topic, including guiding principles for use of existing provisions of Chapter 103E.
- Clarify that “alternative measures” in drainage law are not alternative to Chapter 103E 16.5-ft. buffer strips, but rather practices in addition to the 16.5-ft. buffer strip.
- Update the 2002 “Understanding Minnesota Public Drainage Law” document.
- Investigate a potential funding source and sponsor to complete a viewers’ guidance manual.

This recommendation is intended to address the need for additional information, education, and outreach regarding authorities and responsibilities under, Drainage Law (Chapter 103E) and associated provisions of the Buffer Law (Section 103F.48) for drainage systems. In the short term, drainage authorities and their advisors need specific guidance regarding the acquisition and establishment of buffer strips. In the longer term, the goal is to develop more robust and consistent understanding and use of Drainage Law authorities and procedures. The Association of Minnesota Counties (AMC), which represents county drainage authorities, and the Minnesota Association of Watershed Districts (MAWD), which represents watershed district drainage authorities, are key participants in this recommendation. The Board of Water and Soil Resources will act to coordinate this effort and will involve other partner agencies and organizations, including the Minnesota Association of Soil and Water Conservation Districts and others. The Drainage Work Group will be informed and consulted regarding outreach product development and distribution. Designated funding is needed to fully implement this recommendation. (Impediments 2,3,8,10,10)

Runoff and Sediment Delivery Option

The Project Advisory Committee discussed a recommendation to implement the Runoff and Sediment Delivery Option for drainage system repair cost apportionment that is currently under consideration by the Drainage Work Group. While Committee members generally supported the addition of this option in Drainage Law because it could help accelerate drainage system acquisition of ditch buffer strips and side inlet controls in

accordance with Section 103E.021 Subd. 6, the consensus of the Committee was to defer to the ongoing Drainage Work Group consideration of this option.

Proposed Next Steps

This section describes actions that the Drainage Work Group and BWSR will take to implement some of these Recommendations.

Drainage Work Group

The Drainage Work Group will:

- Develop, in consultation with state agency and legislative staff, proposed legislation consistent with Recommendations S1 through S6.
- Advise BWSR and other agencies on the Administrative Policy and Procedure recommendations P1 and P2 and Outreach, Information and Education Recommendation O1.

Board of Water and Soil Resources

The Board of Water and Soil Resources will:

- Provide staff support to the Drainage Work Group.
- Convene and support an ad hoc work group with leadership from the Association of Minnesota Counties and the Minnesota Association of Watershed Districts, and other relevant partner organizations, to address Recommendation O1.
- Estimate the need for additional Buffer Cost Share funding and evaluate the allocation formula and eligibility criteria for possible modifications consistent with Recommendations F1, P1 and P2.

Evaluation

This section provides background material describing the current situation regarding the acquisition and establishment of Chapter 103E ditch buffer strips, alternative practices, and landowner compensation and potential sources of funding for the same.

Extent of Drainage System Buffer Strips

Based on the best available information, Minnesota has 19,150 miles of public drainage system ditches. This includes drainage system segments that are also designated as public waters (M.S. Chapter 103G), which total 5,310 miles, and public drainage systems that are not public waters, which total 13,840 miles. (Source: Minnesota Department of Natural Resources, 2017, personal communication.)

There is no up-to-date, accurate count of the miles of public drainage system with vegetative ditch buffer strips. However, there are estimates based on various analyses.

The 2006 “Public Drainage Ditch Buffer Study,” (MN Board of Water and Soil Resources, February 2006) concluded that approximately 60 percent of the total miles of public drainage ditches were “buffered” at that time (2005). This percentage was based on several findings. The report stated that “major federal and state conservation programs have enabled filter strip and riparian buffer practices to be established along approximately 1,787 miles of public drainage ditches.” The bulk of these buffer strips and practices were implemented through the federal Conservation Reserve Program. Another 1,560 miles of ditches were reported as having buffer strips as provided for in Section 103E.021 (Drainage Law). The report also included an estimate of 9,635 miles of public drainage ditches with “natural” buffers of perennial vegetation, which was based on a 2005 GIS assessment. Many of these 9,635 miles of drainage ditch are in north central and northeast Minnesota where land use is not row crops and where perennial vegetation exists along many historic Chapter 103E drainage systems. One item to note is that the 2006 report had estimated a total of 21,415 miles of public drainage ditches in the state, about 2,300 more miles than the current best estimate. Using the estimate estimate of 19,150 total miles of public drainage ditches, the estimated miles with buffer strips reported in 2005 is closer to 68 percent of the Chapter 103E drainage systems statewide.

Since 2007, drainage authorities have been required by Section 103E.067 to submit annual reports to BWSR enumerating the additions of buffer strips to their systems. Consequently, BWSR has been able to record gains in buffer strip miles and has determined that an additional 2,355 miles of drainage ditch buffer strips have been added under Drainage Law proceedings from 2006 through 2016. These additions would bring the statewide percentage of ditches with vegetative buffer strips to **approximately 80 percent** of the total miles.

The BuffCAT (Buffer Compliance and Tracking) inventory methodology developed by BWSR identifies the percentage of land parcels with buffer strips adjacent to or bisected by a Chapter 103E public drainage ditch. This tool indicated that approximately **68 percent** of these land parcels have their corresponding ditch segments buffered, as of November 28, 2017. This value will be updated periodically throughout 2018. Note

that this percent is based on parcels along public drainage ditches, while the 80 percent estimate is based on miles of public drainage ditches.

Impediments to Drainage System Acquisition and Establishment of Buffer Strips and Alternative Practices

The Project Advisory Committee identified the impediments that drainage authorities or landowners may face in attempting to comply with both Drainage Law and Buffer Law regarding the acquisition and establishment of, and compensation for, buffer strips and alternative practices.

The Committee identified and ranked 15 impediments, listed below, with the highest priority first and the lowest priority last. The priority ranking suggests those impediments that should be addressed first. The Recommendations on pages 6-9 are cross-referenced to these impediments as numbered.

1. Reluctance of drainage authorities to initiate proceedings to acquire buffer strips because of political, economic, and constituent pressures.
 2. Lack of available “lead” viewers to conduct redeterminations of benefits and damages.
 3. Drainage authorities and advisors lack experience with provisions of Chapter 103E (Drainage Law) to acquire and compensate buffer strips and alternative practices
 4. Drainage authority unlikely to pay for buffer strips without a Redetermination of Benefits to fairly apportion the costs.
 5. Lack of external funding for an activity perceived as having a state-wide water quality benefit.
 6. Cost of redetermining benefits and acquiring grass buffer strips vs. benefit of grass buffer strips to the drainage system.
 7. Lack of landowner interest/urgency in initiating the process.
 8. Some drainage authorities have no history of assessing the benefitting landowners.
 9. Judicial ambiguity regarding incremental acquisition of grass buffer strips under 103E.021, Subd. 6 (see Court of Appeals file A15-0782, Zimmerman vs. Sauk River Watershed District, 2-16-2016).
 10. (ranking tie) Uncertainty as to how/whether 103E.021 (or other 103E provisions) allow for use of ditch funds to pay for buffers in excess of 16.5 feet (i.e. for ditches that are also public watercourses with shoreland classification under Section 103F.48) or for alternative practices (other than side inlets).
- (ranking tie) Lack of knowledge by drainage authorities as to what “alternative practices” means.

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12. The timing and allocation of funding for alternative practices to be implemented under 103E.011, Subd. 5, and the timing of drainage system repairs or other actions on the drainage system presenting the opportunity to implement such practices do not always coincide.
13. Reluctance of landowners to initiate buffer strip acquisition because of inequity involved in repair costs apportionment without updating the benefited area and benefits.
14. Perception that redetermination of benefits is expensive.
15. Impediments to replacing open ditches with tile based on the definition of improvement.

Alternative Practices on Chapter 103E Drainage Systems

Several of the Impediments in the previous section address the uncertainty on the part of drainage authorities regarding the applicability of alternative practices, as provided for in Section 103F.48, to drainage system buffer strip acquisition and establishment. Drainage Law provides for certain practices, such as side inlets, to be funded by the drainage system, and side inlets have also been determined to be an eligible alternative practice under the Buffer Law. However, there are other alternative practices eligible under the Buffer Law that may not be applicable for drainage system acquisition and establishment. Soil and Water Conservation Districts and BWSR are tasked with the responsibility to determine the eligibility of alternative practices with comparable water quality protection benefits to substitute for buffer strips under Section 103F.48. The BWSR website provides guidance on alternative practices (http://bwsr.state.mn.us/buffers/#alternative_practices). Nevertheless, there is a need for drainage authorities and their advisors to receive further clarification on this issue. Outreach, Information and Education Recommendation O.1 is intended, in part, to address this need.

Current Drainage Law and Buffer Law Provisions

This section provides brief summaries of the existing provisions in Drainage Law (Chapter 103E) and Buffer Law (Section 103F.48) for acquisition, establishment, and compensation of buffer strips and alternative practices. See Appendix A (page 16) for the BWSR document, “Public Drainage System Acquisition and Compensation of Ditch Buffer Strips and Alternative Practices Required by the Minnesota Buffer Law (August 9, 2017),” from which these summaries are taken. That document is also available on the BWSR website at: (www.bwsr.state.mn.us/drainage/Drainage_System_Acquisition_of_Buffer_Strips_%20Alt_Practices.pdf).

Minnesota Drainage Law Provisions for Buffer Strips and Alternative Practices

When Buffer Strips are required

Minnesota Statutes Section 103E.021 has two subdivisions that contain authority and requirements for the establishment of drainage ditch buffer strips. Subdivision 1, requires public drainage systems to establish minimum 16.5-ft. wide ditch buffer strips of perennial vegetation (preferably native vegetation of a local ecotype) when viewers are appointed to determine drainage system benefits and damages. The drainage authority must also acquire the associated permanent right-of-way easement, which is typically acquired

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before establishment of the buffer strip(s). For existing drainage systems, the types of proceedings that require the appointment of viewers include establishment, improvements, improvement of an outlet, a new lateral, redetermination of benefits and damages, or certain types of petitioned repairs that require determination of benefits and damages.

Section 103E.021, Subd. 6 provides permissive authority for a drainage authority to implement permanent ditch buffer strips of perennial vegetation, and/or side inlet controls, “where necessary to control erosion and sedimentation, improve water quality, or maintain the efficiency of the drainage system.” This is done as a repair. The drainage authority may or may not appoint an engineer or viewers. A hearing on the project is required, as are findings and an order by the drainage authority. Cost apportionment is based on the benefited properties and benefits on record for the drainage system.

If the definition of benefited properties and benefits on record for a drainage system are not current, the only way to update them is through a redetermination of benefits and damages for the drainage system (Section 103E.351), which involves the appointment of viewers and trips the requirement in Section 103E.021, Subd. 1, to establish permanent ditch buffer strips.

Paying for Buffer Strips

The cost of buffer strip establishment and easement acquisition are generally borne by the drainage system. In 2016, Drainage Law was revised to remove a potential disadvantage for landowners who establish drainage system buffer strips on their own to comply with Section 103F.48. Drainage Law, in Section 103E.315, Subd. 8(b), now requires the determination of damages for *retroactive compensation* of landowners for buffer strips or alternative practices to consider the land use prior to establishment of the buffer strips or alternative practices.

See Appendix A (page 16) for additional statutory requirements under Minnesota Drainage Law.

Minnesota Buffer Law Requirements for Ditch Buffer Strips

The Buffer Law (Minnesota Statutes Section 103F.48) requires landowners owning property adjacent to a water body identified and mapped on the Buffer Protection Map to maintain a buffer to protect the state’s water resources. Those landowners with property on public drainage systems established under Drainage Law (Chapter 103E) must maintain a 16.5-ft. minimum width continuous buffer strip as provided in Section 103E.021, Subd. 1, or an alternative practice(s) as provided in Section 103F.48, Subd. 3(b). The Buffer Law width requirement for public waters (i.e., 30-ft. minimum, 50-ft. average) applies where a public drainage ditch is also a public water with a specific shoreland classification. In addition, the buffer vegetation must be of a type that does not impede future maintenance of the ditch. The Buffer Law also references Drainage Law provisions that enable public drainage systems to acquire and compensate ditch buffer strips and alternative practices required by the Buffer Law, in advance or retroactively (Section 103F.48, Subd. 10(b)). This must be done in accordance with Drainage Law.

In 2016, the Buffer Law was revised to refer to Drainage Law for measurement of ditch buffer strips. See Appendix A (page 16) for additional statutory requirements under Minnesota Buffer Law.

Funding Sources

Buffer Law Section 103F.48, Subd. 10(a) provides that a landowner or drainage authority may contact the applicable Soil and Water Conservation District (SWCD) for information about how to apply for local, state, or federal cost-share grants, contracts, or loans that are available to establish buffers or other water resource protection measures.

Drainage authorities can acquire ditch buffer strips and alternative practices required by the Buffer Law and compensate affected landowners, in advance or retroactively, using the existing provisions of Drainage Law outlined in Appendix A. Ditch buffer strips, side inlet controls, or other permanent erosion control and water quality improvement measures established or acquired under Drainage Law, become part of the drainage system. The permanent components of a drainage system are typically paid for and maintained by the drainage system. Drainage Law directs drainage authorities to assess drainage system costs to the applicable drainage system account, and thereby to the benefited properties on record for the drainage system, in proportion to the benefits on record for those properties.

Drainage Law Section 103E.011, Subd. 5. Use of External Sources of Funding, enables drainage authorities to use drainage system funds in conjunction with external sources of funding for certain purposes, including water quality improvement, wetland restoration, or flood control.

Appendix A, pages 20-22, contains a list of various sources of funding both internal and external to the drainage system that can be used to help finance or cost-share buffer strips or alternative practices.

Appendix A: BWSR Public Drainage System Acquisition and Compensation of Ditch Buffer Strips and Alternative Practices Required by the Minnesota Buffer Law (August 9, 2017)



Public Drainage System Acquisition and Compensation of Ditch Buffer Strips and Alternative Practices Required by the Minnesota Buffer Law

August 9, 2017

Purposes of this Document

- 1) Provide county and watershed district drainage authorities, their advisors, affected landowners, and others an overview of applicable provisions of the Minnesota Buffer Law and Minnesota Statutes Chapter 103E Drainage law that enable public drainage systems to acquire and compensate buffer strips and alternative practices required by the Buffer Law; and
- 2) Provide information about landowner and drainage system financing of ditch buffer strips and Buffer Law alternative practices.

Note: Text in blue contains a hyperlink to additional information about the topic of the text, including statute provisions and program fact sheets.

Executive Summary

The Buffer Law ([Section 103F.48 RIPARIAN PROTECTION AND WATER QUALITY PRACTICES](#)) includes a provision referencing drainage law ([Chapter 103E DRAINAGE](#)) provisions that enable public drainage systems to acquire and compensate ditch buffer strips and alternative practices required by the Buffer Law, in advance or retroactively. This must be done in accordance with Chapter 103E Drainage law.

Drainage law includes a requirement for drainage systems to establish and compensate minimum 16.5 ft. wide ditch buffer strips of perennial vegetation when viewers are appointed to determine drainage system benefits and/or damages. This includes for drainage system establishment, improvements, laterals, redetermination of benefits and damages, and certain repairs that require the appointment of viewers to determine benefits and damages. Drainage law also provides drainage authorities permissive authority for establishment and compensation of incremental, 16.5 ft. wide ditch buffer strips of perennial vegetation, and/or side inlet controls. Drainage law ditch buffer strips involve a permanent drainage system right-of-way easement.

In 2016, the Buffer Law was revised to refer to drainage law for measurement of ditch buffer strips, and drainage law was revised to require the determination of damages for retroactive compensation of buffer strips or alternative practices required by the Buffer Law to consider the land use prior to establishment of the buffer strips or alternative practices.

Drainage law also includes provisions for drainage systems to use external sources of funding and drainage system funds for certain purposes, including water quality improvements.

Landowners can apply for applicable local, state, or federal cost-share grants, contracts, or loans

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to help finance buffer strips or alternative practices required by the Buffer Law, subject to applicable program eligibility and priority criteria.

Drainage authorities can utilize applicable loans on behalf of the drainage system to finance ditch buffer strips or alternative practices installed or acquired under Chapter 103E drainage law. Drainage authorities can also utilize external sources of funding and drainage system funds for water quality improvements involving a Chapter 103E public drainage system.

Notes:

- 1) Drainage authorities should consult their legal counsel, engineers and other advisors, as appropriate, to ensure effective and efficient implementation of the applicable provisions of law.
- 2) Drainage law does not include provision for alternative practices to reduce the buffer strip width required by drainage law.

Applicable Buffer Law Provisions (statute text of applicable subdivisions)

Section 103F.48 RIPARIAN PROTECTION AND WATER QUALITY PRACTICES.

Subd. 3. Water resources riparian protection requirements on public waters and public drainage systems.

- (a) Except as provided in paragraph (b), landowners owning property adjacent to a water body identified and mapped on a buffer protection map must maintain a buffer to protect the state's water resources as follows:
 - (1) for all public waters, the more restrictive of:
 - (i) a 50-foot average width, 30-foot minimum width, continuous buffer of perennially rooted vegetation; or
 - (ii) the state shoreland standards and criteria adopted by the commissioner under section [103F.211](#); and
 - (2) for public drainage systems established under chapter 103E, a 16.5-ft. minimum width continuous buffer as provided in section [103E.021, subdivision 1](#). The buffer vegetation shall not impede future maintenance of the ditch.
- (b) A landowner owning property adjacent to a water body identified in a buffer protection map and whose property is used for cultivation farming may meet the requirements under paragraph (a) by adopting an alternative riparian water quality practice, or combination of structural, vegetative, and management practices, based on the Natural Resources Conservation Service Field Office Technical Guide, common alternative practices adopted and published by the board, other practices approved by the board, or practices based on local conditions approved by the local soil and water conservation district that are consistent with the Field Office Technical Guide, that provide water quality protection comparable to the buffer protection for the water body that the property abuts. Included in these practices are retention ponds and alternative measures that prevent overland flow to the water resource.
- (c) The width of a buffer on public waters must be measured from the top or crown of the bank. Where there is no defined bank, measurement must be from the edge of the normal water level. The width of the buffer on public drainage systems must be measured as provided in section [103E.021, subdivision 1](#).
- (d) Upon request by a landowner or authorized agent or operator of a landowner, a technical professional employee or contractor of the soil and water conservation district or its delegate may issue a validation of compliance with the requirements of this subdivision. The soil and water conservation district validation may be appealed to the board as described in subdivision 9.
- (e) Buffers or alternative water quality practices required under paragraph (a) or (b) must be in place on or before:

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- (1) November 1, 2017, for public waters; and
 - (2) November 1, 2018, for public drainage systems.
- (f) Nothing in this section limits the eligibility of a landowner or authorized agent or operator of a landowner to participate in federal or state conservation programs, including enrolling or reenrolling in federal conservation programs.
- (g) After the effective date of this section, a person planting buffers or water quality protection practices to meet the requirements in paragraph (a) must use only seed mixes verified by the Department of Agriculture as consistent with chapter 18G or 21 to prevent contamination with Palmer amaranth or other noxious weed seeds.

Subd. 10. Landowner financial assistance and public drainage system procedure.

- (a) A landowner or drainage authority may contact the soil and water conservation district for information on how to apply for local, state, or federal cost-share grants, contracts, or loans that are available to establish buffers or other water resource protection measures.
- (b) The provisions of sections [103E.011, subdivision 5](#); [103E.021](#); and [103E.715](#) may be used in advance or retroactively to acquire or provide compensation for all or part of the buffer strip establishment or alternative riparian water quality practices as required under subdivision 3, paragraph (a) or (b).

Notes:

- 1) For public drainage ditches, buffer strips required by the Buffer Law are measured the same as buffer strips required by, or otherwise established under Chapter 103E Drainagelaw.
- 2) The in advance or retroactive acquisition and compensation provision in Subd. 10(b) is key to the purposes of this document.

Applicable Drainage Law Provisions (*summary*, or statute text)

Section 103E.021 DITCHES MUST BE PLANTED WITH PERENNIAL VEGETATION.

Subdivision 1. Spoil banks must be spread and permanent vegetation established.

Summary: This subdivision requires public drainage systems to establish minimum 16.5 ft. wide ditch buffer strips of perennial vegetation (preferably native vegetation of a local ecotype) when viewers are appointed to determine drainage system benefits and/or damages, and to acquire the associated permanent right-of-way easement. For existing drainage systems, the types of proceedings that require the appointment of viewers include establishment, improvements, improvement of an outlet, laterals, redetermination of benefits and damages, or certain types of petitioned repairs that require determination of benefits and/or damages.



Ditch Buffer Strips

Subd. 6. Incremental implementation of vegetated ditch buffer strips and side inlet controls.

Summary: This subdivision provides permissive authority enabling a drainage authority to implement permanent ditch buffer strips of perennial vegetation, and/or side inlet controls, “where necessary to control erosion and sedimentation, improve water quality, or maintain the efficiency of the drainage system”. This is done as a repair. The drainage authority may or may not appoint an engineer or viewers. A hearing on the project is required, as are findings and an order by the drainage authority. Cost apportionment is based on the benefited properties and benefits on record for the drainage system.



Note: If the definition of benefited properties and benefits on record for a drainage system are not current, the only way to update them is through a redetermination of benefits and damages for the drainage system ([Section 103E.351](#)), which involves the appointment of viewers and trips the requirement in [Section 103E.021, Subd. 1](#) to establish permanent ditch buffer strips.

Section 103E.351 REDETERMINING BENEFITS AND DAMAGES.

Summary: This section of drainage law enables a drainage authority to order a redetermination of benefits and damages for a drainage system, if the drainage authority determines that the benefited area, benefits or damages determined in a prior drainage proceeding do not reflect present land values, or that the benefited or damaged areas have changed. A simple majority of landowners of property benefited or damaged by the drainage system can petition for a redetermination of benefits and damages to correct an error that was made at the time of the proceeding that established the drainage system. Three viewers are appointed by the drainage authority to conduct a redetermination of benefits and damages and prepare an associated viewers’ report. Property owner reports are prepared and a hearing is held by the drainage authority.

Redetermined benefits confirmed by the drainage authority become the updated basis for drainage system cost apportionment. Use of this section requires the establishment of 16.5 ft. wide ditch buffer strips, in accordance with [Section 103E.021, Subd. 1](#).

Section 103E.701 REPAIRS. (statute text)

Subd. 6. **Wetland restoration and replacement; water quality protection and improvement.** Repair of a drainage system may include the preservation, restoration, or enhancement of wetlands; wetland replacement under [section 103G.222](#); the realignment of a drainage system to prevent drainage of a wetland; and the incorporation of measures to reduce channel erosion and otherwise protect or improve water quality.

Note: The last clause of this subdivision, which was added to drainage law in 2013, provides authority for repairs to incorporate measures to reduce channel erosion and otherwise protect or improve water quality.

Section 103E.715 REPAIR BY PETITION.

Summary: An individual or an entity interested in or affected by a drainage system may file a petition to repair the drainage system. Appointment of viewers is required for a petitioned repair involving resloping of ditch banks, incorporation of a multistage ditch cross-section, installation of erosion control measures, spoil bank leveling, or tree removal that requires the acquisition of additional drainage system right-of-way easement or creates additional drainage system benefits. Appointment of viewers trips the requirement to establish ditch buffer strips in accordance with [Section 103E.021, Subd. 1](#). The associated petitioned repair process includes appointment of an engineer to prepare a repair report, preparation of a viewers’ report, a

hearing on the engineer's repair report and the viewers' report, and associated findings and an order by the drainage authority. Cost apportionment for a petitioned repair is based on the benefited properties and benefits on record for the drainage system, potentially supplemented by any additional benefits determined if spoil bank leveling or tree removal is involved.

Section 103E.315 ASSESSING DRAINAGE BENEFITS AND DAMAGES.

Subd. 8. Extent of damages.

Summary: Subd. 8, paragraph (b) was added in 2016 to clarify Chapter 103E in relation to Sec. 103F.48, Subd. 10(b) regarding retroactive acquisition and compensation of ditch buffer strips and alternative practices. This provision requires viewers and drainage authorities to consider the land use prior to buffer strip or alternative practice installation in determining the fair market value of the property for acquisition and compensation of ditch buffer strip right-of-way easements or alternative practices.

Section 103E.011 DRAINAGE AUTHORITY POWERS.

Subd. 5. Use of external sources of funding.

Summary: This subdivision enables drainage systems to use external sources of funding, with or without drainage system funds, for certain types of activities involving the drainage system (wetland preservation or restoration, water quality improvements, or flood control). These activities provide benefits for which external sources of funding may be available, as well as benefits to the drainage system typically associated with reduced peak flows and reduced use of capacity in the drainage system, and/or erosion and sedimentation reduction. The buffer strips and alternative practices required by the Buffer Law have a key purpose for water quality protection and improvement, which fits with this provision of drainage law. This provision can be used to help compensate ditch buffer strips and alternative practices that benefit the drainage system.

Landowner and Drainage System Financing of Ditch Buffer Strips and Alternative Practices

General

As indicated in Section 103F.48, Subd. 10(a), a landowner or drainage authority may contact the applicable SWCD for information about how to apply for local, state, or federal cost-share grants, contracts, or loans that are available to establish buffers or other water resource protection measures.

Drainage authorities can acquire ditch buffer strips and alternative practices required by the Buffer Law and compensate affected landowners, in advance or retroactively, using the existing provisions of drainage law outlined above. Ditch buffer strips, side inlet controls, or other permanent erosion control and water quality improvement measures established or acquired under Chapter 103E drainage law, become part of the drainage system. The permanent components of a Chapter 103E drainage system are typically paid for and maintained by the drainage system. Drainage law directs drainage authorities to assess drainage system costs to the applicable drainage system account, and/or to the benefited properties on record for the drainage system, in proportion to the benefits on record for those properties.

As indicated above, **Section 103E.011**, Subd. 5. **Use of external sources of funding** enables drainage authorities to use drainage system funds in conjunction with external sources of funding for certain purposes, including water quality improvement, wetland restoration, or flood control. See information below about potential external sources of financial assistance or financing for drainage system acquisition and compensation of ditch buffer strips and alternative practices for water quality.

Note: Drainage authorities should consult their drainage system legal counsel to ensure correct use of this and other provisions of drainage law outlined above and associated proceedings.

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Internal Loans or Bonds

If a drainage system account has insufficient funds to pay associated drainage system costs, a drainage authority can borrow (with interest) from other drainage system accounts that it administers, borrow from the general fund of the drainage authority ([Section 103E.655 Paying of Drainage System Costs](#)), or issue and sell bonds for drainage system repair ([Section 103E.731 Assessment; Bonds](#)) or drainage system improvement ([Section 103E.635 Drainage Bond Issues](#)).

Financial Assistance

As indicated in [Section 103F.48](#), Subd. 10(a) above, landowners and drainage authorities affected by the Buffer Law can contact their Soil and Water Conservation District (SWCD) about how to apply for available financial and technical assistance to establish buffers or other water resource protection measures. Landowners may be eligible for a number of federal and state conservation programs, but are subject to program eligibility requirements and to the applicable deadline(s) in Subd. 3(e) of the Buffer Law for buffer strip and/or alternative practices establishment, unless an exemption in Subd. 5 or a temporary conditional compliance waiver applies. Landowners can also establish buffer strips before the Buffer Law deadline and later seek drainage system acquisition of ditch buffer strips or alternative practices in accordance with drainage law, or financial assistance for alternative practices to reduce or replace buffer strips, to the extent allowed by Buffer Law alternative practices provisions and BWSR guidance.

Drainage authority eligibility for financial assistance on behalf of a Chapter 103E drainage system is limited, but can include certain Clean Water Funds administered by the Board of Water and Soil Resources (BWSR), as well as low interest loans through the AgBMP Loan Program administered by the Minnesota Department of Agriculture (MDA).

Financial Assistance for Landowners

Conservation Reserve Program (CRP)

The [Conservation Reserve Program](#), including the Continuous Conservation Reserve Program (CCRP), are administered by the USDA-Farm Service Agency (FSA) for qualifying agricultural land and include buffers as an eligible conservation practice (CRP CP-21 Grass Filter Strip). CRP and CCRP involve a limited duration contract with an annual rental payment (10 to 15 years) for conservation land use. The CP-21 conservation practice has a minimum buffer width of 30 ft. in Minnesota. Please refer to the program link in this paragraph for additional information, including availability of program funding.

Conservation Reserve Enhancement Program (CREP)

The Minnesota [Conservation Reserve Enhancement Program](#) is a partnership of the federal Conservation Reserve Program (CRP), administered by the USDA-Farm Service Agency (FSA) for qualifying agricultural land, and the Reinvest in Minnesota (RIM) Reserve Program, administered by the BWSR in partnership with SWCDs. This CREP combines a CRP limited duration contract and rental payments with a perpetual RIM conservation easement. The program area includes 54 counties in southern, southwest and west-central areas of Minnesota. Buffers are an eligible conservation practice (CRP CP-21 Grass Filter Strip). Please refer to the program link in this paragraph for additional information and/or to the applicable SWCD.

Buffer Law Buffer Strip or Alternative Practices Cost-Share

The Legislature and Governor appropriated \$5 million to BWSR in Fiscal Year 2018 for Buffer Law implementation cost-share for landowners through SWCDs. This cost-share can be used by landowners to comply with Buffer Law requirements for buffer strips or alternative practices, in accordance with Buffer Law requirements and BWSR [Common Alternative Practices Technical Guidance](#). BWSR developed [Buffer Cost-Share Frequently Asked Questions](#) for SWCDs about this FY 2018 funding. Landowners should consult their applicable SWCD to inquire about this cost-share funding.

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Financial Assistance for Drainage Systems

Clean Water Fund Multipurpose Drainage Management (MDM) Program

The [Clean Water Fund Multipurpose Drainage Management Program](#) administered by BWSR annually provides competitive grants to partnerships of a Chapter 103E drainage authority and SWCD for priority public drainage systems. The primary purpose is to improve water quality, while reducing peak flows, reducing drainage system maintenance, and/or benefiting the capacity of the system. Eligible practices include some that can be alternative practices under the Buffer Law, but do not include buffer strips required by drainage law or the Buffer Law. The program fact sheet link in this paragraph includes additional information about the program.

Ag Best Management Practices (AgBMP) Loan Program

Buffer strips and other water quality protection and improvement practices on agricultural land are eligible for the [AgBMP Loan Program](http://www.mda.state.mn.us/grants/loans/agbmploan.aspx) (<http://www.mda.state.mn.us/grants/loans/agbmploan.aspx>) administered by the MDA in partnership with local government units. This is a revolving fund, low interest loan program. All counties in Minnesota except Ramsey County have a local government administrator of the AgBMP Loan Program and available lenders (<https://app.gisdata.mn.gov/mda-agbmploan/>). A document outlining [Chapter 103E Drainage Authority Participation in the AgBMP Loan Program](http://www.mda.state.mn.us/grants/loans/agbmploan/localgovernment.aspx) (<http://www.mda.state.mn.us/grants/loans/agbmploan/localgovernment.aspx>) is available from the MDA. The document includes explanations about how drainage authorities can participate, an example situation, the link above to a map of local government administrators of the program and available lenders, and the email address of the MDA program manager.

Note: The AgBMP Loan Program has a loan period up to 10 years.

NEW BUSINESS

1. Groundwater Restoration and Protection Strategies (GRAPS) – Chris Elvrum and Carrie Raber (MDH) – ***INFORMATION ITEM***
2. Interagency and University Drainage Management Team Report – Tim Gillette – ***INFORMATION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Groundwater Restoration and Protection Strategies (GRAPS)

Meeting Date: 1/24/2018

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Central Region

Contact: Annie Felix-Gerth

Prepared by: Annie Felix-Gerth

Reviewed by: NONE Committee(s)

Presented by: Chris Elvrum, Carrie Raber (MDH)

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

NONE

LINKS TO ADDITIONAL INFORMATION

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)

The presentation will be an introduction to the GRAPS process and discuss about how GRAPS can be used in the 1W1P effort.

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Interagency and University Drainage Management Team Report

Meeting Date: 1-24-18 (and future meetings)

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Statewide

Contact: Tim Gillette

Prepared by: Tim Gillette

Reviewed by: _____ Committee(s)

Presented by: Tim Gillette

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

None

LINKS TO ADDITIONAL INFORMATION

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

Report of the Drainage Management Team

The Drainage Management Team was established in 2008 at the request of the Drainage Work Group. While originally envisioned to provide technical assistance to LGUs that were implementing conservation practices on Minnesota’s agricultural landscape’s, its present purpose is to be “an interagency team comprised of staff members from state and federal agencies and academic institutions that meet regularly to coordinate and network regarding agricultural drainage topics.” (*DMT Charter, 2013*) It is technically focused and is not involved in policy development.

The DMT’s voluntary membership is made up of staff from the following organizations:

- Minnesota Board of Water and Soil Resources (BWSR)
- Minnesota Department of Agriculture (MDA)
- Minnesota Department of Natural Resources (DNR)
- Minnesota Pollution Control Agency (MPCA)
- University of Minnesota (UMN) – Department of Bioproducts and Biosystems Engineering
- University of Minnesota (UMN) – Extension
- University of Minnesota (UMN) – Water Resources Center
- United States Army Corp of Engineers (USACOE)
- United States Fish and Wildlife Service (USFWS)
- United States Geological Service (USGS)
- USDA – Natural Resources Conservation Service (NRCS)
- USDA – Agricultural Research Service (USDA – ARS)

Over the last few years the DMT has been increasingly focused on major technical issues related to drainage water management. Over the last year and half the Team has been gathering information about the topic of Altered Hydrology (AH). The DMT is in the process of writing an AH guidance document for use by local governments in their water planning and drainage system administration.

The DMT plans to develop a number of fact sheets to support local implementation of conservation practices such as Two Stage Ditches, Woodchip Bioreactors, and Saturated Buffers, and alternative side inlets.