

Drainage Work Group Meeting Notes August 9, 2018

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

Attendance

Tom Loveall, BWSR Brd.; Craig Austinson, MADI; Chuck Brandel, ISG; Ron Ringquist, MVA; Alan Perish, MFU, MVA; Kale Van Bruggen, Rinke Noonan; Mark Dittrich, MDA; Joe Lewis, HEI; Jennifer Berquam, AMC; Allen Wold, BDSWD; Jim Sehl, DNR; Julie Ekman, DNR; Tim Dritz, MAWD; Doug Krueger, McLeod Co., MRCC; Randy Kramer, Renville Co., AMC; Kurt Deter, Rinke Noonan; Rob Sip, RRWMB; Greg Knopff, Senate Analyst; Greg Holmvik, RRWMB; Jerome Deal, RRWMB; Dan Wilkens, SHRWD; Nathan Zacharias, SRRWD; Lisa Frenette, RRWMB, LMRWD; Dave Weirens, BWSR; Tom Giles, BWSR; Mark Hiles, BWSR; Brad Hagemeyer, House Staff; Janelle Taylor, House Research; Jim Stark, LWC; Ben Stanley, Senate Staff; Rep. Jeff Backer, District 12A; Elise Larson, MCEA; Hannah Payne, MCEA; Stu Frazier, MNLICA; Emily Javens, MAWD; Al Kean, BWSR

Handouts prior to or during the meeting

- 1) Meeting logistics and agenda for 8-9-18
- 2) Meeting notes for 7-12-18
- 3) DWG Prioritized Discussion Topics List - 7-13-18
- 4) Reestablishment of Drainage System Records - DNR Concerns 8-3-18
- 5) DWG - ADSABS 2018-2019 Legislation Recs S2 S3 S6 P4 - 8-3-18
- 6) DWG - RSDO Recommendations - Brief History 8-4-18
- 7) DWG - Info Re AWold Concerns about DWG Recs 8-4-18
- 8) DWG - RSDO - Pertinent Provisions of MN Constitution 444.075 and 103D 8-3-18
- 9) DWG - Charter - Draft 8-4-18
- 10) DWG - Fact Sheet - Draft 8-4-18
- 11) Section 103B.101, Subd. 13 Drainage stakeholder coordination.

Introductions and agenda overview

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

Approval of 7-12-18 meeting notes

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

Share information about recent and upcoming drainage related events

- 4R Technology Review Field Day, sponsored by MAWRC, 7-24-18, Farmamerica, Waseca
- Legislative Water Commission, Stakeholders Meeting, Keeping Water on the Land, 8-8-18, St. Paul
- Minnesota Viewers Association, Training Seminar, and Minnesota Association of Drainage Inspectors, Seminar, and Joint Meeting, Thursday, Aug. 16, 2018, Alexandria
- Drainage Water Management Demonstration, UMN Southwest Research and Outreach Center, Thursday, August 16, 2018, Lamberton
- Minnesota Farmfest 2018, August 7-9, 2018, Redwood Falls
- Red River Basin Commission, Fall Tour, Sep. 5-6, 2018, Moorhead

DWG Prioritized Discussion Topics List

The revised list dated 7-13-18 is based on discussions at the 7-12-18 DWG meeting. The list eliminates completed topics, revises priorities for a number of topics, and includes the addition of a discussion topic to develop a DWG charter and an information topic to evaluate DNR concerns about reestablishing drainage system records (Sec. 103E.101, Subd. 4a). The 7-13-18 DWG Prioritized Discussion Topics List was adopted to guide priorities for the remainder of the year, or until it is next updated.

DNR Concerns about reestablishment of drainage system records

Jim Sehl, DNR, provided an overview of a DNR summary of some recent reestablishment of drainage records that involve public waters and have resulted in disagreement between drainage authorities and DNR. Two situations were highlighted: Chippewa-Swift JD-9 and Lac Qui Parle CD-24. In both cases, DNR disagrees with the interpretation of borings used to define the as-constructed or subsequently improved condition for ditch bottom profile elevations. DNR has appealed the JD-9 reestablishment of records to the MN Supreme Court. For a repair that could affect public waters (Sec. 103E.701, Subd. 2), the drainage engineer, an SWCD technician and a DNR representative, must jointly determine the repair depth, but the drainage authority decides. AI will coordinate with the drainage system engineer and DNR to bring specific information about one or more of the above situations to future DWG meeting(s).

Accelerating Drainage System Acquisition of Buffer Strips recommendations

Based on DWG discussions on 7-12-18 and to further clarify recommendation purposes, AI Kean had updated the 2018-2019 document (Final 8-3-18, Handout 5)). The recommended revisions of Section 17.117 AgBMP Loan Program were deleted, with commitment from MDA on 7-12-18 to include revisions for the 2019 legislative session to enable Chapter 103E drainage authorities to serve as borrowers on behalf of the property owners they represent (DWG Recommendation P4). Remaining Allen Wold concerns about revisions of Sec. 103E.351 were discussed, including the explanation of purpose in Handout 5) and DWG Rationale regarding Concern 1) in Handout 7), but full consensus was not reached.

Brief history of DWG discussion and development of the RSDO recommendations

AI Kean provided an overview of the summary documentation of the DWG initiation, investigation and development of the Runoff and Sediment Delivery Option for repair cost apportionment (Handout 6)). AI plans to use this as background information for an invited discussion at the Minnesota Viewers Association meeting on Aug. 16 about RSDO including Chuck Fritz, IWI and Zach Herrmann, HEI. Based on discussion for step 10) in the handout, it was recommended to not use "99%". AI will revise.

Information regarding Allen Wold, BdSWD, concerns about ADSABS and RSDO recommendations

Information in Handout 7) that had not yet been discussed was overviewed by AI Kean and discussed, along with an overview of the information in Handout 8) regarding RSDO and constitutional concerns. No changes of positions or perspectives were identified.

DWG Charter / Member Guidance

Based on discussions at the 7-12-18 meeting, and to find a way forward for DWG recommendations, a revised draft charter was developed dated 8-4-18. It included a supermajority recommendations and minority report option, and potential clarification of DWG membership as outlined in the draft DWG Fact Sheet dated 8-4-18. The discussion indicated dislike for the term "supermajority", for which there were different ideas about the/a definition. There was a substantial desire to maintain a goal of full DWG consensus recommendations. If full consensus cannot be achieved, when to use a majority recommendations and minority report option should be decided by the DWG on a case-by-case basis, including how great of a majority agreement / consensus is enough to move majority recommendations and a minority report forward. It was noted that DWG members in the minority should be responsible to prepare a minority report, including alternative recommendations to the majority recommendations that the minority opposes. There was also a desire to provide majority recommendations and a minority report together. AI K. suggested that guiding principles be added to the DWG process documents in the Charter to address these concepts. In regard to better defining DWG stakeholder organizations and official members, there was significant opposition, because that could create a need to have equal numbers of members from different stakeholder perspectives, and because some members represent the perspectives of multiple stakeholder organizations. AI will revise the draft charter.

Next DWG meeting: Thursday, Sep. 13, 2018, 11:00 a.m. - 2:00 p.m. at MCIT, St. Paul.