

**BOARD OF WATER AND SOIL RESOURCES  
520 LAFAYETTE ROAD N.  
LOWER LEVEL BOARD ROOM  
ST. PAUL, MINNESOTA 55155  
WEDNESDAY, MARCH 28, 2018**

**BOARD MEMBERS PRESENT:**

Jill Crafton, Jack Ditmore, Tom Landwehr, DNR; Tom Loveall, Nathan Redalen, Tom Schulz, Steve Sunderland, Rich Sve, Gene Tiedemann, Gerald Van Amburg, Paige Winebarger, Terry McDill, MPCA; Joe Collins, Neil Peterson, Duane Willenbring, Patty Acomb

**BOARD MEMBERS ABSENT:**

Kathryn Kelly, Chris Elvrum, MDH; Susan Stokes, MDA

**STAFF PRESENT:**

John Jaschke, Hannah Pallmeyer, Julie Westerlund, Kevin Bigalke, Melissa Lewis, Dave Weirens, Ryan Hughes, Les Lemm, Al Kean, Chris Pence, Henry Van Offelen, Kelly Voigt, Lawrence Svien, Travis Germundson, Tim Smith

**OTHERS PRESENT:**

Frank Kohlasch, MPCA  
MaryJean Fenske, MPCA  
Peter Ciborowski, MPCA  
Jeffrey Berg, MDA  
Warren Formo, MAWRC  
Jason Garms, DNR

**Chair Gerald VanAmburg called the meeting to order at 9:02 AM**

#### **PLEDGE OF ALLEGIANCE**

**\*\* 18-12** **ADOPTION OF AGENDA** - Moved by Jack Ditmore, seconded by Jill Crafton, to adopt the agenda as presented. ***Motion passed on a voice vote.***

**\*\* 18-13** **MINUTES OF January 24, 2018 BOARD MEETING** – Moved by Paige Winebarger, seconded by Duane Willenbring, to approve the minutes of January 24, 2018, as circulated. ***Motion passed on a voice vote.***

#### **PUBLIC ACCESS FORUM**

No members of the public provided comments to the board.

#### **CONFLICT OF INTEREST DECLARATION**

**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.”*

The board discussed the conflict of interest form. Possible conflicts of interest included the Request for Proposals for One Watershed, One Plan and the grant for the Red River Basin Commission.

#### **INTRODUCTION OF NEW EMPLOYEES**

- Chris Pence, Board Conservationist
- Henry Van Offelen, Clean Water Specialist – Red River Valley
- Kelly Voigt, Northern Regional Training Conservationist
- Lawrence Svien, Southern Regional Training Conservationist
- Kevin Roth, Buffer and Soil Loss Specialist

Chair Van Amburg and the board welcomed the new staff to BWSR!

#### **REPORTS**

**Chair & Administrative Advisory Committee** – Chair Gerald Van Amburg reported that the Administrative Advisory Committee has not met since the previous board meeting. He attended the Environmental Quality Board and Red River Flood Damage Reduction work group meeting in Moorhead. The Environmental Quality Board toured Moorhead and discussed phosphorous reduction in waste water treatment. Commissioner Landwehr also attended the Environmental Quality Board meeting and appreciated the work being done in the Red River basin. Chair Van Amburg noted that there was an event associated with the work group meeting honoring the life of Don Ogaard, the first chair of the Board of Water and Soil Resources.

**Audit and Oversight Committee** – Chair Gerald Van Amburg reported that the committee has not met since the January board meeting. Jack Ditmore asked when the Office of the Legislative Auditor report will be published, and John Jaschke replied that no report has been provided to staff yet.

**Executive Director's Report** - John Jaschke introduced Jeff Berg, who filled in for Susan Stokes on behalf of the Department of Agriculture at the meeting. John Jaschke reported on the AMC, MASWCD, Association of Townships, and MAWD Days at the Capitol. He reminded board members that they are not allowed to accumulate points or rewards by traveling, and stated that BWSR cannot reimburse board members for receipts that have points on them. A legislative update was provided to board members, addressing the Governor's supplemental budget recommendations, Clean Water Fund payback and Clean Water Council recommendations, Outdoor Heritage Fund appropriations, Bonding recommendations, Ramsey Conservation District, Drainage, Coordinated Water Management, and other issues. The board discussed the proposed Ramsey County Conservation District dissolution and similarities and differences to the previous Hennepin Conservation District dissolution. A memo was provided to staff giving an update about One Watershed, One Plan. John Jaschke gave an update to board members about communications staffing, and reviewed a few stories communications staff had compiled about BWSR's work.

**Dispute Resolution Committee** - Travis Germundson provided an update to the board. There are two appeals pending, and one appeal has been filed since the previous board meeting. The appeals are under the Wetlands Conservation Act.

**Grants Program & Policy Committee** – Jill Crafton reported that the committee met on March 19, 2018, on the same day as the Water Management and Strategic Planning Committee. The committee discussed the One Watershed, One Plan planning grants Request for Proposal.

**RIM Reserve Committee** - Gene Tiedemann reported that the committee had not met since the previous board meeting.

**Water Management & Strategic Planning Committee** - Jack Ditmore reported that the committee met on March 19, 2018. The committee discussed revised content requirements and operating procedures for One Watershed, One Plan. No future meetings have been scheduled.

**Wetland Conservation Committee** - Tom Schulz reported that the committee met on March 19, 2018. The committee reviewed a proposed Draft Wetland Mitigation Fee Policy Addendum – Policies for Single User Accounts and Stewardship of Large Mitigation Sites. The committee also discussed the status of the In-Lieu Fee Wetland Mitigation Program and the Bank Service Area 6 Compensation Planning Framework. Staff also provided an update on the status of Section 404 Assumption.

**Buffers, Soils & Drainage Committee** – Steve Sunderland reported that the committee met on March 27, 2018, to review a draft of an alternative Administrative Penalty Order to be published for public comment. Staff also presented an update on returned buffer cost share funds and an update on buffers compliance. At this time, 64 counties and 4 watershed districts have accepted jurisdiction. The committee also discussed timing of payments and haying criteria for buffer cost share funds and the possibility of additional legislative appropriations or policy adjustments for buffer cost share. The committee plans to look at soil loss rules in future meetings. The committee also discussed buffer alternative practice tools and the participation at local meetings to discuss those tools.

**Drainage Work Group (DWG)** - Tom Loveall and Al Kean reported that the Drainage Work Group met on February 1 and February 22, 2018. They discussed accelerating drainage system acquisition of ditch buffer strips and alternative practices, and language was drafted that is chief authored by Senator Weber and Representative Torkelson. The DWG also discussed the runoff and sediment delivery option

for drainage system repair cost apportionment, and this language was drafted as an amendment to the accelerating drainage system acquisition bill. The board discussed the importance of having policies that can work with ever-evolving technology.

## **COMMITTEE RECOMMENDATIONS**

### **Water Management and Strategic Planning Committee**

**One Watershed, One Plan Operating Procedures and Plan Content Requirements** – Julie Westerlund presented the Operating Procedures and Plan Content Requirements. The One Watershed, One Plan Operating Procedures and Plan Content Requirements are the two policy documents that describe program requirements according to Minnesota Statutes §103B.801. These documents, which were based on policies for the pilot program (developed in 2014), were updated in 2016 when the program was formally established. Since that time, BWSR's Water Planning Program Team has identified a need to improve the organization and clarity of these documents, along with minor changes to policy elements. The team recommended re-formatting both documents with the new State of Minnesota logo and style. For both documents, the majority of non-policy information (background, context, and optional items) have been removed.

Other changes include:

- Policy
  - High level summary of changes (*see the last page of each document for more detail*)
- Operating Procedures
  - Removed automatic exemption for LGUs with less than 5% of their area in the planning boundary
  - Added requirements for sharing public comments during the plan review and approval process
- Plan Content Requirements
  - Land and Water Resources *Inventory* changed to *Narrative*; added requirement for discussion of watershed context
  - Fairly extensive wording changes in Plan Administration and Implementation Programs sections resulting in minor changes to policy elements.

The board discussed a modification to participation requirements by land area. It was noted that if a large county has part of a small watershed, it could have a significant impact on the watershed and still be under the 10 percent threshold for required participation. If an optional LGU does not participate in the development of the plan, they can still adopt the plan. If the LGU does not adopt the plan, they will not be eligible for watershed-based funding for that watershed. The operating procedures give BWSR some flexibility in working with groups to consider participation on a case-by-case basis. Board members thanked staff for their work on this agenda item and discussed the importance of looking at the natural characteristics of watersheds.

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18-14 Moved by Jack Ditmore, seconded by Steve Sunderland, to approve the board order authorizing the updated operating procedures and plan content requirements. ***Motion passed on a voice vote.***

### **Grants Program and Policy Committee**

**One Watershed One Plan Planning Grant Request for Proposals & Grants Policy** – Julie Westerlund and Melissa Lewis presented the Request for Proposal and Grants Policy.

Other than dates, the policy is unchanged from the previous policy.

The RFP includes the following changes:

- Response requirements (see “comprehensive watershed management plans”) encourage more early and meaningful discussions as partnerships are established.
- Review criteria are more specific and include minimum and preferred requirements that relate directly to new questions.
- Timeline for responses shortened from 15 to 12 weeks.

Rich Sve discussed concerns with the formula that determines funding based on prioritizing the amount of private lands in a watershed. The planning grants before the board are not formula-based. The pilot implementation grants have been formula-based in the past, and the board may revisit this going forward.

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18-15 Moved by Jill Crafton, seconded by Tom Schulz, to approve the Request for Proposal and Grants Policy board order. ***Motion passed on a voice vote.***

#### **Buffers, Soils and Drainage Committee**

**Administrative Penalty Order Plan for Buffer Law Implementation: Authorizing Public Review and Comment** – Dave Weirens presented the draft of the proposed amendment to the Administrative Penalty Order to be noticed for public review. On March 27, 2018, the Buffers, Soils and Drainage Committee reviewed a proposed draft amendment to the Administrative Penalty Order Plan for Buffer Law Implementation and a staff request to seek public review and comment on this draft amendment. The committee recommended that the board seek public review and comment on the draft amendment.

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18-16 Moved by Neil Peterson, seconded by Duane Willenbring, to approve the board order authorizing public review and comment. ***Motion passed on a voice vote.***

Chair Van Amburg recessed the board at 10:43am. Chair Van Amburg called the meeting back to order at 10:53am.

#### **Northern Region Committee**

**Koochiching County Comprehensive Local Water Management Plan** – Rich Sve presented the Koochiching County Comprehensive Local Water Management Plan (Plan) that was submitted for State review. The Northern Regional Committee (Committee) met March 7, 2018, to review the content of the Plan and state agency comments. The Committee recommended the Plan for approval by the full Board.

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18-17 Moved by Rich Sve, seconded by Neil Peterson, to approve the Koochiching County Comprehensive Local Water Management Plan. ***Motion passed on a voice vote.***

**Joe River Watershed District Revised Watershed Management Plan** – Neil Peterson presented the Joe River Watershed District Revised Watershed Management Plan. The Joe River Watershed District (JRWD) was established on January 31, 1958, and is located in the northwest corner of Kittson County. The JRWD has completed the planning process for its Revised Watershed Management Plan (Plan). The JRWD distributed its proposed Plan as required for final review and comment. The Northern Regional

Committee (Committee) met on March 7, 2018, to review the Plan and to make a recommendation for approval. The Committee recommended approval by the full Board.

The board discussed the importance of collaborating with other local government units in the Red River Basin. Ryan Hughes mentioned that the Two Rivers Watershed District staff wrote this plan on behalf of the Joe River Watershed District, and the possibility of a One Watershed, One Plan approach in the future. The board thanked BWSR staff for thorough talking points.

The board discussed the wording of the board order. The board also discussed the comments submitted by the Department of Natural Resources.

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18-18 Moved by Neil Peterson, seconded by Jill Crafton, to approve the Joe River Watershed District Revised Watershed Management Plan. ***Motion passed on a voice vote.***

**Annual Red River Basin Commission Grant** – Ryan Hughes presented the grant. In 2017, the Legislature appropriated funds to the Board for grants to the Red River Basin Commission (RRBC) for waters quality and floodplain management, including administration of programs. The Northern Regional Committee (Committee) met March 7, 2018, to review and discuss the RRBC 2017 Annual Report, the RRBC 2018 Workplan, the current status of the RRBC, and to make a recommendation of the Order authorizing the FY2018 grant to the Red River Basin Commission to the full Board. The Committee recommended approval by the full Board. No board members had a conflict of interest for this agenda item.

The board discussed slight modifications to the process for awarding the grant, and the board appreciated the inclusion of a work plan with this agenda item.

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18-19 Moved by Tom Schulz, seconded by Rich Sve, to approve the Annual Red River Basin Commission Grant. ***Motion passed on a voice vote.***

#### **Central Region Committee**

**Mille Lacs Priority Concerns Scoping Document** – Kevin Bigalke presented the Priority Concerns Scoping Document. On January, 24, 2007, the Board of Water and Soil Resources approved Mille Lacs County's Comprehensive Local Water Management Plan for a ten year period ending January 31, 2017, which was extended to December 31, 2018. On May 5, 2015, the county passed a resolution to begin the plan update process. On November 30, 2017, the Mille Lacs County Water Planner submitted the priority concerns scoping document to the state agencies for review. On March 8, 2018, the BWSR Central Committee reviewed the Mille Lacs County Comprehensive Local Water Management Priority Concerns Scoping document and recommended the full Board approve the draft letter finding the priority concerns identified to be appropriate and for the county to continue working on the development of the plan.

The board appreciated a survey that was incorporated into the Priority Concerns Scoping Document. There was a request from the board to discuss altered hydrology in more depth at a future meeting.

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18-20 Moved by Joe Collins, seconded by Duane Willenbring, to approve the Mille Lacs Priority Concerns Scoping Document. ***Motion passed on a voice vote.***

**Sherburne County Comprehensive Local Water Management Plan** – Kevin Bigalke presented the Sherburne County Comprehensive Local Water Management Plan. On May 23, 2007, the Board of Water and Soil Resources approved Sherburne County’s Comprehensive Local Water Management Plan for a ten year period ending January 31, 2017, which was extended to February 28, 2018. On July 7, 2015, the county passed a resolution to begin the plan update process. On August 28, 2016, the Sherburne County Water Planner submitted the priority concerns scoping document to the state agencies for review, which was affirmed by the BWSR on October 27, 2016. On March 8, 2018, the BWSR Central Committee reviewed the Sherburne County Comprehensive Local Water Management Updated Plan and recommended the full Board approve the updated plan through the approval of the Board Order.

There was concern expressed that the Executive Summary mentioned the overuse of pesticides and herbicides (see page 4), without citing evidence of such. If someone applies these off-label, there can be serious legal repercussions. Fertilizers do not have labels, but pesticides and herbicides do. The board also discussed the role of development in the county in the Local Water Management Plan. It is important that the Executive Summary accurately reflects the full plan.

Moved by Joe Collins, seconded by Jill Crafton, to conditionally approve the Sherburne County Comprehensive Local Water Management Plan, on the condition that the county makes an amendment to the language about overuse of pesticides or herbicides or a clarification by providing further information on the overuse of pesticides and herbicides in the county. ***Motion passed on a voice vote.***

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18-21

**Wright County Comprehensive Local Water Management Plan** – Kevin Bigalke presented the Wright County Comprehensive Local Water Management Plan. Wright County, which includes the North Fork Crow River, South Fork Crow River and Mississippi-St. Cloud major watersheds, developed their current Local Water Management Plan in 2006. Since that time, the County, in coordination with the Wright County Soil and Water Conservation District (SWCD), has focused its implementation efforts on 300 plus lakes, two major river systems and more than 34,000 wetlands. Both the County and SWCD have been active participants in the North Fork Crow River One Watershed, One Plan and identified a need to amend the Local Water Management Plan to better address the areas outside of that effort. The Central Region Committee met earlier this month to discuss the Amendment and recommended approval.

The North Fork Crow River One Watershed, One Plan has not been approved, but is currently out for a 60 day review and is scheduled to be in front of the board in June. If the North Fork Crow River plan does not come to fruition, BWSR could require Wright County to undertake a full plan amendment.

Moved by Joe Collins, seconded by Rich Sve, to approve the Wright County Comprehensive Local Water Management Plan. ***Motion passed on a voice vote.***

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18-22

**Riley-Purgatory-Bluff Creek Watershed District Boundary Change** – Kevin Bigalke presented the boundary change request. The Riley Purgatory Bluff Creek Watershed District filed a Petition dated September 18, 2017 with the Board of Water and Soil Resources (Board) to change the boundary of the Riley Purgatory Bluff Creek Watershed District, the Minnehaha Creek Watershed District, the Nine Mile Creek Watershed District, and the Lower Minnesota River Watershed District.

The territory included in the boundary change, the Petitioned Area, is located in Carver and Hennepin Counties entirely within the metropolitan area and totals approximately 2,171.32 acres of land. The

Petitioned Area is depicted on a map attached to the Petition and further identified in property identification tables attached to the Petition. On March 8, 2018, the Board's Central Region Committee and staff met in St. Paul to review and discuss the boundary change Petition. The committee voted unanimously to recommend approval of the boundary change to the full board, contingent on no hearing being requested. No hearings have been requested.

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18-23 Moved by Joe Collins, seconded by Duane Willenbring, to approve the Riley-Purgatory-Bluff Creek Watershed District Boundary Change. Jill Crafton abstained due to a potential conflict of interest.  
***Motion passed on a voice vote.***

### **Wetland Conservation Committee**

**Wetland Mitigation Fee Policy Addendum – Policies for Single-User Accounts and Stewardship of Large Mitigation Sites** – Les Lemm and Tim Smith presented the policy addendum. Staff have analyzed the outcomes of implementation of the Board's 2017 Wetland Mitigation Fee Policy, effective June 1, 2017, for unusually large wetland banks and single-user account transfers. Staff have concluded that, for unusually large transfers, a modified credit withdrawal fee schedule is justified due to lower agency costs. Similarly, staff have concluded that the current fee policy has the potential to over-collect the Easement Stewardship Fee for very large mitigation sites.

In order to address these less-common situations, staff prepared an addendum to the 2017 Wetland Mitigation Fee Policy. The purpose of this addendum is to use the flexibility provided in Minn. Stat. § 103G.2242, Subd. 14(b) to define the type, amount, and collection of fees associated with credit transfers of more than 100 wetland banking credits to a single-user account; and modify the determination and collection of the Easement Stewardship Fee for mitigation sites with easement areas in excess of 300 acres.

The board discussed that there are perpetual costs for easement stewardship, and it is important for BWSR to consider that in developing policies and fee structures. The board discussed the relationship between private wetland banks and mining. The board also discussed what type of entity would qualify as a single-user. The board also discussed slight wording changes recommended by staff.

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18-24 Moved by Tom Schulz, seconded by Neil Peterson, to approve the policy addendum, with an amendment to fix a typo. ***Motion passed on a voice vote.***

### **NEW BUSINESS**

**Nutrient Reduction and Climate Protection** – Frank Kohlasch, Minnesota Pollution Control Agency presented regarding the greenhouse gas benefits of various nutrient reduction practices. Minnesota's climate is changing, and the state is experiencing more extreme cold, more extreme rainfall, and increased numbers of heavy snowfall events. The state has not met the 2015 goals set out in the Next Generation Act to reduce greenhouse gas reductions and is not on track to meet the 2025 goals.

Nutrient reduction strategies could provide a net reduction in greenhouse gas emissions in Minnesota. The top eight strategies are the following:

1. Convert cropland to trees
2. Convert cropland to grass
3. Reduce nitrogen applied
4. Nitrification/urease inhibitors

5. No till tillage
6. Cover crops
7. Controlled release fertilizers
8. Reduced tillage

Implementation of nutrient reduction strategies could reduce greenhouse gas emissions in agriculture and land use sectors by about 10 percent. Greenhouse gas reduction is a co-benefit of nutrient reduction strategies – improved water quality is the principal driver of these strategies.

The Minnesota Nutrient Reduction Strategy looked at fertilizer efficiency improvements. Applying nitrogen at recommended rates decreases greenhouse gas emissions, while placing fertilizer lower in soil and using different timing for nitrogen applications increase greenhouse gas emissions. As a whole, fertilizer efficiency is a net greenhouse gas reduction strategy.

Another strategy is to increase and target living cover. Practices such as CRP with grass, cover crops, and riparian buffers would decrease greenhouse gas emissions. Conservation tillage is another strategy that reduces greenhouse gas emissions.

Constructed and restored wetlands may increase greenhouse gas emissions. This strategy deserves further study, as it may be possible to optimize constructed wetlands to maximize carbon storage and minimize methane release.

The board asked about the costs and benefits of implementing these proposals. The Minnesota Public Utilities Commission has determined a cost of carbon that could be used to calculate the scale and scope of climate benefits of some proposals.

The board discussed how the recommended rates for nitrogen application was determined. Peter Ciborowski from the MPCA explained that it was from a University of Minnesota survey and study. The board also discussed the use and development of the report.

Jill Crafton left the meeting at 12:30pm.

#### **AGENCY REPORTS**

**Minnesota Department of Agriculture** – Jeffrey Berg discussed how nitrates impact groundwater. He provided an update on the draft nitrogen fertilizer rule. The Department of Agriculture continues to draft the rule, with a statement of need and reasonableness. The timeline is that the rule may be ready for the governor’s signature by the end of the year.

**Minnesota Department of Health** – no report was provided.

**Minnesota Department of Natural Resources** – Commissioner Tom Landwehr provided a report to the board. Aquatic invasive species such as zebra mussels are increasing water clarity in some lakes in Minnesota. They are also changing the fish community. This has been seen in lakes such as Mille Lacs, where young walleyes are struggling to thrive. The DNR has been working with the Wright County SWCD to do a boat inspection program. This has been a controversial program. A permit application from the diversion authority for the Fargo-Moorhead diversion project has been submitted to the DNR, and is being reviewed. PCA and DNR, with assistance from the Attorney General, came to an agreement with

3M to deal with groundwater contamination. One part of the agreement is to put in fishing piers where people can fish without worrying about PFC (perfluorinated chemicals) contamination in fish.

**Minnesota Pollution Control Agency** – Terry McDill provided a report to the board. She discussed a local government roundtable work group meeting to address the Environmental Protection Agency (EPA) plan to use 319 funds for smaller watershed areas. PCA received a governor’s award for the watershed approach. She also mentioned the importance of agencies working together to make the watershed approach a success.

**ADVISORY COMMENTS**

**Association of Minnesota Counties** – no report was provided.

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

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

**Minnesota Association of Townships** – Nathan Redalen reported about the Township Day at the Capitol. One issue that came up was how to properly tax electric cars to fund road projects.

**Minnesota Association of Watershed Districts** – no report was provided.

**Natural Resources Conservation Services** – no report was provided.

Hannah Pallmeyer shared with the board that the August 2018 board tour will likely be in southwestern Minnesota.

**UPCOMING MEETINGS**

- Next BWSR Meeting is scheduled for 9:00am, April 25, 2018 in St. Paul.

Chair Van Amburg adjourned the meeting at 12:47 PM.

Respectfully submitted,



Gerald Van Amburg  
Chair