Drainage Work Group Meeting Notes

October 12, 2023

11:00AM -2:00PM

MN Farmers Union

305 Roselawn Ave E

St. Paul, MN

*Attendees (in person): Tom Gile, Travis Germundson, and Rita Weaver, BWSR, Chris Otterness Houston Engineering, Ashlee Ricci Rice Creek WD, Doug Krueger MRC-McLoed Co., Bill Petersen RRWMB, Jan Voit MW, Merissa Lore MADI, Allen Perish MFU, Ted Suss FMV-IWLA, Mark Dettere MDA, Don Arnosti FMU, Warren Fommo MAWRC, Craig Austinson and Ryan Hinker Blue Earth Co., Jacob Rischkmiller ISG, Chuck Holtman Smith Partners, Molly Jansen RRWMB/PSP, Alex Trunnell MN Cron Growers, Kaythlin Bemis Farm Bureau, Carly Griffith MCEA, Randall Doneen DNR (on line attendees)*, April Swenby Sand Hill River WD, Bruce Kleven, Byron Haley and Tim Gieseke DNR, Paul Gardner MPCA, Greg Holmvik RRWMB, Mark Hiles and Jill Crafton BWSR, Kaytlin Bemis BRRWD, Kevin Paap AMC, Linda Vavra MW, Lukas Croaker and Kristine Altrichter *BdSWD*, Mark Manderfeld, Brian Martinson AMC, Myron Jesme *Red Board*, Randy Kramer AMC

Sharing of Information on upcoming drainage related events:

* MN Watersheds Annual Conference Nov 28-Dec 1, Arrowwood Conference Center Alexandria, MN – Agenda going out next week. John Kolb with Rinke Noonan will be providing a presentation on drainage appeals along with drainage funding and case law at a drainage workshop session on Nov 29.
* AMC Annual Conference Dec 4 – Dec 6 Hyatt Regency Minneapolis, MN- The conference is not drainage focus.
* It was mentioned that the Water Resources Conference is next week and there will be a panel discussion on adequate outlet. In addition, there will be online meetings (Oct 30 and 31st) regarding storage program changes including planning and how to incorporate 103E into improvements.

Notification Requirements and Recommendations:

* AMC/MN Watershed Communication:

Discussed AMC/MN Watersheds joint memorandum on drainage notification proposal regarding the willingness to follow current statutory notice requirements and opposition to the proposed portal concept. The memo identified a desire by both AMC and MN Watershed to work through notice requirements and improvement to the drainage processes. The portal is going to be challenging since no drainage authorities wants to do a portal, according to Jane Voit with MW. A comment was made that mail notice is still the best way to reach landowners. There is an obligation to the system and all people that are serviced by the systems to be notified. Jane V. indicated that drainage authorities can put something on their websites but not on a statewide portal. There needs to be consistency and meaningful way to have access to this information. The purpose is to have better water management decisions (better noticing so more perspectives are brought to these projects). It was mentioned that the benefits of a centralized notification process are to allow the broader public the ability to address cumulative impacts. The goal of collaboration not confrontation. Brian Martinson AMC and Jane Voit MW agree to put together a subgroup to discuss options and potentially come up with a consensus. There is some sentiment regarding the need to put something together to bring back to the legislature.

(General Consensus) Improvement to access is not the argument but rather the method is the debate. It was generally agreed upon that the public should have some access to this information. There was agreement that the portal may not be the solution, but boarder notification can be addressed through other measures. There is interest in assembling a small group to have a dialog on general noticing and the portal piece. It was agreed that the group would consist of: Carly Griffith MCEA, Don Arnosti FMU, Ted Suss FMV-IWLA, Jane Voit MW, Brian Martinson AMC, Alex Trunnell MN Cron Growers, and Randle Doneen DNR. Jane V. offered to facilitate discussion among the small group and report back to the DWG. Tom G. will set up a subgroup email chain consisting of those individuals.

* Concept for Notification Section in 103E

Concept for Notification in Section 103E mockup was discussed with the group. It contains three categories on notification requirements including 1) published, 2) written, and 3) mail. It’s designed so that if change happens to notification methods you can go to one place in the statute. The individual sections on noticing would identify who the notice goes to, but the method would live in the main section under noticing (example 103E.033 (would be created in statute)). Chuck Holtman Smith Partners provided information on due process and why it’s important. There is a desire to make sure that details are in place to ensure proper alignment with due process requirements. The main goal in presenting this concept was to generate some reaction.

(General Consensus) The group was comfortable with building this centralized noticing concept out per draft 103E.033 example. Tom will have a general notification draft ready for the next DWG meeting in November.

Runoff and Sediment Repair Cost Apportionment

A presentation was provided by Ashlee Ricci with Rice Creek WD and Chris Otterness with Houston Engineering on how RCWD has used the Runoff Based Repair Cost concept for assessments. Changes to the landscape is not specifically addressed in a redetermination. Charges based on share of water discharge system (who contributes vs. who benefits). Nine locations across the district have utilized this formula. The charge is based on the amount of runoff x acreage of the parcel. The annual runoff curve number from SCS is used. The calculation is very GIS driven. This can work well in Ag areas but it’s not a replacement for viewing. There was a fair amount of interest and questions from the group and the presentation was well received. This brings up the value of this concept and extending this option in statute before it sunsets.

Outlet Adequacy

Rita Weaver provided a status update and overview on where things are currently at. The process started back in the spring with five in-person meetings and four virtual meetings. So far, the group has gotten through the first round of comments and a portion of the second round. There is not going to be a consensus on everything, but rather a summary of differing sides/opinions. The draft report will be out before the November meeting and will reference what to include in the drainage law. There was consensus on the definition of an outlet and adequate but not together. Definitions may be incorporated into statute, but the process may be more of inline of changes to the drainage manual. The DWG needs to decide on next steps. The amount of available time and having on certain folks (area of interest) in the workgroup was the reason why things didn’t come to a consensus. There needs to be further dialog on what other work needs to happen.

Homework assignment for the next meeting:

Read through statute sections 103E.261 Sub. 4 and 103E.015 Sub. 1, Tom G. would like to dive into a legal debate at the next meeting to find common ground.

Next DWG Meeting Date

Next DWG meeting, 11:00 a.m. - 2:00 p.m., Thursday November 16, 2023

IN PERSON @ ST Cloud. MN DOT Training Facility

2:00 Adjourn