

**BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD NORTH
LOWER-LEVEL BOARD ROOM
ST. PAUL, MN 55155
THURSDAY, DECEMBER 19, 2024**

BOARD MEMBERS PRESENT:

Joe Collins, Jill Crafton, Jayne Hager Dee, Mike Runk, Neil Peterson, Rich Sve, Lori Cox, Ted Winter, LeRoy Ose, Kelly Kirkpatrick, Eunice Biel, Todd Holman, Ron Staples, Tom Schulz, Glenn Skuta, MPCA; Joel Larson, University of Minnesota Extension; Jeff Berg, MDA; Steve Robertson, MDH; Sarah Strommen, DNR

BOARD MEMBERS ABSENT:

Mark Zabel

STAFF PRESENT:

John Jaschke, Rachel Mueller, Tom Gile, Travis Germundson, John Shea, Brett Arne, Shane Bugeja, Denise Lauerma, Dave Weirens, Luke Olson, Melissa King, Suzanne Rhees, Anne Sawyer, Marcey Westrick, Michelle Jordan, Craig Engwall

OTHERS PRESENT:

Brian Martinson, AMC; Jan Voit, Minnesota Watersheds; Sheila Vanney, MASWCD; Holly Bushman, Le Sueur County; Emily Heinz, Comfort Lake Forest Lake WD; Alex Trunnell, MN Corn; Dee McDaniels, Dakota County; Erin Spry, City of Vadnais Heights; Blayne Eineichner, Tim Kelly, Sara Boser

Chair Todd Holman called the meeting to order at 9:01 AM.

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24-55

MINUTES OF OCTOBER 23, 2024 BOARD MEETING – Moved by Ron Staples, seconded by Joe Collins, to approve the minutes of October 23, 2024, as amended. *Motion passed on a roll call vote.*

PUBLIC ACCESS FORUM

No members of the public provided comments to the board.

INTRODUCTION OF NEW STAFF

Marcey Westrick introduced Cameron Gaspord, Outcomes Analyst.

CONFLICT OF INTEREST DECLARATION

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

REPORTS

Chair & Administrative Advisory Committee – Chair Todd Holman reported he attended the EQB meeting, stated they will be developing bylaws and approval was given to update the alternative feed lot application.

Executive Director’s Report - John Jaschke reported Minnesota Watersheds, Soil Water and Conservation Districts, and AMC held their annual conferences. Several awards were provided to different organizations and individuals. Rachel will send out a link with the winners of those awards.

There was an updated fiscal forecast for state government, slightly positive in the current biennium and negative in the years beyond. Another forecast will be provided in February. John highlighted the federal funding elements being worked on. Stated they are meeting and consulting with Tribes. Tribal-State Relations Training is available to board members if they are interested.

John thanked Kelly Kirkpatrick for her service on the board.

John reviewed the day of packet that included a technical update in the CWF board order and Tribal update.

Audit and Oversight Committee – Joe Collins reported they have not met. They are planning a meeting in January and will be talking about Performance Review and Assistance Program (PRAP).

Dispute Resolution and Compliance Report – Rich Sve reported they have not met. Travis Germundson reported there are no new appeals and one appeal pending for a restoration order for a property in Beltrami County. Stated they will be having three appeals coming in the next month. Travis provided a buffer compliance status update. Stated end of year reporting is due this January and compliance numbers will be incorporated into the BuffCAT Tracking Tool. Stated the Buffer APO Plan update is on the agenda for today.

Lori Cox stated when looking at the buffer compliance updates, when you see they're stagnant, she asked if there are timeframes attributed to some of those noncompliance orders. Travis stated there are not hard and fast timelines, stated it's up to the County Attorney to prioritize.

Grants Program & Policy Committee – Marcey Westrick reported a recommendation was made for the Clean Water Fund Competitive Grants, which is on the agenda for today. There were some informational items presented on Soil Health and Water Quality Storage Regional Conservation Partnership Program (RCPP). The next meeting is in January.

RIM Reserve Committee – Jayne Hager Dee reported they have not met.

Water Management & Strategic Planning Committee – Joe Collins reported they have not met.

Wetland Conservation Committee – Jill Crafton reported they met November 26th and are going through the rules, they will have another meeting in January.

Buffers, Soils & Drainage Committee – LeRoy Ose reported they met, and Tom Gile will provide more details. Tom Gile reported there is an item on the agenda for today. Stated they will be making revisions to the Buffer Procedure #7, which is a procedure established for failure to implement.

Drainage Work Group (DWG) – Neil Peterson reported they have met twice since our last meeting and will be meeting again in January. They are working through some items to change the Minnesota Public Drainage Manual. Tom Gile stated he is optimistic there will be a recommendation to move forward with a repeal of 103E.067, which is the drainage law related buffer strip reporting requirements. After the next committee meeting, they will be providing a recommendation to the board for adoption and maintenance of the Minnesota Public Drainage Manual.

AGENCY REPORTS

Minnesota Department of Agriculture – Jeff Berg reported he attended the SWCD and WD conferences. Minnesota has a draft Minnesota Aquaculture Plan that is out for public comment and will be presented to the legislature this session. Stated they have resiliency grants available to help livestock farmers and specialty crop farmers with bad weather events. Green fertilizer grants are also open. The soil health equipment grant applicants have been selected. Commissioner Petersen was in southeast Minnesota earlier this week talking about the nitrate EPA petition.

Lori Cox asked if the Minnesota Department of Health was involved in the Green Fertilizer Program and the grant. Jeff stated they were not involved, and they worked with the University of Minnesota Morris.

Minnesota Department of Health – Steve Robertson reported that on Monday partners gathered to celebrate the past half century of drinking water protection as the Safe Drinking Water Act was signed into law 50 years ago. Stated the Clean Water Council will be bringing forward policy statements to the legislature. There are two principal ones, and one entitled the Advanced Drinking Water Protection Policy. The policies acknowledge that private wells provide drinking water for a significant fraction of the state's population, and they face challenges of quality and quantity and need more support.

John Jaschke stated one of the private well considerations is the abandonment of private wells and the potential harm to groundwater. Steve stated that filling of old abandoned wells is currently required under the Minnesota Well Code. Sometimes they can get lost or forgotten and it is a priority of a variety of other programs to try and address those.

Minnesota Department of Natural Resources – Sarah Strommen reported they are highlighting some of their work from the last year and a list is available on their website. Stated with the aquatic habitat projects across the state they restored 26,000 acres of lake habitat, more than 3,800 feet of shoreline along lakes, rivers, and streams, 175 wetlands and wildlife management areas, they also reconnected 120 miles of stream habitat throughout the state. Stated they are in the 10-year cycle when they update conservation status rankings for native plants and animals in preparation for the update of the state Wildlife Action Plan. In that work this past year, their team along with others discovered 15 plant and animal species not previously known to occur in Minnesota. Stated they completed the comprehensive planning and decisions about where the Get Out More funding will be allocated.

Minnesota Extension – Joel Larson reported the Minnesota Climate Adaption Partnership has released a series of regional climate studies for 9 areas across the state, information is available online. They are in the process of awarding funds for urban stormwater research work. This is part of a series of funding provided by the Clean Water Funds. Stated the University of Minnesota Morris is the leader in green fertilizer work. They are working on developing community engagement efforts for areas that may be suitable for production of green fertilizer and are looking at potential impacts and benefits of that production.

Stated the Minnesota Sea Grant based in Duluth, but also in the Twin Cities campus, have been doing work the past several years on aquaculture production and specifically on yellow perch production.

Jill Crafton asked if the perch are domesticated. Joel stated its small scale, and they maintain closed systems to prevent any potential water quality impacts from inadvertent releases.

Minnesota Pollution Control Agency – Glenn Skuta reported the feedlot general permits were on public notice this fall. They received almost 200 comments and intend to issue the permits in January. Stated MPCA and MASWD awarded the annual Community Conservation Award to Robyn Dwight of Keep it Clean. Stated the recommendations for the Clean Water Fund will be presented to the legislature.

ADVISORY COMMENTS

Association of Minnesota Counties – Brian Martinson reported they had their annual conference last week. Had two conservation awards this year, one to Goodhue County and one to Kandiyohi County. AMC has been involved in workgroups organized by BWSR staff including a group on Local Road Wetland Replacement funding. They explored some new proposals on how to help fund that program. They have been engaged in the wetland conservation act rule making discussions. They have prioritized continued efforts on water storage and flood mitigation efforts. Stated they received a slight increase in funds for the Natural Resources Block Grant that they're hoping they can maintain what was gained in the last biennium.

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

Minnesota Association of Soil & Water Conservation Districts – Sheila Vanney reported their annual convention took place and had record attendance. Their Legislative committee met this week to start drafting a platform for the 2025 session, Soil and Water Conservation District Aid is going to be one of their priorities.

Minnesota Association of Townships – Eunice Biel reported they had their annual conference in St. Cloud. Township Day at the Capitol will be on Monday, January 27th where all Township officers are invited to join.

Minnesota Watersheds – Jan Voit reported they had their annual conference and had record attendance. Appreciate all the BWSR staff that helped. They also had their annual business meeting and have set their legislative priorities for 2025. Their legislative briefing will be held on February 19th.

Jill Crafton stated she appreciated all the state agencies that attended the annual conference.

Natural Resources Conservation Service – No report was provided. John Jaschke stated he met with Troy Daniell and talked about the federal agreements, the Technical Training and Certification Program, and about upcoming national meetings.

Chair Holman stated the National Association of Conservation Districts (NACD) annual conference is in Salt Lake City, Utah in February.

COMMITTEE RECOMMENDATIONS

Grants Program and Policy Committee

CWF FY 25 competitive grant application recommendations – Marcey Westrick presented CWF FY 25 competitive grant application recommendations.

On June 26, 2024 the Board adopted Board Order #24-33 which authorized staff to conduct a request for proposals from eligible local governments for Clean Water Fund projects in the following program categories: Projects and Practices, Drinking Water, and Accelerated Implementation. Applications for the FY2025 Clean Water Fund Competitive Grants were accepted from June 28 through August 22, 2024. Local governments submitted 66 applications requesting \$20,682,760 in Clean Water Funds. BWSR staff conducted multiple processes to review and score applications and involved staff from other agencies to develop the proposed recommendations for grant awards per the attached board order.

Lori Cox asked if projects would get postponed if there were project changes. Marcey stated she doesn't anticipate that but couldn't say for certain and would need to follow-up. Stated these grant funds are for three years with a possible extension beyond that. They anticipate that the projects that are presented are ready to go.

Glenn Skuta asked about the dollar amounts being allocated not matching. Marcey stated that estimates are used for the RFP.

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24-56

Moved by LeRoy Ose, seconded by Joe Collins, to approve the CWF FY 25 competitive grant application recommendations. ***Motion passed on a roll call vote.***

Chair Holman called a recess at 10:35 AM and called the meeting back to order at 10:46 AM.

Administrative Advisory Committee

Local Water Plan Extension and Amendment Policy – Rescindment – Michelle Jordan presented Local Water Plan Extension and Amendment Policy – Rescindment.

The Board previously adopted a Local Water Plan Extension and Amendment Policy on December 18, 2019 (Board Order #19-69) to provide administrative flexibility for partners to transition to the One

Watershed, One Plan program and allow for effective participation and use of the Minnesota Pollution Control Agency's Watershed Restoration and Protection Strategies (WRAPS).

The Local Water Plan Extension and Amendment Policy has been found to be unnecessary due to prior Legislative Session revisions, specifically 2024, to Minnesota Statutes Chapters 103B, 103C, and 103D and the agency has authority for plan extension approvals through Minnesota Statutes §103B.3367 and authority for plan amendment approvals through the applicable Minnesota Statute Chapters 103B, 103C, 103D and Board Orders.

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24-57 Moved by Joe Collins, seconded by Ted Winter, to approve the Local Water Plan Extension and Amendment Policy – Rescindment. *Motion passed on a roll call vote.*

Local Water Plan Status and Grant Eligibility Policy – Rescindment – Brett Arne presented Local Water Plan Status and Grant Eligibility Policy – Rescindment.

The Local Water Plan Status and Grant Eligibility Policy has been found to be unnecessary due to prior Legislative Session revisions, specifically most recently in 2024, to Minnesota Statutes Chapters 103B, 103C, and 103D and the agency utilizes external and internal procedures developed and implemented consistent with Board Orders, Minnesota Statutes, Legislative appropriations, and Office of Grants Management policies that address the requirements of the Local Water Plan Status and Grant Eligibility Policy. The policy is duplicative with the agency requirements completed in accordance with Minnesota Statutes §103B.102, Subd. 3 and 4 (Local Water Management; Accountability and Oversight) that provide for the evaluation, reporting, and corrective actions for each local water management entity under Minnesota Statutes Chapters 103B, 103C, 103D, or 103G and chapter 114D.

Ted Winter asked how this impacts metro areas, asked if they have their own water plans. John Jaschke stated metro areas have plans and could participate via 1W1P but most of them won't.

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24-58 Moved by Joe Collins, seconded by Jayne Hager Dee, to approve the Local Water Plan Status and Grant Eligibility Policy – Rescindment. *Motion passed on a roll call vote.*

Board Order Delegating Certain Authorities to the Executive Director – Craig Engwall presented Board Order Delegating Certain Authorities to the Executive Director.

Previously, the Board has delegated various authorities to the Executive Director in numerous Board Orders, Resolutions and Policies spread out over many years. The variety of these delegations in a range of formats may create difficulty in tracking delegated authorities, causing confusion for interested parties and reducing overall agency efficiency. It is in the interest of the Board, staff, Local Governmental Units (LGUs), partners and the public for the Board to consolidate and clarify the authorities delegated to the Executive Director. The Board's Senior Management Team reviewed this Board Order on October 1, 2024, and October 22, 2024, and recommended approval of this item. The Board's Administrative Advisory Committee reviewed this Board Order on November 21, 2024, and also recommended approval of this item to the Board.

Lori Cox asked where the orders are being consolidated to. Craig stated it will be housed with our other orders. John stated this is for record keeping having them all in one order. Lori asked if some of these are day to day decisions and not what always comes to the board. John stated they are for things that are administrative in nature or have been delegated by the board. Lori asked if anything would need to

be discussed, added, or changed in the bylaws with this. John stated we wouldn't need to look at the bylaws for this item.

Jill Crafton agrees this will help streamline decisions.

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24-59 Moved by Joe Collins, seconded by Ron Staples, to approve the Board Order Delegating Certain Authorities to the Executive Director. *Motion passed on a roll call vote.*

Buffers, Soils, and Drainage Committee

Buffer Administrative Penalty Order (APO) Plan update – LeRoy Ose and Tom Gile Buffer Administrative Penalty Order (APO) Plan update.

In 2024, the Legislature made changes to Minnesota Statutes § 103B.101, subd. 12, and 12a, on the authority to issue penalty orders. The changes increased the monetary penalties from up to \$500 to \$10,000 for noncompliance. The amendment to statute also clarifies that all or part of the penalty may be forgiven. The Administrative Penalty Order (APO) Plan for Buffer Law implementation, previously approved via Board Resolution No. 17-60, is amended to provide revised procedures for issuance of APOs for counties, watershed districts, and BWSR under the Buffer Law. The penalty range in the plan was adjusted to account for the increase in monetary penalties along with other minor wording changes.

The Board has the statutory authority to amend the Buffer APO plan and publish in the State Register. This will require counties and watershed districts that elected jurisdiction to amend their ordinances and rules to be consistent. The Buffers, Soils & Drainage Committee met on October 22, 2024 and recommend to the full Board that the APO Plan as amended be approved per the attached APO Plan and Board Order.

Lori Cox asked about the date and if we adopt today, can staff publish to the State Register and then its effective 30 days after. Tom stated that is correct and depends on the timing of when we're able to get it in the State Register for that announcement. Lori asked if they get posted in a timely manner. Tom stated they work as swiftly as possible.

Ron Staples asked if there was a timeline for the counties to change their ordinance to adopt this. Tom stated they'll be working with AMC and MN Watersheds to discuss a reasonable timeline.

Joe Collins asked about the counties in the Watershed District choosing the administrative enforcement. Tom stated the buffer law is permissive as to the mechanism for enforcement by counties or watershed districts.

Ron Staples asked if the APO can be forgiven by the LGU. Tom stated the APO is forgivable at the discretion of the enforcement entity.

Jeff Berg asked what's been done and will be done to public notice the increase in fines and the forgiveness part at a landowner level. Tom stated it will be noticed in the State Register, they will work with AMC and Watershed District staff, and will have roll out of the administrative penalty order posted on the agency website.

Ron Staples asked if the penalty is per parcel. Tom stated that is correct.

Lori Cox asked if those that are currently in noncompliance would be put into a new or revised order. Tom stated the existing order associated with the parcel would remain in effect.

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24-60

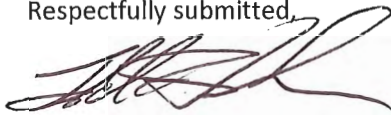
Moved by Ted Winter, seconded by Joe Collins, to approve the Buffer Administrative Penalty Order (APO) Plan update. ***Motion passed on a roll call vote.***

UPCOMING MEETINGS

- Northern Region Committee is scheduled on January 6th at 9:30 a.m. in Bemidji and by MS Teams.
- Grants Program and Policy Committee is scheduled for January 13th in St. Paul and by MS Teams.
- BWSR Board meeting is scheduled for January 22nd at 9:00 a.m. in St. Paul and by MS Teams.

Chair Holman adjourned the meeting at 11:31 AM.

Respectfully submitted,



Todd Holman
Chair