

Minnesota Board of Water and Soil Resources. Minutes.

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, JANUARY 26, 2011

BOARD MEMBERS PRESENT:
Paul Brutlag, Bob Burandt, Christy Jo Fogarty, Quentin Fairbanks, Rebecca Flood, MPCA; Sandy Hooker, Paul Langseth, John Meyer, Keith Mykleseth, Brian Napstad, Rob Sip, MDA; Faye Sleeper, MES; Louise Smallidge, John Linc Stine and Dan Wilson, MDH; Gene Tiedemann, LuAnn Tolliver

BOARD MEMBERS ABSENT:
Tom Loveall
Joe Martin
Larry Kramka, DNR

STAFF PRESENT:
Mary Jo Anderson, Julie Blackburn, Don Buckhout, Bill Eisele, Travis Germundson, Dan Giralomo, Jim Haertel, Al Kean, John Jaschke, Sherri Johnson, Kevin Lines, Tom Wenzel, Steve Woods, Brad Wozney

OTHERS PRESENT:
Perry Forster, Riley Purgatory Bluff Creek WD
Mark Enochs, Riley Purgatory Bluff Creek WD
LeAnn Buck, MASWCD
Ray Bohn, MAWD
Steve Chaplin, TNC
Tom Landwehr, DNR

Chair Napstad called the meeting to order at 9:00 a.m.

PLEDGE OF ALLEGIANCE

** 11-01 **ADOPTION OF AGENDA** – Moved by Paul Brutlag, seconded by Quentin Fairbanks, to adopt the agenda as presented. Chair Napstad stated that two additional agenda items have been added to the agenda: DNR Commissioner Landwehr is scheduled to arrive at the meeting at 9:45 a.m.; and recognition of Dan Wilson. Motion passed on a voice vote.

** 11-02 **MINUTES OF DECEMBER 15, 2010** – Moved by Paul Langseth, seconded by Sandy Hooker, to approve the minutes of December 15, 2010, as circulated. Motion passed on a voice vote.

INTRODUCTION OF NEW BWSR EMPLOYEE – Bill Eisele introduced Sherri Johnson, Office & Administrative Specialist, in the St. Paul office. Chair Napstad welcomed Sherri to the Board.

RECOGNITION OF SERVICE - John Jaschke and Chair Napstad recognized Dan Wilson for his service to BWSR and the citizens of Minnesota, presented him with a plaque, and wished him well in his retirement. Dan has represented the Minnesota Department of Health for many years as a Board Member and Alternate.

REPORTS

Chair's Report – Chair Napstad reported that he attended the Northern Water Planning Committee meeting on January 12th. He attended an LGU meeting regarding PRAP; more on that later in the meeting. Chair Napstad reported that the Administrative Advisory Committee (AAC) met this morning and elected to perform the executive director's annual review. Chair Napstad stressed the importance of board members' participation in this process. Chair Napstad will meet with Bill Eisele and follow the review process that is in place. Bill Eisele will send review forms to board members; Chair Napstad asked that board members complete the review forms and return them to Bill Eisele. Chair Napstad and Vice Chair Brutlag will meet with John Jaschke to perform his review. Louise Smallidge reminded the Board of the value of their comments. Chair thanked board members in advance for their cooperation in this matter.

Executive Director's Report – John Jaschke reviewed the information in board members' packets:

- Two memos to Chair Napstad from John Jaschke regarding technical corrections to two December 2010 Board resolutions

- 2010 Southern Minnesota Flood Relief – Minnesota Recovers Task Force Allocation Strategy
- Watershed & County Water Plan Revision Status Maps
- Updated Board Member Listing
- Updated Board Member Map
- Updated BWSR Committee listing
- "BWSR Snapshots" Newsletter with two highlighted projects
- IRS Mileage Rate – increase from 50.0 cents per mile to 51.0 cents per mile, effective January 1, 2011
- Water Management Districts – Guidelines for Watershed Districts Creating and Implementing Water Management Districts
- BWSR FY2010-2011 Clean Water Fund highlights factsheet
- Reinvest in Minnesota (RIM) – Wetlands Reserve Program (WRP) Leveraging Project factsheet
- Minnesota Center for Environmental Advocacy (MCEA) Report and BWSR's response letter from John Jaschke, on behalf of BWSR, stating BWSR's opinion. John stated that this may be perceived or described as an audit; it is not an audit, it is MCEA's analysis and opinion. BWSR is following statute as directed on nonpoint source pollution, although MCEA has a different opinion.
- Clean Water Council's FY12-13 Proposed Clean Water Fund Activities and budget and outcomes Committee Recommendations - Keith Hanson mentioned this during his presentation at the BWSR Meeting on December 15, 2010.

John Jaschke briefly commented on BWSR's voluntary Land Management Report prepared to buttress MMB legislatively directed report. John attended the Red River Basin Commission Land & Water International Summit Conference last week in Fargo. John reported that the Office of Grants Management provided preliminary support for waivers as requested. John reported that the Walk-in Pilot Hunting Program is underway with BWSR and DNR working jointly on this program. John reported that the Clean Water Framework and the State Water Plan are both complete as being presented. John reported that BWSR received a petition from Scott County to shift managers on the Lower Minnesota River Watershed District; that petition was withdrawn. An establishment petition was received from Wilkin County requesting establishment of the Lower Otter Tail River Watershed District.

Chair Napstad reported that the Administrative Advisory Committee discussed the establishment petition at length. BWSR will maintain and adhere to the statutory process that is in place when addressing the establishment petition received from Wilkin County requesting establishment of the Upper Red Lower Otter Tail Watershed District.

Dispute Resolution Committee – Travis Germundson reported that three new appeals have been received since the last report in December. 1) #10-16: a forestry exemption decision in Carlton County; the appeal remanded back to Carlton County.
2) #11-01: an appeal in Hennepin County regarding filling a wetland; no decision made.
3) #11-02: an exemption appeal in Waseca County, no loss exemption remanded back to process. Travis provided an update on appeal #09-10 regarding a restoration banking plan in Aitkin County; the plan has been placed in abeyance. Travis reported that a recent Court of Appeals decision was made on appeal #09-29 regarding a replacement plan in St. Louis County. The Court of Appeals denied the appeal (BWSR and the LGU also denied the appeal). Chair Napstad thanked Travis for his report.

Wetlands Committee – LuAnn Tolliver reported that the Wetlands Committee met on January 12th, the Committee recommendations are on the agenda later today.

Grants Program & Policy Committee – Louise Smallidge reported that the Grants Program & Policy Committee has not met. Louise apologized for not attending the last meeting as she was out with pneumonia.

Public Relations, Outreach & Strategic Planning Committee – Keith Mykleseth reported that the Committee has not met; but looking to meet in March after the March 23 Board meeting.

RIM Reserve Planning Committee – Paul Brutlag reported that sign-up for the $10M in state funds and $16M in federal funds received for flooding in southern Minnesota is underway.

Drainage Work Group – Al Kean reported that the Drainage Work Group met on January 6, 2011. Topics discussed at the meeting: MN Drainage Law Analysis and Evaluation; overviews of upcoming drainage education and venues; and transfer of drainage systems from counties to watershed districts. Al reported that the next Drainage Work Group meeting will be after the Legislative Session, possibly in June 2011. Al reported that he and Loren Engelby, Kandiyohi County Drainage Manager, developed a brochure "Redetermination of Benefits and Damages for Drainage Systems". The brochure is on BWSR's website. Chair Napstad thanked Al for the report.

Administrative Advisory Committee – Brian Napstad reviewed the agenda from the meeting and reported that BWSR has not yet received updated budgeting guidance.

COMMITTEE RECOMMENDATIONS
Metro Water Planning Committee
Riley Purgatory Bluff Creek Watershed District Revised Watershed Management Plan – Brad Wozney reported that the Metro Water Planning Committee met on January 5, 2011, after review of the information, the Committee voted unanimously to recommend approval of the Riley Purgatory Bluff Creek Watershed District Revised Watershed Management Plan. Brad reported on the highlights of the revised Plan. Brad introduced Perry Forster, President; and Mark Enochs, District Engineer. Mr. Forster acknowledged the great efforts of Brad Wozney and Jim Haertel for their assistance on the Plan.

** 11-03 Moved by LuAnn Tolliver, seconded by John Meyer, to approve the Riley Purgatory Bluff Creek Watershed District Revised Watershed Management Plan. LuAnn commended the managers for their involvement; and the application of a scorecard to regularly assess District performance with the Plan implementation and short and long term goals. Chair Napstad stated that he's impressed with the public outreach on this Plan. John Jaschke reported that he attended the Metro Water Planning Committee meeting; two managers and a citizen advisory committee member made a presentation on the history and guiding principles of the District and highlights of the implementation section of the revised Plan. Citizen input and the involvement of the cities is reflected in this Plan. LuAnn stated that the implementation of the work plan now begins. Motion passed on a voice vote. Chair thanked Brad for his report and thanked Mr. Forster and Mr. Enochs for attending the meeting today.

INTRODUCTORY REMARKS FROM DNR COMMISSIONER TOM LANDWEHR – Chair Napstad congratulated and welcomed Tom Landwehr, newly appointed DNR Commissioner. Commissioner Landwehr stated that he has a long relationship with BWSR and he appreciates the great ability BWSR has to work with landowners on behalf of conservation. He looks forward to a good working relationship with BWSR in the future and hopes to strengthen the collaborative relationship in conservation efforts, and thanked BWSR for their support. Chair Napstad reported that DNR has worked closely with BWSR over the years and he acknowledged the valued contributions from DNR representatives Larry Kramka, board member, and Wayne Edgerton as alternate. Chair Napstad also looks forward to continued efforts. John Jaschke stated that he was in the Red River Valley last week and several local governments asked John to convey thanks to Tom Landwehr for his and the Governor's attention to their issues. Commissioner Landwehr appreciates the tremendous opportunities in working with BWSR, federal, and private lands, critical components of conservation.

COMMITTEE RECOMMENDATIONS

Northern Water Planning Committee

Quentin Fairbanks reported that Northern Water Planning Committee met on January 12, 2011. The Wadena County Local Water Plan will be on an upcoming BWSR Board meeting agenda after Wadena County holds their public meeting.

Clay County Local Water Management Plan Amendment – Quentin Fairbanks reported that the Northern Water Planning Committee reviewed the Clay County Local Water
** Management Plan amendment and recommends approved. Moved by Quentin Fairbanks,
11-04 seconded by Keith Mykleseth, to approve the 2010 amendment to the Clay County Local Water Management Plan. Clay County will be required to provide a complete update of its Water Management Plan prior to December 31, 2015. Motion passed on a voice vote.

Grant County Local Water Management Plan Amendment – Keith Mykleseth reported that the Northern Water Planning Committee reviewed the Grant County Local Water
** Management Plan amendment and recommends approval. Moved by Keith Mykleseth,
11-05 seconded by Quentin Fairbanks, to approve the 2011 – 2015 amendment to the Grant County Local Water Management Plan. Grant County will be required to provide for a complete update of its Water Management Plan prior to December 31, 2015. Discussion followed. Faye Sleeper requests priority concerns summarized in one page for board members; and encouraged board members to request a copy of the full plan when needed for review rather than sending this to all board members. Louise Smallidge stated that the work of the Committee is to review all the details of the water plans thus minimizing the paper information before the Board and the Committee makes the recommendation to the Board. Paul Langseth suggested a standardized format/checklist for points of information on the five year plans that are provided to board members. Chair Napstad directed John Jaschke to discuss with staff a process to generate Board background information without overload of too much information. Motion passed on a voice vote.

John Linc Stine needs to leave the meeting; he wanted to formally commend Dan Wilson on the well sealing program and the legacy Dan leaves with us. John Linc Stine left the meeting at 10:23 a.m.

Rebecca Flood arrived at the meeting at 10:25 a.m.

North Fork of the Crow River Watershed District Plan Update – Gene Tiedemann reported that the Northern Water Planning Committee reviewed the ten-year update of the
** North Fork of the Crow River Watershed District Plan and recommends approval. Moved by
11-06 Gene Tiedemann, seconded by Keith Mykleseth, to approve the North Fork of the Crow River Watershed District Plan update. Paul Langseth questioned #11 of the Findings of Fact, regarding the "district plan was approved over 20 years ago". John Jaschke stated that

Statute states the plan exists until replaced. John stated that this is a distinction between a watershed district plan and a county water plan. Motion passed on a voice vote.

Todd County Local Water Management Plan Update – Paul Brutlag reported that the Northern Water Planning Committee reviewed the Todd County Local Water
** Management Plan update and recommends approval. Moved by Paul Brutlag,
11-07 seconded by Quentin Fairbanks, to approve the Todd County Local Water Management Plan update 2011-2016. Todd County will be required to provide a complete update of its Water Management Plan prior to January 31, 2016. Chair Napstad will sign the corrected resolution dated January 26, 2011 rather than January 26, 2010. Motion passed on a voice vote.

Chair Napstad called for a break in the meeting at 10:32 a.m.; the meeting reconvened at 10:45 a.m.

Wetland Committee

Local Government Roads Wetland Replacement Program Project Selection – Dave Weirens presented a brief overview of the Wetlands Committee recommendation on the
** project selection of the local government roads Wetland Replacement Program. Moved by
11-08 LuAnn Tolliver, seconded by Sandy Hooker, to approve the resolution authorizing staff to proceed with the further development of the Poppler/Harms (Carver County) and Brose (Carver County) easement agreement projects with the remaining project (Braton – Wilkin County) available as a back-up for the Local Government Road Wetland Replacement Program as recommended by the Wetland Committee. Motion passed on a voice vote.

2011 Wetland Bank Fee Policy – Dave Weirens presented a brief overview of the calculated wetland credit values on the 2011 Wetland Bank Fee Policy; as Statute requires BWSR to collect fees for administering the State Wetland Banking Program. Dave reported that the Wetlands Committee recommends using the calculated values for wetland bank fee determination. Green Acres values are being used for Hennepin County and Ramsey County.

** Moved by LuAnn Tolliver, seconded by Paul Brutlag, to approve the Wetlands Committee
11-09 recommendation that BWSR update the wetland credit values by taking the 2010 tillable land values, rural/vacant land values when the ratio of tillable acres to rural/vacant acres is less than 20%, or the average of the before and deferral green acres values, multiplied by the wetland credit value coefficient of 6.0, with a maximum increase of 75% over the values established in Board action 0-113 as indicated on the spreadsheet, "Proposed 2011 Calculated Values for Wetland Bank Fee Determination". Chair Napstad stated the policy of 20% tillable acres using rural/vacant for proxy value. LuAnn Tolliver thanked the

Wetlands Committee and staff for input; as it made the policy better. Motion passed on a voice vote.

NEW BUSINESS

Minnesota Prairie Region Conservation Plan – Steve Chaplin, The Nature Conservancy, presented a draft Minnesota Prairie Landscape Conservation Plan 2010. Minnesota's conservation partners, including BWSR, in the Prairie Region of the state collaborated to develop and draft a 25-year strategy for accelerating conservation. This strategy was precipitated by several factors including continuing loss and degradation of prairies, grasslands, wetlands and associated habitats, an acknowledged need to better coordinate between programs and organizations, and opportunities provided by the passage of the Clean Water, Land and Legacy Amendment that will provide significant conservation funding through 2034. The plan calls for three approaches to conservation in the Prairie Region of the state and prescribes geographic and numeric targets for acres of native prairie, other grasslands, wetlands, and shallow lakes and also calls for incorporation of conservation into "working lands" so that some conservation lands contribute directly to local economies and agricultural lands have adequate conservation applied to them using the full range of conservation practices. Future development of a Memorandum of Understanding on use of the document by all the partners is envisioned. Discussion followed regarding the need to work with grazing and agricultural partners. Mr. Chaplin stated that this is a product of the working group, not to be viewed as the Nature Conservancy Plan. Chair Napstad thanked Steve for his presentation.

Performance Review and Assistance Program (PRAP) Annual Legislative Report – Steve Woods reported that Legislation authorizing PRAP requires BWSR to submit an annual report to the Legislative Environment and Natural Resources Policy Committees regarding the performance of local government water management agencies. This is now the fourth annual report in compliance with that requirement. PRAP is intended to provide objective assessments and constructive feedback to the local governments that make up BWSR's local government system that delivers our conservation programs across the state. The report describes the status of PRAP and summarizes results from the 2010 performance reviews conducted by BWSR staff.

Don Buckhout briefly summarized the draft PRAP Report that will be submitted to the Minnesota Legislature by February 2, 2011. Don distributed an updated map of the areas of the state that involved an in-depth review. Don stated that Level I data is on BWSR's website. Don acknowledged the good work being done statewide; BWSR commends the high performance standards of LGUs. Don reported that he will be working with the Public Relations, Outreach and Strategic Planning Committee in March. A key goal listed in BWSR's strategic plan is to help LGUs be effective in delivery of services. Don stated that the Legislature wants BWSR to hold LGUs accountable and responsible; in the future we

may need to look at a cluster of LGUs' common goals, targets, measures and outcomes, look to make it better in the future. The last WHEREAS in the Resolution states the incorrect date, it should read January 2011 rather than January 2010.

** 11-10 Moved by Paul Brutlag, seconded by Christy Jo Fogarty, to approve the Resolution, that BWSR adopts the PRAP Report to the Minnesota Legislature dated February 2011, with allowance for any minor editing modifications necessary for publication, for transmittal to the legislature and release to the general public. Discussion followed. LuAnn Tolliver suggests sending a yearly checklist to MAWD and MASWCD for distribution to motivate LGUs by seeing accomplishments. Motion passed on a voice vote. Chair Napstad thanked Don and Steve for their efforts on this Report.

Local Government Water Roundtable – LeAnn Buck, Executive Director of MASWCD, reported that Annalee Garletz, AMC; and Craig Johnson, LMC were unable to attend the meeting today. LeAnn reported that the Minnesota Local Government Water Roundtable is an affiliation of four of Minnesota's key local government players, the Association of Minnesota Counties (AMC), the Minnesota Association of Soil and Water Conservation Districts (MASWCD), the League of Minnesota Cities (LMC) and the Minnesota Association of Watershed Districts (MAWD). LeAnn stated that the four organizations have developed a process to learn from each other in the planning and preservation of our state's land and water resources. The four organizations have chosen to work together to improve communication and understanding of the roles and responsibilities that they share. Their shared vision is to manage land and water resources in such ways as to effectively balance the sometimes competing interests of habitat, water quality, water quantity, and resource utilization and to pursue collaborative efforts with the intent of increasing efficiencies and effectiveness among organizations that share goals, objectives, and responsibilities. BWSR staff were asked and agreed to facilitate the Roundtable. LeAnn explained that a Water Management Summit for Local Government was held in July. The Summit was a forum that provided a dialogue to address the future delivery of water management and land related practices.

Ray Bohn, Coordinator of MAWD, reviewed the five major policy areas the Local Government Roundtable (LGR) is addressing: 1) watershed and basin management; 2) comprehensive water planning and management; 3) state funding process for local water management; 4) Clean Water Council recommendations for the expenditure of the Clean Water Amendment funding; and 5) assessment of the 25 Year Water Sustainability Framework. Ray stated that there is good discussion in each advisory committee, there are more issues in common than opposition; and the process is working extremely well. Ray reported that the next meeting of the Roundtable is February 9th; to address short term and long term items, discussion on water plans, and engaging communication. LeAnn stated that watershed and basin management needs to look at incentives for consolidation

and efficiencies. LeAnn thanked counties for the operational funding that goes to SWCDs. Ray stated that one plan to avoid duplication by local units of government is being considered. One plan holder per watershed, administrative entity for the plan; coordinate all planning activities, with counties, watershed, SWCD one solid plan; will force working together, think globally, add to lots of synergy in the planning process. Simplistic approach to state funding grants, look at priorities, more efficient for BWSR. Need to maximize efforts on many issues, what is the next round of activities and how to proceed. LeAnn thanked BWSR for their advisory role in the Roundtable efforts. Discussion followed. Sandy Hooker asked if Minnesota Association of Townships were involved? LeAnn stated that the target and focus is on water and LMC recently joined the Roundtable. Ray stated that the local governments involved deal with water issues on a day-to-day basis. Chair Napstad thanked LeAnn and Ray for their presentation and wished them well in their efforts.

AGENCY REPORTS

Minnesota Department of Agriculture (MDA) – Rob Sip distributed MDA's "Clean Water Fund" brochure listing program allocations for board members' information. Rob reported that the new MDA Assistant Commissioner Matthew Wohlman is expected to attend the next Board meeting.

Minnesota Department of Health (MDH) – Dan Wilson reported that the new MDH Commissioner is Edward Ehlinger. Dan stated that Commissioner Ehlinger is an advocate for state and local partnerships, and has strong support for environmental health. MDA requested and received funding for well sealing after the 2010 flooding and is already potentially planning for spring flooding.

Minnesota Extension Service (MES) – Faye Sleeper, reporting on behalf of the Water Resources Center, stated that Jean Coleman presented the Water Framework on January 15. Faye stated that Deb Schwackhammer takes the lead on the Water Framework. The ten key recommendations are on the Water Resources Center website: www.wrc.umn.edu Faye stated that the framework raises the awareness of the work that is being done, and the ensuing conversations where there are disagreements, and discussions on the green chemistry issue, for example. John Jaschke will try to have this on a future Board meeting agenda.

Minnesota Pollution Control Agency (MPCA) – Rebecca Flood reported that newly appointed MPCA Commissioner Paul Aasen started on January 18. Rebecca stated that Commissioner Aasen has a wide and varied background on environmental protection, state, and non-profit organizations. Rebecca reported that the MPCA Board met yesterday and voted to adopt the tech amendments to the SSTS Rules. Also at the MPCA Board meeting yesterday, it was noted that the south metro Lake Pepin TMDL will be placed on public notice in May or June.

ADVISORY COMMENTS

Minnesota Association of Townships (MAT) – Sandy Hooker reported that MAT is dealing with legislative issues. The MAT will spend three weeks in March training township officers.

UPCOMING MEETINGS

Chair Napstad reported that BWSR does not meet in February. The next BWSR Board meeting will be held on March 23, 2011 in St. Paul.

** 11-11 Moved by Quentin Fairbanks, seconded by Paul Brutlag, to adjourn the meeting at 12:40 p.m. Motion passed on a voice vote.

Respectfully submitted,

Brian Napstad
Chair

BOARD OF WATER AND SOIL RESOURCES
Attendance Roster

	Name	Affiliation	Phone #
1.	Perry Fortier	RPBCWD	952-934-0938
2.	Mark Enochs	CHRMHW-RILEY WD	651-9365-8542
3.	Steve Chaplin	TNC	612-331-0788
4.	LeAnn Buck	MASWCD	651-490-9028
5.	Kay Bohn	MAWD	651-452-8506
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			
21.			
22.			
23.			
24.			
25.			

BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
ST. PAUL, MINNESOTA 55155
WEDNESDAY, DECEMBER 15, 2010

BOARD MEMBERS PRESENT:
Gordy Behm, Paul Brutlag, Larry Kramka, DNR; Quentin Fairbanks, Sandy Hooker, Paul Langseth, Tom Loveall, Joe Martin, Keith Mykleseth, Brian Napstad, Rob Sip, MDA; Faye Sleeper, MES; Gene Tiedemann, LuAnn Tolliver, Doug Wetzstein, MPCA; Dan Wilson, MDH

BOARD MEMBERS ABSENT:
Bob Burandt
Christy Jo Fogarty
John Meyer
Louise Smallidge

STAFF PRESENT:
Mary Jo Anderson, Matt Drewitz, Pete Felland, Jon Fure, Travis Germundson, Jim Haertel, Jeff Hrubes, Al Kean, John Jaschke, Ron Shelito, Dave Weirens, Tom Wenzel, Steve Woods

OTHERS PRESENT:
Wayne Edgerton, DNR
Keith Hanson, Clean Water Council
John Beckwith, NRCS

Chair Napstad called the meeting to order at 9:00 a.m.

PLEDGE OF ALLEGIANCE

Chair Napstad reported that Louise Smallidge is out with pneumonia; Bob Burandt is on vacation; and John Meyer has snowstorm damage clean-up.

** 10-101 **ADOPTION OF AGENDA** – Moved by LuAnn Tolliver, seconded by Quentin Fairbanks, to adopt the agenda as presented. Motion passed on a voice vote.

** 10-102 **MINUTES OF OCTOBER 27, 2010** – Moved by Paul Langseth, seconded by Sandy Hooker, to approve the minutes of October 27, 2010, as circulated. Motion passed on a voice vote.

INTRODUCTION OF NEW BWSR MEMBER – Chair Napstad introduced Joe Martin, newly appointed board member representing citizens. Chair Napstad "welcomed back" Joe Martin, as Joe had previously been a board member representing the Minnesota Department of Agriculture (MDA). Joe Martin provided background information about himself, stating that he departed service with MDA in August, got married, bought a farm, and started his own business. Joe stated that it's good to be back working with BWSR. Chair Napstad welcomed Joe to the Board.

INTRODUCTION OF NEW BWSR EMPLOYEE – Al Kean introduced Pete Felland, newly hired Conservation Engineering Technician. Pete provided brief background information about himself. Chair Napstad welcomed Pete to the Board.

RECOGNITION OF SERVICE – John Jaschke recognized Gordy Behm on his efforts as a Board Member, representing watershed districts. Gordy's term expires in January 2011. Chair Napstad presented Gordy with a plaque and thanked him for his time with the BWSR Board. Gordy's vacancy will be filled through the Governor's appointments process.

John Jaschke recognized Wayne Edgerton, retiring after 31 years of state service. Wayne has represented the Minnesota Department of Natural Resources as an alternate member for many years. Chair Napstad presented Wayne with a plaque and thanked him for his years of state service and time with the BWSR Board.

CONFLICT OF INTEREST DECLARATION – Chair Napstad reported that three agenda items today need the Conflict of Interest Declaration form submitted. The agenda items are: FY2011 Clean Water Fund Competitive Grants; the FY2011 Clean Water Fund (CWF) Shifting Authorization; and the Lake Protection Water Plan Challenge Grant Program. Chair Napstad read the statement:

"A conflict of interest whether actual 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. As this time, members are requested to identify any potential conflicts of interest they may have regarding today's business."

Chair Napstad asked board members to submit their completed Conflict of Interest Declaration forms to John Jaschke.

REPORTS

Chair's Report – Brian Napstad reported that he attended the Grants Program & Policy Committee meeting on November 17th. Following that meeting Chair Napstad met with John Jaschke and Julie Blackburn, as a primer to his role as chair. Chair Napstad reported that he attended the Environmental Quality Board (EQB) meeting on November 18th. The EQB discussed the greenhouse gases issue; the State Water Plan; and the University of Minnesota's Water Sustainability Report.

Chair Napstad reported that he attended the Association of Minnesota Counties (AMC) annual conference, December 6-8. BWSR was well-represented at the AMC conference; Julie Blackburn gave a thorough report to the Environment and Natural Resources Policy Committee and clearly explained the attachment of BWSR to LGUs. John Jaschke attended the AMC conference dinner and presented conservation awards.

Chair Napstad reported that the Administrative Advisory Committee (AAC) met this morning and discussed: Grant items on the agenda later today; Budget and Clean Water Council recommendations; BWSR Committees; and the audit response update. Chair Napstad reported that BWSR Committee revisions will be made after Governor Dayton makes his board member appointments.

Executive Director's Report – John Jaschke reviewed information in board members' packets. John reported that he attended the Minnesota Association of Townships (MAT) convention in Duluth; the Minnesota Association of Watershed Districts (MAWD) annual convention in Alexandria, the Minnesota Association of Soil and Water Conservation Districts (MASWCD) annual convention in St. Paul; and the Association of Minnesota Counties (AMC) annual conference in St.Cloud. John briefly commented on BWSR's audit response. John reported that due to the Special Legislative Session held in September, BWSR is working with the Minnesota Recovers Task Force regarding the southern Minnesota Flood Disaster Response. A challenge exists regarding a flood damage site in Kellogg and other ones being documented now. A sign-up will be underway soon for projects to enroll flood damaged lands in RIM.

Tom Lovell arrived at the meeting at 9:20 a.m.

Dispute Resolution Committee – Travis Germundson provided a brief update on the 14 pending appeals. Travis reported that there is a new appeal regarding a restoration order in Mille Lacs County. Travis reported that appeal #10-10 regarding an order of managers of the Wild Rice Watershed District has a verbal agreement from the City of Hendrum to withdraw their appeal via the BWSR-led mediation, a positive outcome.

Wetlands Committee – LuAnn Tolliver reported that the Wetlands Committee met last night at the Kelly Inn in St. Paul; unfortunately, there was not a quorum; although a lively discussion took place. LuAnn stated that an additional meeting is needed prior to the January Board meeting. A meeting date will be decided soon.

Grants Program & Policy Committee – John Jaschke reported that the competitive grant allocation agreements will be sent out in January; other grants will be allocated in June. John reported that the Grants Program & Policy Committee has grant recommendations on the agenda later today.

Public Relations, Outreach & Strategic Planning Committee – Keith Mykleseth reported that the Public Relations, Outreach & Strategic Planning Committee did not meet.

RIM Reserve Planning Committee – Paul Brutlag reported that the RIM Reserve Planning Committee will review the application phase and process for projects to enroll in RIM for flood damaged lands, and then the application process will start.

Drainage Work Group – Tom Loveall reported that the Drainage Work Group will meet on January 6, 2011.

COMMITTEE RECOMMENDATIONS
Metro Water Planning Committee
Public Hearing on Petition for Redistribution of Managers of the Lower Minnesota River Watershed District – Jim Haertel distributed a revised Order. Jim reported that staff recommends a public hearing be held because the petition does not meet the "noncontroversial" threshold set forth in Minn. Stat. § 103D.105. The Metro Water Planning Committee met on November 17, 2010, the Committee unanimously recommends that a public hearing be held and that the hearing be presided over by the Metro Water Planning Committee.

** 10-103 Moved by LuAnn Tolliver, seconded by Faye Sleeper, to order a public hearing be held on the Petition for redistribution of managers of the Lower Minnesota River Watershed District to be presided over by the Metro Water Planning Committee on Tuesday, January 25, 2011, starting at 7:00 p.m., at the County Board Room, Scott County

Government Center, 400 Fourth Street West, Shakopee, MN, after proper legal notice of the public hearing has been given. Discussion followed. Motion passed on a voice vote.

Southern Water Planning Committee

Fillmore County Local Water Management Plan Amendment – Paul Langseth reported that the Southern Water Planning Committee met on November 4; reviewed the Fillmore County Local Water Management Plan Amendment and recommends approval. Moved by Paul Langseth, seconded by Keith Mykleseth, to approve the amendment of the Fillmore County Local Water Management Plan, January 1, 2011 – December 31, 2015. Fillmore County will be required to provide for a complete update of its Water Management Plan prior to December 31, 2015. Motion passed on a voice vote.

** 10-104

Le Sueur County Local Water Management Plan Amendment – Paul Langseth reported that the Southern Water Planning Committee reviewed the Le Sueur County Local Water Management Plan Amendment and recommends approval. Moved by Paul Langseth, seconded by Larry Kramka, to approve the amendment of the Le Sueur County Local Water Management Plan, January 2011 – December 31, 2015. Le Sueur County will be required to provide for a complete update of its Water Management Plan prior to December 31, 2015. Discussion followed. Motion passed on a voice vote.

** 10-105

Redwood County Local Water Management Plan Amendment - Paul Langseth reported that the Southern Water Planning Committee reviewed the Redwood County Local Water Management Plan Amendment and recommends approval. Moved by Paul Langseth, seconded by Keith Mykleseth, to approve the amendment of the Redwood County Local Water Management Plan, January 2011 – January 2016. Redwood County will be required to provide for a complete update of its Water Management Plan prior to January 1, 2016. Motion passed on a voice vote.

** 10-106

Olmsted County Comprehensive Local Water Management Plan Extension – Paul Langseth reported that the Southern Water Planning Committee reviewed the Olmsted County Comprehensive Local Water Management Plan and recommends approval of the extension. Moved by Paul Langseth, seconded by Sandy Hooker, to approve extension of the Olmsted County Comprehensive Local Water Management Plan until December 31, 2012. Motion passed on a voice vote.

** 10-107

Winona County Comprehensive Local Water Management Plan Extension – Paul Langseth reported that the Southern Water Planning Committee reviewed the Winona County Comprehensive Local Water Management Plan request for a two-year extension, and recommends approval of the extension. Moved by Paul Langseth, seconded by Sandy

**

10-108 Hooker, to approve the extension of the Winona County Comprehensive Local Water Management Plan until December 31, 2012. Motion passed on a voice vote.

Chair Napstad called for a break in the meeting at 9:50 a.m. The meeting reconvened at 10:05 a.m.

Conflict of Interest Declaration forms were submitted to John Jaschke.

NEW BUSINESS

FY2011 Clean Water Fund Competitive Grants – Dave Weirens explained the FY2011 competitive grant review process. Dave stressed the importance of targeting and consistency with the grant process. Dave explained the Clean Water Fund (CWF) Competitive Grants; the Sub-surface Sewage Treatment System (SSTS) Inventory and Program Enhancement Grants; and the Conservation Drainage Grants. Dave reported that the Senior Management Team reviewed the grants and recommends approval. The Grants Program & Policy Committee met on November 17, 2010, reviewed the grants and recommends approval. Dave presented the Board Resolution.

** Moved by Keith Mykleseth, seconded by Quentin Fairbanks, that the Board hereby:
1) Approves allocations to implement the FY2011 Competitive Grant program according to the attached funding recommendation spreadsheets for the following programs and recommended allocation amounts shown below:

Grant Program		Allocated Funds
A.	BWSR Clean Water Fund	
i.	Runoff Reduction Grants	$3,147,800
ii.	Clean Water Assistance Grants	$2,650,000
iii.	Shoreland Improvement Grants	$1,325,417
iv.	Restoration Technical Assistance Grants	$1,318,887
v.	Conservation Drainage Grants	$ 313,500
B.	MPCA SSTS Inventory Grants	$ 422,655
C.	BWSR SSTS Program Enhancement Grants	$ 314,893

2) Authorizes staff to forward a recommendation to the MDA to allocate $883,500 of Agricultural BMP Loan Program to projects and activities proposed through BWSR-led competitive grant making processes, and

3) authorizes staff to:
A. approve project workplans,
B. enter into grant agreements consistent with this resolution and Legislative appropriations, and

C. assign funds, noted in (1) that may become available, to unfunded projects, in rank order, if funded projects are withdrawn, do not receive workplan approval by March 31, 2011, unless extended for cause, or are modified to reduce the state funding needed to accomplish the project.

Discussion followed. Keith Mykleseth commended staff on their work. Larry Kramka stated that item 3C is an outstanding process to get the dollars on the ground.

John Jaschke noted that Paul Langseth will not vote on this item as Paul declared a conflict of interest on this item.

10-109 Motion passed on a voice vote.

FY2011 Clean Water Fund (CWF) Shifting Authorization – Dave Weirens distributed revised information to board members. Dave reported that the Senior Management Team recommends approval of the shifting authorization. The Grants Program & Policy Committee reviewed the funding recommendation on November 17, 2010, and recommends approval. The shifting authorization is an administrative adjustment, with the last project on the list getting less. Dave presented the Resolution:

1) Authorizing shifting of up to $385,994 of BWSR SSTS Inventory and program Enhancement Grant Program funds to eligible applications received under the SSTS Imminent Health threat Abatement Continuous Sign-up Grants according to the spreadsheet and as provided by Laws of Minnesota 2009, Chapter 172, Section 6; and,
2) Authorizes shifting of up to $267,027 in CWF Feedlot Water Quality funds and up to $311,259 of BWSR CWF SSTS Program Enhancement funds to CWF competitive grant applications according to the spreadsheet and as provided by Laws of Minnesota 2009, Chapter 172, Section 6; and,
3) Authorizes staff to:
   A. approve project workplans,
   B. enter into grant agreements consistent with this resolution and Legislative appropriations, and
   C. assign funds, noted in (1) and (2) that may become available, to unfunded projects, in rank order, if funded projects are withdrawn, do not receive workplan approval by March 31, 2011 unless extended for cause, or are modified to reduce the state funding needed to accomplish the project.

** Moved by Faye Sleeper, seconded by Paul Langseth, that the Board hereby approve the resolution as presented. Discussion followed. Paul Langseth, speaks in favor of the motion, stating that the Grants Program & Policy Committee discussed the importance of timeliness. Joe Martin stated that he has concerns regarding shifting feedlot dollars. Dave

Weirens clarified that each eligible feedlot livestock project under the application process received 100% funding.

Gene Tiedemann declared a conflict of interest and abstains from voting on this item.

Joe Martin stated that with $267,000 not being expended, BWSR needs to let the Legislature know that they tie the hands of the agency to allocate feedlot funds to sites as they are identified. Rob Sip concurred.

** Moved by Joe Martin, seconded by Sandy Hooker, to amend the resolution, under 2) as follows:

2) Authorizes shifting ~~of up to $267,027 in CWF Feedlot Water Quality funds and~~ up to $311,259 of BWSR CWF SSTS Program Enhancement funds to CWF competitive grant applications according to the spreadsheet, as amended, and as provided by Laws of Minnesota 2009, Chapter 172, Section 6; and,

Discussion followed. Rob Sip stated, as a point of clarification, that agencies worked on a Feedlot Assessment Report a few years ago. Larry Kramka stated that this money is not lost, it's turned back into projects for this activity. Paul Langseth speaks against the amendment; stating that the Board can still go to the Legislature for future funding, funding clean water projects now that are ready to go is a better option at this point. Tom Loveall speaks against the amendment, we don't want to get caught up in bureaucratic process, the criteria needs to emphasize getting projects on the ground. Joe Martin speaks in favor of the amendment, stating this sends the wrong message when realities don't match up, he sees the shift potentially interpreted in a way that we don't need to put money into feedlot fixes. Larry Kramka speaks in favor of the amendment, stating that politics aside, the money is appropriated and is a small portion of Clean Water Funds, we still have time to think about it, and revisit this in the near future. Keith Mykleseth is strongly in favor of the original resolution, it's important to get projects on the ground.

Chair Napstad clarified the vote on the amendment – a yes vote is to amend the resolution; a no vote is to leave the resolution as presented. Chair Napstad called for the vote. The motion to amend the resolution failed. Discussion followed.

Rob Sip asked about tabling this for a month to get more information. Paul Brutlag asked about delaying the grants. John Jaschke stated that a delay for all the funding would be a setback for project sponsors.

10-110 Chair Napstad called for the vote on the original motion. Motion passed on a voice vote. Dave distributed a geographic map of the Clean Water Funds appropriated over two years, showing results of FY2011 & FY2011 Recommended Funding.

Chair Napstad thanked the Grants Program & Policy Committee, staff, and board members on this difficult decision.

Lake Protection Water Plan Challenge Grant Program – Dave Weirens introduced Jeff Hrubes, Northern Region Clean Water Specialist. Dave distributed a revised packet of information. Jeff Hrubes explained that the Senior Management Team reviewed the Lake Protection Challenge Grant Program proposal and recommends approval. The Grants Program & Policy Committee recommends the Board authorize staff to conduct a challenge grant program for lake protection using returned 2008 Clean Water Legacy funds.

** 10-111 Moved by Quentin Fairbanks, seconded by Gene Tiedemann, that the Board hereby authorizes staff to finalize, distribute and promote request for proposals for the Lake Protection Challenge Grant Program, and award funds consistent with this resolution and application appropriations and statutes. Paul Langseth stated that he approves the resolution and the Grants Program & Policy Committee fully endorses the resolution. Chair Napstad stated that Louise Smallidge concurs with this resolution. Motion passed on a voice vote.

Clean Water Council FY12-13 Budget Recommendations – Keith Hanson, Chair, Clean Water Council (CWC) Budget and Outcomes Committee, distributed the Biennial Report of the Clean Water Council. Mr. Hanson presented an overview of the CWC FY12-13 budget recommendations, the CWC budget process; CWC FY12-13 focus; intensive watershed monitoring; and funding recommendations to BWSR. Mr. Hanson will provide updated information to Mary Jo Anderson for distribution to the board members. Larry Kramka stated that there has been good collaboration with agencies to work on this. John Jaschke reported that the Legislative branch is working on a consolidated website for people to see the outcomes. Chair Napstad thanked Keith Hanson for his informative presentation. Chair Napstad stated that BWSR's mission is to get conservation on the ground.

Grass Lake Prairie Wetland Restoration: Kandiyohi County Grant Agreement – Tom Wenzel explained that Kandiyohi County continues to assist the state and other project partners with the ongoing implementation of the Grass Lake Prairie Wetland Restoration near Willmar. Board approval is being sought to amend prior BWSR Resolution #07-96 that limits grant funds to the county for this project to ten percent of the 2006 capital budget appropriation. It is proposed to waive the ten percent limitation and allow any remaining unencumbered funds from the appropriation to be granted to the county for limited use on approved project implementation activities including, but not limited to project coordination, contracts for project services, acquisition, and specific project implementation activities.

** Tom presented the resolution. Moved by Keith Mykleseth, seconded by Paul Langseth, to

10-112 approve the resolution as presented. The Board hereby amends the October 24, 2007, BWSR adopted resolution #07-96 to waive the ten percent limit on funds from the 2006 appropriation that can be granted to Kandiyohi County. Motion passed on a voice vote.

** 10-113 **BWSR Board Meetings in 2011** – Chair Napstad presented the proposed 2011 BWSR Board Meeting schedule. Moved by LuAnn Tolliver, seconded by Dan Wilson, to approve the proposed 2011 BWSR Board meeting schedule. Motion passed on a voice vote.

AGENCY REPORTS

Minnesota Department of Agriculture (MDA) – Rob Sip reported that a feedlot group will be formally organized and will tackle feedlot issues; more to come in the future.

Minnesota Department of Natural Resources (DNR) – Larry Kramka reported that in addition to Wayne Edgerton retiring, 120 DNR employees will retire next week. The DNR is going through an early-retirement phase that means changes in the future.

Minnesota Extension Service (MES) – Faye Sleeper reported that the University of Minnesota will be closed December 24 - January 2. The closure is due to salary savings and utility savings. This includes three furlough days for certain classes of employees, and over 1% pay reduction, heat reduction to 62 degrees. Faye reported that individual counties will decide if County Extension Offices will be closed. Faye stated that not only are state funds reduced, endowment funds are down nationwide.

Minnesota Pollution Control Agency (MPCA) – Doug Wetzstein, Rebecca Flood's alternate, reported that Commissioner Paul Eger's last day with MPCA will be January 3. Commissioner Eger has taken a position with the Minnesota Realtors Association. No word yet on who the new MPCA Commissioner will be.

ADVISORY COMMENTS

Natural Resources Conservation Services (NRCS) – John Beckwith, Assistant State Conservationist, introduced himself. He stated that he enjoys working with BWSR and continuing the strong partnership NRCS has with BWSR.

UPCOMING MEETINGS

- Next BWSR Board Meeting – January 26, 2011 in St. Paul

LuAnn Tolliver announced that the Wetlands Committee will meet January 12, via conference call. The meeting will be held immediately following adjournment of the Northern Water Planning Committee meeting. The Wetlands Committee will start at noon. LuAnn stated that one agency member (DNR, PCA, MDA) needs to be present

on sight at the Wetlands Committee meeting. Rob Sip and Larry Kramka stated that they will attend.

Wayne Edgerton sincerely thanked BWSR for their efforts and work. Chair Napstad wished Wayne well in his retirement and thanked Gordy again for his service on the Board.

LuAnn Tolliver distributed a calendar from the Nine Mile Creek Watershed District (NMCWD). LuAnn explained that the NMCWD held a photo contest and the winning photos make up the calendar.

** 10-114 Moved by Quentin Fairbanks, seconded by Doug Wetzstein, to adjourn the meeting at 12:10 p.m. Motion passed on a voice vote.

Respectfully submitted,

Mary Jo Anderson
Recorder

Minnesota Board of Water & Soil Resources

DATE: January 24, 2011

TO: Brian Napstad, Chair
Board of Water and Soil Resources

FROM: John Jaschke
Executive Director

SUBJECT: Board Resolution # 10-109: Correction

In the process of implementing the grants authorized under this Resolution, Grants staff have identified a typographic error in the above referenced Board Resolution. The Resolution, as adopted by the Board on December 15, 2010, incorporates four spreadsheets, as follows:

- FY2011 Clean Water Fund Competitive Grant Funding Recommendations;
- FY2011 SSTS Inventory and Program Enhancement Grants;
- BWSR 2011 CWF Conservation Drainage Application Summary; and
- FY2011 Feedlot Grant MDA AgBMP Loan Requests/FY2011 Clean Water Fund Competitive MDA AgBMP Loan Requests.

The amounts allocated under the FY2011 SSTS Inventory and Program Enhancement Grants spreadsheet, (which is incorporated into the Resolution) are not correctly entered in the Resolution under the "Now Therefore 1)B and 1)C on page 4. The incorrect amounts shown and the correct amounts are as follows:

1) B MPCA SSTS Inventory Grants
Amount Shown in #10-109: $422,655 Correct Amount: $366,975

1) C BWSR SSTS Program Enhancement Grants
Amount Shown in #10-109: $314,893 Correct Amount: $370,573

This memo notifies you of the correction of this typographic error and a copy will be placed in the Board meeting files and the correct amounts will be allocated under these grant programs.

CC: Bill Eisele
Dave Weirens
Wayne Zellmer

Bemidji 701 Minnesota Ave., Suite 234 Bemidji, MN 56601 (218) 333-8024
Brainerd 1601 Minnesota Drive Brainerd, MN 56401 (218) 828-2383
Duluth 394 South Lake Ave., Room 403 Duluth, MN 55802 (218) 723-4752
Fergus Falls 1004 Frontier Drive Fergus Falls, MN 56537-2505 (218) 736-5445
Marshall 1400 East Lyon St., Box 267 Marshall, MN 56258 (507) 537-6060
Mankato 1160 Victory Drive S., Suite 5 Mankato, MN 56001-5358 (507) 389-1967
New Ulm 261 Highway 15 South New Ulm, MN 56073 (507) 359-6074
Rochester 2300 Silver Creek Rd N.E. Rochester, MN 55906 (507) 206-2889

Central Office / Metro Office 520 Lafayette Road North Saint Paul, MN 55155 Phone: (651) 296-3767 Fax: (651) 297-5615

www.bwsr.state.mn.us TTY (800) 627-3529 An equal opportunity employer

Minnesota Board of Water & Soil Resources

DATE: January 24, 2011

TO: Brian Napstad, Chair
Board of Water and Soil Resources

FROM: John Jaschke
Executive Director

SUBJECT: Board Resolution # 10-110: Correction

In the process of implementing the grants authorized under this Resolution, Grants staff have identified a typographic error in the above referenced Board Resolution. The Resolution, as adopted by the Board on December 15, 2010, incorporates two spreadsheets, as follows:

- Not Funded SSTS Imminent Health Threat Abatement Continuous Sign-up Applications from the 1st Round; and
- FY2011 Clean Water Fund Competitive Grant Shifting Option.

The amount shifted from the BWSR CWF SSTS Program Enhancement funds to CWF competitive grant applications is not correctly entered in the Resolution under the "Now Therefore 2) on page 2. The incorrect amount shown is $366,939 and the correct amount is $311,259. The correct amount is reflected in documents that were distributed and discussed during the Board meeting and in the spreadsheet "FY2011 Clean Water Fund Competitive Grant Shifting Option" which is incorporated into Resolution #10-110.

This memo notifies you of the correction of this error and a copy will be placed in the Board meeting files and the correct amounts will be allocated under these grant programs.

CC: Bill Eisele
Dave Weirens
Wayne Zellmer

Bemidji 701 Minnesota Ave., Suite 234 Bemidji, MN 56601 (218) 333-8024

Brainerd 1601 Minnesota Drive Brainerd, MN 56401 (218) 828-2383

Duluth 394 South Lake Ave., Room 403 Duluth, MN 55802 (218) 723-4752

Fergus Falls 1004 Frontier Drive Fergus Falls, MN 56537-2505 (218) 736-5445

Marshall 1400 East Lyon St., Box 267 Marshall, MN 56258 (507) 537-6060

Mankato 1160 Victory Drive S., Suite 5 Mankato, MN 56001-5358 (507) 389-1967

New Ulm 261 Highway 15 South New Ulm, MN 56073 (507) 359-6074

Rochester 2300 Silver Creek Rd N.E. Rochester, MN 55906 (507) 206-2889

Central Office / Metro Office 520 Lafayette Road North Saint Paul, MN 55155 Phone: (651) 296-3767 Fax: (651) 297-5615

www.bwsr.state.mn.us TTY (800) 627-3529 An equal opportunity employer

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Dispute Resolution Committee Report

Meeting Date: January 26, 2011

Agenda Category: ☐ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☐ Decision ☐ Discussion ☒ Information

Section/Region: Land and Water Section

Contact: Travis Germundson

Prepared by: Travis Germundson

Reviewed by: _____ Committee(s)

Presented by: Paul Burtlag/Travis Germundson

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

None

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

Dispute Resolution Committee Report. The report provides a monthly update on the number of appeals filed with the BWSR.

Dispute Resolution Report
January 12, 2011,
By: Travis Germundson

There are presently **15** appeals pending. All of the appeals involve WCA except File 10-10. There has been **1** new appeal filed since the last report dated December 15, 2010 (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 10-16 (12-23-10) This is an appeal of a forestry exemption decision in Carlton County. The LGU under a local appeal reversed the staff decision and approved an after-the-fact forestry exemption for the construction of a forest logging road. No decision has been made on the appeal.

File 10-15 (11-29-10) This is an appeal of a restoration order in Mille Lacs County. The appeal regards the filling of approximately 5,800 square feet of wetland for lakeshore access and to create a larger recreational area. *The appeal has been placed in abeyance for submittal of technical analyses of the onsite drainage modifications.*

File 10-12 (8-27-10) This is an appeal of a restoration order in St. Louis County. The appeal regards the excavation and filling of approximately 43,394 square feet of wetland and the construction of over 1,000 feet of drainage ditches. The appeal has been placed in abeyance and the restoration order stayed to allow the LGU to respond to the data practices request and for the TEP to convene and develop written findings. The appellant has recently applied for an after-the-fact wetland application to retain the open water areas on the site.

File 10-10 (6-10-10) This is an appeal filed under Minn. Stat. 103D.535 regarding an order of the managers of the Wild Rice Watershed District not to go forward with the Upper Becker Dam Enhancement Project as proposed. Appeals filed under 103D.535 require that the Board follow the Administrative Procedures Act. The Act requires that the hearing be conducted by an Administrative Laws Judge through the Office of Administrative Hearings. The appeal has been placed in abeyance pending settlement discussions. A verbal settlement agreement has been reached by the parties.

File 10-7 (2-19-10) This is an appeal of a restoration order in Stearns County. The appeal regards draining and filling impacts to approximately 18.44 acres of Type2/3 wetland and 3.06 acres of Type 2 wetland. The appeal has been placed in abeyance and the restoration order stayed for submittal of "as built" or project information pertaining to a public drainage system.

File 10-3 (2-1-10) This is an appeal of a restoration order in Stearns County. The appeal regards the placement of agricultural drain tile and the straightening and rerouting of a county ditch that resulted in over 12 acres of wetland impacts. The appellant has granted BWSR additional time to make a decision on the appeal. No decision has been made on the appeal.

File 09-22 (10-02-09) This is an appeal of a restoration order in Carlton County. The appeal regards three separate investigation areas encompassing over 18 acres of wetland impacts from excavation, filling, and ditching. The replacement order has been stayed and the appeal has been placed in abeyance pending further technical work and for submittal of complete wetland replacement plan, exemption, or no-loss application.

File 09-13 (8-20-09) This is an appeal of an exemption decision in Otter Tail County. The appeal regard the denial of an exemption request for agricultural/drainage actives. A previous denial of the same exemption decision had been appealed (File 09-6). The appeal was remanded for further technical evaluation and a hearing, and now the current denial has been appealed. The appeal has been granted. A pre hearing conference convened on November 12, 2009. At which time parties agreed to hold off scheduling written briefs until the petition before NRCS is concluded.

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 pre-hearing conferences convened on October 13 and 30, and December 14, 2009. Settlement discussions are on hold while the appellant addresses permitting issues with the Corps of Engineers.

File 09-3 (2-20-09) This is an appeal of a replacement plan decision in Anoka County. The appeal regards the approval of a wetland replacement plan for 11,919 square feet of impacts associated with a residential development. The appeal has been placed in abeyance and the replacement plan decision stayed for submittal of a revised replacement plan application. The three owners are also in the process of splitting up the property.

File 08-9. (03/06/08) This is an appeal of a replacement order in Pine County. The appeal regards impacts to approximately 11.26 acres of wetland. The replacement order has been stayed and the appeal has been placed in abeyance pending disposition with the U.S. Dept of Justice.

File 08-4. (01/24/08) This is an appeal of no-loss and exemption decisions in Waseca County. In addition to the no-loss decision, at issue are denials of the agricultural exemption, approved development exemption, incidental wetland exemption, and claims of numerous procedural issues that were prejudicial to the applicants. The mandamus action regarding Minn. Stat. § 15.99 (60-day rule) is complete and the temporary injunction lifted. The timeline for the remand has been extended several times and most recently for the duration of the September 9, 2010 Monitoring Agreement.

File 06-23. (05/19/06) This is an appeal of a replacement plan decision in Kanabec County. The LGU denied the wetland replacement plan application. A previous denial of the same replacement plan application had been appealed, the appeal was remanded for a hearing, and now the current denial has been appealed. The appeal has been placed in abeyance pending the outcome of a lawsuit between the landowner and the county. The lawsuit concerns the county's possible noncompliance with the 60-day rule. The county prevailed in district court; however the decision was appealed to the Court of Appeals where the county again prevailed. An appeal to the Minnesota Supreme Court was denied review. It is likely the appeal will soon be placed on the calendar for DRC proceedings.

File 06-17. (05/27/06) This is an appeal of a replacement plan decision in the City of Montgomery in LeSueur County. The LGU denied an after-the-fact wetland replacement plan application based on a lack of sufficient reasons why the restoration could not be completed. The appeal was been remanded for further processing at the local level. The City of Montgomery has gradually been working on removing the debris and restoring the wetland in accordance with MPCA requirements.

File 05-1. (01/13/05) This is an appeal of a replacement plan decision by the Rice Creek Watershed District. The District previously made a decision that was appealed which resulted in a remand for an expanded TEP. Now there is an appeal of the decision made under remand since the decision differed from the TEP report. At issue are wetland delineation and the Comprehensive Wetland Protection and Management Plan that BWSR approved. After a hearing before the DRC, the board remanded the matter for new wetland delineation and for submission on an updated, complete replacement plan application. On 12-9-09 the District made a new wetland delineation decision. The applicant has not yet submitted an updated replacement plan application.

Draft Summary Table

Type of Decision	Total for Calendar Year 2009	Total for Calendar Year 2010
Order in favor of appellant		2
Order not in favor of appellant	10	6
Order Modified	1	
Order Remanded	4	
Order Place Appeal in Abeyance	3	5
Negotiated Settlement		1
Withdrawn/Dismissed	9	1

Drainage Work Group Report
for January 2011 BWSR Board Meeting
Al Kean, BWSR

The Drainage Work Group (DWG) met on Thursday, January 6, with 26 members in attendance. Key topics of discussion included:

- Brief update regarding Smith Partners LCCMR project "MN Drainage Law Analysis and Evaluation". The advisory committee met again in December 2010 to discuss the third of three scenarios being developed as a basis for evaluating drainage law and interaction with other water law. The next advisory committee meeting is tentatively scheduled for 2-18-11. The project is scheduled for completion by June 30, 2011.
- Several DWG members provided overviews of recent and upcoming drainage education and discussion venues, including:
    - 11th Annual MN-IA Drainage Research Forum, 11-23-10
    - MAWD Annual Minnesota Drainage Workshop, 12-2-10
    - MN Assn. of County Officers, Drainage Committee, semiannual meeting, 1-11-11
    - Rinke-Noonan Annual Drainage and Wetlands Conference, 2-3-11
    - Proposed MDA Section 319 Project, Conservation Drainage Workshops, 2011
- Al Kean partnered with Loren Engelby, Kandiyohi County Drainage Manager, to develop a brochure about Redetermination of Benefits and Damages for public drainage systems. The DWG reviewed the draft, provided comments and supported making the brochure available on the BWSR website. The completed brochure will be available soon on the BWSR website, Drainage page under the Drainage Work Group heading.
- The DWG further updated its list of discussion and information topics and associated priorities. A recent addition to the list is in regard to transfer of drainage systems from counties to watershed districts, including location(s) of records and coordination for drainage system administration.
- The next DWG meeting is tentatively planned for early to mid June 2011 after the legislative session.

Redetermination of Benefits Examples

Martin County

Judicial Ditch No. 32: (all subsurface tile system) Original benefits of $21,130 for 337 acres in 1914. After redetermination of benefits in 2005, the drainage system has benefits of $349,601 for 952 acres. Redetermination cost was $2.88 per acre.

County Ditch No. 11: Original benefits of $137,682 for 2,312 acres in 1908. After redetermination of benefits in 2009, total benefits of $6,807,504 for 11,003 acres. A total of 56.7 acres of buffer strips were acquired and established by the drainage system. Redetermination cost was $2.36 per acre.

Kandiyohi County

County Ditch No. 10: Original benefits of $904,170 for 8,004 acres in 1898. After redetermination of benefits in 2010-11, total benefits of $6,537,384 for 15,722 acres. A total of 30.8 acres of buffer strips will be acquired and established by the drainage system. Redetermination cost was $3.18 per acre.

County Ditch No. 38: (all subsurface tile system) Original benefits of $22,995 for 472 acres in 1917. After redetermination of benefits in 2010-11, total benefits of $765,867 for 1,206 acres. Redetermination cost was $3.75 per acre.

Bois de Sioux Watershed District

Judicial Ditch No. 2: Original benefits of $20,507 for 17,577 acres circa 1900. After redetermination of benefits in 1999, total benefits of $3,927,667 for 59,690 acres. A total of 15.1 acres of buffer strips were acquired and established by the drainage system. Redetermination cost was approximately $2.00 - $3.00 per acre.

Drainage Work Group Membership

Drainage Authorities
Association of Minnesota Counties (AMC)
MN Assn. of Watershed Districts (MAWD)

Farm Groups
Minnesota Farm Bureau (MFB)
Minnesota Farmers Union (MFU)
MN Ag. Water Resources Coalition (MAWRC)
Agricultural Drainage Mgmt. Coalition (ADMC)
Representative for several other Ag Groups

Environmental Groups
MN Center for Enviro. Advocacy (MCEA)
Fish and Wildlife Legislative Alliance (FWLA)
Minnesota Conservation Federation (MCF)

Other Associations
Minnesota Association of Soil and Water Conservation Districts (MASWCD)
Minnesota Viewers Association (MVA)
MN Assn. of County Officers (MACO)
MN Assn. of Drainage Inspectors (MADI)
Red River Water Mgmt. Board (RRWMB)
MN Association of Townships (MAT)

State Agencies
Board of Water and Soil Resources (BWSR)
Department of Natural Resources (DNR)
MN Department of Agriculture (MDA)
MN Pollution Control Agency (MPCA)

State Legislature
Legislators and/or House and Senate Staff

January 2011

Minnesota Statutes Chapter 103E – Drainage

Redetermination of Benefits and Damages for Drainage Systems



An Overview Prepared in Collaboration with the Stakeholder Drainage Work Group for Drainage Authorities, Landowners and Others

www.bwsr.state.mn.us/drainage
(under "**Drainage Work Group**")

Key Definitions

Redetermination of Benefits and Damages: A procedure in Chapter 103E, Section 103E.351 to update the determination of benefits and damages for affected parcels and properties of a drainage system, and the total value of benefits for the drainage system.

Drainage Authority: County or watershed district boards, or joint county boards, authorized by Minnesota statutes to administer public drainage systems under Chapter 103E.

Viewers: Residents of Minnesota who are qualified to determine benefits and damages of drainage systems and are appointed by the drainage authority for that purpose.

Minnesota Viewers Association
www.mndrainageviewers.org

Why Redetermine Benefits

1) Benefited lands and benefits of many public drainage systems have not been updated for decades, some for over a century.
2) Drainage system benefits are determined at one point in time, with no provision in Chapter 103E to index for inflation over time. The cost of a repair cannot exceed the total value of benefits of the drainage system on record.
3) The drainage system repair fund limit is 20% of the total assessed benefits of the system, or $100,000, whichever is greater.
4) Chapter 103E projects that require right-of-way (establishment, improvement, or repair by resloping of ditch side slopes) must have viewers appointed to determine associated benefits and damages. Partial system projects can create benefit inequities.
5) As new private drainage is outlet into a public drainage system, the total benefits of the system and the relative benefits to land parcels and other infrastructure change. These benefits and associated assessments for repairs can only be updated via a redetermination of benefits and damages.

How Benefits and Damages are Redetermined

Viewers first verify or identify the land parcels, roads and other infrastructure served by a Chapter 103E drainage system. Viewers then use mass appraisal methods to determine benefits of the drainage system. A number of variables, including land use, productivity and value, drainage outlet potential, and drainage system requirements or impacts are used by viewers to determine drainage system benefits and damages. The redetermined benefits replace those used to apportion drainage system repair or maintenance assessments.

Systematic Redetermination of Benefits

A number of drainage authorities in Minnesota have undertaken a systematic redetermination of benefits and damages for all of the Chapter 103E drainage systems under their jurisdiction, including surface ditches and subsurface tile systems. These drainage authorities include: Freeborn, Martin, Steele, Sibley, Kandiyohi and Faribault Counties. Freeborn County started in 1995 and will complete redeterminations for all of its 119 Chapter 103E public drainage systems in 2011. Martin County started in 2001 and is well along with redeterminations for its 200+ Chapter 103E public drainage systems.

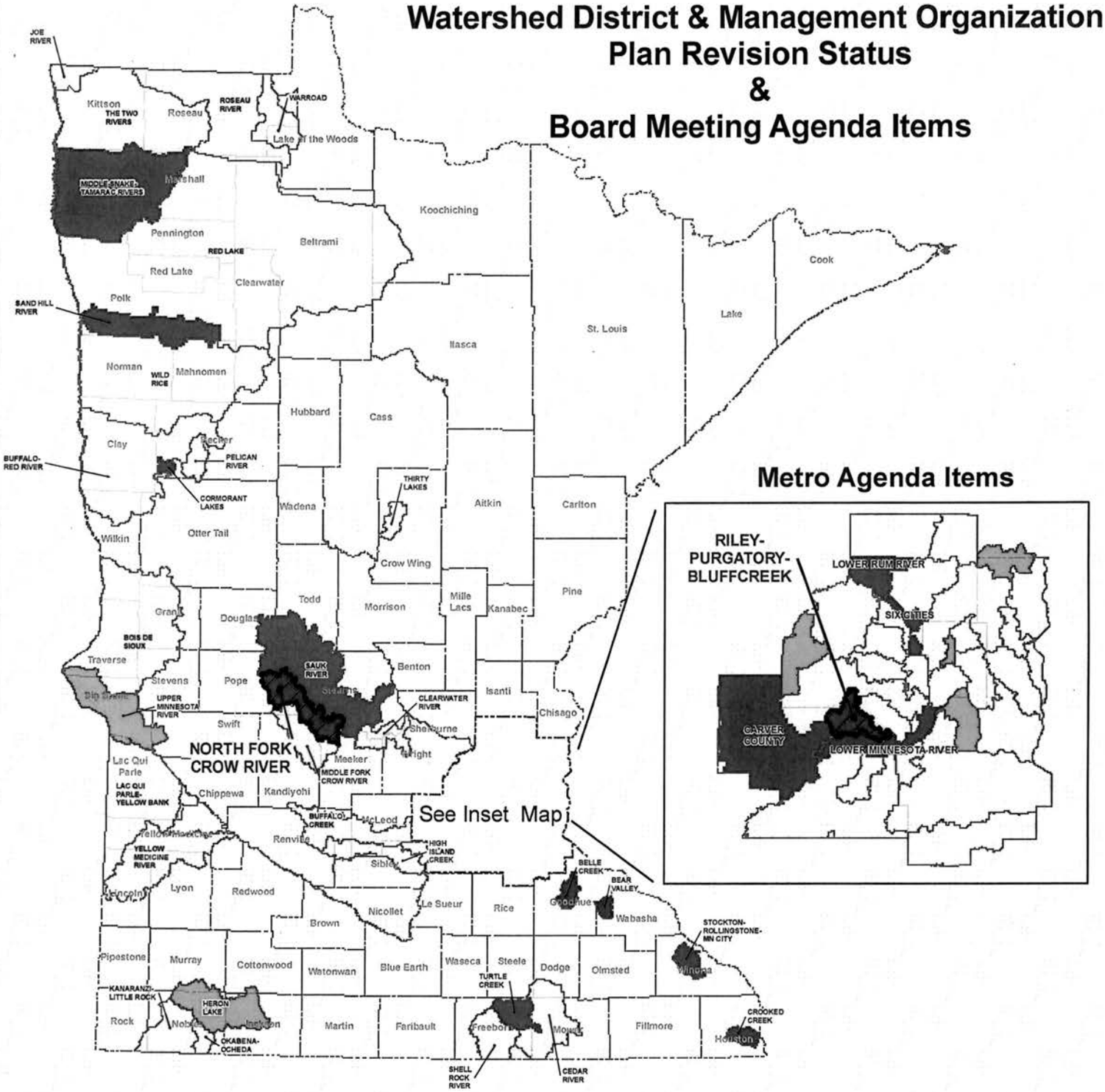
Required Drainage Ditch Buffer Strips

Section 103E.021 requires the establishment of minimum 1-rod (16.5 ft.) buffer strips of perennial vegetation along Chapter 103E drainage ditches whenever viewers are appointed, including for a redetermination of benefits. Land rights for the buffer strips are acquired by the drainage system. Harvesting of perennial vegetation remains a right of the landowner or assigns. The primary purposes of these buffer strips are to improve ditch bank stability and reduce ditch maintenance by setting back tillage from the top of the ditch bank, and to trap sediment and nutrients from adjacent wind erosion and runoff.



Until buffer strip right-of-way is acquired by the drainage system, eligible agricultural lands can sign up for the USDA Continuous Conservation Reserve Program (CCRP). For land enrolled in CCRP prior to right-of-way acquisition by the drainage system, the landowner can collect annual program payments for 10 to 15 years, as well as payment for the land rights acquired by the drainage system. CCRP buffers must be at least 30 ft. wide and harvesting is not allowed. Alternatively, land for buffer strips may be eligible for other state and local buffer programs.

Watershed District & Management Organization Plan Revision Status & Board Meeting Agenda Items



Metro Agenda Items

Plan Revision Date

- Overdue
- 2011
- 2012
- Beyond 2012

Watershed District & Management Organization Items on January 2011 Agenda

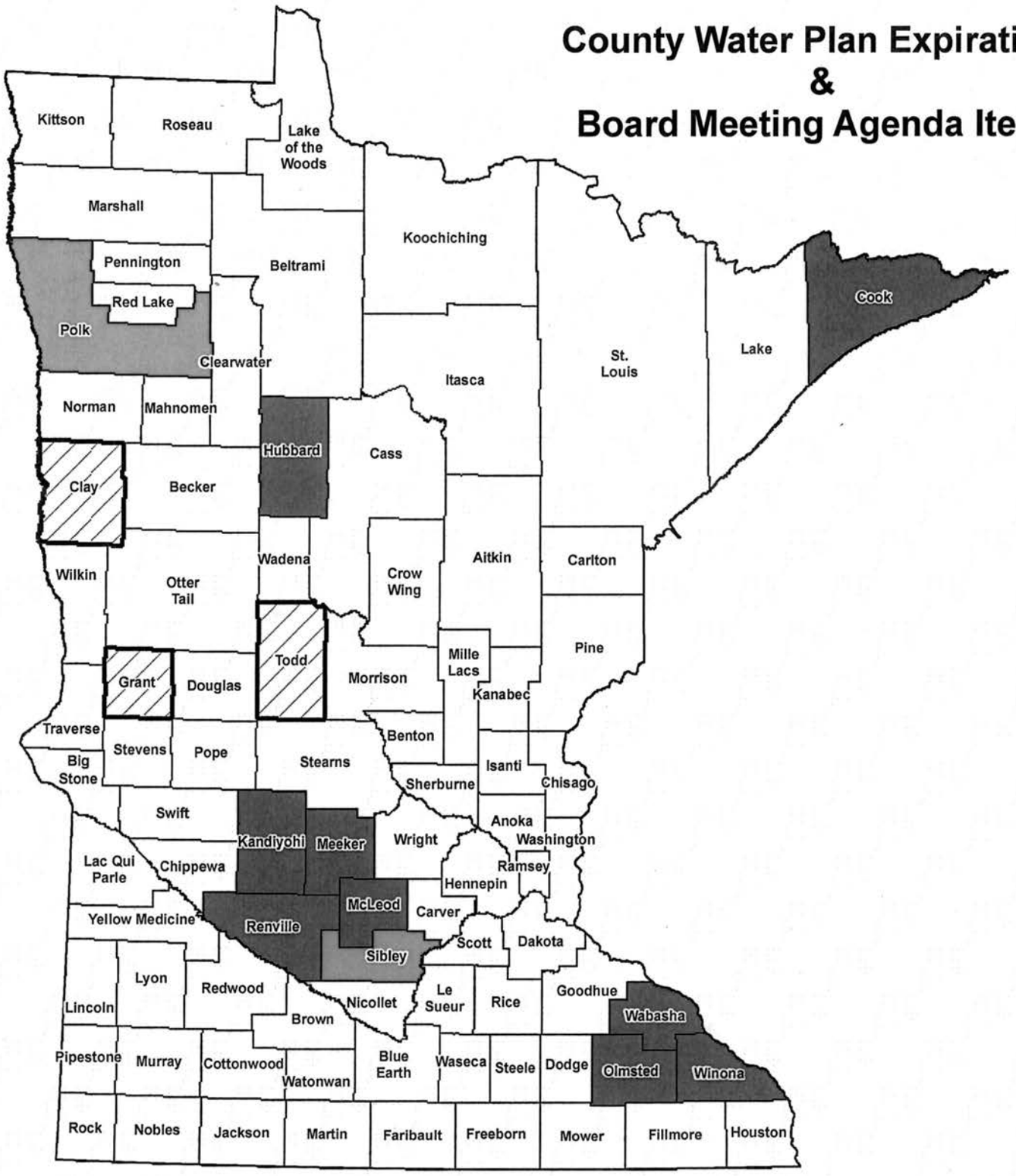
- NORTH FORK CROW RIVER
- RILEY-PURGATORY-BLUFF CREEK

Minnesota Board of Water & Soil Resources

WWW.BWSR.STATE.MN.US

January 2011

County Water Plan Expirations & Board Meeting Agenda Items



Plan Expires

- Overdue
- 2011
- 2012
- Beyond 2012

County Items on January 2011 Agenda

- Clay
- Grant
- Todd

Minnesota Board of Water & Soil Resources
WWW.BWSR.STATE.MN.US

N

January 2011

COMMITTEE RECOMMENDATIONS

Metro Water Planning Committee

1. Riley Purgatory Bluff Creek Watershed District Revised Watershed Management Plan – Brad Wozney – ***DECISION ITEM***

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Riley Purgatory Bluff Creek WD Revised Plan

Meeting Date: January 26, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Metropolitan Region

Contact: Brad Wozney, Board Conservationist

Prepared by: Brad Wozney, Board Conservationist

Reviewed by: Metro Water Planning Committee(s)

Presented by: Brad Wozney, Board Conservationist

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☒ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Approval of the Riley Purgatory Bluff Creek Watershed District's Watershed Management Plan

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
The Riley-Purgatory Creek Watershed District was established on July 31, 1969 by order of the Minnesota Water Resources Board under the authority of the Minnesota Watershed Act (Minnesota Statutes, Chapter 112). In 1984 the District was expanded to include Bluff Creek. The previous plan was revised in accordance with the Metropolitan Surface Water Management Act and approved by BWSR in August 1996.

The District is approximately 47 square miles in size and located in both Hennepin County (32.8 sq. miles) and Carver County (14.5 sq. miles), within the Minnesota River basin. The land use in the watershed consists predominantly of single family low density residential development, with a mix of recreational/golf courses/preserved areas, commercial, industrial, institutional land uses, as well as undeveloped areas. Development pressure within the watershed is projected to slightly increase through the life of this Plan, particularly as medium density residential development. There are a total of 13 major lakes and three major creeks in the District. The following municipalities lie partially within the District: Bloomington, Chanhassen, Chaska, Deephaven, Eden Prairie, Minnetonka, and Shorewood. The District is bound by the Lower Minnesota River Watershed District to the south, the Carver County WMO to the southwest, the Minnehaha Creek Watershed District to the west and north, and the Nine Mile Creek Watershed District to the east.

The five member Board of Managers is comprised of four from Hennepin County and one from Carver County. The District Attorney serves also as the Coordinator. The Managers have recently committed to regular TAC meetings and have a very engaged and energetic CAC.

BWSR staff have been involved with the Plan process since 2005. Early in the planning process, BWSR attended numerous meetings providing upfront input and plan expectations. BWSR staff monitored the following key procedures at this stage: ensure that stakeholders were heard by the Managers and the lines of communication were open, ascertain that the majority of the managers agreed to the change in direction

primarily regarding regulatory intentions, and ensure that the TAC and CAC were engaged and met at least three times to help shape the implementation program. All stakeholders and agencies were given opportunities to provide upfront written input and preliminary draft plan comments. Meanwhile the CAC provided guidance on resource concerns and watershed priorities.

The final draft of the revised Plan was received by BWSR on December 14, 2010. Per BWSR staff recommendation the District documented accomplishments of implementing the previous Plan. BWSR staff encouraged the District to list projects with municipal partnerships and to set stricter stormwater standards for redevelopment as part of this Plan. The District elected to address these items with the TAC after Plan approval, with plan amendments possible in the future. The District contends it is prepared to take on petitioned projects that are mutually beneficial.

In general the Plan is a decent mix of structural, non-structural, and programmatic solutions. The Plan shows an emphasis on in-lake treatments to address nutrient loading, a non-traditional approach to watershed management than has not been seen in other metro watershed plans. The broad issue areas of the Plan include: regulatory roles and responsibilities, communication between watershed partners, stream flows and erosion, lake eutrophication and water quality, biological resources – native and non-native, invasive species, wetlands, and recreational uses.

Financing of this Plan is almost exclusively 103B ad valorem property taxes, with some 103D generated funds, and a projected average annual budget of approximately $1,900,000 over the life of the Plan. Local and state comments received in regards to the revised Plan have been addressed.

The highlights of the revised Plan include:

- The District offered ample opportunities to provide upfront comments on plan drafts prior to submitting the formal draft.
- For effective management and to show specific approaches, the Plan is organized into four subwatersheds: Bluff Creek, Riley Creek, Purgatory Creek, and Hyland Lake.
- A Low Impact Development Cost Share Program with an aggressive annual budget.
- A significant monitoring program to prove results and support adaptive management approaches.
- A substantial carp removal and aquatic plant restoration program in partnership with the University of MN.
- The application of "scorecards" to regularly assess District performance with plan implementation and short and long term goals. The District will review the implementation section and if necessary update the Plan through amendments every two years.

Local and state comments received in regards to the revised Plan have been sufficiently addressed. The Metro Water Planning Committee met on January 5, 2011. BWSR staff recommended approval. After review of the information, the Committee unanimously voted to recommend approval of the Revised Plan per the attached draft Order.

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
Saint Paul, Minnesota 55155

In the Matter of the review of the Watershed Management Plan for the **Riley Purgatory Bluff Creek Watershed District**, pursuant to Minnesota Statutes Section 103B.231, Subdivision 9.

ORDER APPROVING WATERSHED MANAGEMENT PLAN

Whereas, the Board of Managers of the Riley Purgatory Bluff Creek Watershed District (District) submitted a Watershed Management Plan (Plan) to the Minnesota Board of Water and Soil Resources (Board) pursuant to Minnesota Statutes Section 103B.231, Subd. 9, and;

Whereas, the Board has completed its review of the Plan;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions and Order:

FINDINGS OF FACT

1. **Watershed District Establishment.** The Riley-Purgatory Creek Watershed District was established on July 31, 1969 by order of the Minnesota Water Resources Board under the authority of the Minnesota Watershed Act (Minnesota Statutes, Chapter 112). The first water resources management plan for the District was prepared and adopted in 1973. The second plan was adopted in 1982. Bluff Creek was added to the District in June 1984. The plan was then revised in accordance with the Metropolitan Surface Water Management Act of 1982 (M.S. 103B), and approved by the Board of Water and Soil Resources (Board) in August 1996.

2. **Authority to Plan.** The Metropolitan Surface Water Management Act requires the preparation of a watershed management plan for the subject watershed area which meets the requirements of Minnesota Statutes Sections 103B.201 to 103B.251.

3. **Nature of the Watershed.** The District is approximately 47 square miles in size and located in both Hennepin County (32.8 sq. miles) and Carver County (14.5 sq. miles), within the Minnesota River basin. The land use in the watershed consists predominantly of single family low density residential land use, with a mix of recreational/golf courses/preserved areas, commercial, industrial, institutional land uses, as well as undeveloped areas. Development pressure within the watershed is projected to slightly increase through the life of this Plan, particularly as medium density residential development. There are a total of 13 major lakes and three major creeks in the District. The following municipalities lie partially within the District: Bloomington, Chanhassen,

Chaska, Deephaven, Eden Prairie, Minnetonka, and Shorewood. The District is bound by the Lower Minnesota River Watershed District to the south, the Carver County WMO to the southwest, the Minnehaha Creek Watershed District to the west and north, and the Nine Mile Creek Watershed District to the east.

4. **Plan Development and Review.** Between 2005 and September 2008 the District requested citizen/stakeholders and TAC input regarding watershed problems, plan content, and priorities. TAC meetings were held and local and state agencies were given opportunities to provide upfront written input and draft plan comments. Citizen input was sought via an energetic CAC, website postings, newspaper articles, and open forums at regular and special Board meetings. A preliminary draft plan was released, offering an opportunity for stakeholders and state agencies to provide written comments. The draft revised Plan was submitted to the Board, other state agencies, and local governments for the 60-day review on May 6, 2010. A public hearing was held on August 23, 2010. On September 30, 2010, the draft revised Plan was sent to the review agencies for the 45-day review period. The final draft of the revised Plan was received by the Board on December 14, 2010.

5. **Local Review.** The District distributed copies of the draft Plan to local units of government for their review pursuant to Minnesota Statutes Section 103B.231, Subd. 7. The District received comments from the cities of Bloomington, Chanhassen, Eden Prairie, Minnetonka, Shorewood, the Carver County Soil and Water Conservation District, and the Lower Minnesota River Watershed District. The following recurring comments were contained within a majority of the municipal comment letters during the formal review period: clarification regarding the adequacy of the amount of stormwater utility funds cities have available in addressing all pollutant loading, the request for more cooperative projects addressing external sources of pollutant loading, the roles and membership of the citizen advisory committee to add property owners not residing on lakes, strong recommendation to more frequently engage the technical advisory committee, clearer expectations for petitioned projects, and more specificity regarding the proposed Low Impact Development Cost Share Program. The District responded in writing to all municipalities who provided comments, addressing each concern.

6. **Metropolitan Council Review.** The Council recommended that the District establish a baseline for wetland management related to hydroperiod and pretreatment standards. The Council also added that the Plan should include: a program to provide city oversight to ensure that the regulations are adequately administered, a back-up plan if the regulations are not enough to protect the resources, and a back-up strategy for some of the more experimental approaches to lake management outlined in the Plan if they do not meet state standards or District goals. The District individually addressed each comment; however the Council would have preferred to see stronger language in the Plan related to each of these concerns.

7. **Department of Agriculture Review.** The MDA did not comment on the Plan.

8. **Department of Health Review.** The MDH did not comment on the Plan.

9. **Department of Natural Resources Review.** The DNR provided comments only during the last comment period. The DNR expressed concern about the District's emphasis on in-lake treatment of nutrients without an equal emphasis on external loading. The District responded that they expect the MS4 General Permits with SWPPPs, via the municipalities and state agency regulatory authorities, to address the continued external loading. This allows the District to complement their efforts with in-lake efforts resulting in a holistic watershed approach. The DNR encouraged the District to further address stream erosion, discuss the potential for permit requirements for chemical treatments, aquatic vegetation management, and projects related to fisheries management.

10. **Pollution Control Agency Review.** The PCA provided extensive comments, recommending the following main items: include additional projects addressing external phosphorus loading, provide a list of relevant local ordinances that negate the application of District rules, the need for further dialogue regarding the proposed in-lake treatments and to not prioritize reduction of mercury efforts, to implement LID practices in the Bluff Creek subwatershed and on municipal properties in addition to private property, identify and resolve gaps between current regulatory requirements among all partners that may impede attainment of water quality goals, and include wetland management goals. Regarding external loading, the District chose to address it through petitioned projects and the LID Cost Share Program rather than committing to specific projects in the Plan. The District intends to confer with the municipalities through the TAC to develop approaches to potential regulatory gaps.

11. **Department of Transportation Review.** MNDOT requested clarification on what is meant by "fen management plan" development, rewording of the paragraph describing the construction of Highway 212, and incorporating the results and recommendations from a Barr Engineering study completed as part of the previous plan. The District stated that the results of the study will be referenced as part of the Bluff Creek TMDL development. All comments were addressed with revisions to the Plan.

12. **Board Review.** Board staff provided extensive comments for the review periods. Board staff recommended adding the following to the Plan: a description of CAC and TAC roles in Plan implementation, a reduction or elimination of the irrelevant national and state planning goals referenced, goals for wetland management and erosion control, an assessment of adequacy of current regulations and stormwater issues, more detailed descriptions, start and end dates, and cost estimates of various projects in the implementation section, clarification for completion of a hydraulic and hydrologic model and a strong recommendation to complete a watershed pollutant loading model, more guidance related to petitioned projects, clarification of local water plan requirements, a statement that local water plans must be assessed annually, clarification of who is responsible for implementing the Bluff Creek and Riley Creek Lower Valley Stabilization studies, take a lead role in enacting stricter stormwater and volume management standards or rules, achieve consensus from state agencies regarding the in-lake treatment methods, more details about the "Low Impact Development cost share program", and add a section outlining plan amendments. The District addressed the comments resulting in some revisions to the Plan.

13. **Plan Summary and Highlights.** The Plan outlines a good framework for protecting the water resources of the District. Overall the Plan is a decent mix of structural, non-structural, and programmatic solutions. The basis of this is largely the result of the intense lake and creek studies, i.e. the "use attainability analyses", completed under the previous plan. A self assessment document that lists accomplishments of the previous plan was incorporated into the revised Plan in Section 1.3.4. The highlights of the revised Plan include:

- The District offered ample opportunities to provide upfront comments on the Plan prior to submitting the formal draft.
- For effective management and to show specific approaches, the Plan is organized into four subwatersheds: Bluff Creek, Riley Creek, Purgatory Creek, and Hyland Lake.
- A robust Low Impact Development Cost Share Program.
- A significant monitoring program to prove results and support adaptive management approaches.
- A substantial carp removal and aquatic plant restoration program in partnership with the University of MN.
- The application of "scorecards" to regularly assess District performance with plan implementation and short and long term goals. The District will review the implementation section and if necessary update the Plan through amendments every two years.

14. **Metro Water Planning Committee Meeting.** On January 5, 2011, the Board's Metro Water Planning Committee and staff met with representatives from the District in St. Paul to review and discuss the Plan. Those in attendance from the Board's Committee were Rebecca Flood, Faye Sleeper, Louise Smallidge, LuAnn Tolliver, and Robert Burandt as chair. Board staff in attendance were Metro Region Supervisor Jim Haertel and Board Conservationist Brad Wozney. Representatives from the District included Managers Perry Forster and Michael Casanova, District Engineer Mark Enochs and Consultant Tim Thoreen of CH2MHill Engineering, and Citizen Advisor Catherine Thimmesh. Board staff recommended approval of the Plan. After discussion, the Committee voted unanimously to recommend approval of the Plan to the full Board.

CONCLUSIONS

1. All relevant substantive and procedural requirements of law and rule have been fulfilled.

2. The Board has proper jurisdiction in the matter of approving a Watershed Management Plan for the Riley Purgatory Bluff Creek Watershed District pursuant to Minnesota Statutes Section 103B.231, Subd. 9.

3. The Riley Purgatory Bluff Creek Watershed District Watershed Management Plan attached to this Order defines water and water-related problems within the District's boundaries, possible solutions thereto, and an implementation program.

4. The attached Watershed Management Plan is in conformance with the requirements of Minnesota Statutes Sections 103B.201 to 103B.251.

ORDER

The Board hereby approves the attached Watershed Management Plan dated December 2010 as the Watershed Management Plan for the Riley Purgatory Bluff Creek Watershed District.

Dated at Saint Paul, Minnesota this 26th day of January, 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chair

COMMITTEE RECOMMENDATIONS

Northern Water Planning Committee

1. Clay County Local Water Management Plan Amendment – Quentin Fairbanks – ***DECISION ITEM***

2. Grant County Local Water Management Plan Amendment – Quentin Fairbanks - ***DECISION ITEM***

3. North Fork of the Crow River Watershed District Plan Update – Quentin Fairbanks – ***DECISION ITEM***

4. Todd County Local Water Management Plan Update – Quentin Fairbanks – ***DECISION ITEM***

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Clay County Water Plan Amendment

Meeting Date: January 26, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Northern Region

Contact: Pete Waller

Prepared by: Pete Waller

Reviewed by: Northern Water Planning Review Committee(s)

Presented by: Quentin Fairbanks

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Decision - Approval of the Clay County Water Plan Amendment

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

Clay County Amendment of the Local Water Management Plan - By Board Order, the Board of Water and Soil Resources (Board) approved the Clay County Local Water Management Plan (Plan) on December 14, 2005. This Plan covers a ten-year period of 2006 to 2015 and contained a five-year implementation section for 2006-2010. The Board Order stipulated that the County be required to revise/update the implementation section for the period 2011 to 2015. The Board's Northern Water Planning Committee (Committee) met on October 13, 2010 to review the Clay County Plan Amendment and January 12, 2011 to review the Summary of the November 2, 2010 public hearing. The Committee recommends approval of the Plan Amendment. See attachments. DECISION ITEM.

EXECUTIVE SUMMARY

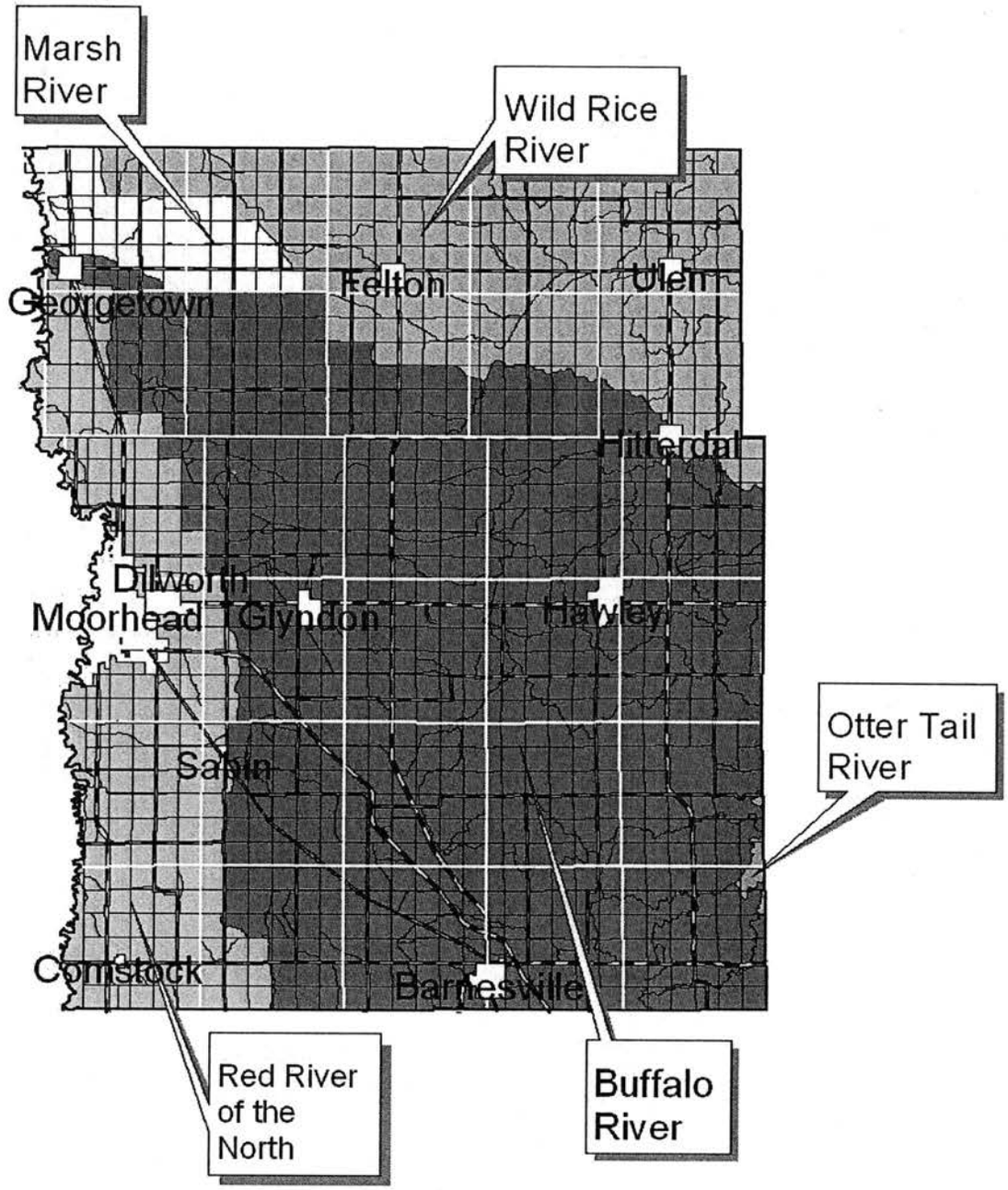
Clay County is situated on the western border of Minnesota, separated from Cass County, North Dakota by the Red River of the North. Clay County encompasses 1,053 square miles, and includes 30 townships and 11 cities. The County seat, Moorhead, comprises 63 percent of the total county population of 51,229 people (2000 Census). The State Demographer's Office projects that the population of Clay County will grow by 5.6 percent from 2000 to 2020, from 51,229 to 54,000. Much of this growth, if current trends continue, will occur near Moorhead and along primary transportation corridors. Of the 30 townships, only 6 have experienced an increase in population since 1950 (see maps in the Appendix denoting township growth and land use).

Of the 673,733 acres that make up Clay County, agricultural land classification dominates accounting for nearly 90 percent of the land use. Interestingly, the total amount of land in farms (cropland) compared to the total acreage in the County has dropped from 1978 to 1997 while the amount of cropland actually harvested has risen from 1978 to 1997 despite a decrease in cropland acres. The most obvious explanation is a decrease in the number of acres in farm programs such as the Conservation Reserve Program (CRP), or other programs. Also of interest, wheat, corn, sunflower seeds, soybeans and hay/alfalfa have increase in the number of acres grown while barley and oats have decreased (Clay County Comprehensive Plan, 2000).

Land Use Category	**Percent of Total**
Cultivated Land	81.4%
Grassland, hayland, or pasture (combined)	7.9%
Forested land	4.4%
Urban and rural development	2.5%
Bog, marsh, fen	1.6%
Water	1.1%
Brushland	0.9%
Mining	0.2%

Source: 1989 Land Use Data (Compared with Clay County Assessors data)

Despite the limited amount of surface water resources, surface water drainage dictates land use, and management of water resources on a watershed scale is paramount. Two primary watersheds, the Buffalo River watershed and the Wild Rice River watershed divide Clay County. Three smaller, secondary watersheds, the Red River (headwaters) watershed, the Otter Tail River watershed, and the Marsh River watershed, drain smaller portions of the county to the west, east and north respectively. In terms of water management, those areas in Minnesota that drain directly to the Red River are included under the Buffalo River Watershed and Wild Rice River Watershed, and the Marsh River is also included under the Wild Rice River.



The Buffalo-Red River Watershed District (BRRWD) encompasses a land area of 1,380 square miles. Approximately 75 percent of the geographic area of Clay County is in the BRRWD, which translates to 58 percent of the watershed area. The Buffalo River originates in Becker County, but transects Clay County where it enters the Red River of the North northwest of Georgetown. The main tributaries to the main branch of the Buffalo River include Hay Creek (originating in Becker County) and the South Branch of the Buffalo River. Again, several drainage ditches also contribute to this branch of the Buffalo River. Major tributaries of the South Branch of the Buffalo River include Hay

Creek, Stony Creek, Spring Creek, Whisky Creek, and several drainage ditches. Wolverton Creek/ Comstock Coulee, although a direct tributary of the Red River of the North, is also included in this watershed. The Wild Rice Watershed District (WRWD) encompasses a land area of 2,080 square miles. Approximately 25 percent of the geographic area of Clay County is in the WRWD, which translates to 12 percent of the watershed area. The South Branch of the Wild Rice River runs across the northeast corner of Clay County from east to west with its headwaters located in Becker County and its terminus in Norman County. Other surface waters in Clay County include Stiner Creek, Felton Ditch, Dalen Coulee and several drainage ditches that are tributaries of the Wild Rice River, or the Red River of the North.

Although the land use figures vary somewhat from year to year, the dominant land uses do not. The struggle between urbanization or increased growth and the traditional agricultural character of the County is clear and present. The challenge for Clay County is to find balance between the preservation of the agricultural heritage, protection of the remaining natural resources and the desire for economic and community growth. To achieve such goals will require the careful, comprehensive consideration of the County's natural resources.

Administration of the Clay County Local Water Management Plan

The administration of the Clay County Local Water Management Plan has been the responsibility of the Clay Soil and Water Conservation District (Clay SWCD) since 1998 (from 1990 to 1998 with the County Planning and Zoning Department). The first generation "Water Plan" was adopted June 12, 1990, and, in 1997, was revised and adopted locally on December 17, 1997. This second generation plan, after a requested two-year extension, will expire on December 31, 2005. The revised Clay County Local Water Management Plan will cover a ten year period from 2006 to 2015, with an implementation plan covering five year increments (2006 to 2010, and a revised implementation plan covering 2011 to 2015).

The Purpose of Local Water Management

The purpose of this Local Water Management Plan for Clay County is:

1. *To identify existing or potential problems and opportunities for protection, management, or development of water resources and related land resources in the county.*
2. *To develop and implement a plan of action to promote sound hydrologic management of water and related land resources in the county, and*
3. *To work toward effective environmental protection and management in the county.*

Pursuant to Minnesota Statute 103B.311, subd. 4, the local water management plan must;

1. address water management issues over the entire county
2. address problems in the context of watershed units and groundwater systems
3. be based upon principles of sound hydrologic management of water, effective environmental protection, and efficient management
4. be consistent with local water management plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or groundwater systems
5. address water management issues over a ten year period with five year implementation plans.

The Water Management Plan revision process requires that the county base future management considerations on public input derived from private citizens and public agencies. Public input was gathered through landowner surveys (paper and internet based surveys), township officer surveys and agency comments (see the *Clay County Priority Concerns Scoping Document* in the Appendix for more information). Through the Water Management Plan revision process, four *PRIORITY CONCERNS* were identified to address in the coming decade; water quality, natural resources enhancement and protection, erosion, and flood damage reduction. The process through which these concerns were identified is detailed in the *Clay County Priority Concerns Scoping Document* located in the Appendix.

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, Minnesota 55155

In the Matter of Reviewing the Local Water Management Plan Amendment for **Clay County** (Minnesota Statutes, Section 103B.314, Subdivision 6)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN AMENDMENT

Whereas, on December 14, 2005, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Clay County Local Water Management Plan Update (Plan); 2006–2015 with a Implementation Program covering 2006–2010; and

Whereas, this Board Order stipulated that Clay County was required to amend the 2006–2010 implementation section; and

Whereas, the Clay County Board of Commissioners submitted the Clay County Plan Implementation Plan 2010 Amendment with an Implementation Section covering 2011-2015 to the Board on September 1, 2010; and

Whereas, this Amendment contains the updated five-year implementation section as ordered by the Board; and

Whereas, the Board has completed its review of the Amendment.

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. On August 27, 2009 Board staff provided information on the amendment process to Clay County.

2. On February 25, 2010, the Board received a February 23, 2010 resolution from Clay County stating its intent to amend its current Plan by providing for the required update of the five-year implementation section, pursuant to M.S. Section 103B.314, Subd. 6.

3. On February 16, 2010, Clay County provided proper notice to local units of government and state agencies of the county's intent to amend its five-year implementation section and invited all recipients to participate in the amendment process.

4. Clay County received written comments from the Minnesota Pollution Control Agency and the Minnesota Board of Water and Soil Resources to be considered while developing the amendment. No other state agency or local government unit provided written comments at this point to Clay County.

5. On March 23, 2010, Clay County convened its water plan task force to initiate the five-year implementation section update. Several additional meetings were conducted through August. The Buffalo Red River Watershed District staff reviewed its June 2010 Revised Watershed Management Plan.

6. On September 1, 2010, the Amendment, which was developed by Clay County and includes the revised 2011 to 2015 five-year implementation section, was submitted to the required state review agencies.

7. Recommendations of the state review agencies were:
   a. Minnesota Department of Agriculture: recommends approval;
   b. Minnesota Department of Health: no recommendation received;
   c. Minnesota Department of Natural Resources: recommends approval;
   d. Minnesota Pollution Control Agency: recommends approval;
   e. Minnesota Environmental Quality Board: no recommendation received;
   f. Minnesota Board of Water and Soil Resources regional staff: recommends approval;

8. On September 1, 2010, the BWSR received the Clay County Plan Amendment and copies of all written comments pertaining to the Amendment submitted to date, pursuant to M.S. Section 103B.314, Subd. 6.

9. On October 13, 2010, the Board's northern regional Water Planning Committee (Committee) reviewed the Clay County Plan Amendment, pursuant to 103B.301 and guidelines established by the Board. Action by the Committee was stayed until record of the required public hearing was received.

10. On November 2, 2010, after providing for proper public notice, Clay County conducted a public hearing on the proposed Amendment. No additional comments were submitted at the hearing.

11. On November 29, 2010, the BWSR received a record of the public hearing. Comments where requested of the audience and none were received.

12. On January 12, 2011, the Board's northern regional Water Planning Committee (Committee) reviewed the summary of the November 2, 2010 public hearing.

13. Board regional staff provided its recommendation of approval to the Committee.

14. The Committee voted to recommend approval to the full Board at its next scheduled meeting.

15. This Amendment will be in effect until December 31, 2015.

CONCLUSIONS

1. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of approving a Comprehensive Water Plan Amendment of Clay County pursuant to Minnesota Statutes, 103B.314, Subd. 6.

2. The Clay County Plan Amendment attached to this Order states goals, objectives, and actions the county will address as the five-year implementation section for the period of 2010 through 2015. This Amendment, as well as the previously approved 10-Year Water Management Plan Clay County Plan: 2005 to 2015 is in conformance with the requirements of M.S. Section 103B.301.

ORDER

The Board hereby approves the attached 2010 Amendment of the Clay County Water Management Plan 2006-2015. Clay County will be required to provide for a complete update of its Water Management Plan prior to December 31, 2015.

Dated at St. Paul, Minnesota, this **26th day of January 2011.**

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chair

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Grant County Water Plan Amendment

Meeting Date: January 26, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Northern Region

Contact: Pete Waller

Prepared by: Pete Waller

Reviewed by: Northern Water Planning Review Committee(s)

Presented by: Quentin Fairbanks

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Decision - Approval of the Grant County Water Plan Amendment

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

Grant County Amendment of the Local Water Management Plan - By Board Order, the Board of Water and Soil Resources approved the Grant County Local Water Management Plan on October 26, 2005. This Plan covers a ten-year period of 2005 to 2015 and contained a five-year implementation section through December 2010. The Board Order stipulated that the County be required to revise/update the implementation section for the period 2011 to 2015. The Board's Northern Water Planning Committee met on January 12, 2011 to review the Grant County Plan Amendment. The Committee recommends approval of the Plan Amendment. See attachments. DECISION ITEM.

I. Executive Summary

Overview of the Local Water Management Plan:

Grant County is fortunate to have an abundant supply of water for recreation, agriculture, industry, and home use. By planning now, we can offset problems and avoid situations that could be costly and difficult to control. If we do not take action to protect and manage our own resources, it is very likely we will find ourselves working with programs that are not necessarily responsive to the local needs and concerns. It is important that programs dealing with natural resource protection assure no one segment of the population bears the burden of protecting these resources. Local residents and those involved with water related issues in the county are in the best position to determine priorities and set direction to assure local issues are addressed in the Local Water Plan.

In 2005 Grant County updated the Local Water Management Plan (LWMP) in accordance with Minnesota Statutes 103B. The Plan, which remains in effect for a period of ten years (December 31, 2005 to December 31, 2015), was approved by the Minnesota Board of Water and Soil Resources on October 26, 2005 and the Grant county Board of Commissioners on November 2, 2005. The Grant Soil and Water Conservation District (SWCD), has formally adopted the Local Water Plan as the SWCD Comprehensive Plan.

Revision and Summary of the Five-Year Focus Plan:

This Amendment contains an updated Five-Year Focus Plan. The Grant County Environmental Advisory Council was delegated with the responsibility of overseeing the development of the new Five-Year Focus Plan. The Environmental Advisory Council conducted two meetings during the planning process to review and update the goals, objectives and actions addressed in the plan, as well as solicit input from the public, other local units of government, State and Federal agencies. While the original Priority Concerns for the 10-year plan have not changed, some action items have been deleted because they were completed and some action items have been added to address current issues and concerns. The Priority Concerns are listed below with a brief summary and estimated cost of the actions proposed to be implemented in the Five-Year Focus plan.

Description of Priority Concerns:

Information collected through public meetings and participation was analyzed and used to develop three priority concerns. The process used to collect this information and identify priority concerns is thoroughly described in the Priority Concerns Scoping Document in Appendix A. of the Grant County Local Water Management Plan 2005-2015. The three priority concerns identified to focus water management efforts in Grant County are as follows:

Priority Concern 1: Contaminated runoff from both urban and agricultural land entering surface waters.

Uncontrolled runoff from agricultural land and urban areas are contributing to the decline of surface water quality through sedimentation and nutrient loading of the counties streams, wetlands, lakes and rivers. Within the County, certain reaches of the Pomme de Terre, Chippewa, and Mustinka rivers are listed as impaired on the federal 303(d) list. A list containing the specific reaches and pollutant/stressors is located on the MPCA web site:
http://www.pca.state.mn.us/index.php/water/water-types-and-programs/minnesotas-impaired-waters-and-tmdls/assessment-and-listing/303d-list-of-impaired-waters.html.

Estimated cost----------$486,000.00

Description of Priority Concerns: (continued)

Priority Concern 2: Excessive runoff water volumes from urban and agricultural land.

Excessive stormwater runoff volume from urban areas as well as agricultural areas is contributing to flooding problems in all watershed areas of the County. This problem is generally related to drainage management, and land use conversion.

Estimated cost----------$225,000.00

Priority Concern 3: Management of shoreland areas and surface water use. Specifically, on natural environment lakes, rivers, and sensitive areas on recreational, and general development lakes.

Grant County has many shallow lakes located in the Chippewa, Pomme de Terre and Mustinka river watersheds. These lakes are beginning to experience development pressure as the availability of land on recreational lakes has diminished. Grant County recognizes the importance of establishing shoreland management ordinances and surface water use ordinances that adequately protects sensitive areas and natural environment lakes.

Estimated cost----------$200,000.00

Summary of Goals and Actions:

The following is a summary of the goals and actions contained in the Grant County Local Water Management Plan to address the three priority concerns. This summary also provides a brief description of the accomplishments from 2005 to 2010. While it is difficult to determine the exact reduction in runoff volumes and pollutants, it is believed that these accomplishments have had a significant positive impact on the surface water resource. Utilizing RUSLE 2 it was determined that these accomplishments resulted in the following estimated reductions:

Estimated annual Sediment reduction----------333,428 tons/year
Estimated annual Phosphorus reduction----------212,908 pounds/year

Priority Concern 1: Contaminated runoff from both urban and agricultural land entering surface waters.

- Promote and implement vegetated buffers adjacent to all surface water resources.

ACCOMPLISHMENTS 2005 – 2010

Continuous Conservation Reserve Program (CCRP)

CP21-Filter Strip----------13,447.6 acres
CP22-Riparian Buffer---------- 391.8 acres
CP18C-High Salts---------- 355.9 acres

State Native Buffer program---------- *51.0 acres*

Lakeshore buffer projects *(Pomme De Terre, Elk and Barrett lakes) ------ 3 projects*

- Protect existing buffers adjacent to protected waters from development through the County Shoreland Ordinance.

ACCOMPLISHMENTS 2005-2010

Grant County Shoreland Ordinance
Revised August 2008 requires;
1. Maintenance or creation of buffer during the platting process on all new developments.
2. Maintenance, or creation, of a buffer on agricultural land as a result of grade/fill permit applications.
3. Requires 50 foot riparian buffer adjacent to shoreland as a condition of approval for subdivisions.

- Promote and implement agricultural Best Management Practices (BMP's) such as; conservation tillage and nutrient management on agricultural lands near surface water resources that have established vegetated buffers.

ACCOMPLISHMENTS 2005 – 2010

Environmental Quality Incentives Program (EQIP)

Nutrient management	*28,500 acres*
Conservation tillage	*30,380 acres*
Pest management	*7,280 acres*
Water and Sediment Control Basins	*63 basins*
Ag Waste closure	*2 sites*
Grazing systems	*4 systems*
Grassed waterways	*4 acres*

AgBMP Loan program

Low interest loans ($513,500) for conservation tillage equipment-----16 loans

Continuous Conservation Reserve Program (CCRP)

CP38E-Back Forty Pheasant Habitat	*718.1 acres*
CP17A- Living Snow Fence	*79.2 acres*
CP16A-Farmstead Windbreak	*208.4 acres*
CP5A-Field Windbreak	*326.3 acres*
CP 8a Grassed Waterway	*6.1 acres*

- Encourage compliance with stormwater rules and ordinances by continuing public education and promotion of stormwater best management practices.

ACCOMPLISHMENTS 2005 – 2010

Grant County Shoreland Ordinance was revised August 2008 and requires; Subdivision approval process requires implementation of BMP's thru the approval process and site permitting for new construction.

35 lake shore owners attended a Rain Garden Workshop sponsored by Lake Associations on Pelican, Pomme de Terre, and Barrett lakes. 25 of these landowners have expressed an interest and desire to complete projects on their property when cost-share funding can be obtained.

Priority Concern 2: Excessive runoff water volumes from urban and agricultural land.

- Promote and implement the restoration of drained wetlands.

ACCOMPLISHMENTS 2005 -2010

Continuous Conservation Reserve Program (CCRP)

CP23A-Wetland Restoration and Buffer---------- 2,479.4 acres
CP27/28-Farmed Wetland and Buffer---------- 2,133.9 acres
CP37-Duck Nesting Habitat---------- 534.8 acres

Wetland Reserve Program (WRP)

18 easements---------- 1,212 acres

RIM/WRP

4 easements ---------- 370 acres

Grant County Shoreland Ordinance

Wetland restorations are encouraged but not required during plat review process.

- Promote the installation of stormwater retention basins when more than an acre of impervious surface is constructed.

ACCOMPLISHMENTS 2005 -2010

Grant County Shoreland Ordinance revised August 2005 requires MPCA stormwater rules are implemented on all construction activities with more than an acre of impervious surface.

Priority Concern 3: Management of shoreland areas and surface water use. Specifically on natural environment lakes, rivers, and sensitive areas on recreational and general development lakes.

- Protect and improve water quality, and fish and wildlife habitat of protected surface water resources by initiating a process to reclassify lakes or portions of lakes where appropriate and clearly defining and mapping sensitive areas.

ACCOMPLISHMENTS 2005 -2010

The Grant County Protected Waters Inventory map was amended. The Not Shoreland Classified Lakes (NOTSL) are now included as Natural Environment Lakes under the Grant County Shoreland Ordinance. In addition, several lakes were reclassified from General Development or Recreational Development to Natural Environment Lakes. Bays on Recreational and General Development Lakes were also reclassified as Natural Environment. A map containing these changes can be found in the Grant County Shoreland Zoning Ordinance.

- Identify and implement a process of enacting surface water use regulations on selected lakes and or portions of lakes and rivers.

Ongoing Programs:

Grant County continues to administer several programs that are vital to achieving the goals set forth in the Local Water Plan, including those related to floodplain and shoreland management, solid waste management, subsurface sewage treatment systems and the Wetland Conservation Act (WCA). Annual E-link reports are completed for the above programs that provide grant funding through the Natural Resources Block Grant (NRBG). The continued funding through the NRBG will be vital in achieving the goals objectives and actions that have been identified in the Five-Year Implementation Plan.

The Grant SWCD, Office of Land Management, NRCS, and FSA continue to work as a partnership to improve water quality and reduce excessive runoff in Grant County. These efforts and achievements are possible due to good working relations and by implementing such conservation programs as: State Cost-Share, CCRP, CSP, EQIP, RIM/WRP, WCA, Shoreland management, and the AgBMP Loan program.

Recommendations to Other Plans and Official Controls:

1. The Grant County Environmental Advisory Council recommends statewide revision of the Shoreland Regulations. While Grant County recognizes that they can adopt a more restrictive County Shoreland Ordinance that adequately protects shallow lakes and sensitive areas, it would provide greater consistency for the state to provide a minimum statewide standard that adequately addresses water quality, and fish and wildlife issues created by the unforeseen development of natural environment lakes and sensitive areas on recreational and general development lakes.

2. The Grant County Environmental Advisory Council recommends that the State of Minnesota through the Department of Natural Resources review laws and policies related to the permitting of aqua-cultural activities in wetlands and natural environment lakes. Specifically, it is believed that it is inappropriate to issue a permit for this use without proper notification and input from all riparian landowners and local officials.

Recommendations to Other Plans and Official Controls: (continued)

3. The current Total Maximum Daily Load (TMDL) process is too complex and not understandable by the general population. MPCA and State Policy makers need to come to understand that if actual improvements are to be made in water quality it will be the result of landowners changing land use practices and installing best management practices on their property, with the assistance of local agencies. The current process adopted by MPCA to determine and address impairments is too complex for many landowners and local officials to understand. If landowners are not able to understand why they are being asked to change land use practices it is unlikely that they will implement best management practices.

4. Since 2002 there has been a sizeable decline in state funding to local units of government for water quality protection projects through Natural Resource Block Grants to County's and General Service funds and State Cost-Share funds to SWCD's. Grant County recognizes the need to protect these valuable resources and has made significant investments of local funds in this effort. Grant County also recognizes that the benefits of improved water quality are shared by all of the residents of the State of Minnesota. If Grant County and the State of Minnesota are going to be successful in accomplishing the goal of improving water quality the State of Minnesota needs to accept a greater share of the financial burden. The Grant County Environmental Advisory Council recommends that the BWSR Board work with the state legislature and Governors office to insure that the state of Minnesota provides increased funding to local units of government through the NRBG, General Service and State cost-Share programs.

5. Grant County recommends that State and Federal agencies that are utilizing TMDL impairment data as a tool for program participation become familiar with this information so agencies are using the same impairment information as MPCA is providing to County's and posting on the MPCA web site. It is not appropriate for local agencies to be telling landowners that they have land located in a watershed that contributes to impaired waters based on MPCA information and then have another state or federal agency refute that information. This issue has been specific to the scoring on RIM/WRP projects in Grant County. All state, local and federal resource agencies need to be on the same page if we are going to be successful in improving water quality through the TMDL process.

6. Grant County recommends that BWSR add a requirement to the water planning process that calls for the appropriate State agency or other entities to respond to the issues brought forward under this section "Recommendations to Other Plans and Official Controls".

II. Goals and Objectives

Priority Concern 1:

Contaminated runoff from both urban and agricultural land entering surface waters.

Objectives and Actions

Objective A

Encourage and promote urban and agricultural land use practices to protect surface water resources.

Actions

1. Promote the use of existing federal, state and local conservation programs that reduce soil erosion and sedimentation through the establishment of buffer strips, wetland restorations, field windbreaks, and grassed waterways.

Estimated cost:----------$350,000.00

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, Minnesota 55155

In the Matter of Reviewing the Local Water Management Plan Amendment for **Grant County** (Minnesota Statutes, Section 103B.314, Subdivision 6)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN AMENDMENT

Whereas, on October 26, 2005, the Minnesota Board of Water and Soil Resources, by Board Order, approved the Grant County Local Water Management Plan; 2005 through 2015 with a Implementation Program for 2005–2010; and

Whereas, this Board Order stipulated that Grant County was required to amend the implementation section to cover the five year period of 2011-2015; and

Whereas, the Grant County Board of Commissioners submitted the Grant County Local Water Management Plan Amendment 2011 to 2015 to the Board on November 15, 2010; and

Whereas, this Amendment contains the updated five-year implementation section as ordered by the Board; and

Whereas, the Board has completed its review of the Grant County Local Water Management Plan Amendment.

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. On May 12, 2009 Board staff provided information on the amendment process to Grant County.

2. On May 27, 2009, the Board received a May 19, 2009 resolution from Grant County stating its intent to amend its current Plan by providing for the required update of the five-year implementation section, pursuant to M.S. Section 103B.314, Subd. 6.

3. On February 16, 2009, Grant County provided proper notice to local units of government and state agencies of the county's intent to amend its five-year implementation section and invited all recipients to participate in the amendment process.

4. On February 24, 2010, Grant County convened its Water Plan Task Force to initiate the five-year implementation section update. Several additional meetings were conducted.

5. Grant County received written comments from the Minnesota Pollution Control Agency and the Minnesota Board of Water and Soil Resources to be considered while developing the amendment. No other state agency or local government unit provided written comments at this point to Grant County.

6. On November 15, 2010, the Amendment 2011 to 2015, which was developed by Grant County and includes a revised 2011 to 2015 five-year implementation section, was submitted to the required state review agencies.

7. Recommendations of the state review agencies were:
   a. Minnesota Department of Agriculture: no recommendation received;
   b. Minnesota Department of Health: no recommendation received;
   c. Minnesota Department of Natural Resources: recommends approval;
   d. Minnesota Pollution Control Agency: recommends approval;
   e. Minnesota Environmental Quality Board: no recommendation received;
   f. Minnesota Board of Water and Soil Resources regional staff: recommends approval;

8. On November 24, 2010, after providing for proper public notice, Grant County conducted a public hearing on the proposed Amendment. No additional comments were submitted at the hearing.

9. On December 9, 2010, BWSR received the Grant County Plan Amendment, a record of the public hearing, and copies of all written comments pertaining to the Amendment, pursuant to M.S. Section 103B.314, Subd. 6.

10. On January 12, 2011, the Board's Northern Regional Water Planning Committee reviewed the Grant County Plan Amendment, pursuant to 103B.301 and guidelines established by the Board.

11. Board regional staff provided its recommendation of approval to the Committee.

12. The Committee voted to recommend approval to the full Board at its next scheduled meeting.

13. This Amendment will be in effect until December 31, 2015.

CONCLUSIONS

1. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of approving a Comprehensive Water Plan Amendment of Grant County pursuant to Minnesota Statutes, 103B.314, Subd. 6.

2. The Grant County Plan Amendment attached to this Order states goals, objectives, and actions the county will address as the five-year implementation section covering 2011 through 2015. This Amendment, as well as the previously approved 10-Year Water Management Plan Grant County Plan: 2005 to 2015 is in conformance with the requirements of M.S. Section 103B.301.

ORDER

The Board hereby approves the attached Amendment of the Grant County Local Water Management Plan Amendment 2011 to 2015. Grant County will be required to provide for a complete update of its Water Management Plan prior to December 31, 2015.

Dated at St. Paul, Minnesota, this **26th day of January, 2011**.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chair

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: North Fork Crow River WD Plan Approval

Meeting Date: January 26, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Northern

Contact: Jason Weinerman

Prepared by: Jason Weinerman

Reviewed by: Northern Water Planning Committee(s)

Presented by: Quentin Fairbanks

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Approval of the updated 10 year North Fork of the Crow River Watershed District Plan

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
In 1985, the BWSR established the North Fork of the Crow River Watershed District. The District's initial plan was approved by the board in 1987. This is the first update of the watershed district plan.

The BWSR received the plan in August of 2010. Following the arrival of the plan, a legal notice of filing was submitted to several area newspapers and mailings of the notice of filing were also sent to the appropriate county auditors, administrators, soil and water conservation districts, and cities within the watershed district. The Department of Natural Resources had no comments or objections to the plan. No other comments were received.

The Watershed District Plan was presented to the Northern Water Planning Committee on January 12, 2011. As the Plan met state statutes, the recommendation from the Committee was to approve the plan for forwarding onto the BWSR Board for approval.

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
Saint Paul, MN 55155

In the Matter of prescribing a Revised Watershed Management Plan for the **North Fork Crow River Watershed District** pursuant to Minnesota Statutes Sections 103D.405	**ORDER PRESCRIBING WATERSHED MANAGEMENT PLAN**

Whereas, the Board of Managers of the North Fork Crow River Watershed District (NFCRWD) filed a proposed Revised Watershed Management (Plan) dated August 2010 with the Board of Water and Soil Resources (Board) on August 10, 2010 pursuant to Minn. Stat. § 103D.405, and;

Whereas, the Board has completed its review of the Plan;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order.

FINDINGS OF FACT

1. **District Establishment.** The District was established on May 10, 1985 by Order of the Minnesota Water Resource Board. The District is located in the central portion of Minnesota and includes parts of Kandiyohi, Meeker, Pope, and Stearns Counties. The mission of the District is to improve and enhance water quality, to control water flow, to reduce erosion and sedimentation, to promote wise public, private and natural use of water, and enhance and preserve public and private drainage.

2. **Requirement to Plan.** A watershed district is required to revise their watershed management plan at least once every ten years pursuant to Minnesota Statutes Section 103D.405, Subd. 1 (a). The latest Water Management Plan of the District was prescribed by the Board in 1987. The Plan includes an inventory of the District's physical features and water resources, describes water-related problems and possible solutions, describes activities and projects that the District has completed, and states objectives for current and future water resources management.

3. **Nature of the Watershed.** The North Fork of the Crow River Watershed covers that land that is drained by the North Fork of the Crow River, which begins in headwaters of Grove Lake (Pope County) and ends at the junction of the North Fork and the Middle Fork of the Crow River. There are 14 lakes in the watershed district, the largest three being Grove Lake,

Lake Koronis, and Rice Lake. There are four municipalities and several unincorporated communities that lie within the watershed. Paynesville is the largest city and the district office is located in Brooten. The district is primarily agricultural although there is some development around the larger lakes. A significant portion of the district is legally drained and these legal drains are in a variety of states of repair.

4. **Territory.** The NFCRWD is approximately 348 square miles in size and is located in central Minnesota. Lands within the District are distributed in the following counties: Stearns (64%), Pope (15%), Kandiyohi (12%), and Meeker (9%).

5. **Local Review.** The NFCRWD sent a copy of the draft Plan to local units of government for their review pursuant to Minn. Stat. § 103D.405.

6. **Department of Natural Resources Review.** The DNR has no objections or comments to the Plan.

7. **Department of Agriculture Review.** Not required by law to review.

8. **Department of Health Review**. Not required by law to review.

9. **Pollution Control Agency Review**. Not required by law to review.

10. **Other review comments.** There were no other comments received by NFCRWD or the BWSR.

11. **Highlights of the Plan**. As the last district plan was approved over 20 years ago, the current plan provides a good summary of much of the activities and projects in which the district has participated. The plan has identified four goals that should help the district focus on priority items as determined by the board with input from local stakeholders. Under each of these broad goal statements, the district has identified many components, which are further broken by priorities that will direct district efforts. One of the challenges the district faces is balancing the role of serving as the ditch authority with the requirement to move water efficiently and the role of water quality protector. The plan strikes this balance by including ditch management guidelines that will maintain an effective ditch system with best management practices that keep ditches stable and minimize the contribution of pollutants to the surface waters. Finally, the plan and the district board realize that they need to include the larger public in the issues of watershed management and have included specific sections that detail how this public engagement requirement will be met.

12. **Hearing Notice.** The Legal Notice of Filing on the Plan, pursuant to Minn. Stat. § 103D.105 Subd. 2, was published in the Pope County Tribune on October 25, 2010, in the Paynesville Press on October 27, 2010, in the West Central Tribune on October 27, 2010, and in the Bonanza Valley Voice on October 28, 2010. Further, a copy of the notice of filing

was mailed to several addresses notifying them of the legal notice of filing, including the Stearns, Pope, Kandiyohi, and Meeker County Auditors, Administrators, and Soil and Water Conservation Districts; all of the cities within the watershed district; and representative for the Watershed District.

13. **Public Hearing**. The Legal Notice of Filing was published pursuant to Minn. Stat. § 103D.105 Subd. 2, which requires within 30 days of the last date of publication of the Notice of Filing of the Revised Water Management Plan that a least one request for hearing be received by the Board before a hearing will be held. No request for hearing and no comments were received during the specified period of time and no hearing was held.

14. **Board Staff Report.** The North Fork of the Crow River Watershed District Board and staff held several meetings with the public and members of the local lake associations to develop the recommendations with this overall watershed district plan. In addition, the staff worked with their Board Conservationist to insure that the plan was in compliance with state statute and met the needs of current grant program and opportunities. This overall plan of the North Fork of the Crow River Watershed District meets the requirements of 103D.405 and follows the guidelines provided by the Board of Water and Soil Resources.

15. **North Region Water Plan Review Committee.** The committee met on January 12, 2011 those in attendance from the Board's Committee were Quentin Fairbanks, Brian Napstad, Gene Tiederman, Paul Brutlag, Keith Mykleseth. Board staff in attendance were Ron Shelito, Dan Steward, Pete Waller, Jason Weinerman. Board staff recommend approval of the plan. After discussion, the subcommittee unanimously voted to recommend approval of the Plan.

CONCLUSIONS

1. The proposed Revised Plan is valid in accordance with Minn. Stat. § 103D.405.

2. Proper notice of filing was given in accordance with applicable laws.

3. All relevant, substantive and procedural requirements of law and rule have been fulfilled.

4. The Board has proper jurisdiction in the matter of approving a Plan for the NFCRWD pursuant to Minn. Stat. § 103D.405.

5. The attached Plan is in conformance with the requirements of Minn. Stat. Chapter 103D, Board guidelines for Watershed District Plan content, and is consistent with the affected counties' comprehensive water plans.

ORDER

The Board hereby prescribes the attached Plan dated August, 2010 as the Revised Watershed Management Plan for the North Fork Crow River Watershed District.

Dated at Saint Paul, Minnesota this 26th day of January, 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brain Napstad, Chair

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Todd County Local Water Plan Approval

Meeting Date: January 26, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☐ Decision ☐ Discussion ☐ Information

Section/Region: Northern

Contact: Jason Weinerman

Prepared by: Jason Weinerman

Reviewed by: Northern Water Planning Committee(s)

Presented by: Quentin Fairbanks

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Approval of Todd County's Comprehensive Local Water Management Plan

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

The 4th generation of the Todd County Local Water Management plan is due to expire on December 31, 2011. The County passed a resolution to begin the plan update process on October 20, 2009. The priority concerns scoping document was routed to the state agencies during the week of February 14, 2010. Comments were received and reviewed by BWSR.

On June 16th, the Northern Water Planning reviewed the PCSD and recommended approval by the Board. On June 23rd, the BWSR approved the Priority Concerns with the comments provided by the Northern Water Planning Committee.

The Todd County Comprehensive Water Plan was submitted to BWSR and routed to the state agency partners who provided comments in support of the plan. The County Water Planner presented the plan before the Northern Water Planning Committee on January 12th. Following the presentation, the review committee voted to recommend approval by the full Board. Mr. Fairbanks will bring the committee recommendation before the full board.

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, Minnesota 55155

In the Matter of Reviewing the Local Water Management Plan Update for **Todd County** (Minnesota Statutes , Section 103B.311, Subdivision 4 and Section 103B.315, Subdivision 5.)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN UPDATE

Whereas, the **Todd** County Board of Commissioners submitted a Local Water Management Plan Update (Plan Update) to the Board on **November 15, 2010** pursuant to M.S. Section 103B.315, Subd. 5, and

Whereas, the Board has completed its review of the Plan Update;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1) On **February 14, 2010,** the Minnesota Board of Water and Soil Resources received a Priority Concerns Scoping Document from **Todd** County, pursuant to M.S. Section 103B.312.

2) On **June 23, 2010,** the Board of Water and Soil Resources approved official comments on the **Todd** County Priority Concerns Scoping Document, which were mailed to the county on **June 23, 2010.**

3) The priority concerns the local water management plan addresses include:

   A) Groundwater Quality and Quantity
   B) Surface Water Quality and Quantity
   C) Land Use Impacts

4) On **November 16, 2010,** the BWSR received the **Todd** County Plan Update, a record of the public hearing, and copies of all written comments pertaining to the plan update to the Board for final State review pursuant to M.S. Section 103B.315, Subd. 5.

5) On **January 12, 2010,** the Northern Water Planning Committee of the board reviewed the recommendation of the state review agencies regarding final approval of the **Todd** County Plan Update . Recommendations of the state review agencies were:
   A) Minnesota Department of Agriculture recommends Approval
   B) Minnesota Pollution Control Agency recommends Approval
   C) Minnesota Department of Health recommends Approval
   D) Minnesota Board of Water and Soil Resources regional staff recommends Approval
   E) Board Northern Water Planning Committee Meeting recommends Approval

6) This update will be in effect until **January, 2016.**

CONCLUSIONS

1. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of approving a Comprehensive Water Plan Update of **Todd** County pursuant to Minnesota Statutes , 103B.315, Subd. 5.

2. The **Todd** County Plan Update attached to this Order states water and water-related problems within the county; possible solutions; general goals, objectives, and actions of the county; and an implementation program. The attached Plan Update is in conformance with the requirements of M.S. Section 103B.301.

ORDER

The Board hereby approves the attached update of the **Todd** Local Water Management Plan **January 26, 2011 to January 31, 2016 with** the Goals, Objectives and Action Items being amended at that time.

Dated at **St. Paul,** Minnesota, this **twenty sixth day of January, 2011.**

MINNESOTA BOARD OF WATER AND SOIL RESOURCES



BY: Brian Napstad, Chair

Wetland Committee

1. Local Government Roads Wetland Replacement Program Project Selection – Dave Weirens and Dan Girolamo – ***DECISION ITEM***

2. 2011 Wetland Bank Fee Policy – Dave Weirens and Natasha DeVoe – ***DECISION ITEM***

Minnesota Board of Water & Soil Resources

mja

DATE: January 18, 2011

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

FROM: Dave Weirens, Section Manager, Land & Water Management

SUBJECT: BWSR Board Meeting – January 26, 2011
Wetland Committee Recommendations Background Information

The Board of Water and Soil Resources' Wetland Committee met on January 12, 2011, and reviewed the Local Government Roads Wetland Replacement Program Project Selection; and the 2011 Wetland Bank Fee Policy. The Wetland Committee recommendations are on the agenda for the BWSR Board Meeting on January 26, 2011.

As noted in the Board Meeting Notice sent last week, attached are the following documents for the two agenda items as identified below:

COMMITTEE RECOMMENDATIONS
Wetland Committee

1. **Local Government Roads Wetland Replacement Program Project Selection –** Dave Weirens and Dan Girolamo – ***DECISION ITEM***
   - 2010 Road Program Project Solicitation
   - Resolution

2. **2011 Wetland Bank Fee Policy** – Dave Weirens and Natasha DeVoe – ***DECISION ITEM***
   - Update Calculated Wetland Credit Values1-11 (Background Information)
   - Resolution

DW:mja
Attachments

Bemidji 701 Minnesota Ave., Suite 234 Bemidji, MN 56601 (218) 333-8024
Brainerd 1601 Minnesota Drive Brainerd, MN 56401 (218) 828-2383
Duluth 394 South Lake Ave., Room 403 Duluth, MN 55802 (218) 723-4752
Fergus Falls 1004 Frontier Drive Fergus Falls, MN 56537-2505 (218) 736-5445
Marshall 1400 East Lyon St., Box 267 Marshall, MN 56258 (507) 537-6060
Mankato 1160 Victory Drive S., Suite 5 Mankato, MN 56001-5358 (507) 389-1967
New Ulm 261 Highway 15 South New Ulm, MN 56073 (507) 359-6074
Rochester 2300 Silver Creek Rd N.E. Rochester, MN 55906 (507) 206-2889

Central Office / Metro Office 520 Lafayette Road North Saint Paul, MN 55155 Phone: (651) 296-3767 Fax: (651) 297-5615
www.bwsr.state.mn.us TTY (800) 627-3529 An equal opportunity employer

COMMITTEE RECOMMENDATIONS

Wetland Committee

1. Local Government Roads Wetland Replacement Program Project Selection – Dave Weirens and Dan Girolamo – ***DECISION ITEM***

2. 2011 Wetland Bank Fee Policy – Dave Weirens and Natasha DeVoe – ***DECISION ITEM***

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Wetland Bank Fee Policy

Meeting Date: January 26, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Land and Water Section

Contact: Dave Weirens

Prepared by: Natash Devoe, Dave Weirens

Reviewed by: Wetland Committee Committee(s)

Presented by: Dave Weirens, Natasha Devoe

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☐ None
☒ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

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

BWSR by statute operates the Wetland Banking Program. The purpose of the wetland bank is to establish a way for citizens with available land to establish a wetland bank that can be sold to parties needing credits for replacement. Commonly those with the credit need are builders and developers who are building in an area where a wetland is impacted and therefore needs to be replaced. These two parties complete a wetland credit purchase transaction that generates one or more fees established by Minnesota Statute 103G.2242, Subdivisions 14 and 15. The fee amount is based on the actual purchase price with the minimum credit value being the calculated value as identified in the subject policy.

The credit value table within the wetland banking fee policy is a summary of the calculated values by county. The current table was last revised in 2008 and needs to be updated to reflect current values consistent with those documented in 2010. The current table also used average assessed tillable land values, and in some cases land use surrogates, if tillable land data was unavailable in a particular county. The proposed fee policy update uses data from the Minnesota Department of Revenue that better reflects the assessed values, by county, for parcels commonly used as wetland replacement sites. This improved data will generate a more realistic credit value, and in turn, a more realistic fee. Board approval of the revised fee policy is requested.

The Board's Wetland Committee met on January 12, 2011, and recommends approval of the updated valuation method. A resolution and supporting information consistent with the Committee's recommendation will be provided next week.

Wetland Banking Fee Policy:
Update Calculated Wetland Credit Values

January 12, 2011

Background.
Minnesota Statutes 103G.2242, Subds. 14 and 15, require the Board of Water and Soil Resources to collect fees for administering the state wetland banking program.

The statute reads:

Subd. 14. Fees Established. Fees must be assessed for managing wetland bank accounts and transactions as follows:
(1) account maintenance annual fee: one percent of the value of credits not to exceed $500;
(2) account establishment, deposit, or transfer: 6.5 percent of the value of credits not to exceed $1,000 per establishment, deposit, or transfer; and
(3) withdrawal fee: 6.5 percent of the value of credits withdrawn.

Subd. 15. Fees Paid To Board. All fees established in subdivision 14 must be paid to the Board of Water and Soil Resources and credited to the general fund to be used for the purpose of administration of the wetland bank.

Description of Wetland Bank Fee Policy and determination and use of the Calculated Values.
(from the existing policy available on the BWSR website)

The fee structure and procedures described in Part III were implemented beginning Jan. 1, 2004, and are subject to regular evaluation and possible change.

III. Fee Structure and Procedures
- **A. Account Establishment and Deposit Fees.**
- **B. Account Maintenance Fee.**
- **C. Account Transfer Fee.**
- **D. Withdrawal Fee.**

The 2011 values will go into effect for wetland bank credit sales made after January 31, 2011. A signed / dated copy of the purchase agreement must accompany applications received after that date if the 2010 values are used to calculate fees. The current policy provisions on determining the value of the credits (shown below) are unchanged from the policy adopted in 2007.

E. Value of Credits. The value of wetland credits for the purpose of assessing fees will be determined as follows:

1. Credit Value ($/acre) = Avg. agricultural land value ($/acre) in the county where the bank is located (from Dept. Revenue) x Wetland Credit Value Coefficient (currently 6.0).

The Wetland Credit Value Coefficient reflects the value added to the land by the wetland credits. It is determined by BWSR based on the average ratio of credit sale price to county land value for credits that BWSR has purchased from existing bank accounts statewide. The current coefficient is based on credit sales from 1999-2007. This coefficient will be updated by BWSR Board Policy to reflect recent wetland credit market values. For the purposes of the formula above, the 2010 tillable land values, 2010 rural/vacant land values when the ratio of tillable acres to rural/vacant acres is less than 20%, or the average of the 2010 before and after deferral green acres values, multiplied by the wetland credit value coefficient of 6.0. All land value data is provided by the Minnesota Department of Revenue. Increases are limited to 75% of the previous value.

2. For determining withdrawal or transfer fees, account holders may present other evidence to BWSR demonstrating the value of credits, such as actual sales values. When using actual sales data to determine credit values, account holders will be required to submit to BWSR actual bills of sale as documentation.

The Calculated Wetland Value spreadsheet (attached) uses the tillable land value, the rural/vacant land value, and green acres land value data from the Minnesota Department of Revenue. The preferred data for calculating these values are tillable land. However, for some counties the tillable land base is inadequate or nonexistent. For a number of northern counties, the rural/vacant land value is used. For Hennepin and Ramsey Counties, the average of the before and after deferral Green Acres values are used. The policy adopted in 2007 limits the increase to 75%. The attached listing includes only one county that exceeds this threshold: Ramsey County.

Proposed 2011 Calculated Values for Wetland Bank Fee Determination[1]

	(1) COUNTY NAME	(2) Tillable $/Acre	(3) 2A- Tillable Acreage	(4) 2B-Rural/ Vacant $/Acre	(5) 2B- Rural/Vacant Acreage	(6) % Tillable vs Rural/ Vacant	(7) Calc Credit Value 2011	(8) % Change from 2008
#	AITKIN	$1,030	15,609	$1,352	352,242	4%	$8,109	-30%
	ANOKA	$9,293	30,629	$3,073	21,403	-	$55,756	39%
	BECKER	$1,456	246,576	$700	444,236	56%	$8,736	13%
	BELTRAMI	$880	117,949	$1,308	230,185	51%	$5,278	-3%
	BENTON	$2,919	124,297	$2,125	55,227	-	$17,514	1%
	BIG STONE	$2,706	246,082	$768	25,897	-	$16,235	25%
	BLUE EARTH	$4,379	361,207	$2,193	24,288	-	$26,275	8%
	BROWN	$4,223	312,219	$766	10,924	-	$25,337	30%
#	CARLTON	$1,387	124	$1,094	193,225	0%	$6,566	-45%
	CARVER	$6,441	117,024	$5,963	2,397	-	$38,647	-10%
	CASS	$1,573	53,212	$2,169	302,820	18%	$13,012	27%
	CHIPPEWA	$3,628	303,024	$1,040	7,588	-	$21,770	31%
	CHISAGO	$3,622	79,124	$1,625	42,141	-	$21,732	-7%
	CLAY	$2,053	497,112	$865	38,583	-	$12,321	19%
	CLEARWATER	$827	100,979	$975	73,877	-	$4,962	0%
#	COOK		0	$4,169	56,608	0%	$25,015	1%
	COTTONWOOD	$3,839	364,127	$809	7,383	-	$23,034	22%
	CROW WING	$2,269	37,376	$2,116	268,849	14%	$12,699	-12%
	DAKOTA	$6,233	159,739	$4,615	23,704	-	$37,399	8%
	DODGE	$4,245	229,201	$2,343	12,848	-	$25,473	21%
	DOUGLAS	$2,119	193,261	$2,102	82,172	-	$12,715	6%
	FARIBAULT	$4,249	392,069	$1,074	16,238	-	$25,491	32%
	FILLMORE	$3,467	333,333	$2,326	42,933	-	$20,800	17%
	FREEBORN	$4,309	370,847	$622	37,057	-	$25,853	34%
	GOODHUE	$4,056	314,315	$1,989	58,297	-	$24,337	2%
	GRANT	$2,800	263,131	$1,217	12,142	-	$16,799	54%
*	HENNEPIN	$27,067	36,164	$13,943	13,299	-	$96,602	13%
	HOUSTON	$2,685	161,346	$2,543	127,775	-	$16,108	5%
	HUBBARD	$2,015	55,328	$1,931	186,268	30%	$12,088	1%
	ISANTI	$4,295	103,876	$123	442,465	23%	$25,767	9%
#	ITASCA	$1,430	27,892	$1,420	572,281	5%	$8,518	9%
	JACKSON	$4,341	375,383	$939	6,307	-	$26,047	35%
	KANABEC	$1,548	67,905	$1,353	151,625	45%	$9,287	-1%
	KANDIYOHI	$3,514	350,859	$1,321	62,079	-	$21,085	27%
	KITTSON	$1,099	463,060	$422	127,207	-	$6,595	27%
#	KOOCHICHING	$689	5,796	$638	362,212	2%	$3,831	-50%
	LAC QUI PARLE	$3,076	381,713	$996	7,463	-	$18,456	38%
#	LAKE	$1,702	690	$1,957	191,106	0%	$11,744	-25%
	LAKE OF THE WOODS	$628	74,017	$702	134,299	55%	$3,770	1%
	LE SUEUR	$4,843	195,664	$4,345	42,265	-	$29,060	11%
	LINCOLN	$2,891	272,399	$932	10,921	-	$17,346	41%
	LYON	$3,717	387,078	$1,451	16,628	-	$22,302	32%
	MAHNOMEN	$1,443	161,583	$664	70,840	-	$8,659	51%
	MARSHALL	$1,048	810,118	$550	99,262	-	$6,290	51%
	MARTIN	$4,656	389,898	$6,501	251	-	$27,937	33%
	MCLEOD	$4,639	230,514	$2,063	21,418	-	$27,833	35%
	MEEKER	$3,297	268,704	$1,396	35,849	-	$19,779	16%

	MILLE LACS	$1,918	67,771	$1,386	131,344	52%	$11,509	-23%
	MORRISON	$2,591	215,222	$1,247	99,676	-	$15,548	10%
	MOWER	$4,143	382,011	$1,712	12,492	-	$24,859	24%
	MURRAY	$3,577	387,366	$562	19,988	-	$21,460	27%
	NICOLLET	$4,491	214,331	$1,110	16,997	-	$26,948	10%
	NOBLES	$3,967	399,224	$696	27,501	-	$23,801	28%
	NORMAN	$1,802	461,540	$522	51,158	-	$10,812	48%
	OLMSTED	$4,150	230,956	$3,471	39,900	-	$24,903	10%
	OTTER TAIL	$1,819	533,221	$2,373	356,533	-	$10,913	16%
	PENNINGTON	$852	292,880	$519	54,977	-	$5,113	30%
	PINE	$1,661	110,150	$1,246	440,278	25%	$9,968	-9%
	PIPESTONE	$3,490	233,019	$1,249	428	-	$20,940	37%
	POLK	$1,654	948,529	$741	120,334	-	$9,926	43%
	POPE	$2,448	267,875	$1,224	83,953	-	$14,685	16%
*	RAMSEY	$83,174	165		0	-	$257,228	200%
	RED LAKE	$889	218,950	$608	31,315	-	$5,337	19%
	REDWOOD	$4,089	473,130	$867	9,429	-	$24,535	33%
	RENVILLE	$4,504	531,713	$1,002	13,743	-	$27,025	36%
	RICE	$5,278	204,089	$3,051	49,785	-	$31,665	-14%
	ROCK	$4,657	248,581	$2,325	84	-	$27,943	22%
	ROSEAU	$589	505,180	$568	160,984	-	$3,536	19%
	SCOTT	$7,182	85,185	$5,544	17,928	-	$43,089	-6%
	SHERBURNE	$4,531	69,844	$3,473	47,299	-	$27,187	17%
	SIBLEY	$4,496	297,087	$1,199	37,278	-	$26,974	30%
#	ST. LOUIS	$967	37,124	$1,057	1,100,608	3%	$6,339	-24%
	STEARNS	$3,131	488,247	$3,176	28,278	-	$18,788	16%
	STEELE	$3,934	211,179	$1,144	25,409	-	$23,604	10%
	STEVENS	$2,841	307,895	$2,658	2,394	-	$17,044	18%
	SWIFT	$3,021	389,686	$800	17,649	-	$18,126	23%
	TODD	$1,597	245,726	$1,445	186,459	-	$9,584	7%
	TRAVERSE	$2,992	333,590	$909	10,345	-	$17,951	44%
	WABASHA	$3,362	215,586	$1,796	76,446	-	$20,172	8%
	WADENA	$1,408	94,535	$1,195	165,997	57%	$8,448	12%
	WASECA	$4,351	234,938	$1,033	14,705	-	$26,106	24%
	WASHINGTON	$13,604	53,992	$9,623	32,677	-	$81,621	53%
	WATONWAN	$4,143	242,934	$596	9,768	-	$24,858	28%
	WILKIN	$2,673	426,867	$756	7,002	-	$16,037	33%
	WINONA	$3,453	170,595	$2,499	144,392	-	$20,717	-2%
	WRIGHT	$5,728	201,552	$3,422	59,502	-	$34,367	16%
	YELLOW MEDICINE	$3,639	394,274	$1,016	10,302	-	$21,834	50%

	Green Acres Tillable before deferral $/acre	Green Acres Tillable after deferral $/acre	Average GA $/acre	Calculated Value (average *6)	75% over prv (2010+ (2010 *0.75))
HENNEPIN	$28,201	4000	$16,100	$96,602	
RAMSEY	$82,337	3406	$42,871	$257,228	$130,842

NOTES.

[1]: Land value and acreage data is provided by the Minnesota Department of Revenue

#: County calculated values that are based on the Rural/Vacant land values, when the ratio of Tillable acres is less than 20% of the Rural/Vacant acres.

*: County calculated values that are based on Green Acres land values.

Board Resolution # 11-09

Wetland Banking Fee:
Update Calculated Wetland Credit Values

WHEREAS, BWSR is directed pursuant to Minn. Stat. 103G.2242, Subd. 14 and 15 to collect fees for administering the state wetland bank program; and,

WHEREAS, BWSR Board action 03-93 established the Wetland Banking Fee Policy, which included use of the average agricultural land values (as provided by the Minnesota Department of Revenue) as the basis for determining credit values for purposes of assessing the fee; and,

WHEREAS, BWSR Board action 07-88 updated the previous policy by taking the 2006 tillable land value multiplied by the wetland credit value coefficient of 6.0, with a maximum increase of 75% over the values established in Board action 03-93; and,

WHEREAS, BWSR Board action 08-113 updated the wetland credit calculated values by taking the 2008 tillable land values, seasonal recreational land values, or green acres values, multiplied by the wetland credit value coefficient of 6.0, with a maximum increase of 75% over the values established in Board action #07-88; and,

WHEREAS, staff are proposing the current wetland credit calculated values be updated by taking the 2010 tillable land values, rural/vacant land values when the ratio of tillable acres to rural/vacant acres is less than 20%, or the average of the before and after deferral green acres values, multiplied by the wetland credit value coefficient of 6.0, with a maximum increase of 75% over the values established in Board action 08-113; and,

WHEREAS, the Wetland Committee reviewed the calculated values on December 14, 2010 and January 12, 2011 and is recommending updating these values for purposes of calculating wetland banking fees.

NOW THEREFORE BE IT RESOLVED, that the BWSR update the wetland credit values by taking the 2010 tillable land values, rural/vacant land values when the ratio of tillable acres to rural/vacant acres is less than 20%, or the average of the before and after deferral green acres values, multiplied by the wetland credit value coefficient of 6.0, with a maximum increase of 75% over the values established in Board action 08-113 as indicated on the attached spreadsheet, "Proposed 2011 Calculated Values for Wetland Bank Fee Determination".

Date: 1/26/11

Brian Napstad, Chair
Board of Water and Soil Resources

Proposed 2011 Calculated Values for Wetland Bank Fee Determination[1]

	(1) COUNTY NAME	(2) Tillable $/Acre	(3) 2A- Tillable Acreage	(4) 2B-Rural/ Vacant $/Acre	(5) 2B- Rural/Vacant Acreage	(6) % Tillable vs Rural/ Vacant	(7) Calc Credit Value 2011	(8) % Change from 2008
#	AITKIN	$1,030	15,609	**$1,352**	352,242	4%	$8,109	-30%
	ANOKA	$9,293	30,629	$3,073	21,403	-	$55,756	39%
	BECKER	$1,456	246,576	$700	444,236	56%	$8,736	13%
	BELTRAMI	$880	117,949	$1,308	230,185	51%	$5,278	-3%
	BENTON	$2,919	124,297	$2,125	55,227	-	$17,514	1%
	BIG STONE	$2,706	246,082	$768	25,897	-	$16,235	25%
	BLUE EARTH	$4,379	361,207	$2,193	24,288	-	$26,275	8%
	BROWN	$4,223	312,219	$766	10,924	-	$25,337	30%
#	CARLTON	$1,387	124	**$1,094**	193,225	0%	$6,566	-45%
	CARVER	$6,441	117,024	$5,963	2,397	-	$38,647	-10%
	CASS	$1,573	53,212	**$2,169**	302,820	18%	$13,012	27%
	CHIPPEWA	$3,628	303,024	$1,040	7,588	-	$21,770	31%
	CHISAGO	$3,622	79,124	$1,625	42,141	-	$21,732	-7%
	CLAY	$2,053	497,112	$865	38,583	-	$12,321	19%
	CLEARWATER	$827	100,979	$975	73,877	-	$4,962	0%
#	COOK		0	**$4,169**	56,608	0%	$25,015	1%
	COTTONWOOD	$3,839	364,127	$809	7,383	-	$23,034	22%
	CROW WING	$2,269	37,376	**$2,116**	268,849	14%	$12,699	-12%
	DAKOTA	$6,233	159,739	$4,615	23,704	-	$37,399	8%
	DODGE	$4,245	229,201	$2,343	12,848	-	$25,473	21%
	DOUGLAS	$2,119	193,261	$2,102	82,172	-	$12,715	6%
	FARIBAULT	$4,249	392,069	$1,074	16,238	-	$25,491	32%
	FILLMORE	$3,467	333,333	$2,326	42,933	-	$20,800	17%
	FREEBORN	$4,309	370,847	$622	37,057	-	$25,853	34%
	GOODHUE	$4,056	314,315	$1,989	58,297	-	$24,337	2%
	GRANT	$2,800	263,131	$1,217	12,142	-	$16,799	54%
*	HENNEPIN	$27,067	36,164	$13,943	13,299	-	$96,602	13%
	HOUSTON	$2,685	161,346	$2,543	127,775	-	$16,108	5%
	HUBBARD	$2,015	55,328	$1,931	186,268	30%	$12,088	1%
	ISANTI	$4,295	103,876	$123	442,465	23%	$25,767	9%
#	ITASCA	$1,430	27,892	**$1,420**	572,281	5%	$8,518	9%
	JACKSON	$4,341	375,383	$939	6,307	-	$26,047	35%
	KANABEC	$1,548	67,905	$1,353	151,625	45%	$9,287	-1%
	KANDIYOHI	$3,514	350,859	$1,321	62,079	-	$21,085	27%
	KITTSON	$1,099	463,060	$422	127,207	-	$6,595	27%
#	KOOCHICHING	$689	5,796	**$638**	362,212	2%	$3,831	-50%
	LAC QUI PARLE	$3,076	381,713	$996	7,463	-	$18,456	38%
#	LAKE	$1,702	690	**$1,957**	191,106	0%	$11,744	-25%
	LAKE OF THE WOODS	$628	74,017	$702	134,299	55%	$3,770	1%
	LE SUEUR	$4,843	195,664	$4,345	42,265	-	$29,060	11%
	LINCOLN	$2,891	272,399	$932	10,921	-	$17,346	41%
	LYON	$3,717	387,078	$1,451	16,628	-	$22,302	32%
	MAHNOMEN	$1,443	161,583	$664	70,840	-	$8,659	51%
	MARSHALL	$1,048	810,118	$550	99,262	-	$6,290	51%
	MARTIN	$4,656	389,898	$6,501	251	-	$27,937	33%
	MCLEOD	$4,639	230,514	$2,063	21,418	-	$27,833	35%
	MEEKER	$3,297	268,704	$1,396	35,849	-	$19,779	16%

	MILLE LACS	$1,918	67,771	$1,386	131,344	52%	$11,509	-23%
	MORRISON	$2,591	215,222	$1,247	99,676	-	$15,548	10%
	MOWER	$4,143	382,011	$1,712	12,492	-	$24,859	24%
	MURRAY	$3,577	387,366	$562	19,988	-	$21,460	27%
	NICOLLET	$4,491	214,331	$1,110	16,997	-	$26,948	10%
	NOBLES	$3,967	399,224	$696	27,501	-	$23,801	28%
	NORMAN	$1,802	461,540	$522	51,158	-	$10,812	48%
	OLMSTED	$4,150	230,956	$3,471	39,900	-	$24,903	10%
	OTTER TAIL	$1,819	533,221	$2,373	356,533	-	$10,913	16%
	PENNINGTON	$852	292,880	$519	54,977	-	$5,113	30%
	PINE	$1,661	110,150	$1,246	440,278	25%	$9,968	-9%
	PIPESTONE	$3,490	233,019	$1,249	428	-	$20,940	37%
	POLK	$1,654	948,529	$741	120,334	-	$9,926	43%
	POPE	$2,448	267,875	$1,224	83,953	-	$14,685	16%
*	RAMSEY	$83,174	165		0	-	$257,228	200%
	RED LAKE	$889	218,950	$608	31,315	-	$5,337	19%
	REDWOOD	$4,089	473,130	$867	9,429	-	$24,535	33%
	RENVILLE	$4,504	531,713	$1,002	13,743	-	$27,025	36%
	RICE	$5,278	204,089	$3,051	49,785	-	$31,665	-14%
	ROCK	$4,657	248,581	$2,325	84	-	$27,943	22%
	ROSEAU	$589	505,180	$568	160,984	-	$3,536	19%
	SCOTT	$7,182	85,185	$5,544	17,928	-	$43,089	-6%
	SHERBURNE	$4,531	69,844	$3,473	47,299	-	$27,187	17%
	SIBLEY	$4,496	297,087	$1,199	37,278	-	$26,974	30%
#	ST. LOUIS	$967	37,124	$1,057	1,100,608	3%	$6,339	-24%
	STEARNS	$3,131	488,247	$3,176	28,278	-	$18,788	16%
	STEELE	$3,934	211,179	$1,144	25,409	-	$23,604	10%
	STEVENS	$2,841	307,895	$2,658	2,394	-	$17,044	18%
	SWIFT	$3,021	389,686	$800	17,649	-	$18,126	23%
	TODD	$1,597	245,726	$1,445	186,459	-	$9,584	7%
	TRAVERSE	$2,992	333,590	$909	10,345	-	$17,951	44%
	WABASHA	$3,362	215,586	$1,796	76,446	-	$20,172	8%
	WADENA	$1,408	94,535	$1,195	165,997	57%	$8,448	12%
	WASECA	$4,351	234,938	$1,033	14,705	-	$26,106	24%
	WASHINGTON	$13,604	53,992	$9,623	32,677	-	$81,621	53%
	WATONWAN	$4,143	242,934	$596	9,768	-	$24,858	28%
	WILKIN	$2,673	426,867	$756	7,002	-	$16,037	33%
	WINONA	$3,453	170,595	$2,499	144,392	-	$20,717	-2%
	WRIGHT	$5,728	201,552	$3,422	59,502	-	$34,367	16%
	YELLOW MEDICINE	$3,639	394,274	$1,016	10,302	-	$21,834	50%

	Green Acres Tillable before deferral $/acre	Green Acres Tillable after deferral $/acre	Average GA $/acre	Calculated Value (average *6)	75% over prv (2010+ (2010 *0.75))
HENNEPIN	$28,201	4000	$16,100	$96,602	
RAMSEY	$82,337	3406	$42,871	$257,228	**$130,842**

NOTES.

[1]: Land value and acreage data is provided by the Minnesota Department of Revenue

#: County calculated values that are based on the Rural/Vacant land values, when the ratio of Tillable acres is less than 20% of the Rural/Vacant acres.

*: County calculated values that are based on Green Acres land values.

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: LGRWRP Project Selection

Meeting Date: January 26, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Land and Water Section

Contact: Dave Weirens

Prepared by: Dan Girolamo

Reviewed by: Wetland Committee Committee(s)

Presented by: Dave Weirens, Dan Girolamo

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☐ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☒ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

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

The Local Government Roads Wetland Replacement Program is in response to a state statutory obligation to replace wetlands lost due to safety improvements made to public transportation projects as required under M.S. sec. 103G.222 subd.1 (1). The program routinely receives bonding appropriations to fund wetland restoration projects which generate wetland credits used to meet the replacement demand from local road authorities. In 2010, the program received 2.5 million to complete restoration projects resulting in the formation of a staff work group tasked with developing a process to solicit projects. Since June of 2010, the work group met on several occasions to develop and implement a process to identify high quality restoration projects that meet program needs. This agenda item is needed to obtain Board approval for three wetland restoration project proposals; two in Carver County and one in Wilken County, with an estimated budget of 2.0 million dollars.

The Board's Wetland Committee met on January 12, 2011, and recommends approval consistent with the staff proposal. A resolution and supporting information consistent with the Committee's recommendation will be provided next week.

2010 Road Program Project Solicitation

Summary:
In June 2010 a work group, comprised of five BWSR employees, was formed to refine and define the process by which BWSR identifies wetland restoration projects for the Local Government Road Program. The work group discussed program needs, past efforts including recommendations for improvement, budget and timeline. The group launched the solicitation process in October, 2010 resulting in the following recommendation:

Process to ID Sites:
The work group was tasked with developing a plan to identify high quality restoration projects for the Road Program. The plan included utilizing unfunded 2010 WRP/RIM applications to see if any would meet the needs of the Road Program. To begin, the unfunded WRP/RIM applications were screened by location to identify sites in bank service areas 4 and 7, the program target area for 2010. This screening resulted in 12 applications with appropriate geographic location. These 12 applications were further screened to identify sites that would provide significant wetland restoration opportunities, adequate crop history and in turn significant credit. This second screening resulted in 3 applications that appear to be viable and worthy of further review and a fourth was added by local SWCD staff in Carver County. While staff were meeting with the landowners and completing the field review one application dropped off as it was funded by the WRP/RIM program leaving the 3 as presented.

What we asked for:
This solicitation required less effort compared to past solicitations because much of the data collection work had already been completed under the WRP/RIM application process. Once potential sites were identified, we asked local SWCD staff to check with the landowners to confirm their interest in pursuing wetland banking and to begin a dialog needed to be sure they understand the program requirements.

Funding Background:
The 2010 bond appropriation is proposed to fund these projects. While the 2010 appropriation was 2.5 million only 1.5 million is being considered for this 2010 effort.

Next Steps:
A summary of the next steps include:

- Gain BWSR Board approval of the solicitation process and use of funds
- Prepare scoping documents for all three projects
- Review projects with the ACOE
- Collect additional field data
- Prepare Wetland Bank Plan
- Submit Bank Plan for LGU and ACOE approval
- Process Agreement for Easement with each landowner
- Process Perpetual Conservation Easement for each site
- Make easement payment to landowners
- Implement Wetland Bank Plan
- Request Credit as sites develop.

Proposed Sites: Three sites have been selected for further evaluation:
Legend: Wet = wetland, Up = upland, C = Cropland, NC = non-cropland

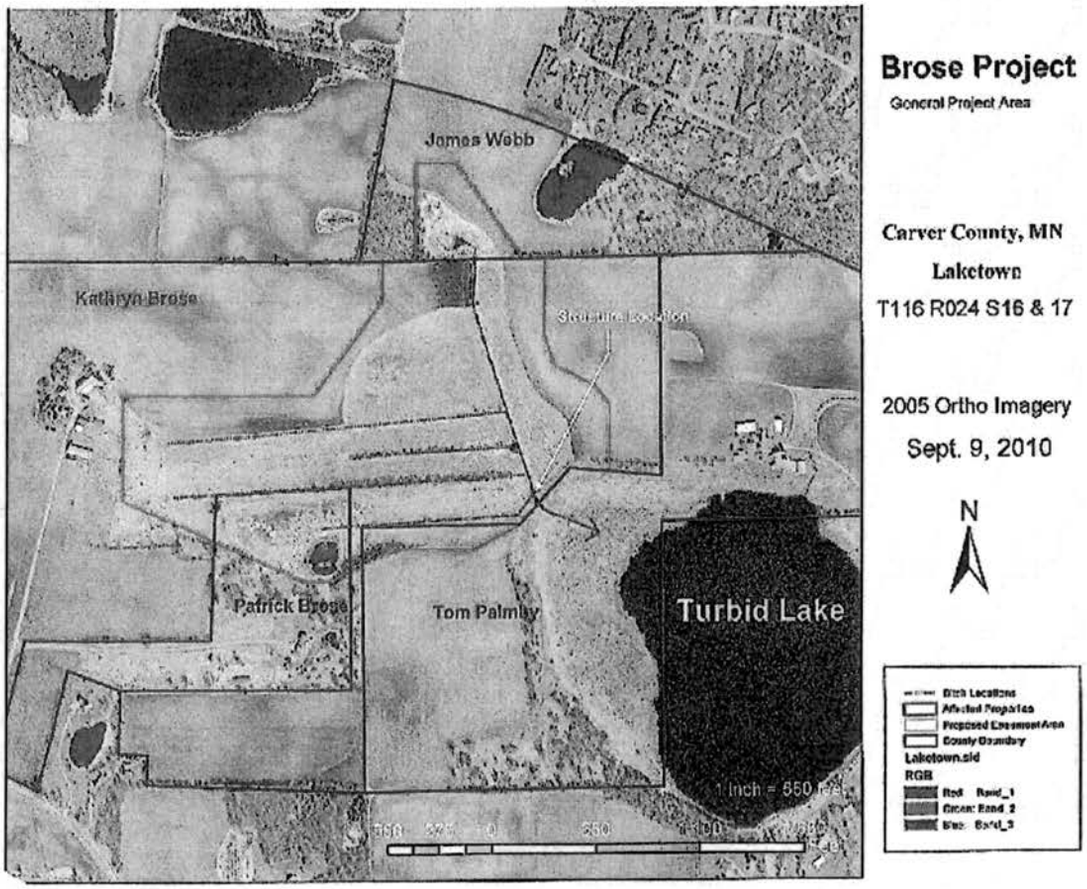
Poppler/Harms

- Carver County, Lake Town Township, sections 21 and 28
- Proposed Easement Size: 61.0 acres (34 acres wetland + 27 acres upland)
- Proposed Easement Payment: $566,032.00 ($9,279.22 C / $5,567.53 NC)
- Preliminary Estimated Restoration Costs: $122,000.00
- Preliminary Estimated Credit Yield: 47 credits
- Preliminary Estimated Cost / Credit: $14,639/credit



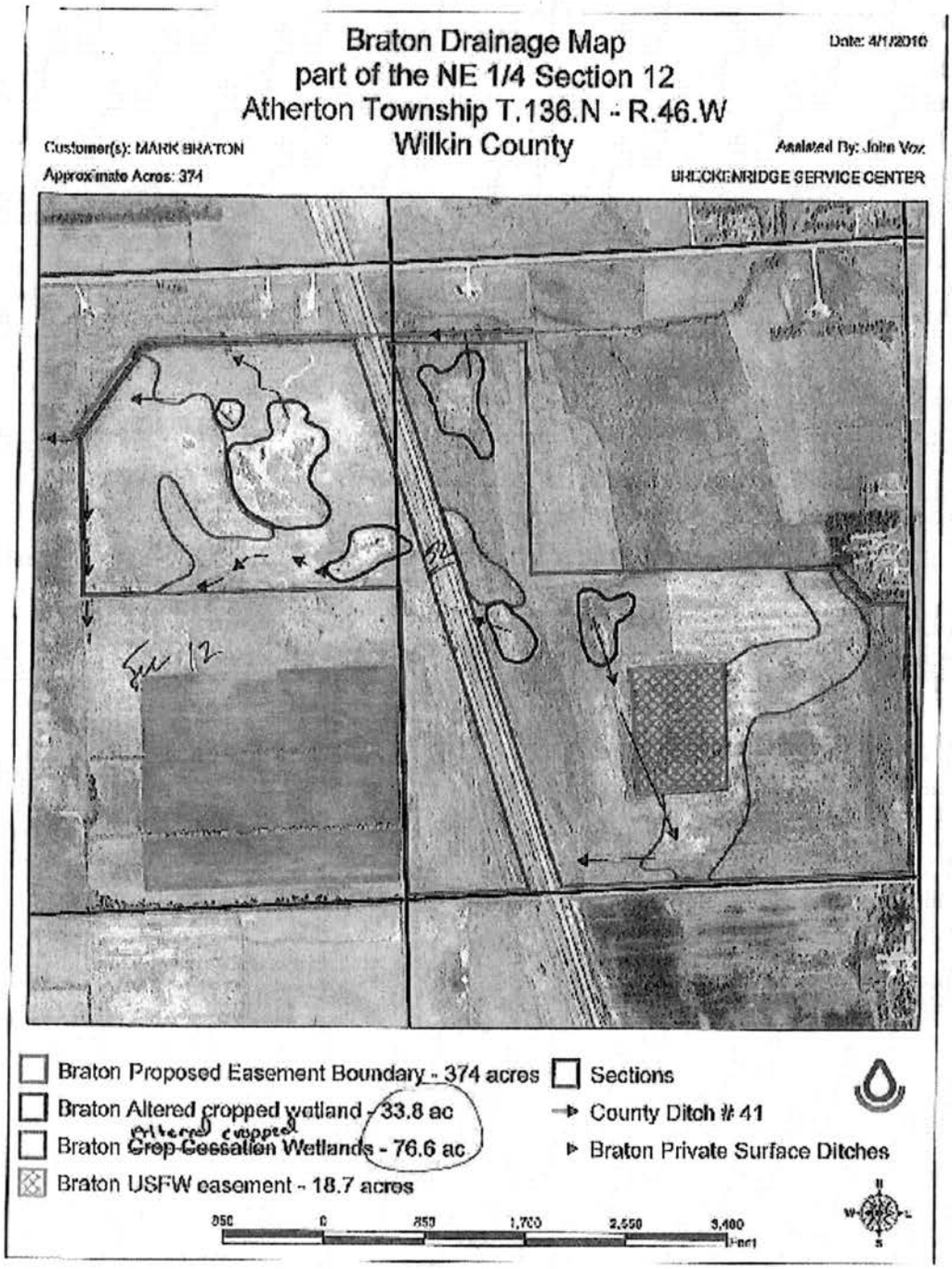
Brose

- Carver County, Lake Town Township, sections 16 and 17
- Proposed Easement Size: 65.0 acres (48 acres wetland + 17 acres upland)
- Proposed Easement Payment: $603,149.63 ($9,279.22 C / $5,567.53 NC)
- Preliminary Estimated Restoration Costs: $130,000.00
- Preliminary Estimated Credit Yield: 56
- Preliminary Estimated Cost / Credit: $13,092/credit



Braton

- Wilken County, Atherton Township, section 12 only
- Proposed Easement Size: 159.0 acres (80 acres wetland + 79 acres upland)
- Proposed Easement Payment: $393,326.25 ($2,473.75 C / $1,484.25 NC)
- Preliminary Estimated Restoration Costs: $238,000.00
- Preliminary Estimated Credit Yield: 100 credits
- Preliminary Estimated Cost / Credit: $6,313/credit



Board Resolution #11-08

Local Government Roads Wetland Replacement Project Approval

WHEREAS, BWSR is directed pursuant to Minn. Stat. 103G.222, Subd. 1(m) to replace wetlands drained or filled as a result of the repair, maintenance, or rehabilitation of existing public roads; and,

WHEREAS, BWSR is authorized pursuant to Laws of Minnesota 2010, Chapter 189, Section 9 to enter into agreements with the federal government, other state agencies, political subdivisions, and nonprofit organizations or fee owners to acquire land and restore and create wetlands and to acquire existing wetland banking credits; and,

WHEREAS, staff reviewed unfunded 2010 Wetland Reserve program (WRP)/Reinvest in Minnesota (RIM) applications which resulted in 12 application being selected for further review; and,

WHEREAS, under the additional review, staff reviewed the 12 sites to identify those that would provide significant wetland restoration opportunities, adequate crop history and result in significant wetland credit; and,

WHEREAS, 3 projects with an estimated cost of $2.0 million were selected for additional project development, with staff recommending proceeding with the Poppler/Harms (Carver County) and Brose (Carver County) easement agreement projects with the remaining project (Braton – Wilkin County) available as a back-up should one of the two priority projects becomes unfeasible or a lower priority than the back-up project; and,

WHEREAS, these projects as proposed will generate wetland credits appropriate to meet geographic and wetland type needs; and

WHEREAS, the Wetland Committee reviewed the staff recommendation on December 14, 2010 and January 12, 2011 and is recommending staff proceed to develop the sites as noted above.

NOW THEREFORE BE IT RESOLVED, that the BWSR authorize staff to proceed with the further development of the Poppler/Harms (Carver County) and Brose (Carver County) easement agreement projects with the remaining project (Braton – Wilkin County) available as a back-up for the Local Government Road Wetland Replacement Program as recommended by the Wetland Committee.

Date: 1/26/11

Brian Napstad, Chair
Board of Water and Soil Resources

NEW BUSINESS

1. Minnesota Prairie Region Conservation Plan – Steve Chaplin, The Nature Conservancy – ***INFORMATION ITEM***

2. Performance Review and Assistance Program (PRAP) Annual Legislative Report – Don Buckhout – ***DECISION ITEM***

3. Local Government Water Roundtable - Representatives from AMC, LMC, MASWCD and/or MAWD – ***INFORMATION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Minnesota Prairie Region Conservation Plan**

Meeting Date: January 26, 2011

Agenda Category: ☐ Committee Recommendation ☒ New Business ☐ Old Business
Item Type: ☐ Decision ☐ Discussion ☒ Information
Section/Region:
Contact: John Jaschke
Prepared by: John Jaschke
Reviewed by: John Jaschke Committee(s)
Presented by: Steve Chaplin, The Nature Conservancy

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other:

ACTION REQUESTED
INFORMATION ITEM

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
Steve Chaplin, The Nature Conservancy, will present information on the Minnesota Prairie Region Conservation Plan.

Minnesota Prairie Landscape Conservation Plan 2010

December 22, 2010

Executive Summary

Minnesota's conservation partners in the Prairie Region of the state collaborated to develop a twenty-five year strategy for accelerating conservation. This strategy was precipitated by several factors:

1. Continuing loss and degradation of prairies, grasslands, wetlands and associated habitats, and the fish and wildlife dependent upon them.
2. An acknowledged need to better coordinate between programs and organizations to maximize efficiency.
3. Tremendous opportunities provided by the passage of the Clean Water, Land and Legacy Amendment by voters in 2008 that will provide significant conservation funding through 2034.

The plan calls for three approaches to conservation in the Prairie Region of the state. First, core areas with a high concentration of native prairie, other grasslands, wetlands, and shallow lakes were identified. Within these areas, partners will work to ensure a minimum of 40% grassland and 20% wetland, with the remainder in cropland or similar uses. Second, habitat corridors connecting core areas were designed that include grassland/wetland complexes nine square miles in size at about six mile intervals along the corridors. Within the corridor complexes a goal of 40% grassland and 20% wetland was set and for the remainder of the corridors, 10% of each legal land section is to be maintained in permanent perennial cover. Third, in the remainder of the Prairie Region a goal to maintain 10% of each Land Type Association in perennial native vegetation was established. The existing Wildlife Management Area Plan, Pheasant Plan, Duck Plan and other resource plans provided guidance in setting goals for protection, restoration and enhancement in each conservation approach. The overall Prairie Region-wide habitat goal is to protect and restore a total of 204,000 acres of native prairie and 2.0 million acres of grassland and savanna along with a total of 1.3 million acres of wetlands and shallow lakes.

Using this framework, we propose the following:

1. Permanent protection of native prairies, wetlands and other habitats (including land to be restored): 225,800 acres in core areas, about 86,100 acres in corridors, and 550,600 acres elsewhere.
2. Restoration activities on grasslands, wetlands and other habitats: 179,900 acres in core areas, 90,000 acres in corridors, and 250,900 acres elsewhere.
3. Enhancement of prairies and grasslands via prescribed fire, conservation grazing, haying and invasive species control: 99,400 acres annually in core areas, 41,800 acres annually in corridors,

DRAFT

and 332,300 acres elsewhere. Enhancement of 334,100 acres of existing wetlands and shallow lakes through control of invasive species and intensive water level management is also included.

4. Incorporation of conservation into "working lands" so that some conservation lands contribute directly to local economies (e.g., "grass-based" agriculture) and agricultural lands have adequate conservation applied to them using the full range of conservation practices).

Partners established organizational goals and cost estimates associated with these outcomes. The overall cost from all sources of the actions described in this plan is $3.6 billion. Given that certain activities will be accomplished with "traditional" funding sources, partners anticipate a need of $1.1 billion from the Outdoor Heritage Fund over the next 25 years to achieve desired outcomes.

Acknowledgements

Members of the Minnesota Prairie Plan Working Group who were responsible for developing this plan included:

Marissa Ahlering, The Nature Conservancy
Steve Chaplin, The Nature Conservancy
Carmen Converse, MN Dept. of Natural Resources
Meredith Cornett, The Nature Conservancy
Ryan Drum, US Fish and Wildlife Service
Neal Feeken, The Nature Conservancy
Jason Garms, MN Dept. of Natural Resources
Diane Granfors, US Fish and Wildlife Service
Fred Harris, MN Dept. of Natural Resources
Greg Hoch, MN Prairie Chicken Society
John Jaschke, MN Board of Water and Soil Res.
Matt Holland, Pheasants Forever
Tom Landwehr (Facilitator), The Nature Conservancy
Tom Larson, US Fish and Wildlife Service
Jim Leach, US Fish and Wildlife Service
Kevin Lines, MN Board of Water and Soil Resource
Clint Miller, The Conservation Fund
Mary Mitchell, US Fish and Wildlife Service
Darby Nelson, Lessard Sams Outdoor Hert. Coun.
Ray Norrgard, MN Dept. of Natural Resources
Bill Penning, MN Dept. of Natural Resources

The chief author and editor of this plan was Steve Chaplin. Rich Johnson oversaw the GIS analysis and cartography work with assistance from Bruce Gerbig, Jared Smith, Jeff Carroll, and Liza Hernandez. Ryan Drum and Diane Granfors from the USFWS HAPET Office provided the corridor pathway analysis. Most of the basic data used in this plan was developed by the Minnesota Department of Natural Resources especially the Minnesota County Biological Survey.

An anonymous foundation provided financial support for the development of this plan.

For additional copies of this plan, contact The Nature Conservancy, 1101 West River Parkway, Suite 200, Minneapolis, MN 55415-1291

Suggested Citation

Minnesota Prairie Plan Working Group. 2010. Minnesota Prairie Landscape Conservation Plan 2010. Minnesota Prairie Plan Working Group, Minneapolis, MN. 55p.

DRAFT

v.4.0



PRAP

PERFORMANCE REVIEW AND ASSISTANCE PROGRAM

February 2011 Report to the Minnesota Legislature

Board Review Draft

For more information contact: Don Buckhout PRAP Coordinator
(Don.Buckhout@state.mn.us, 651-296-0786)
Board of Water and Soil Resources
520 Lafayette Road
St. Paul, Minnesota 55155

www.bwsr.state.mn.us/PRAP/index.html

BWSR is an equal opportunity employer.
Information contained in this report is available in an alternative format upon request.
Printing cost for the production of this report was $TBD.

About this Report

This report has been prepared for the Minnesota State Legislature by the Minnesota Board of Water and Soil Resources (BWSR) in partial fulfillment of the requirements of Minnesota Statutes Chapter 103B.102, subdivision 3. This statute requires BWSR to provide designated legislative committees with "an analysis of local water management entity performance" each year. This report covers the activities of the Performance Review and Assistance Program (PRAP) during the 2010 calendar year. This is the fourth annual report prepared by BWSR for this program.

Table of Contents

EXECUTIVE SUMMARY 1

PRAP BACKGROUND 2

PERFORMANCE REVIEW OF PRAP 4

PERFORMANCE REVIEW RESULTS 5

ASSISTANCE TO LOCAL GOVERNMENTS 7

REPORTING 8

PROGRAM CONCLUSIONS AND FUTURE DIRECTION 10

APPENDICES 11

- **A. PRAP Authorizing Legislation (Minn. Statutes Chapter 103B.102}**
- **B. PRAP Advisory Team Members**
- **C. Level I: 2010 Long-range Plans Status**
- **D. Level I: Status of Annual Reports for 2009**
- **E. Level I: Status of Audits and Financial Reports for 2009**
- **F. Level II: Summaries of 2010 Performance Review Reports**
- **G. 2010 LGU Performance Awards and Recognition**

Executive Summary

PRAP: Year 3

The Board of Water and Soil Resources (BWSR) has implemented its Performance Review and Assistance Program (PRAP) for three years. While all of the legislatively mandated elements are in place and functioning, because of funding limitations BWSR has been able to conduct detailed performance reviews for only 16 percent of the original goal of 49 local government entities per year. These local government entities are Minnesota's soil and water conservation districts (SWCDs), watershed districts (WDs), watershed management organizations (WMOs) and counties that comprise the local system that BWSR relies on to deliver its conservation programs on the landscape.

2010 PRAP Activity Summary

Level I Performance Review

- BWSR maintained and expanded the PRAP web accessible database of all 245 local government units (LGUs) in the local delivery system.
- SWCD long-range plans are current
- County local water plans are current, but some metro counties' optional groundwater plans are due for updates.
- A number of overdue WD and WMO plan updates were completed.
- Several local drainage authorities failed to comply with ditch buffer reporting requirements.

Level II Performance Reviews

- The PRAP program coordinator, with field staff assistance, conducted detailed reviews of 8 LGUs' plan implementation performance and operational effectiveness.
- Some performance standards were modified based on their usefulness as indicators.
- BWSR convened a select panel of hydrologists for advice on the best streamflow parameters for tracking watershed management effectiveness

Level III Review and Assistance

- BWSR staff provided guidance and assistance to one LGU regarding internal management issues.

Other Assistance

- During Level II reviews LGUs identified training needs that were referred to BWSR's training program coordinator for follow-up.

Reporting

- PRAP webpage and LGU searchable database were maintained and expanded.

PRAP Program Accountability

BWSR met most of its own performance standards for PRAP in 2010. BWSR remains committed to being accountable for how well PRAP is administered.

The LGU Delivery System: How is it Working?

Three years of detailed PRAP performance review, although limited in scope, has detected certain trends that may apply system-wide and indicate the challenges BWSR faces in its oversight role to help those entities be the best they can be.

- Many LGUs are preoccupied with current funding instability.
- Plan objectives related to groundwater are challenging to accomplish and measure.

Objectives for 2011

BWSR will maintain current levels of LGU review and explore methods for self-motivation of LGU performance enhancement.

PRAP Background

Local Delivery of Conservation Services

PRAP focuses on the local governmental units (LGUs) that deliver BWSR's water and land conservation programs, and in particular, how well those LGUs are implementing their long-range plans. The LGUs include soil and water conservation districts (SWCDs), watershed districts (WDs), water management organizations (WMOs), and the water management function of counties—a total of 245 distinct organizations. PRAP, authorized by the state legislature in 2007 (see Appendix A), is coordinated by one BWSR central office staff member. He receives assistance from BWSR's 13 Board Conservationists, who routinely work with LGUs across the state.

With limited program funding BWSR was able to track a few performance indicators for all LGUs statewide, but only 8 of the needed 49 in-depth reviews could be conducted.

Multi-level Process

PRAP has three operational components:

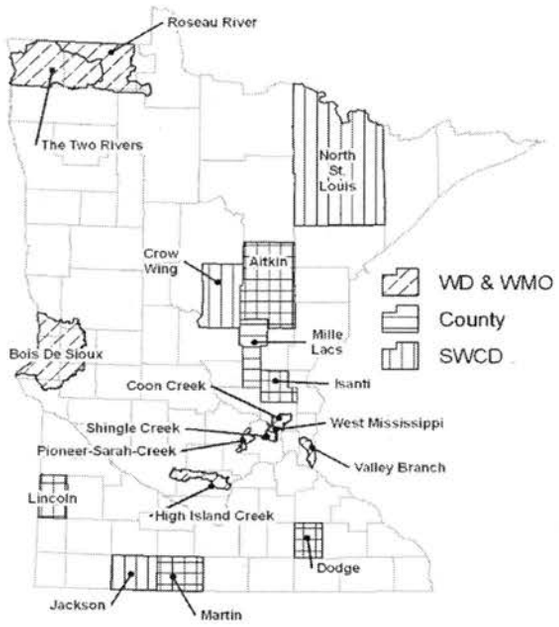
- **performance review**
- **assistance**
- **reporting.**

The **performance review** component is applied at four levels.

Level I is a tabulation of required LGU reports and documents with website posting of results. Level I can be achieved with current program funding and does not require additional effort by LGUs.

Level II is a routine, interactive review originally envisioned to cover up to 49 LGUs per year to evaluate operational effectiveness and plan implementation progress. Program funding so far has allowed an average of 8 Level II reviews per year.

PRAP Level II LGUs 2008 - 2010



BWSR's Level I and II performance standards for each type of LGU can be viewed at www.bwsr.state.mn us/prap/index.html.

Level III is an in-depth assessment of an LGU's performance problems and issues initiated by BWSR or the LGU and usually involving targeted assistance to address specific performance needs. BWSR has conducted Level III review and assistance for two LGUs and regularly monitors all LGUs for additional opportunities.

Level IV is for those LGUs that have significant performance deficiencies, requiring extensive assessment, monitoring and possible penalties as authorized by statute. So far there have not been any Level IV cases.

Assistance varies with the needs of the LGU. Level I assistance is largely routine training for LGUs. BWSR presents this type of training through the annual BWSR Academy. At Levels II-IV assistance is targeted to the specific needs of the LGUs and can be provided by BWSR staff or consultants, depending on availability and the skills needed. A small portion of the PRAP budget is available to LGUs to both incentivize and support specialized assistance recommended by the program.

Reporting makes information about LGU performance accessible to the LGU's stakeholders and constituents. It allows for scrutiny by citizens and local officials. In 2009 BWSR added an LGU search capability to its PRAP webpage, allowing website visitors to view some of the performance data for all of the LGUs served by the program. Other features of the PRAP webpage are summary reports from each Level II performance review, and the performance standards specific to each type of LGU.

Accountability: From Measuring Effort to Tracking Results

Administration of government programs demands and deserves a high degree of accountability. PRAP was developed, in part, to deliver on that demand by providing systematic government entity performance review and then reporting publically accessible results. The challenge in reporting results is to move from measuring effort (how much money was spent on buffers?) to detecting effects of those efforts on targeted resources (have buffers improved downstream habitat and water quality?). The challenge of detecting the effects of one LGU's programs on natural resources is the abundance of factors and the tendency for some to override the effects of others.

At the program's start in 2007 the BWSR board adopted principles (see box) that still guide the implementation of this oversight function. Those principles are reflected in the program's goal of balancing performance information and targeted advice to motivate LGUs to act in their own best interests.

Guiding Principles

PRAP operates on the following principles adopted by the BWSR Board in 2007:

- **Pre-emptive**
- **Systematic**
- **Constructive**
- **Includes consequences**
- **Transparent**
- **Retains local ownership and autonomy**
- **Maintains proportionate expectations**
- **Preserves the state/local partnership**
- **Results in "more better" on-the-ground conservation**

Performance Review of PRAP

BWSR's Accountability

BWSR continues to hold itself accountable for the accomplishments of the PRAP program. In consideration of that commitment, this section matches program objectives from last year's PRAP legislative report with corresponding program activities during 2010.

BWSR's Performance Review ACTIVITIES	
What We Proposed	**What We Did**
Add metro county groundwater plans to the Level I review.	Appendix C now includes the status of metro county groundwater plans.
Verify adherence to Level II Performance Standards.	BWSR requested evidence of adherence from Level II LGUs.
Send LGUs periodic check-the-website e-mails to ensure accurate reports and information.	BWSR responded to LGU updates and corrected Level I information.
Conduct 7-8 Level II routine performance reviews.	BWSR conducted 8 Level II performance reviews.

BWSR's ASSISTANCE TO LGUs	
What We Proposed	**What We Did**
Continue Level III assistance and monitoring of LGUs experiencing change.	BWSR assisted the Winona SWCD with a survey of partners' perceptions of district performance.
Monitor the performance of LGUs experiencing change.	BWSR managers periodically monitored LGUs experiencing change in staffing and board membership, finances, organization, etc.
Incorporate BWSR training needs assessment and plan into Assistance component.	BWSR Training Coordinator attended a Level II Part 3 meeting; BWSR Training Team is addressing LGU-identified training needs.

BWSR's PRAP REPORTING	
What We Proposed	**What We Did**
Track and report Level I performance of all LGUs.	BWSR website reports compliance with Level I performance standards for SWCDs, WDs, counties, and WMOs.
Expand Level I performance information on the BWSR website.	BWSR added county groundwater plan status to the PRAP website searchable database.
Track both late and missing reports in Level I.	Appendices D and E now include late submittals.

PRAP Advisory Team

The purpose of the Advisory Team is to advise BWSR on program implementation and help BWSR maintain a balance between the need for accountability and the need to minimize the program's administrative burden on LGUs. The Team did not meet in 2010; however, BWSR provided the members with an annual program update. BWSR will continue to inform and make use of the Advisory Team as program needs warrant. Advisory team members are listed in Appendix B.

Performance Review Results

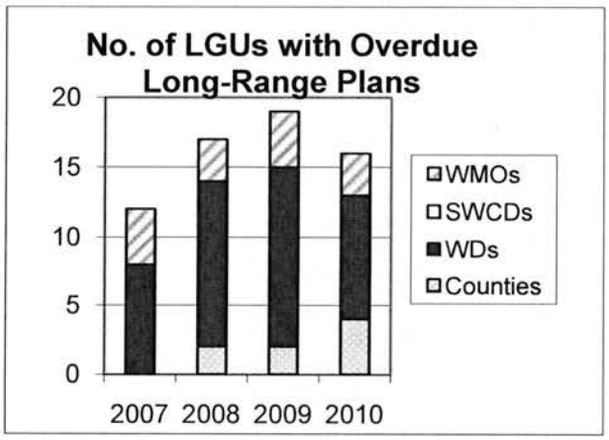
2010 Objectives

The 2010 objectives for the PRAP performance review component were to expand the Level I compliance tracking for all LGUs, to conduct the same number of routine Level II reviews as in 2009, and to monitor the activities of LGUs undergoing significant change for opportunities to initiate Level III review or assistance.

Level I Results

Level I performance review consisted of monitoring and tabulating the plan revisions due and the routine annual activity and financial reports that LGUs are required to submit to BWSR throughout the year. In April BWSR notified LGUs about the Level I review requirements, posted those requirements on the website, and then followed up with non-compliant LGUs at year's end. Level I results are listed in Appendices C, D and E and the BWSR website.

An area of improvement is the reduction in the number of overdue WD and WMO plan



revisions, meaning more plans are up-to-date and addressing current resource issues. With PRAP's emphasis on evaluating plan implementation, having a current plan is essential. The increase in overdue county plan revisions is a result of adding metro county groundwater plans to the Level I database. Four of these voluntary plans are currently overdue for updating. BWSR field staff continue to work with LGUs on plan updates.

The Level I information now indicates which LGUs submitted late reports in addition to listing those whose reports were not submitted at all. LGU reports are an important means of providing citizens with timely information about LGU plans and performance.

On a statewide basis, the 2010 Level I performance review shows the SWCDs and county local water management offices doing a good job of meeting basic program accountability requirements. Statewide SWCD productivity–the percent of cost-share grant dollars spent on conservation practices and one of the indicators of effectiveness–remains very good at 79 percent. BWSR considers values of 80 percent and above to indicate "high" productivity. WDs in greater Minnesota continue to have difficulty complying with the annual activity report requirement. Local drainage authorities slipped in complying with the ditch buffer strip reporting requirement. Seven counties and two WDs did not submit reports in 2010 compared with two and zero, respectively, in 2009.

Level II Results

BWSR conducted eight Level II reviews in 2010: combined reviews in **Aitkin**, **Isanti** and **Martin** of joint SWCD-county water management, and individual reviews of the **Roseau River** and **High Island Creek** watershed

districts. See Appendix F for the summary reports.

The Level II review process considers the LGU's progress in implementing their plan's goals and objectives (Part 1), compliance with BWSR's checklist of performance standards (Part 2), and LGU board members' discussion of factors affecting plan implementation (part 3) to present a picture of overall performance. For the combined reviews, the board and staff from both LGUs met in a joint session for discussion about common issues. The BWSR PRAP coordinator and a Board Conservationist for each LGU serve as the primary reviewers.

In an effort to find good indicators of water management effectiveness, BWSR convened a select panel of experts to assess the usefulness of various hydrologic measures for showing the results of watershed projects and practices. So far, this discussion has led to modification of one PRAP performance standard and may generate a research project on this topic.

Other findings from the 2010 Level II reviews are included in the overall Program Conclusions section on page 10.

Level III Results

BWSR conducted a limited Level III assessment for the Winona SWCD using the BWSR District Assessment survey tool. Results from this poll of the district's partners and BWSR's subsequent recommendation led the SWCD to engage the services of a labor relations advisor. BWSR used PRAP program funds to cost share with the district in paying for those services. The district board made a personnel change in December.

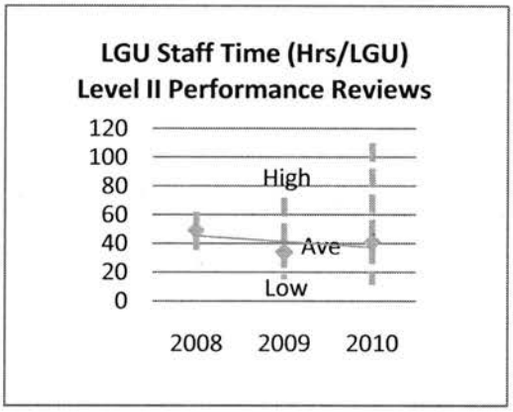
BWSR managers continue to regularly monitor the performance of LGUs experiencing change and consider the need for Level III review.

Level IV Results

No Level IV actions were needed in 2010.

PRAP Program Costs

BWSR continues to track program costs in terms of the time required for both LGUs and BWSR staff to complete Level II reviews. In response to LGU concerns about staff time needed to gather and prepare performance data, BWSR took steps in 2009 to reduce the LGU workload. The average time spent



by LGUs for the 2010 Level II reviews ticked upward, due primarily to one LGU's spending nearly twice as much staff time as the next highest. BWSR annually tracks the time required to accomplish the various program elements looking for ways to improve program efficiency.

BWSR staff spent approximately 200 hours providing Level III review and assistance services to one LGU in 2010. Level III activities typically consume many staff hours because of the complex issues and extensive consultation required for this level of engagement with LGUs.

Assistance to Local Governments

Focus on Assistance

The term "assistance" is in the PRAP program title because assisting LGUs is a logical next step after performance review and a key objective of the program. Prior to PRAP, BWSR field staff regularly provided LGUs with assistance to support and enhance their operational effectiveness. PRAP has increased BWSR's capability to assist LGUs.

As mentioned above, BWSR provided Level III review and assistance to the Winona SWCD in 2010. Using PRAP assistance funds, the district hired a consultant to assist the board with BWSR-recommended activities.

A common request of LGUs is for more training. BWSR held its third annual training academy for LGU staff in October. BWSR's training coordinator has completed a systematic assessment of LGU training needs and formed a staff training team to begin addressing those needs to increase the technical and administrative capacity of local organizations.

Several LGUs used the PRAP performance standards for a self-assessment their operations, even though they were not selected for a Level II review.

Assessing the Needs

With only limited staff resources to provide assistance to LGUs, BWSR must target those efforts. In addition to BWSR's 2010 training needs assessment, PRAP provided an opportunity for LGUs to identify the types of assistance that would be most helpful. During the open discussion activity of the Level II performance reviews, LGU board members were asked for the types of assistance they would like to receive. The eight 2010 LGUs requested assistance with:

- obtaining stability in funding,
- informing political officials about their needs,
- grant writing,
- technical training for board and committee members,
- developing partnerships for programs and projects,
- learning how to collaborate with other local government entities, and
- improving the responsiveness of state and federal regulatory agencies.

Future of Assistance

BWSR staff assistance to LGUs will be closely coordinated with the needs assessment and programs developed by the BWSR Training Program Coordinator. PRAP will serve as one of the pathways for BWSR's delivery of targeted training and assistance as the comprehensive training plan is implemented. As funds allow, LGUs will be able to apply for small matching grants from PRAP to help with some assistance needs.

Reporting

Purpose of Reporting

The purposes of reporting about LGU performance are:

- to provide a perspective on the progress in meeting statewide soil and water conservation goals through the efforts of local government-based activities and programs,
- to give stakeholders access to information about the effectiveness of their local water management entities, and
- to provide both information and incentives that will encourage LGUs to learn from one another about methods and programs that produce the most effective results.

Report Types

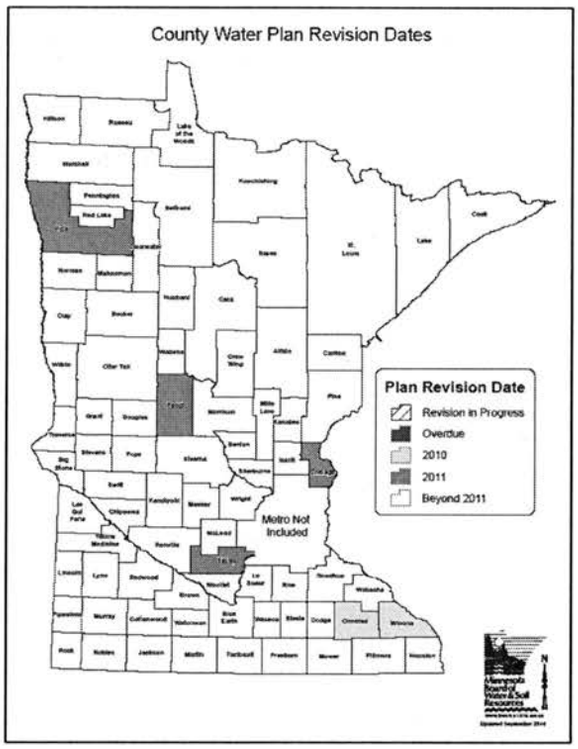
PRAP either relies on or generates different types of reports to achieve the purposes listed above.

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 Level I.

BWSR Website

Since 2009 the BWSR website includes a searchable database for users to view basic Level I performance information that BWSR has collected for each LGU. The website also includes regularly updated maps of long-range plan status by LGU type.



Users can find general program information, summaries of Level II and III performance review reports, and copies of annual legislative reports.

Level II Performance Review Reports

BWSR prepares a report containing findings, conclusions, and recommendations for each LGU that is the subject of a Level II performance review. Each LGU receives a draft of the report for their own review, and they are invited to comment on or correct the report content. BWSR then prepares both a final report that is sent to the LGU and a one-page summary that is included in this legislative report (see Appendix F) and on the PRAP webpage.

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 local delivery system for land and water conservation services and programs. This document is the fourth such report that BWSR has prepared.

Rewards and Recognition

BWSR seeks to ensure that PRAP pays as much attention to exemplary performance as it does to performance improvement. In the routine Level II performance review reports there is a list of commendations which an LGUs receives for compliance with the high performance (stretch goal) standards on the Part 2 checklist. All 2010 Level II LGUs received commendations, which are the starred items listed in the report summaries in Appendix F. PRAP also provides an opportunity to highlight those LGUs that are recognized by their peers or other organizations for their outstanding performance or contribution to Minnesota's resource management and protection, as well as service to their local clientele. (See Appendix G.) The BWSR website also features some of these award recipients.



The Stearns Soil and Water Conservation District was honored as the Minnesota Association of Soil and Water Conservation Districts' 2010 SWCD of the Year. District Supervisor Chuck Uphoff (center) received the award from MASWCD President Steve Sunderland (center right) while surrounded by Stearns SWCD supervisors and staff.

Program Conclusions and Future Direction

Conclusions

After three years of PRAP implementation, including Level II reviews of 24 LGUs throughout the state, several recurring themes have emerged.

- LGUs are initially apprehensive about their Level II performance review but, for the most part, value the recommendations they receive and try to implement them.
- Many high-performing LGUs are preoccupied with the instability of the current funding environment.
- LGUs have the most difficulty accomplishing plan objectives related to groundwater quantity and quality.
- LGU board members overwhelmingly value their staff and see them as a key to their success.
- LGUs that have learned how to collaborate effectively with partners generally show more success in plan implementation.
- Many LGUs could benefit from a strategic approach to short-range (annual) planning that focuses limited resources on areas of greatest need.
- Some LGUs take advantage of "good marks" from their Level II review by informing stakeholders of their strengths.

PRAP in 2011

During 2011 BWSR will add some program elements, modify some, and continue others.

NEW PRAP Elements

- In collaboration with the BWSR Training Team provide LGUs with guidance for basic board and staff skill sets.

MODIFIED PRAP Elements

- Develop performance thresholds for selected Level II performance standards.

CONTINUED PRAP Elements

- Conduct 7-8 Level II routine performance reviews.
- Continue monitoring of LGUs experiencing change for assistance opportunities.
- Track and report Level I performance of all LGUs.

Challenges Long-Term

Performance measurement is a young and evolving field for entities delivering local government conservation services. Improvements will require successfully addressing several issues.

- How to find the best indicators and the appropriate scale for measuring the performance of the conservation services delivery system.
- Measure real changes in resource *quality*, not just *effort* in program delivery.
- Help LGUs to jointly develop resource improvement goals and targets for areas of overlapping jurisdiction.

Appendices

A. PRAP Authorizing Legislation (Minn. Statutes Chapter 103B.102)

B. PRAP Advisory Team Members

C. Level I: 2010 Long-range Plan Status

D. Level I: Status of Annual Reports for 2009

E. Level I: Status of Audits and Financial Reports for 2009

F. Level II: Summaries of 2010 LGU Performance Review Reports

G. 2010 LGU Performance Awards and Recognition

Appendix A

PRAP AUTHORIZING LEGISLATION

103B.102, Minnesota Statutes 2007

Copyright © 2007 by the Office of Revisor of Statutes, State of Minnesota.

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, but not less than once every five 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 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*

Appendix B

PERFORMANCE REVIEW AND ASSISTANCE PROGRAM ADVISORY TEAM MEMBERS

NAME	ORGANIZATION	REPRESENTING
Kevin Bigalke	Nine-Mile Creek WD	Metro WD
Ray Bohn	MN Assoc. of Watershed Districts	WD association
Brian Dwight	BWSR	BWSR-No. Region
Vacant		Greater MN WD
Annalee Garletz	Assoc. of Minnesota Counties	County government
Barbara Haake	Rice Creek WD	WD association
Todd Olson	Assoc. of Metropolitan Municipalities	Water management organizations
Kathryn Kelly	Renville SWCD	SWCD supervisors
Tim Koehler	USDA-Natural Resource Conservation Service	Federal partner
Kevin Ostermann	MACDE / Nicollet SWCD	MACDE
Sheila Vanney	MN Assoc. of Soil &Water Cons. Districts	SWCD association
Steve Woods	BWSR-St. Paul	BWSR management

Appendix C

Level I: 2010 Long-Range Plan Status

Soil and Water Conservation Districts

Local Water Plan Adoption Resolution Expired

All resolutions are current.

District Comprehensive Plan Expired

All comprehensive plans are current.

Counties

Local Water Plan Revision Overdue

All plans are current.

Metro County Groundwater Plan Revision Overdue

Carver
Dakota
Ramsey
Scott

(Anoka and Hennepin Counties have chosen not to participate in this optional program.)

Watershed Districts

Management Plan Revision Overdue: No Action

Belle Creek

Management Plan Revision Overdue: Plan Revision in Progress

Bear Valley
Coon Creek
Crooked Creek
Cormorant Lakes
Lower Minnesota River
Middle Snake Tamarac Rivers
Sand Hill River
Stockton-Rollingstone-Minnesota City

Watershed Management Organizations

Management Plan Revision Overdue: Plan Revision in Progress

Lower Rum River
Mississippi
Six Cities (Plan revision on-hold pending reorganization.)

Appendix D

Level I: Status of Annual Reports for 2009
as of December 31, 2010

Soil and Water Conservation Districts

eLINK Reports of Grant Expenditures
All districts comply.

Website Content: Compliance with 10 Content Elements
Anoka (late)

Counties

Drainage Authority Buffer Strip Report: Not Submitted
Faribault
Murray
Pope
Ramsey
St. Louis
Steele
Waseca

eLINK Reports of Grant Expenditures
All reports submitted.

Watershed Districts

Drainage Authority Buffer Strip Report Not Submitted
Joe River
Wild Rice

Annual Activity Reports Not Submitted
Bear Valley
Belle Creek
Buffalo-Red River
Crooked Creek
Joe River
Pelican River
Thirty Lakes
Upper Minnesota River
Wild Rice

Annual Activity Reports Submitted Late: 13 (see PRAP webpage for detail)

Metro Watershed Management Organizations

Annual Activity Reports Not Submitted
Six Cities

Annual Activity Reports Submitted Late
Grass Lake
Mississippi

Appendix E

Level I: Status of Audits and Financial Reports for 2009
as of December 31, 2010

Soil and Water Conservation Districts

Annual Financial Reports (all 90 Districts): Submitted Late
Aitkin
Wabasha

Annual Audits (45 required)
All required audits submitted on-time.

Watershed Districts

Annual Audits Not Completed:
Bear Valley
Belle Creek
Crooked Creek
Joe River
Stockton-Rollingstone-Minnesota City
Thirty Lakes
Upper Minnesota River

Annual Audits Submitted Late:
Carnelian-Marine
Valley Branch

Metro Watershed Management Organizations

Annual Audits Not Submitted:
Carver
Sunrise River

Annual Audits Submitted Late:
Mississippi
Six Cities
Upper Rum

Appendix F

LEVEL II FINAL REPORT SUMMARY

PRAP

Performance Review and Assistance Program

2010 Level II Review:

Aitkin County Local Water Management *(Aitkin County)*

Why BWSR did this review

BWSR conducts Level II performance reviews to help local government water management entities to be the best they can be in plan implementation and overall operational effectiveness. In 2010 BWSR is conducting Level II performance reviews of eight different local water management entities.

BWSR has conducted a routine Level II performance review of the **Aitkin County** local water management program in concert with the review of the Aitkin SWCD. Both entities use the same long-range plan.

This document includes findings, conclusions and recommendations to enhance the overall operation and effectiveness of the county's program. The water plan task force, county board and staff are responsible for taking any actions they decide are necessary in response to the recommendations in this report.

Aitkin County Local Water Management Summary of Performance Review Results

What BWSR Found

Aitkin County is making good progress implementing the provisions of the local water plan for which they are responsible. The county's water plan task force provides a forum to discuss citizen concerns, program priorities, and actively supports the education of Aitkin County's citizens regarding the protection of water resources.

The county program staff benefit from a strong working relationship with the Aitkin SWCD, to which they have delegated the water planner responsibilities and the oversight of the water plan task force.

Action Items

There are no action items (immediate steps needed to correct operational deficiencies).

Commendations

The Aitkin County water plan task force and staff are commended for meeting these high performance standards.

- ★ Public drainage records modernized
- ★ Non-state $ leveraged with all state funds
- ★ Comparison of planned with actual program expenditures
- ★ Water quality trends tracked for priority water bodies
- ★ Obtain stakeholder input: within last 5 yrs
- ★ Partnerships: liaison with SWCDs/WDs and cooperative projects/tasks done
- ★ County local water plan on county website
- ★ Water management ordinances on county website

BWSR has suggested additional tracking of public education and outreach efforts.

Appendix F

LEVEL II FINAL REPORT SUMMARY

PRAP
Performance Review and Assistance Program
2010 Level II Review:
Aitkin Soil and Water Conservation District
(Aitkin County)

Why BWSR did this review
BWSR conducts Level II performance reviews to help local government water management entities to be the best they can be in plan implementation and overall operational effectiveness. In 2010 BWSR is conducting Level II performance reviews of eight different local water management entities.

BWSR has conducted a routine Level II performance review of the **Aitkin SWCD** in concert with the review of the Aitkin County local water management program. Both entities use the same long-range plan.

This document includes findings, conclusions and recommendations to enhance the overall operation and effectiveness of the district. The board of supervisors is responsible for taking any actions they decide are necessary in response to the recommendations in this report.

Aitkin Soil and Water Conservation District Summary of Performance Review Results

What BWSR Found
The Aitkin SWCD is a high performing organization. In the late 1980s the district undertook the writing of the county's first water plan. Since then the district has taken on other challenges, including more recently, the Big Sandy Lake TMDL plan and the forest stewardship program. The district also plays important roles in implementing the county's shoreland management program and the Wetland Conservation Act.

The SWCD enjoys a strong working relationship with the county board and staff. The SWCD supervisors and staff also work well with the state DNR, MPCA and many others. Another factor in the district's success has been stability and leadership in the district manager position. This has led to low turnover of other district staff that produces the benefit of good staff knowledge of the county's resources and residents.

The supervisors and manager anticipated the current funding challenges and have proactively pursued new program and funding opportunities. Aitkin SWCD has maintained a strong presence to advance the joint Aitkin-Cass-Crow Wing county funding applications that have been successful in obtaining the funding needed to advance conservation policy. Aitkin was a key player in the Wild Rice Lakes project, which was recently recommended for funding by the Lessard-Sams Outdoor Heritage Council.

The district is commended for these high performance practices:
- ★ Operational guidelines exist and current
- ★ Certified wetland delineator: on staff or retainer
- ★ Outcome trends monitored and reported for key resources
- ★ Non-state $ leveraged with all state funds
- ★ Website contains additional content beyond minimum required
- ★ Obtain stakeholder input: within last 5 yrs
- ★ Partnerships: cooperative projects/tasks done
- ★ Coordination with County Board by supervisors or staff.

BWSR recommended the district modify their annual plan and report formats, and address their low operating reserve.

Appendix F

LEVEL II FINAL REPORT SUMMARY

PRAP

Performance Review and Assistance Program

2010 Level II Review:
High Island Creek Watershed District
(Renville, McLeod, Sibley Counties)

Why BWSR did this review
BWSR conducts Level II performance reviews to help local government water management entities to be the best they can be in plan implementation and overall operational effectiveness. In 2010 BWSR is conducting Level II performance reviews of eight different local water management entities.

BWSR has conducted a routine Level II performance review of the **High Island Creek Watershed District** because they are near the midpoint in implementing their 10-year watershed management plan.

This document includes findings, conclusions and recommendations to enhance the overall operation and effectiveness of the watershed district. The board of managers is responsible for taking any actions they decide are necessary in response to the recommendations in this report.

High Island Creek Watershed District Summary of Performance Review Results

What BWSR Found
In their 2004 management plan, the managers made a conscious decision to shift the focus of the district from almost exclusively land drainage to begin addressing broader water resource conservation issues. The managers acknowledged that such a shift in emphasis was substantial. Although keeping the drainage system working effectively remains their top priority, over the past ten years the managers have taken steps towards addressing water conservation and water quality concerns.

The start of the High Island Creek Watershed Clean Water Partnership (CWP) Project provided timely support for the watershed district's shift in focus. Clearly, the watershed district managers have benefitted from and appreciate their working relationship with the CWP Project coordinator, and this fact is evidence of the value that a full-time district administrator would provide to the overall operation of the watershed. An administrator would also be able to develop improved working relationships between the district and state and federal regulatory agencies.

Other observations about the basic functioning of the organization are that board meetings would benefit from increased structure and that the district does not submit timely activity reports nor take advantage of other reporting mechanisms, such as websites, to most effectively inform and engage the residents of the watershed.

The district has two action items that need immediate attention: submittal of the 2009 annual report and establishment of a watershed district advisory committee.

The High Island Creek Watershed District is commended for compliance with the following high performance standards:
- ★ Water quality trends tracked for priority water bodies
- ★ Coordination with Cty Board and City/Twp officials
- ★ Partnerships: cooperative projects/tasks done

BWSR recommends that the district managers enter into a Performance Improvement Agreement to address statutory requirements, employ an administrator, tighten up meeting procedures, develop a district website, provide additional administrative training, and seek cooperative funding sources.

Appendix F

LEVEL II FINAL REPORT SUMMARY

PRAP
Performance Review and Assistance Program
2010 Level II Review:
Isanti County Local Water Management *(Isanti County)*

Why BWSR did this review
BWSR conducts Level II performance reviews to help local government water management entities to be the best they can be in plan implementation and overall operational effectiveness. In 2010 BWSR is conducting Level II performance reviews of eight different local water management entities.

BWSR has conducted a routine Level II performance review of the **Isanti County** local water management program in concert with the review of the Isanti SWCD. Both entities use the same long-range plan.

This document includes findings, conclusions and recommendations to enhance the overall operation and effectiveness of the county's local water management program. The county is responsible for taking any actions they decide are necessary in response to the recommendations in this report.

Isanti County Local Water Management Summary of Performance Review Results

What BWSR Found
The Isanti County local water planning and management program has made some significant strides since BWSR approved the county's plan in 2006. They hired a county-based, half-time water planner who reinvigorated the water plan task force and made outreach efforts to surrounding counties. Particular areas of focus have been the Rum River and the North Branch of the Sunrise River. These improvements are significant.

However, recent budget cuts to the County Planning and Zoning Department resulted in the loss of the half-time water planner and the splitting of those duties among the remaining department staff. While the water plan implementation will still be administered, these changes are likely to result in a reduction of the growth of the local water management efforts. Hopefully, once the budget shortfalls within the county have been addressed, restoration of the water planner would be a high priority.

The Isanti local water management efforts should continue and there should be an increased focus on the Clean Water Fund grants to implement the water plan action items.

The Isanti County water management task force has one action item to be addressed in the short-term: provide a public information piece updating recent activities and efforts.

The county is commended for meeting the following high performance standards:
- ★ Partnerships: liaison with SWCDs/WDs and cooperative projects/tasks done
- ★ Track outcomes for public education objectives
- ★ County local water plan on county website
- ★ Water management ordinances on county website

BWSR recommended that the county follow-up on the action item and maintain the excellent work of the water management task force.

Appendix F

LEVEL II FINAL REPORT SUMMARY

PRAP
Performance Review and Assistance Program
2010 Level II Review:
Isanti SWCD *(Isanti County)*

Why BWSR did this review
BWSR conducts Level II performance reviews to help local government water management entities to be the best they can be in plan implementation and overall operational effectiveness. In 2010 BWSR is conducting Level II performance reviews of eight different local water management entities.

BWSR has conducted a routine Level II performance review of the **Isanti SWCD** in concert with the review of the Isanti County local water management program. Both entities use the same long-range plan.

This document includes findings, conclusions, and recommendations to enhance the overall operation and effectiveness of the district. The board of supervisors is responsible for taking any actions they decide are necessary in response to the recommendations in this report.

Isanti Soil and Water Conservation District Summary of Performance Review Results

What BWSR Found
The Isanti Soil and Water Conservation District appears to run its organization on a 15 year-old model that does not reflect the changing reality of the local environment. With the district's strong focus on agricultural practices, the opportunities that can be found in the rapidly urbanizing areas are being missed. These urban residents are not a natural clientele for this SWCD and poor outreach to this new population may place the district in an increasingly marginalized position.

The district staff and board members are beginning to make greater efforts to tie into the county government and the water plan task force. These efforts should be continued and the bonds between the organizations strengthened.

Overall, the staff and board have valuable experience in the conservation of the county's natural resources. However, the district appears to lack a clear focus overall. Strengthening the district's operational administration should be a priority and will put the district in a stronger position to tackle the challenges likely to face the county over the next few years.

The district has action items to work on in two areas: developing policies for data practices requests and for managing personnel matters.

The district is commended for:
- ★ Partnerships: cooperative projects/tasks done with neighboring districts, counties, watershed districts, non-governmental organizations
- ★ Coordination with County Board by supervisors or staff

BWSR recommends that the district address its two action items within the next six months, maintain and strengthen its involvement in the Isanti County local water plan task force, designate/hire a staff person with lead district management responsibilities, and expand the scope of district responsibilities in the upcoming county local water plan update.

Appendix F

LEVEL II FINAL REPORT SUMMARY

PRAP
Performance Review and Assistance Program
2010 Level II Review:
Martin County *(Martin County)*

Why BWSR did this review
BWSR conducts Level II performance reviews to help local government water management entities to be the best they can be in plan implementation and overall operational effectiveness. In 2010 BWSR is conducting Level II performance reviews of eight different local water management entities.

BWSR has conducted a routine Level II performance review of the **Martin County** local water management program in concert with the review of the Martin SWCD. Both entities use the same long-range plan.

This document includes findings, conclusions and recommendations to enhance the overall operation and effectiveness of the program. The water plan committee and county staff are responsible for taking any actions they decide are necessary in response to the recommendations in this report.

Martin County Local Water Management Summary of Performance Review Results

What BWSR Found
The county is making good progress in addressing its water management responsibilities as described in the county local water plan. At the midpoint of the plan implementation cycle the county has addressed the objectives within its areas of main responsibility.
One example of proactive water resource management is the drainage system redetermination of benefits providing a fairer user-pays approach that allows improved maintenance of the agricultural water management systems in the county. This effort is resulting in reduced erosion and sedimentation. Another example is the imminent health threat abatement septic system grant to "fix" 17 systems that was recently awarded to the county.

In the area of feedlots in particular, and to a lesser extent shoreland and subsurface sewage treatment systems, there is room for improvement in the communication and coordination of these county responsibilities with other local water management activities in the county. This could be easily achieved by having county program staff regularly attend quarterly water plan committee meetings to provide status reports of funding levels, expenditures, activities and any program results or outcomes.

Martin County local water management is commended for:
- ★ Public drainage records: meet modernization guidelines
- ★ Annual plan priorities based on water quality trend data for key water resources
- ★ Non-state $ leveraged with all state funds
- ★ Comparison of planned with actual program expenditures
- ★ Data collected to track outcomes for each priority concern
- ★ Water quality trends tracked for priority water bodies
- ★ Obtain stakeholder input: within last 5 yrs
- ★ Partnerships: liaison with SWCD for cooperative projects
- ★ Report to water plan advisory committee on plan progress
- ★ County local water plan on county website
- ★ Water management ordinances on county website

BWSR recommends that the county ensure regular reporting of program status at water plan committee meetings.

Appendix F

LEVEL II FINAL REPORT SUMMARY

PRAP
Performance Review and Assistance Program
2010 Level II Review:
Martin SWCD *(Martin County)*

Why BWSR did this review
BWSR conducts Level II performance reviews to help local government water management entities to be the best they can be in plan implementation and overall operational effectiveness. In 2010 BWSR is conducting Level II performance reviews of eight different local water management entities.

BWSR has conducted a routine Level II performance review of the **Martin SWCD** in concert with the review of the Martin County local water management program. Both entities use the same long-range plan.

This document includes findings, conclusions and recommendations to enhance the overall operation and effectiveness of the district. The board of supervisors is responsible for taking any actions they decide are necessary in response to the recommendations in this report.

Martin Soil and Water Conservation District Summary of Performance Review Results

What BWSR Found
Martin SWCD does a good job overall in accomplishing the goals and objectives of its long-range plan and maintaining high standards of operational efficiency and effectiveness. The district board and staff are engaged and working to keep up with changes resulting from economic limitations and conservation priorities. The district has benefitted from a good relationship with the county board and, likewise, the county has benefitted from having a strong partner in the SWCD. Having a multi-staff organization has resulted in work on conventional SWCD programs as well as making progress with the relatively new "Native Buffer" and "Cooperative Weed Management" programs. The SWCD has embraced the new Clean Water Fund opportunities by applying for grants for improving water quality in Fairmont City lakes and tributaries and has expanded into working with urban BMPs as well as the more traditional agricultural BMPs.

Martin SWCD can improve in the area of Technical Approval Authority and technology. Staff should be given the opportunity to improve skills in the areas of grant writing, grant reporting, BMP design/construction and project signoff.

The Martin SWCD is commended for meeting these high performance standards.

- ★ Operational guidelines
- ★ Board training: orientation and cont. ed. plan
- ★ Staff training: orientation and cont. ed. plan
- ★ Annual plan priorities based on natural resource quality trends
- ★ Comparison of planned with actual program expenditures
- ★ Non-state $ leveraged with all state funds
- ★ Certified wetland delineator: on staff
- ★ Outcome trends monitored & reported for key resources
- ★ Website contains additional content beyond required
- ★ Obtain stakeholder input: within last 5 yrs
- ★ Annual report communicates progress on plan goals
- ★ Partnerships: cooperative projects/tasks done with others
- ★ Coordination with County Board by supervisors or staff

BWSR recommends that the board review staff training and technical approval authority needs and update skills as needed.

Appendix F

LEVEL II FINAL REPORT SUMMARY

PRAP
Performance Review and Assistance Program
2010 Level II Review:
Roseau River Watershed District *(Roseau, Marshall, Lake of the Woods, Beltrami & Kittson Counties)*

Why BWSR did this review
BWSR conducts Level II performance reviews to help local government water management entities to be the best they can be in plan implementation and overall operational effectiveness. In 2010 BWSR is conducting Level II performance reviews of eight different local water management entities.

BWSR has conducted a routine Level II performance review of the **Roseau River Watershed District** because they are near the midpoint in implementing their 10-year watershed management plan.

This document includes findings, conclusions and recommendations to enhance the overall operation and effectiveness of the district. The board of managers is responsible for taking any actions they decide are necessary in response to the recommendations in this report.

Roseau River Watershed District
Summary of Performance Review Results

What BWSR Found
In their watershed management plan the district managers have set the dual goals for their district of flood damage reduction (FDR) and natural resource enhancement (NRE). The plan sets an ambitious agenda for project implementation, and the fact that they have constructed three major FDR projects in the past five years and aggressively pursued two others is evidence of a high level of commitment to that agenda.

This progress is evidence of an improvement in board purpose and intent and staff attentiveness to the complexities of the project development process. Past unfamiliarity with how to work within the project development system resulted in some lost opportunities.

Although the district has worked to establish better relationships and to collaborate with other local governments that have water management responsibilities in the Roseau River watershed, there is still room for improvement. The district is well-positioned to provide the needed coordination but must be more persistent in pursuing it.

There are five action items the managers and staff need to address in the short term:

- Rules: date of last revision or review
- Data practices policy
- Website: increase content
- Functioning advisory committee
- Communication piece: sent within last 12 months

The Roseau River Watershed District is commended for meeting these high performance standards:

★ Administrator on staff
★ Obtain stakeholder input: within last 5 yrs
★ Coordination with County Board and City/Twp officials
★ Partnerships: cooperative projects/tasks with others

BWSR recommends that the district address the five action items, intentionally pursue collaboration with partners, consider staff development, and address operating guidelines and policies.

Appendix G

2010 Local Government Performance Awards and Recognition

Association of Minnesota Counties and Board of Water and Soil Resources
County Conservation Awards
Stearns County

Board of Water and Soil Resources Outstanding SWCD Employee
Kathy Smith, Martin SWCD

Minnesota Association of Soil and Water Conservation Districts
SWCD of the Year
Stearns SWCD

Minnesota Association of Soil and Water Conservation Districts
Outstanding Supervisor Award
Robert Borchert, Rice SWCD

MN Assoc. of Soil and Water Conservation Districts and MN Dept. of Transportation
Living Snow Fence Achievement Award
Lincoln SWCD

DNR Appreciation Award
Carver SWCD

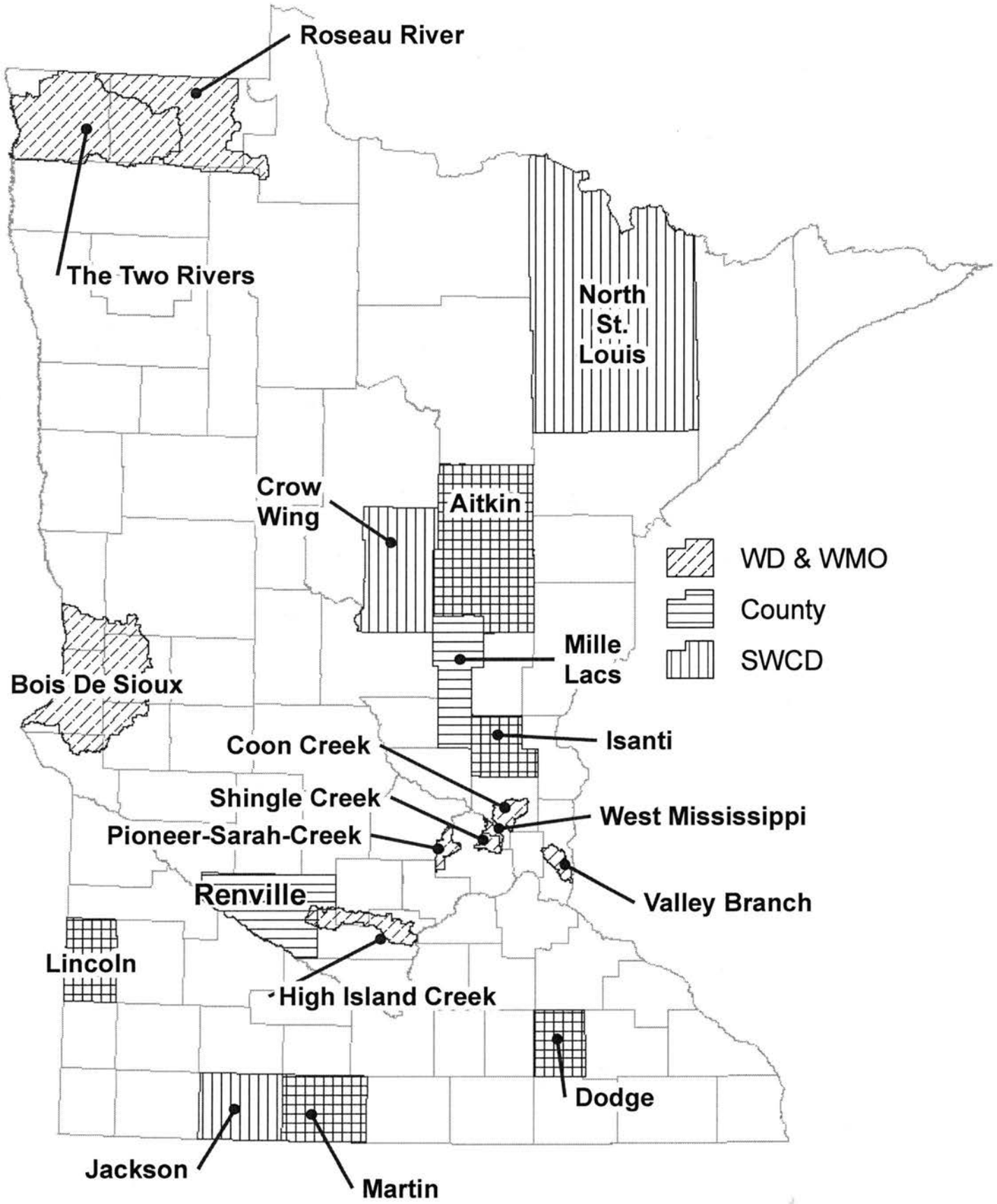
Board of Water and Soil Resources Outstanding WD Employee
Justin Hanson, Turtle Creek WD

Department of Natural Resources Watershed District of the Year
Red Lake WD

Minnesota Association of Watershed Districts Program of the Year
Rain Barrel Art, **Nine Mile Creek WD**

Minnesota Association of Watershed Districts Project of the Year
Fish Barrier/Invasive Species Project, **Riley-Purgatory Bluff Creek WD**

PRAP Level II LGUs 2008 - 2010



Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: PRAP Annual Legislative Report

Meeting Date: January 26, 2011

Agenda Category: ☐ Committee Recommendation ☒ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Regional Operations-PRAP

Contact: Don Buckhout

Prepared by: Don Buckhout

Reviewed by: _____ Committee(s)

Presented by: Don Buckhout

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☒ **Resolution** ☐ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Board Approval of Report

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

DRAFT 2011 Performance Review and Assistance Program (PRAP) Legislative Report-

The fourth annual PRAP Report to the Legislature contains a summary of BWSR's review of LGU performance during the past year to help make the local delivery system for conservation projects and programs the best it can be. The report presents the 2010 accomplishments compared to program objectives set in last year's report. It highlights results from a basic review (Level I) of all 244 LGUs' performance and contains summaries of the in-depth reviews (Level II) of eight LGUs. There is a list of program objectives for 2011. A draft of this report has been reviewed by the Board's Public Relations, Outreach and Strategic Planning Committee. The recommendation for Board approval comes from the Administrative Advisory Committee and is timed to meet a February 1 due date for report submittal to legislative environmental resource committees in both the house and senate, as required by state statute (M.S. 103B.102, subd. 3).

Executive Summary

PRAP: Year 3

The Board of Water and Soil Resources (BWSR) has implemented its Performance Review and Assistance Program (PRAP) for three years. While all of the legislatively mandated elements are in place and functioning, because of funding limitations BWSR has been able to conduct detailed performance reviews for only 16 percent of the original goal of 49 local government entities per year. These local government entities are Minnesota's soil and water conservation districts (SWCDs), watershed districts (WDs), watershed management organizations (WMOs) and counties that comprise the local system that BWSR relies on to deliver its conservation programs on the landscape.

2010 PRAP Activity Summary

Level I Performance Review

- BWSR maintained and expanded the PRAP web accessible database of all 244 local government units (LGUs) in the local delivery system
- SWCD long-range plans are current
- County local water plans are current, but some metro counties' optional groundwater plans are due for updates
- 2010 saw a reduction in overdue WD and WMO plan updates
- several local drainage authorities failed to comply with ditch buffer reporting requirements.

Level II Performance Reviews

- the PRAP program coordinator, with field staff assistance, conducted detailed reviews of 8 LGUs' plan implementation performance and operational effectiveness
- performance standards were refined based on usefulness as indicators
- BWSR convened a select panel of hydrologists for advice on the best streamflow parameters for tracking watershed management effectiveness

Level III Review and Assistance

- BWSR staff provided guidance and assistance to one LGU regarding internal management issues.

Other Assistance

- During Level II reviews LGUs identified training needs that were referred to BWSR's training program coordinator for follow-up.

Reporting

- PRAP webpage and LGU searchable database were maintained and expanded.

PRAP Program Accountability

BWSR met most of its own performance standards for PRAP in 2010. BWSR remains committed to being accountable for how well PRAP is administered.

The LGU Delivery System: How is it Working?

Three years of detailed PRAP performance review, although limited in scope, has detected certain trends that may apply system-wide and indicate the challenges BWSR faces in its oversight role to help those entities to be the best they can be.

- manyLGUs are preoccupied with current funding instability
- plan objectives related to groundwater are challenging to accomplish and measure.

Objectives for 2011

BWSR will maintain current levels of LGU review and explore methods for self-motivation of LGU performance enhancement.

Board Resolution # _____

Performance Review and Assistance Program 2011 Report to the Minnesota State Legislature

---

WHEREAS, the 2007 Legislature designated that funds appropriated to the Board of Water and Soil Resources be used for developing and implementing a program to evaluate and report on the performance of each local water management entity; and

WHEREAS, a program for reviewing performance, offering assistance, and reporting results, now called the Performance Review and Assistance Program (PRAP) was developed in consultation with stakeholders, and

WHEREAS, the program has been implemented to the extent of current resources and capabilities, and

WHEREAS, according to Minnesota Statutes Chapter 103B.102, Subdivision 3, 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 and Senate committees having jurisdiction over environment and natural resources policy, and

WHEREAS, the fourth annual PRAP report to the legislature contains a summary of the results of local water management entity performance review conducted by BWSR staff in 2010 and a summary of findings regarding the performance of local water management entities, and

WHEREAS, the fourth annual PRAP report to the legislature was reviewed by the Public Relations, Outreach and Strategic Planning Committee in January 2010 and by the Administrative Advisory Committee of the Board on January 26, 2011,

NOW THEREFORE BE IT RESOLVED, that the Board of Water and Soil Resources hereby adopts the attached Performance Review and Assistance Program Report to the Minnesota Legislature dated February 2011, with allowance for any minor editing modifications necessary for publication, for transmittal to the Legislature and release to the general public.

_____ Date: _____

Brian Napstad, Chair
Minnesota Board of Water and Soil Resources

Board Resolution # 11-10

Performance Review and Assistance Program 2011 Report to the Minnesota State Legislature

---

WHEREAS, the 2007 Legislature designated that funds appropriated to the Board of Water and Soil Resources be used for developing and implementing a program to evaluate and report on the performance of each local water management entity, and

WHEREAS, a program for reviewing performance, offering assistance, and reporting results, now called the Performance Review and Assistance Program (PRAP) was developed in consultation with stakeholders, and

WHEREAS, the program has been implemented to the extent of current resources and capabilities, and

WHEREAS, according to Minnesota Statutes Chapter 103B.102, Subdivision 3, 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 and Senate committees having jurisdiction over environment and natural resources policy, and

WHEREAS, the fourth annual PRAP report to the legislature contains a summary of the results of local water management entity performance review conducted by BWSR staff in 2010 and a summary of findings regarding the performance of local water management entities, and

WHEREAS, the fourth annual PRAP report to the legislature was reviewed by the Public Relations, Outreach and Strategic Planning Committee in January 2011 and by the Administrative Advisory Committee of the Board on January 26, 2011.

NOW THEREFORE BE IT RESOLVED, that the Board of Water and Soil Resources hereby adopts the attached Performance Review and Assistance Program Report to the Minnesota Legislature dated February 2011, with allowance for any minor editing modifications necessary for publication, for transmittal to the Legislature and release to the general public.

Date: 1/26/11

Brian Napstad, Chair
Minnesota Board of Water and Soil Resources

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Local Government Water Roundtable

Meeting Date: January 26, 2011

Agenda Category: ☐ Committee Recommendation ☒ New Business ☐ Old Business

Item Type: ☐ Decision ☐ Discussion ☒ Information

Section/Region:

Contact: John Jaschke

Prepared by: John Jaschke

Reviewed by: John Jaschke Committee(s)

Presented by: Representatives of AMC, LMC, MASWCD, MAWD

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☐ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other:

ACTION REQUESTED
INFORMATION ITEM

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
Additional information at: http://www.mnlocalgovernmentroundtable.com/index.html

Minnesota Board of Water & Soil Resources

January, 26, 2011

LeAnn Buck, MASWCD
Ray Bohn, MAWD
Annalee Garletz, AMC
Craig Johnson, LMC

Drivers

- Federal, state and local regulations, mandates, and requirements have created greater expectations to address water management and land related resources
- (e.g. Impaired Waters, TMDLs, Flood Control Projects, Wetland Conservation Act, Shoreland Rules, Storm water, etc.)

Drivers

- The State of Minnesota is facing an unprecedented economic impacts not seen since the Great Depression.
- The Historic drop in the economy will continue to prompt budget reductions at the state and local level.



1 Be Proactive

- Our State Association set up a meeting with the Executive Director of the Association of Minnesota Counties. We all saw a need to work together.



#2 Begin with the End it Mind

- There is a need to elevate local government's role with water management and land related resources.
- We are always partnering – This was a new problem so we needed to ask, "Is there a 'new' way to partner?
- Building off of our original work with G-16 and the process that led to the Clean Water Legacy Act

#3 Put First Things First

The Associations...

- Association of MN Counties
- MN Association of Soil & Water Conservation Districts
- MN Association of Watershed Districts
- League of Minnesota Cities (Joined in November 2010)

4 Think Win/Win

- Our Associations understand the value and strength of working together & have developed the **Minnesota Local Government Water Roundtable.**
- Our four Associations & our members are committed to collaborative efforts.
- Our goal is provide consensus recommendations

5 Seek First to Understand... Then to be Understood

- We developed a process for us to understand each other – we created the Local Government Roundtable (LGR)
- The Associations organized a Water Management Summit for Local Government in July.
- The Summit was a forum that provided a dialogue with our members to address the future delivery of water management and land related practices

Water Management Summit

"Judge a man by his questions rather than his answers." Voltaire

- We provided a forum to ask our members: **"How should we collectively deliver water management in Minnesota to be more efficient and effective in accordance with economic realities of our state and nation and the accompanying pressures on state and local resources?"**

Water Management Summit

- Over 375 local government officials provided input and perspectives from their unique vantage points, thereby providing a set of new and broader information to help better understand the issues.



Water Management Summit

- Jon Evert, AMC President
- Barbara Haake, MAWD President
- Steve Sunderland, MASWCD President



Water Management Summit

- We provided an "expert" from the U of M's Hubert Humphrey Institute on Public Policy to explain the deficit to our members. (big picture item)
- We used our connections to hire facilitators to encourage dialogue.



5 Seek First to Understand... Then to be Understood

Ongoing Work....

- **Policy framework.** The LGR is using the information generated at the summit to develop a policy framework for local and state policy makers to consider.
- The LGR is convened a Advisory Committee of peers to assist with exploring policy issues and making recommendations as directed by the LGR.
- We are learning from each other.

7 Synergize

The definition from Stephen Covey...

- The whole is greater than the sum of its parts.
- The creative process is also the most terrifying part because you don't know exactly what's going to happen or where it is going to lead.

7 Synergize

Five Major Policy Areas. The LGR is working to address the following topics:

- 1.) Watershed and Basin Management;
- 2.) Comprehensive Water Planning and Management;
- 3.) State Funding Process for Local Water Management;
- 4.) Clean Water Council Recommendations for the expenditure of the Clean Water Amendment funding; and
- 5.) Assessment of the 25 Year Water Sustainability Framework.

2011

- Even if we can't agree on any proposals – we have created stronger relationships and will work collectively with our local, state and federal policy makers.

7 Sharpen the Saw

- "You are the average of the five people you spend the most time with." Jim Rohn, author.



2010 SOUTHERN MINNESOTA FLOOD RELIEF
MINNESOTA RECOVERS TASK FORCE ALLOCATION STRATEGY *January 25, 2011*

Minnesota Board of Water & Soil Resources

Background

BWSR was appropriated $3 M for erosion, sediment, and water quality cost-share, and was authorized to waive State Cost Share Program Rules. On October 27, 2010, BWSR allocated $850,000 to 21 SWCDs to fund immediate repairs. $50,000 was initially allocated to the following SWCDs: Blue Earth, Cottonwood, Dodge, Faribault, Goodhue, Martin, Nobles, Olmsted, Steele, Wabasha, Waseca, Watonwan, and Winona. $25,000 was initially allocated to the following SWCDs: Freeborn, Jackson, LeSueur, Mower, Murray, Pipestone, Rice, and Rock. The City of Kellogg was also allocated $13,200 for an alternatives analysis for the Zumbro River Bank Erosion Site.

Status

The Minnesota Recovers Task Force (MRTF) has received 69 applications for assistance requesting about $34M. The MRTF initially forwarded 24 of these applications to BWSR requesting about $7.1M. (Projects funded by the initial $850,000 allocation are not included in these requests.) As funds requested exceed funds available, the need for a funding priority is apparent.

The legislative intent of this appropriation is to also provide assistance where federal funds did/will not. Because FEMA Individual Assistance was not federally approved for this disaster, the available federal partner funding for these projects will be primarily from the USDA's EQIP and EWP Programs. SWCDs have been designated by BWSR as the local applicant for erosion, sediment, and water quality flood recovery needs, and have been instructed to assess all related needs and direct eligible projects to federal funding sources.

Recovery Allocations

Allocations are categorized in the following priority order:

1. New or existing conservation practice fixes where imminent human safety is a concern, including EWP projects.
2. Projects that fix existing conservation practices.
3. New practices that need to be installed to solve new problems.
4. New projects that will help prevent flood damages in the future.

Other case-specific factors may include long-term solutions, relative benefits, and the amount of federal contributions. EQIP funding determinations will not be made until March 2011.

BWSR field staff conducted a preliminary screening of these applications. A more thorough evaluation of these applications is in progress.

The sequence of allocations will be:

A. Allocations in category 1 to be made as soon as project costs are formally estimated.
B. Project needs and costs are verified by field staff and EQIP eligibility determined.
C. Allocations in category 2, on a pro-rata basis, after EQIP funding determinations made.
D. Allocations in category 3 on a pro-rata basis, after EQIP funding determinations made.
   (*Projects may shift categories if EQIP funding denied or approved.*)
E. New projects that will help prevent flood damages in the future.

SWCDs shall set their priorities and cost share rates to help achieve the best outcomes and assist more projects. Up to 100% cost-share is allowed.

CLEAN WATER FUND

CLEAN WATER LAND & LEGACY AMENDMENT



MINNESOTA DEPARTMENT OF AGRICULTURE

In accordance with the American with Disabilities Act, an alternative form of communication is available upon request.
TDD: 1-800-627-3529. MDA is an equal opportunity employer and provider.

DECEMBER 2010

Agriculture comprises a significant portion of the state's land use, and the way farmers manage their land can make a big contribution to achieving state goals for resource conservation. The activities described in this brochure are designed to give farmers and ranchers information to help them do their part in ensuring the quality of Minnesota's water resources. Funding from the Clean Water, Land and Legacy Amendment is being used to further enhance MDA's capabilities, develop new partnerships, and support new initiatives.

Research, Pilot Projects and Technical Assistance

$2.265 million for FY10-11 biennium

Funding for individual activities listed below

Clean Water Research Program

$1.250 million for FY10-11 biennium

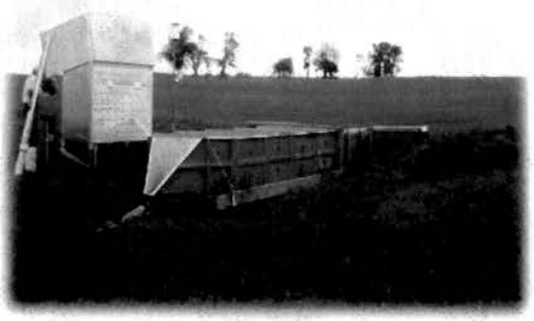
The Minnesota Department of Agriculture (MDA) is supporting research projects to identify processes that affect water quality and evaluate the costs and benefits of specific agricultural practices. Since 2008, the MDA has announced two requests for research proposals. Any organization, research entity or individual may apply for these funds. The MDA works cooperatively with various research entities and provides administrative support for the program. The MDA's Clean Water Research Program has sponsored over a dozen projects. The goals of the program are to evaluate the effectiveness of agricultural Best Management Practices (BMPs), identify underlying processes that affect water quality and develop technologies to target critical areas of the landscape.

Discovery Farms Minnesota

$250,000 for FY10-11 biennium

The Discovery Farms program is a farmer-led effort to gather information on soil and nutrient movement on farms in different settings across Minnesota. It is designed to evaluate agriculture's impact on water quality and to provide baseline data on the environmental performance of Minnesota farms. The MDA is supporting the Discovery Farms program by providing technical assistance and expertise in water monitoring.

Discovery Farms Minnesota was launched in 2009 by farm organizations and commodity groups, specifically the Minnesota Agricultural Water Resources Coalition (MAWRC), with the support of the MDA and the University of Minnesota Extension.



Discovery Farm site in Goodhue County

Livestock Environmental Quality Assessment (LEQA) Program

$300,000 for FY10-11 biennium



LEQA is an MDA program to help livestock producers address, using a non-regulatory approach, the unique water quality issues on their farms. MDA has contracted with Ag Resource Strategies, LLC, to recruit farmers to enroll in the LEQA program. The company trains technicians to assess farms in separate resource management areas, such as the farmstead, livestock facilities, fields and wooded areas. The technicians then develop an environmental assessment and identify financial assistance for these projects.

Clean Water Research Accountability Database

$85,000 for FY10-11 biennium

This project will create a centralized, web-based inventory of water related research in Minnesota. When complete, users will be able to search for information by research topic, research method, water body, funding source, etc. Organizing information about research projects in a single database will make it easier to find results and coordinate research efforts.

Precision Conservation: Targeting Clean Water Implementation

$35,000 for FY10-11 biennium

Via workshops and case studies, this project is disseminating high-resolution, GIS-based terrain analysis modeling techniques to conservation professionals who work on locally-led water quality projects. In a previous Clean Water Legacy project, the MDA developed terrain analysis techniques that provide a more scientific basis for identifying and prioritizing critical sources of erosion and runoff in agricultural landscapes. Targeting conservation practices to critical source areas can produce greater environmental benefits at a lower cost.

Drainage Demonstration Sites

$86,000 for FY10-11 biennium

The MDA operates a network of drainage demonstration sites around the state of Minnesota, each designed to study the quality and quantity of water and agricultural chemicals moving through subsurface drainage tiles. These sites evaluate different methods of reducing phosphorus and/or nitrogen loss on agricultural lands and provide critical information about the characteristics of agricultural drainage. Clean Water funded sites include the Highway 90 project near Mankato and the Tile Drainage Demo Site in Clay County.

Technical Assistance and Program Administration

$259,000 for FY10-11 biennium

Technical assistance is a vital element of the MDA's clean water activities. Clean Water funding has been used to coordinate clean water projects, enhance communication and outreach, support local partnerships, and foster regional cooperation. This assistance helps to ensure that accurate, scientifically-based information on the costs and benefits of specific agricultural practices is incorporated into environmental plans in Minnesota. These costs are for technical staff and program administration.



Root River Field to Stream Partnership

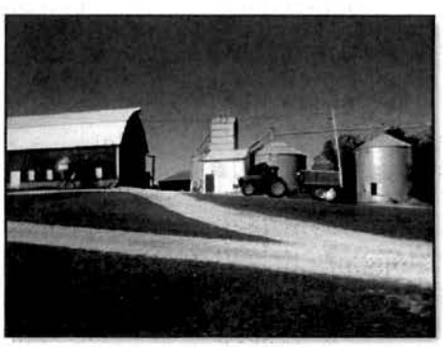
One time appropriation of $395,000

The Root River Partnership is designed to help southeast Minnesota farmers and policy-makers better understand the relationship between agricultural practices and water quality. The partnership is conducting evaluations of water quality and land management at multiple scales using the latest tools and technology.

This project includes two approaches to addressing water quality/ quantity issues in the Root River watershed. One component emphasizes monitoring and the other focuses on implementation strategies for BMPs.

Agricultural BMP Loan Program

$4.5 million for FY10-11 biennium



This water quality program provides zero interest loans to local units of government who in turn provide low interest loans to individuals for management practices that restore or protect water quality. Loans must be used towards practices that reduce soil and water erosion and ensure safe manure and wastewater management. Loans can be used on a farm, a rural home site, in an unsewered community or at a lakeside cabin.



Ground and Surface Water Monitoring

$675,000 for FY10-11 biennium

The MDA has been monitoring the state's water resources continuously for more than 20 years. The purpose of the MDA's monitoring activities is to determine the presence and concentration of pesticides and nutrients in Minnesota's ground and surface water. MDA water quality data is used to evaluate the need for and effectiveness of protective actions for ground and surface water. Clean Water funding has increased the capability and capacity of the water monitoring program through the provision of new analytical instruments in the MDA lab. The new equipment is capable of detecting a broader suite of chemicals at lower concentrations.

Groundwater and Drinking Water Protection

$1.125 million for FY10-11 biennium



Groundwater funding from Minnesota's Clean Water Fund is being used for activities that help identify potential sources of nitrate contamination and evaluate and implement practices at the local level to reduce nitrates in groundwater.

The MDA is working with many local partners and passing funding through to local government units. Below are a few examples of Clean Water Fund projects.

- **Characterizing Nitrates in Private Drinking Water Wells- Central Sands Region**

The MDA has signed a Joints Powers Agreement with Wadena County Soil and Water Conservation District (SWCD). Wadena County SWCD is partnering with 13 counties that make up the "Central Sands Outwash". Nitrate analysis of approximately 2,500 private wells will be completed and a subset of these homeowners will be used to establish a long term monitoring network.

- **A Public and Private Partnership to Improve Nitrogen Fertilizer Efficiency and Protect Groundwater**

The MDA has signed a Joint Powers Agreement with Pope County SWCD. Partners, which include Stearns County SWCD, a local coop, and the University of Minnesota (U of MN), will support a demonstration project at the Herman Rosholt Farm near Westport, MN. This project is designed to evaluate the water quality impacts of different nitrogen management practices in a highly vulnerable irrigated setting.

- **Crop Irrigation Workshops**

The MDA has entered a Joint Powers Agreement with the East Otter Tail SWCD. The EOT SWCD, along with 5 counties, the U of MN, and the Irrigators Association of MN, will carry out workshops to explain water and nitrogen management to both new and experienced irrigators in central MN.

- **Nutrient Management Survey**

The MDA, in partnership with researchers at the University of Minnesota and the National Agricultural Statistics Service (NASS), have pioneered a survey tool for characterizing fertilizer management practices on a regional and statewide scale. Information collected will guide future research and educational activities, provide insight to BMP adoption, and guide policy makers in making informed decisions related to nitrogen use.

Adam Birr Ph.D., Impaired Waters Technical Coordinator, Adam.Birr@state.mn.us , 507-206-2881

Margaret Mangan, Environmental Outreach Coordinator, Margaret.E.Mangan@state.mn.us , 651-201-6488

Visit the MDA's Clean Water Fund Website at: www.mda.state.mn.us/cleanwaterfund

BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, MARCH 23, 2011

BOARD MEMBERS PRESENT:
Paul Brutlag, Bob Burandt, Christy Jo Fogarty, Quentin Fairbanks, Sandy Hooker, Tom Landwehr and Dave Schad, DNR; Tom Loveall, Joe Martin, Keith Mykleseth, Brian Napstad, Faye Sleeper, MES; Gene Tiedemann, LuAnn Tolliver, Doug Wetzstein, MPCA; Matthew Wohlman, MDA

BOARD MEMBERS ABSENT:
Paul Langseth
Linda Bruemmer, Department of Health
Louise Smallidge
John Meyer

STAFF PRESENT:
Mary Jo Anderson, Angie Becker-Kudelka, Don Buckhout, Travis Germundson, Dianne Hubbell, John Jaschke, Kari Keating, Melissa Lewis, Kevin Lines, Paul Senne, Dave Weirens, Steve Woods, Wayne Zellmer

OTHERS PRESENT:
Steve Hirsch and Luke Skinner, DNR Ecological-Waters Division
Tera Guetter and Barb Halbakken Fischburg, Pelican River Watershed District
Eric Evenson, Minnehaha Creek Watershed District
Michael Welch, Smith Partners
Paige Stradley, U of M Law
Lance Yohe, Red River Basin Commission
Rob Sip, Department of Agriculture
Jill Crafton, Riley Purgatory Bluff Creek Watershed District

Chair Napstad called the meeting to order at 9:05 a.m. Chair Napstad thanked everyone for the extra effort in getting here today due to the weather conditions.

PLEDGE OF ALLEGIANCE

Chair Napstad introduced and welcomed Matt Wohlman, Assistant Commissioner, Minnesota Department of Agriculture (MDA), newly appointed Board Member representing MDA. Matt provided brief background information, and stated that he looks forward to representing MDA on the BWSR Board.

** 11-12 **ADOPTION OF AGENDA** – Moved by Paul Brutlag, seconded by LuAnn Tolliver, to approve the agenda as presented. Motion passed on a voice vote.

** 11-13 **MINUTES OF JANUARY 26, 2011** – Moved by Quentin Fairbanks, seconded by Keith Mykleseth, to approve the minutes of January 26, 2011, as circulated. Motion passed on a voice vote.

CONFLICT OF INTEREST DECLARATION – Chair Napstad reported that two agenda items today need the Conflict of Interest Declaration form submitted. The agenda items are: FY2011 Red River Basin Commission Administrative Grant; and the Lake Protection Water Plan Challenge Grant. Chair Napstad read the statement:

"A conflict of interest whether actual 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 identify any potential conflicts of interest they may have regarding today's business."

Chair Napstad asked board members to submit their completed Conflict of Interest Declaration forms to John Jaschke. John explained BWSR's policy on grant authorization and completing the form. The Conflict of Interest Declaration documents will be filed with each grant.

REPORTS

Chair's Report – Brian Napstad reported that the Administrative Advisory Committee (AAC) met this morning. The four board member positions (one watershed representative, one county commissioner representative, one citizen representative, and one non-metro city representative) are open; the application process is on the Secretary of State's website: www.sos.state.mn.us

Chair Napstad reported that the Board's summer tour will be in Todd/Morrison Counties and include Camp Ripley in the Little Falls area. Mary Jo Anderson will coordinate logistics for the tour including bus transportation from St. Paul to Little Falls the afternoon of August 23. The tour will be held on Wednesday, August 24th and the Board Meeting will be held on Thursday, August 25. Information will be provided at a later date.

Chair Napstad reported that he had met with the U.S. Army Corps of Engineers representative responsible for the control structures in the Mississippi Headwaters area. Reservoir and river levels are being closely monitored to minimize spring flooding. Chair Napstad attended meetings at the Capitol on behalf of the Mississippi Headwaters Board.

Executive Director's Report – John Jaschke reviewed items in the Board Meeting packet today: updated Board Member listing; "BWSR Snapshots"; PRAP 2011 Report to the MN Legislature; Procedure for Establishing a Watershed District; Watershed District Establishment Outline; and a letter regarding the Six Cities Watershed Management Organization.

Commissioner Tom Landwehr and Dave Schad, DNR, arrived at the meeting at 9:25 a.m.

Bob Burandt arrived at the meeting at 9:30 a.m.

John Jaschke provided an update regarding the Governor's and Legislative Recommendations for the General Fund and Omnibus Finance Bills. John explained that letters were sent to the Senate and House regarding BWSR's budget recommendations. John asked board members to contact Mary Jo Anderson if they would like a copy of the correspondence sent to the Senate and House. John outlined the Committees busy legislative schedule this week: AMC legislative meetings, MAWD legislative breakfast tomorrow, as well as ongoing legislative hearings at the Capitol. Chair Napstad reminded BWSR members that when representing BWSR, we must support the Dayton Administration positions as we are part of the Administration.

Dispute Resolution Committee – Travis Germundson reported that there are no new appeals. Travis provided minor updates to the report. Chair Napstad reported that he was contacted by a constituent regarding misinformation he received about the $500 filing fee for a restoration order appeal. Travis reported that the LGU and DNR conservation officer provided the wrong information, the correct information has been on the BWSR website since 2009. Chair Napstad stated the importance of communication and keeping information up-to-date.

INTRODUCTORY REMARKS FROM MPCA COMMISSIONER PAUL AASEN -
Chair Napstad introduced newly appointed MPCA Commissioner Paul Aasen. Commissioner Aasen stated that the hallway conversations with MPCA, DNR, and BWSR are so important; it's good to be connected. Commissioner Aasen stated that MPCA, DNR, and BWSR are lucky to have Clean Water Funds available to our agencies; it's obvious that our agencies are and will be working together. Commissioner Aasen stated that the perception of water regulation duplication and 'confusion' at the local level proves that we need to work together even more. Commissioner Aasen looks forward to working with BWSR on issues such as environmental policy governance in the future and coordination of environmental policy efforts. Chair Napstad congratulated Commissioner Aasen on his appointment and thanked him for his comments. Commissioner Aasen commented on the importance of education and informing legislators of agency policy and process during the Legislative Session.

INTRODUCTORY REMARKS FROM MDA COMMISSIONER DAVE FREDERICKSON
Chair Napstad welcomed newly appointed Department of Agriculture Commissioner Dave Frederickson. Commissioner Frederickson stated that he has had the privilege of working with John Jaschke and some board members in the past. Commissioner Frederickson provided brief background information about himself. Commissioner Frederickson looks forward to working with BWSR via dialogue, and problem solving. It's a great opportunity to work with MPCA, DNR, and BWSR. Chair Napstad congratulated Commissioner Frederickson on his appointment and thanked him for coming in today.

Wetlands Committee – LuAnn Tolliver stated that the Wetlands Committee has not met; there will be a meeting in the next couple of months coordinated around the BWSR Board Meetings.

Grants Program & Policy Committee – John Jaschke stated that Grants Program & Policy Committee recommendations are on the meeting agenda later today.

Public Relations, Outreach & Strategic Planning Committee – Keith Mykleseth reported that the Public Relations, Outreach & Strategic Planning Committee has not met; however, the Committee will meet immediately following the Board Meeting today.

RIM Reserve Planning Committee – Paul Brutlag reported that the RIM Reserve Planning Committee met via conference call. Committee recommendations are on the agenda later today.

Drainage Work Group – Tom Loveall stated that Drainage Work Group met in January and will meet again after the legislative session adjourns.

COMMITTEE RECOMMENDATIONS

Grants Program & Policy Committee and RIM Reserve Management & Planning Committee Combined Recommendation

Draft Cost-Share and RIM Reserve Rule, Statement of Need and Reasonableness and Draft Cost-Share Policy – Dave Weirens reviewed information in board members' packet and explained that statutes governing the Cost-Share Program and the RIM Reserve Program were amended in 2009. Staff began to work on amendments after the enactment of these changes to:

1) Incorporate statutory changes that have occurred in the RIM Reserve Law (103F.505 to 103F.531);
2) Reflect statutory amendments enacted in 2009, including a directive to adopt Cost-Share Program Policies (103C.501);
3) Streamline the administration to increase efficiencies for both SWCDs and BWSR;
4) Respond to evolving resource management strategies by accommodating greater use of other Best Management Practices (BMPs); and
5) Improve the clarity of the permanent rule.

Dave explained that the Resolution is intended for information on rule making; not policy at this time. Kevin Lines highlighted the RIM Program and proudly reported that this 25-year program is the most successful conservation easement program in the country! The Erosion Control and Water Management Program, known as the Cost-Share Program, will come before the Board for adoption of policy when the Rule is ready for final adoption. John Jaschke explained that the Resolution formally starts the process for public review and comment.

** 11-14 Moved by Christy Jo Fogarty, seconded by Quentin Fairbanks, to adopt the Erosion Control and Water Management Program (Cost-Share) and the RIM Reserve Program (Minn. Rule Chapter 800) and Statement of Need and Reasonableness and authorizes staff to:

i) make minor grammatical, formatting, and reference changes to prepare the rule for publishing;
ii) seek approval from the Governor's Office to proceed with adopting the rule;
iii) submit the rule to the Revisor of Statutes for review and approval of the form of the rule; and
iv) complete the processes necessary to adopt the rule.

Motion passed on a voice vote. Chair Napstad thanked Dave and Kevin for their presentation.

Grants Program & Policy Committee

Red River Basin Commission (RRBC) Work Plan Presentation – Lance Yohe, RRBC Executive Director, distributed reference material regarding the RRBC and provided information on long-term flood solutions and reported on a weekly flood status report. Additional information can be found on the RRBC website: www.redriverbasincommission.org Chair Napstad thanked Lance for his presentation.

FY '11 Red River Basin Commission Administrative Grant –Wayne Zellmer reported that the 2009 Legislature appropriated $90,000 to BWSR for RRBC administration in FY2011. This appropriation was reduced to $84,000 by the 2010 Legislature. The Grants Program & Policy Committee reviewed the RRBC's 2011 Work Plan and Budget
** and recommends approval of the allocation. Moved by Keith Mykleseth, seconded by
11-15 Gene Tiedemann, to authorize staff to allocate $84,000 to the RRBC for administration and management of water quality and floodplain management programs.

John Jaschke reported that 14 Conflict of Interest Declaration forms were received, all are eligible to vote. Quentin Fairbanks abstained; 13 voting members. Chair Napstad called for the vote. Motion passed on a voice vote.

Lake Protection Water Plan Challenge Grant – Dave Weirens reported that the Grants Program & Policy Committee met to review the Lake Protection Water Plan
** Challenge Grant and recommends approval of the $99,893 allocation. Moved by Faye
11-16 Sleeper, seconded by Doug Wetzstein, to adopt the recommendation of the Grants Program and Policy Committee and authorize staff to allocate funds to local governments as presented.

John Jaschke reported that 14 Conflict of Interest Declarations forms were received, all are eligible to vote. Brian Napstad is abstaining due to the allocation to Aitkin County, which may be perceived as a conflict due to his position as an Aitkin County Commissioner. Motion passed on a voice vote.

Chair Napstad called for a break in the meeting at 10:43 a.m. The meeting reconvened at 10:55 a.m.

Voluntary Public Access and Habitat Incentive (Walk-in) Program – John Jaschke provided background information on the three-year pilot Public Access and Habitat Incentive Program. Dave Weirens explained that this is an opportunity for BWSR to

partner with DNR to implement this program by enrolling up to 50,000 acres of private land, targeting lands that are currently enrolled in CREP, RIM, WRP, and CRP. BWSR's role is to provide funds to SWCDs for their efforts and to manage the agreements with landowners. Total funds available for grants to SWCDs is $80,000 for the first year of the program. Tabor Hoek is the lead staff working with SWCDs on this voluntary program.

Deputy Commissioner Dave Schad was introduced, serving as Commissioner Landwehr's alternate on the Board. Dave Schad stated that DNR has been asked to consider this program but there had never been a source of funding until now. He stated that this is a good opportunity to pilot this program, query the interest in this three-year pilot program, work to find funding in the future if funding is not allocated. The pilot is primarily focused on pheasant hunting in southwestern Minnesota. Mr. Schad appreciates the partnership with BWSR and SWCDs; DNR appreciates the hard work by staff on this program. Discussion followed.

** 11-17 Moved by Tom Loveall, seconded by Keith Mykleseth, to adopt the Grants Program & Policy Committee recommendation; authorize staff to allocate up to $80,000 to SWCDs that are willing to participate in this program; and authorize staff to complete tasks necessary to implement the Walk-in Public Access and Habitat Incentive Program in coordination with DNR.

Discussion followed. Bob Burandt doesn't' support the program as the federal government doesn't have $2.5M to start a new program when a hunter can ask the landowner to hunt on his land without spending public funds. Christy Jo Fogarty asked why the USDA is involved in a hunting program. John Jaschke explained that federal involvement is in getting the most public benefit from conservation lands. Rural economic development via recreational visitors is part of this endeavor. Tom Loveall stated that this is a pilot program. Joe Martin stated that we need to separate the concept, whether SWCDs should or should not have a role. Keith Mykleseth stated that the Grants Program and Policy Committee discussed these issues related to a pilot program. Dave Schad stated that funding aspect of public access on easement lands may lead to better acceptance and broader support of the hunting community; possibly more conservation on the ground. Dave Weirens suggested an evaluation at the end of the pilot program, what happens after year three to see where we go from there. Christy Jo is concerned regarding the high administrative costs. John explained that BWSR and DNR are modeling this after other states. The landscape in Minnesota is different from other states; there are questions and reservations about this until this pilot is actually tried. It's an opportunity with federal resources to give it our best shot as a pilot program. Motion passed on a voice vote.

RIM Reserve Management & Planning Committee

Reinvest in Minnesota (RIM) Reserve – Wetlands Reserve Program (RIM-WRP) Partnership Program – Paul Brutlag reported that the RIM Reserve Management & Planning Committee reviewed two resolutions and recommends approval. Paul explained that the first resolution recommends that the RIM-WRP Partnership become operational and authorizes staff to successfully implement the RIM-WRP Partnership. The second resolution recommends that payment rates be used for RIM and the RIM-WRP Partnership and establishment of a continuous enrollment process to commence in April 2011. The payment rates would be effective until changed by the Board. Kevin Lines reported that the Legislature is expected to appropriate FY12 funds for use by the RIM Reserve Program to leverage federal WRP funds in Minnesota. These funds will be used to restore previously drained wetlands and adjacent native grasslands to protect soil and water quality, increase fish and wildlife habitat, reduce flood damage and provide other public benefits. Kevin stated that Minnesota continues to be successful on these efforts.

** 11-18 Moved by Paul Brutlag, seconded by Bob Burandt, to authorize staff to successfully implement the RIM–WRP Partnership in recognition of, and consistent with the findings noted. Motion passed on a voice vote.

** 11-19 Moved by Keith Mykleseth, seconded by Christy Jo Fogarty, to authorize staff to develop and implement the RIM-WRP Partnership as follows:

- Continuous enrollment period to begin no sooner than April 2011 for the RIM-WRP Partnership.
- Staff is authorized to develop eligibility, prioritization, sign-up and selection procedures for the RIM-WRP Partnership.
- The payment rate for eligible croplands enrolling in the RIM Reserve Program is not to exceed 100% of the AATV and for non-cropland acres and not to exceed 60% of AATV.
- The payment rate for wetland restorations eligible for the RIM-WRP Partnership for cropland acres is not to exceed 125% of the Average Assessed Tillable Value (AATV) and for cropland acres not to exceed 70% of the AATV.
- Rates are to be calculated using the most current township average tillable property value as established by the Minnesota Department of Revenue.

Motion passed on a voice vote. Kevin reported that there has been an exceptional response to the September 2010 flood relief sign-up in southern Minnesota. Chair Napstad thanked Kevin for the good work on this endeavor.

NEW BUSINESS

Aquatic Invasive Species (AIS): Connection to Local Water Management – The AIS is a special category of water related issues that require unique applications of funding, regulation and education tools. DNR has conducted a series of stakeholder meetings and prepared a report recently presented to the legislature and is developing strategies to address a diverse and persistent list of problem species. Several local water management authorities have played a role and are being asked by their constituents to do more. BWSR has the responsibility to review and approve amendments to local water management plans per M.S. Chapters 103B and 103D that may authorize funding or regulations to address AIS.

Luke Skinner and Steve Hirsch, DNR Ecological-Waters Division, presented information on AIS prevention: public awareness of personal responsibility, regulation, enforcement, and inspections. AIS is a serious threat to the State of Minnesota, Legislation has been introduced to increase enforcement; the Governor's budget recommendation proposes increases. DNR is taking action as AIS is a high priority for DNR; looks to partner locally to assist with this program. Discussion followed.

Christy Jo Fogarty left the meeting at 11:55 a.m.
Sandy Hooker arrived at the meeting at 11:55 a.m.

Tera Guetter, Pelican River Watershed District (PRWD), provided history on the formation of the PRWD. Tera presented information on the problems of algae, curly-leaf pondweed, flowering rush, and zebra mussels. Tera expressed the importance of a cooperative effort, it takes everybody to assist with prevention and treatment of AIS. Tera reported on the cost and expenses incurred by the PRWD for AIS. An emergency response mode is needed for prevention. Tera explained the frustrations with the cumbersome permitting process for AIS; permits are issued through DNR Fisheries. The Pelican River Watershed District is looking forward to working together with a stakeholder management group to assist with the AIS. LuAnn Tolliver stated that we need to assist with an action plan.

Eric Evenson and Michael Welch (Smith-Partners), Minnehaha Creek Watershed District (MCWD) – Michael Welch presented the legalities of addressing AIS; the statutory proposals to minimize capital expenditures, protect and enhance fish and recreational facilities, and surface water management. The MCWD is assessing, addressing, and implementing a plan to protect and improve, they cannot take on the AIS alone. Eric Evenson stated that he's excited about the DNR legislative bill, and supports DNR's response. Eric explained the MCWD's response and presented the economic impact on zebra mussels. The MCWD recognizes the costs to effectively

prevent the zebra mussels; what tools are available to slow down the movement, and the permitting program. Eric stated that the MCWD needs the support from the State, collaboratively, to take a leadership role and it needs to be done now. Eric stated that the MCWD will bear the full cost of two pilot projects so action can be taken now.

The Attorney General's office declined to offer a legal opinion on an AIS inquiry posed by MCWD. However, the question may need to be asked in a different manner. Discussion followed. Chair Napstad thanked everyone for their informative presentations.

Jill Crafton, Riley Purgatory Bluff Creek Watershed District, asked to speak to the issue. Chair Napstad allowed her to comment. Ms. Crafton suggested that BWSR contact EPA to request funding for AIS. She stated that water treatment is needed as well as the need to be more proactive in dealing with the problems. Chair Napstad stated the need for Aquatic Invasive Species to be included in county water plans.

AGENCY REPORTS

Minnesota Department of Natural Resources (DNR) – Commissioner Tom Landwehr stated that he appreciates the speakers' presentations today regarding two legislative bills proposing funding and policy on AIS. Commissioner Landwehr stated that he's optimistic regarding the AIS legislation, there's good support from stakeholders on AIS, and boat owners also need to take responsibility. Commissioner Landwehr stated that is true with all agencies, we can only do so much when statutes and legislative mandates are in place; we need the support of many people to get things done. Commissioner Landwehr reported that DNR testified on the general fund reductions. DNR faces closing state parks, and reductions that impact the timber and rural economy. He stated that it's painful to ponder what will happen as it's early in the budgeting process.

Minnesota Extension Service (MES) – Faye Sleeper reported that life in higher education is looking at cuts, federal funding reductions, lay-offs and not refilling positions; MES continues to be in a holding pattern.

Minnesota Pollution Control Agency (MPCA) – Doug Wetzstein reported that Rebecca Flood is in St. Louis, Missouri this week attending a Hypoxia Task Force meeting.

ADVISORY COMMENTS

Minnesota Association of Townships (MAT) – Sandy Hooker reported that MAT staff are conducting short courses throughout the State for townships, school boards, and counties. MAT meets tomorrow; the MAT lobbyist is busy at the Capitol.

UPCOMING MEETINGS

Chair Napstad reported that the next BWSR Board Meeting is April 27, 2011 in St. Paul. He asked board members to mark their calendars for August 24-25, Board Tour and Meeting in the Little Falls area.

Chair Napstad stated that the Public Relations, Outreach & Strategic Planning Committee meets today immediately following adjournment of the Board meeting.

** 11-20 Moved by LuAnn Tolliver, seconded by Bob Burandt, to adjourn the meeting at 1:05 PM.

Respectfully submitted,

Brian Napstad
Chair

BOARD OF WATER AND SOIL RESOURCES
Attendance Roster

	Name	Affiliation	Phone #
1.	Jill Crafton	RPBCWD	612 349-8255
2.	Lance Yoke	RRBC	718-291-0422
3.	Rob Sip	MDA	
4.	Tera Guetter	PRWD	218 846-0436
5.	Barb Halbakken Fischbach	PRWD	612-669-2346
6.	Dave Schad	DNR	651-259-5025
7.	Michael Welch	Smith Partners	612-344-1400
8.	Paige Stradley	Kennedy & Graven Law	612-834-8377
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			
21.			
22.			
23.			
24.			
25.			

BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, JANUARY 26, 2011

BOARD MEMBERS PRESENT:
Paul Brutlag, Bob Burandt, Christy Jo Fogarty, Quentin Fairbanks, Rebecca Flood, MPCA; Sandy Hooker, Paul Langseth, John Meyer, Keith Mykleseth, Brian Napstad, Rob Sip, MDA; Faye Sleeper, MES; Louise Smallidge, John Linc Stine and Dan Wilson, MDH; Gene Tiedemann, LuAnn Tolliver

BOARD MEMBERS ABSENT:
Tom Loveall
Joe Martin
Larry Kramka, DNR

STAFF PRESENT:
Mary Jo Anderson, Julie Blackburn, Don Buckhout, Bill Eisele, Travis Germundson, Dan Giralomo, Jim Haertel, Al Kean, John Jaschke, Sherri Johnson, Kevin Lines, Tom Wenzel, Steve Woods, Brad Wozney

OTHERS PRESENT:
Perry Forster, Riley Purgatory Bluff Creek WD
Mark Enochs, Riley Purgatory Bluff Creek WD
LeAnn Buck, MASWCD
Ray Bohn, MAWD
Steve Chaplin, TNC
Tom Landwehr, DNR

Chair Napstad called the meeting to order at 9:00 a.m.

PLEDGE OF ALLEGIANCE

** 11-01 **ADOPTION OF AGENDA** – Moved by Paul Brutlag, seconded by Quentin Fairbanks, to adopt the agenda as presented. Chair Napstad stated that two additional agenda items have been added to the agenda: DNR Commissioner Landwehr is scheduled to arrive at the meeting at 9:45 a.m.; and recognition of Dan Wilson. Motion passed on a voice vote.

** 11-02 **MINUTES OF DECEMBER 15, 2010** – Moved by Paul Langseth, seconded by Sandy Hooker, to approve the minutes of December 15, 2010, as circulated. Motion passed on a voice vote.

INTRODUCTION OF NEW BWSR EMPLOYEE – Bill Eisele introduced Sherri Johnson, Office & Administrative Specialist, in the St. Paul office. Chair Napstad welcomed Sherri to the Board.

RECOGNITION OF SERVICE - John Jaschke and Chair Napstad recognized Dan Wilson for his service to BWSR and the citizens of Minnesota, presented him with a plaque, and wished him well in his retirement. Dan has represented the Minnesota Department of Health for many years as a Board Member and Alternate.

REPORTS

Chair's Report – Chair Napstad reported that he attended the Northern Water Planning Committee meeting on January 12th. He attended an LGU meeting regarding PRAP; more on that later in the meeting. Chair Napstad reported that the Administrative Advisory Committee (AAC) met this morning and elected to perform the executive director's annual review. Chair Napstad stressed the importance of board members' participation in this process. Chair Napstad will meet with Bill Eisele and follow the review process that is in place. Bill Eisele will send review forms to board members; Chair Napstad asked that board members complete the review forms and return them to Bill Eisele. Chair Napstad and Vice Chair Brutlag will meet with John Jaschke to perform his review. Louise Smallidge reminded the Board of the value of their comments. Chair thanked board members in advance for their cooperation in this matter.

Executive Director's Report – John Jaschke reviewed the information in board members' packets:

- Two memos to Chair Napstad from John Jaschke regarding technical corrections to two December 2010 Board resolutions

- 2010 Southern Minnesota Flood Relief – Minnesota Recovers Task Force Allocation Strategy
- Watershed & County Water Plan Revision Status Maps
- Updated Board Member Listing
- Updated Board Member Map
- Updated BWSR Committee listing
- "BWSR Snapshots" Newsletter with two highlighted projects
- IRS Mileage Rate – increase from 50.0 cents per mile to 51.0 cents per mile, effective January 1, 2011
- Water Management Districts – Guidelines for Watershed Districts Creating and Implementing Water Management Districts
- BWSR FY2010-2011 Clean Water Fund highlights factsheet
- Reinvest in Minnesota (RIM) – Wetlands Reserve Program (WRP) Leveraging Project factsheet
- Minnesota Center for Environmental Advocacy (MCEA) Report and BWSR's response letter from John Jaschke, on behalf of BWSR, stating BWSR's opinion. John stated that this may be perceived or described as an audit; it is not an audit, it is MCEA's analysis and opinion. BWSR is following statute as directed on nonpoint source pollution, although MCEA has a different opinion.
- Clean Water Council's FY12-13 Proposed Clean Water Fund Activities and budget and outcomes Committee Recommendations - Keith Hanson mentioned this during his presentation at the BWSR Meeting on December 15, 2010.

John Jaschke briefly commented on BWSR's voluntary Land Management Report prepared to buttress MMB legislatively directed report. John attended the Red River Basin Commission Land & Water International Summit Conference last week in Fargo. John reported that the Office of Grants Management provided preliminary support for waivers as requested. John reported that the Walk-in Pilot Hunting Program is underway with BWSR and DNR working jointly on this program. John reported that the Clean Water Framework and the State Water Plan are both complete as being presented. John reported that BWSR received a petition from Scott County to shift managers on the Lower Minnesota River Watershed District; that petition was withdrawn. An establishment petition was received from Wilkin County requesting establishment of the Lower Otter Tail River Watershed District.

Chair Napstad reported that the Administrative Advisory Committee discussed the establishment petition at length. BWSR will maintain and adhere to the statutory process that is in place when addressing the establishment petition received from Wilkin County requesting establishment of the Upper Red Lower Otter Tail Watershed District.

Dispute Resolution Committee – Travis Germundson reported that three new appeals have been received since the last report in December. 1) #10-16: a forestry exemption decision in Carlton County; the appeal remanded back to Carlton County.
2) #11-01: an appeal in Hennepin County regarding filling a wetland; no decision made.
3) #11-02: an exemption appeal in Waseca County, no loss exemption remanded back to process. Travis provided an update on appeal #09-10 regarding a restoration banking plan in Aitkin County; the plan has been placed in abeyance. Travis reported that a recent Court of Appeals decision was made on appeal #09-29 regarding a replacement plan in St. Louis County. The Court of Appeals denied the appeal (BWSR and the LGU also denied the appeal). Chair Napstad thanked Travis for his report.

Wetlands Committee – LuAnn Tolliver reported that the Wetlands Committee met on January 12th, the Committee recommendations are on the agenda later today.

Grants Program & Policy Committee – Louise Smallidge reported that the Grants Program & Policy Committee has not met. Louise apologized for not attending the last meeting as she was out with pneumonia.

Public Relations, Outreach & Strategic Planning Committee – Keith Mykleseth reported that the Committee has not met; but looking to meet in March after the March 23 Board meeting.

RIM Reserve Planning Committee – Paul Brutlag reported that sign-up for the $10M in state funds and $16M in federal funds received for flooding in southern Minnesota is underway.

Drainage Work Group – Al Kean reported that the Drainage Work Group met on January 6, 2011. Topics discussed at the meeting: MN Drainage Law Analysis and Evaluation; overviews of upcoming drainage education and venues; and transfer of drainage systems from counties to watershed districts. Al reported that the next Drainage Work Group meeting will be after the Legislative Session, possibly in June 2011. Al reported that he and Loren Engelby, Kandiyohi County Drainage Manager, developed a brochure "Redetermination of Benefits and Damages for Drainage Systems". The brochure is on BWSR's website. Chair Napstad thanked Al for the report.

Administrative Advisory Committee – Brian Napstad reviewed the agenda from the meeting and reported that BWSR has not yet received updated budgeting guidance.

COMMITTEE RECOMMENDATIONS
Metro Water Planning Committee
Riley Purgatory Bluff Creek Watershed District Revised Watershed Management Plan – Brad Wozney reported that the Metro Water Planning Committee met on January 5, 2011, after review of the information, the Committee voted unanimously to recommend approval of the Riley Purgatory Bluff Creek Watershed District Revised Watershed Management Plan. Brad reported on the highlights of the revised Plan. Brad introduced Perry Forster, President; and Mark Enochs, District Engineer. Mr. Forster acknowledged the great efforts of Brad Wozney and Jim Haertel for their assistance on the Plan.

** 11-03 Moved by LuAnn Tolliver, seconded by John Meyer, to approve the Riley Purgatory Bluff Creek Watershed District Revised Watershed Management Plan. LuAnn commended the managers for their involvement; and the application of a scorecard to regularly assess District performance with the Plan implementation and short and long term goals. Chair Napstad stated that he's impressed with the public outreach on this Plan. John Jaschke reported that he attended the Metro Water Planning Committee meeting; two managers and a citizen advisory committee member made a presentation on the history and guiding principles of the District and highlights of the implementation section of the revised Plan. Citizen input and the involvement of the cities is reflected in this Plan. LuAnn stated that the implementation of the work plan now begins. Motion passed on a voice vote. Chair thanked Brad for his report and thanked Mr. Forster and Mr. Enochs for attending the meeting today.

INTRODUCTORY REMARKS FROM DNR COMMISSIONER TOM LANDWEHR – Chair Napstad congratulated and welcomed Tom Landwehr, newly appointed DNR Commissioner. Commissioner Landwehr stated that he has a long relationship with BWSR and he appreciates the great ability BWSR has to work with landowners on behalf of conservation. He looks forward to a good working relationship with BWSR in the future and hopes to strengthen the collaborative relationship in conservation efforts, and thanked BWSR for their support. Chair Napstad reported that DNR has worked closely with BWSR over the years and he acknowledged the valued contributions from DNR representatives Larry Kramka, board member, and Wayne Edgerton as alternate. Chair Napstad also looks forward to continued efforts. John Jaschke stated that he was in the Red River Valley last week and several local governments asked John to convey thanks to Tom Landwehr for his and the Governor's attention to their issues. Commissioner Landwehr appreciates the tremendous opportunities in working with BWSR, federal, and private lands, critical components of conservation.

COMMITTEE RECOMMENDATIONS

Northern Water Planning Committee

Quentin Fairbanks reported that Northern Water Planning Committee met on January 12, 2011. The Wadena County Local Water Plan will be on an upcoming BWSR Board meeting agenda after Wadena County holds their public meeting.

Clay County Local Water Management Plan Amendment – Quentin Fairbanks reported that the Northern Water Planning Committee reviewed the Clay County Local Water
** Management Plan amendment and recommends approved. Moved by Quentin Fairbanks,
11-04 seconded by Keith Mykleseth, to approve the 2010 amendment to the Clay County Local Water Management Plan. Clay County will be required to provide a complete update of its Water Management Plan prior to December 31, 2015. Motion passed on a voice vote.

Grant County Local Water Management Plan Amendment – Keith Mykleseth reported that the Northern Water Planning Committee reviewed the Grant County Local Water
** Management Plan amendment and recommends approval. Moved by Keith Mykleseth,
11-05 seconded by Quentin Fairbanks, to approve the 2011 – 2015 amendment to the Grant County Local Water Management Plan. Grant County will be required to provide for a complete update of its Water Management Plan prior to December 31, 2015. Discussion followed. Faye Sleeper requests priority concerns summarized in one page for board members; and encouraged board members to request a copy of the full plan when needed for review rather than sending this to all board members. Louise Smallidge stated that the work of the Committee is to review all the details of the water plans thus minimizing the paper information before the Board and the Committee makes the recommendation to the Board. Paul Langseth suggested a standardized format/checklist for points of information on the five year plans that are provided to board members. Chair Napstad directed John Jaschke to discuss with staff a process to generate Board background information without overload of too much information. Motion passed on a voice vote.

John Linc Stine needs to leave the meeting; he wanted to formally commend Dan Wilson on the well sealing program and the legacy Dan leaves with us. John Linc Stine left the meeting at 10:23 a.m.

Rebecca Flood arrived at the meeting at 10:25 a.m.

North Fork of the Crow River Watershed District Plan Update – Gene Tiedemann reported that the Northern Water Planning Committee reviewed the ten-year update of the
** North Fork of the Crow River Watershed District Plan and recommends approval. Moved by
11-06 Gene Tiedemann, seconded by Keith Mykleseth, to approve the North Fork of the Crow River Watershed District Plan update. Paul Langseth questioned #11 of the Findings of Fact, regarding the "district plan was approved over 20 years ago". John Jaschke stated that

Statute states the plan exists until replaced. John stated that this is a distinction between a watershed district plan and a county water plan. Motion passed on a voice vote.

Todd County Local Water Management Plan Update – Paul Brutlag reported that the Northern Water Planning Committee reviewed the Todd County Local Water
** Management Plan update and recommends approval. Moved by Paul Brutlag,
11-07 seconded by Quentin Fairbanks, to approve the Todd County Local Water Management Plan update 2011-2016. Todd County will be required to provide a complete update of its Water Management Plan prior to January 31, 2016. Chair Napstad will sign the corrected resolution dated January 26, 2011 rather than January 26, 2010. Motion passed on a voice vote.

Chair Napstad called for a break in the meeting at 10:32 a.m.; the meeting reconvened at 10:45 a.m.

Wetland Committee

Local Government Roads Wetland Replacement Program Project Selection – Dave Weirens presented a brief overview of the Wetlands Committee recommendation on the
** project selection of the local government roads Wetland Replacement Program. Moved by
11-08 LuAnn Tolliver, seconded by Sandy Hooker, to approve the resolution authorizing staff to proceed with the further development of the Poppler/Harms (Carver County) and Brose (Carver County) easement agreement projects with the remaining project (Braton – Wilkin County) available as a back-up for the Local Government Road Wetland Replacement Program as recommended by the Wetland Committee. Motion passed on a voice vote.

2011 Wetland Bank Fee Policy – Dave Weirens presented a brief overview of the calculated wetland credit values on the 2011 Wetland Bank Fee Policy; as Statute requires BWSR to collect fees for administering the State Wetland Banking Program. Dave reported that the Wetlands Committee recommends using the calculated values for wetland bank fee determination. Green Acres values are being used for Hennepin County and Ramsey County.

** Moved by LuAnn Tolliver, seconded by Paul Brutlag, to approve the Wetlands Committee
11-09 recommendation that BWSR update the wetland credit values by taking the 2010 tillable land values, rural/vacant land values when the ratio of tillable acres to rural/vacant acres is less than 20%, or the average of the before and deferral green acres values, multiplied by the wetland credit value coefficient of 6.0, with a maximum increase of 75% over the values established in Board action 0-113 as indicated on the spreadsheet, "Proposed 2011 Calculated Values for Wetland Bank Fee Determination". Chair Napstad stated the policy of 20% tillable acres using rural/vacant for proxy value. LuAnn Tolliver thanked the

Wetlands Committee and staff for input; as it made the policy better. Motion passed on a voice vote.

NEW BUSINESS

Minnesota Prairie Region Conservation Plan – Steve Chaplin, The Nature Conservancy, presented a draft Minnesota Prairie Landscape Conservation Plan 2010. Minnesota's conservation partners, including BWSR, in the Prairie Region of the state collaborated to develop and draft a 25-year strategy for accelerating conservation. This strategy was precipitated by several factors including continuing loss and degradation of prairies, grasslands, wetlands and associated habitats, an acknowledged need to better coordinate between programs and organizations, and opportunities provided by the passage of the Clean Water, Land and Legacy Amendment that will provide significant conservation funding through 2034. The plan calls for three approaches to conservation in the Prairie Region of the state and prescribes geographic and numeric targets for acres of native prairie, other grasslands, wetlands, and shallow lakes and also calls for incorporation of conservation into "working lands" so that some conservation lands contribute directly to local economies and agricultural lands have adequate conservation applied to them using the full range of conservation practices. Future development of a Memorandum of Understanding on use of the document by all the partners is envisioned. Discussion followed regarding the need to work with grazing and agricultural partners. Mr. Chaplin stated that this is a product of the working group, not to be viewed as the Nature Conservancy Plan. Chair Napstad thanked Steve for his presentation.

Performance Review and Assistance Program (PRAP) Annual Legislative Report – Steve Woods reported that Legislation authorizing PRAP requires BWSR to submit an annual report to the Legislative Environment and Natural Resources Policy Committees regarding the performance of local government water management agencies. This is now the fourth annual report in compliance with that requirement. PRAP is intended to provide objective assessments and constructive feedback to the local governments that make up BWSR's local government system that delivers our conservation programs across the state. The report describes the status of PRAP and summarizes results from the 2010 performance reviews conducted by BWSR staff.

Don Buckhout briefly summarized the draft PRAP Report that will be submitted to the Minnesota Legislature by February 2, 2011. Don distributed an updated map of the areas of the state that involved an in-depth review. Don stated that Level I data is on BWSR's website. Don acknowledged the good work being done statewide; BWSR commends the high performance standards of LGUs. Don reported that he will be working with the Public Relations, Outreach and Strategic Planning Committee in March. A key goal listed in BWSR's strategic plan is to help LGUs be effective in delivery of services. Don stated that the Legislature wants BWSR to hold LGUs accountable and responsible; in the future we

may need to look at a cluster of LGUs' common goals, targets, measures and outcomes, look to make it better in the future. The last WHEREAS in the Resolution states the incorrect date, it should read January 2011 rather than January 2010.

** 11-10 Moved by Paul Brutlag, seconded by Christy Jo Fogarty, to approve the Resolution, that BWSR adopts the PRAP Report to the Minnesota Legislature dated February 2011, with allowance for any minor editing modifications necessary for publication, for transmittal to the legislature and release to the general public. Discussion followed. LuAnn Tolliver suggests sending a yearly checklist to MAWD and MASWCD for distribution to motivate LGUs by seeing accomplishments. Motion passed on a voice vote. Chair Napstad thanked Don and Steve for their efforts on this Report.

Local Government Water Roundtable – LeAnn Buck, Executive Director of MASWCD, reported that Annalee Garletz, AMC; and Craig Johnson, LMC were unable to attend the meeting today. LeAnn reported that the Minnesota Local Government Water Roundtable is an affiliation of four of Minnesota's key local government players, the Association of Minnesota Counties (AMC), the Minnesota Association of Soil and Water Conservation Districts (MASWCD), the League of Minnesota Cities (LMC) and the Minnesota Association of Watershed Districts (MAWD). LeAnn stated that the four organizations have developed a process to learn from each other in the planning and preservation of our state's land and water resources. The four organizations have chosen to work together to improve communication and understanding of the roles and responsibilities that they share. Their shared vision is to manage land and water resources in such ways as to effectively balance the sometimes competing interests of habitat, water quality, water quantity, and resource utilization and to pursue collaborative efforts with the intent of increasing efficiencies and effectiveness among organizations that share goals, objectives, and responsibilities. BWSR staff were asked and agreed to facilitate the Roundtable. LeAnn explained that a Water Management Summit for Local Government was held in July. The Summit was a forum that provided a dialogue to address the future delivery of water management and land related practices.

Ray Bohn, Coordinator of MAWD, reviewed the five major policy areas the Local Government Roundtable (LGR) is addressing: 1) watershed and basin management; 2) comprehensive water planning and management; 3) state funding process for local water management; 4) Clean Water Council recommendations for the expenditure of the Clean Water Amendment funding; and 5) assessment of the 25 Year Water Sustainability Framework. Ray stated that there is good discussion in each advisory committee, there are more issues in common than opposition; and the process is working extremely well. Ray reported that the next meeting of the Roundtable is February 9th; to address short term and long term items, discussion on water plans, and engaging communication. LeAnn stated that watershed and basin management needs to look at incentives for consolidation

and efficiencies. LeAnn thanked counties for the operational funding that goes to SWCDs. Ray stated that one plan to avoid duplication by local units of government is being considered. One plan holder per watershed, administrative entity for the plan; coordinate all planning activities, with counties, watershed, SWCD one solid plan; will force working together, think globally, add to lots of synergy in the planning process. Simplistic approach to state funding grants, look at priorities, more efficient for BWSR. Need to maximize efforts on many issues, what is the next round of activities and how to proceed. LeAnn thanked BWSR for their advisory role in the Roundtable efforts. Discussion followed. Sandy Hooker asked if Minnesota Association of Townships were involved? LeAnn stated that the target and focus is on water and LMC recently joined the Roundtable. Ray stated that the local governments involved deal with water issues on a day-to-day basis. Chair Napstad thanked LeAnn and Ray for their presentation and wished them well in their efforts.

AGENCY REPORTS

Minnesota Department of Agriculture (MDA) – Rob Sip distributed MDA's "Clean Water Fund" brochure listing program allocations for board members' information. Rob reported that the new MDA Assistant Commissioner Matthew Wohlman is expected to attend the next Board meeting.

Minnesota Department of Health (MDH) – Dan Wilson reported that the new MDH Commissioner is Edward Ehlinger. Dan stated that Commissioner Ehlinger is an advocate for state and local partnerships, and has strong support for environmental health. MDA requested and received funding for well sealing after the 2010 flooding and is already potentially planning for spring flooding.

Minnesota Extension Service (MES) – Faye Sleeper, reporting on behalf of the Water Resources Center, stated that Jean Coleman presented the Water Framework on January 15. Faye stated that Deb Schwackhammer takes the lead on the Water Framework. The ten key recommendations are on the Water Resources Center website: www.wrc.umn.edu Faye stated that the framework raises the awareness of the work that is being done, and the ensuing conversations where there are disagreements, and discussions on the green chemistry issue, for example. John Jaschke will try to have this on a future Board meeting agenda.

Minnesota Pollution Control Agency (MPCA) – Rebecca Flood reported that newly appointed MPCA Commissioner Paul Aasen started on January 18. Rebecca stated that Commissioner Aasen has a wide and varied background on environmental protection, state, and non-profit organizations. Rebecca reported that the MPCA Board met yesterday and voted to adopt the tech amendments to the SSTS Rules. Also at the MPCA Board meeting yesterday, it was noted that the south metro Lake Pepin TMDL will be placed on public notice in May or June.

ADVISORY COMMENTS

Minnesota Association of Townships (MAT) – Sandy Hooker reported that MAT is dealing with legislative issues. The MAT will spend three weeks in March training township officers.

UPCOMING MEETINGS

Chair Napstad reported that BWSR does not meet in February. The next BWSR Board meeting will be held on March 23, 2011 in St. Paul.

** 11-11 Moved by Quentin Fairbanks, seconded by Paul Brutlag, to adjourn the meeting at 12:40 p.m. Motion passed on a voice vote.

Respectfully submitted,

Mary Jo Anderson
Recorder

DRAFT

Board of Water and Soil Resources
Grants Conflict of Interest Declaration

Meeting: FY'11 Red River Basin Commission Administrative Grant Date: March 23, 2011

Policy 08-01: Grants Conflict of Interest Minnesota state agencies must work to deliberately avoid both actual and perceived conflicts of interest related to grant-making at both the individual and organizational levels. When a conflict of interest concerning state grant-making exists, transparency shall be the guiding principle in addressing it.

Grant Making Meeting Procedure
Meetings that are part of the grant making process will include an agenda item to identify and disclose actual or perceived conflicts of interest. During this agenda item, the chair of the meeting shall make a statement that defines what a conflict of interest is and a request that meeting participants disclose any actual or perceived conflicts. This statement is as follows:

Agenda Item: Conflicts of Interest Declaration.
Chair Statement: *"A conflict of interest whether actual 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 identify any potential conflicts of interest they may have regarding today's business."*

This form provides Board of Water and Soil Resources (BWSR) grant reviewers an opportunity to disclose any conflicts of interest, or potential for conflicts of interest that exist during a grant making process. It is the grant reviewer's obligation to be familiar with the Conflict of Interest Policy for State Grant-Making and to disclose any conflicts of interest. The grant reviewer is not required to explain the reason for the conflict of interest as this form is considered public data under Minn. Statute 13.599-Grants. **A disclosure does not automatically result in the grant application reviewer being removed from the review process.**

Please read the descriptions of conflict of interest below and mark the appropriate box that pertains to you and your status as a reviewer of this grant.

Descriptions of conflicts of interest: - A conflict of interest shall be deemed to exist when a review of the situation by the grant reviewer (or other agency personnel) determines any one of the following conditions to be present:

(a) A grant reviewer uses his/her status or position to obtain special advantage, benefit, or access to the grantee or grant applicant's time, services, facilities, equipment, supplies, badge, uniform, prestige, or influence.

(b) A grant reviewer receives or accepts money or anything else of value from a state grantee or grant applicant or has equity or a financial interest in or partial or whole ownership of an applicant organization.

(c) A grant reviewer is an employee of a grant applicant or is a family member of anyone involved in the grantee or grant applicant's agency.

(d) A grant reviewer is in a position to devise benefit by directly influencing a grant-making process to favor an organization the grant reviewer has an interest in.

- ☐ Based on the descriptions above, I do not have a conflict of interest.
- ☐ Based on the descriptions above, I have or may have an actual or perceived conflict of interest, which I am listing below. *(The grant reviewer should list the specific grant-making evaluation, recommendation, or allocation with which they may have a conflict of interest. The grant reviewer may describe the nature of the conflict in the space below, but this information is not required since this form is considered public information.)*

  _____

  _____

  _____

  _____

  _____

  (*continue below or on an attachment if needed*)

- ☐ Based on the descriptions above, I am unable to participate in this evaluation, recommendation or allocation process because of a conflict of interest.

If at any time during the grant-making process I discover a conflict of interest, I will disclose that conflict to the meeting chair immediately.

Name:_____

Signature:_____

All forms must be submitted to the lead staff for the meeting and filed with the meeting agenda by the BWSR Grant Coordinator upon completion.

Board of Water and Soil Resources
Grants Conflict of Interest Declaration

Meeting: Lake Protection Water Plan Challenge Grant **Date: March 23, 2011**

Policy 08-01: Grants Conflict of Interest Minnesota state agencies must work to deliberately avoid both actual and perceived conflicts of interest related to grant-making at both the individual and organizational levels. When a conflict of interest concerning state grant-making exists, transparency shall be the guiding principle in addressing it.

Grant Making Meeting Procedure
Meetings that are part of the grant making process will include an agenda item to identify and disclose actual or perceived conflicts of interest. During this agenda item, the chair of the meeting shall make a statement that defines what a conflict of interest is and a request that meeting participants disclose any actual or perceived conflicts. This statement is as follows:

Agenda Item: Conflicts of Interest Declaration.
Chair Statement: *"A conflict of interest whether actual 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 identify any potential conflicts of interest they may have regarding today's business."*

This form provides Board of Water and Soil Resources (BWSR) grant reviewers an opportunity to disclose any conflicts of interest, or potential for conflicts of interest that exist during a grant making process. It is the grant reviewer's obligation to be familiar with the Conflict of Interest Policy for State Grant-Making and to disclose any conflicts of interest. The grant reviewer is not required to explain the reason for the conflict of interest as this form is considered public data under Minn. Statute 13.599-Grants. **A disclosure does not automatically result in the grant application reviewer being removed from the review process.**

Please read the descriptions of conflict of interest below and mark the appropriate box that pertains to you and your status as a reviewer of this grant.

Descriptions of conflicts of interest: - A conflict of interest shall be deemed to exist when a review of the situation by the grant reviewer (or other agency personnel) determines any one of the following conditions to be present:

(a) A grant reviewer uses his/her status or position to obtain special advantage, benefit, or access to the grantee or grant applicant's time, services, facilities, equipment, supplies, badge, uniform, prestige, or influence.

(b) A grant reviewer receives or accepts money or anything else of value from a state grantee or grant applicant or has equity or a financial interest in or partial or whole ownership of an applicant organization.

(c) A grant reviewer is an employee of a grant applicant or is a family member of anyone involved in the grantee or grant applicant's agency.

(d) A grant reviewer is in a position to devise benefit by directly influencing a grant-making process to favor an organization the grant reviewer has an interest in.

- ☐ Based on the descriptions above, I do not have a conflict of interest.
- ☐ Based on the descriptions above, I have or may have an actual or perceived conflict of interest, which I am listing below. *(The grant reviewer should list the specific grant-making evaluation, recommendation, or allocation with which they may have a conflict of interest. The grant reviewer may describe the nature of the conflict in the space below, but this information is not required since this form is considered public information.)*

  _____

  _____

  _____

  _____

  _____

  (*continue below or on an attachment if needed*)

- ☐ Based on the descriptions above, I am unable to participate in this evaluation, recommendation or allocation process because of a conflict of interest.

If at any time during the grant-making process I discover a conflict of interest, I will disclose that conflict to the meeting chair immediately.

Name:_____

Signature:_____

All forms must be submitted to the lead staff for the meeting and filed with the meeting agenda by the BWSR Grant Coordinator upon completion.

BWSR Update

March 23, 2011

General Fund: Governor's Recommendations and Omnibus Finance Bills

The General Fund budget bills are quickly moving through the House and the Senate. The Senate Environment and Natural Resources Committee passed its finance omnibus bill out of the committee late the evening of Tuesday the 22nd. The House is expected to move in its bill the morning of Wednesday the 23rd. There are significant differences in the bills, both in the recommended appropriations as well as the policy language included in the Senate bill, but not in the House. It is expected that these will move through to the floors of both bodies quickly and a conference committee will be named next week.

BWSR's approach to addressing the reductions was to recognize the cornerstones of maintaining an effective agency and conservation delivery system while realizing the greatest environmental outcomes and public service. The Governor's budget supports this approach by keeping the NRBG and SWCD Conservation Delivery Program (General Services) whole. We believe that any further reductions to the capacity of the local conservation delivery system:

- Jeopardizes the ability to secure and implement federal USDA funding.
- Reduces the response 'readiness' ability that must be in place at the time of emergencies.
- Slows progress on achieving the goals of Legacy Amendment.
- Compromises the effectiveness of current state program efforts.

		Governor's Budget Recommendations		H.F. 1010, March 17, 2011			S.F. No. XX, March 17, 2011		
BWSR Base Budget	2012-13	2012-13	% change from Base	2012-13	change from Gov	% change from Base	2012-13	change from Gov	% change from Base
Total Approp	**27,960**	**25,684**	**-8%**	**23,064**	**(2,620)**	**-18%**	**25,238**	**(446)**	**-10%**
Cost Share	4,556	3,436	-25%	3,594	158	-21%	4330	894	-5%
Conserv Delivery	6,370	6,370	0%	5,414	(956)	-15%	6008	(362)	-6%
RRBC	168	200	19%	168	(32)	0%	168	(32)	0%
Area II	240		-100%	240	240	0%	240	240	0%
MN River JBP	168		-100%			-100%	168	168	0%
NRBG	7,052	7,052	0%	5,992	(1,060)	-15%	6656	(396)	-6%
WCA Operations	908	908	0%	772	(136)	-15%	772	(136)	-15%
WCA Monitoring	120	120	0%	102	(18)	-15%	114	(6)	-5%
WCA DNR	200		-100%			-100%			-100%
WCA 11 Cty Metro	200		-100%			-100%			-100%
Drainage Assist Ops	390	390	0%	332	(58)	-15%	332	(58)	-15%
Admin	7,558	7,208	-5%	6,450	(758)	-15%	6450	(758)	-15%

The Environment and Natural Resources Trust Fund appropriations are also included in both bills. There have been some adjustments to the LCCMR recommendations. However, the bills include approximately $2.0M in funding for six BWSR projects that focused on: 1) completing the digital soil survey, 2) developing new pollution reduction estimators, 3) supporting the Farm Bill Assistance program, 4) continuing the conservation apprentice program, 5) evaluating White Cedar restoration strategies, and 6) developing a method to determine drainage system benefits based on runoff contribution.

Clean Water Fund

The chart below outlines the major categories included in both the Governor's recommendations and the House and Senate files. All the Clean Water Fund recommendations are very similar with only slight differences in the funding and description. The Governor's bill contains both the General Fund and Clean Water Fund recommendations. *The House bill sponsor is Representative Torkelson and his bill will be heard in the House Legacy Committee on Tuesday, March 29th at 2:30PM.*

Governor's Bill SF0981 HF1258	**Description** *(differences from Governor's recommendation noted in italics)*	**HF656/SF657**
$25.0 M	Competitive grants and incentive funding for **Surface and Drinking Water Protection/Restoration Projects**. These grants are targeted toward priorities identified in local water plans, and local capacity for on-the-ground implementation will be increased through technical and engineering assistance. These funds will be used for keeping water on the land, protecting and restoring streams, groundwater, surface water, and upgrading feedlots and SSTS Imminent Health Threat systems.	**$27.5 M**
$ 4.5 M	**Targeted Local Resource Protection and Enhancement Grants.** These grants will enhance local efforts to develop and implement, on a local or regional basis, water resource protection and management measures or initiatives that go beyond state minimum standards for water quality. GIS and related tools and models will be used to optimize project effectiveness based on multiple benefits analysis. *The House and Senate bills include a provision for a minimum of $3.0M for county SSTS program implementation.*	**$ 6.0 M**
$ 1.8 M	**Measures, Results and Accountability**. Quality assurance for CWF projects by providing oversight, assessment, assistance and reporting of outcomes using standardized, scientific evaluation of resource indicators (such as soil erosion and pollutant migration studies). A mentoring, training and certification program will be developed and implemented to build capacity for future conservation program results.	**$ 1.8 M**
$ 2.0 M	**Conservation Drainage Management and Assistance**. Projects to retrofit existing drainage management systems with water quality improvement and retention practices.	**$ 2.0 M**
$13.0 M	**Long-Term Water Quality Protection.** RIM Easements -- $12.0 M for riparian buffers, $1.0 M for wellhead protection. *The House and Senate bills include $2.0 M for wellhead protection.*	**$ 14.0 M**
$ 2.5 M	**Citizen and Community Participation Program**. Increasing citizen participation in implementing water quality projects and practices via a new sub-granting program. This effort will be delivered through local governments in partnership with engaged community groups.	**$ 3.0 M**
$ 0.168 M	**Restoration Evaluations** on projects as required by MS1140.50	**$ 0.084 M**

Outdoor Heritage Fund

The Lessard-Sams Outdoor Heritage Council recommendations are contained in Sen. Ingebrigtsen's SF 158 and Rep. McNamara's HF 471. This bill includes just over $17.0M in funding for three BWSR projects: 1) $2.25M for a BWSR/PF buffer program, 2) $13.0M for the RIM/WRP wetland restoration partnership, and 3) $1.89M for a Ducks Unlimited/BWSR/DNR/SWCD wild rice shoreland protection project. *The House bill sponsor bill will be heard in the House Legacy Committee on Tuesday, March 29th at 2:30PM.*

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Dispute Resolution Committee Report

Meeting Date: March 23, 2011

Agenda Category: ☐ Committee Recommendation ☐ New Business ☐ Old Business
Item Type: ☐ Decision ☐ Discussion ☒ Information

Section/Region: Land and Water Section
Contact: Travis Germundson
Prepared by: Travis Germundson
Reviewed by: _____ Committee(s)
Presented by: Paul Brutlag/Travis Germundson

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

None

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

Dispute Resolution Committee Report. The report provides a monthly update on the number of appeals filed with the BWSR.

Dispute Resolution Report
March 11, 2011,
By: Travis Germundson

There are presently **18** appeals pending. All of the appeals involve WCA except File 10-10. There has been **2** new appeals filed since the last report (January 26th 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 11-4 (2-13-11) This is an appeal of a restoration order in Aitkin County. The appeal regards the excavation, draining, and filling of wetlands resulting in a minimum of 91,115 square feet of impact. Additional impacts from scope and effect of the new drainage ditch and lowering of culvert have not been calculated. No decision has been made on the appeal.

File 11-3 (2-11-11) This is an appeal of a restoration order in Waseca County. The appeal regards the draining and filling of approximately 8.3 acres of a Type 2 wetland. This involves the same location and similar issues as File 11-2. The appeal has been placed in abeyance and the restoration order stayed until the there is a final decision on the appeal of the exemption and no loss determinations (File 11-2).

File 11-2 (1-24-11) This is an appeal of an exemption and no-loss determination in Waseca County. The appeal regards the denial of an exemption and no-loss application. A previous denial of the same exemption and no loss application had been appealed (File 8-4). The appeal was remanded for or further technical evaluation and a hearing, and now the current denial has been appealed. The appeal has been granted and a copy of the record has been requested.

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.

File 10-16 (12-23-10) This is an appeal of a forestry exemption decision in Carlton County. The LGU under a local appeal reversed the staff decision and approved an after-the-fact forestry exemption for the construction of a forest logging road. The appeal has been remanded back to the Carlton County (LGU's record not adequate/expanded technical review).

File 10-15 (11-29-10) This is an appeal of a restoration order in Mille Lacs County. The appeal regards the filling of approximately 5,800 square feet of wetland for lakeshore access and to create a larger recreational area. The appeal has been placed in abeyance for submittal of technical analyses of the onsite drainage modifications.

File 10-12 (8-27-10) This is an appeal of a restoration order in St. Louis County. The appeal regards the excavation and filling of approximately 43,394 square feet of wetland and the construction of over 1,000 feet of drainage ditches. The appeal has been placed in abeyance and the restoration order stayed to allow the LGU to respond to the data practices request and for the TEP to convene and develop written findings. The appellant has recently applied for an after-the-fact wetland application to retain the open water areas on the site.

File 10-10 (6-10-10) This is an appeal filed under Minn. Stat. 103D.535 regarding an order of the managers of the Wild Rice Watershed District not to go forward with the Upper Becker Dam Enhancement Project as proposed. Appeals filed under 103D.535 require that the Board follow the Administrative Procedures Act. The Act requires that the hearing be conducted by an Administrative Laws Judge through the Office of Administrative Hearings. The appeal has been placed in abeyance pending settlement discussions. A verbal settlement agreement has been reached by the parties.

File 10-7 (2-19-10) This is an appeal of a restoration order in Stearns County. The appeal regards draining and filling impacts to approximately 18.44 acres of Type2/3 wetland and 3.06 acres of Type 2 wetland. The appeal has been placed in abeyance and the restoration order stayed for submittal of "as built" or project information pertaining to a public drainage system.

File 10-3 (2-1-10) This is an appeal of a restoration order in Stearns County. The appeal regards the placement of agricultural drain tile and the straightening and rerouting of a county ditch that resulted in over 12 acres of wetland impacts. The appellant has granted BWSR additional time to make a decision on the appeal. No decision has been made on the appeal.

File 09-22 (10-02-09) This is an appeal of a restoration order in Carlton County. The appeal regards three separate investigation areas encompassing over 18 acres of wetland impacts from excavation, filling, and ditching. The replacement order has been stayed and the appeal has been placed in abeyance pending further technical work and for submittal of complete wetland replacement plan, exemption, or no-loss application.

File 09-13 (8-20-09) This is an appeal of an exemption decision in Otter Tail County. The appeal regard the denial of an exemption request for agricultural/drainage actives. A previous denial of the same exemption decision had been appealed (File 09-6). The appeal was remanded for further technical evaluation and a hearing, and now the current denial has been appealed. The appeal has been granted. A pre hearing conference convened on November 12, 2009. At which time parties agreed to hold off scheduling written briefs until the petition before NRCS is concluded. The appeal has been placed in abeyance by mutual agreement until there is a final decision by the Department of Agriculture National Appeals Division.

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 pre-hearing conferences convened on October 13 and 30, and December 14, 2009. 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 on determining the viability of a new wetland banking plan application.

File 09-3 (2-20-09) This is an appeal of a replacement plan decision in Anoka County. The appeal regards the approval of a wetland replacement plan for 11,919 square feet of impacts associated with a residential development. The appeal has been placed in abeyance and the replacement plan decision stayed for submittal of a revised replacement plan application. The three owners are also in the process of splitting up the property.

File 08-9. (03/06/08) This is an appeal of a replacement order in Pine County. The appeal regards impacts to approximately 11.26 acres of wetland. The replacement order has been stayed and the appeal has been placed in abeyance pending disposition with the U.S. Dept of Justice.

File 06-23. (05/19/06) This is an appeal of a replacement plan decision in Kanabec County. The LGU denied the wetland replacement plan application. A previous denial of the same replacement plan application had been appealed, the appeal was remanded for a hearing, and now the current denial has been appealed. The appeal has been placed in abeyance pending the outcome of a lawsuit between the landowner and the county. The lawsuit concerns the county's possible noncompliance with the 60-day rule. The county prevailed in district court; however the decision was appealed to the Court of Appeals where the county again prevailed. An appeal to the Minnesota Supreme Court was denied review. It is likely the appeal will soon be placed on the calendar for DRC proceedings.

File 06-17. (05/27/06) This is an appeal of a replacement plan decision in the City of Montgomery in LeSueur County. The LGU denied an after-the-fact wetland replacement plan application based on a lack of sufficient reasons why the restoration could not be completed. The appeal was been remanded for further processing at the local level. The City of Montgomery has gradually been working on removing the debris and restoring the wetland in accordance with MPCA requirements.

File 05-1. (01/13/05) This is an appeal of a replacement plan decision by the Rice Creek Watershed District. The District previously made a decision that was appealed which resulted in a remand for an expanded TEP. Now there is an appeal of the decision made under remand since the decision differed from the TEP report. At issue are wetland delineation and the Comprehensive Wetland Protection and Management Plan that BWSR approved. After a hearing before the DRC, the board remanded the matter for new wetland delineation and for submission on an updated, complete replacement plan application. On 12-9-09 the District made a new wetland delineation decision. The applicant has not yet submitted an updated replacement plan application.

Draft Summary Table

Type of Decision	Total for Calendar Year 2010	Total for Calendar Year 2011
Order in favor of appellant	2	
Order not in favor of appellant	5	
Order Modified		
Order Remanded	1	
Order Place Appeal in Abeyance	5	3
Negotiated Settlement	1	
Withdrawn/Dismissed	3	

COMMITTEE RECOMMENDATIONS

Grants Program & Policy Committee and RIM Reserve Management Planning Committee Combined Recommendation

1. Draft Cost-Share and RIM Reserve Rule, Statement of Need and Reasonableness and Draft Cost-Share Policy – Dave Weirens and Kevin Lines - ***DECISION ITEM***

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Approval of Draft Cost-Share and RIM Reserve Rule**

Meeting Date: March 23, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☒ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Land and Water and Easement

Contact: Dave Weirens and Kevin Lines

Prepared by: Dave Weirens

Reviewed by: Grant Program and Policy and RIM Reserve Policy and Planning Committee(s)

Presented by: Dave Weirens and Kevin Lines

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☒ **Resolution** ☐ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested
☐ Other: _____

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

ACTION REQUESTED

Adopt the recommendation of the Grant Program and Policy and RIM Reserve Policy and Planning Committees to adopt the draft rule amendments and statement of need and reasonableness and authorize staff to complete the processes necessary to adopt the rule.

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
Minnesota statutes that govern the Cost-share Program and the RIM Reserve Programs were amended in 2009. Staff began to work on amendments after the enactment of these changes to:

1. Incorporate statutory changes that have occurred in the RIM Reserve Law (103F.505 to 103F.531);
2. Reflect statutory amendments enacted in 2009, including a directive to adopt Cost-share Program Policies (103C.501);
3. Streamline the administration to increase efficiencies for both SWCDs and BWSR;
4. Respond to evolving resource management strategies by accommodating greater use of other Best Management Practices (BMPs); and
5. Improve the clarity of the permanent rule.

In addition, for the Cost-share portion of the rule, the statute requires BWSR to adopt a policy. Many of the proposed rule changes are to move provisions from the rule to the proposed policy. Staff will be recommending adoption of a Cost-share policy when the Rule is brought for final adoption.

February 23, 2011

MINNESOTA RULES CHAPTER 8400

Cost Share and RIM Reserve Rule Amendments Schedule

(adopting rule without public hearings)

April 29, 2009	Board Conservationist Meeting - Review Draft Workplan
May 12, 2009	Senior Management Team - Review Draft Workplan
May 20, 2009	Cost Share Work Team – First Rule Development Meeting (Will meet monthly throughout rule development process)
May 27, 2009	Board Grants Program and Policy Committee Reviews Workplan
December 16, 2009	Board Grants Program and Policy Committee Reviews Workplan and Recommends proceeding with Rulemaking
January 28, 2010	Board Authorizes proceeding with Rulemaking
June 9, 2010	Governor acknowledges receipt of the preliminary rule form and AR 557 is the assigned administrative rule tracking number
June 21, 2010	Publish Requests for Comments in the State Register
August 5, 2010	Comment Period Closes
November 5, 2010	Draft Rule and policy are posted on the BWSR website and SWCDs are requested to provide comments
February 23, 2011	RIM Reserve Management Planning Committee reviews draft Rule and SONAR, including Additional Notice Plan
March 10, 2011	Grant Program and Policy Committee reviews draft Rule and SONAR, including Additional Notice Plan
March 2011	Submit Draft Rule to Office of Revisor for Approval ▪ Rule must be in Revisor's format to be published, and have a Revisor's certificate saying the Rules are approved for publishing ▪ Time may take from *several days* to *several weeks* Letter to Minnesota Management and Budget to evaluate/consult on fiscal impact and benefit of proposed Rules on local governments

Provide Rule and SONAR to the Commissioner of Agriculture at least 30 days prior to publishing in the State Register because the Rules will affect farming operations

Send Additional Notice Plan to Office of Administrative Hearings for Approval

March 23, 2011 — Board adopts final Rule and SONAR

March 24, 2011 — Submit Draft Rule to Governor's Office for Approval

- Complete Proposed Rule and SONAR Form when have completed SONAR and Rule
- Send Draft Rule, SONAR, and Form
- Approval usually within *3 weeks*, after *21 days* contact Governor's Legislative Coordinator
- May not proceed with Notice of Intent to Adopt Proposed Rules until approval received from Governor's Office

April 2011 — Draft Notice of Intent to Adopt Rules Without a Public Hearing, Executive Director sign Notice after approval by Governor's Office

May 2011 — Submit Notice of Intent to Adopt Rules Without a Public Hearing and copy of Rule to State Register

- Submission deadlines: April 20, 27, May 4, 11, 18
- Publish dates: May 2, 9, 16, 23, 31
- Public Comment period must be at least *30 days*

Notify Legislature and Interested Persons (per Additional Notice Plan), no later than 33 days before end of comment period

- All individuals who have registered with BWSR for the purpose of receiving notice of Rule proceedings as required by Minn. Stat. 14.14, subd. 1a
- All individuals and representatives of associations that BWSR has on file as interested and affected parties
- Mail the notice, Rules, and SONAR to the chairs and ranking minority members of (1) the House Environment, Energy and Natural Resources Policy and Finance; and (2) the Senate Environment and Natural Resources Committee
- All soil and water conservation districts, all watershed districts, and all local water planners

Get a copy of proposed Rules from Revisor of Statutes

Send a copy of the SONAR to the Legislative Reference Library

Prepare Certificate of Mailing

	Post Notice, Rule and SONAR on the BWSR website
June 2011	Staff review comments and decide whether to make any changes. Changes may not make Rules substantially different that proposed. Grants Program and Policy Committee to meet, as necessary, to consider Rule issues, including adoption of the final Rule ▪ ***Determine if the amended rule will apply to FY12 Cost Share General Services Grants.*** Submit Final Review Form to Governor's Office. ▪ *7 days* to complete review Board adopts Final Rule, Board Chair signs Resolution and Order Adopting Rules (*June 22 or August 25*)
July 2011 (*or September*)	Request official draft of Rules as adopted from Revisor of Statutes Submit Order Adopting Rules and the Rules to Office of Administrative Hearings (OAH) (plus numerous other documents) ▪ Immediately before submitting Rule documents to OAH, mail Notice of Submission to OAH to all persons who requested to be notified. ▪ Review and approval or disapproval within 2 weeks OAH files approved Rules with Secretary of State. ▪ No official time period, but Secretary of State must send a copy to the Governor's Office who may veto within *14 days* of receipt ▪ Secretary of State forwards Rules to the Revisor of Statutes OAH sends approval memo and Rules file to BWSR Revisor of Statutes prepares notice of adoption and sends to BWSR BWSR submits notice of adoption of Rule amendments to the State Register Notify staff and interested persons of Rule change, post information and Rule on BWSR website
August 2011 (*or October*)	Amended Rule published in the State Register, *12 days* after submission. **Rule becomes effective** - *5 working days* following publishing

Changes to RIM Rule and SONAR – 2/24/2011

The following changes have been made as a result of our 2/23/11 RRMPC meeting:

RULE

1. (p. 16 of proposed rule) - deleted the word 'native' after reviewing statute cites listed and finding no native vegetation requirement.

8400.3000 AUTHORITY.

Minnesota Statutes, sections 84.95, 103A.209, and 103F.501 to 103F.531, authorize the state board, in consultation with districts, private groups, and state and federal agencies, to implement a program to ~~(a)~~ acquire ~~permanent~~ easements on land ~~containing type 1, 2, 3, or 6 wetlands; (b)~~ to retire certain marginal agricultural land from agricultural crop production ~~or pasturing~~ and protect environmentally sensitive areas to enhance soil and water quality, minimize damage to flood-prone areas, sequester carbon, and support native plant, fish, and wildlife habitats and to reestablish perennial ~~native~~ cover and restore wetlands on that land~~; and (c) to enhance and protect other private lands~~. Parts 8400.3000 to 8400.3930 provide procedures and criteria to be followed by the state board and district boards in implementing Minnesota Statutes, sections 103F.501 to 103F.531.

2. (p. 20 of proposed rule) - deleted current language and added reference to 103G.005, subd.19a

Subp. 48. **Wetland.** "Wetland" means ~~land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, or that periodically does support, a predominance of hydrophytic vegetation.~~ wetlands as defined in Minnesota Statutes, section 103G.005, subd. 19a.

SONAR

1. (p. 10 of SONAR document at bottom of the page) – add the following to cover the 'wetland' definition change:

The following definition was changed to be consistent with Minn. Stat. 103G.005, subd. 19a:

Subp. 48. **Wetland**

CHAPTER 8400

BOARD OF WATER AND SOIL RESOURCES

LAND AND WATER TREATMENT ~~COST-SHARE~~ PROGRAM

8400.0050 PURPOSE.

~~DEFINITIONS~~ EROSION CONTROL AND WATER MANAGEMENT PROGRAM
8400.XXXX AUTHORITY.
8400.0100 DEFINITIONS.
~~8400.0200 AUTHORITY.~~

STATE BOARD FUNCTIONS
8400.XXXX PROGRAM POLICY
8400.0300 APPROVED CONSERVATION PRACTICES.
8400.XXXX MINIMUM COST-SHARE AMOUNTS.
8400.0500 MAXIMUM COST-SHARE RATES.
8400.XXXX RECORDING CONSERVATION PRACTICES.
8400.0600 STATE BOARD ALLOCATION OF FUNDS TO ~~CONSERVATION~~ DISTRICTS.
~~8400.0700 PROGRAM REPORTING AND MONITORING.~~

DISTRICT FUNCTIONS
~~8400.0800 APPLICATION FOR FUNDS BY DISTRICTS.~~
8400.0900 ~~CONSERVATION~~ DISTRICT ADMINISTRATION OF PROGRAM FUNDS.
~~8400.1000 APPLICATION FOR FUNDS BY LAND OCCUPIERS.~~
~~8400.1100 GROUP PROJECT.~~
~~8400.1200 COOPERATIVE AND JOINT PROJECTS OF CONSERVATION DISTRICTS.~~
~~8400.1250 TECHNICAL ASSESSMENT AND COST ESTIMATE DETERMINATION.~~
~~8400.1300 CRITERIA FOR CONSERVATION DISTRICT BOARD REVIEW.~~
~~8400.1400 CONSERVATION DISTRICT APPROVAL.~~
~~8400.1405 PROJECT DEADLINES AND PARTIAL PAYMENT.~~
~~8400.1460 RETURN OF ALLOCATED FUNDS.~~
~~8400.1500 CONSERVATION DISTRICT RECORDS.~~
~~8400.1600 EXECUTING THE COST-SHARE CONTRACT~~.
8400.1650 RECORDING CONSERVATION PRACTICES.
8400.1700 MAINTENANCE.
8400.1750 PRACTICE SITE INSPECTIONS.
8400.1800 APPEALS.
8400.1900 REPORTS TO STATE BOARD.

~~COST-SHARE RATES~~ CONSERVATION EASEMENT PROGRAM
~~8400.2900 DISTRICT RATES.~~
8400.3000 AUTHORITY.
8400.3030 DEFINITIONS.
8400.3060 CRITERIA FOR ALLOCATION OF FUNDS.
8400.3110 DURATION OF CONSERVATION EASEMENTS.
8400.3130 LOCAL PRIORITY SETTING.
8400.3160 CRITERIA FOR ELIGIBLE LAND.

8400.3200 MAXIMUM ENROLLMENT.
8400.3210 DELEGATION OF PROGRAM TO ANOTHER DISTRICT.
8400.3230 APPLICATION BY LANDOWNERS.
8400.3260 LAND IN MORE THAN ONE DISTRICT.
8400.3300 CRITERIA FOR SCREENING COMMITTEE REVIEW OF APPLICATIONS.
8400.3330 CRITERIA FOR DISTRICT BOARD REVIEW.
8400.3360 DISTRICT ACTION ON APPLICATIONS.
8400.3390 EASEMENT ACQUISITION PROCEDURES.
8400.3400 CONSERVATION AGREEMENT FOR EASEMENT.
8400.3460 TITLE REQUIREMENTS.
8400.3500 EASEMENT CONVEYANCE.
8400.3530 EASEMENT PAYMENT RATES.
8400.3560 PAYMENT SCHEDULE.
8400.3600 RENEWAL AND EXTENSION OF CONSERVATION EASEMENTS.
8400.3610 ALTERATION, RELEASE, OR TERMINATION OF CONSERVATION EASEMENTS.
8400.3630 APPROVED PRACTICES.
8400.3700 COST-SHARED PRACTICES.
8400.3730 FAILURE OF APPROVED PRACTICES.
8400.3800 OPERATION AND MAINTENANCE.
8400.3830 VIOLATIONS AND ENFORCEMENT.
8400.3870 SUPPLEMENTAL PAYMENTS ON FEDERAL AND STATE PROGRAMS.
8400.3930 RECONSIDERATION AND APPEAL.

8400.0050 PURPOSE.

The ~~state cost-share~~ land and water treatment program is administered through ~~local conservation~~ districts to provide financial and technical assistance to land occupiers for the application of conservation practices that reduce erosion, control sedimentation, ~~or~~ improve and protect water quality, or address water quantity problems due to altered hydrology to ensure the sustainable use of Minnesota's natural resources.

Statutory Authority: *MS s 103C.501*
History: *20 SR 2185*
Posted: *October 4, 2001*

~~DEFINITIONS~~ EROSION CONTROL AND WATER MANAGEMENT PROGRAM

8400.XXXX AUTHORITY.

Minnesota Statutes, section 103C.501, authorizes the state board, in cooperation with the districts, to administer a program of cost-sharing with land occupiers for the installation of soil and water conservation practices. Parts 8400.0050 to 8400.1900 provide procedures and criteria to be followed by the state board in allocating cost-sharing funds to districts, and standards and guidelines that the district boards shall use in allocating funds to land occupiers.

8400.0100 DEFINITIONS.

Subpart 1. **Scope.** For purposes of parts 8400.0050 to 8400.~~1800~~1900, the definitions in this part, in addition to those in Minnesota Statutes, chapter 103C, apply.

Subp. 1a. [Repealed, 20 SR 2185]

Subp. 2. [Repealed, 20 SR 2185]

~~Subp. 2a. **Administrative Guidelines**. "Administrative Guidelines" means the Administrative Guidelines for the State Cost-Share Program, being the most current compilation of the approved practices, practice guidelines, administrative guidelines, and examples of administrative forms provided to conservation districts by the state board to assist in locally administering the state cost-share program. The publication is not subject to frequent change, is available at the State Law Library, and is incorporated by reference.~~

Subp. 3. **Annual work plan.** "Annual work plan" means a plan prepared by the ~~conservation~~ district pursuant to Minnesota Statutes, section 103C.331, subdivision 11, paragraph (~~e~~f), and according to the most recent policy ~~version of the Guidelines for Soil and Water Conservation District Comprehensive and Annual Plans~~ published by the state board. ~~That publication is not subject to frequent change, is available at the State Law Library, and is incorporated by reference.~~

~~Subp. 4. **Approved practice.** "Approved practice" means a conservation practice that qualifies for state cost-sharing and that has been approved by the state board.~~

Subp. 5. [Repealed, 20 SR 2185]

Subp. 5a. **Comprehensive local water plan.** "Comprehensive local water plan" means a local water plan authorized under Minnesota Statutes, section 103B.311; a watershed overall plan required under Minnesota Statutes, section 103D.401; a watershed management plan required under Minnesota Statutes, section 103B.231; or a county groundwater plan authorized under Minnesota Statutes, section 103B.255.

Subp. 6. [Repealed, 20 SR 2185]

Subp. 7. [Repealed, 9 SR 2439]

Subp. 7a. [Repealed, 20 SR 2185]

Subp. 8. **Comprehensive plan.** "Comprehensive plan" means a long-range plan adopted by the ~~conservation~~ district pursuant to Minnesota Statutes, section 103C.331, subdivision 11, and according to the most recent policy ~~version of the Guidelines for Soil and Water Conservation District Comprehensive and Annual Plans~~ published by the state board. ~~That publication is not subject to frequent change, is available in the State Law Library, and is incorporated by reference.~~

Subp. 8a. [Repealed, 20 SR 2185]

Subp. 9. **~~Conservation d~~District.** "~~Conservation d~~District" means a soil and water conservation district organized under Minnesota Statutes, chapter 103C.

Subp. 10. **~~Conservation d~~District board.** "~~Conservation d~~District board" means the board of supervisors of a soil and water conservation district as organized under Minnesota Statutes, chapter 103C.

~~Subp. 10a. **Conservation district technical representative**. "Conservation district technical representative" means a district employee assigned by the conservation district board or other designee who has expertise in the design and application of conservation practices.~~

Subp. 10b. **Conservation practices.** "Conservation practices" means practices applied to the land for the purpose of controlling or preventing soil erosion, sedimentation, nutrient runoff, or other water pollution to maintain the sustainable use of soil and water and other natural resources.

Subp. 11. [Repealed, 20 SR 2185]

Subp. 12. [Repealed, 20 SR 2185]

Subp. 13. [Repealed, 20 SR 2185]

Subp. 14. **Effective life**. "Effective life" means the time span for which a conservation practice effectively fulfills its intended purpose.

Subp. 14a. [Repealed, 20 SR 2185]

~~Subp. 14b. **Farm Service Agency**. "Farm Service Agency" means the Farm Service Agency, an agency of the United States Department of Agriculture.~~

~~Subp. 15. **Field Office Technical Guide**. "Field Office Technical Guide" means the document providing technical standards and specifications for conservation practices as provided by the Natural Resource Conservation Service and adopted by the conservation district board.~~

~~Subp. 16. **Group spokesperson**. "Group spokesperson" means a principal land occupier designated by the individuals involved in a group project who is authorized to speak for the entire group in negotiations with a conservation district for cost-share assistance.~~

~~Subp. 16a. **High priority erosion problems**. "High priority erosion problems" means areas where erosion from wind or water is occurring equal to, or in excess of , 2 x T tons per acre per year or is occurring on any area that exhibits active gully erosion or is identified as high priority in the comprehensive local water plan or the conservation district's comprehensive plan.~~

~~Subp. 16b. **High priority water quality problems**. "High priority water quality problems" means areas where sediment, nutrients, chemicals, or other pollutants discharge to Department of Natural Resources designated protected waters or to any high priority waters as identified in a comprehensive local water plan or the conservation district's comprehensive plan, or discharge to a sinkhole or groundwater. The pollutant delivery rate to the water source is in amounts that will impair the quality or usefulness of the water resource.~~

Subp. 17. [Repealed, 9 SR 2439]

Subp. 18. **Land occupier**. "Land occupier" means a person, corporation, or legal entity that holds title to or is in possession of land within a ~~conservation~~ district as an owner, lessee, tenant, or otherwise.

~~Subp. 18a. **Landowner**. "Landowner" means a person, corporation, or legal entity that holds title to a parcel of land.~~

~~Subp. 18b. **Natural Resource Conservation Service**. "Natural Resource Conservation Service" means the Natural Resource Conservation Service, an agency of the United States Department of Agriculture.~~

Subp. 19. [Repealed, 20 SR 2185]

~~Subp. 19a. **Other recognized technical practices**. "Other recognized technical practices" means any conservation practice or compilation of such practices not on the approved list of conservation practices that have been approved by the state board for cost-share assistance on a case-by-case basis.~~

Subp. 20. [Repealed, 20 SR 2185]

~~Subp. 20a. **Protected waters**. "Protected waters" means those waters of the state identified as public waters or wetlands under Minnesota Statutes, section 103G.005, subdivision 15, and inventoried under Minnesota Statutes, section 103G.201, and identified on a protected waters inventory map available in a county auditor's office.~~

~~Subp. 20b. **Registered professional engineer**. "Registered professional engineer" means a person who is duly registered to practice professional engineering according to Minnesota Statutes, sections 326.02 to 326.15.~~

Subp. 20c. [Repealed, 20 SR 2185]

~~Subp. 20d. **Sinkhole**. "Sinkhole" means a depression or hole in the earth's surface caused by dissolving of underlying limestone carbonate bedrock and subsequent settling or collapse of surficial soils.~~

Subp. 21. [Repealed, 20 SR 2185]

Subp. 22. [Repealed, 20 SR 2185]

~~Subp. 22a. **Special project**. "Special project" means a conservation project or program including but not limited to those projects or programs that accelerate implementation of innovative soil and water conservation activities.~~

Subp. 23. **State board**. "State board" means the state Board of Water and Soil Resources created in Minnesota Statutes, section 103B.101.

Subp. 24. [Repealed, 9 SR 2439]

~~Subp. 25. **T**. "T" means the soil loss tolerance that is the maximum average annual rate of soil loss from sheet and rill erosion or wind erosion, expressed in tons per acre per year, that is allowed yet still sustains the productive capacity of the soil to produce food and fiber over the long term.~~

~~Subp. 26. **2 x T**. "2 x T" means soil erosion at the rate of two times T.~~

~~Subp. 27. **Technical approval authority**. "Technical approval authority" means the authorization granted in accordance with the administrative guidelines for the state cost-share program to a conservation district technical representative to provide comprehensive technical assistance for individual conservation practices, including associated technical sign-off as the conservation district technical representative of record.~~

Statutory Authority: *MS s 40.036; 103C.501*
History: *9 SR 2439; L 1987 c 358 s 34; 20 SR 2185*
Posted: *October 4, 2001*

~~8400.0200 AUTHORITY.~~

~~Minnesota Statutes, section 103C.501, authorizes the state board, in cooperation with the conservation districts, to administer a program of cost-sharing with land occupiers for the installation of soil and water conservation practices. Parts 8400.0050 to 8400.1800 provide procedures and criteria to be followed by the state board in allocating cost-sharing funds to conservation districts, and standards and guidelines that the conservation district boards shall use in allocating funds to land occupiers.~~

Statutory Authority: *MS s 40.036; 103C.501*
History: *9 SR 2439; L 1987 c 358 s 34; 20 SR 2185*
Posted: *October 4, 2001*

STATE BOARD FUNCTIONS

8400.xxxx PROGRAM POLICY.

The State board shall adopt policies providing for administration and implementation of Parts 8400.0500 to 8400.1900.

8400.0300 APPROVED CONSERVATION PRACTICES.

~~Subpart 1. **Approved practices**. The state board, in consultation with the conservation districts, shall maintain a list of practices that are eligible for cost-share funds, along with guidelines pertaining to the components of the practices that are eligible or ineligible for cost-share funds. The list includes farmstead windbreaks and is contained in the Administrative Guidelines.~~

Subp. 2. **Criteria for approved conservation practices**. Practices ~~approved by the state board~~ eligible for cost-share funds must meet the criteria in items A to ~~D~~ C.

~~A. The primary purpose of all practices must be the control of soil erosion, sedimentation, or chemical or nutrient runoff or infiltration that impairs water quality. Farmstead windbreaks are exempt from this requirement.~~

The objectives of these approved conservation practices may include, but are not limited to, activities that:

(1.) control nutrient runoff;

(2.) control sedimentation;

(3.) divert runoff to protect and improve water quality;

(4.) reduce wind erosion;

(5.) control gully, rill, or sheet erosion;

(6.) protect shoreland from erosion;

(7.) control stormwater runoff;

(8.) protect or improve surface water and groundwater quality;

(9.) provide energy conservation and snow protection; or

(10.) alleviate water quantity problems due to altered hydrology.

~~B. All practices cost-shared under this program must be designed and maintained for a minimum effective life of ten years. The beginning date for a practice's effective life is the same date the conservation district board approves the final payment and the project is considered complete.~~

~~C.~~ No cost-share funds shall be furnished for conservation practices designed primarily ~~only~~ to increase land productivity.

~~D~~ C. All conservation practices must be consistent with the district's comprehensive plan.

~~Subp. 3. Objectives of approved practices. The Administrative Guidelines contains a list of approved practices. The objectives of these approved practices may include, but are not limited to, activities that:~~

~~A. control nutrient runoff;~~

~~B. stabilize critical erosive areas;~~

~~C. divert runoff to protect and improve water quality;~~

~~D. reduce wind erosion;~~

~~E. control gully, rill, or sheet erosion;~~

~~F. protect shoreland from erosion;~~

~~G. control stormwater runoff; or~~

~~H. protect or improve surface water and groundwater quality;~~

~~Approved practices must meet the criteria listed in subpart 2.~~

Statutory Authority: *MS s 40.036; 103C.501; L 1999 c 231 s 203*
History: *9 SR 2439; 20 SR 2185; 24 SR 1240*
Posted: *October 4, 2001*

8400.0400 [Repealed, 20 SR 2185]
Posted: *October 4, 2001*

8400.0500 MAXIMUM COST-SHARE RATES.

The maximum cost-share rates established by the state board represent the maximum percent of the total cost of a conservation practice that may be funded ~~by~~ using state cost-share funds. ~~Where state and federal funds are cost-shared on the same project, their combined amount shall not exceed the maximum cost-share rate.~~

Statutory Authority: *MS s 40.036*
Posted: *October 4, 2001*

8400.xxxx RECORDING CONSERVATION PRACTICES

The state board may determine that long-term maintenance of a conservation practice is desirable and may require that maintenance be made a covenant upon the land for the effective life of the practice. A covenant under this subdivision shall be construed in the same manner as a conservation restriction under 84.65.

8400.0600 STATE BOARD ALLOCATION OF FUNDS TO ~~CONSERVATION~~ DISTRICTS.

~~Subpart 1. **Comprehensive plan**. Before the state board can allocate cost-share funds to a conservation district it must approve the conservation district's comprehensive plan, including its most recent amendment and the annual work plan. that includes the application and justification for needed cost-share funds. The plans must be in a format required by Minnesota Statutes, section 103C.331, subdivision 11, and the state board.~~

Subp. 2. [Repealed, 9 SR 2439]

~~Subp. 3. Review criteria. The state board shall review all conservation district applications for cost-share funds based on the following criteria:~~

~~A. the extent of high priority erosion or water quality problems in the conservation district as outlined in the conservation district comprehensive and annual plans and comprehensive local water plan;~~

~~B. priorities for the control of soil erosion or water quality problems as established in the Administrative Guidelines of the state board;~~

~~C. historical success of the conservation district in applying soil and water conservation practices;~~

~~D. availability of cost-share funds from other sources; and~~

~~E. the ability of the conservation district to expend the funds in a timely manner.~~

Subp. 4. **Grants to ~~conservation~~ districts.** The state board may ~~shall annually~~ allocate cost-share funds to ~~conservation~~ district boards that have fully complied with Minnesota Statutes, section 103C.501, subdivision 3; all ~~state cost-share~~ erosion control and water management program rules; and program policies ~~and comprehensive and annual planning guidelines as prescribed by the state board.~~ At least 70 percent of the cost-sharing funds available statewide will be allocated to ~~conservation~~ districts in the form of grants for conservation practices addressing high priority erosion, sedimentation, or water quality problems. The remaining cost-share funds may be allocated by the board to ~~conservation~~ districts for conservation practices for lower priority erosion, sedimentation, or water quality problems and for technical and administrative assistance or to carry out special projects or programs, except not more than 20 percent of the total funds may be allocated for technical and administrative services.

Subp. 5. **Other ~~state and federal~~ funds.** Other funds received by the state board may be allocated to ~~conservation~~ districts for the treatment of erosion, sedimentation, ~~or~~ water quality problems, or water quantity problems due to altered hydrology. These additional funds may be incorporated with existing ~~cost-share~~ erosion

control and water management program funds and their use may be governed by the program policy ~~Administrative Guidelines~~ or may be subject to other ~~administrative~~ policies or guidelines required to fully implement the intent for which these additional funds were appropriated.

Statutory Authority: *MS s 40.036; 103C.501*
History: *9 SR 2439; 20 SR 2185*
Posted: *October 4, 2001*

~~8400.0700 PROGRAM REPORTING AND MONITORING.~~

~~For the purpose of reporting and monitoring the progress of the program and use of funds, each conservation district shall submit an annual report of the year's accomplishments according to the guidelines and requirements established by the state board. The state board shall require additional special reports, including, but not limited to, summaries of practice site inspections and special projects.~~

Statutory Authority: *MS s 40.036; 103C.501*
History: *9 SR 2439; 20 SR 2185*
Posted: *October 4, 2001*

DISTRICT FUNCTIONS

~~8400.0800 APPLICATION FOR FUNDS BY DISTRICTS.~~

~~Each district shall apply for funds as indicated in part 8400.0600.~~

Statutory Authority: *MS s 40.036*
Posted: *October 4, 2001*

8400.0900 ~~CONSERVATION~~ DISTRICT ADMINISTRATION OF PROGRAM FUNDS.

Subpart 1. **General**. Following receipt of grant funds from the state board, a ~~conservation~~ district is responsible for administration of the funds in accordance with Minnesota Statutes, chapter 103C, ~~the Administrative Guidelines, and all other applicable laws. The conservation district board shall make all decisions concerning use of these funds in accordance with~~ parts 8400.0050 to 8400.~~1800~~ 1900, ~~the Administrative Guidelines~~ program policies, and all other applicable laws. All funds allocated to ~~conservation~~ districts must be used for the purposes designated by the state board.

Subp. 2. **Maximum cost-share rate ~~percentage~~.** Prior to considering any applications from land occupiers for cost-share assistance, the ~~conservation~~ district board shall establish cost-share rates for conservation practices to be installed under the program, up to the maximum rates established by the state board. ~~The maximum percent of the total eligible cost of the practices installed using state cost-share funds must not exceed 75 percent. Other state or federal funds from any source, when used in combination with cost-share funds of this program, must not exceed the maximum payment rate of 75 percent of the total eligible costs. The conservation district board shall establish cost-share rates based on the following factors:~~

~~A. the extent of high priority erosion or water quality problems in the conservation district as outlined in the conservation district's comprehensive and annual plans;~~

~~B. advice of technical experts familiar with the conservation district;~~

~~C. cost-share rates currently in effect under the agricultural conservation program administered by the United States Farm Service Agency and other assistance programs;~~

~~D. conservation district priorities as established in the conservation district's comprehensive and annual plans and comprehensive local water plan;~~

~~E. cost-share funds available; and~~

~~F. the state board's Administrative Guidelines.~~

~~The maximum cost-share rates must be identified in the conservation district's annual plan and other documents containing the policies of the conservation district.~~

Subp. 3. ~~**Reencumbering funds**. Prior to the end of the grant period for which the state board has granted the cost-share funds, a conservation district board may reencumber all funds resulting from canceled projects or from those projects that did not use the full amount encumbered. For unencumbered funds remaining after the grant period, the conservation district board shall follow the procedures described in part 8400.1460.~~

Criteria for district board review. The district board shall use the following factors to determine practice eligibility and review of applications for conservation practice funding:

A. The application must be signed by the land occupier and the landowner, if different, indicating their agreement to:

(1) grant the district's representatives access to the parcel where the conservation practice will be located;

(2) obtain all permits required in conjunction with the installation and establishment of the practice prior to starting construction of the practice; and

(3) be responsible for operation and maintenance of conservation practices applied under this program according to an operation and maintenance plan prepared by the district technical representative.

B. Costs to repair damage to conservation practices installed with state cost-share dollars are eligible if the damage was caused by reasons beyond the control of the land occupier.

C. If the practice has fully met or exceeded its designed effective life, the cost to reconstruct the practice is eligible for cost-share assistance.

D. Conservation practices where construction has begun prior to district approval are ineligible for financial assistance. The Board may waive this requirement for emergency needs.

Subp. 4. **Entering into a contract.** After completion of the district board, or its delegate, review of practice eligibility, the district board, or its delegate, shall either approve or deny the application. If the application is approved, the district board, or its delegate, may enter into a contract with the land occupier.

Statutory Authority: *MS s 40.036; 103C.501*
History: *9 SR 2439; 20 SR 2185*
Posted: *October 4, 2001*

~~8400.1000 APPLICATION FOR FUNDS BY LAND OCCUPIERS.~~

~~Land occupiers seeking assistance under this program shall apply to the conservation districts on forms provided by the state board and available from the conservation district office. Each application must be filled out in its entirety and must be signed by the land occupier. If the land occupier is not the landowner, the application must also bear the landowner's signature.~~

Statutory Authority: *MS s 40.036; 103C.501*
History: *9 SR 2439; 20 SR 2185*
Posted: *October 4, 2001*

~~8400.1100 GROUP PROJECT.~~

~~Where the cooperation of several land occupiers is required to solve an erosion or water quality problem, the conservation district may share the cost of such a group project if all of the land occupiers are eligible as individuals and the practices satisfy the criteria of the program. The land occupiers must reach agreement on division of payments and designate a group spokesperson. The spokesperson must sign the application on behalf of the group and negotiate all project details with the conservation district. Payment for the conservation district's share of the practice shall be issued to the group spokesperson who will be responsible for executing the division of payment plan prepared by the group.~~

Statutory Authority: *MS s 40.036; 103C.501*
History: *9 SR 2439; 20 SR 2185*
Posted: *October 4, 2001*

~~8400.1200 COOPERATIVE AND JOINT PROJECTS OF CONSERVATION DISTRICTS.~~

~~Subpart1. **Land in more than one conservation district.** If a project involves land in more than one conservation district, application for the entire project must be made to the conservation district containing the majority of the project lands.~~

~~Subp. 2. **Pooling cost-share allocation for joint projects.** Conservation district boards may enter into an agreement to pool all or portions of their collective cost-share allocations to implement joint projects. Cooperative and joint projects may be undertaken to accomplish watershed-based resource management goals or other goals of mutual benefit as identified in the county's comprehensive local water plan or the district's comprehensive plan.~~

Statutory Authority: *MS s 40.036; 103C.501*
History: *9 SR 2439; 20 SR 2185*
Posted: *October 4, 2001*

~~8400.1250 TECHNICAL ASSESSMENT AND COST ESTIMATE DETERMINATION.~~

~~A determination of the effectiveness of a practice to address the erosion or water quality problem and a cost estimate must be made by the conservation district technical representative prior to the conservation district board's review of the application for cost-share funds. The assessment and cost estimate must be conducted by an individual with the appropriate level of technical approval authority or by a registered engineer with expertise in the design of the conservation practices.~~

Statutory Authority: *MS s 103C.501*
History: *20 SR 2185*
Posted: *October 4, 2001*

~~8400.1300 CRITERIA FOR CONSERVATION DISTRICT BOARD REVIEW.~~

~~Criteria for conservation district board review:~~

~~A. The practice needed to solve the problem must be on the list of approved practices presented in the Administrative Guidelines or must have received approval from the state board.~~

~~B. The primary purpose of the requested practice must be to treat a high priority erosion problem or high priority water quality problem, except for farmstead windbreaks.~~

~~C. The requested practice must be consistent with conservation district plans and priorities.~~

~~D. The application must be signed by the land occupier and the landowner, if different, indicating their agreement to:~~

~~(1) grant the soil and water conservation district's representatives access to the parcel where the conservation practice will be located;~~

~~(2) obtain all permits required in conjunction with the installation and establishment of the practice prior to starting construction of the practice; and~~

~~(3) be responsible for operation and maintenance of practices applied under this program according to an operation and maintenance plan prepared by the conservation district technical representative.~~

~~E. Costs to repair damage to conservation practices installed with state cost-share dollars are eligible if the damage was caused by reasons beyond the control of the land occupier.~~

~~F. If the practice has fully met or exceeded its designed effective life, the cost to reconstruct the practice is eligible for cost-share assistance.~~

Statutory Authority: *MS s 40.036; 103C.501; L 1999 c 231 s 203*
History: *9 SR 2439; 20 SR 2185; 24 SR 1240*
Posted: *October 4, 2001*

~~8400.1400 CONSERVATION DISTRICT APPROVAL.~~

~~Subpart . 1. **General.** After completion of the conservation district board review, the conservation district board shall either approve or deny the application. If it is approved, the conservation district board shall instruct the chair or acting chair to sign the application. Once it is signed, the application becomes the contract between the conservation district and land occupier and serves as the authorization to construct the practice according to the approved conservation practice plan. Practices where construction has begun prior to conservation district approval are ineligible for financial assistance. Changes in any provisions of the contract are subject to review and approval by the conservation district board pursuant to part 8400.1600, subpart 1.~~

~~If the application is denied, the conservation district board shall notify the land occupier in writing within 30 days after conservation district board action of the reason for denial.~~

~~Subp. 2. **Conservation practice plans.** The project plans for conservation practices must be prepared according to standards in the Field Office Technical Guide or other standards approved by the state board and must be approved by a conservation district technical representative with the appropriate level of technical approval authority. Plans prepared by a registered professional engineer must meet Field Office Technical Guide standards, meet other standards approved by the state board, or be certified as appropriate standards by the registered professional engineer. Upon completion and technical approval of the plan, one copy must be given to the land occupier and one copy retained with the project file located in the conservation district office.~~

Statutory Authority: *MS s 40.036; 103C.501*
History: *9 SR 2439; 17 SR 1279; 20 SR 2185*
Posted: *October 4, 2001*

~~8400.1405 PROJECT DEADLINES AND PARTIAL PAYMENT.~~

~~Subpart 1. Time limit and cancellation. Projects not started within 18 months after conservation district board approval must be canceled unless an amendment to the project contract has been approved by the conservation district board. Projects not completed by the end of the state's third fiscal year after initial conservation district board approval must be canceled unless prior written approval of the state board has been received.~~

~~Subp. 2. Partial payment. In cases where weather or other unanticipated circumstances beyond the control of the land occupier force postponement of certification of completion until the following construction season, the conservation district board may issue a partial payment for the work that has been completed. The conservation district board shall not consider issuing a partial payment unless:~~

~~A. the anticipated completion date complies with subpart 1;~~

~~B. the completed work meets the requirements of part 8400.1400, subpart 2; and~~

~~C. the conservation district technical representative has reviewed the work and has defined the total percent of construction that is complete.~~

~~Subp. 3. Partial payment conditions. If the conservation district issues a partial payment under subpart 2, the following conditions apply:~~

~~A. payment percentages must comply with part 8400.0900, subpart 2;~~

~~B. the balance of the project must be paid by the conservation district board upon the satisfactory completion of the total project;~~

~~C. all expenses incurred to correct damage caused by the land occupier's failure to expeditiously complete the conservation practice must be borne by the land occupier;~~

~~D. land occupiers receiving partial payments must complete the project with in a time deemed reasonable by the conservation district board; and~~

~~E. land occupiers not completing partially paid projects shall be considered as violating part 8400.1700 and shall be directed, unless otherwise authorized by the state board as provided elsewhere in part 8400.1700, to return the amount of financial assistance received.~~

~~Every request for partial payment will be considered by the conservation district board on its own merits.~~

~~Subp. 4. Denial. If theconservationdistrictboarddeniesarequestforpartialpaymentundersubpart 2, the board shall notify the land occupier within 30 days of the reasons for denial of the request.~~

Statutory Authority: *MS s 40.036; 103C.501*
History: *9 SR 2439; 20 SR 2185*
Posted: *October 4, 2001*

~~8400.1460 RETURN OF ALLOCATED FUNDS.~~

~~Cost-share funds unencumbered by the conservation district board after the grant period must be returned to the state board within 30 calendar days following the end of that grant period.~~

Statutory Authority: *MS s 103C.501*
History: *20 SR 2185*
Posted: *October 4, 2001*

~~8400.1500 CONSERVATION DISTRICT RECORDS.~~

~~The conservation district shall maintain a current ledger of all cost-share contracts on forms provided by the state board. The ledger must specify the land occupiers with whom the conservation district has contracted, the practices involved, the status of construction, and a total of funds encumbered. The conservation district shall also document efforts to identify and contact land occupiers with high priority erosion problems.~~

Statutory Authority: *MS s 40.036; 103C.501*
History: *9 SR 2439; 20 SR 2185*
Posted: *October 4, 2001*

~~8400.1600 EXECUTING THE COST-SHARE CONTRACT.~~

~~Subpart 1. **Amending cost-share contracts.** Because of extreme circumstances such as, but not limited to, weather and unforeseen geologic conditions, it may be desirable to amend the original cost-share contract. If changes to the original cost-share contract are needed, an amendment must be approved by the conservation~~

~~district board. The conservation district board shall not approve amendments that increase the originally approved cost-share percentage, nor shall the conservation district board approve any amendments after the approval to issue final payment on the original contract has been made.~~

~~Subp. 2. **Construction of practice.** Construction of the practices must be monitored by the conservation district board to ensure compliance with part 8400.1400, subpart 2. Upon completion, the conservation district technical representative with appropriate technical approval authority or the registered engineer shall certify whether the practice has been satisfactorily constructed according to the approved conservation practice plans and meets the design criteria of the practice as specified in the Field Office Technical Guide or other standards certifiable by a registered professional engineer or other standards approved by the state board. No certification shall be made until all specifications have been satisfied. Exceptions for partial completion must be according to part 8400.1405, subpart 3. Upon certification of completion, the land occupier shall contact the conservation district for payment and shall present documentation of all costs incurred in the installation of the practice in the form of receipts or invoices.~~

~~Subp. 3. **In kind services and materials.** In kind services and materials provided by the land occupier such as, but not limited to, earth work, seedbed preparation, seeding, and permanent fencing materials may be credited toward the land occupier's share of the total cost of the practice. The conservation district board shall determine whether charges for in-kind services and materials are practical and reasonable.~~

~~Subp. 4. **Actual cost different than estimated cost.** In cases where the actual cost of the practice exceeds the estimated cost, the conservation district may only share the approved percentage of the estimated cost, except when an amendment to increase the cost estimate listed on the cost-share contract has been approved by the conservation district board. Where the actual cost is less than the estimated cost, the conservation district shall only share the approved percentage of the actual cost of the practice.~~

~~Subp. 5. **Issuing cost-share payments.** The conservation district board shall review the receipts or invoices provided by the land occupier to determine the actual cost of the practice. When the conservation district determines that all claims are practical and reasonable, it shall authorize issuance of a check for the conservation district's share of the practice. If the conservation district board determines that certain claims are not justified, it shall notify the land occupier in writing of the unjustified claims within 30 days. The conservation district board shall then authorize the issuance of a check for the conservation district's share of the justified claims.~~

Statutory Authority: *MS s 40.036; 103C.501*
History: *9 SR 2439; 20 SR 2185*
Posted: *October 4, 2001*

8400.1650 RECORDING <u>CONSERVATION</u> PRACTICES.

<u>When a district board, or its delegate, determines that long-term maintenance of a conservation practice is desirable, the board, or its delegate, may require that maintenance be made a covenant upon the land for the effective life of the conservation practice. A covenant under this subdivision shall be construed in the same manner as a conservation restriction under 84.65.</u> ~~The size, location, and effective life of the soil and water conservation practices that have received cost-share payments under this program equal to or in excess of $50,000 shall be recorded by the conservation district on the property title. The conservation district board may require the recording of practices where cost-share payments are less than $50,000 where such action is considered appropriate by the conservation district board. Recording procedures, including the prescribed forms, are described in the administrative guidelines for the state cost-share program.~~

Statutory Authority: *MS s 103C.501*
History: *20 SR 2185*
Posted: *October 4, 2001*

8400.1700 MAINTENANCE.

Subpart 1. **Land occupier maintenance responsibilities**. The land occupier is responsible for operation and maintenance of conservation practices applied under this program to ensure that their conservation objective is met and the effective life~~, a minimum of ten years,~~ is achieved. Should the land occupier fail to maintain the conservation practices during their effective life, the land occupier is liable to the state of Minnesota for up to one-hundred-fifty percent ~~the full amount~~ of financial assistance received to install and establish the conservation practice. The land occupier is not liable for cost-share assistance received if the failure was caused by reasons beyond the land occupier's control, or if ~~soil and water~~ conservation practices are applied at the land occupier's expense which provide equivalent protection of the soil and water resources.

Subp. 2. **Reapplication ~~or removal~~ of conservation practices.** In no case shall a ~~conservation~~ district provide cost-share assistance to a land occupier for the reapplication of conservation practices which were removed by the land occupier during their effective life or that failed due to improper maintenance. ~~The conservation district board may authorize the removal of a practice installed under this program provided the land occupier can show good cause for removal of the practice and the purpose of the original practice has been achieved.~~

Statutory Authority: *MS s 40.036; 103C.501*
History: *9 SR 2439; 20 SR 2185*
Posted: *October 4, 2001*

8400.1750 PRACTICE SITE INSPECTIONS.

~~As a condition to receive grant funds from the state board, the conservation district shall ensure compliance with the maintenance provisions of part 8400.1700 and Minnesota Statutes, chapter 103C, by monitoring all cost-share contracts made with land occupiers.~~ The ~~conservation~~ districts shall conduct site inspections of conservation practices installed with cost-share funds to determine if the land occupier is in compliance with the operation and maintenance requirements under part 8400.1700 and the policy, guidelines, and requirements of the state board. ~~Site inspection procedures, including the prescribed forms and frequency, are described in the Administrative Guidelines for the State Cost-Share Program.~~

Statutory Authority: *MS s 103C.501*
History: *20 SR 2185*
Posted: *October 4, 2001*

8400.1800 APPEALS.

Land occupiers may appeal a ~~conservation~~ district's action within 60 days of receiving notice of the action by submitting a written request to the ~~conservation~~ district board asking the board to reconsider its decision. Should the land occupier and the ~~conservation~~ district board reach an impasse, the land occupier may appeal the ~~conservation~~ district board's decision to the state board within 60 days of receiving notice of the district board's final decision. If an informal hearing is granted, the state board or its appointed mediator shall hear all testimony offered, and shall accept written testimony for ten days after the hearing. The mediator, if one is used, shall report the findings and recommendation to the state board. The state board shall make its decision on the appeal within 60 days of the hearing date or 60 days after receiving the mediator's report, upholding, reversing, or amending the decision of the ~~conservation~~ district board.

Statutory Authority: *MS s 40.036; 103C.501*
History: *9 SR 2439; 17 SR 1279; 20 SR 2185*
Posted: *October 4, 2001*

8400.1900 REPORTS TO STATE BOARD.

For the purpose of reporting and monitoring the progress of the program and use of funds, each ~~conservation~~ district shall submit an annual report of the year's accomplishments according to the guidelines and

requirements established by the state board. ~~Each district shall submit to the state board the reports identified in part 8400.0700.~~

Statutory Authority: *MS s 40.036*
Posted: *October 4, 2001*

8400.1950 [Repealed, 20 SR 2185]

Posted: *October 4, 2001*

8400.2000 [Repealed, 20 SR 2185]

Posted: *October 4, 2001*

8400.2100 [Repealed, 20 SR 2185]

Posted: *October 4, 2001*

8400.2200 [Repealed, 20 SR 2185]

Posted: *October 4, 2001*

8400.2300 [Repealed, 20 SR 2185]

Posted: *October 4, 2001*

8400.2400 [Repealed, 20 SR 2185]

Posted: *October 4, 2001*

8400.2500 [Repealed, 20 SR 2185]

Posted: *October 4, 2001*

8400.2600 [Repealed, 20 SR 2185]

Posted: *October 4, 2001*

8400.2700 [Repealed, 20 SR 2185]

Posted: *October 4, 2001*

8400.2705 [Repealed, 20 SR 2185]

Posted: *October 4, 2001*

8400.2800 [Repealed, 20 SR 2185]

Posted: *October 4, 2001*

~~COST-SHARE RATES~~ EASEMENT PROGRAM

8400.2900 DISTRICT RATES.

Each district shall establish its cost-share rates as provided in part 8400.0900.

Statutory Authority: *MS s 40.036*
Posted: *October 4, 2001*

8400.3000 AUTHORITY.

Minnesota Statutes, sections 84.95, 103A.209, and 103F.501 to 103F.531, authorize the state board, in consultation with districts, private groups, and state and federal agencies, to implement a program to ~~(a)~~ acquire ~~permanent~~ easements on land ~~containing type 1, 2, 3, or 6 wetlands; (b)~~ to retire certain marginal agricultural land from agricultural crop production ~~or pasturing~~ and protect environmentally sensitive areas to enhance soil and water quality, minimize damage to flood-prone areas, sequester carbon, and support native plant, fish, and wildlife habitats and to reestablish perennial cover and restore wetlands on that land~~; and (c) to enhance and protect other private lands~~. Parts 8400.3000 to 8400.3930 provide procedures and criteria to be followed by the state board and district boards in implementing Minnesota Statutes, sections 103F.501 to 103F.531.

Statutory Authority: *MS s ~~40.45;~~ 103F.531*
History: *13 SR 1055; 14 SR 1928; 19 SR 550*
Posted: *October 4, 2001*

8400.3030 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 8400.3000 to 8400.3930.

Subp. 2. **Agricultural crop production.** "Agricultural crop production" means an agricultural activity:

A. including but not limited to tillage, planting, or harvesting operations; and

B. devoted to the production of horticultural, row, close grown, introduced pasture, or introduced hayland crops.

Subp. 3. [Repealed, 14 SR 1928]

Subp. 3a. **Agricultural land.** "Agricultural land" means land devoted for use as pasture or hayland for domestic livestock or dairy animals, or to agricultural crop production, or to growing nursery stocks, or for use as animal feedlots, and may include contiguous land associated with these uses.

Subp. 4. **Annual plan.** "Annual plan" means a plan prepared by the district under Minnesota Statutes, section 103C.331, subdivision 11, and according to the most recent version of the Guidelines for Soil and Water Conservation District Comprehensive and Annual Plans published by the state board. That publication is subject to periodic change. The current version is available at the district office and state board office and is incorporated by reference.

Subp. 5. **Approved practice.** "Approved practice" means a soil and water conservation practice or wildlife habitat enhancement that may be established on an easement area and is described in the easement program practice specifications.

~~Subp. 6. **Authorized farm corporation.** "Authorized farm corporation" has the meaning given in Minnesota Statutes, section 500.24, subdivision 2.~~

~~Subp. 6a. **Authorized farm partnership.** "Authorized farm partnership" has the meaning given in Minnesota Statutes, section 500.24, subdivision 2.~~

Subp. 7. [Repealed, 14 SR 1928]

Subp. 8. [Repealed, 19 SR 550]

Subp. 9. **Conservation agreement.** "Conservation agreement" means a written contract stating the terms and conditions for conveying a conservation easement by the landowner to the state.

Subp. 10. **Conservation easement.** "Conservation easement" has the meaning given for "conservation easement" in Minnesota Statutes, section 84C.01, paragraph (1).

~~Subp. 10a. **Conservation easement handbook.** "Conservation easement handbook" means the current edition of the state board's publication containing detailed procedures and guidelines for implementing the conservation easement programs administered by the state board. This publication is subject to periodic change, is available at the state board office and at district offices, and is incorporated herein by reference.~~

Subp. 10b. **Conservation easement program.** "Conservation easement program" refers to both the RIM reserve program, as defined in subpart 42, and the permanent wetlands preserve program, as defined in subpart 36a.

Subp. 11. **Conservation plan.** "Conservation plan" means a written description and map of the approved practices that must be applied to or that already exist on the easement area.

Subp. 11a. **Cost-shared practice.** "Cost-shared practice" means an approved practice which qualifies for cost-sharing through a conservation easement program administered by the state board.

Subp. 12. [Repealed, 19 SR 550]

Subp. 13. [Repealed, 19 SR 550]

Subp. 14. **District.** "District" means a ~~local~~ soil and water conservation district organized under Minnesota Statutes, chapter 103C.

Subp. 15. **District board.** "District board" means the board of supervisors of a soil and water conservation district as organized under Minnesota Statutes, chapter 103C.

Subp. 16. [Repealed, 19 SR 550]

Subp. 17. **District technical representative.** "District technical representative" means a district employee or other designee assigned by the district who has expertise in the design and application of approved practices.

Subp. 17a. **Drained wetland.** "Drained wetland" means a former natural wetland that has been altered by draining, dredging, filling, leveling, or other manipulation sufficient to reduce its natural function ~~render the land suitable for agricultural crop production. The alteration must have occurred before December 23, 1985, and must be a legal alteration as determined by the commissioner of natural resources~~.

Subp. 17b. **Easement program practice specifications.** "Easement program practice specifications" means the detailed descriptions of the approved practices that are allowed on lands enrolled in the conservation easement programs. ~~This information is contained in the current edition of the conservation easement handbook, a publication of the state board that is defined in subpart 10a.~~

Subp. 18 [Repealed, 19 SR 550]

~~Subp. 19. **Family farm.** "Family farm" has the meaning given in Minnesota Statutes, section 500.24, subdivision 2.~~

~~Subp. 20. **Family farm corporation.** "Family farm corporation" has the meaning given in Minnesota Statutes, section 500.24, subdivision 2.~~

~~Subp. 20a. **Family farm partnership.** "Family farm partnership" has the meaning given in Minnesota Statutes, section 500.24, subdivision 2.~~

Subp. 20b. **Farmed wetland.** "Farmed wetland" means a wetland, as defined in subpart 48, that has been devoted to agricultural crop production, as defined in subpart 2, since December 23, 1985.

Subp. 21. [Repealed, 19 SR 550]

Subp. 22. [Repealed, 19 SR 550]

Subp. 23. **Food plot.** "Food plot" means an area established for the purpose of providing food for wildlife.

~~Subp. 24. **Highway windbreak.** "Highway windbreak" means a strip or belt of trees, shrubs, or grass barriers at least six rows deep and within 300 feet of the right-of-way of a highway.~~

~~Subp. 25. **Hydric soils.** "Hydric soils" means soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. A current list of hydric soils is available at the state board office and the district office, is subject to periodic change, and is incorporated herein by reference.~~

~~Subp. 26. **Hydrophytic vegetation.** "Hydrophytic vegetation" means macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.~~

Subp. 27. **Individual.** Individual" means a person or legal entity, whether or not a resident of Minnesota.

~~Subp. 28. **Inherently unproductive.** "Inherently unproductive" means that the soil properties of available water capacity, bulk density, and pH in the uppermost 100 centimeters (39 inches) of a soil are present so that an unfavorable rooting environment exists for agricultural crop production.~~

Subp. 29. **Introduced hayland.** "Introduced hayland" means an area devoted to the production of forage that has been cultivated in a rotation of row crops or small grains or interseeded with introduced or native species at least twice during the ten years prior to applying for enrollment in a conservation easement program. These areas must have been harvested by mechanical methods at least two years during the five years prior to applying for enrollment in a conservation easement program.

Subp. 30. **Introduced pasture.** "Introduced pasture" means an area devoted to the production of forage that has been cultivated in a rotation of row crops or small grains or interseeded with introduced or native species at least twice during the ten years prior to applying for enrollment in a conservation easement program. These areas must have been harvested by grazing at least two years during the five years prior to applying for enrollment in a conservation easement program.

Subp. 31. **Landowner.** "Landowner" means an individual~~, family farm, family farm partnership, authorized farm partnership, family farm corporation, authorized farm corporation, estate, or~~

~~testamentary trust,~~ or entity that is not prohibited from owning agricultural land under MS 500.24 and who either owns eligible land or is purchasing eligible land under a contract for deed in Minnesota.

Subp. 31a. **Land with crop history.** "Land with crop history" means land that has produced horticultural, row, or close grown crops or that has been enrolled at a cropland rate in a federal or state conservation program at least two of the five years prior to applying for enrollment in a conservation easement program, or land that meets the definition of introduced hayland in subpart 29, or land that meets the definition of introduced pasture in subpart 30. For the purposes of parts 8400.3000 to 8400.3930, land with crop history includes acres devoted to "set aside" or "conserving use" for the United States Department of Agriculture programs.

~~Subp. 32. **Local emergency.** "Local emergency" means an emergency declared under Minnesota Statutes, section 12.29.~~

Subp. 33. **Marginal agricultural land.** "Marginal agricultural land" for the RIM reserve program means agricultural land that is~~: (1)~~ composed of class IIIe, IVe, V, VI, VII, or VIII land as identified in the land capability classification system of the United States Department of Agriculture~~; or (2) similar to land described under clause (1) and identified under a land classification system selected by the state board that is composed of soils that are inherently unproductive, as defined in subpart 28, for agricultural crop production or likely to cause significant potential environmental impact, as defined in subpart 44.~~

~~If the state selects a land classification system as provided by clause (2), the state board will provide districts with a list of soil mapping units indicative of marginal agricultural land. Districts, upon state board approval, may change the list as necessary to reflect local soil characteristics. A current list is available at the state board office and at district offices, is subject to periodic change, and is incorporated herein by reference.~~

Subp. 33a. **Pasture.** "Pasture" means land used for grazing by domestic livestock and land which is not considered land with crop history as defined in subpart 31a.

Subp. 33b. **Pastured hillside.** "Pastured hillside" means land on a hillside that is used for pasture as defined in subpart 33a or used for introduced pasture as defined in subpart 30.

Subp. 34. [Repealed, 19 SR 550]

Subp. 35. [Repealed, 19 SR 550]

Subp. 36. **Perennial cover.** "Perennial cover" means the water area created by restoring a drained wetland or the perennial vegetation established under a conservation easement program, or the perennial vegetation or the water or wetland areas that already exist on the easement area.

Subp. 36a. **Permanent wetlands preserve program.** "Permanent wetlands preserve program" means the program established under Minnesota Statutes, section 103F.516.

Subp. 37. [Repealed, 19 SR 550]

Subp. 38. [Repealed, 19 SR 550]

Subp. 39. [Repealed, 19 SR 550]

Subp. 39a. **Public waters.** "Public waters" means waters as defined in Minnesota Statutes, section 103G.005, subdivision 15, and inventoried under Minnesota Statutes, section 103G.201. A copy of the inventory is available in the district office.

Subp. 39b. **Public waters wetlands.** "Public waters wetlands" means wetlands as defined in Minnesota Statutes, section 103G.005, subdivision 15a.

~~Subp. 39c. **Replacement wetland.** "Replacement wetland" means a wetland that has been replaced under Minnesota Statutes, section 103G.2242.~~

~~Subp. 40. **Restorable drained wetland.** "Restorable drained wetland" means a drained wetland as defined in subpart 17a that is practical to restore and for which the state board is able to secure the necessary land rights of adjacent landowners.~~

Subp. 41. [Repealed, 19 SR 550]

Subp. 42. **RIM reserve program.** "RIM reserve program" means the program established in Minnesota Statutes, sections 103F.515 ~~and 103F.525~~.

Subp. 42a. **Riparian land.** "Riparian land" means land adjacent to public waters, drainage systems, wetlands, or locally designated priority waters ~~identified in a comprehensive local water plan, as defined in Minnesota Statutes, section 103B.3363, subdivision 3~~.

Subp. 43. **Screening committee.** "Screening committee" means a group established by the district board to assist in implementing the conservation easement programs. The screening committee is chaired by a district board member, or their delegate, and is composed of representatives of private, state, and local organizations or clubs, and local, state, and federal agencies with an interest in the conservation easement programs.

Subp. 43a. **Sensitive groundwater area.** "Sensitive groundwater area" means a geographic area defined by natural features where there is a significant risk of groundwater degradation from activities conducted at or near the land surface. These areas may be identified by mapping or other appropriate methods determined by the commissioner of natural resources and the state board. Wellhead protection areas and land that is adjacent and draining to a sinkhole may be designated as a sensitive groundwater area.

~~Subp. 44. **Significant potential environmental impact.** "Significant potential environmental impact" means that the use of agricultural land may result in surface water or groundwater quality degradation or deposition of eroded sediments on property of adjacent landowners due to the soil properties of erosion potential, permeability, runoff potential, slope stability, or depth to water table.~~

Subp. 45. **Soil and water conservation practice.** "Soil and water conservation practice" means structural or vegetative practices applied to land for the purposes of controlling soil erosion, sediment, agricultural nutrients or waste, or other water pollutants.

~~Subp. 46. **Soil mapping unit.** "Soil mapping unit" means a unit or type of soil or combination of soils shown on a soil survey map.~~

Subp. 47. [Repealed, 14 SR 1928]

Subp. 47a. **State board.** "State board" means the Board of Water and Soil Resources.

Subp. 48. **Wetland.** "Wetland" means ~~land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, or that periodically does support, a predominance of hydrophytic vegetation~~ wetlands as defined in Minnesota Statutes, section 103G.005, subd, 1a.

Statutory Authority: *MS s ~~40.45~~; 103F.531*
History: *13 SR 1055; 14 SR 1928; 19 SR 550; L 1996 c 462 s 43*
Posted: *October 4, 2001*

8400.3060 CRITERIA FOR ALLOCATION OF FUNDS.

The state board must annually allocate funds available to implement the conservation easement programs based on ~~the following criteria:~~

~~A.~~ the number or cost of applications accepted for enrollment in the conservation easement programs administered by the state board, or conservation easements conveyed to the state board within each district;

~~B. the need for soil erosion or sediment control, protection or improvement of water quality, or improvement of fish and wildlife habitat, within a specified geographical area as determined by the state board, or as identified in the annual plan of each district or in any comprehensive local water plans prepared pursuant to Minnesota Statutes, section 103B.231, 103B.255, 103B.311, 103D.401, or 103D.405;~~

~~C. the cumulative degree of soil erosion or sediment control, protection or improvement of water quality, or improvement of fish and wildlife habitat likely to be accomplished by the enrollment of selected easement areas; and~~

~~D. the expressed interest and readiness of each district board, as well as cooperating groups and agencies, to implement the conservation easement programs.~~

~~The allocated funds may be increased, decreased, or shifted by the state board as necessary to maximize the use of available funds among districts. In selecting land for enrollment in the RIM reserve program, highest priority must be given to permanent conservation easements pursuant to Minnesota Statutes, section 103F.515, subdivision 2, paragraph (f).~~

Statutory Authority: *MS s ~~40.45~~; 103F.531*
History: *13 SR 1055; 14 SR 1928; 19 SR 550*
Posted: *October 4, 2001*

8400.3100 [Repealed, 19 SR 550]

Posted: *October 4, 2001*

8400.3110 DURATION OF CONSERVATION EASEMENTS.

For purposes of the RIM reserve program, a conservation easement may be permanent or of limited duration. A conservation easement acquired on restorable drained wetlands, replacement wetlands, or land for highway windbreak purposes, must be of permanent duration. A conservation easement of limited duration may be acquired on other eligible land within a district if it is for a period not less than

20 years and only if the state board has approved enrollment of limited duration conservation easements in that district.

All permanent wetlands preserve program conservation easements must be of permanent duration.

Statutory Authority: *MS s ~~40.45~~; 103F.531*

History: *14 SR 1928; 19 SR 550*
Posted: *October 4, 2001*

8400.3130 [Repealed, L 2009 c 172 art 2 s 32; c 176 art 1 s 52]

Posted: *July 2, 2009*

8400.3160 [Repealed, L 2009 c 172 art 2 s 32; c 176 art 1 s 52]

Posted: *July 2, 2009*

8400.3200 [Repealed, L 2009 c 172 art 2 s 32; c 176 art 1 s 52]

Posted: *July 2, 2009*

8400.3210 DELEGATION OF PROGRAM TO ANOTHER DISTRICT.

A district board may enter into an agreement with other district boards as authorized by Minnesota Statutes, section 103C.231, to delegate to another district board the responsibility for administering any conservation easement program of the state board. Where such delegation has been mutually agreed upon, each district board must so notify all landowners in their respective district and each district must so notify the state board.

Statutory Authority: *MS s 103F.531*
History: *19 SR 550*
Posted: *October 4, 2001*

8400.3230 [Repealed, L 2009 c 172 art 2 s 32; c 176 art 1 s 52]

Posted: *July 2, 2009*

8400.3260 LAND IN MORE THAN ONE DISTRICT.

If an application involves land in more than one district, the participating districts may jointly delegate to one of the districts the responsibility for review and prioritization of that application. If that application is accepted for enrollment, the affected districts may also jointly delegate to one of the districts the responsibility for completing all of the tasks necessary for conveyance of the conservation easement to the state board.

Statutory Authority: *MS s ~~40.45~~; 103F.531*
History: *13 SR 1055; 19 SR 550*
Posted: *October 4, 2001*

8400.3300 CRITERIA FOR SCREENING COMMITTEE REVIEW OF APPLICATIONS.

The state board may direct districts to utilize local screening committees to prioritize applications received. Upon completion of the application period and initial eligibility determination by the responsible district staff or the district technical representative, the screening committee may confer and prioritize each eligible application. The criteria for screening committee prioritization are as follows:

A. consistency with the purpose and policy of the respective conservation easement program for which an application has been submitted by an eligible landowner;

~~B. the parcel's relationship to the priorities previously determined in part 8400.3130;~~

~~C~~B. the parcel's potential impact on reducing soil erosion and sedimentation, improving water quality, reducing flooding, and enhancing fish and wildlife habitat;

~~D~~C. potential title problems and encumbrances;

~~E~~D. compatibility with established priorities of the organizations and agencies represented on the screening committee; and

~~F~~E. highest priority must be given to permanent easements pursuant to Minnesota Statutes, section 103F.515, subdivision 2, paragraph ~~(f)~~ (e).

Statutory Authority: *MS s ~~40.45~~; 103F.531*
History: *13 SR 1055; 19 SR 550*
Posted: *October 4, 2001*

8400.3330 [Repealed, L 2009 c 172 art 2 s 32; c 176 art 1 s 52]

Posted: *July 2, 2009*

8400.3360 [Repealed, L 2009 c 172 art 2 s 32; c 176 art 1 s 52]

Posted: *July 2, 2009*

8400.3390 [Repealed, L 2009 c 172 art 2 s 32; c 176 art 1 s 52]

Posted: *July 2, 2009*

8400.3400 CONSERVATION AGREEMENT FOR EASEMENT.

The district board shall direct its staff or the district technical representative to develop conservation agreements as prescribed by the state board and in a recordable form for all approved applications which incorporate the minimum requirements stated in Minnesota Statutes, section 103F.515, subdivisions 4 and 5. In addition, each conservation agreement must require the landowner to:

A. pay, when due, all taxes and assessments that may be levied against the easement area;

B. remove any existing structures as required by the district board or the state board prior to the conveyance of the conservation easement with all associated costs being the responsibility of the landowner, and not place, erect, or construct any temporary or permanent structures on the easement area;

C. remove any existing hazardous and toxic substances or any pollutants and contaminants prior to the conveyance of the conservation easement with all associated costs being the responsibility of the landowner, and not place such substances, pollutants, or contaminants on the easement area;

D. properly seal all abandoned wells on the easement area prior to the conveyance of the conservation easement, with all associated costs being the responsibility of the landowner; and

E. allow the state board and its employees and agents to enter the easement area for the purposes of inspection and enforcement of the terms and conditions of the conservation easement.

Statutory Authority: *MS s ~~40.45~~; 103F.531*
History: *13 SR 1055; 14 SR 1928; 19 SR 550*
Posted: *October 4, 2001*

8400.3430 [Repealed, 19 SR 550]

Posted: *October 4, 2001*

8400.3460 TITLE REQUIREMENTS.

The landowner must have good and marketable title that is insurable under a title insurance policy. In addition, the title must not be subject to any prior liens or encumbrances determined to be objectionable by the Attorney General. Objectionable title defects, liens, or encumbrances must be promptly removed or corrected by the landowner prior to easement conveyance.

Statutory Authority: *MS s ~~40.45~~; 103F.531*
History: *13 SR 1055; 14 SR 1928; 19 SR 550*
Posted: *October 4, 2001*

8400.3500 [Repealed, L 2009 c 172 art 2 s 32; c 176 art 1 s 52]

Posted: *July 2, 2009*

8400.3530

Subpart 1. [Repealed, L 2009 c 172 art 2 s 32; c 176 art 1 s 52]

Subp. 2. [Repealed, L 2009 c 172 art 2 s 32; c 176 art 1 s 52]

Subp. 2a. [Repealed, L 2009 c 172 art 2 s 32; c 176 art 1 s 52]

Subp. 3. [Repealed, 19 SR 550, L 2009 c 172 art 2 s 32; c 176 art 1 s 52]

Subp. 4. [Repealed, 19 SR 550, L 2009 c 172 art 2 s 32; c 176 art 1 s 52]

Posted: *July 2, 2009*

8400.3560 [Repealed, L 2009 c 172 art 2 s 32; c 176 art 1 s 52]

Posted: *July 2, 2009*

8400.3600 RENEWAL AND EXTENSION OF CONSERVATION EASEMENTS.

A. When a conservation easement of limited duration expires, a new conservation agreement and conservation easement for an additional period of not less than 20 years may be acquired by agreement of the state board and the landowner under the rules in force at that time. The state board may adjust payment rates as a result of renewing a conservation agreement and conservation easement after examining the condition of the established cover, conservation practices, and land values.

B. The easement duration may be lengthened through mutual agreement of the current landowner with the state board, in consultation with the commissioners of agriculture and natural resources, if the state board determines that the changes are consistent with the purpose of the conservation easement program. When converting limited duration easements to permanent easements, the payment is the difference between the amount that would be paid per acre for the permanent easement as established for the most recent sign-up period and the amount already paid for the limited duration easement on the area.

Statutory Authority: *MS s ~~40.45~~; 103F.531*
History: *13 SR 1055; 14 SR 1928; 19 SR 550*
Posted: *October 4, 2001*

8400.3610 ALTERATION, RELEASE, OR TERMINATION OF CONSERVATION EASEMENTS.

The state board may alter, release, or terminate a conservation easement after consultation with the commissioners of agriculture and natural resources. The board may alter, release, or terminate an easement only if the state board determines that the public interests and general welfare are better served by the alteration, release, or termination.

The state board must be provided the following information at least 30 days prior to a state board meeting, before the state board will consider a request to alter, release, or terminate a conservation easement:

A. a copy of the letter from the landowner to the district board justifying the change and identifying how the public interest and general welfare will be better served;

B. a letter from the district board recommending either approval or disapproval of the proposed change;

C. a letter from the Department of Natural Resources area wildlife manager recommending either approval or disapproval of the proposed change; and

D. other supporting documents, including:

(1) an aerial photo identifying the requested change;

(2) a soil survey map of the area;

(3) cropping history information; and

(4) other pertinent documentation that will support the request.

The state board reserves the right to require special provisions to ensure at least equal resource value as a condition of approving the request. The state board must be compensated by the landowner for all damages and loss of benefits to the conservation easement and the state board may also require reimbursement for administrative expenses and costs incurred in the alteration, release, or termination of a conservation easement.

Statutory Authority: *MS s ~~40.45~~; 103F.531*
History: *14 SR 1928; 19 SR 550*
Posted: *October 4, 2001*

8400.3630 APPROVED PRACTICES.

Subpart 1. **Criteria.** Approved practices must have as their primary purpose the control of soil erosion or sedimentation, protection or improvement of water quality, reduction of flooding, or enhancement of fish and wildlife habitat. Approved practices are further specified in the easement program practice specifications. Practices that do not qualify as approved practices include, but are not limited to, Christmas tree plantations and fruit orchards. Food plots are not eligible for conservation easement program cost-sharing, but are considered an approved practice and, therefore, are allowed on enrolled acres if they are included in the conservation plan.

Subp. 2. **Establishment of approved practices.** A landowner is responsible for the establishment of all approved practices on the easement area in accordance with the easement program practice specifications. Establishment of approved practices must be monitored by the district board to ensure compliance with the conservation plan and the conservation easement. Upon establishment or partial completion of an approved practice, a district technical representative shall certify whether or not the approved practice, in whole or part, has been satisfactorily performed.

Statutory Authority: *MS s ~~40.45~~; 103F.531*
History: *13 SR 1055; 14 SR 1928; 19 SR 550*
Posted: *October 4, 2001*

8400.3660 [Repealed, 19 SR 550]

Posted: *October 4, 2001*

8400.3700 COST-SHARED PRACTICES.

Subpart 1. **Approved practices eligible for cost-sharing.** The state board shall determine which approved practices are eligible for conservation easement program cost-sharing, consistent with the criteria as described in part 8400.3630, subpart 1, ~~and consistent with the payment limits in Minnesota Statutes, section 103F.515, subdivision 6, paragraph (a), clauses (1) and (2)~~.

Subp. 2. **Eligible costs for cost-shared practices.**

A. Upon satisfactory performance under part 8400.3630, subpart 2, the landowner shall present receipts or invoices to the district board, or their delegate, of the costs incurred in the installation of the cost-shared practice. The district board shall review the receipts or invoices to determine the costs eligible for conservation easement program payment. If the district board determines that the costs requested for reimbursement are reasonable and necessary, it shall recommend payment to the landowner by submitting certification of satisfactory performance and providing documentation of reimbursable practice costs to the state board on forms provided by the state board. If the district board determines that certain costs requested for reimbursement are not eligible or reasonable, it shall notify the landowner in writing of this determination. The landowner may request reconsideration of this determination by the district board within 30 days of receipt of the determination. If additional costs are determined to be eligible and reasonable, the district board shall then recommend payment for the approved amount. The state board reserves the right to approve whether costs requested for reimbursement are eligible and reasonable.

B. Eligible costs for approved practices are limited to those prescribed by the State Board as allowed in Minnesota Statutes, section 103F.515, subdivision 6, ~~paragraph (a), clauses (1) and (2), and to the total state funds encumbered for the cost-shared practices designated in the conservation plan. The amount of encumbered funds may be increased, within the statutory limits, after a landowner request, which has been properly executed on forms prescribed by the state board, has been approved by the state board.~~

~~C. If the actual cost of installing a cost-shared practice designated in the conservation plan is less than the statutory payment limit described in item B, the state shall only pay the actual cost of the installation.~~

Subp. 3. **Payment for in-kind services.** In-kind services provided by the landowner including, but not limited to, earthwork, seedbed preparation, and seeding, may be credited to the landowner's share of the total cost of establishing the cost-shared practice. The district board shall credit only those costs it determines to be practical and reasonable.

Subp. 4. **Funds from other sources.** Conservation easement program cost-sharing funds may be augmented by funds from other agencies, organizations, or individuals. Securing these funds is the responsibility of the landowner.

Statutory Authority: *MS s ~~40.45~~; 103F.531*
History: *13 SR 1055; 14 SR 1928; 19 SR 550*
Posted: *October 4, 2001*

8400.3730 FAILURE OF APPROVED PRACTICES.

Subpart 1. **Cost-shared practices.** A landowner is not in violation of the conservation easement if the failure, in whole or part, of a cost-shared practice was caused by reasons beyond the landowner's control such as extreme weather conditions. In these instances, the district board may recommend to the state board that conservation easement program cost-sharing funds be encumbered for reestablishment of the cost-shared practice. The encumbrance must comply with the limits ~~in Minnesota Statutes, section 103F.515, subdivision 6, paragraph (a), clauses (1) and (2)~~ prescribed by the State Board. In no case may a district board authorize conservation easement program financial assistance to a landowner for the reestablishment of cost-shared practices that were removed or altered by the landowner, or that have failed due to improper maintenance during the term of the conservation easement.

Subp. 2. **All other approved practices.** A landowner is not in violation of the conservation easement if the failure of approved practices was caused by reasons beyond the landowner's control.

Statutory Authority: *MS s ~~40.45~~; 103F.531*
History: *13 SR 1055; 14 SR 1928; 19 SR 550*
Posted: *October 4, 2001*

8400.3760 [Repealed, 14 SR 1928; 19 SR 550]

Posted: *October 4, 2001*

8400.3800 OPERATION AND MAINTENANCE.

A landowner is responsible for the operation and maintenance of approved practices designated in the conservation plan.

Statutory Authority: *MS s ~~40.45~~; 103F.531*
History: *13 SR 1055; 19 SR 550*
Posted: *October 4, 2001*

8400.3830 VIOLATIONS AND ENFORCEMENT.

Subpart 1. **District board action.** The district board may take such measures as are necessary to ensure landowner compliance with the conservation agreement, conservation easement, and conservation plan. If the district board is unsuccessful at obtaining landowner compliance, the district board shall notify the state board of the violation and may recommend appropriate measures to be taken to correct violations.

Subp. 2. **State board action.** Upon notification by the district board of a violation of a conservation agreement, conservation easement, or conservation plan, the state board shall take action to resolve the violation.

A landowner who violates the terms of a conservation agreement, conservation easement, or conservation plan under this chapter, or induces, assists, or allows another to do so, is liable to the state for treble damages if the violation is willful or double damages if the violation is not willful. The amount of damages is the amount needed to make the state whole or the amount the landowner has gained due to the violation, whichever is greater.

If the state board is not successful in resolving the violation, it may request the state attorney general to commence legal action to enforce the conservation agreement, conservation easement, or conservation plan.

Subp. 3. **Attorney general action.** Upon request by the state board, the attorney general may commence an action for specific performances, injunctive relief, damages, including attorney fees, and any other appropriate relief to enforce Minnesota Statutes, sections 103F.501 to 103F.531 in district court in the county where all or part of the violation is alleged to have been committed, or where the landowner resides or has a principal place of business.

Conservation easements remain in effect even if maintenance violations have occurred.

Statutory Authority: *MS s ~~40.45~~; 103F.531*
History: *13 SR 1055; 14 SR 1928; 19 SR 550*
Posted: *October 4, 2001*

8400.3860 [Repealed, 19 SR 550]

Posted: *October 4, 2001*

~~8400.3870 SUPPLEMENTAL PAYMENTS ON FEDERAL AND STATE PROGRAMS.~~

~~The state board may supplement payments made under federal or other state land retirement programs to the extent of available appropriations other than bond proceeds. The payments must be used to establish perennial cover on land or to supplement payments for land enrolled in land retirement programs approved by the state board.~~

Statutory Authority: *MS s 103F.531*
History: *19 SR 550*
Posted: *October 4, 2001*

8400.3900 [Repealed, 19 SR 550]

Posted: *October 4, 2001*

8400.3930 RECONSIDERATION AND APPEAL.

Subpart 1. **Reconsideration by district board.** An affected landowner may request the district board to reconsider its:

A. recommendation or determination regarding that landowner's application for enrollment in a conservation easement program;

B. recommendation or determination to cancel that landowner's conservation agreement;

C. determination regarding that landowner's eligible and allowable costs to be reimbursed by the state board;

D. request to that landowner to correct any alleged noncompliant conditions regarding that landowner's enrolled easement area; or

E. recommendation to disapprove that landowner's request to change an enrolled easement area.

Subp. 2. **Time for reconsideration by district board.** A landowner requesting reconsideration under subpart 1 shall mail a written request to the district board within 15 days of receipt of notice of the district board's determination or recommendation of the matters specified in subpart 1. The request for reconsideration shall include the specific reasons for the request and evidence to support the landowner's claims. The district board shall notify the landowner in writing of its final recommendation and the reasons for the recommendation within 60 days of receipt of the landowner's request for reconsideration.

Subp. 3. **Appeal to state board.** An affected landowner may appeal to the state board from a final recommendation made by the district board pursuant to subpart 2. The landowner shall mail a written appeal to the state board within 15 days after receipt of the district board's final recommendation. The appeal shall include the specific reasons for the request and evidence to support the landowner's claims. The state board shall notify in writing the landowner and the district board of its final decision and the reasons for the decision within 60 days of receipt of the landowner's appeal.

Subp. 4. [Repealed, 14 SR 1928]

Statutory Authority: *MS s ~~40.45~~; 103F.531*
History: *13 SR 1055; 14 SR 1928; 19 SR 550*
Posted: *October 4, 2001*

STATE OF MINN ESOTA
BOARD OF WATER AND SOIL RESOURCES

In the Matter of the Proposed Adoption of Amendments to Rules Governing the Cost-share Program and the Reinvest in Minnesota Reserve Program, Minnesota Rules Chapter 8400.0050 to 8400.3930.

STATEMENT OF NEED AND REASONABLENESS

March 2011

PURPOSE

The principal purpose of this rulemaking is to conform the rule to statutory amendments made to Minnesota Statutes 103C and 103F in 2009. Additional goals are to position the Cost-share and RIM Reserve Programs for increased direction via Board of Water and Soil Resources (BWSR) Board policies and to reduce the administrative burden of these programs.

INTRODUCTION

Agency Background: BWSR is the state's administrative agency for 90 soil and water conservation districts (SWCD), 46 watershed districts, 18 metropolitan watershed management organizations, and 80 county water managers. The agency's purpose, working through local government, is to protect and enhance the state's soil and water resources by implementing the state's soil and water conservation policy, comprehensive local water management, and the Wetland Conservation Act as it relates to the 41.7 million acres of private lands in Minnesota. The BWSR Board consists of 20 members, including local government representatives that deliver BWSR programs, state agencies, and citizens.

Rulemaking Background: BWSR administers several natural resources conservation programs through SWCDs. The proposed amendments to this rule (8400.0050 to 8400.3930) govern the Erosion Control and Water Management (commonly referred to as the State Conservation Cost-Share Program) and Reinvest in Minnesota (RIM) Reserve Programs. Both of these programs are voluntary, non-regulatory programs. This Statement of Need and Reasonableness will discuss the proposed rules changes as they relate to each of these programs.

The Cost-share Program provides state funds to SWCDs so they can provide technical and financial assistance to land occupiers to install conservation practices that reduce erosion, control sedimentation, improve and protect water quality or address water quantity problems due to altered hydrology on the lands they own or manage. Under the RIM Reserve Program, BWSR provides funds to SWCDs so they can provide technical and financial assistance to land occupiers to acquire conservation easements on certain marginal agricultural lands and wetlands.

The scope of this rulemaking is to improve the application of these programs by:

1. Incorporating statutory changes that have occurred in the RIM Reserve Law (103F.505 to 103F.531);

2. Reflecting statutory amendments enacted in 2009, including a directive to adopt Cost-share Program Policies (103C.501);
3. Streamlining the administration to increase efficiencies for both SWCDs and BWSR;
4. Respond to evolving resource management strategies by accommodating greater use of other Best Management Practices (BMPs) ; and
5. Improving the clarity of the permanent rule.

The Cost-share rules were initially promulgated in 1977, with the most recent revision occurring in 2003. The proposed revisions make the rule consistent with the amended statute.

The RIM rules were initially promulgated in 1994. The proposed revisions make the rule consistent with the amended statute.

ALTERNATIVE FORMAT.

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact:

Dave Weirens
Land and Water Section Manager
Mn Board of Water and Soil Resources
520 Lafayette Road
St. Paul, MN 55155
651-297-3432 (phone)
651-297-5615 (fax)
david.weirens@state.mn.us

STATUTORY AUTHORITY.

Minnesota Statutes 103C.501 authorizes the BWSR, through districts, to enter into cost-share contracts with landowners for erosion control and water management. Minnesota Statutes 103C.501, Subd. 6 authorizes the board to adopt administrative rules for the Cost-share Program.

Minnesota Statutes 103F.501 to 103F.531 authorizes BWSR to implement a program to acquire conservation easements to restore certain marginal agricultural lands and protect environmentally sensitive areas to enhance soil and water quality, minimize damage to flood prone areas, sequester carbon, and support native plant, fish, and wildlife habitats. Minnesota Statutes 103F.531 authorizes the board to adopt administrative rules for the RIM Reserve Program.

In addition, the board has general rule making authority for carrying out all its programs pursuant to Minnesota Statutes, section 103B.101, subdivision 7.

REGULATORY ANALYSIS

Determination of the Classes of Persons affected by the Proposed Rules.
No class of person is required to comply with either the Cost-share or RIM Programs, as they are not regulatory, but voluntary land and water conservation programs. The proposed rule will directly affect SWCDs who receive funds under and implement the Cost-share and RIM programs. The work of SWCDs under these programs entails significant interaction with landowners to market and implement conservation practices and/or conservation easements. In addition, landowners that choose to participate in either program will be affected. However, the changes are intended to implement statutory changes, reduce administrative costs and provide increased implementation flexibility.

These rule changes should result in result in increased efficiency and effectiveness in achieving program goals.

Determination of Alternative, Less Costly or Less Intrusive Methods for Achieving the Purpose of the Proposed Rules.
There is no known alterative to the proposed rule that is less costly or less intrusive. The current and proposed rule is necessary to implement statute. An alternative to the proposed rule would be to develop a rule that details all requirements for implementing these programs. However, this would run counter to legislative direction that requires BWSR to adopt policies to implement these programs. Furthermore, a detailed rule would reduce flexibility in program implementation that is possible through BWSR Board adopted policies.

Probable Costs of Complying with the Proposed Rules.
The rule as proposed will not increase the state's costs, costs borne by SWCDs, and costs borne by landowners. On the contrary, the rule is expected to reduce the costs of SWCDs and the state due to streamlined administrative processes. The rule should have no effect on landowners.

Probable Costs or Consequences of not Adopting the Proposed Rules.
The consequences of not adopting the proposed rule amendments would be a rule that does not comply with statute. These inconsistencies would increase costs and negatively affect conservation opportunities due to not implementing the flexibility as required by statute.

Assessment of Differences between the Proposed Rules and Existing Federal Regulations.
As stated previously, neither the Cost-share nor the RIM Programs are regulatory and have no direct connection to any federal regulatory program. However, both programs have corollary programs with those implemented by federal agencies (Environmental Quality Incentives Program and Wetland Reserve Program) and are often closely coordinated at the state and local government levels. Partnerships and coordinated implementation are key elements of the 2007 BWSR Board Strategic Plan. The proposed rule will allow increased reliance on BWSR Board adopted policy and this flexibility will help ensure these programs continue to be closely coordinated.

Description of How the Agency Considered and Implemented the Policy to Adopt Rules that Emphasize Superior Achievement in Meeting the Agency's Regulatory Objectives and Maximum Flexibility for the Regulated Part and Agency in Meeting these Goals.

The proposed rule amendments have two objectives: (1) consistency with statute, and (2) implement the statutory directive to adopt policies and the programmatic flexibility that these policies will bring. This flexibility will assist BWSR in meeting objectives of a continued focus on a federal, state, and local conservation partnership, an improved ability to coordinate these programs with the dedicated Constitutional Clean Water and Outdoor Heritage funds, and the ability to adjust program priorities and administrative requirements to meet future needs.

ADDITIONAL NOTICE.

A. The Request for Comments was published on June 21, 2010 and was distributed by email to approximately 200 individuals with SWCDs and other local governments that have been engaged in these programs.

B. The rule development process was largely a product of BWSR staff. However, at several stages in this process, agency staff consulted with SWCDs to receive input on rule issues. In addition, the draft rule and statutorily required Board Cost-share Program Policy were posted on the BWSR website on November 5, 2010. Approximately 200 individuals were notified by email of the availability of these documents and were encouraged to provide comments.

Three comments were received in response to these two efforts to inform and encourage input on the proposed rule.

C. BWSR intends to send a copy of the Notice of Intent to Adopt Rules Without a Public Hearing to:

- All individuals who have registered with BWSR for the purpose of receiving notice of rule proceedings as required by Minn. Stat. 14.14, subd. 1a;
- All SWCDs, all watershed districts, all watershed management organizations, and all county water managers;
- All individuals and representatives of associations that BWSR has on file as interested and affected parties;
- Minn. Stat. 14.116 requires a copy of the notice, the rules, and SONAR be sent to the chairs and ranking minority members of the committees with jurisdiction over the subject matter of the proposed rules. This statute also states that if the mailing of the notice is within two years of the effective date of the law granting rulemaking authority that the agency must make reasonable efforts to send a copy of the notice and SONAR to all sitting legislators who were chief authors of the bill granting the rulemaking authority. Under this statutory directive, the following legislators will be sent the above referenced documents: the chairs and ranking minority members of (1) the House Environment, Natural Resources and Energy Policy and Finance Committee; (2) the Senate Environment and Natural Resources Committee; and (3) the chief authors of legislation amending the Cost-share and RIM statute, Representative David Dill and Senator Satveer Chaudhary.

- In addition, a copy of the notice, proposed rule, and draft SONAR will be posted on the BWSR website.

Because of the limited impact of the proposed rule amendments and the broad distribution of the Request for Comments, the broad distribution of the Notice of Intent to Adopt Without a Public Hearing, and as copies of the proposed rule are available on the BWSR website, BWSR believes a thorough effort to reach significantly affected persons has been accomplished.

NOTIFICATION TO THE COMMISSIONER OF AGRICULTURE.

Minn. Stat. 14.111 requires that before an agency adopts or repeals rules that affect farming operations, the agency must provide a copy of the proposed rule to the Commissioner of Agriculture no later than 30 days prior to publication of the proposed rule in the State Register. Both the Cost-share and RIM Programs are often implemented on agricultural lands and thereby affect agricultural operations. However, these programs are voluntary so they will have a minimal impact on agriculture.

Based on this assessment, the Commissioner of Agriculture was sent a copy of the proposed rule on **March 2011**. This notification, while required by statute, is in addition to the participation of the Department of Agriculture on the BWSR Board.

CONSULT WITH MINNESOTA MANAGEMENT AND BUDGET ON LOCAL GOVERNMENT IMPACT.

As required by Minn. Stat. 14.131, BWSR has consulted with the Commissioner of Minnesota Management and Budget to help evaluate the fiscal impact of the proposed rule. We did this on **March 2011** by sending to the Commissioner of Minnesota Management and Budget copies of the draft rule amendments and SONAR.

DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION.

Minn. Stat., section 14.128 requires determining whether a local government will have to adopt or amend an ordinance or other regulation to comply with a proposed agency rule. As stated previously, the Cost-share and RIM Programs are not regulatory and local governments will not be required to adopt or amend an ordinance or other regulation as a result of the proposed rule amendments.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY.

The Cost-share and RIM Programs are implemented by SWCDs based on voluntary participation by landowners. Cities are not affected by these programs and therefore will not incur any additional costs. Similarly, small businesses will not incur additional costs under these rules. Most projects under these programs are implemented through SWCDs contracting with small businesses. These contractual relationships will not be affected by the proposed rule amendments.

RULE BY RULE ANALYSIS

(citations based on the Proposed Rule as approved by the Revisor of Statutes)

Overview.

The rule amendments largely consist of non-substantive changes that are driven by the following:

- Improving the clarity of the rule by simplifying, updating and re-organizing the language;
- Presenting rule provisions based on local or state responsibility;
- Deleting definitions no longer used in the rule;
- Deleting provisions which will be addressed via statutorily required BWSR Board adopted policy; and
- Updating statutory and rule references.

The requirement for the Board to adopt a program policy warrants further discussion. The process by which policies are generated begins with staff developing a proposal, usually in consultation with affected interests, which is reviewed by a Board Committee, before going to the Board for consideration. Meetings of Board Committees and the Board are public meetings and notice is provided to numerous agencies, organizations, and interested individuals, including the Minnesota Association of Soil and Water Conservation Districts. Also, three Board members are SWCD supervisors.

An important goal of the Cost-share Program Policy will be to make this program consistent with other BWSR grant programs, most significantly the Clean Water Fund programs. Increased consistency and uniformity of requirements and procedures will enable these programs to work together and reduce SWCD and BWSR administrative costs.

The Cost-share Program Policy will be considered by the Board at the same meeting as the rule. The Policy includes the following:

- Purpose
- Eligible Activities
- Technical and Administrative Components
- Cost-share Rates
- Technical Expertise
- Expenditure of Funds on Practices and Contracts
- Practice Sign-off and Payment
- Post-Construction and Follow-Up Activities
- District Reporting Requirements
- BWSR Program Monitoring, Closeout, and Penalty Procedures
- Conservation Districts Cost-share Program Policy

The 2009 amendments to the RIM statute authorize but do not require the Board to adopt a program policy. BWSR will consider adopting a RIM policy in the future based on program needs.

8400.0050 PURPOSE.

Revisions to this part are intended to ensure the rule is consistent with statute and to change the title of the program to "Land and Water Treatment Program" which is a more accurate statement of the purposes of the program.

8400.XXXX AUTHORITY.

This part is moved from its current location of 8420.0200, with a minor rule reference change, as the statement of the statutory authority of the Board to develop the cost-share program should be one of the first provisions of the rule.

8400.0100 DEFINITIONS.

The following definitions are deleted as they are no longer used in the rule; some of which will be considered for use in implementing the required program policy:

Subp 2a. **Administrative Guidelines**;
Subp. 4. **Approved practice**;
Subp. 10a. **Conservation district technical representative**;
Subp. 14b. **Farm Service Agency**;
Subp. 15. **Field Office Technical Guide**;
Subp. 16. **Group spokeperson**;
Subp. 16a. **High priority erosion problems**;
Subp. 16b. **High priority erosion problems**;
Subp. 18a. **Landowner**;
Subp. 18b. **Natural Resource Conservation Service**;
Subp. 19a. **Other recognized technical practices**;
Subp. 20a. **Protected waters**;
Subp. 20b. **Registered professional engineer**;
Subp. 20d. **Sinkhole**;
Subp. 22a. **Special project**;
Subp. 25. **T**;
Subp. 26. **2 x T**; and
Subp. 27. **Technical approval authority**.

Subp. 3. **Annual work plan**. This definition is modified to: (1) delete references to obsolete documents, (2) rely on the development of a policy as required by statute, and (3) be consistent with the RIM Reserve portion of this chapter.

Subp. 8. **Comprehensive Plan**. This definition is modified to delete references to obsolete documents and for this definition rely on the development of a policy as required by statute.

Subp. 9. **Conservation district** and Subp. 10 **Conservation district board** have been modified to be consistent with the RIM Reserve portion of this chapter (8420.3030, Subps. 14 and 15).

8400.0200 AUTHORITY.

This part is moved from its current location to immediately precede the definitions as the statement of the statutory authority of the Board to develop the Cost-share Program should be one of the first provisions of the rule.

8400.XXXX PROGRAM POLICY.

This is a new part that implements the 2009 statutory amendment in Minn. Stat. 103C.501, subd. 6 that requires the Board to adopt policies.

8400.0300 APPROVED CONSERVATION PRACTICES.

The title of this part is revised to be specific on the kind of practices that are allowed under this program.

Subp. 1 **Approved practices**. This subpart is deleted as the Board will address approved practices in the required policy. Including a practice list or practice categories in policy will be a flexible approach to ensuring the Cost-share program meets the needs of SWCDs and maximizes conservation opportunities with Legislatively appropriated funding.

Subp. 2 **Criteria for approved conservation practices**. The revisions to this subpart are to delete redundant language, such as item A which is already addressed in 8400.0050. The objectives of approved practices are moved from subp. 3 to item A for a more logical rule organization. In addition, new objectives are added to the approved practice categories to cover the types of projects that should be eligible for the Cost-share Program and to ensure consistency with 8400.0050.

Item B is deleted as the effective life of projects will be addressed in the Board policy. Moving this issue to policy will allow a more flexible approach to project effective life and enable different effective life terms based on the type of project. This is important as different project types have different water quality and soil erosion benefits, different costs, and different expected lifespans.

Language revisions to items C and D are for clarity and consistency within the rule.

8400.0500 MAXIMUM COST-SHARE RATES.

The language revisions in this part are for clarity and consistency within the rule.

8400.XXXX RECORDING CONSERVATION PRACTICES

This part operates in concert with 8400.1650.The revisions improve clarity and flexibility for the Board to require recording conservation practices on property titles when it is determined to be necessary to ensure maintenance of the conservation practice. As an enforceable provision it is necessary to be included in the rule.

8400.0600 STATE BOARD ALLOCATION OF FUNDS TO CONSERVATION DISTRICTS

Subp. 1. **Comprehensive Plan**. This subpart is deleted as it is redundant with Minn. Stat. 103C.501, subd. 2.

Subp. 3. **Review criteria**. This subpart is deleted from rule and review criteria and will be addressed in the required program policy. As appropriated funds have been reduced by the Legislature, the advent of the Clean Water Fund, and changing conservation needs all point to an improved ability to meet locally identified needs of SWCDs through Board adopted policy.

Revisions to subparts 4 and 5 are to improve clarity and ensure consistency with statute.

8400.0700 PROGRAM REPORTING AND MONITORING

This part is deleted as it is, in part, redundant with part 8400.1900 and may be included in the required program policy.

8400.0800 APPLICATION FOR FUNDS BY DISTRICTS

This part is deleted as it is redundant with part 8400.0600.

8400.0900 CONSERVATION DISTRICT ADMINISTRATION OF PROGRAM FUNDS

Subp. 1. **General**. Revisions to this subpart are for clarity, to ensure consistency with the statute, and will be addressed in the required program policy.

Subp. 2. **Maximum cost-share rate percentage**. A portion of this subpart is deleted and a portion will be addressed in the required program policy. The current rate of 75 percent is not in statute, and flexibility that is possible through policy will increase the ability to coordinate funding for important conservation practices with other state and federal programs. Other factors discussed in this subpart are either obsolete or are not intended elements of future program implementation.

Subp. 3. **Criteria for conservation district board review**. This is a new subpart that largely consists of 8400.1300 which is relocated to be in a more logical sequence of SWCD responsibility under the Cost-share Program. Language changes improve clarity.

Subp. 4. **Entering into a contract**. This a new subpart that consists of language relocated from 8400.1400, sub. 1.

8400.1000 APPLICATION FOR FUNDS BY LAND OCCUPIERS

This part is deleted as it is redundant with 8400.0900, subp. 3.

8400.1100 GROUP PROJECTS

This part is deleted as it will be included in the required program policy.

8400.1200 COOPERATIVE AND JOINT PROJECTS BY DISTRICTS

This part is deleted as it will be included in the required program policy.

8400.1250 TECHNICAL ASSESSMENT AND COST ESTIMATE DETERMINATION

This part is deleted as it will be included in the required program policy.

8400.1300 CRITERIA FOR CONSERVATION DISTRICT BOARD REVIEW

This part has been largely moved to 8400.0900 to be in a more logical sequence of SWCD responsibility under the Cost-share Program. In addition, some parts are redundant with 8400.0300.

8400.1400 CONSERVATION DISTRICT APPROVAL

This part is deleted as portions have been relocated to 8400.0900, subp. 4 and other portions will be included in the required program policy.

8400.1405 PROJECT DEADLINES AND PARTIAL PAYMENT

This part is deleted as it will be included in the required program policy.

8400.1460 RETURN OF ALLOCATED FUNDS

This part is deleted as it will be included in the required program policy.

8400.1500 CONSERVATION DISTRICTS

This part is deleted as it will be included in the required program policy.

8400.1600 EXECUTING THE COST-SHARE CONTRACT

This part is deleted as it will be included in the required program policy.

8400.1650 RECORDING CONSERVATION PRACTICES

This part operates in concert with 8400.XXXX (Recording Conservation Practices). The revisions improve clarity and flexibility for SWCDs to require recording conservation practices on property titles when it is determined to be necessary to ensure maintenance of the practice. As an enforceable provision it is necessary that this be included in the rule

8400.1700 MAINTENANCE

The revisions to this part improve clarity, and consistency with Minn. Stat. 103C.501, subd. 5(b).

8400.1750 PRACTICE SITE INSPECTIONS

The revisions to this part improve clarity and consistency with other provisions of this rule will be address under the required program policy.

8400.1800 APPEALS

This part has been modified to be consistent with the RIM Reserve portion of this chapter

8400.1900 REPORTS TO THE STATE BOARD

The revisions to this part ensure consistency with changes made to 8400.0700 and the RIM Reserve portion of this chapter.

8400.3000 AUTHORITY

This subpart is revised to be consistent with Minn. Stat. 103F.505 which was amended in 2009.

8400.3030 DEFINITIONS

The following definitions are deleted as they are no longer used in the rule:

Subp. 6. **Authorized farm corporation**.
Subp. 6a. **Authorized farm partnership**.
Subp. 10a. **Conservation Easement Handbook.**
Subp. 19. **Family farm**.
Subp. 20. **Family farm corporation**.
Subp. 20a. **Family farm partnership**.
Subp. 24. **Highway windbreak.**
Subp. 25. **Hydric soils.**

Subp. 26. **Hydrophytic Vegetation.**
Subp. 28. **Inherently unproductive.**
Subp. 32. **Local emergency.**
Subp. 39c. **Replacement wetland.**
Subp. 40. **Restorable drained wetland.**
Subp. 44. **Significant potential environmental impact.**
Subp. 46. **Soil mapping unit.**

The following definitions are changed to be consistent with Minn. Stat. 103F.511:

Subp. 17a. **Drained wetland.**
Subp. 17b. **Easement program practice specifications.**
Subp. 31. **Landowner.**
Subp. 42. **RIM reserve program.**
Subp. 42a. **Riparian land.**
Subp. 43. **Screening committee.**

The changes to subp. 33. **Marginal agricultural land** is modified to delete language that allows the Board to adopt land capability systems that are different than those employed by the Unites States Department of Agriculture. This flexibility has not been used and will not be used in the future due to the close working relationship that exists between the Board and the United States Department of Agriculture.

Subp. 45 **Soil and water conservation practice** has been modified to acknowledge that the practices included in this definition are intended to address agricultural nutrients as well as agricultural waste.

The definition in Subp. 48 **Wetland** was changed to be consistent with Minn. Stat. 103G.005, subd. 19a. This change will ensure improved application consistent with other environmental management programs.

8400.3060 CRITERIA FOR ALLOCATION OF FUNDS
This part is revised to reflect the method BWSR is using to disburse administrative funds to districts to implement the conservation easement program. This methodology is contained in item A. BWSR Board adopted resolution 05-40 provides a dollar amount per recorded and non-expired easement in each district and is dependent on the amount of administrative funding appropriated by the Legislature.

8400.3130 LOCAL PRIORITY SETTING
This part was repealed by Laws of Minnesota 2009, Chapter 172, Article 2, Section 32 and Laws of Minnesota 2009, Chapter 176, Article 1, Section 52.

8400.3160 CRITERIA FOR ELIGIBLE LAND
This part was repealed by Laws of Minnesota 2009, Chapter 172, Article 2, Section 32 and Laws of Minnesota 2009, Chapter 176, Article 1, Section 52.

8400.3200 MAXIMUM ENROLLMENT
This part was repealed by Laws of Minnesota 2009, Chapter 172, Article 2, Section 32 and Laws of Minnesota 2009, Chapter 176, Article 1, Section 52.

8400.3230 APPLICATION BY LANDOWNERS

This part was repealed by Laws of Minnesota 2009, Chapter 172, Article 2, Section 32 and Laws of Minnesota 2009, Chapter 176, Article 1, Section 52.

8400.3300 CRITERIA FOR SCREENING COMMITTEE REVIEW OF APPLICATIONS

This part has been revised to allow BWSR to utilize local district screening committees to help prioritize applications to assist in making funding decisions. The new language makes the use of screening committees optional as some program sign-ups may have continuous, non-competitive sign-up periods where ranking of applications in unnecessary. The criteria have also been modified to add reduction of flooding consistent with statute.

Item B is deleted as it refers to section 8400.3130 which was repealed by Laws of Minnesota 2009, Chapter 172, Article 2, Section 32 and Laws of Minnesota 2009, Chapter 176, Article 1, Section 52.

8400.3330 CRITERIA FOR DISTRICT BOARD REVIEW

This part was repealed by Laws of Minnesota 2009, Chapter 172, Article 2, Section 32 and Laws of Minnesota 2009, Chapter 176, Article 1, Section 52.

8400.3360 DISTRICT ACTION ON APPLICATIONS

This part was repealed by Laws of Minnesota 2009, Chapter 172, Article 2, Section 32 and Laws of Minnesota 2009, Chapter 176, Article 1, Section 52.

8400.3390 EASEMENT ACQUISITION PROCEDURES

This part was repealed by Laws of Minnesota 2009, Chapter 172, Article 2, Section 32 and Laws of Minnesota 2009, Chapter 176, Article 1, Section 52.

8400.3500 EASEMENT CONVEYANCE

This part was repealed by Laws of Minnesota 2009, Chapter 172, Article 2, Section 32 and Laws of Minnesota 2009, Chapter 176, Article 1, Section 52.

8400.3530 EASEMENT PAYMENT RATES

This part was repealed by Laws of Minnesota 2009, Chapter 172, Article 2, Section 32 and Laws of Minnesota 2009, Chapter 176, Article 1, Section 52.

8400.3560 PAYMENT SCHEDULE

This part was repealed by Laws of Minnesota 2009, Chapter 172, Article 2, Section 32 and Laws of Minnesota 2009, Chapter 176, Article 1, Section 52.

8400.3630 APPROVED PRACTICES

This part has been modified to add reduction of flooding consistent with statute.

8400.3700 COST-SHARED PRACTICES

Subp. 1. **Approved practices eligible for cost-sharing.** This subpart is revised to be consistent with Minn. Stat. 103F.515, subd. 6. This statute was amended in 2009 to eliminate references to payment limits.

Subp. 2. **Eligible costs for cost-sharing practices**. This subpart is revised to be consistent with Minn. Stat. 103F.515, subd. 6 and to allow district boards to delegate review of receipts and invoices. In addition, the Board is authorized by Minn. Stat. 103F.531 to adopt policy to implement the RIM Reserve program, and this rule part refers the establishment of eligible costs for approved practices to a potential future Board policy.

8400.3730 FAILURE OF APPROVED PRACTICES

Subp. 1. **Cost-shared practices**. This subpart is revised to eliminate the reference to payment limits to be consistent with Minn. Stat. 103F.515 subd. 6, as this statute was amended in 2009. In addition, the Board is authorized by Minn. Stat. 103F.531 to adopt policy to implement the RIM Reserve program, and this rule part refers the establishment of encumbrances to a potential future Board policy.

DRAFT

Erosion Control and Water Management Policy

State Cost Share Program

Table of Contents

1.0 Purpose 1

2.0 Eligible Activities 2

3.0 Technical and Administrative Components 2

4.0 Cost Share Rates 3

5.0 Technical Expertise 3

6.0 Expenditure of Funds on Practices and Contracts 3

7.0 Practice Sign-off and Payment 5

8.0 Post-Construction and Follow-Up Activities 5

9.0 District Reporting Requirements 6

10.0 BWSR Program Monitoring, Closeout, and Penalty Procedures 7

11.0 Conservation District Cost-share Program Policy 7

1.0 Purpose

The Erosion Control and Water Management Program, commonly known as the State Cost Share Program, was created through Minnesota Statutes, §103C.501 to provide funds to Soil and Water Conservation Districts (Districts) to share the cost of conservation practices for erosion control, sedimentation control, or water quality improvements that are designed to protect and improve soil and water resources. The purpose of this policy is to provide clear expectations for the implementation of funds appropriated to BWSR associated with the Erosion Control and Water Management Program.

District board and staff are responsible for the administration and decisions concerning the local use of these funds in accordance with: Minnesota Statutes, chapter 103C.501; Minnesota Administrative Rules, chapter 8400; BWSR policies; and all other applicable laws. BWSR will use grant agreements as contracts for assurance of deliverables and compliance. Willful disregard of relevant statutes, rules, and policies may lead to imposition of financial penalties on the grant recipient.

Funds are allocated on the following minimum criteria to districts that have fully complied with all program rules and policies:

- Extent of high priority erosion or water quality problems in the district, as indicated in the district comprehensive and annual plans.
- Priorities for the control of soil erosion or water quality problems as established by the BWSR.
- Historic success of the district in applying conservation practices.

- Ability of the district to expend the funds in a timely manner.
- Legislative appropriation.

2.0 Eligible Activities

The primary purpose of activities funded with Erosion Control and Water Management funds is to assist with structural or vegetative practices to correct existing problems. Specific preventative practices may also be allowed through policy or appropriation.

2.1 Practice Standards. All practices must be consistent with the NRCS Field Office Technical Guide (FOTG) or be professionally accepted engineering or ecological practices. Design standards for all practices must include specifications for operation and maintenance for the life of the given practice, including an inspection schedule and procedure. Practices where runoff or sediment from the contributing watershed prevents the practice from achieving the intended purpose with normal operation and maintenance are ineligible. Vegetative practices must follow the BWSR Invasive Species and Native Species policies.

2.2 Effective Life. All structural practices must be designed and maintained for a minimum effective life of ten years. Vegetative practices must be designed to achieve water quality improvements or erosion or sedimentation control and be maintained for a minimum effective life of fifteen years. The beginning date for a practice's effective life is the same date final payment is approved and the project is considered complete.

2.3 Repair of Damaged Practices. Repair of damage to a conservation practice is eligible if the practice was installed using approved standards, damage was caused by reasons beyond the control of the land occupier, and damage or failure of the practice was not due to improper maintenance or removal of the practice within the effective life.

2.4 Ineligible Practices. Incentive payments for ongoing maintenance, writing of conservation plans, payments to adopt land management practices such as tillage or residue management, payments to cover crop damage during construction, payments to repair septic systems, payments for easements, and/or feedlot expansions are ***not allowable practices with these funds.*** These activities may be eligible for other grants available through BWSR.

3.0 Technical and Administrative Components

Erosion Control and Water Management funds may be used for technical and administrative expenses.

3.1 Technical and Administrative (TA) Expense. The BWSR Board has established the maximum amount allowed for TA expenses to be twenty percent (20%) of the total grant. Remaining funds must be provided as cost share to achieve the purpose of these funds, unless otherwise indicated in specific appropriation language.

3.2 TA Activities. Activities eligible for TA include the following: grant administration, staff training to maintain appropriate technical approval authorities or licenses, site investigations and assessments, design and cost estimates, construction supervision, and inspections.

4.0 Cost Share Rates

Cost share rates represent the percent of the installation cost of a practice that may be provided to a land occupier for materials and labor necessary to install the practice. The BWSR Board establishes cost share rates through policy and implements these rates through grant agreements with Districts.

4.1 Maximum Rates. For the Erosion Control and Water Management Program, the BWSR Board has established the maximum cost share rate to a land occupier for installation of a practice at seventy-five percent (75%) of the installation cost, except for unused well sealing and practices installed for energy conservation and snow protection which are established at fifty percent (50%).

4.2 Match and In-Kind. A land occupier may provide the remainder of the installation cost through services, in-kind, or non-state or non-federal funds. The District board shall determine whether charges for in-kind services and materials are practical and reasonable. Standard rates for in-kind services should be identified in the conservation district's cost share program policy.

4.3 Local Rates. Prior to receiving any applications from land occupiers, conservation district boards may set different cost share rates up to the maximum identified in BWSR policy. These rates should be identified in the District's cost share program policy.

5.0 Technical Expertise

The District Board and staff have the responsibility to ensure that the designated technical staff have the appropriate technical expertise, skills and training for their assigned role(s). Appropriate expertise may include, but is not limited to, the following: conservation partnership Technical Approval Authority, professional licensure, reputable vendor with applicable expertise and liability coverage, or other applicable credentials, training and/or expertise.

5.1 Staff Skills. A description of staff skills, training, or credentials; or a description of other means the District will use to insure projects meet the requirements of this policy and are installed and maintained according to the standards and specifications of the practice(s) must be included in the District's cost-share program policy.

5.2 BWSR Review. BWSR reserves the right to review the licensure and credentials of all technical staff selected by the District where appropriate.

6.0 Expenditure of Funds on Practices and Contracts

BWSR finds that the District Board of Supervisors has the authority and responsibility to approve expenditure of funds within their own organization.

6.1 Cost Share Contract. A contract between the District and land occupier(s) receiving state funds is required to provide a legal standing to insure practices are installed and maintained according to approved standards and specifications. The required contract can be found on the BWSR website. Land occupier means a person, corporation, or legal entity that holds title to or is in possession of land as an owner, lessee, tenant, or otherwise. If the land occupier is not the landowner, the application must also bear the landowner's signature.

a) **Contract Modifications.** Modifications to the contract may be made prior to execution and with prior approval from the District legal counsel and BWSR.

b) **Contract Amendments.** Changes to an executed contract are considered an amendment to the contract and subject to review and approval by the District Board. The required amendment form can be found on the BWSR website. Prior to approving an amendment, technical staff must attest that the amendment has merit. Amendments shall not be considered or approved after the end of the contract or after approval to issue final payment on the original contract has been made. Amendments are limited to changes in practice specifications, installation dates, land occupier information, practice components, or cost share rates and amounts.

c) **Group Projects.** Where the cooperation of several land occupiers is required for implementation of a project; and the land occupiers have agreed to the project, division of payments for the project, and signed a group project addendum to the cost-share contract; the District may enter into a contract with only the group spokesperson of the contract. A group project addendum form can be found on the BWSR website.

d) **Projects that Cross a District Boundary.** If a project involves land in more than one District, application for the entire project must be made to the District containing the majority of the project lands.

e) **Pooling cost-share allocation for joint projects.** District Boards may enter into an agreement to pool portions or all of their collective cost-share allocations to implement joint projects. Cooperative and joint projects may be undertaken to accomplish watershed-based resource management goals or other goals of mutual benefit as identified in the county's comprehensive local water plan or the District's comprehensive plan.

6.2 Contract Approval. District Boards must approve or deny the contract. The action taken must be documented in the District's meeting minutes. Approval of a contract is considered approval for expenditure of funds.

6.3 Projects where construction has begun prior to District Boards approval are ineligible for financial assistance.

6.4 Project Timeframe. District Boards have the authority to adopt timely starting and completion dates. Entering into a contract with a land owner must occur within the grant period. Completion dates can be no longer than two years after approval of the District Board. Projects not completed within this timeframe must be cancelled unless prior written approval of the State board has been received.

6.5 Canceled Projects. Funds from canceled projects or remaining from completed projects that did not use the full amount encumbered may be re-encumbered for projects as long as District Board approval occurs prior to the end of the grant period.

6.6 Removal of Practices. District Boards may authorize the removal of a practice installed under this program provided the land occupier can show good cause for removal of the practice and the purpose of the original practice has been achieved.

6.7 Delegation. District Boards may delegate signing contracts and supporting program documents to District staff. This delegation must be identified in the District's cost share program policy.

6.8 Recording Practices. The size, location, and effective life of the soil and water conservation practices that have received cost-share payments under this program equal to or in excess of $50,000 shall be recorded by the conservation district on the property title. Instructions and forms for recording practices can be found on the BWSR website.

7.0 Practice Sign-off and Payment

Prior to payment, technical staff must attest that the practice was properly installed and completed according to the plans and specifications, including technically-approved modifications, and that vouchers and receipts are accurate. Project costs for the purposes of determining cost share amounts include the materials and labor necessary to complete the project.

7.1 Reimbursement. Land occupiers must incur all expenses for project implementation and provide vouchers and invoices or copies of paid receipts to verify all expenses prior to requesting reimbursement. A payment voucher form is available on the BWSR website.

a) **Partial Payments.** Partial payments are allowed. Prior to authorization for partial payment, technical staff must attest to the District Board that the request for partial payment has merit, the payment request is equal to or less than the percent of construction that is complete, and that the project will still be completed within the contract timeline. Land occupiers not completing partially paid projects shall be considered as violating MN Rule, part 8400.1700 and shall be directed, unless otherwise authorized by the state board as provided elsewhere in this part, to return the up to one hundred fifty percent (150%) of the amount of financial assistance received. All expenses incurred to correct damage caused by the land occupier's failure to expeditiously complete the project must be borne by the land occupier.

b) **Service Charges.** District or Technical Service Area charges for services such as administration, field investigations, design, and monitoring to establish the practice shall not be included in calculating the project cost for purposes of determining cost-share payment amounts to the land occupier. Service charges such as tree planting or mechanical weed control are eligible to be included.

c) **Actual Cost Different Than Estimated Cost.** In cases where the actual cost of the practice exceeds the estimated cost, the district may only share the additional amount when an amendment to the cost share contract has been approved per policy 6.1. Where the actual cost is less than the estimated cost, the conservation district shall only share the approved percentage of the actual cost of the practice.

7.2 Project Review. After receiving a request for final reimbursement, technical staff must review for each project; the as-built plan, vouchers, and invoices or copies of paid receipts submitted by the land occupier for completion and technical approval.

7.3 Combining Funding Sources. Payment amounts from combined state and federal sources shall not exceed the maximum cost share rate set by the BWSR Board in Section 4.0 of this policy. Calculation of payment amounts does not include incentive payments.

7.4 Final Plans. One copy of the final approved plan must be given to the land occupier and one copy retained with the project file located in the conservation district office.

8.0 Post-Construction and Follow-Up Activities

Identifying operation and maintenance activities specific to the installed practices is critical to ongoing performance of installed practices as well as to planning and scheduling those activities. Scheduled site inspections by qualified staff are necessary to ensuring operation and maintenance has been taking place.

8.1 Operation and Maintenance Plan. Qualified technical staff must prepare an operation and maintenance plan specific to the practice and the site where it is located. The operation and

maintenance plan must detail the maintenance activities that are likely to be needed for practice and contributing watershed, specify how and when to accomplish them, and identify the inspection schedule. The plan should be prepared and reviewed with the land occupier before installation of the conservation practices begins.

8.2 Inspections. Qualified technical staff shall ensure that the operation and maintenance plan is being followed and the practices have not been altered or removed by conducting periodic site inspections. Inspections are to:

a) Verify that all components of the practice remain in place and are in good repair, and/or
b) Identify repairs necessary in accordance with the operation and maintenance plan; and/or
c) Identify further assessment or action necessary if necessary repairs are beyond the scope of the operation and maintenance plan (need cross-reference to non-compliance policy).

8.3 Failure to Maintain Practices. Should the land occupier fail to maintain the practices during their effective life according to the operation and maintenance plan, the land occupier is liable to the State of Minnesota for up to one hundred fifty percent (150%) of the financial assistance received to install and establish the practice as per MN Rule, part 8400.1700 as determined by the District board.

9.0 District Reporting Requirements

To ensure the continued success of the Erosion Control and Water Management Program, regular reporting of accomplishments and benefits is required. This reporting is accomplished through entries and documentation in eLINK. Guidance for reporting in eLINK is available on the BWSR website.

9.1 Annual Reporting. Districts must annually enter information on activities accomplished with the grant funding in eLINK. Reporting is required for grant fund expenditures from the prior calendar year and is to be completed by BWSR established reporting deadlines.

9.2 Grant Closeout Reporting. Within thirty (30) calendar days of the conclusion of each grant agreement or expenditure of all grant funds, Districts are required to provide the following to BWSR:

a) Entry of information on all projects completed with the grant funding in eLINK;
b) Signed Final Financial Report from eLINK;
c) Documentation of District Board approval of the Final Financial Report; and
d) Return any unspent funds as instructed on the Returned Check Form, found on the BWSR website.

9.3 Unencumbered Funds. Grant funds unencumbered by the District board after the grant period must be returned to the state board within thirty (30) calendar days following the end of that grant period.

9.4 Records Retention. Project files must be retained by the District pursuant to Minnesota Statutes, §138.17 and consistent with ongoing records retention schedules.

9.5 Non-compliance with Reporting Requirements. Any District that does not complete these requirements will not be eligible to receive funds from this program until all past reporting has been completed. Financial penalties on the grant recipient may be applied.

10.0 BWSR Program Monitoring, Closeout, and Penalty Procedures

10.1 Monitoring. BWSR will annually monitor all Districts reporting for compliance with reporting requirements of the Erosion Control and Water Management Program Policy above.

10.2 Closeout. BWSR will annually review a minimum of 10% of Districts and all grants that exceed $50,000 for compliance with contractual requirements of Erosion Control and Water Management Program grant agreements. Project files eligible for compliance review may include: land occupier contact information, contracts and amendments, bills and invoices, documentation of existing problems and priorities, design plans, operation and maintenance information, inspection schedule and implementation, payment documentation, District policies and pertinent communications related to the grant or projects.

10.3 Penalties. Grant penalties can be applied when it has been determined the conservation district is not in compliance with relevant statutes, rules, and state policies. Noncompliance is ranked by the degree of departure from recommended administrative procedures to violations of rules, statutes, or grant agreements. Penalties may include the district requiring a land occupier to return the cost-share funds received, the district repaying the State with non-state funds, and/or the district taking a yearly reduction in cost-share grant payments(s) until the violation amount is satisfied. Minnesota Statutes, §103C.401 establishes BWSR's obligation to assure program compliance.

a) All state base grants (State Cost Share, Easement Services, and General Services) for which funding is requested may be reduced by five percent if satisfactory comprehensive or annual plans are not received by the annual deadline, with an additional five percent reduction for each month late. No base grant funds will be allocated until a satisfactory plan is received.

b) If the state becomes aware of cases where a conservation district knowingly participates in accepting fraudulent receipts or invoices to calculate cost-share claims, the state may deny future cost-share funds for the conservation district.

11.0 District Cost Share Program Policies

The following items are recommended to be identified in local cost share program policies, either on a project-by-project or annual basis:

a) Identify or describe available staff skills, training, credentials, or other means the District will use to insure projects are installed and maintained according to standards and specifications (see policy 5.)
b) Set District cost share rates to be less than or equal to rates set by the State Board (see policy 4.)
c) Establish maximum flat rates for in-kind services and materials provided by land occupiers (see policy 4.)
d) Identify practice standards to be used for design, construction, operation, and maintenance (see policy 2.)
e) Set criteria for project selection, i.e. priority watershed or location, priority practices, recording practices, consideration of other activities in the area, etc. (see policy 6)
f) Establish a process and local policy for addressing cost-share contract noncompliance (see policy 6).
g) Other policies as necessary and applicable to the program.

Resolution # 11-14

Cost Share and RIM Reserve:
Adopt Draft Rule Amendments and Authorize Formal Rulemaking

WHEREAS, the Board of Water and Soil Resources is authorized by Minnesota Statutes 103C.501 to adopt rules to implement the Erosion Control and Water Management Program (Cost Share), and Minnesota Statutes 103F.531authorizes the Board to adopt rules governing the RIM Reserve Program; and

WHEREAS, a notice of request for comments on planned amendments to these rules governing the Erosion Control and Water Management Program (Cost Share) and the RIM Reserve Program was published in the State Register on June 21, 2010; and

WHEREAS, the BWSR Staff Cost Share Work Group has met beginning in March 2009 to:

- draft rule amendments,
- draft Erosion Control and Water Management Policy that accompanies the rule and is required to Minnesota Statutes 103C.501, and
- update the Statewide Program Manual that will guide program implementation by soil and water conservation districts; and

WHEREAS, soil and water conservation districts were notified of the proposed rule changes and new Policy on June 21, 2010 and November 2, 2010; and,

WHEREAS, the proposed rule includes changes necessary to:

i) Incorporating statutory changes that have occurred in the RIM Reserve Law (103F.505 to 103F.531);
ii) Reflecting statutory amendments enacted in 2009, including a directive to adopt Cost-share Program Policies (103C.501);
iii) Streamlining the administration to increase efficiencies for both SWCDs and BWSR;
iv) Respond to evolving resource management strategies by accommodating greater use of other Best Management Practices (BMPs) ; and
v) Improving the clarity of the permanent rule.

WHEREAS, the Board's Grants Program and Policy Committee met on December 16, 2009, June 8, 2010, and March 10, 2011 to review the draft rule, review the draft policy, provide direction to staff, and develop a recommendation regarding adoption of the rule for the Board consideration; and

WHEREAS, the RIM Reserve Management Planning Committee met on February 23, 2011 to review the draft rule, provide direction to staff, and develop a recommendation regarding adoption of the rule for the Board consideration.

NOW THEREFORE BE IT RESOLVED, the Board of Water and Soil Resources hereby adopts the draft Erosion Control and Water Management Program (Cost Share) and the RIM Reserve Program (Minn. Rule Chapter 8400) and Statement of Need and Reasonableness and authorizes staff to:

i) make minor grammatical, formatting, and reference changes to prepare the rule for publishing;
ii) seek approval from the Governor's Office to proceed with adopting the rule;
iii) submit the rule to the Revisor of Statutes for review and approval of the form of the rule; and
iv) complete the processes necessary to adopt the rule.

Brian Napstad, Chair

3/23/11
Date

COMMITTEE RECOMMENDATIONS

Grants Program & Policy Committee

1. Red River Basin Commission (RRBC) Work Plan Presentation – Lance Yohe, RRBC Executive Director

   FY '11 Red River Basin Commission Administrative Grant – Wayne Zellmer – ***DECISION ITEM***

2. Lake Protection Water Plan Challenge Grant – Jeff Hrubes - ***DECISION ITEM***

3. Voluntary Public Access and Habitat Incentive (Walk-in) Program – Tabor Hoek - ***DECISION ITEM***

Sharing a River

Three States...
One Province...
Two Countries...
ONE Red River Basin

RED RIVER BASIN COMMISSION

RED RIVER BASIN COMMISSION







VISION

A Red River Basin where residents, organizations, and governments work together to achieve basin-wide commitment to comprehensive integrated watershed stewardship and management.

MISSION

To create a comprehensive integrated basin-wide vision, to build consensus and commitment to the vision, and to speak with a unified voice for the Red River Basin.

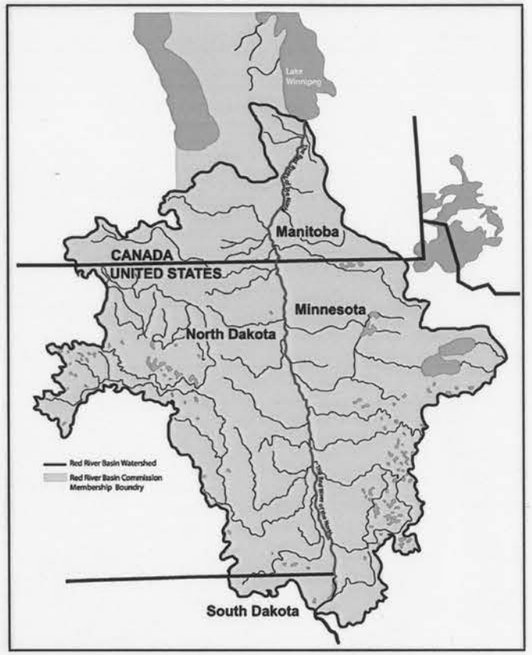
The Red River Basin Commission

...Bringing People Together to Move Common Basin Goals Forward

The Red River Basin is a special place and keeping it that way requires that people share the responsibility for its future. The RRBC has been bringing people together to move common Basin goals forward for over two decades.

The RRBC is a charitable, not-for-profit organization designed to help facilitate a cooperative approach to water management within the Basin and is a well-established forum for identifying, developing, and implementing solutions to cross-boundary issues.

The RRBC is led by 42 directors representing the diversity of this multi-jurisdictional Basin and is comprised of local, state, provincial, and First Nation government representation, the environmental community, and at-large members. It maintains offices in Moorhead, MN, and Winnipeg, MB, and is dedicated to innovation in the management of the Red River Basin's water resources.







Building a Basin Perspective

The Red River Basin

From its source at Lake Traverse in South Dakota, the mighty Red River flows north through North Dakota, Minnesota and Southern Manitoba to Lake Winnipeg, the 10th largest freshwater lake in the world. It meanders through the fertile, flat valley of the former glacial Lake Agassiz and covers 116,500km/45,000mi, excluding the Assiniboine River Basin, which joins the Red at Winnipeg. The Basin's unique topography contributes to the frequent flooding experienced by the communities in the Basin. Water quality and drought are also key concerns within the Basin.

These land and water resources are crucial to the health of our economies, the resilience and prosperity of our communities, the health of our fish and wildlife, and the well being, health and enjoyment of everyone who lives, works, and visits the Basin.

"Only by working together can we hope to achieve a vision for the Red River Basin that is not only accepted, but embraced and promoted by the basin citizens & governmental entities. This vision is too important not to be achieved."
Jon Evert,
RRBC Chair

RED RIVER BASIN COMMISSION





Working Together on Today's Challenges

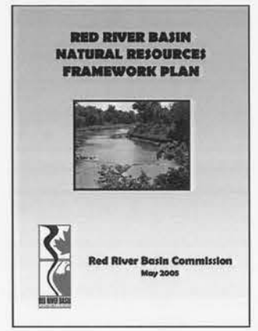
We Have a Plan

Through extensive basin-wide dialogue and consultation with citizens, land users, organizations, and governments, the RRBC developed the **Natural Resources Framework Plan (NRFP).** The NRFP was designed as a tool for moving the Basin forward in achieving common goals for water protection and management within the Basin.

The NRFP contains 13 goals. The first four focus on encouraging communication, research, and coordination across political jurisdictional boundaries. The remaining nine focus on improvements in water quality; water supply; flood damage reduction; drainage; conservation; and fish, wildlife, and outdoor recreation. The RRBC believes that if basin residents work together in dealing with land and water management challenges, we can maintain and improve the quality of life for present and future generations here in the Red River Basin.

The NRFP:

- Provides a framework for moving forward with a unified purpose and unified voice,
- Guides RRBC activities,
- Highlights how progress in numerous areas helps us to achieve overall goals,
- Helps track progress in the Basin and provides a mechanism for recognizing and celebrating successes, and
- Assists in the identification and rectification of gaps.



Basin Goals

Goal #1	**Manage by Watershed**: Manage natural resources in the RRB by watershed boundaries rather than political boundaries.
Goal #2	**Integration**: Integrate natural resource management.
Goal #3	**Data and Tools for Decision Makers**: Increase applied research and data management to support decision-making.
Goal #4	**Education/Information**: Improve stakeholder participation and awareness of land and water issues.
Goal #5	**Flood Forecasting**: Maintain state of the art flood forecasting tools for the Red River Basin.
Goal #6	**Flood Mitigation**: Reduce risk of flood damages for people, property and the environment in the mainstem floodplain and in tributary watersheds.
Goal #7	**Flood Response & Recovery**: Ensure that flood (natural disaster) response and recovery programs meet the needs of all RRB residents.
Goal #8	**Drainage**: Manage urban and agricultural drainage systems to enhance productivity while minimizing impacts to others.
Goal #9	**Water Quality**: Maintain, protect, and restore surface and ground water quality in the Red River Basin.
Goal #10	**Water Supply**: Ensure the appropriate use and sustainability of the Basin's surface and ground water.
Goal #11	**Conservation**: Increase soil conservation efforts within the Basin.
Goal #12	**Fish & Wildlife**: Conserve, manage, and restore diversity and viability of native fish and wildlife.
Goal #13	**Outdoor Recreation**: Enhance and develop recreational infrastructure and access to the Basin's natural resources.

Resolution of Support

To fully realize a collaborative, cooperative approach to land and water management in the Red River Basin, it must be a shared vision held not only by the RRBC, but also by those who live, work, and play within the Basin. Together, we will be able to best create the future we wish for future generations.

In 2007, the RRBC developed the Red River Basin Resolution of Support as a mechanism for gaining the support needed to achieve common goals for water protection and management within the Basin. The Resolution is a good-faith agreement acknowledging the need to work together across boundaries in a spirit of cooperation and friendship to achieve common goals for land and water management. The RRBC is seeking adoption of the Resolution of Support from all County Board of Commissioners, Rural Municipalities, Water Boards, Conservation Districts, and Cities in the Red River Basin. We have over 150 signed resolutions; that number continues to grow as communities all over the basin agree to do their part.

RRBC Board of Directors

MANITOBA
Municipalities
Hank Enns
Kurtiss Krasnesky
Doreen Negrich-Lozinski
Art Petkau
Cities
Jeff Browaty
R.S. "Bud" Oliver
Water Co-op
Sam Schellenberg
Environmental
Colleen Sklar
Provincial
Muriel Smith
Steven Topping
Dwight Williamson
At-large
Herm Martens

MINNESOTA
Counties
Jerry Dahl
Jon Evert
Cities
Hank Ludtke
Betty Pikop
Mark Voxland
Watersheds
John Finney
Daniel Wilkens
State
John Jaschke
Tom Landwehr
Environmental
Henry Van Offelen
At-large
Derek Crompton

NORTH DAKOTA
Counties
Joe Belford
Hetty Walker
Cities
Dick Johnson
Shane Walock
Bob Werkhoven
Watersheds
Tom Fischer
Ben Varnson
State
Dave Glatt
Todd Sando
Terry Steinwand
Environmental
Genevieve Thompson
At-large
Jake Gust

SOUTH DAKOTA
At-large
Roger Navratil

FIRST NATIONS/ TRIBAL
Melissa Hotain

Working together to achieve common goals for water protection and management within the Red River Basin.







29th Annual Red River Basin Land & Water International Summit Conference

January 24-26, 2012

Fort Garry Hotel
Winnipeg, MB

Offices

RRBC
119 S. 5th St.
PO Box 66
Moorhead, MN 56561
218-291-0422
Fax: 218-291-0438

RRBC
206-309 Hargrave St.
Winnipeg, MB
R3B 2J8
204-982-7250
Fax: 204-982-7255

Email: staff@redriverbasincommission.org

www.redriverbasincommission.org

LONG TERM FLOOD SOLUTIONS (LTFS) PROJECT
RED RIVER BASIN COMMISSION
2009-2011

The Red River basin floodwaters of 2009 barely receded as regional state lawmakers from Minnesota and North Dakota sponsored legislation with a combined $1 million appropriation and a corresponding charge for the Red River Basin Commission to work with stakeholders on developing a comprehensive plan to address flooding in our basin. State officials wanted all entities in the Red River basin to get on the same page and tell them what is needed to mitigate flooding and what resources are necessary. The RRBC Board of Directors quickly assembled a team of experts throughout the basin and developed a committee structure that would best help us in this important endeavor. We have been working diligently on formulating a plan, including recommendations for change, to present to the states this year.

RRBC began in mid-2009 with **engaging the public** to solicit their experiences with flooding, identify impediments to progress, and seek suggestions for tools and potential solutions. This was accomplished through three different methods:



1.) An extensive round of 21 public meetings with 1,000 attendees
2.) A public survey effort with hundreds of responses
3.) Inventories and project plans from watershed and water resource districts

The messages we received in this process will be a part of our overall final report, but, in summary, basin residents told us the following key points:

- Communication and coordination during flood events must improve.
- Funding and permitting obstacles are significant.
- Issues related to flooding must also be addressed such as water quality, erosion, sediments, sulfates, and drainage.
- Reforms must occur with government agencies and programs, especially the U.S. Army Corps of Engineers, FEMA, and the National Flood Insurance Program.
- Water must be stored to reduce flood flows.
- Flood mitigation projects should not adversely impact nearby communities and residents.

RRBC partnered with experts throughout the basin who share a common interest in finding ways to mitigate the effects of flooding and, with these partners, identified the issues that required progress. These expert partners were assigned to informal working groups based on the expertise they brought to the table. They rolled up their sleeves, dissected the issues and went to work formulating potential solutions and recommendations for state and federal officials.

The smaller work groups tackled the following topics laid out by the RRBC: higher standards in **floodplain management** ordinances and their application to reducing flood damages; identification of **impediments** to flood mitigation projects; current and ideal basin **governance**; **economic impact** of the basin region; subbasin **modeling, flow reduction strategies,** and proposed **water storage** potential; and development of new **funding** prospects for flood damage reduction projects.

Why Haven't We Made More Progress to Date?
Impediments to Advancing Flood Damage Reduction Initiatives in the Red River Basin

RRBC placed value on indentifying the impediments to progress in flood damage reduction early in the process so that we could better understand the challenges we need to overcome. By agreeing on the existing barriers to developing and implementing solutions to flood issues within the Red River Basin, we generated proposed strategies to address them.

- Much frustration exists with **agency bureaucracy** exacerbated by multiple district offices in the region.
- Red tape and delays with the **permitting process** impedes progress with projects.
- A shortage of on-going **funding** for potential projects is a big roadblock.
- **Inflexibility** with agency policies, standards, and regulations hinders advancement in the basin.
- **Local challenges and issues** can have the biggest impact on the progress of water management.

Proposed solutions to overcome these roadblocks include, among other things:

- The recent creation of the Red River Retention Authority to **streamline the federal permitting process** for the basin to minimize project delays.
- Ensuring the USACE has adequate resources to obtain and retain **sufficient personnel** so permit applications are processed in a timely manner.
- The permitting process may be expedited by **establishing and co-locating one USACE and one NRCS basin office**.
- We must find creative ways to answer the challenge of **expediting permits.** Perhaps the USACE could,a few times a year, offer sessions where its regulatory and environmental staff could make themselves available **for project sponsors to attend and meet with appropriate USACE staff** to discuss project permit concerns, information needs, and progress of their particular project .
- The reality of limited resources has triggered basin organizations to begin developing **prioritization and evaluation criteria** so as to use their scarce resources more effectively.

The Long Term Flood Solutions report to the 2011 state legislatures will address these impediments and roadblocks to progress.

Higher Standards in Floodplain Management

*RRBC is examining innovative and improved **floodplain management** practices that fit the basin's specific needs and look ahead for a minimum of 50-70 years.*

Floodplain management, the operation of a community program of **corrective and preventative measures for reducing flood damage**, takes a variety of forms and generally includes requirements for zoning, subdivision or building, and special-purpose floodplain ordinances. Agreement by communities to adopt and enforce floodplain management ordinances, particularly with respect to new construction, is a key element in making flood insurance available to home and business owners.

RRBC is considering what recommendations may be made related to standards that are higher than the FEMA minimum, with the goal of promoting and ensuring sound land use development in floodplain areas to further promote the safety of the public, minimize loss of life, and reduce economic losses caused by flood damages.

"Floods do not cause damage or suffering. Our decisions about where to live, work, and play are the cause. By anticipating the flooding process and planning our development accordingly, we can begin to effect change. Instead of controlling the water, we should control how and where we allow human activities to adversely affect it."

Association of State Floodplain Managers

Basin Wide Flood Flow Reduction Strategy

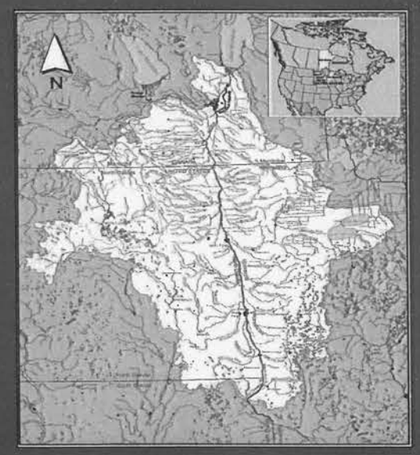
Flood damage reduction efforts often focus on individual communities or interests and **take the form of a protection strategy. Commonly** implemented protection measures include levees and diversion channels. While these measures are effective and can be implemented in a relatively short time frame, they do little to reduce the overall flood problem. In fact, they simply move excess flood water from one area of the basin to another. This forces basin planners to allocate protection on some basis of need, thereby determining in essence whether it is acceptable to protect large communities at the expense of small; small communities at the expense of farmsteads; farmsteads at the expense of farmland.

The primary alternative to this approach is a flood flow reduction strategy to reduce flows on the mainstem by altering the hydrology of the contributing watersheds as a basin wide effort. The benefits of reduced flooding would be distributed along the entire length of the mainstem, not just targeted communities. Equally important, the benefits would extend far upstream into the tributary watersheds. RRBC has developed a mainstem model which can now be used to simulate the mainstem response to reduced flows from tributary areas.

The tributary flows were reduced in the model to meet a preliminary goal of 20 percent along the entire length of the Red River. A factor in selecting this level as an initial goal was the effect it would have had at Grand Forks in 1997. That amount would have reduced the flood to a level that the (then existing) levees would have been expected to withstand. The subwatersheds have been assigned a target reduction to achieve the overall goal and have identified feasible locations for water retention projects which will be identified in the RRBC's final report. Approximately 1 million acre feet of peak flow storage in the basin would provide a 20 percent reduction in flows at the international boundary. Manitoba is funding efforts for additional modeling on that side equal to the U.S. portion of the basin.

Governance in the Red River Basin

The LTFS project is breaking new ground in the Red River basin. The geographical position of the basin and jurisdictional challenges pose many hurdles to progress and success on water and flood mitigation issues. Coordination and cooperation must occur among two countries, one province, three states, numerous counties, cities, municipalities, soil and water boards, water boards, conservation districts, and townships all with their own prerogatives and agendas. We strive to work around political boundaries to respect hydrologic boundaries. Basin stakeholders work with a patchwork of authorities, both with and without taxing authority, that struggle to find necessary resources to fund progress. State and provincial governments are limited to primarily working within their own jurisdictional boundaries. More than 20 federal agencies operate within the basin in Canada and the U.S., with some federal agencies in the U.S. having multiple agency regions divided up in the basin with the Red River mainstem often the boundary. International treaties and Western Water law differences also pose challenges to solutions on flooding.



The new ***Red River Retention Authority*** created in 2010 to forge ahead in water retention projects and other related issues, is a product of the scrutiny given to governance structures in the basin. Leaders will further identify basin-wide opportunities to break through this multitude of boundaries that often hinder progress towards flood damage reduction and other water management efforts.

ECONOMIC IMPACT OF THE RED RIVER BASIN REGION

To demonstrate to state and federal public officials that this region has much to protect and that investing public dollars into flood damage reduction efforts will pay dividends, RRBC sought to illustrate the significance, and diversity of the impact of the regional economy in the basin on the U.S. side. The Red River Basin region is home to a vibrant population, offers jobs and educational opportunities, and is an agriculture hub that generates impressive economic output for its states and the nation. The economies of the two largest cities in the U.S. portion of the Red River Basin, both border communities, are diverse and strong. This position has resulted in a less severe impact from the recent recession and related economic downturn than many areas of the country and the world.

RRBC established the following guiding principles so that participants approached these challenges with the same premises. As they were developed, we kept the public input in mind: solutions be comprehensive, avoid adverse impacts, be multipurpose when feasible, and subject to evaluation so that we are held accountable.

COMPREHENSIVE, BASIN-WIDE PROTECTION

Principle 1: The **Comprehensive Long Term Flood Solutions plan** developed by the RRBC, in partnership with the Red River Water Management Board (RRWMB), the Red River Joint Water Resource District Board (RRJWRDB), and Manitoba interests, should be the framework for federal, state, provincial, and local agencies and jurisdictions to implement those components of the plan that fall within their authorities, jurisdictions and capabilities. The Plan will consider both existing and potential future development needs throughout the basin.

Principle 2: **Levels of flood protection goals** for the Red River Basin are essential to a strategic and comprehensive approach to reduce the risk of flooding and flood damages throughout the Red River Basin so that basin residents have a more safe and secure place to live and contribute to the economic well-being of the region, North Dakota, South Dakota, Minnesota, Manitoba, the United States and Canada. The Level of Flood Protection goals provide a long term vision and guidelines of what is needed for the basin.

Principle 3: A comprehensive **basin approach** is critical to long-term success in reducing flood damages throughout the basin. The basin approach uses all appropriate measures to reduce or prevent flood damages including levees, diversions, upstream storage, floodplain regulations and zoning, flood insurance, buyouts and other structural and non-structural measures.

Principle 4: **Floodplain regulations and zoning** throughout the Red River basin should be uniform and effectively implemented and enforced by appropriate federal, state, provincial and local governments.

Principle 5: **Goals for the reduction in flood flows** throughout the basin are essential to determining the locations, size and operation of upstream water storage.

UPSTREAM STORAGE, MULTIPLE PURPOSES, ADVERSE IMPACTS

Principle 6: Controlling the volume and timing of runoff is the primary component of a comprehensive approach to reducing flood damages. This can be accomplished through a variety of measures that systematically detain and **reduce runoff rate and volume** so that peak flows are reduced.

Principle 7: Components of the Long Term Flood Solutions plan will incorporate **multiple purposes** whenever possible consistent with the goals of the RRBC's Natural Resources Framework Plan.

Principle 8: Components of the Long Term Flood Solutions plan should avoid, minimize, or mitigate **adverse impacts.**

COST-EFFECTIVENESS, CROSS-JURISDICTIONAL, PRIORITIZATION, EVALUATION, SHARED RESPONSIBILITIES

Principle 9: **Cost effectiveness** is an important measure of the value of the components of an LTFS plan. However, cost-effectiveness is only one of many considerations in judging the overall merits of a plan. Other important factors include loss of life, quality of life, economic viability and social considerations.

Principle 10: The RRBC will **facilitate cross-jurisdictional partnerships** for the implementation of LTFS plan and will also assist in the resolution of conflicts associated with the plan.

Principle 11: **Evaluation and prioritization** of projects and components of the Long Term Flood Solutions plan will be facilitated by the Red River Basin Commission in conjunction with basin stakeholders.

Principle 12: Progress to achieve the LTFS plan goals and objectives should be **measured and evaluated**. The RRBC mission will report the outcomes of implementing the plan on an annual basis.

Principle 13: Basin residents, organizations and agencies at the local, state, provincial and federal levels must have a **shared responsibility and commitment** to successfully implement the plan.

January 2011

Send us your input!
Have questions?
CONTACT US

Red River Basin Commission
Phone: U.S. 218.291.0422 Canada: 204.982.7250
staff@redriverbasincommission.org
www.redriverbasincommission.org

RED RIVER BASIN COMMISSION

The **Red River Basin Commission (RRBC)** is made up of residents, organizations and governments working together to achieve basin-wide commitment to comprehensive integrated watershed stewardship and management. RRBC is unique because it covers more than 55,000 square miles in three states (Minnesota, North Dakota, and South Dakota), two countries, and the province of Manitoba.

Basin Initiatives

□ RRBC has created a **Natural Resource Framework Plan** (NRFP) that identifies 13 basin-wide goals that basin residents and leaders have identified as significant. Over half of the local units of government in have agreed to work together to address these basin goals. RRBC works with local, state, provincial, and federal levels of government to help achieve these goals.

□ **Flood Mitigation**: Answering a charge from the Minnesota and North Dakota State Legislatures, RRBC is working to identify **Long Term Flood Solutions** that will provide recommendations to state/provincial government on how to enact basin flood solutions with minimum or no impact on others.

✓ This will include a basin wide strategy of flow reductions on the Red River.
✓ It will assist with the initial planning of retention options in subwatersheds that will have beneficial local and basin impact.
✓ It will identify strategies for better flood plain management.
✓ It will link local mainstem efforts to protect population centers to upstream storage that will reduce downstream impacts.
✓ We are actively partnering with the local watershed districts up and down the valley in updating their modeling to help in identifying potential, viable storage sites for water retention to reduce flood flows.

Furthermore, the RRBC is facilitating discussion to address potential adverse impacts on communities north and south of Fargo/Moorhead that may be impacted by a flood diversion project for the Fargo-Moorhead metro area.

Our local legislators have been very involved in our efforts as has the Minnesota Congressional delegation in the Red River Basin. Three of our board members are from Minnesota state agencies: BWSR, MPCA, and DNR and also actively engage in our initiatives.

WHAT IS THE RRBC?

RRBC has a basin–wide focus towards more uniform/consistent policies and laws for water and related land issues in the Red River Basin of the North. Individual watershed districts/joint water resources boards/states/province are our partners.

□ **We assist Minnesota (MN), North** Dakota (ND), South Dakota (SD), and Manitoba (MB) agencies in working together on issues ***across their political boundaries***, whereas agency mandates often deal with issues in that state or province only.

□ **We offer a mechanism not only to** plan, but to ***act and work toward goals that benefit everyone in the basin***.

□ **The RRBC approach helps to** facilitate Minnesota, North Dakota, South Dakota and Manitoba to work together on things between two countries without the additional steps and efforts of navigating the U.S. State Department and Foreign Affairs.

□ **Forecasting Initiative:**
RRBC has partnered with federal/state flood prediction agencies to create a uniform approach to measuring precipitation, real time information, and sharing of data from rain and snow precipitation measurements throughout the basin, so that flood forecasting can be more accurate.

Water Supply: RRBC is working now to create a cooperative **water supply** agreement between Minnesota, North Dakota, South Dakota and Manitoba to share Red River water in an extended drought.

✓ Most of the basin population relies on the Red River (and tributaries) as their primary source of drinking water.
✓ There is no agreement between the jurisdictions (MN, ND, SD, and MB) on how to share water during and extended drought. This means that in an extended drought the potential for conflict and lawsuits is very high. RRBC is working on a **cooperative agreement** between the jurisdictions.
✓ At this time each major city has a drought plan and each state and the province has drought strategies.
✓ At this time Minnesota operates under different water laws than North Dakota, South Dakota, and Manitoba---regulating how water is appropriated, used, and conserved.
✓ RRBC is also working on a conservation strategy for the public that goes beyond traditional approaches.

□ **Water Quality:** RRBC is working on a water quality approach between the jurisdictions that could lead to a water quality compact. This is being done consistent with the International Boundary Waters Treaty between the US and Canada, while recognizing the differences in water quality standard and monitoring strategies.

□ **Land Conservation:** RRBC worked to get the Red River Basin listed in the current U.S. Farm Bill under a federal program called Agricultural Water Enhancement Program (AWEP). During the first year of the program, $4.38 million dollars of federal funds were available in Minnesota and North Dakota for local and state cost sharing on farmstead ring dikes. This is the first time federal funds have been available for this type of activity in the Red River Basin. We are optimistic for second year of funding to continue those projects as well as assist with water quality and water retention projects.



State Funding: The initial Governor's budget had proposed eliminating the appropriation for the RRBC through BWSR. BWSR Executive Director John Jaschke serves on our board of directors and knows first hand the value of Commissions efforts address the multi jurisdictional policies, rules and laws in the Red River Basin. However, the state of North Dakota and the province of Manitoba have recently communicated the need and the funding leverage the $100,000 base appropriation in Minnesota provides, so now the funding is back on the table this legislative session. A funding reduction risks the matching funds from North Dakota; Manitoba; and local water management organizations in Minnesota, North Dakota and Manitoba which each contribute $100,000 a year for the RRBC. A reduction also leaves the states, Manitoba, and the local contributors with the perspective that the state of Minnesota is really NOT committed to a uniform and united basin approach to water resources management. Furthermore, according to the National Weather Service, there is a **very real potential for flooding again this year, at least 50 percent chance for a major flood**. It seems counter productive to continue to reduce funding and reduce the basins multiple coordination and policy consensus development efforts. ***The steady reduction or elimination of Minnesota's financial contribution could unravel the entire funding structure with the other governments and put in jeopardy the important basin-wide work that only the RRBC provides.***

RED RIVER BASIN COMMISSION

The Red River Basin Commission (RRBC) is a group of people working together to achieve common goals for water protection and management within the Red River Basin.

119 S. 5th St. ○ PO Box 66 ○ Moorhead, MN 56561 ○ 218-291-0422

www.redriverbasincommission.org

Flood Status Report
Red River Basin Commission
Latest Update: March 18, 2011

The following reports are from community leaders in the Red River Basin and have been compiled over the last couple of days. Further updates will be weekly.
Updates will change to daily as flood mitigation activity increases.

Received responses for March 18th update:

U.S. Portion of Basin:

Snow Water Equivalent Map (3/18/11)
Change in Modeled Snow Water Equivalent 24 hours preceding 3/18/11
Bois de Sioux Watershed Snow Survey Record
Red Lake Watershed District Snow Survey
Two Rivers Watershed District Snow Survey
National Weather Service-March 17, 2011 Update
Army Corp of Engineers Update
Army Corp of Engineers FAQ - page 4 & 5

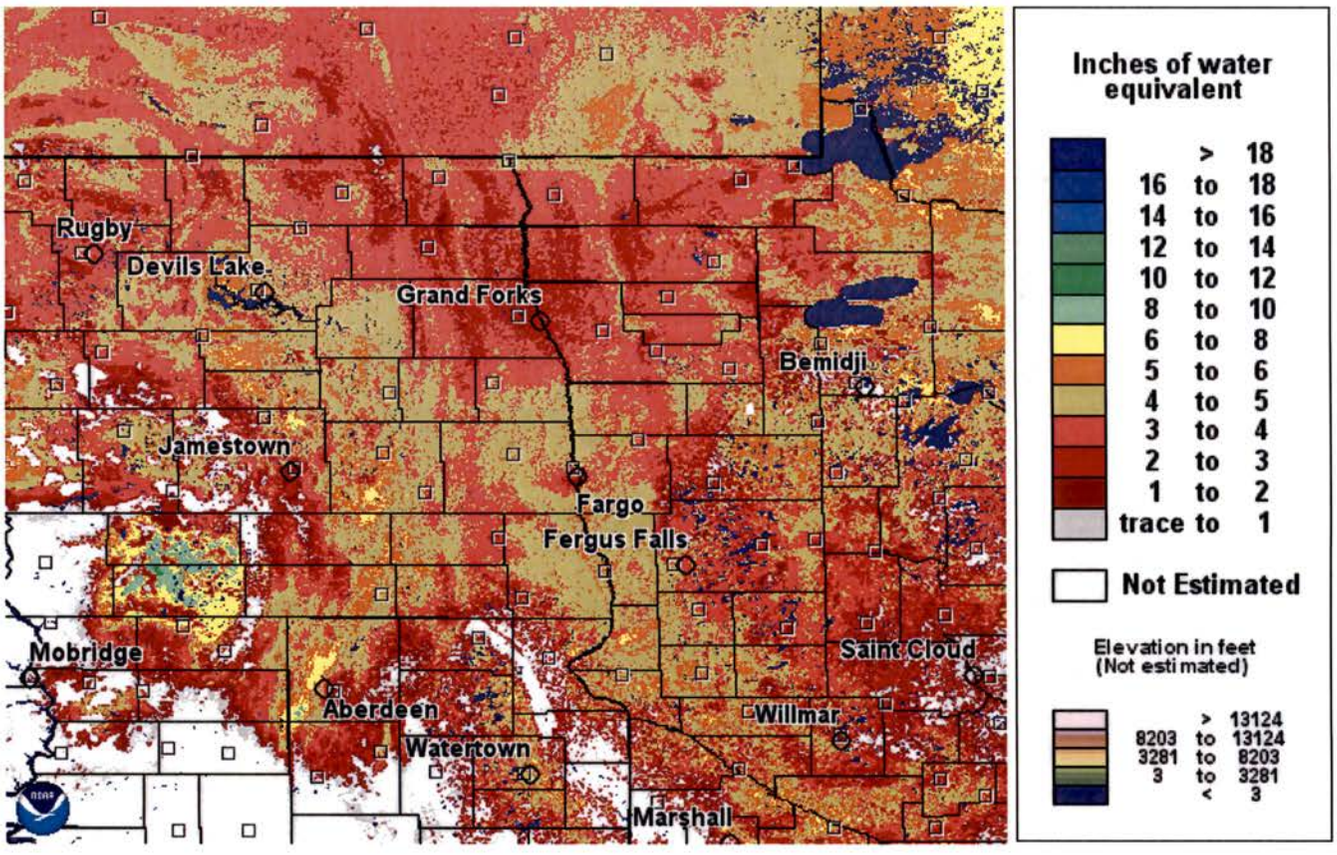
Canadian Portion of Basin:

RM of St. Andrews Update
RM of East St. Paul
RM of DeSalaberry
North Red Maintenance Corporation
Information from the Province of Manitoba

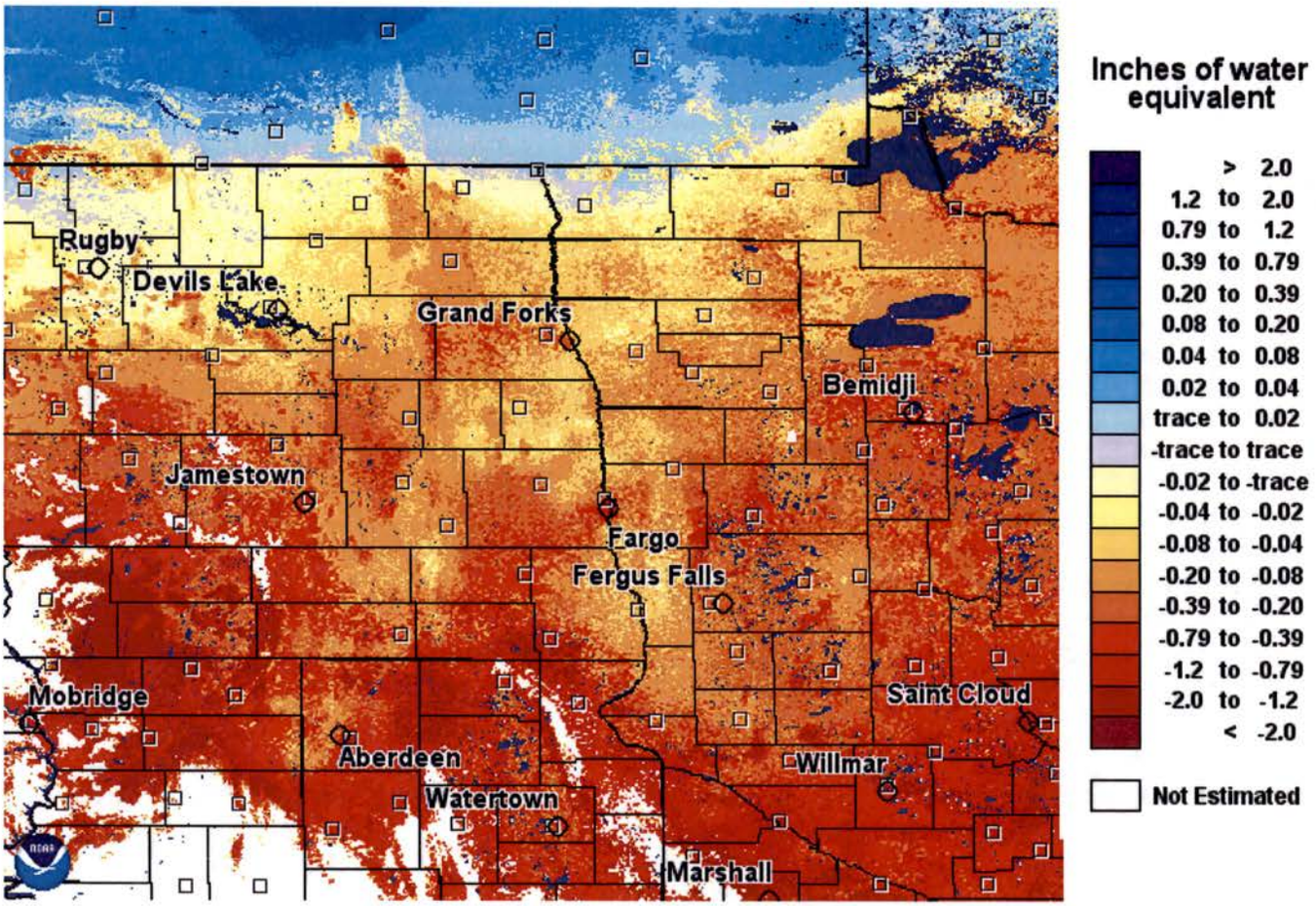
North Dakota

Communities are continuing to plan/construct emergency protection for the upcoming flood. Sandbags are being filled in several communities. The National Guard, Corps of Engineers, and many other agencies are also preparing for the flood fight.

Snow Water Equivalent Map for March 18, 2011



Change in Modeled Snow Water Equivalent 24 hours preceding 3/18/11



Minnesota

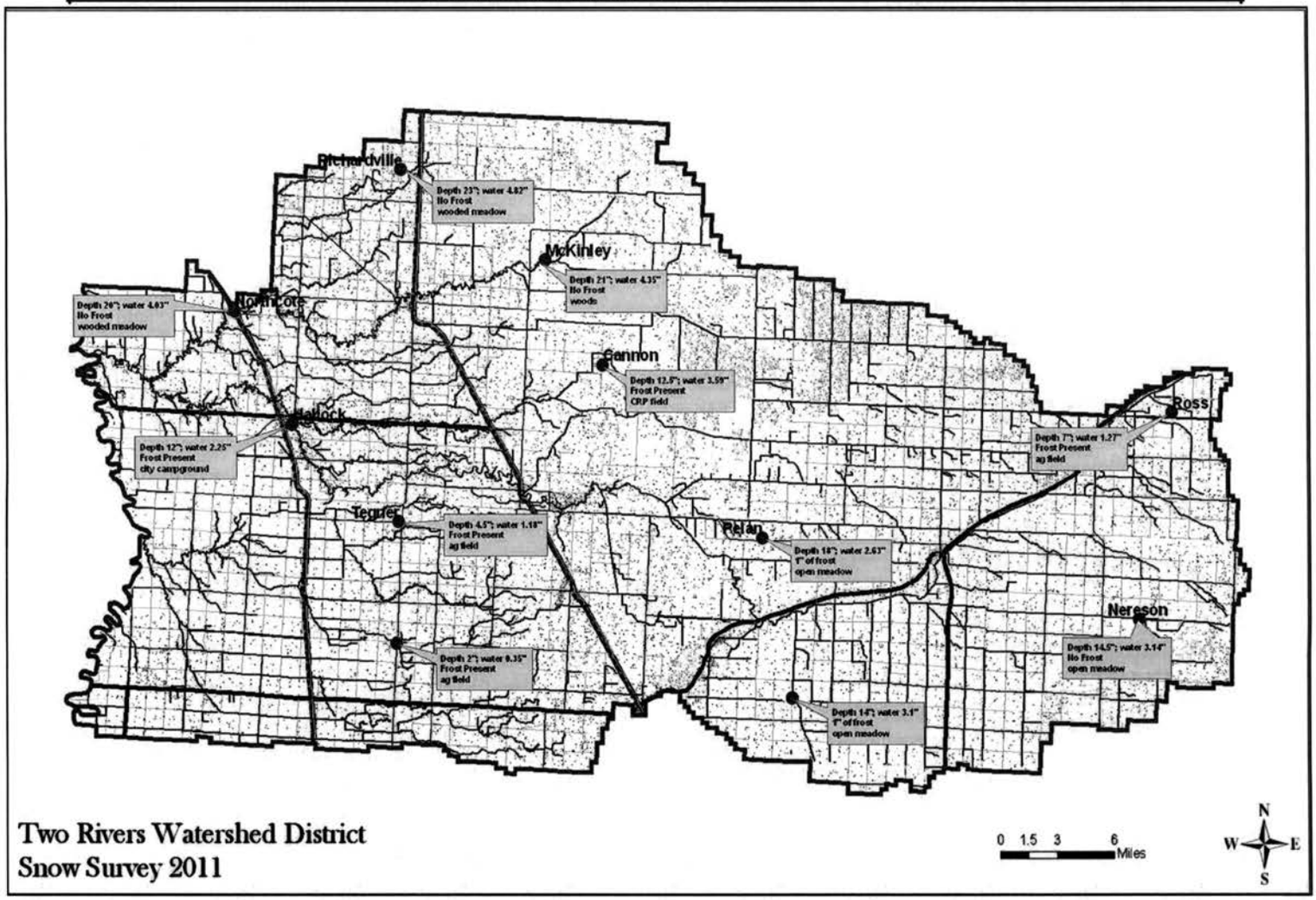
Bois de Sioux Watershed

Snow Survey Record

	January 8, 2011		February 16, 2011		March 3, 2011		March 14, 2011	
	Snow Depth, in.	Moisture Content, in.	Snow Depth, in.	Moisture Content, in.	Snow Depth, in.	Moisture Content, in.	Snow Depth, in.	Moisture Content, in.
Gage 5	16.70	1.97	16.00	3.68	16.80	6.90	17.00	4.50
Gage 16	8.50	2.60	14.00	3.19	17.00	4.25	15.50	4.35
Gasge 23	13.70	3.31	14.00	5.35	22.00	4.54	12.50	3.15
Gage 32	16.00	1.30	7.50	3.21	12.00	2.90	10.25	2.50
Gage 34	11.00	1.93	16.00	4.52	18.00	4.63	20.00	4.90
Larry Schneeberger					12.60	3.50	11.50	3.72
Elbow Lake Town Hall					13.00	4.71	17.00	5.30
N end Ash Lake					16.80	5.47	20.00	4.20

Red Lake Watershed District—2011 Snow Survey Data

For week ending - Saturday - March 19, 2011				
			Snow Depth	Moist. Content
Site #	Date	Site Name	(in.)	(in.)
1	3/16/2011	Elm Lake Impoundment	12.80	3.11
		Br. #200 - JD #11 Watershed	NO FROST	
2	3/16/2011	Moose R. Impoundment (South Pool)	13.30	3.14
		Mud R. (JD #11) Watershed	NO FROST	
3	3/16/2011	Moose R. Impoundment (North Pool)	13.20	3.14
		Moose R. (JD #21) watershed	NO FROST	
4	3/16/2011	Good Lake Impoundment	14.15	2.99
		Red Lake R. Watershed	NO FROST	
5	3/16/2011	Pine Lake	11.40	3.51
		Lost R. Watershed	NO FROST	
6	3/17/2011	Pennington Co. - Sanders Twp. Sec. 20	14.00	2.97
		Black River Watershed	NO FROST	
7	3/17/2011	Penn. Co. - Polk Centre Twp. Sec. 14	14.00	3.31
		Black River Watershed	NO FROST	
8	3/16/2011	Red Lk. Co.- Emardville Twp. Sec. 8	8.90	3.41
site #8 added in 2010		T151N, R42W - Clearwater R. Watershed	NO FROST	
		Lat. - 47.90687 Lon. - 96.06483		
	3/14/2011	Data by - USF&WS - Agassiz NWR	15.00	3.57
		Marshall Co. - T-156-N R-42-W		
		past week day temps = 30's & 40's		



National Weather Service—March 17, 2011 Update

LATEST ANALYSIS:

WITH THE RECENT WARM WEATHER...SNOW DEPTHS HAVE SHRUNK ACROSS THE RED RIVER BASIN AND THE SNOWPACK CONTINUES TO WARM AND TO BECOME MORE DENSE. AS THE SNOWPACK WARMS YET TODAY...LARGER AREAS OF MELT WILL BE EVIDENT...ESPECIALLY IN AREAS OF SHALLOWER SNOW DEPTH IN THE NORTHERN HALF OF THE RED RIVER BASIN FROM HILLSBORO TOWARDS DRAYTON AND IN HIGHER ELEVATION AREAS ALONG THE RED RIVER BASIN FRINGE EAST OF FERGUS FALLS AND SOUTHWEST OF LIDGERWOOD.

SNOWPACK TEMPERATURES IN SOUTHEASTERN NORTH DAKOTA ARE NEAR THE MELT/FREEZE POINT SOUTH OF OAKES TO ENDERLIN AND THEN ON TO THE ND/SD/MN BORDER AREA. OTHERWISE...EASTERN ND SNOWPACK TEMPERATURES ARE STILL BELOW FREEZING BUT HAVE WARMED TO THE MIDDLE TO UPPER 20S. SNOWPACK TEMPERATURES HAVE WARMED TO THE MELTING POINT IN THE LAKES AREA OF WEST CENTRAL MINNESOTA...SOUTH AND EAST OF FERGUS FALLS... AND ALSO IN THE MORE FORESTED AREAS OF NORTHWEST MINNESOTA NORTH AND EAST OF FERGUS FALLS TO MAHNOMEN AND ON TO THE RED LAKES. OTHERWISE MINNESOTA SNOWPACK TEMPERATURES IN NORTHWESTERN MINNESOTA WERE IN THE UPPER 20`S.

SNOW WATER EQUIVALENTS...SWE...HAVE DIMINISHED A BIT WITH THE WARM WEATHER AND RANGE GENERALLY FROM 3 TO 5 INCHES SOUTH OF CANDO ND TO PORTLAND-MAYVILLE ND AND ON TO FERGUS FALLS MN. OTHERWISE...THE SWE VALUES RANGE FROM ONE TO THREE INCHES IN THE NORTHEASTERN NORTH DAKOTA AND NORTHWESTERN AND WEST CENTRAL MINNESOTA SNOWPACK.

WITH THE RECENT WARMER WEATHER THERE HAVE BEEN SOME GENTLE RISES OF LESS THAN A FOOT OR TWO ON MANY RED RIVER TRIBUTARY LOCATIONS. WITH THE ANTICIPATED COOL DOWN...THESE RISES SHOULD DIMINISH OR STOP UNTIL THE NEXT SIGNIFICANT WARM UP. MOST OF THE TRIBUTARIES AND THE MAINSTEM RED STILL REMAIN ICE COVERED. CONSEQUENTLY...ICE JAM FLOODING MAY OCCUR FROM NOW UNTIL THE RIVERS BECOME ICE FREE.

Army Corp of Engineers Update

Baldhill Dam and Lake Ashtabula is holding at its maximum drawdown elevation of 1257 feet.

Homme Dam and Reservoir began the final phase of its drawdown on Monday.

Lake Traverse is 0.7 feet above its maximum drawdown elevation and Mud Lake has been drawn down two feet.

Orwell Dam is 0.7 feet above its maximum drawdown elevation.

Flood Fight FAQs

U.S. ARMY CORPS OF ENGINEERS **BUILDING STRONG®**

ST. PAUL DISTRICT
March 28, 2011
MVP-PA-2011-028

Q: If the Mississippi River is going to flood, how come the Corps of Engineers doesn't use the locks and dams to draw down the river before the flood?

A: The locks and dams on the Mississippi River cannot be drawn down before a flood for two reasons. First, doing so would not result in lowering flood elevations. The pools created by the locks and dams do not contain sufficient storage capacity to accommodate flooding events. Even if each pool were to be completely emptied, it would take only a matter of hours to refill them. The second reason is that it is illegal. The Anti-Drawdown Law of 1934 directs the Corps to operate the pool levels year round for navigation. The reason for this law is to protect the environment.

The Mississippi locks and dams were built for navigation. When the water is high enough for vessels to operate on the Mississippi River without the channel, the gates on the dams between the piers are raised completely out of the water so that the river flows free as an open river.

Q: How come the Corps of Engineers still releases water from its Red River of the North reservoirs during a flood?

A: To prepare for spring floods, the district draws down each of its Red River reservoirs during the winter. However, a reservoir is similar in operation to a bathtub. If the amount of water entering the reservoir from the basin is greater than the amount of storage available, the reservoir fills up. Once the reservoir is full, all additional water is passed on downstream potentially resulting in even more severe flooding. Our goal is to have the reservoir full by the end of the flood not in the middle. If it fills up in the middle than the peak inflow is passed on to downstream communities – by releasing during the flood, the peak outflow can be kept lower.

Q: Does the Corps of Engineers maintain all of the levees across the U.S.?

A. Nationwide, the Corps of Engineers monitors about 14,000 miles of levees. There are more than 100,000 miles of non-federal levees across the country. The St. Paul District monitors 165 miles of federally constructed and 15 miles of non-federally constructed levees. The Corps inspects these systems annually to identify maintenance deficiencies and operational problems as part of its Inspection of Completed Works program.

Q: How come the Corps of Engineers has to build emergency levees in the Fargo-Moorhead area each year? Why not leave the levees up, so the government doesn't have to rebuild them year after year?

A. Fargo, N.D., and Moorhead, Minn., do not have permanent flood damages reduction project that other cities, such as Minnesota's St. Paul and Rochester, have. The levees the Corps builds in these cities before a flood fight are temporary and emergency in nature. They are not built to the same engineering standards that a permanent levee would be built to. Further, when a community requests these emergency levees be built, they agree to take them out after the threat has passed. The purpose in this is to prevent communities from feeling secure behind an emergency levee built in haste.

-30-

Flood Fight FAQs

U.S. ARMY CORPS OF ENGINEERS **BUILDING STRONG**

ST. PAUL DISTRICT
March 14, 2011
MVP-PA-2011-029

Q: What does a "100-year flood" mean?

A: The term "100-year flood" is often used as an attempt to simplify the definition of a flood that statistically has a 1-percent chance of occurring in any given year. Likewise, the term "100-year storm" is used to define a rainfall event that statistically has the same 1-percent chance of occurring. In other words, during the course of 1 million years, these events would be expected to occur 10,000 times. Just because it rained 10 inches in one day last year doesn't mean it can't rain 10 inches in one day again this year. (USGS)

Q: What is meant by the term "flood stage"?

A: The National Weather Service, based on the desires of the local community, establishes the "flood stage" gauge height for any given community. The flood stage gauge height is often the stage where damages begin to occur. Many communities desire to use the flood stage gauge height as an early warning alert, prior to the onset of significant damages. Significant damages may not occur until river levels are several feet above flood stage. Additionally, conditions along some rivers may have changed since the gauge and flood stages were established and reaching the flood stage may or may not result in actual damages. Again, stages are site-specific, so feet above flood stage at one location can't be compared to another.

Q: What is meant by the term "river stage"?

A: A site-specific measurement of river-level referenced as the height in feet above a designated zero reference point, called the gauge zero, at the site. The zero reference point is sometimes, but not always, chosen as the elevation of the river bottom. Normally, stage values are always positive. Drought conditions could cause the river level to fall below gauge zero, and the stage reading at that time would be negative. Since each gauge was established independently at each location, the stage reading is good for that location only and cannot be compared to other locations. For example, a stage of 30 feet at Fargo, N.D., cannot be compared to a stage of 30 feet at Grand Forks, N.D. The only way direct comparisons between two gauges can be made is by converting river stage to elevation by adding the stage to the gauge zero elevation.

Q: What can the Corps of Engineers do to assist *before* and *during* a flood?

A. When all available local/state resources have been exhausted, the Corps can provide flood fighting supplies, such as sandbags and polyethylene, as well as contingency planning support, technical assistance and emergency, temporary levee construction. A governor's request must be made to engage Corps resources. Ultimately, the Corps is there to SUPPORT local communities and not lead the flood fight.

-30-

Province of Manitoba

RM of St. Andrews

March 8th, 2011 – Council Meeting in which the Emergency Coordinator Darcy Hardman to be present and report and update to Council on the Flood Plan
-CAO presented that they are in a state of Prepardness, we have identified most of the sites and reviewed the type of mitigation methods that will be used.
-We are still going to require sandbags so we have employed our summer public works staff to start the process
-Preparing to open the Emergency Operations Center around March 21
March 12th, 2011 – tentative date for tubing of the creek area – date backed up due to weather
March 14th, 2011 – Province has provided a surveyor to aid the municipality in acquiring elevation levels.
The Province has provided flood protection levels, in the area of River Road and Elm Street to be 744' which would allow for 2' of freeboard. All other areas along the river should protect to this level. Further information will be provided on Netley Creek and Lake Winnipeg.

RM of East St. Paul

The Municipality has heeded the Province's warnings and has dedicated the staff and resources necessary to combat potentially high river levels and overland flooding this spring. Equipment and supplies are in place to begin ditch clearing, culvert steaming and sandbag assembly as soon as conditions allow. We are acquiring the materials required for dike construction and have been meeting with home owners in threatened areas to coordinate construction efforts. Council has also approved additional funding for preparedness efforts and to assist homeowners with backwater valve installation.

RM of DeSalaberry

SPRINGTIME FARM LAND FLOODING POLICY - The following will be the springtime snow ditching policy:
Firstly, the municipality agrees to open up ice and snow in drainage ditches during spring runoff to prevent possible threat to residences and buildings only; Secondly, in the event that there is a possibility of municipal road washouts; Thirdly, in the event that there is a threat to livestock; Fourthly, the municipality will not normally undertake any ditching to drain farm/agricultural land, such as seeded or unseeded fields, unless by council decision. Resolution No. 174-08
SANDBAG DISTRIBUTION - The municipality will maintain a good stock of empty sandbags and will sell these sandbags at cost to ratepayers that require them. The ratepayer is also responsible in ordering and purchasing their own sand and delivered to their residence and to have them filled by themselves. Upon declaration of Disaster Financial Assistance, the ratepayer may get reimbursed for these costs.

March 11, 2011

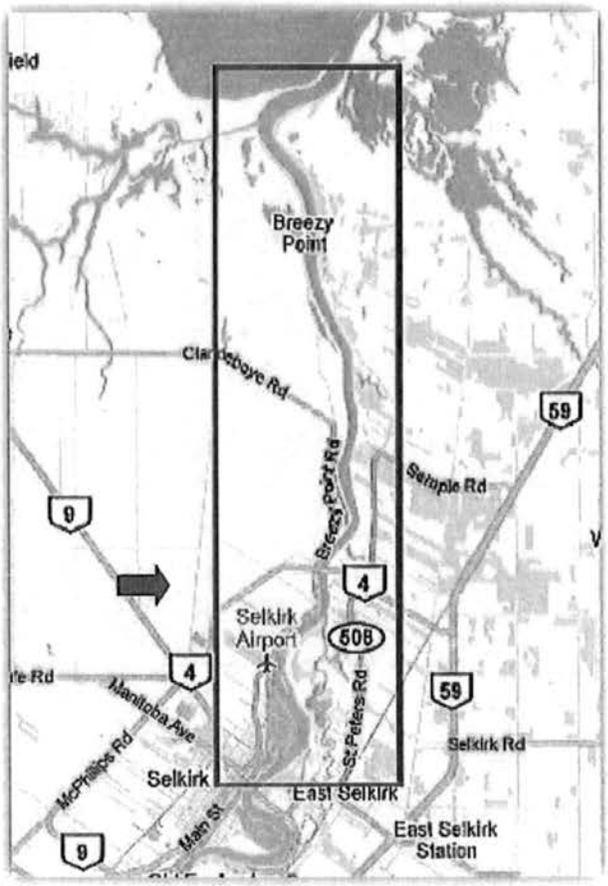
PROVINCE INSPECTS, REINFORCES OVER 70 KILOMETRES OF ASSINIBOINE RIVER DIKES

Manitoba Infrastructure and Transportation advises that work will begin this week reinforcing and raising earthen dikes along approximately 70 km of the Assiniboine River from Portage la Prairie to just west of Headingley.
The upgrading of the permanent dikes is being done to protect people and property from potential floods that may reach levels similar to those of the 1976 Assiniboine River flood.
Many of the dikes are on private land so the province is asking for the co-operation of landowners and local governments to permit provincial workers onto the land. The rural municipalities of Portage la Prairie, Cartier and St. Francois Xavier have established municipal emergency prevention orders that will allow work to begin on private land.
A small number of locations along the dikes have eroded from river current and will be strengthened with rock. There are also trees along the dikes which will have to be removed in order for the reinforcement work to progress. The province will ensure that any large trees removed from the dikes are salvaged for further use.
The dikes protect farmland, farms and residences as well as the communities of Elie, La Salle, Sanford and Starbuck. They were first constructed by the federal government in 1912, reinforced in 1950 and again improved in the years following the 1997 flood. The province took over responsibility for the dikes from the federal government in 1996.
The province is also working with rural municipalities to assess Assiniboine River dikes east of the primary work area, towards Winnipeg. The province also recently announced close to $800,000 to help the city of Brandon raise the Assiniboine River dike and has stationed a sandbag-making machine in Brandon to serve the Westman area of the province. Other steps taken to reduce the potential flood impact of the Assiniboine River include the ongoing lowering of the Shellmouth Reservoir and maintenance work on the Portage Diversion.
Ice-cutting is scheduled to begin early next week on the Icelandic and Fisher Rivers. Ice thickness surveys have been completed in the areas.

North Red Maintenance Corporation
March 14, 2011 – The Amphibexes have completed all 26km of the Red River

RED RIVER - ICE CUTTING PROGRESS

CURRENT UPDATE AT MARCH 14, 2011

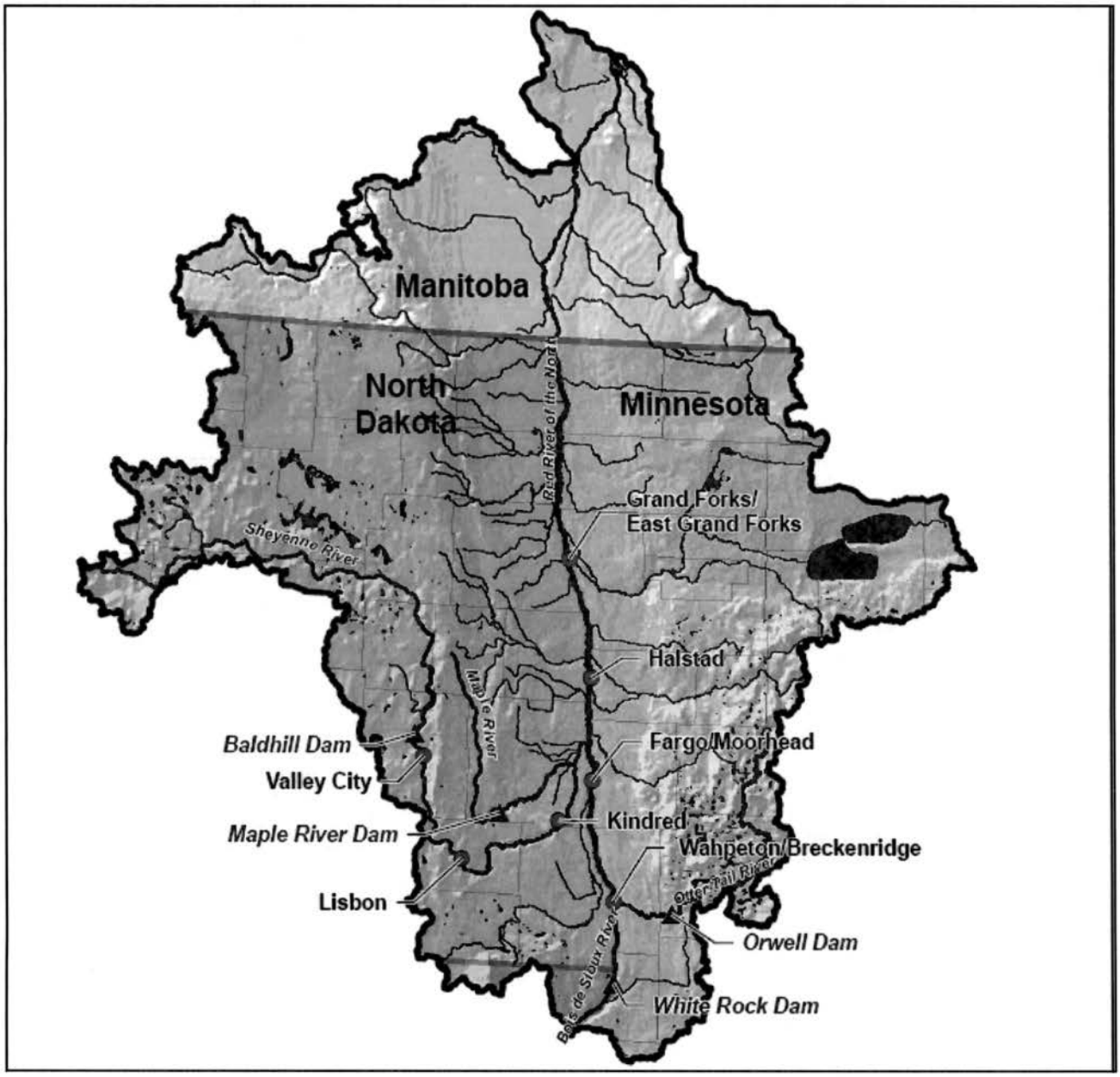


RIVER HAS BEEN BROKEN IN THIS AREA

USGS WaterAlert

Alerts can now be sent via text message to your cell phone or email

If you don't have access or time to continually check the Internet during flooding, you can get water level or other information from selected stream gages sent directly to your email or cell phone. This service is called USGS WaterAlert (http://water.usgs.gov/wateralert/) and it is FREE. For example, if you live next to the Red River, you can ask WaterAlert to send to you a message when the river elevation at the Red River at Fargo, ND stream gage reaches flood stage.



Red River Basin Commission

Manitoba • Minnesota • North Dakota • South Dakota

Moorhead Office: 119 5th St. S. • PO Box 66 • Moorhead, MN 56561-0066

Phone 218-291-0422 • FAX 218-291-0438 • staff@redriverbasincommission.org

Winnipeg Office: Suite 206 309 Hargrave Street • Winnipeg, MB R3B 2J8

Phone 204-982-7250 • FAX 204-982-7255 • staff@redriverbasincommission.org

www.redriverbasincommission.org

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: FY '11 RED RIVER BASIN COMMISSION ADMINISTRATIVE GRANT

Meeting Date: March 23, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Land & Water

Contact: Wayne Zellmer

Prepared by: Wayne Zellmer

Reviewed by: Grants Program & Policy Committee(s)

Presented by: Wayne Zellmer

☒ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☒ **Resolution** ☐ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☐ None
☐ Amended Policy Requested
☐ New Policy Requested

☒ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED
Decision

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
The Commission has requested allocation of their FY '11 legislative appropriation of $84,000. After reviewing the Commission's 2011 Workplan and Budget, the Grants Program & Policy Committee recommends approval.

FY '11 RED RIVER BASIN COMMISSION ADMINISTRATIVE GRANT

BACKGROUND

The Red River Basin Commission (RRBC) works across the political boundaries of Manitoba, Minnesota, North Dakota, and South Dakota in the United States and Canada to create a shared vision for action with regard to land and water issues.

The RRBC was formed in 2002 to initiate a grass roots effort to address land and water issues in a basin-wide context. The RRBC was formed as a result of a merger between The Red River Basin Board, The International Coalition, and the Red River Water Resources Council.

The RRBC is made up of a 41-member Board of Directors, comprised of mainly representatives of local government, including the cities, counties, rural municipalities, watershed boards, water resource districts, joint powers boards, as well as First Nations representatives, a water supply cooperative, a lake improvement association, environmental groups, and four at-large members. The Governors of North Dakota, Minnesota, and the Premier of the Province of Manitoba have also appointed members to the Board.

The RRBC has adopted a vision, a mission statement and a set of Guiding Principles, based on input provided by Basin residents, to guide its future activities. Although general in nature, these documents provided the foundation to develop reasonably specific goals and objectives for water management in the Basin. These goals and objectives, along with the mission statement and the Guiding Principles, will provide a framework for the Board to conduct business in the future.

Since its inception, the State of Minnesota has been supporting the RRBC with board member and committee participation as well as financial support.

RECOMMENDATION

The 2009 Legislature appropriated $90,000 to BWSR for RRBC administration in FY '11. This appropriation was reduced $6,000 to $84,000 by the 2010 Legislature. The Grants Program & Policy Committee has reviewed the RRBC's 2011 Workplan and Budget and recommends Board approval of this allocation.

H:11RRBCA

Red River Basin Commission

Manitoba • Minnesota • North Dakota • South Dakota

Moorhead Office: 119 5th St. S. • PO Box 66 • Moorhead, MN 56561-0066
Phone 218-291-0422 • FAX 218-291-0438 • staff@redriverbasincommission.org
Winnipeg Office: Suite 206 309 Hargrave Street • Winnipeg, MB R3B 2J8
Phone 204-982-7250 • FAX 204-982-7255 • staff@redriverbasincommission.org
www.redriverbasincommission.org

2009-2010
BOARD OF DIRECTORS

Manitoba
Jeff Browaty
John Falk
Kurtiss Krasnesky
Joy MacLean
Herm Martens
Marvin Magnusson
R. S. "Bud" Oliver
Bill Paulishyn
Sam Schellenberg
Muriel Smith
Steven Topping
Dwight Williamson

Minnesota
Jerry Dahl
Paul Eger
Jon Evert
John Finney
Mark Holsten
John Jaschke
Hank Ludtke
Betty Pikop
Warren Seykora
Henry Van Offelen
Mark Voxland
Dan Wilkens

North Dakota
Joe Belford
Fred Bott
Kevin Burg
Tom Fischer
Dale Frink
Dave Glatt
Jake Gust
Terry Steinwand
Genevieve Thompson
Ben Varnson
Hetty Walker
Shane Walock

South Dakota
Roger Navratil

Tribal/First Nation
Melissa Hotain
Allen Pemberton

Federal Ex Officio
Judith DesHarnais
Tony Kettler
Jim Tokarchuk

Federal Elected Ex Officio
Sen. Conrad - Scott Stofferahn
Sen. Dorgan - Pam Gulleson
Sen. Franken - Valerie Gravseth
Sen. Klobuchar - Andy Martin
Rep. Peterson – Wally Sparby
Rep. Pomeroy - Joan Carlson
M.P. Toews, P.C.

February 1, 2011

John Jaschke
Executive Director
Minnesota Board of Water & Soil Resources
520 Lafayette Road
St. Paul MN 55155

Dear John:

The Red River Basin Commission respectfully requests $84,000, the second year's funding of the 2009 – 2011 biennium funding for Red River Basin Commission (RRBC). The amount is the Minnesota share of funding for the RRBC base budget which is also supported by the North Dakota and Manitoba governments. Local governments in Minnesota, Manitoba and North Dakota also provide equal amounts of base funding to the Red River Basin Commission.

TOTAL FUNDS REQUESTED: **$84,000.00**

Please Remit To: **Red River Basin Commission**
Kurtiss Krasnesky, Treasurer
PO Box 66
Moorhead, MN 56561-0066

If you have any questions, please don't hesitate to contact any member of our staff at our toll-free number (866-629-4498).

Sincerely,

Lance Yohe

Lance Yohe
Executive Director

Enc: 2011 RRBC work plan
2011 budget

2011 RRBC WORK PLAN				
	RRBC ACTION	HOURS		TIMELINE
	MT-Management Team: ly, jg, rg	lt-Leah	jr-Jacque 3/4	con-Consultant
	ly-Lance	sp-Sara	ks-Kathy 1/2	Grant Writer-Olive
	jg-Julie	js-Janeen	all-all staff	
	rg-Robin	be-Brenda		
ADMINISTRATION	ADMINISTRATION			
	Board Meetings			
	Board Meetings in 2011-Jan, Mar, Apr, June, Sept, Nov	368		Jan, Mar, Apr, June, Sept, Nov
	1 Board Tour with meeting -- June	144		June
	1 Board Retreat with meeting--Nov	120		Nov
	Executive Committee Meetings			
	12 Executive Committee Meetings --3rd Thursday-1 face to face mtg.	120		3rd Th -- Month @ 8:30 Phone
	Executive Director Evaluation	12		Nov 2010 - Jan 2011
	Human Resource Committee Meetings	12		as Needed
	General			
	All Staff Evaluations,	64		Jan - Dec 2010 in Jan 2011
	Documentation, Records	1258		
	Work Plans--Annual	24		2011 by Nov 2010
	Regular Staff Meetings	250		Monday
	Face to Face Staff Meetings (2)--Retreat (1)	282		Friday 2x year 1-- 2 day ret.
	Management Team Meetings (12)	42		monthly phone
	Update Governing Documents	68		as needed
FIANANCE	FIANANCE			
	Finance Committee Meetings			
	12 Finance Committee Meetings -- as needed	12		as needed
	General			
	Monthly Finances	746		ongoing
	Base Funding --Local, Provincial, State	468		ongoing
	Base Funding -- Federal	144		ongoing
	Project Funding--as needed	405		ongoing
	Annual Budget	88		2011 Budget by Nov 2010
	Annual Audit	96		2010 Audit
LEADERSHIP	LEADERSHIP			
	NRFP Goal # 1 - Watersheds (WG)	120		1 mtg year
	Pembina River Basin Advisory Board (PRBAB) Meetings	120		2-4 mtgs year
	PRBAB Activities	64		phone calls, mtgs, matls
	Roseau River International Watershed (RRIW) Meetings	112		2-4 mtgs year
	RRIW Activities	80		phone calls, mtgs, matls
	South Valley Initiative (SVI) Meetings	72		2-4 mtgs year
	SVI Activities	88		phone calls, mtgs, matls
	MN Joint Powers Board (JPB)	80		10 mtgs year
	MB North Chapters	136		3-4 mtgs year
	MB South Chapter	60		as needed
	Dredging Sub-Committee	40		By April 2010
	Assiniboine River Project	56		ongoing
	Winnipeg River Project	40		ongoing
	NRFP # 2- Integration (WG)	128		1 mtg year
	Plan Implementation Committee (4)	288		3-4 mtgs year
	NRFP Outreach: LGU's	1767		ongoing
	NRFP Outreach: First Nations/Tribes SD, MB, MN, ND	112		ongoing
	NRFP Outreach: Provincial, State, Federal	120		ongoing
	NRFP Data Entry	144		ongoing
	Univ of Winnpeg--Natl Source Water	24		ongoing
	Land & Water Investment Project	38		as needed
	NRFP Goal # 3 - Data-Tools for Decision Making (WG)	124		1 mtg year
	COE Watershed Study Match--Modeling Tools	30		2-4 mtgs year
	DSS - IWI/MCEA			Report by July 2011

2011
RRBC WORKPLAN

2/2/2011

	NRFP Goal # 4- Education-Information (WG)	100		1 mtg year
	Web Site	192		ongoing
	Bonrd Highlights	24		6 Board mtgs
	Consent Report	16		6 Board mtgs
	State of Basin--Snapshot Updates	128		2-3 updates year
	Annual Report	100		1 year
	Other Flyers/Information/PR materials --projects and netivies	120		as needed
	Press Releases	280		ongoing
	Power Point Presentations--conferences, speaking engagements, etc	160		ongoing
	River Center	48		as needed
	Communication Committee	240		10 mtgs a year
	Ripple Effect - 24	244		2 each month to all newspapers
	Water Minutes- 2x mo	106		updates and new ones as needed
	Annual Summit Conference	628		1 year
	Speaker Contacts	616		July-Dec 2011
	Sponsorship, ads, booths	761		July-Dec 2011
	Annual Summit Conference - Flyer, Brochure, Conf Booklet	444		Oct 2011 - Jan 2012
	NRFP Goal # 5 - Flood Forecasting (WG)	138		3-4 mtgs year
	Stream Gauging	8		as appropriate
	NRFP Goal # 6 - Flood Mitigation (WG)	164		6-12 mtgs year
	Mainstem Modeling Calibration IV & V	108		2011 in MB
	Mainstem Modeling Run # 2 MB	2112		2011 in MB
	Dredging Study II	104		2011 in MB
	LTFS Project	3696		Report July 2011
	Mapping Project	40		in 2011
	Basin Elevation Map	32		Jan 2011 if doable
	NRFP Goal # 7 - Flood Response & Recovery (WG)	190		1 mtg year
	FEMA Modeling Project	28		as needed
	NRFP Goal # 8 - Drainage (WG)	96		1 mtg year
	Link to RRRA Efforts	48		as needed
	NRFP Goal # 9 - Water Quality (WG)	120		2 -6 mtgs year
	Jurisdictional Water Quality Report	112		2 -6 mtgs year -develop a report
	NRFP Goal # 10 - Water Supply (WG)	176		4-6 mtgs year
	Drought: Jurisdiction Process & Conservation/Soft Path Report	56		4-6 mtgs year - develop a report
	NRFP Goal # 11 - Conservation (WG)	168		4 - 6 mtgs year
	AWEP Project	216		2-6 mtgs year
	Ag Commodity Committee	62		1 mtg year
	Next US Farm Bill	48		10 x year
	Basin Conservation Issues	50		report in 2011
	NRFP Goal # 12 - Fish & Wildlife (WG)	124		1 mtg year
	ANS Issues and Committees	48		ongoing
	NRFP Goal # 13 - Outdoor Recreation (WG)	144		1 mtg year
	Rivers West Tourism Project	16		2-4 mtgs year- participation
	Facilitation			as needed
	Forum for Basin Issues	24		as needed
		0		
	Legislative Committee	120		1-2 mtgs year
COMMUNICATIONS	COMMUNICATIONS			
	Conservation Conference	160		one year
	Lake Winnipeg Conf	60		if more are planned
PARTNERSHIPS	PARTNERSHIPS			
	IRRB	56		2 x year
	IRRB-AEH	32		1-2 x year
	IRRB-Hydrology	32		1-2 x year
	Reg mtgs---NDJWRB, MNRRWMB, MBCDA,UPP Shey, Dev Lake,	216		monthly or quarterly each
	annual mtgs- MBCDA, MBAMM, NDJWater, MAWD, NDAC,	208		1 mtg each year
	Rivers West, LWRC, LWBAB	24		monthly or quarterly each
	RRRA, NRCS Group & Pemit/PL566 Sub-Com	80		monthly each
TECHNICAL RESOUR	TECHNICAL RESOURCE--PROJECTS	16		
	Dredging Study II--Funding and Workshop Roles	32		as needed to develop strategy
		21937		

Red River Basin Commission
2011 Budget

	2010 BUDGET - US	2011 BUDGET - US	2010 BUDGET - CN	2011 BUDGET - CN
2009 Carry Over General	$ 227,435.55	$ 192,706.03	$ 229,268.21	$ 301,769.71
2009 Carry Over Projects	$ 79,997.06	$ 197,462.93	$ 96,671.03	$ 81,076.29
2009 Carry Over Total	$ 307,432.61	$ 390,168.96	$ 325,939.24	$ 382,836.00
Income				
4001 · Manitoba			$ 100,000.00	$ 100,000.00
4002 · Minnesota	$ 100,000.00	$ 100,000.00		
4003 · North Dakota	$ 100,000.00	$ 100,000.00		
4004 · South Dakota				
4005 · LGUs - Manitoba			$ 100,000.00	$ 100,000.00
4006 · LGUs - Minnesota	$ 90,000.00	$ 100,000.00		
4007 · LGUs - North Dakota	$ 100,000.00	$ 100,000.00		
4008 · LGUs - Sorth Dakota				
4011 · Refunds GST/PST			$ 2,000.00	$ 2,000.00
4012 · Interest Income				
4013 · Joint Powers Bd	$ 5,000.00			
4062 · Annual Summit Conference	$ 55,000.00	$ 40,000.00	$ 35,000.00	$ 50,000.00
15000 · Intigration				
15101 · Land & Water Investment Project			$ 55,000.00	
16000 · Data				
4097 · Web Portal-LW			$ 40,000.00	
18000 · FDR/Hydrology Division				
18403 · LTFS	$ 500,000.00	$ 573,308.80		
2009 LTFS Expenses Recovered	$ 75,821.00			
4000 Total Income without Projects or Carry Over	$ 450,000.00	$ 440,000.00	$ 237,000.00	$ 252,000.00
Canadian Income Adjusted to US dollars	$ 199,080.00	$ 252,000.00	$ 199,080.00	$ 252,000.00
Combined Total Without Projects	$ 649,080.00	$ 692,000.00		
4000 Total US Income with All Income	$ 1,333,253.61	$ 1,403,477.76	$ 657,939.24	$ 634,836.00
Total CN with All Income Adjusted to US dollar	$ 552,668.96	$ 634,836.00	$ 552,668.96	$ 634,836.00
Total Combined with All Income	$ 1,885,922.57	$ 2,038,313.76		
Expense				
5100 · BOARD OF DIRECTORS				
Total 5000 · BOARD OF DIRECTORS	$ 30,100.00	$ 30,100.00	$ 13,850.00	$ 13,850.00
5100 · ADMINISTRATION				
Total 5100 · ADMINISTRATION	$ 31,858.81	$ 13,691.61	$ 12,543.00	$ 12,543.00
5200 · BENEFITS				
Total 5200 · BENEFITS	$ 94,079.46	$ 69,471.46	$ 15,753.52	$ 15,753.52
5300 Office				
Total 5300 · OFFICE	$ 69,050.00	$ 59,034.91	$ 52,050.00	$ 62,550.00
5400 · FUNDING/FINANCE				
Total 5400 · FUNDING/FINANCE	$ 65,523.30	$ 78,444.17	$ 28,643.00	$ 28,843.00
6000 · LEADERSHIP				
Total 6000-6500 · LEADERSHIP	$ 65,610.08	$ 98,360.08	$ 60,081.00	$ 60,081.00
6600 · COMMUNICATIONS				
Total 6600-6700 · COMMUNICATIONS	$ 161,199.96	$ 146,199.96	$ 71,841.00	$ 86,841.00
6800 · PARTNERSHIP				
Total 6800 · PARTNERSHIP	$ 45,810.53	$ 48,810.53	$ 9,831.00	$ 19,831.00
6900 · TECHNICAL RESOURCE				
Total 6900 · TECHNICAL RESOURCE	$ 9,636.53	$ 9,636.53	$ 2,761.00	$ 2,761.00
SUB-TOTAL US - CN OPERATIONAL wo PROJ	$ 572,868.66	$ 553,749.14	$ 267,573.52	$ 303,073.52
CN in US dollars			$ 224,761.76	$ 303,073.52
Total US Operational wo Projects	$ 572,868.66	$ 553,749.14		
Total CN Operational wo Projects	$ 224,761.76	$ 303,073.52		
Total Combined Operational wo Projects	$ 797,630.42	$ 856,822.66		

Red River Basin Commission
2011 Budget

PROJECTS				
24000 ·Watersheds				
Total 24101 ·Assiniboine Project	$ 3,470.55	$ 3,309.17	$ 8,005.26	$ 9,505.26
Total 24250 ·Winnipeg River Project			$ 7,500.00	$ 7,435.95
Total 24000 ·Watersheds	$ 3,470.55	$ 3,309.17	$ 15,505.26	$ 16,941.21
25000 · Intigration				
Total 25001-1 ·Bush Outreach-2008/2009	$ 8,210.21	$ -		
Total 25001-2 ·Bush Outreach-2009/2010	$ 33,344.70	$ -		
Total 25001-2 ·Bush Outreach-2009/2011	$ 41,554.91	$ -		
Total 25002 ·Land & Water Investment Project			$ 55,000.00	$ -
Total 25000 · Intigration	$ 41,554.91	$ -	$ 55,000.00	$ -
26000 · Data				
Total 26001 ·3-D Display	$ 12,500.00	$ 12,500.00	$ 12,500.00	$ 12,500.00
Total 26002 · Web Portal Project			$ 40,000.00	
Total 26000 ·Data	$ 12,500.00	$ 12,500.00	$ 52,500.00	$ 12,500.00
27000 · Comm/Education				
Total 27003 ·LSLW			$ 8,241.47	$ 8,241.47
Total 27002 ·All Upstream Conf			$ 14,962.41	$ 6,880.44
Total 27005 ·Network Project	$ 4,362.61	$ 4,362.61		
Total 27006 ·History Project- 30 Yrs	$ 2,562.48	$ 2,562.48		
Total 27007 ·MB River Centre			$ 9,711.89	$ 9,711.89
Total 27000 ·Comm/Education	$ 6,925.09	$ 6,925.09	$ 32,915.77	$ 24,813.80
28000 · FDR/Hydrology Division				
Total 28001 ·MM Run # 2	$ 3,975.75	$ 3,942.00		
Total 28201 · Cal IV	$ 12,908.20	$ 7,264.70	$ 1,250.00	$ 10,600.00
Total 28202 · Cal V	$ 15,000.00	$ 3,977.41	$ 15,000.00	$ 6,821.28
Total 28401 ·Stream Gauging	$ 5,000.00	$ 1,272.20		
Total 28402 ·Map Project			$ 9,500.00	$ 9,500.00
Total 28403 ·LTFS Project	$ 500,000.00	$ 714,697.73	$ -	
Total 28000 ·FDR/Hydrolody Division	$ 536,883.95	$ 731,154.04	$ 25,750.00	$ 26,821.28
29000 · Qly/Qnty Division				
Total 29003 ·Drought Cons/Soft Path	$ 15,000.00	$ -	$ 10,000.00	$ -
Total 29000 ·Qly/Qnty Division	$ 15,000.00	$ -	$ 10,000.00	$ -
30000 · FWR/OR Division				
Total 24201 ·AWEP	$ 14,375.41	$ 12,083.26		
Total 29000 ·Qly/Qnty Division	$ 14,375.41	$ 12,083.26	$ -	$ -
Total 9200 · S SUB-TOTAL US - CN PROJECTS	$ 630,709.91	$ 765,971.56	$ 191,671.03	$ 81,076.29
CN in US dollars			$ 161,003.67	$ 81,076.29
Total US Projects	$ 630,709.91	$ 765,971.56		
Total CN Projects	$ 161,003.67	$ 81,076.29		
Total Combined Projects	$ 791,713.58	$ 847,047.85		
BUDGET SUMMARY: ALL IN US DOLLARS				
Total General Revenue wo Projects and Carryover	$ 649,080.00	$ 692,000.00		
Total General Expenses wo Projects and Carryover	$ 797,630.42	$ 856,822.66		
Difference	$ (148,550.42)	$ (164,822.66)		
Total Revenue: General, New Projects, All Carry-Over	$ 1,885,922.57	$ 2,038,313.76	$ 174,515.09	$ -
Total Expenses: General, All Projects	$ 1,589,343.99	$ 1,703,870.51	$ 31,508.35	$ 46,813.80
Total After All Income/Expenses	$ 296,578.58	$ 334,443.25		$ 78,322.15
(Projected Carryover General & Projects)				

Board Resolution # 11-15

FY '11 RED RIVER BASIN COMMISSION ADMINISTRATIVE GRANT

WHEREAS, the Laws of Minnesota 2009, Chapter 37, Article 1, Sec. 5, and Laws of Minnesota 2010, Chapter 215, Sec. 5, Subd. 2, appropriate for a grant to the Red River Basin Commission (RRBC) for administration and management, of water quality and floodplain management programs; and,

WHEREAS, Minnesota Statutes Section 103B.101, subd. 9, authorizes the Board to coordinate the water and soil resources planning activities of "other local units of government" through its various authorities for approval of local plans, administration of state grants, and by other means as may be appropriate; and,

WHEREAS, the RRBC has submitted to the Board an approved 2011 Workplan and Budget, which is incorporated into this agreement by reference and located in the Board's office in St. Paul.

NOW THEREFORE, the Board hereby authorizes staff to allocate $84,000 to the RRBC for administration and management, of water quality and floodplain management programs.

Date: 3/23/11

Brian Napstad, Chair
Board of Water and Soil Resources

H:11RRBCBR

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Lake Protection Challenge Grant Awards

Meeting Date: March 23, 2011

Agenda Category: ☒ Committee Recommendation ☒ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Land and Water Section

Contact: Jeff Hrubes

Prepared by: Dave Weirens

Reviewed by: Grants Program and Policy Committee(s)

Presented by: Jeff Hrubes

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☒ **Resolution** ☐ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☐ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☒ Other: 2008 Clean Water Legacy Funds

ACTION REQUESTED

Adopt the recommendation of the Grants Program and Policy Committee to authorize grants to 13 local governments to generate lake and land use reports that will be used to amend their local water management plans and serve as the basis for future grant requests.

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

The Board authorized the Lake Protection Challenge Grant Program on December 15, 2010. This Program is an expansion of a 3-county pilot project that developed a template for presenting and assessing lake and land use information in a format useful to citizens and decision-makers. Key Program criteria is that lakes that are listed as impaired for parameters other than mercury are not eligible and should be approximately 500 acres in size.

Applications were accepted from January 1 until February 15. Applications were received from 13 local governments requesting $87,743 to assess 144 lakes. These applicants were contacted a second time to identify other lakes that they were interested in including in this program. This second request increased the total grant funds requested to $99,893.

These applications were reviewed by an interagency team consisting of staff from BWSR, DNR, and the MPCA.

Minnesota Board of Water & Soil Resources

Lake Protection Water Plan Challenge Grant

March 2011

Background: With the passage of the Clean Water Legacy Act in 2007, the Minnesota Board of Water and Soil Resources recognized an opportunity to enhance comprehensive local water management planning by integrating available water quality data and land use information to develop strategic, quantified action plans incorporated into comprehensive local water plans. In 2008, a pilot project in Cass, Crow Wing and Aitkin Counties developed a template for presenting and assessing lake and land use information in a format useful to citizens and decision-makers.

The pilot program successfully developed a template that assessed 45 lakes in the three counties and integrated the information into their water management plans and used it to successfully compete for Clean Water Land and Legacy funds. The availability of electronic datasets and efficient management of information allowed the construction of individual assessment reports to be completed for less than $1,500 each. These reports are one way to describe a more quantifiable description of water quality protection.

Candidate lakes could not be listed on the 2010 MPCA Impaired Waters (303(d)) List for parameters other than mercury. The purpose of these grant funds is to:

- Assess available water quality data and watershed information for the purpose of identifying water quality trends;
- Develop quantifiable water quality goals and outcomes based on the available information;
- Develop individual lake reports and a summary assessment that integrates watershed and water quality information, evaluates trends and recommends quantitative water quality protection measures;
- Integrate the water quality goals and quantifiable outcomes into local water management plan updates or amendments; and
- Demonstrate methods that can be expanded in the future to additional lakes.

Agency Fund	Available Amount	Governmental Units Eligible for Funding	Required Match
BWSR Clean Water Legacy Protection Grants	$ 104,000	Counties, SWCDs Watershed Districts, WMOs	50% local cash or in-kind cash value match

Grant Applicant Eligibility

Eligible applicants include local government units (LGU) or LGU joint powers organizations working under a current state approved, locally adopted water management plan. Partner organizations such as non-profits, watershed groups, school districts or lake associations must work in conjunction with these eligible applicants.

Eligible Costs

- Local Match = Non-state cash or in-kind cash value.
- Grant recipients may request $100 per lake up to a maximum of $2,000 for reporting and grant management activities. This amount is proportional to the number of priority lakes accepted for the program. In general, it is anticipated that 20 lakes per county would be an upper limit.

Selection Criteria	Points available
Assessment of report production costs based on criteria described	**20**
Lake size of approximately 500 acres	**20**
Available water quality data for trend analysis	**20**
Land parcel information available	**20**
Lakes identified as a priority in local water management plans	**20**

Other screening factors used in evaluating applications:

- Deep lakes with cold-water fish species present or lakes with known species of concern or unique populations identified in a county biological survey or elsewhere;
- Lakes in watersheds with less than approximately 25% developed, agricultural, mining or open lands will receive priority consideration; and
- Applicants with multiple candidate lakes should list them in priority order.

Grant recipients will be conducting the activities listed below.

- Gather all available water quality data from local, state and federal sources.
- Review collected water quality data and identify statistically usable data (confirm sample site locations, confirm data is from a certified laboratory) and identify gaps and outliers.
- Available water quality data should be presented in narrative and graphical formats, and compared to ecoregion ranges and state water quality standards. Trend information for phosphorus, chlorophyll and transparency should be calculated and plotted when sufficient data exists. Data should be presented within the context of Carlson's Trophic Status Index using the mean value and data range.
- Land use and watershed data should be presented in a structure that includes information on the location within the Ecoregion, major basin, major watershed, minor watershed(s) and lakeshed.
- Present findings of water quality trends to comprehensive water plan task forces and lake association partners.
- Present findings of water quality trends to county commissioners, township and municipal officials from communities adjacent to candidate lakes.
- Meet at least once with lake association presidents and representatives at a water quality summit including representatives from DNR, PCA, P&Z, BWSR and other relevant agencies and organizations to discuss the lake reports, trends and to develop a quantitative and qualitative implementation strategy with specific actions for each lake to be included in the next water management plan update or amendment.

Granting Process.
BWSR accepted proposals January 1, 2011 to February 15, 2011 for Clean Water Legacy Grants to focus strategic water quality protection implementation actions concentrated on lake and lake watersheds. An interagency team consisting of staff from BWSR, DNR, and MPCA reviewed the applications and made funding recommendations to the BWSR board.

Applications were received by 13 local governments requested $99,893 to assess 142 lakes, as shown below.

Local Government	Number of Lakes	Grant Amount	Local Government	Number of Lakes	Grant Amount
Aitkin SWCD	16	$9,600	Douglas SWCD	5	$4,250
Becker SWCD	20	$12,500	East Otter Tail SWCD	21	$20,150
Beltrami County	19	$11,400	Hubbard SWCD	9	$5,243
Cass County	21	$12,600	Koochiching SWCD	1	$600
Clearwater SWCD	2	$1,300	North Fork Crow Watershed	1	$500
Cook SWCD	5	$4,000	Wright SWCD	2	$4,200
Crow Wing County	20	$13,550	**TOTALS:**	142	$99,893

Board Resolution # 11- 16

LAKE PROTECTION WATER PLAN CHALLENGE GRANTS PROGRAM AWARD AUTHORIZATION

WHEREAS, the Board of Water and Soil Resources (BWSR) was appropriated Clean Water Legacy Act funds in Laws of Minnesota 2007, Chapter 57, Article 1, Section 5; and,

WHEREAS, BWSR currently has up to $104,000 in available in returned FY2008 Clean Water Legacy grant funds; and,

WHEREAS, these funds are available to support local nonpoint source protection activities related to lake and river protection and management; and,

WHEREAS, in 2008 BWSR funded a pilot project in Cass, Crow Wing, and Aitkin Counties that developed a template for presenting and assessing lake and land use information in a format useful to citizens and decision-makers; and,

WHEREAS, BWSR staff developed a Lake Protection Challenge Grant Program to expand this pilot project utilizing available returned grant funds to:

- Assess available water quality data and watershed information to identify water quality trends,
- Develop quantifiable water quality goals and outcomes based on this information,
- Develop individual lake reports and a summary assessment that integrates watershed and water quality information, evaluates trends and recommends quantitative water quality protection measures,
- Integrate the water quality goals and quantifiable outcomes into local water management plan updates or amendments, and
- Demonstrate methods that can be expanded in the future to additional lakes in other areas; and,

WHEREAS, applications were eligible if they meet the criteria listed below:

- A local government unit (LGU) or LGU joint powers organizations working under a current state approved locally adopted water management plan,
- Provide a 50% non-state cash or in-kind cash value match, and
- Lakes targeted are approximately 500 acres or more in size and are not impaired for pollutants other than mercury; and,

WHEREAS, the Board authorized the Lake Protection Challenge Grant Program on December 15, 2010; and,

WHEREAS, applications for this grant program were accepted from January 1, 2011 to February 15, 2011; and,

WHEREAS, applications were received by 13 local governments requested $99,893 to assess 142 lakes; and,

WHEREAS, applications were evaluated by staff from BWSR, DNR, and MPCA using the following factors:

- Readiness to complete the project and amend their local water management plan to incorporate the results of the project,
- Lakes identified as a priority in local water management plans,
- The availability of water quality data for trend analysis,
- Land parcel information, and
- The cost per report; and,

WHEREAS, the Grants Program and Policy Committee reviewed the Lake Protection Challenge Grant Program awards recommended by agency staff on March 10, 2011.

NOW THEREFORE, the Board hereby adopts the recommendation of the Grants Program and Policy Committee and authorizes staff to allocate funds to local governments as follows:

Local Government	Number of Lakes	Grant Amount	Local Government	Number of Lakes	Grant Amount
Aitkin SWCD	16	$9,600	Douglas SWCD	5	$4,250
Becker SWCD	20	$12,500	East Otter Tail SWCD	21	$20,150
Beltrami County	19	$11,400	Hubbard SWCD	9	$5,243
Cass County	21	$12,600	Koochiching SWCD	1	$600
Clearwater SWCD	2	$1,300	North Fork Crow Watershed	1	$500
Cook SWCD	5	$4,000	Wright SWCD	2	$4,200
Crow Wing County	20	$13,550	**TOTALS:**	142	$99,893

Brian Napstad, Chair
Board of Water and Soil Resources

Date: 3/23/11

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **MN Voluntary Public Access and Habitat Incentive Program: Grants to SWCDs**

Meeting Date: March 23, 2011

Agenda Category: ☒ Committee Recommendation ☒ New Business ☐ Old Business
Item Type: ☒ Decision ☐ Discussion ☐ Information
Section/Region: Land and Water Section
Contact: Dave Weirens and Tabor Hoek
Prepared by: Dave Weirens
Reviewed by: Grant Program and Policy Committee(s)
Presented by: Tabor Hoek

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☒ **Resolution** ☐ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☐ None
☐ Amended Policy Requested
☐ New Policy Requested
☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget
☒ Other: USDA Grant received by DNR

ACTION REQUESTED

Adopt the recommendation of the Grants Program and Policy Committee to authorize staff to make grants to soil and water conservation districts to cover their costs for promoting the Voluntary Public Access and Habitat Incentive (Walk-in) Program and signing up landowners.

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

Increased access to hunting lands is a high priority for hunters. To address this issue the DNR submitted an application to the USDA-Voluntary Public Access Program as directed by Governor Pawlenty. In fall of 2010 the DNR was notified that their application was fully funded for a three year program. This program intends to enroll up to 50,000 acres of private land so that that it is available to hunters during hunting seasons.

The lands that will be targeted for this program are lands that are currently enrolled in CREP, RIM, WRP, and CRP. This focus on existing conservation lands provided an opportunity for BWSR to work with DNR on impementing this program. BWSR's roles in implementing this program will be to provide funds to SWCDs for their efforts, and to manage the agreements with landowners. BWSR will be entering into grant agreements with SWCDs that are willing to participate in this program to provide funds based on:

(1) An assessment of workload;
(2) Acres of land currently enrolled in a state or federal conservation program; and
(3) Willingness to work in more than one county.

Total funds available for grants to SWCDs is $80,000 in the first year of the program.

MN Voluntary Public Access and Habitat Incentive (Walk-in) Program

2011-2013

Overview: Minnesota outdoor enthusiasts have been discussing opportunities to enhance hunter access to private lands for the last 10 years. Increasing access to hunting lands is second in priority to increasing wildlife habitat with hunters. On May 25, 2010 Gov. Pawlenty directed the DNR to pursue a Walk-in Access program after vetoing funding for the program. The DNR submitted a grant application to the USDA-Voluntary Public Access program available through the Farm Service Agency. This application was for a 3 year program to enroll upwards of 50,000 acres at a cost of $2,684,876. DNR was notified in the fall of 2010 that their application was selected for full funding. As all of the work will occur on private lands with a focus on CREP, RIM, WRP and CRP, it made sense for DNR to coordinate with BWSR on delivery of the program. It is proposed that BWSR will implement the SWCD staffing and landowner agreement/payment process for the next 3 years under an interagency agreement with DNR. BWSR is working to develop processes to provide grants to SWCD's for their efforts as well as the development of landowner agreements for access rights to the property. DNR will manage the public awareness, mapping and hunter information portions of the access program.

GRANT APPLICATION EXECUTIVE SUMMARY

ACTIVITIES

Through this grant, the State of Minnesota will launch a public access program to provide the public with new opportunities for hunting. This will help reduce a documented unmet demand for additional places to hunt. The program will be a pilot limited to southwestern Minnesota with post grant plans to expand throughout the agricultural portion of the state. Evaluations of enrollment success (number of acres, number of landowners) as well as landowner and hunter feedback will be sought upon completion of the pilot and will be incorporated into the program when fully implemented. The overall goal is to create and implement a new Walk-in program with 50,000 acres enrolled by the end of the grant period.

Major elements include program development, producer/landowner marketing and enrollment, signing enrolled lands, producing various user information (map book, downloadable GPS polygons, etc) to increase hunter awareness and utilization, producer/landowner payment and program evaluation. Results from this pilot program will be assessed and used to make improvements to a permanent program which provides both satisfied landowners and hunters.

OJECTIVES, FUNDING, PERFORMANCE AND OTHER RESOURCES

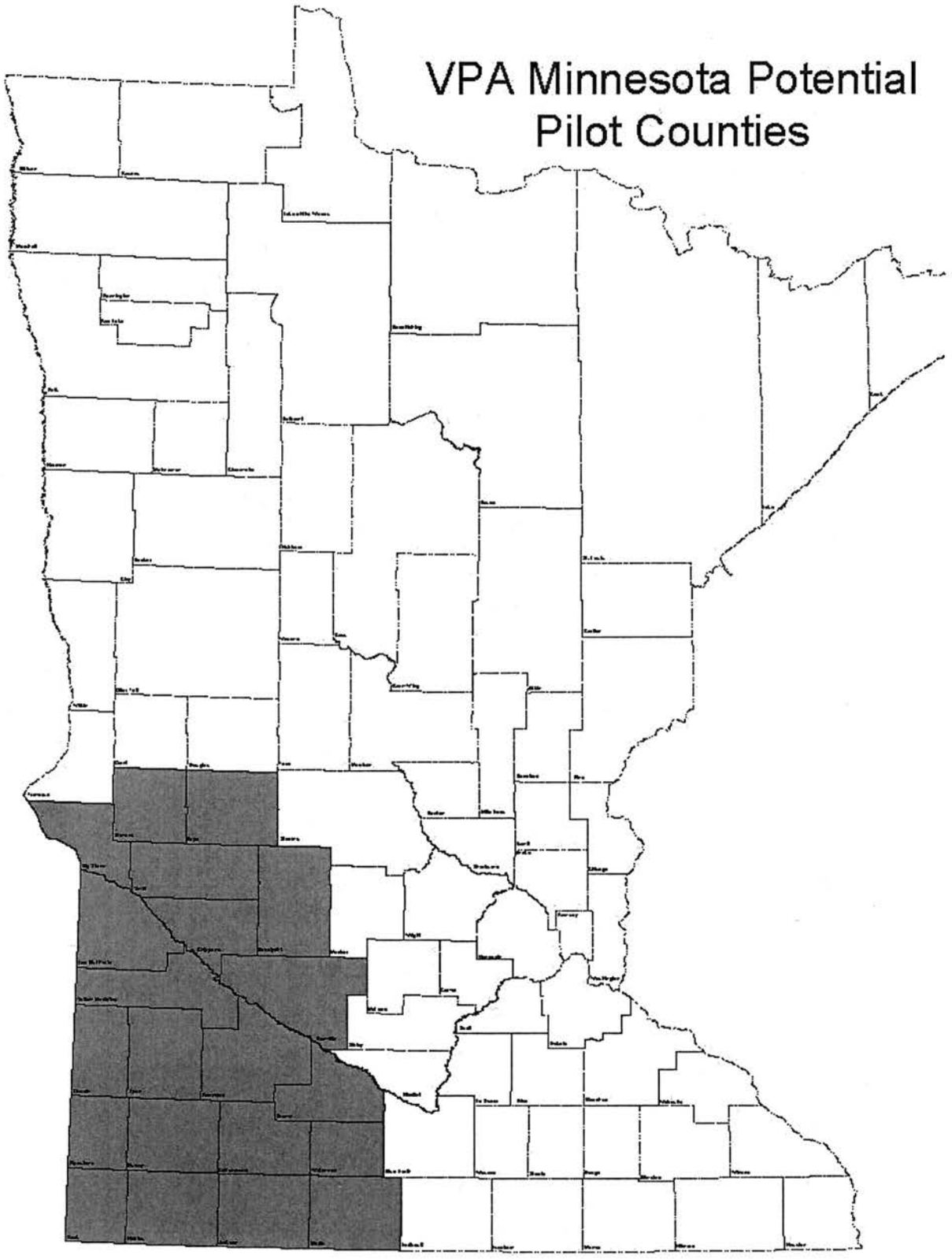
- The primary objective of this proposal is to provide new hunting opportunities on private lands currently enrolled in conservation programs for big/small game and upland/wetland birds on 50,000 acres of quality wildlife habitat in southwestern MN.
- Short term objectives include enrollment of 10,000 ac in year one, a cumulative enrollment of 25,000 ac in year two and a cumulative enrollment of 50,000 ac in year three.
- Landowners will be encouraged to participate in the public access program by offering additional payments for public access to quality wildlife habitat. This approach has proven to be successful in neighboring states (North and South Dakota) and is expected to meet with widespread acceptance among landowners in Minnesota.

- Ensure lands enrolled for public access have appropriate wildlife habitat by enrolling lands in an existing conservation program such as CREP, CRP, RIM and WRP or similar state and federally funded programs.
- Over 70,000 acres of CREP lands occur in the project area. These lands will be specifically targeted for enrollment. In addition the Board of Water and Soil Resources (BWSR) has up to $1.0M in enhancement funds to use on lands with existing conservation easements for enhancement and restoration purposes.
- Enrollment targets: Year 1 – 10,000 ac, year 2: 25,000 cumulative ac, Year 3 – 50,000 cumulative acres. All of this will be target to a roughly 21 county area in southwest Minnesota.
- Publicize location of lands enrolled in the program through printed maps, MN/DNR web site (downloadable maps and downloadable GPS polygons), advertisements in regulations, press releases, broadcast interviews and feature articles in the Minnesota Volunteer (a DNR publication) and outdoors and agricultural publications and other appropriate methods.
- Project Managers (1.5 FTE in year 1 and 2.0 in years 2 and 3) will be hired for the length of the grant to provide overall programmatic and administrative guidance and process landowner agreements and payments to landowners. Local Soil and Water Conservation Districts that are participating in the Farm Bill Assistance Program (see attachment for information on FBAP) will be used to locally market and assist landowners with enrollment. Existing state staff will be used for contract administration, processing and paying landowner agreements. GIS work will be done by DNR GIS experts for map preparation. The Conservation Corps Minnesota (CCM) (a youth program) will be contracted to install signs identifying each enrolled parcel (see attachment for information on CCM).
- The work plan details specific deliverables. Formal agency evaluations will occur annually and informally as part of daily operations. We expect to build in flexibility to meet the needs of landowners and hunters as we build this new program. Overall, landowner and hunter satisfaction will be measured at the end of the three year period through professionally developed survey instruments. Information derived from this report will be used to improve the program in the future for both landowners and hunters. Quarterly financial and annual performance reports will be completed and submitted per RFA requirements.
- Other state resources: MN/DNR, BWSR, local SWCDs, and Pheasants Forever contribute over $1.0M annually to the FBAP. In addition BWSR has up to $1.0M in enhancement funds to use on lands with existing conservation easements for enhancement and restoration purposes. Finally, the BWSR partners with local SWCDs to carry-out oversight monitoring and inspection of its conservation easement. Easements are inspected for the first five consecutive years beginning in the year after the easement is recorded. Thereafter, on-site inspections are performed every three years and compliance checks are performed in the other two years.

FUNDING REQUEST

FUNDING	Year 1	Year 2	Year 3
VPA-HIP	582,367	912,500	1,190,000
State	See text	See text	See text
Private	See text	See text	See text
TOTAL	582,376	912,500	1,190,000

VPA Minnesota Potential Pilot Counties



Board Resolution # 11-17

WALK-IN PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM: GRANTS TO SWCDS

WHEREAS, the Board of Water and Soil Resources (BWSR) is authorized by Minn. Stat. 103B.101 to partner with other state agencies and to coordinate water and soil resources activities of local governments; and,

WHEREAS, the Department of Natural Resources (DNR) has been awarded a grant from the U.S. Department of Agriculture for a three-year pilot program to provide additional hunting opportunities on private lands and to provide additional incentives to current owners of land enrolled in conservation programs; and,

WHEREAS, this program is targeted for 21 counties in southwest Minnesota; and,

WHEREAS, DNR intends on transferring funds and entering into an agreement with BWSR to:

(1) make grants to soil and water conservation districts (SWCD) to cover their costs for promoting and signing up landowners to this program, and
(2) finance and serve as the administrative agent for landowners who agree to participate in the program; and,

WHEREAS, in the 1st year of the pilot program, BWSR staff are proposing to allocate available funds to SWCDs based on:

(1) An assessment of workload generated with information provided by SWCDs via a request for information sent to SWCDs in February;
(2) Acres of lands currently enrolled in a state or federal conservation program; and
(3) Willingness to work in more than one county.

WHEREAS, funds will be provided to SWCDs in years 2 and 3 in amounts yet to be determined and authorized; and,

WHEREAS, the Grants Program and Policy Committee reviewed the Walk-in Public Access and Habitat Incentive Program, including the proposed grants to SWCDs, on March 10, 2011 and the Committee is recommending that funds be allocated to SWCDs in the project area based on the criteria specified above.

NOW THEREFORE, the Board hereby:

(1) Adopts the recommendation of the Grants Program and Policy Committee;
(2) Authorizes staff to allocate up to $80,000 to SWCDs that are willing to participate in this program; and

(3) Authorizes staff to complete tasks necessary to implement the Walk-in Public Access and Habitat Incentive program in coordination with the DNR.

Date: 3/23/11

Brian Napstad, Chair
Board of Water and Soil Resources

COMMITTEE RECOMMENDATIONS

RIM Reserve Management Planning Committee

1. Reinvest in Minnesota (RIM) Reserve – Wetlands Reserve Program (RIM-WRP) Partnership Program – Paul Brutlag and Kevin Lines - ***DECISION ITEM***

2. RIM-WRP Partnership: Payment Rates & 2011 Sign-Up – Paul Brutlag and Kevin Lines - ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

Minnesota Board of Water & Soil Resources

AGENDA ITEM TITLE: RIM-WRP Partnership and 2011 RIM-WRP Payment Rates

Meeting Date: March 23, 2011

Agenda Category: ☒ Committee Recommendation ☒ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region:

Contact: Kevin Lines

Prepared by: Kevin Lines, Conservation Easement Section Manager

Reviewed by: RIM Reserve Management & Planning Committee(s)

Presented by: Kevin Lines and Paul Brutlag, RRMPC Chair

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☒ **Resolution** ☐ **Order** ☐ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☐ None
☐ Amended Policy Requested
☒ New Policy Requested

☐ General Fund Budget
☒ Capital Budget
☒ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other:

ACTION REQUESTED

Authorize staff to develop eligibility, prioritization, sign-up and selection procedures with NRCS to continue the successful delivery of the RIM-WRP Partnership in Minnesota. Establishes payment rates for the RIM Reserve Program and the RIM Reserve - Wetlands Reserve Program (RIM-WRP) Partnership Project.

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

The 2011 Minnesota State Legislature is expected to appropriate FY12 funds for use by the RIM Reserve program to leverage federal WRP funds in Minnesota. These funds will be used to restore previously drained wetlands and adjacent native grasslands to protect soil and water quality, increase fish and wildlife habitat, reduce flood damage and provide other public benefits.

The RIM Reserve Management Planning Committee met on Wednesday February 23rd to review the following draft resolutions, and recommends them for full board approval at the March 23, 2011 meeting. The resolution does the following:

1. Authorizes staff to develop eligibility, prioritization, sign-up and selection procedures with NRCS to continue the successful delivery of the RIM-WRP Partnership in Minnesota.
2. Authorizes continuous RIM-WRP enrollment opportunities to begin no sooner than April 1, 2011.
3. The payment rate for eligible croplands enrolling in the RIM Reserve Program is not to exceed 100% of the AATV and for non-cropland acres not to exceed 60% of AATV.
4. The payment rate for wetland restorations eligible for the RIM-WRP Partnership for cropland acres is not to exceed 125% of the Average Assessed Tillable Value (AATV) and for non-cropland acres not to exceed 70% of the AATV.
5. Rates are to be calculated using the most current township average tillable property value as established by the Minnesota Department of Revenue.

Board Resolution # 11-18

Reinvest in Minnesota (RIM) Reserve - Wetlands Reserve Program (RIM-WRP) Partnership Program

WHEREAS the RIM-WRP Partnership, the premier private lands wetland restoration program in the nation, is a local-state-federal partnership delivered locally by the Natural Resources Conservation Service (NRCS) the Soil and Water Conservation Districts (SWCDs) and the Board of Water and Soil Resources (BWSR);

WHEREAS the RIM-WRP Partnership is possible through the collaboration of many local, state, and federal partners including Ducks Unlimited, DU), the Minnesota Waterfowl Association (MWA), Pheasants Forever (PF), the Minnesota Department of National Resources (MN DNR), and the United States Fish and Wildlife Service (USFWS);

WHERAS the RIM-WRP Partnership permanently protects and restores previously drained wetland and adjacent native grasslands to achieve the greatest wetland functions and values, while optimizing wildlife habitat on private lands enrolled in the Partnership;

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

WHEREAS the RIM Reserve Program receives appropriations from state bonding sources, the Outdoor Heritage Fund (OHF), the Clean Water Legacy (CWF), and the Minnesota Environment and Natural Resources Trust Fund;

WHEREAS RIM Reserve funding is intended to leverage federal WRP funds appropriated to the NRCS whenever feasible;

WHEREAS NRCS National Headquarters has requested Minnesota NRCS to develop a process which allows for continuous enrollment of RIM-WRP Partnership easement applications and the necessary obligation of federal WRP funds with eligible Minnesota landowners;

WHEREAS a Minnesota Wetlands Restoration Evaluation Worksheet will be used to score and rank applications for the RIM-WRP Partnership;

WHEREAS the RIM-WRP Partnership will establish scoring periods in which eligible RIM-WRP applications that have been scored ≥ 80 will be approved for selection for immediate funding by NRCS-WRP;

WHEREAS the Board authorized staff to work with Minnesota NRCS to develop RIM-WRP Partnership eligibility and sign-up procedures for the RIM-WRP Partnership;

WHEREAS other applications will be considered during the current scoring period prior to the NRCS obligation deadline;

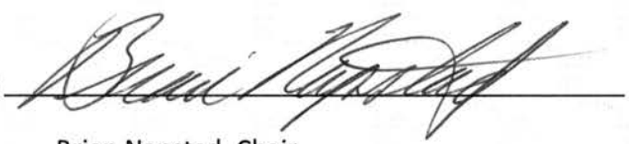
WHEREAS a subcommittee may be appointed by the chair of the BWSR to review the applications and make project selections in coordination with Minnesota NRCS;

WHEREAS the Board of Water and Soil Resources RIM Reserve Management Planning Committee met on Wednesday, February 23rd, 2011 and unanimously recommends operationalizing the RIM-WRP Partnership Program;

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources authorizes staff to successfully implement the RIM-WRP Partnership in recognition of and consistent with the findings noted above.

Dated at Saint Paul, Minnesota this 23rd day of March, 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: 

Brian Napstad, Chair

Board Resolution # 11-19

Reinvest in Minnesota (RIM) Reserve – Wetlands Reserve Program (RIM-WRP) Partnership: Payment Rates & 2011 Sign-up

WHEREAS anticipated 2011 RIM Reserve funding from the Outdoor Heritage Fund (OHF) is intended to leverage Federal Wetlands Reserve Program (WRP) funds appropriated to the Natural Resources Conservation Service (NRCS);

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

WHEREAS SWCDs will be reimbursed for their services related to the RIM-WRP Partnership at the approved RIM service rate as established in Resolution #08-84;

WHEREAS the Board has authorized staff to work with Minnesota NRCS to develop RIM-WRP Partnership payment rates, eligibility, and sign-up procedures for the RIM-WRP Partnership;

WHEREAS the Board and NRCS staff in consultation with the University of Minnesota Applied Economics Department, have determined that the most recent Average Assessed Tillable Value (AATV) by township as established by the Minnesota Department of Revenue is the most relevant, consistent and available land value data to use as the basis for easement payment rates as posted at the Minnesota Land Economic Website: www.landeconomics.umn.edu;

WHEREAS the Minnesota NRCS has adopted Geographic Area Rate Caps (GARC's) for townships which correspond to the Average Assessed Tillable Value as determined by county assessors for their WRP permanent easement rate on cropland. For non-cropland WRP has established 60% of AATV as their easement rate;

WHEREAS the Minnesota NRCS has adopted a 30-year WRP payment rate, specific to the RIM-WRP Partnership, of 75% AATV for cropland acres and 45% of AATV for non-cropland acres;

WHEREAS a subcommittee may be appointed by the chair of the BWSR to review the applications and make project selections in coordination with Minnesota NRCS;

WHEREAS the BWSR RIM Reserve Management Planning Committee met on Wednesday, February 23rd, 2011 and unanimously recommends the following provisions to successfully implement the RIM-WRP Partnership Program;

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources authorizes staff to develop and implement the RIM-WRP Partnership as follows:

1. Continuous enrollment period to begin no sooner than April 2011 for the RIM-WRP Partnership.

2. Staff is authorized to develop eligibility, prioritization, sign-up and selection procedures for the RIM-WRP Partnership.

3a. The payment rate for eligible croplands enrolling in the RIM Reserve Program is not to exceed 100% of the AATV and for non-cropland acres and not to exceed 60% of AATV.

3b. The payment rate for wetland restorations eligible for the RIM-WRP Partnership for cropland acres is not to exceed 125% of the Average Assessed Tillable Value (AATV) and for non-cropland acres not to exceed 70% of the AATV.

3c. Rates are to be calculated using the most current township average tillable property value as established by the Minnesota Department of Revenue.

Dated at Saint Paul, Minnesota this 23rd day of March, 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____

Brian Napstad, Chair

NEW BUSINESS

1. Aquatic Invasive Species (AIS): Connection to Local Water Management - Steve Hirsch and Luke Skinner, DNR Ecological-Waters Division; Tera Guetter, Pelican River Watershed District; Eric Evenson and Chuck Holtman (Smith-Partners), Minnehaha Creek Watershed District - ***INFORMATION ITEM***

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Aquatic Invasive Species (AIS): Connection to Local Water Management**

Meeting Date: March 23, 2011

Agenda Category: ☐ Committee Recommendation ☒ New Business ☐ Old Business

Item Type: ☐ Decision ☐ Discussion ☒ Information

Section/Region:

Contact: John Jaschke

Prepared by: John Jaschke

Reviewed by: John Jaschke Committee(s)

Presented by: John Jaschke

☒ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other:

ACTION REQUESTED

Information Item

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

The BWSR Board has the responsibility to review and approve amendments to local water management plans per M.S. Chapters 103B and 103D that may authorize funding or regulations to address AIS.

Presenters will be: Steve Hirsch and Luke Skinner, DNR Ecological-Waters Division; Tera Guetter, Pelican River Watershed District; Eric Evenson and Chuck Holtman (Smith-Partners), Minnehaha Creek Watershed District.

The DNR report is at:
http://files.dnr.state.mn.us/aboutdnr/reports/legislative/aquatic_invasive_species_prevention_legislative_report_2010.pdf

The following is a summary of eight areas of stakeholder group recommendations:

- Increase enforcement of AIS laws at the state and local levels;
- Increase penalties for violations of state invasive species laws;
- Improve the DNR's watercraft inspection process for AIS;
- Increase public awareness of AIS;
- Aid AIS actions at water accesses;
- Require lake service provider licensing and training;
- Focus on high-use infested waters & prioritize; and
- Increase funding for AIS efforts.

smith partners PLLP

Louis N. Smith
Charles B. Holtman
Michael J. Welch

Of Counsel
James B. Lockhart

Partnership Manager
Faith M. Cable

Office Manager
Toni L. Green

400 Second Avenue South
Suite 1200
Minneapolis MN 55401

[612] 344-1400 tel
[612] 344-1550 fax

www.smithpartners.com

February 2, 2011

Ms. Lori Swanson
Minnesota Attorney General
1400 Bremer Tower
445 Minnesota Street
St. Paul, MN 55101

Re: Minnehaha Creek Watershed District
Request for Opinion: Regulation to Manage Aquatic Invasive Species

Dear Attorney General Swanson:

We serve as legal counsel to the Minnehaha Creek Watershed District (District), a special purpose local unit of government established pursuant to Minnesota Statutes chapters 103B and 103D (*see* http://www.minnehahacreek.org). I write on behalf of the District's Board of Managers to request an opinion on an issue arising under the watershed laws, Minnesota Statutes chapters 103B and 103D.

Facts

Pursuant to its authority under chapters 103B and 103D, and the mandate of Minnesota Statutes sections 103D.341 and 103D.345, the District has adopted rules and established a regulatory program to limit flooding and impacts to surface waters in the watershed. The District carries out its regulatory program in conjunction with the authorities exercised by cities, towns and counties within the watershed, under the structure established by Minnesota Statutes section 103B.211, subdivision 1(a)(3). More broadly, the District assesses water resource concerns; prepares plans; and implements projects and programs, including its regulatory program, to address these concerns and fulfill the responsibilities assigned to it by Minnesota Statutes section 103B.231.

For some time the District has cooperated with other local and state governmental units to control or reduce the impacts from aquatic invasive species (AIS) such as curly-leaf pondweed and Eurasian watermilfoil. In July 2010, zebra mussels, an AIS of great concern, were discovered in Lake

Minnetonka, which lies wholly within the District's boundaries. The District had been monitoring the lake and its other surface waters for some time to determine whether the mussels were present. The failure of existing systems to stop zebra mussels from entering Lake Minnetonka and the growing and diversifying threat to other surface waters in the watershed have prompted the District to consider a more concerted approach to AIS. The elements of this approach will take shape through coordination with the District's cities and advisors representing water resource agencies and other technical stakeholders.

This approach may include a regulatory effort to address the threat of zebra mussels' rapid colonization of Lake Minnetonka and spread of the mussels and other AIS among other surface waters within the watershed. One concept would prohibit placing a watercraft or equipment (e.g., boat lift, dock) in an AIS-free watershed lake or creek without a District permit certifying that the boat or equipment is free of AIS. The District would not seek to license boats or other equipment in a manner foreclosed by the court of appeals in In re 1994 and 1995 Shoreline Improvement Contractor Licenses of Landview Landscaping, Inc., 546 N.W.2d 747 (Minn. Ct. App. 1996).

The District effort will build on its growing understanding and institutional expertise concerning AIS and the extent to which water quality and the beneficial uses of water resources depend on the integrity of the ecological setting. The District intends to coordinate rulemaking and any subsequent regulatory program with the invasive-species programs of the Minnesota Department of Natural Resources under Minnesota Statutes chapter 84D and its implementing rules.

Legal Background

Statutory Purposes and Powers

Purposes of metropolitan-area watershed districts are established by both the statewide Watershed Law (chapter 103D) and the Metropolitan Surface Water Management Act (chapter 103B). Chapter 103B charges the District to "protect and enhance fish and wildlife habitat and water recreational facilities" and "secure the other benefits associated with the proper management of surface

and ground water."[1] The District also is directed to "minimize public capital expenditures needed to correct ... water quality problems."[2] Chapter 103B builds on purposes established under Chapter 103D, which establishes watershed districts statewide to, among other purposes, "conserve the natural resources of the state ... by using sound scientific principles for ... the provident use of the natural resources."[3] Districts also are charged "to protect or enhance the water quality in watercourses or water basins."[4]

The powers granted to watershed districts to pursue these purposes include the power of regulation. Section 103D.341 specifically states that districts "must adopt rules to accomplish the purposes of [chapter 103D]." This broad command is supplemented by the authority to "regulate, conserve and control the use of water within the watershed district."[5]

The District rule would rest on findings as to water quality, habitat and recreational impacts of AIS and impact of AIS such as zebra mussels on the functions and maintenance costs of private and public facilities (boats, shoreline structures, water outfalls). With these findings, a regulatory program to limit the spread of AIS would utilize District regulatory authority to accomplish District purposes.

Defining Watershed Goals in Watershed Plans

The foundation of watershed district programs within the metropolitan area is the watershed management plan prepared and revised at least decennially under Minnesota Statutes section 103B.231. The plan must "present information on the hydrologic system and its components ... and existing and potential problems related thereto."[6] It must "state objectives and policies, including management principles, alternatives and modifications, water quality, and protection of natural characteristics."[7] Implementing rules of the Minnesota Board of Water and Soil Resources require plans to describe "how water resource

---

1 Minn. Stat. § 103B.201(7), (8).
2 Minn. Stat. § 103B.201(2).
3 Minn. Stat. § 103D.201, subd. 1.
4 *Id.* at subd. 2(13).
5 Minn. Stat. §103D.335, subd. 10.
6 Minn. Stat. § 103B.231, subd. 6(a)(2).
7 *Id.* at subd. 6(a)(3).

based recreational activities and wildlife interests will be protected or improved" through plan implementation.[8]

The District plan, adopted in 2007, underscores the importance of ecological integrity.[9] The plan identifies invasive and exotic species as substantial threats to ecological integrity.[10] It articulates the following goals served by AIS control:

- Maintain, support and enhance the ecological integrity of upland and aquatic resources in the watershed and the ability of flora and fauna in the watershed to proliferate;
- Increase the ecological integrity of the environmental resources within the watershed;
- Conserve, maintain and improve the aesthetic, physical, chemical and biological properties of surface waters and groundwater within the District;
- Protect the ecological integrity of surface waters and the riparian environment;
- Achieve no net loss in the quantity, quality, and biological diversity of existing wetlands in the watershed;
- Cooperate with other agencies to minimize the spread of harmful exotic species.[11]

The District is mandated to "adopt rules to accomplish the purposes of [the watershed law] and to implement the powers of the [District] managers."[12] Unlike the authority to levy for and spend funds on projects, which requires a foundation in an adopted watershed management plan,[13] the plan is not a prerequisite for the District's adoption of rules to accomplish its statutory purposes. However, the goals, policies and strategies detailed in the District plan are the foundation on which an AIS regulatory program will be built.

Accordingly, the District would intend to amend its watershed management plan under the procedures of section 103B.231 to include new understanding on the

---

8 Minn. R. 8410.0080, subp. 4.
9 *See, e.g.*, sections 1.7.1, 4.8.
10 *Id.*
11 Plan, sec. 5, goals 2, 2.1, 3, 6.3, 11.1, 14.3
12 Minn. Stat. §103D.341, subd. 1.
13 Minn. Stat. §103B.241, subd. 1.

significance of AIS spread within the watershed and the role that a regulatory program, such as described above, can play in addressing the problem. The process of amending the District plan, including the involvement of technical and citizens' advisory bodies, other agencies and the public, will help the District examine the role of regulation and adopt a rule that will best achieve AIS management goals.

Question Presented

In light of the above, the District requests your opinion on the following question:

> *On the basis of findings as to the effects of zebra mussels and other described AIS on water quality, riparian and aquatic habitat, recreational use of surface waters, and maintenance of public and private facilities, does the District have the authority to regulate surface water use through a permitting program that limits placing a boat or structure in a surface water within the watershed until it is determined to be free of AIS?*

AIS represent an urgent threat to the resources of the Minnehaha Creek watershed. Your timely response to this inquiry would help the District do its part to address one of our state's most pressing environmental issues.

We appreciate your counsel in these matters. Please do not hesitate to let me know if you require additional information.

Sincerely,



Louis N. Smith

c: MCWD Board of Managers
L. Eric Evenson, Administrator, MCWD
John Jaschke, Executive Director, BWSR
Luke Skinner, Supervisor, Invasive Species Program, MnDNR

From Lynn Schlueter, Special Project Biologist, ND Game & Fish

Red River Basin Commission:
Aquatic Nuisance Species Issues for Consideration

The following is a short summary of potential issues arising from aquatic nuisance species (ANS) infestations. IF additional information is required, please contact the document's author.

ANS

- Is a real and devastating problem
  - Ignoring it will not make it go away
- Problem needs to be considered on a wide scale and regional basis
- Many are small – plants or creatures which look harmless
- Accumulative affects from many individuals is a problem

The problem must be viewed in its entirety and impacts to our current status – what we are now enjoying.

IMPACTS FROM ANS

- Environmental changes
  - Degradation of habitats occurs
    - Used by fish and waterfowl
    - Used by man as drinking water
  - The quality and quantity of habits correlates to the type and number of species present
  - Less carrying capacity for native or desirable fish species
- Economic changes
  - Angler use declines
    - Less monies flowing through the local community
  - Recreation industry declines
    - Less monies spent at resorts and stores
  - Shoreline property values decline
    - Less tax base for the community
- Non-traditional
  - Power generation – clogged cooling towers
  - Water intakes – clogged pipes and equipment wear
  - Water projects – retention, transfer, or use
- Once established, the problem does not go away

ANS is affecting us by changing the world for the worst and costing us (you and me) more money.

ANS MOVEMENT

- Incorrectly thought to be limited to anglers and fishing activities
- Aquatic recreation – waterfowl hunting, boating, or other aquatic recreation
- Construction equipment which has been in water or is moving water in confined spaces
- Others - water gardens, pet trade, commercial ventures, food markets, etc.
- ANS is small and hardy – some species travel well and are hardy
- A single infestation radiates out like the spokes off of a wagon wheel
- People – travel to have recreation, have monies to purchase items they want, and they want more

The movement is done as un-intentional or unwitting efforts. Not knowing the outcome of a simple act can cause problems for the long term.

THOSE AFFECTED

- Recreators from loss of aquatic resources – less fish or ducks
    - Natural resource agencies diverting monies and man-power from management to preservation/restoration of once common species
- Construction projects
    - More Threatened and Endangered species listed
    - More regulations and restrictions to projects
    - Less projects approved
- Consumers that use water and electricity from higher O/M.

We are all being impacted by ANS. We all must be aware of how ANS impacts us and others. It more than just the other guy or group taking a hit.

REMEDIES

- Proactive approach
    - Reacting to the problem is too late
    - Finding a problem is having an established population
- Traditional fish and wildlife management will not work
    - Habitats have declined
    - Fish and wildlife populations remain low until habitats are restored

REMEDIES; continued

- Regulations
    - You are not going to catch all of them and not everyone obeys the regulations
- Education
    - Knowing you are making a problem is likely to cause you not to do that
    - Is very cost effective – cheaper to prevent than control

Not having the problem is the best alternative to having the problem.

PREVENTION

- Requires natural resource agencies be engaged and active in education
    - Proactive in prevention rather than reactive to finding a problem
- Requires non-traditional groups (water projects, water boards, water users, etc) partner with natural resource agencies
- Commitment comes with a price
    - Sufficient monies to properly do the work
    - Sufficient man-power to conduct the education
    - Knowing how to involve the audience
    - Educate in an effective manner – targeted market outreach
    - Educate where the users are at
- Resource agencies must allow for this education
    - Traditional views must give way to a new and proactive approach
    - Develop realistic strategies that can be achieved
    - Accept that the problems must be dealt with
- Education is an on-going process
    - Repeated information in various formats
    - Once started must continue
        - Restarting an education program that has been suspended is going back to the beginning
        - Building on accomplishment is simpler than starting over

Prevention is the only way to keep ANS out. Prevention requires problem awareness. Awareness by all impacted by the problem. Prevention requires an actual commitment to doing the work effectively

From Richard Hecock, Ph.D, Senior Advisor; Pelican River Watershed

Call to Action to Deal More Effectively with Aquatic Invasive Species (AIS)

Aquatic Invasive Species (AIS), including Zebra mussels, Eurasian water milfoil, Curlyleaf pondweed, and Spiny waterfleas are spreading rapidly in Minnesota rivers and lakes.

The primary mechanism for spreading AIS in Minnesota is the movement of boats from lake to lake.

AIS will have disastrous consequences for Minnesota waters, including fundamentally altering ecosystems, destroying game-fishing, damaging equipment/facilities, endangering swimmers, reducing property values, increasing water treatment and drainage system costs.

Insufficient funds have been devoted to slowing the spread, and treating the consequences of AIS infestations. The State of Minnesota has relied mostly on local organizations and governments to deal with these problems.

Existing statutes, regulations, and management strategies do not lend themselves to effective prevention, containments, or treatment of AIS infestations.

The DNR and the Minnesota Legislature currently is considering what needs to be done to address Minnesota's growing AIS problems.

Minnesota's Legislature and its Executive Branch must take forceful actions to counter the problems associated with AIS by...

1. ***offering greater authority...***
    - ***to do thorough inspections of boats and trailers that move from one lake to another***
    - ***to restrict boats that have been in AIS infested waters from moving to other waters without being decontaminated.***
    - ***to encourage state and local law-enforcement to more rigorously enforce AIS regulations***
    - ***to conduct inspections at private accesses to public waters***
2. ***providing more state funds...***
    - ***to provide more research on the spread and treatment of AIS***
    - ***to provide for more enforcement of existing and new regulations regarding the transfer of AIS from one water body to another***
    - ***to establish inspection/decontamination stations, including those at private accesses***
    - ***to assist communities in addressing the effects of AIS infestations***
3. ***adopting incentives to increase rigor of inspections and enforcement...***
    - ***higher fines for violators***
    - ***fine revenue to local communities***

NEW BUSINESS

1. Aquatic Invasive Species (AIS): Connection to Local Water Management
   - Article in *Outdoor News,* "Lake groups to get serious about invasives"
   - Red River Basin Commission letter to Governor Mark Dayton
   - Letter to Louis Smith from the Attorney General's Office

Lake groups to get serious about invasives

By Tim Spielman
Associate Editor

St. Paul — Could this be the year the DNR, legislators, and lake groups coalesce in a way that takes aquatic invasive species rules and awareness to a new level? The path is being cut.

Not only has the DNR formulated a wish list to prevent the spread of aquatic invasives in the state, but lake interests, too, are outlining rules they'd like implemented – and they're recruiting legislators who might bring them to light in St. Paul.

Last week, nearly 250 people – including eight state representatives and senators – gathered in Detroit Lakes for the "Tri-County Aquatic Invasive Species Legislative Summit," according to Dan Kittilson, president of the Hubbard County Coalition of Lake Associations.

"Basically, it was… to make legislators aware of the threat of invasive species and to seek their support and commitment," Kittilson said this week. Otter Tail and Becker county officials also hosted the event.

But the summit wasn't intended just to create awareness, Kittilson said; it was to prompt action on invasives issues.

"Hubbard County cannot afford to sit idly by and watch invasives coming into our lakes," he said in press release announcing the summit. "We have to act now, in partnership with Becker and Otter Tail counties, to harness all available state, regional, and local resources in this fight before it's too late and our lakes are irreparably harmed."

Kittilson, who lives on the Mantrap Chain of Lakes near Park Rapids, said the Hubbard County COLA currently works with area resorts, as well as 29 lake associations (representing 40 lakes and 2,150 members) in the county, to share AIS information.

While Kittilson favors – once funding is secured – inspections to prevent the spread of invasives (zebra mussels are an example), along with containment of the invasives on "super-spreaders" like Mille Lacs, where zebes already exist, other groups would go further in attempting to curb AIS spread.

The Green Lake Property Owners Association in Kandiyohi County has on its website a list of recommendations.

Among them, the group advocates:

- The state acquiring decontamination equipment by way of a fee system on watercraft that enter infested waters, or through a state contract with private operators. A biennial $50 fee, they say, could generate as much as $45 million;
- A seal/tag system for boats leaving infested waters of the state, to document inspections and decontaminations;
- Contaminated water bodies should be prioritized so that resources are allocated on the basis of risk posed by "super-spreader" lakes;
- Greater regulation of fishing contests. A moratorium on fishing contests on those lakes with names beginning with letters A through J would be imposed in the year 2011 and all odd-numbered years thereafter. Those lakes with names beginning with letters K through Z would be subject to a moratorium on fishing contests in 2012 and all even-numbered years thereafter;
- Severe penalties, including confiscation of boats and trailers, when appropriate, for moving a watercraft from access areas in infested waters without certified decontamination.

The Green Lake group estimates the annual cost of its proposed program would be between $5 million and $10 million.

The DNR's list of actions to prevent the spread of invasives includes some similarities – putting more teeth in penalties, for example. The department believes $50 and $100 fines are too low, and don't act as deterrents.

The department also would like to see improvement in the state's inspector program, something former DNR fisheries biologist and current fisheries activist Dick Sternberg also favors.

Sternberg, though, cautions groups to be cautious in what they demand from stepped-up AIS species programs.

"It's going to take a lot of thought and it's going to be expensive," he said. "It's going to be difficult."

Turn too many people off with new rules, he said, and a lack of support might be the downfall of proposed legislation.

"You only get one shot at this," he said.

Sternberg said he'd like to see decontamination facilities available for boaters at places like Mille Lacs and Minnetonka.

He believes Legacy Amendment funding should be made available for decontamination or other efforts aimed at curbing invasives.

Maple Grove man wins 2012 turkey stamp contest

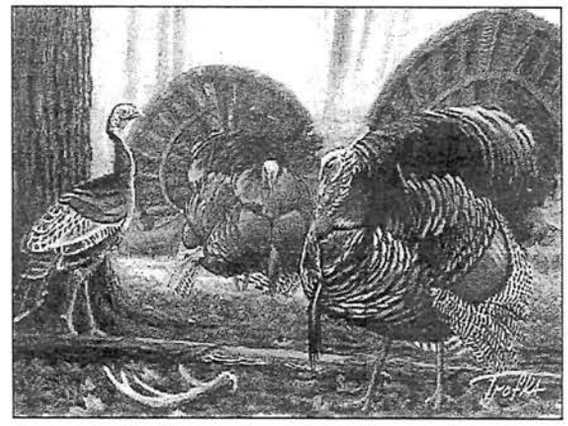
DNR Reports

St. Paul — A painting of three turkeys near a deer shed by Steven Trofka of Maple Grove will be featured on Minnesota's 2012 Wild Turkey Stamp. His design was chosen from among 24 entries in a contest sponsored by the Minnesota DNR.

This is first time Trofka has won the annual turkey stamp contest.

Eleven entries advanced to the second stage of judging, from which five finalists were selected during the contest held Jan. 6 at DNR Headquarters in St. Paul. The second place finalist was Donald Blakney of Princeton. David Chapman of Minnetonka placed third.

An artist whose work is selected for a Minnesota fish or



A panel of judges selected the painting above as the 2012 state turkey stamp. Image courtesy of Steven Trofka

the request of turkey hunters. Stamp revenue is used for wild turkey management and research. Revenues from stamp sales are dedicated to the development, restoration, maintenance and preservation of wild turkey habitat in Minnesota.



PATENT PENDING
WEEDGATOR® .net
The #1 Alternative To Chemicals

Red River Basin Commission

Manitoba • Minnesota • North Dakota • South Dakota

Moorhead Office: 119 5th St. S. • PO Box 66 • Moorhead, MN 56561-0066
Phone 218-291-0422 • FAX 218-291-0438 • staff@redriverbasincommission.org
Winnipeg Office: Suite 206 309 Hargrave Street • Winnipeg, MB R3B 2J8
Phone 204-982-7250 • FAX 204-982-7255 • staff@redriverbasincommission.org
www.redriverbasincommission.org

2011-2013
BOARD OF DIRECTORS

Manitoba
Jeff Browaty
Hank Enns
Kurtiss Krasnesky
Herm Martens
Marvin Magnusson
Doreen Negrich-Lozinski
R. S. "Bud" Oliver
Art Petkau
Sam Schellenberg
Colleen Sklar
Muriel Smith
Steven Topping
Dwight Williamson

Minnesota
Derek Crompton
Jerry Dahl
Jon Evert
John Finney
John Jaschke
Tom Landwehr
Hank Ludtke
Betty Pikop
Henry Van Offelen
Mark Voxland
Dan Wilkens

North Dakota
Joe Belford
Tom Fischer
Dave Glatt
Jake Gust
Dick Johnson
Todd Sando
Terry Steinwand
Genevieve Thompson
Ben Varnson
Hetty Walker
Shane Walock
Bob Werkhoven

South Dakota
Roger Navratil

Tribal/First Nation
Melissa Hotain
Allen Pemberton

Federal Ex Officio
Judith DesHarnais
Tony Kettler

Federal Elected Ex Officio
Rep. Berg – Tom Nelson
Sen. Conrad - Scott Stofferahn
Sen. Franken - Valerie Gravseth
Sen. Hoeven – Shane Goettle
Sen. Klobuchar - Andy Martin
Rep. Peterson – Wally Sparby
MP James Bezan
MP Vic Toews
State Rep. Morrie Lanning

March 16, 2011

The Honorable Mark Dayton
Governor, State of Minnesota
130 State Capitol
75 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul MN 55155

Dear Governor Dayton:

The Red River Basin Commission (RRBC) Board of Directors received a report at their March meeting focusing on the increasing threat from zebra mussels in Red River watershed. The RRBC Board is deeply concerned about the spread of invasive species into the Red River Basin watershed and their potential for significant negative effects. The Board of Directors passed a motion at their March 2011 Board meeting to communicate their concerns regarding zebra mussels to the Red River Basin jurisdictions.

RRBC recognizes the difficult task in addressing this problem and the significant efforts already underway. We encourage the States of Minnesota, North Dakota, and South Dakota and the Province of Manitoba to continue education and enforcement efforts. We also encourage expenditure of additional dollars for more aggressive prevention and control measures.

The RRBC works on natural resource issues in the Red River of the North Basin. We have board representation from Manitoba, Minnesota, North Dakota, and South Dakota. As a basin organization, we are concerned with issues in the basin that have the potential to impact other portions of the basin.

RRBC's mission is to create, maintain, get buy-in, and help implement a basin-wide vision that is reflected in 13 Goals in our Natural Resources Framework Plan (NRFP). Goal # 12 in the NRFP is*: to conserve, manage, and restore diversity and viability of native fish and wildlife populations and their habitats.*

Hopefully, current efforts and new initiatives can be implemented to halt this growing problem. In the meantime, we all need to do what we can to address this issue. We are appreciative of the initiative taken in Minnesota recently to introduce a bill to more aggressively address this issue.

The RRBC will continue to educate the public through our various communication strategies. We appreciate any additional efforts on your part that can be directed toward addressing and containing this problem.

Sincerely,

Jon Evert—MN
Chair, RRBC

Joe Belford—ND
Vice Chair, RRBC

Kurtiss Krasnesky—MB
Secretary-Treasurer, RRBC

c: Commissioner Tom Landwehr
Representative Denny McNamara
Senator Bill Ingebrigtsen

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

LORI SWANSON
ATTORNEY GENERAL

SUITE 1800
445 MINNESOTA STREET
ST. PAUL, MN 55101-2134
TELEPHONE: (651) 297-2040

March 15, 2011

Mr. Louis Smith
Smith Partners PLLP
Suite 1200, 400 Second Avenue S
Minneapolis, MN 55401



Dear Mr. Smith:

I thank you for your correspondence of February 2, 2011 on behalf of the Minnehaha Creek Watershed District (the "District").

In your letter you point out that the District has adopted rules and established a regulatory program to limit flooding and impacts to surface waters in the watershed. The District carries out its regulatory program in conjunction with the cities, towns, and counties within the watershed, under the structure established by Minn. Stat. § 103B.211, subd. 1(a)(3). More broadly, the District assesses water resource concerns; prepares plans; and implements projects and programs, including its regulatory program, to address these concerns and fulfill responsibilities assigned to it by Minn. Stat. § 103B.231.

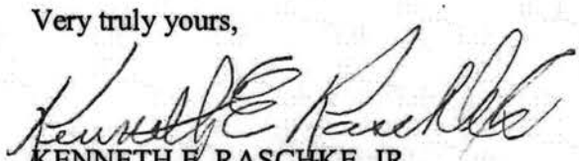
For some time the District has cooperated with other local and state governmental units to control or reduce the impacts from aquatic invasive species (AIS) such as curly-leaf pondweed and Eurasian watermilfoil. In July 2010, zebra mussels were discovered in Lake Minnetonka, which lies wholly within the District's boundaries. The failure of existing systems to stop zebra mussels from entering Lake Minnetonka and the growing and diversifying threat to other surface waters in the watershed have prompted the District to consider a more concerted approach to AIS. This approach may include a regulatory effort to address the threat of zebra mussels' rapid colonization of Lake Minnetonka and spread of the mussels and other AIS among other surface waters within the watershed. One concept under consideration would be a prohibition against placing any watercraft or equipment (e.g., boatlift, dock) in an AIS-free watershed lake or creek without a District permit certifying that the boat or equipment is free of AIS. In light of the foregoing background, the District requests the opinion of this Office concerning the authority of the District to establish a permitting program that prohibits placing a boat or structure in surface waters within the watershed until it has been certified by the District to be free of AIS.

As you may be aware, this Office has been strongly supportive of efforts to prevent the introduction and proliferation of foreign and invasive species in Minnesota waters. However, for a number of reasons, we are not in a position to provide the District with an opinion on the question asked.

First, as noted in Op. Atty. Gen. 629a, May 9, 1975 (copy enclosed), this Office does not generally undertake to render opinions on broadly hypothetical questions, or to make a general review of a proposed local ordinance, regulation, or resolution in order to evaluate its validity or to identify possible legal problems. From the general description of the District's proposal it is not clear how the program might be implemented, administered and enforced, or the extent to which it could complement, or conflict with the efforts of other state and local agencies.

Second, I recommend that the District contact the Minnesota Department of Natural Resources ("Department"), which has been delegated extensive authority and responsibility under Minn. Stat. ch. 84D for establishing programs adopting rules and enforcing regulations to prevent and curb the spread of invasive species. That authority specifically includes regulation and inspection of watercraft entering and leaving public waters. *See* Minn. Stat. §§ 84D.02, subd. 4, 84D.10 (2010).[1] Since this Office is responsible for providing legal representation for the Department, we are not in a position to provide independent advice to the District concerning proposals that could potentially involve conflicting interests or positions between those agencies. You point out that the District has historically cooperated with the State and local authorities in efforts to control and reduce impact of several invasive species. The statutes also call for the Commissioner of Natural Resources to coordinate the Department's AIS control programs with other public agencies and private organizations. *See* Minn. Stat. § 84D.02. Thus, I strongly encourage the District to contact the Department with its concerns.

Very truly yours,



KENNETH E. RASCHKE, JR.
Assistant Attorney General

(651) 757-1371 (Voice)
(651) 297-1235 (Fax)

Enclosure: Op. Atty. Gen. 629a, May 9, 1975

AG: #2779325-v1

[1] *See also* Minn. Stat. § 86B.209 (2010) which authorizes counties to adopt ordinances regulating the surface use of public waters within their jurisdiction.

ATTORNEY GENERAL: OPINIONS OF: Proper subjects for opinions of Attorney General discussed.

PLEASE DO NOT REMOVE
MASTER FILE

May 9, 1975

629-a
(Cr.Ref. 13)

Thomas M. Sweeney, Esq.
Blaine City Attorney
2200 American National Bank Building
101 East Fifth Street
St. Paul, Minnesota 55101

Dear Mr. Sweeney:

In your letter to Attorney General Warren Spannaus, you state substantially the following

FACTS

At the general election in November 1974 a proposal to amend the city charter of Blaine was submitted to the city's voters and was approved. The amendment provides for the division of the city into three election districts and for the election of two council members from each district. It also provides that the population of each district shall not be more than 5 percent over or under the average population per district, which is calculated by dividing the total city population by three. The amendment also states that if there is a population difference from district to district of more than 5 percent of the average population, the charter commission must submit a redistricting proposal to the city council.

The Blaine Charter Commission in its preparation and drafting of this amendment intended that the difference in population between election districts would not be more than 5 percent over or under the average population for a district. Therefore, the maximum allowable difference in population between election districts could be as great as 10 percent of the average population.

You then ask substantially the following

QUESTION

Does the Blaine City Charter, as amended, permit a maximum population difference between election dis-

tricts of 10 percent of the average population per district?

OPINION

The answer to this question depends entirely upon a construction of the Blaine City Charter. No question is presented concerning the authority to adopt this provision or involving the application or interpretation of state statutory provisions. Moreover, it does not appear that the provision is commonly found in municipal charters so as to be of significance to home rule charter cities generally. See Minn. Stat. § 8.07 (1974), providing for the issuance of opinions on questions of "public importance."[1]

In construing a charter provision, the rules of statutory construction are generally applicable. See 2 McQuillin, Municipal Corporations § 9.22 (3rd ed. 1966). The declared object of statutory construction is to ascertain and effectuate the intention of the legislature. Minn. Stat. § 645.16 (1974). When the words of a

---

[1]Minn. Stat. § 8.07 (1974) lists those officials to whom opinions may be issued. That section provides as follows:

> The attorney general on application shall give his opinion, in writing, to county, city, town attorneys, or the attorneys for the board of a school district or unorganized territory on questions of public importance; and on application of the commissioner of education he shall give his opinion, in writing, upon any question arising under the laws relating to public schools. On all school matters such opinion shall be decisive until the question involved shall be decided otherwise by a court of competent jurisdiction.

See also Minn. Stat. §§ 8.05 (regarding opinions to the legislature and legislative committees and commissions and to state officials and agencies) and 270.09 (regarding opinions to the Commissioner of Revenue).

statute are not explicit, the legislature's intent may be ascertained by considering, among other things, the occasion and necessity for the law, the circumstances under which it was enacted, the mischief to be remedied, and the object to be attained. Id.

Thus, an interpretation of a charter provision such as that referred to in the facts would require an examination of a number of factors, many of which are of a peculiarly local nature. Local officials rather than state officials are thus in the most advantageous position to recognize and evaluate the factors which have to be considered in construing such a provision. For these reasons, the city attorney is the appropriate official to analyze questions of the type presented and provide his or her opinion to the municipal council or other municipal agency. The same is true with respect to questions concerning the meaning of other local legal provisions such as ordinances and resolutions. Similar considerations dictate that provisions of federal law generally be construed by the appropriate federal authority.

For purposes of summarizing the rules discussed in this and prior opinions, we note that rulings of the Attorney General do not ordinarily undertake to:

(1) Determine the constitutionality of state statutes since this office may deem it appropriate to intervene and defend challenges to the constitutionality of statutes. See Minn. Stat. § 555.11 (1974); Minn. R. Civ. App. P. 144; Minn. Dist. Ct. (Civ.) R. 24.04; Op. Atty. Gen. 733G, July 23, 1945.

(2) Make factual determinations since this office is not equipped to investigate and evaluate questions of fact. See, e.g., Ops. Atty. Gen. 63a-11, May 10, 1955 and 121a-6, April 12, 1948.

(3) Interpret the meaning of terms in contracts and other agreements since the terms are generally adopted for the purpose of preserving the intent of the parties and construing their meaning often involves factual determinations as to such intent. See Op. Atty. Gen. 629-a, July 25, 1973.

(4) Decide questions which are likely to arise in litigation which is underway or is imminent, since our opinions are advisory and we must defer to the judiciary in such cases. See Ops. Atty. Gen. 519M, Oct. 18, 1956 and 196n, March 30, 1951.

(5) Decide hypothetical or moot questions. See Op. Atty. Gen. 519M, May 8, 1951.

(6) Make a general review of a local ordinance, regulation, resolution or contract to determine the validity thereof or to ascertain possible legal problems, since the task of making such a review is, of course, the responsibility of local officials. See Op. Atty. Gen. 477b-14, Oct. 9, 1973.

(7) Construe provisions of federal law. See textual discussion supra.

(8) Construe the meaning of terms in city charters and local ordinances and resolutions. See textual discussion supra.

We trust that the foregoing general statement on the nature of opinions will prove to be informative and of guidance to those requesting opinions.

Very truly yours,

WARREN SPANNAUS
Attorney General

THOMAS G. MATTSON
Assistant Attorney General

WS:TGM:bw

BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, APRIL 27, 2011

BOARD MEMBERS PRESENT:
Linda Bruemmer, MDH; Paul Brutlag, Bob Burandt, Christy Jo Fogarty, Quentin Fairbanks, Sandy Hooker, Tom Landwehr, DNR; Paul Langseth, Tom Loveall, John Meyer, Keith Mykleseth, Brian Napstad, Gaylen Reetz, MPCA; Faye Sleeper, MES; Louise Smallidge, Gene Tiedemann, LuAnn Tolliver, Matthew Wohlman, MDA

BOARD MEMBERS ABSENT:
Joe Martin

STAFF PRESENT:
Mary Jo Anderson, Brian Dwight, Travis Germundson, Jim Haertel, Jeff Hrubes, John Jaschke, Al Kean, Jeff Nielsen, Dave Weirens, Marcey Westrick, Steve Woods, Brad Wozney

OTHERS PRESENT:
Matt Moore, South Washington Watershed District
Doug Snyder and Dan Kalmon, Mississippi WMO
Rob Sip and Barbara Weismann, MDA
Wayne Anderson, MPCA
Richard Batiuk, Associate Director for Science, EPA
Warren Formo, Minnesota Ag Water Resources Coalition
Tim Koehler, NRCS
Tim Gieseke, Ag Resource Strategies, LLC

Chair Napstad called the meeting to order at 9:00 a.m.

PLEDGE OF ALLEGIANCE

** 11-21 **ADOPTION OF AGENDA** – Moved by Louise Smallidge, seconded by Quentin Fairbanks, to approve the agenda as presented. Motion passed on a voice vote.

MINUTES OF MARCH 23, 2011 MEETING – LuAnn Tolliver reported that a correction is needed on page ten, it should state that Jill Crafton is with the Riley Purgatory Bluff Creek Watershed District. Moved by LuAnn Tollver, seconded by Paul Brutlag, to approve the corrected minutes of March 23, 2011 as circulated. Motion passed on a voice vote.

CONFLICT OF INTEREST DECLARATION – Chair Napstad reported that one agenda item today needs the Conflict of Interest Declaration form submitted. The agenda item is the Allocation of Available Clean Water Funds. Chair Napstad read the statement:

"A conflict of interest whether actual 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 identify any potential conflicts of interest they may have regarding today's business."

Chair Napstad asked board members to submit their completed Conflict of Interest Declaration forms to John Jaschke. John explained BWSR's policy on grant authorization and completing the form. The Conflict of Interest Declaration documents will be filed for each grant decision item.

REPORTS

Chair's Report – Brian Napstad reported that he attended the Northern Water Planning Committee meeting on April 13th. Chair Napstad reported that Dan Steward, Board Conservationist, presented the history of water planning and Chair Napstad encouraged the Southern and Metro Water Planning Committees to also discuss this informative topic.

Chair Napstad reported that he and Vice Chair Paul Brutlag met with John Jaschke last night and conducted John's annual performance evaluation. Chair Napstad thanked board members for their participation in the executive director's review process. He assured board members that each comment was reviewed with John. Board member comments varied, yet comments were very positive. Chair Napstad stated that he is very pleased with Executive Director John Jaschke. John scored 4.4 out of five points,

excellent! Chair Napstad stated that he is always proud to introduce John Jaschke as Executive Director of BWSR; he's a great spokesman for the agency, and is well respected by board members, staff, legislators, and clientele. Paul Brutlag stated that he and Chair Napstad had an excellent discussion with John last night. Paul stated that John appropriately balances staff respect and morale, has established a good relationship with board members, and we need to keep John as a functional working asset to BWSR. Chair Napstad stated that board members may request more details of the evaluation if interested.

Executive Director's Report – John Jaschke reviewed items in the Board Meeting packet today: BWSR Committees, dated March 22, 2011; BWSR Member location map; "BWSR Snapshots"; and the 2011 MAWD Summer Tour Information. John stated that board members interested in attending the MAWD tour should submit their registration to Mary Jo Anderson for direct billing.

John reported that the Legislature took a break last week. John attended a wetland staff meeting in Brainerd on Monday; he also attended meetings and field visits with Aitkin County, Crow Wing County, Douglas County and the Sauk River Watershed District. A listening session and legislative update with Metro area local governments was held Wednesday. John was in Rochester on Thursday for an Earth Day event in the morning and an afternoon meeting with local governmental units.

John gave a brief legislative update. There is no news to report yet on the budget. The Legacy amendment work is going on this week to appropriate funding for Clean Water and Outdoor Heritage Fund projects. BWSR's WCA policy bill is moving forward. The rulemaking moratorium proposed may create obstacles with other current and past legislation.

Christy Jo Fogarty and Sandy Hooker arrived at the meeting at 9:15 a.m.

Dispute Resolution Committee – Travis Germundson reported that one new appeal was received, a forestry exemption in Cook County. Travis reported that appeal #11-2, in Waseca County, has a prehearing conference scheduled for next week. Chair Napstad thanked Travis for his report.

Wetlands Committee – LuAnn Tolliver stated that the Wetlands Committee has not met; a meeting will be scheduled in conjunction with an upcoming Board meeting.

Grants Program & Policy Committee – Louise Smallidge stated that the Grants Program & Policy Committee has not met; there is an item on the agenda later today.

Public Relations, Outreach & Strategic Planning Committee – Keith Mykleseth distributed copies of the Public Relations, Outreach & Strategic Planning Committee meeting minutes of March 23, 2011, and the agenda for today's Committee meeting. The Committee is meeting today following adjournment of the Board Meeting; and immediately following adjournment of the Southern Water Planning Committee meeting. Keith stated that the Committee decided to conduct a survey of board members' interest in various topics that could be addressed in BWSR's Strategic Plan. The survey is in board members' packets. Chair Napstad asked board members to select three topics and submit the completed survey to Mary Jo Anderson today.

RIM Reserve Planning Committee – Paul Brutlag stated that the RIM Reserve Planning Committee has not met.

Drainage Work Group – Tom Loveall reported that Drainage Work Group has not met.

Administrative Advisory Committee – Brian Napstad reported that Administrative Advisory Committee (AAC) met this morning. The AAC discussed the Executive Director's performance evaluation; allocations available for the Clean Water Legacy and Clean Water Funds; legislative update; Committee meetings scheduled; and a letter from Wilkin County regarding establishment of Upper Red Lower Otter Tail Watershed District.

COMMITTEE RECOMMENDATIONS

Metro Water Planning Committee

Coon Creek Watershed District Boundary Change Petition –Travis Germundson reported that the Coon Creek Watershed District (CCWD) submitted a boundary change petition pursuant to Minn. Stat. § 103B.215 to change the legal boundaries between the CCWD and Lower Rum River Water Management Organization (LRRWMO). The CCWD's 2004 Comprehensive Plan directs the Watershed District to review its boundaries on an ongoing basis to ensure accuracy. The proposed boundary change would achieve a more accurate alignment between the hydrologic and legal boundaries of the CCWD and the LRRWMO. Travis reported that all relevant substantive procedural requirements have been fulfilled. The Metro Water Planning Committee met on April 12, 2011 and unanimously voted to recommend approval of the Petition.

** 11-23 Moved by Bob Burandt, seconded by Christy Jo Fogarty, that BWSR hereby orders that the boundaries of the Coon Creek Watershed District are changed per the Petition as depicted. The Board strongly recommends that the Lower Rum River Water Management Organization take immediate action to change its organizational boundary consistent with the Order. Chair Napstad stated that he appreciates the defined map showing the boundary amendment. Motion passed on a voice vote.

Coon Creek Watershed District Boundary Change Hearing – Jim Haertel reported that in conjunction with the dissolution of the Six Cities Watershed Management Organization, the Coon Creek Watershed District submitted a boundary change petition to enlarge the district into areas of the former Six Cities Watershed Management Organization. The petition involves parts of the Cities of Blaine, Coon Rapids, Fridley and Spring Lake Park. The Board action is to order a public hearing on the petition. Jim reported that the Metro Water Planning Committee recommends a hearing. Moved by
** 11-24 Paul Langseth, seconded by Bob Burandt, that the Board hereby orders a public hearing to be held within 35 days of the date of this Order on the Petition for a boundary change of the Coon Creek Watershed District to be presided over by the Metro Water Planning Committee at a date, time and location set by the Executive Director, after proper legal notice of the public hearing has been given. Motion passed on a voice vote.

Amendment to South Washington Watershed District Watershed (SWWD) Management Plan – Jim Haertel introduced Matt Moore, Administrator of the SWWD. Jim reported that the mission of the SWWD is to manage water and related resources within the District in cooperation with citizens and communities. The Amendment to the SWWD Plan incorporates natural resource data, issues, and goals for the area of the former Lower St. Croix Watershed Management Organization (LSCWMO). The Amendment was ordered by the BWSR Board in conjunction with the enlargement of the SWWD into areas of the former LSCWMO. The Amendment is consistent with the former LSCWMO Watershed Management Plan. The Amendment establishes the area of the former LSCWMO as a watershed management unit for project funding by stormwater utility fees. The Metro Water Planning Committee met on April 12, 2011. After review of information, the Committee unanimously recommends approval of the
** Plan Amendment. Moved by Louise Smallidge, seconded by Matt Wohlmann, that the
11-25 Board hereby approves the amendment, dated March 9, 2011, to the South Washington Watershed District Watershed Management Plan. Paul Brutlag stated that BWSR has properly done what was hydrologically corrected. Motion passed on a voice vote.

Scott Watershed Management Organization (WMO) Plan Amendment – Brad Wozney reported that a Plan amendment to the Scott WMO Watershed Management Plan was filed with the Board on February 11, 2011. The Metro Water Planning
** Committee recommends approval of the Plan amendment. Moved by Bob Burandt,
11-26 seconded by Louise Smallidge, that the Board hereby approves the amendment to the Scott Watershed Management Organization's Watershed Management Plan. Louise stated that the mapping done by staff is much appreciated! Motion passed on a voice vote.

Mississippi Watershed Management Organization (MWMO) Revised Watershed Management Plan – Brad Wozney introduced Doug Snyder, MWMO Executive Director, and Dan Kalmon, MWMO Planner and Program Manager. Brad reported that the MWMO offered LGUs and state agencies a number of opportunities to provide input via Technical Advisory Committee meetings and releasing preliminary drafts. Brad reported that approximately 1,000 comments were received for this Plan. Brad reported that the Metro Water Planning Committee met on April 12, 2011, with a presentation on the history and key focus areas of the MWMO as well as highlights of the implementation section of the revised Plan. After review of the information, the
** Committee unanimously recommends approval of the Plan. Moved by Louise
11-27 Smallidge, seconded by Keith Mykleseth, that the Board hereby approves the Mississippi Watershed Management Organization Revised Watershed Management Plan. Motion passed on a voice vote. Chair Napstad thanked Doug Snyder and Dan Kalmon for coming in today.

Northern Water Planning Committee

Red Lake Watershed District (RLWD) Plan Amendment for Formation of a Water Management District – Keith Mykleseth introduced Dale Nelson, President, and Myron Jesme, Administrator, Red Lake Watershed District. Brian Dwight reported that the RLWD proposes a watershed management plan amendment providing for the establishment of a Water Management District for the Thief River Falls Flood Damage Reduction Project. The RLWD has developed a comprehensive flood damage reduction solution that involves numerous partners including the RLWD, state, city, county, townships, and local landowners. This project will address a long-standing flooding problem in the City of Thief River Falls. Brian reported that the Northern Water Planning Committee met on April 13, 2011, reviewed the Plan amendment and recommends
** approval. Moved by Quentin Fairbanks, seconded by, Keith Mykleseth, that the Board
11-28 hereby prescribes the Plan amendment dated March 10, 2011, as a formal amendment to the April 2006 Revised Plan for the RLWD to establish a water management district and the RLWD must include an evaluation of the use and effectiveness of the water management district in each ten-year plan revision. Gene Tiedemann abstains from voting as he is a Board Member of the RLWD. Paul Brutlag commended the Red Lake Watershed District for their efforts on a good Plan amendment, they are setting precedence for others to follow. Motion passed on a voice vote. Chair Napstad thanked Myron Jesme and Dale Nelson for coming in today.

Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) Order to Hold a Public Hearing on Watershed Plan – Brian Dwight reported that the Board must give notice and hold a hearing on Watershed District Plan updates within 45 days after receiving the Department of Natural Resources' recommendation on the revised Plan

pursuant to Minn. Stat. § 103D.405 Subd.5 (a). Brian reported that the Northern Water Planning Committee recommends approval at this time so the statutory requirement can
** be met. Moved by Gene Tiedemann, seconded by Sandy Hooker, that the Board hereby
11-29 orders a public hearing be held within 45 days after receiving the Department of Natural Resources' recommendation on the revised Plan for the MSTRWD to be presided over by the Northern Water Planning Committee at a date and location to be determined by the Executive Director. Motion passed on a voice vote.

Wadena County Water Plan Amendment – Quentin Fairbanks reported that the Northern Water Planning Committee reviewed the Wadena County Water Plan
** amendment and recommends approval. Moved by Quentin Fairbanks, seconded by
11-30 Paul Brutlag, that the Board hereby approves the update of the Wadena County Local Water Management Plan. Paul Langseth, chair of the Southern Water Planning Committee, stated that this is a good process to have in place to review amendments. Quentin stated that it's a good learning experience to have discussion between Committees. Chair Napstad stated that he and John Jaschke have been discussing this also. Motion passed on a voice vote.

Southern Water Planning Committee

Mower County Local Water Management Plan Amendment – Paul Langseth reported that the Southern Water Planning Committee met on November 4, 2010, to review the Mower County Comprehensive Local Water Plan 2010 Amendment, and recommends approval. The December 14, 2005, BWSR Order approving the 10-year
** plan required a review and update of the implementation section in five years. Moved
11-31 by Paul Langseth, seconded by Sandy Hooker, that the Board hereby approves the 2010 amendment of the Mower County Water Management Plan for January 1, 2006 – December 31, 2015. Mower County will be required to provide a complete update of its Water Management Plan prior to December 31, 2015. Motion passed on a voice vote.

Chair Napstad called for a break in the meeting at 10:05 a.m. The meeting reconvened at 10:15 a.m.

NEW BUSINESS

Chesapeake Bay Presentation – John Jaschke introduced Richard Batiuk, Associate Director for Science, U.S. Environmental Protection Agency, Chesapeake Bay Program Office; and Warren Formo, Executive Director, Minnesota Ag Water Resources Coalition. Mr. Batiuk presented information and an assessment of federal, state and local efforts to achieve water quality improvements in the Chesapeake Bay watershed. EPA, in conjunction with the jurisdictions of Maryland, Virginia, Pennsylvania, Delaware, West Virginia, New York, and the District of Columbia, developed and, on December 29, 2010, established a nutrient and sediment pollution diet for the 64,000 square mile

Chesapeake Bay watershed, consistent with Federal Clean Water Act requirements, to guide and assist Chesapeake Bay restoration efforts. This pollution diet is known as the Chesapeake Bay Total Maximum Daily Load (TMDL). NRCS recently released a study, "Assessing Conservation Practices on Cultivated Cropland in the Chesapeake Bay Region". The study shows the opportunities for further reductions of sediment and nutrient losses from agriculture by focusing conservation activities on the most vulnerable acres.

Warren Formo, stated that the Minnesota Ag Water Resources Coalition (MAWRC) recently visited the Bay area to assess past and planned activities. Mr. Formo stated that there are some potential approaches and ideas that could be relevant for Minnesota. Minnesota needs to stay involved; we can learn from one another, and from EPA's achievements in the Chesapeake Bay area. Chair Napstad thanked Rich Batiuk and Warren Formo for coming in today.

OLD BUSINESS
Chair Napstad requested that board members submit the Conflict of Interest Declaration forms.

Allocation of Available Clean Water Funds – John Jaschke explained that BWSR has received numerous appropriations over the past four years for the Clean Water Legacy and Clean Water Fund programs. Funds have been awarded to local governments for a variety of projects and activities. Funds are occasionally returned when a project has been completed under budget, or project components cannot be completed. The resolution will allow highly ranked proposals to be authorized with the returned funds.

** 11-32 Moved by Paul Brutlag, seconded by Quentin Fairbanks, to authorize the Executive Director to allocate funds to eligible local units of government that have previously made an application for funds consistent with the intent of prior Board resolutions, governing appropriations and statutes. Discussion followed. Faye asked about the Stearns County allocation. Jeff Hrubes stated that Stearns County's allocation was about $23,000.

John Jaschke reported that Conflict of Interest Declaration forms were received, all board members are eligible to vote on this matter. Motion passed on a voice vote.

Adjustment to 2011 BWSR Board Meeting Schedule – John Jaschke explained that the schedule for Board decision-making related to the anticipated Clean Water Fund (CWF) grants will necessitate adding a July meeting if the Legislature's adjournment remains on schedule for May 23. To keep meetings to a minimum, we are planning

** to cancel the May 25th meeting, and add a July 27th meeting. Moved by Louise

11-33 Smallidge, seconded by Sandy Hooker, to approve the revised 2011 BWSR Board Meeting Schedule, eliminating the May 25th meeting; and adding the July 27th meeting. Motion passed on a voice vote.

AGENCY REPORTS

Minnesota Department of Agriculture – Matthew Wohlman reported that Barbara Weismann continues to lead the Farm Bill interagency team, a partnership effort in collaboration with MDA, BWSR, DNR, and MPCA. Matt stated that recommendations for the Farm Bill focus on conservation policy to leverage federal dollars.

Minnesota Department of Health (MDH) – Linda Bruemmer reported that next week is "Drinking Water Week". Events will be held in St. Peter. MDH encourages stopping the drinking of commercial bottled water, the City of Minneapolis has adopted that effort also.

Tom Landwehr left the meeting at 11:45 a.m.

Minnesota Extension Service – Faye Sleeper reported that the College of Food, Ag and Natural Resource Science is holding a symposium, "Water and Agriculture in the 21st Century", May 6th, 9:00– 3:30, at the St. Paul Student Center. Faye invited board members to attend, the symposium is free, but pre-registration is required.

Minnesota Pollution Control Agency (MPCA) – Gaylen Reetz reported that SWCDs will be eligible for Clean Water Partnership funds if proposed legislation is passed; MPCA recognizes that SWCDs are an important part of clean water efforts.

ADVISORY COMMENTS

Minnesota Association of Townships (MAT) – Sandy Hooker reported that MAT is planning a celebration in September in Washington, D.C.

Natural Resources Conservation Service – Tim Koehler reported that NRCS has a new WRP initiative in the Red River Basin, $10M allocated to MN and ND to start this water plan. Tim stated that the NRCS Farm Bill program workload has been split in two. Tim is working on easements and CRP; Myron Taylor is working on cost-share programs EQIP and CSP. NRCS has hired additional staff for RIM-WRP easements. Tim continues to work with Kevin Lines and BWSR staff on easements. Tim reported that the Red River Basin Commission formed a retention authority to deal with retention and water quality issues in the Basin. There is a need to secure easements for flood mitigation and wildlife. Keith Mykleseth stated that the Flood Damage Reduction Work Group plays a part in the funding allocation Tim is reporting on. Tim stated that Don Baloun has been with Minnesota NRCS a year as State Conservationist!

UPCOMING MEETINGS

Chair Napstad reported that the next BWSR Board Meeting is June 22, 2011, in St. Paul.

Chair Napstad stated that the Southern Water Planning Committee meets immediately following adjournment of the Board meeting; then the Public Relations, Outreach, and Strategic Planning Committee meets today immediately following adjournment of the Southern Water Planning Committee meeting. The Metro Water Planning Committee will meet on May 31, immediately following the 7:00 p.m. public hearing, in Blaine. The Northern Water Planning Committee meets June 8, location to be determined.

** 11-34 Moved by Louise Smallidge, seconded by LuAnn Tolliver, to adjourn the meeting at 12:10 p.m.

Respectfully submitted,

Brian Napstad
Chair

BOARD OF WATER AND SOIL RESOURCES
Attendance Roster

	Name	Affiliation	Phone #
1.	Warren Formo	MAWRC	651 768 2106
2.	Myron Jesme	RLWA	218-681-5800
3.	Matt Moore	SWWD	651.714.3929
4.	Brian Dwight	BWSR	
5.	Doug Snyder	MWMO	612.465.8780
6.	Dan Kalmon	MWMO	612-360-7335
7.		MDA	651-319-1832
8.	Jeff Nielsen	BWSR	507-359-6075
9.	Barbara Weisman	MDA	651-201-6631
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			
21.			
22.			
23.			
24.			
25.			

BWSR Public Relations Committee Survey April 27, 2011

TO: BWSR Board Members and Alternates

At their March 2011 meeting, members of BWSR's Public Relations, Outreach and Strategic Planning (PROSP) Committee decided to conduct an informal survey of Board members' interest in various topics that could be addressed in an update to BWSR's Strategic Plan.

Below is a list of items that could be examined in greater detail by the PROSP Committee.

If the Board were to freshen up the Strategic Plan, on which THREE issues should we focus the most attention? (Please check, underline or highlight your selections.)

- alignment of planning efforts: statewide
- alignment of planning efforts: local
- declining base funds for local governments
- transparency throughout the LGU delivery system
- accountability throughout the LGU delivery system
- new board constituencies of cities and townships
- the new Clean Water Land and Legacy Funds (water and habitat)
- systems for shared local government services
- organizing more functions by major watersheds
- Executive Branch coordination
- measuring progress toward goals
- variability of local capacity for matching grant money
- Other_____
- Other_____

Return this form to Mary Jo Anderson **today** before you leave.

BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, MARCH 23, 2011

BOARD MEMBERS PRESENT:
Paul Brutlag, Bob Burandt, Christy Jo Fogarty, Quentin Fairbanks, Sandy Hooker, Tom Landwehr and Dave Schad, DNR; Tom Loveall, Joe Martin, Keith Mykleseth, Brian Napstad, Faye Sleeper, MES; Gene Tiedemann, LuAnn Tolliver, Doug Wetzstein, MPCA; Matthew Wohlman, MDA

BOARD MEMBERS ABSENT:
Paul Langseth
Linda Bruemmer, Department of Health
Louise Smallidge
John Meyer

STAFF PRESENT:
Mary Jo Anderson, Angie Becker-Kudelka, Don Buckhout, Travis Germundson, Dianne Hubbell, John Jaschke, Kari Keating, Melissa Lewis, Kevin Lines, Paul Senne, Dave Weirens, Steve Woods, Wayne Zellmer

OTHERS PRESENT:
Steve Hirsch and Luke Skinner, DNR Ecological-Waters Division
Tera Guetter and Barb Halbakken Fischburg, Pelican River Watershed District
Eric Evenson, Minnehaha Creek Watershed District
Michael Welch, Smith Partners
Paige Stradley, U of M Law
Lance Yohe, Red River Basin Commission
Rob Sip, Department of Agriculture
Jill Crafton, Riley Purgatory Bluff Creek Watershed District

DRAFT

Chair Napstad called the meeting to order at 9:05 a.m. Chair Napstad thanked everyone for the extra effort in getting here today due to the weather conditions.

PLEDGE OF ALLEGIANCE

Chair Napstad introduced and welcomed Matt Wohlman, Assistant Commissioner, Minnesota Department of Agriculture (MDA), newly appointed Board Member representing MDA. Matt provided brief background information, and stated that he looks forward to representing MDA on the BWSR Board.

** 11-12 **ADOPTION OF AGENDA** – Moved by Paul Brutlag, seconded by LuAnn Tolliver, to approve the agenda as presented. Motion passed on a voice vote.

** 11-13 **MINUTES OF JANUARY 26, 2011** – Moved by Quentin Fairbanks, seconded by Keith Mykleseth, to approve the minutes of January 26, 2011, as circulated. Motion passed on a voice vote.

CONFLICT OF INTEREST DECLARATION – Chair Napstad reported that two agenda items today need the Conflict of Interest Declaration form submitted. The agenda items are: FY2011 Red River Basin Commission Administrative Grant; and the Lake Protection Water Plan Challenge Grant. Chair Napstad read the statement:

"A conflict of interest whether actual 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 identify any potential conflicts of interest they may have regarding today's business."

Chair Napstad asked board members to submit their completed Conflict of Interest Declaration forms to John Jaschke. John explained BWSR's policy on grant authorization and completing the form. The Conflict of Interest Declaration documents will be filed with each grant.

REPORTS

Chair's Report – Brian Napstad reported that the Administrative Advisory Committee (AAC) met this morning. The four board member positions (one watershed representative, one county commissioner representative, one citizen representative, and one non-metro city representative) are open; the application process is on the Secretary of State's website: www.sos.state.mn.us

DRAFT

Chair Napstad reported that the Board's summer tour will be in Todd/Morrison Counties and include Camp Ripley in the Little Falls area. Mary Jo Anderson will coordinate logistics for the tour including bus transportation from St. Paul to Little Falls the afternoon of August 23. The tour will be held on Wednesday, August 24th and the Board Meeting will be held on Thursday, August 25. Information will be provided at a later date.

Chair Napstad reported that he had met with the U.S. Army Corps of Engineers representative responsible for the control structures in the Mississippi Headwaters area. Reservoir and river levels are being closely monitored to minimize spring flooding. Chair Napstad attended meetings at the Capitol on behalf of the Mississippi Headwaters Board.

Executive Director's Report – John Jaschke reviewed items in the Board Meeting packet today: updated Board Member listing; "BWSR Snapshots"; PRAP 2011 Report to the MN Legislature; Procedure for Establishing a Watershed District; Watershed District Establishment Outline; and a letter regarding the Six Cities Watershed Management Organization.

Commissioner Tom Landwehr and Dave Schad, DNR, arrived at the meeting at 9:25 a.m.

Bob Burandt arrived at the meeting at 9:30 a.m.

John Jaschke provided an update regarding the Governor's and Legislative Recommendations for the General Fund and Omnibus Finance Bills. John explained that letters were sent to the Senate and House regarding BWSR's budget recommendations. John asked board members to contact Mary Jo Anderson if they would like a copy of the correspondence sent to the Senate and House. John outlined the Committees busy legislative schedule this week: AMC legislative meetings, MAWD legislative breakfast tomorrow, as well as ongoing legislative hearings at the Capitol. Chair Napstad reminded BWSR members that when representing BWSR, we must support the Dayton Administration positions as we are part of the Administration.

Dispute Resolution Committee – Travis Germundson reported that there are no new appeals. Travis provided minor updates to the report. Chair Napstad reported that he was contacted by a constituent regarding misinformation he received about the $500 filing fee for a restoration order appeal. Travis reported that the LGU and DNR conservation officer provided the wrong information, the correct information has been on the BWSR website since 2009. Chair Napstad stated the importance of communication and keeping information up-to-date.

DRAFT

INTRODUCTORY REMARKS FROM MPCA COMMISSIONER PAUL AASEN -
Chair Napstad introduced newly appointed MPCA Commissioner Paul Aasen. Commissioner Aasen stated that the hallway conversations with MPCA, DNR, and BWSR are so important; it's good to be connected. Commissioner Aasen stated that MPCA, DNR, and BWSR are lucky to have Clean Water Funds available to our agencies; it's obvious that our agencies are and will be working together. Commissioner Aasen stated that the perception of water regulation duplication and 'confusion' at the local level proves that we need to work together even more. Commissioner Aasen looks forward to working with BWSR on issues such as environmental policy governance in the future and coordination of environmental policy efforts. Chair Napstad congratulated Commissioner Aasen on his appointment and thanked him for his comments. Commissioner Aasen commented on the importance of education and informing legislators of agency policy and process during the Legislative Session.

INTRODUCTORY REMARKS FROM MDA COMMISSIONER DAVE FREDERICKSON
Chair Napstad welcomed newly appointed Department of Agriculture Commissioner Dave Frederickson. Commissioner Frederickson stated that he has had the privilege of working with John Jaschke and some board members in the past. Commissioner Frederickson provided brief background information about himself. Commissioner Frederickson looks forward to working with BWSR via dialogue, and problem solving. It's a great opportunity to work with MPCA, DNR, and BWSR. Chair Napstad congratulated Commissioner Frederickson on his appointment and thanked him for coming in today.

Wetlands Committee – LuAnn Tolliver stated that the Wetlands Committee has not met; there will be a meeting in the next couple of months coordinated around the BWSR Board Meetings.

Grants Program & Policy Committee – John Jaschke stated that Grants Program & Policy Committee recommendations are on the meeting agenda later today.

Public Relations, Outreach & Strategic Planning Committee – Keith Mykleseth reported that the Public Relations, Outreach & Strategic Planning Committee has not met; however, the Committee will meet immediately following the Board Meeting today.

RIM Reserve Planning Committee – Paul Brutlag reported that the RIM Reserve Planning Committee met via conference call. Committee recommendations are on the agenda later today.

Drainage Work Group – Tom Loveall stated that Drainage Work Group met in January and will meet again after the legislative session adjourns.

COMMITTEE RECOMMENDATIONS

Grants Program & Policy Committee and RIM Reserve Management & Planning Committee Combined Recommendation

Draft Cost-Share and RIM Reserve Rule, Statement of Need and Reasonableness and Draft Cost-Share Policy – Dave Weirens reviewed information in board members' packet and explained that statutes governing the Cost-Share Program and the RIM Reserve Program were amended in 2009. Staff began to work on amendments after the enactment of these changes to:

1) Incorporate statutory changes that have occurred in the RIM Reserve Law (103F.505 to 103F.531);
2) Reflect statutory amendments enacted in 2009, including a directive to adopt Cost-Share Program Policies (103C.501);
3) Streamline the administration to increase efficiencies for both SWCDs and BWSR;
4) Respond to evolving resource management strategies by accommodating greater use of other Best Management Practices (BMPs); and
5) Improve the clarity of the permanent rule.

Dave explained that the Resolution is intended for information on rule making; not policy at this time. Kevin Lines highlighted the RIM Program and proudly reported that this 25-year program is the most successful conservation easement program in the country! The Erosion Control and Water Management Program, known as the Cost-Share Program, will come before the Board for adoption of policy when the Rule is ready for final adoption. John Jaschke explained that the Resolution formally starts the process for public review and comment.

** 11-14 Moved by Christy Jo Fogarty, seconded by Quentin Fairbanks, to adopt the Erosion Control and Water Management Program (Cost-Share) and the RIM Reserve Program (Minn. Rule Chapter 800) and Statement of Need and Reasonableness and authorizes staff to:

i) make minor grammatical, formatting, and reference changes to prepare the rule for publishing;
ii) seek approval from the Governor's Office to proceed with adopting the rule;
iii) submit the rule to the Revisor of Statutes for review and approval of the form of the rule; and
iv) complete the processes necessary to adopt the rule.

DRAFT

Motion passed on a voice vote. Chair Napstad thanked Dave and Kevin for their presentation.

Grants Program & Policy Committee

Red River Basin Commission (RRBC) Work Plan Presentation – Lance Yohe, RRBC Executive Director, distributed reference material regarding the RRBC and provided information on long-term flood solutions and reported on a weekly flood status report. Additional information can be found on the RRBC website: www.redriverbasincommission.org Chair Napstad thanked Lance for his presentation.

FY '11 Red River Basin Commission Administrative Grant –Wayne Zellmer reported that the 2009 Legislature appropriated $90,000 to BWSR for RRBC administration in FY2011. This appropriation was reduced to $84,000 by the 2010 Legislature. The Grants Program & Policy Committee reviewed the RRBC's 2011 Work Plan and Budget and recommends approval of the allocation. Moved by Keith Mykleseth, seconded by
** 11-15 Gene Tiedemann, to authorize staff to allocate $84,000 to the RRBC for administration and management of water quality and floodplain management programs.

John Jaschke reported that 14 Conflict of Interest Declaration forms were received, all are eligible to vote. Quentin Fairbanks abstained; 13 voting members. Chair Napstad called for the vote. Motion passed on a voice vote.

Lake Protection Water Plan Challenge Grant – Dave Weirens reported that the Grants Program & Policy Committee met to review the Lake Protection Water Plan Challenge Grant and recommends approval of the $99,893 allocation. Moved by Faye
** 11-16 Sleeper, seconded by Doug Wetzstein, to adopt the recommendation of the Grants Program and Policy Committee and authorize staff to allocate funds to local governments as presented.

John Jaschke reported that 14 Conflict of Interest Declarations forms were received, all are eligible to vote. Brian Napstad is abstaining due to the allocation to Aitkin County, which may be perceived as a conflict due to his position as an Aitkin County Commissioner. Motion passed on a voice vote.

Chair Napstad called for a break in the meeting at 10:43 a.m. The meeting reconvened at 10:55 a.m.

Voluntary Public Access and Habitat Incentive (Walk-in) Program – John Jaschke provided background information on the three-year pilot Public Access and Habitat Incentive Program. Dave Weirens explained that this is an opportunity for BWSR to

partner with DNR to implement this program by enrolling up to 50,000 acres of private land, targeting lands that are currently enrolled in CREP, RIM, WRP, and CRP. BWSR's role is to provide funds to SWCDs for their efforts and to manage the agreements with landowners. Total funds available for grants to SWCDs is $80,000 for the first year of the program. Tabor Hoek is the lead staff working with SWCDs on this voluntary program.

Deputy Commissioner Dave Schad was introduced, serving as Commissioner Landwehr's alternate on the Board. Dave Schad stated that DNR has been asked to consider this program but there had never been a source of funding until now. He stated that this is a good opportunity to pilot this program, query the interest in this three-year pilot program, work to find funding in the future if funding is not allocated. The pilot is primarily focused on pheasant hunting in southwestern Minnesota. Mr. Schad appreciates the partnership with BWSR and SWCDs; DNR appreciates the hard work by staff on this program. Discussion followed.

** 11-17 Moved by Tom Loveall, seconded by Keith Mykleseth, to adopt the Grants Program & Policy Committee recommendation; authorize staff to allocate up to $80,000 to SWCDs that are willing to participate in this program; and authorize staff to complete tasks necessary to implement the Walk-in Public Access and Habitat Incentive Program in coordination with DNR.

Discussion followed. Bob Burandt doesn't' support the program as the federal government doesn't have $2.5M to start a new program when a hunter can ask the landowner to hunt on his land without spending public funds. Christy Jo Fogarty asked why the USDA is involved in a hunting program. John Jaschke explained that federal involvement is in getting the most public benefit from conservation lands. Rural economic development via recreational visitors is part of this endeavor. Tom Loveall stated that this is a pilot program. Joe Martin stated that we need to separate the concept, whether SWCDs should or should not have a role. Keith Mykleseth stated that the Grants Program and Policy Committee discussed these issues related to a pilot program. Dave Schad stated that funding aspect of public access on easement lands may lead to better acceptance and broader support of the hunting community; possibly more conservation on the ground. Dave Weirens suggested an evaluation at the end of the pilot program, what happens after year three to see where we go from there. Christy Jo is concerned regarding the high administrative costs. John explained that BWSR and DNR are modeling this after other states. The landscape in Minnesota is different from other states; there are questions and reservations about this until this pilot is actually tried. It's an opportunity with federal resources to give it our best shot as a pilot program. Motion passed on a voice vote.

DRAFT

RIM Reserve Management & Planning Committee

Reinvest in Minnesota (RIM) Reserve – Wetlands Reserve Program (RIM-WRP) Partnership Program – Paul Brutlag reported that the RIM Reserve Management & Planning Committee reviewed two resolutions and recommends approval. Paul explained that the first resolution recommends that the RIM-WRP Partnership become operational and authorizes staff to successfully implement the RIM-WRP Partnership. The second resolution recommends that payment rates be used for RIM and the RIM-WRP Partnership and establishment of a continuous enrollment process to commence in April 2011. The payment rates would be effective until changed by the Board. Kevin Lines reported that the Legislature is expected to appropriate FY12 funds for use by the RIM Reserve Program to leverage federal WRP funds in Minnesota. These funds will be used to restore previously drained wetlands and adjacent native grasslands to protect soil and water quality, increase fish and wildlife habitat, reduce flood damage and provide other public benefits. Kevin stated that Minnesota continues to be successful on these efforts.

** 11-18 Moved by Paul Brutlag, seconded by Bob Burandt, to authorize staff to successfully implement the RIM–WRP Partnership in recognition of, and consistent with the findings noted. Motion passed on a voice vote.

** 11-19 Moved by Keith Mykleseth, seconded by Christy Jo Fogarty, to authorize staff to develop and implement the RIM-WRP Partnership as follows:

- Continuous enrollment period to begin no sooner than April 2011 for the RIM-WRP Partnership.
- Staff is authorized to develop eligibility, prioritization, sign-up and selection procedures for the RIM-WRP Partnership.
- The payment rate for eligible croplands enrolling in the RIM Reserve Program is not to exceed 100% of the AATV and for non-cropland acres and not to exceed 60% of AATV.
- The payment rate for wetland restorations eligible for the RIM-WRP Partnership for cropland acres is not to exceed 125% of the Average Assessed Tillable Value (AATV) and for cropland acres not to exceed 70% of the AATV.
- Rates are to be calculated using the most current township average tillable property value as established by the Minnesota Department of Revenue.

Motion passed on a voice vote. Kevin reported that there has been an exceptional response to the September 2010 flood relief sign-up in southern Minnesota. Chair Napstad thanked Kevin for the good work on this endeavor.

DRAFT

NEW BUSINESS

Aquatic Invasive Species (AIS): Connection to Local Water Management – The AIS is a special category of water related issues that require unique applications of funding, regulation and education tools. DNR has conducted a series of stakeholder meetings and prepared a report recently presented to the legislature and is developing strategies to address a diverse and persistent list of problem species. Several local water management authorities have played a role and are being asked by their constituents to do more. BWSR has the responsibility to review and approve amendments to local water management plans per M.S. Chapters 103B and 103D that may authorize funding or regulations to address AIS.

Luke Skinner and Steve Hirsch, DNR Ecological-Waters Division, presented information on AIS prevention: public awareness of personal responsibility, regulation, enforcement, and inspections. AIS is a serious threat to the State of Minnesota, Legislation has been introduced to increase enforcement; the Governor's budget recommendation proposes increases. DNR is taking action as AIS is a high priority for DNR; looks to partner locally to assist with this program. Discussion followed.

Christy Jo Fogarty left the meeting at 11:55 a.m.
Sandy Hooker arrived at the meeting at 11:55 a.m.

Tera Guetter, Pelican River Watershed District (PRWD), provided history on the formation of the PRWD. Tera presented information on the problems of algae, curly-leaf pondweed, flowering rush, and zebra mussels. Tera expressed the importance of a cooperative effort, it takes everybody to assist with prevention and treatment of AIS. Tera reported on the cost and expenses incurred by the PRWD for AIS. An emergency response mode is needed for prevention. Tera explained the frustrations with the cumbersome permitting process for AIS; permits are issued through DNR Fisheries. The Pelican River Watershed District is looking forward to working together with a stakeholder management group to assist with the AIS. LuAnn Tolliver stated that we need to assist with an action plan.

Eric Evenson and Michael Welch (Smith-Partners), Minnehaha Creek Watershed District (MCWD) – Michael Welch presented the legalities of addressing AIS; the statutory proposals to minimize capital expenditures, protect and enhance fish and recreational facilities, and surface water management. The MCWD is assessing, addressing, and implementing a plan to protect and improve, they cannot take on the AIS alone. Eric Evenson stated that he's excited about the DNR legislative bill, and supports DNR's response. Eric explained the MCWD's response and presented the economic impact on zebra mussels. The MCWD recognizes the costs to effectively

prevent the zebra mussels; what tools are available to slow down the movement, and the permitting program. Eric stated that the MCWD needs the support from the State, collaboratively, to take a leadership role and it needs to be done now. Eric stated that the MCWD will bear the full cost of two pilot projects so action can be taken now.

The Attorney General's office declined to offer a legal opinion on an AIS inquiry posed by MCWD. However, the question may need to be asked in a different manner. Discussion followed. Chair Napstad thanked everyone for their informative presentations.

Jill Crafton, Buffalo Creek Watershed District, asked to speak to the issue. Chair Napstad allowed her to comment. Ms. Crafton suggested that BWSR contact EPA to request funding for AIS. She stated that water treatment is needed as well as the need to be more proactive in dealing with the problems. Chair Napstad stated the need for Aquatic Invasive Species to be included in county water plans.

AGENCY REPORTS

Minnesota Department of Natural Resources (DNR) – Commissioner Tom Landwehr stated that he appreciates the speakers' presentations today regarding two legislative bills proposing funding and policy on AIS. Commissioner Landwehr stated that he's optimistic regarding the AIS legislation, there's good support from stakeholders on AIS, and boat owners also need to take responsibility. Commissioner Landwehr stated that is true with all agencies, we can only do so much when statutes and legislative mandates are in place; we need the support of many people to get things done. Commissioner Landwehr reported that DNR testified on the general fund reductions. DNR faces closing state parks, and reductions that impact the timber and rural economy. He stated that it's painful to ponder what will happen as it's early in the budgeting process.

Minnesota Extension Service (MES) – Faye Sleeper reported that life in higher education is looking at cuts, federal funding reductions, lay-offs and not refilling positions; MES continues to be in a holding pattern.

Minnesota Pollution Control Agency (MPCA) – Doug Wetzstein reported that Rebecca Flood is in St. Louis, Missouri this week attending a Hypoxia Task Force meeting.

DRAFT

ADVISORY COMMENTS

Minnesota Association of Townships (MAT) – Sandy Hooker reported that MAT staff are conducting short courses throughout the State for townships, school boards, and counties. MAT meets tomorrow; the MAT lobbyist is busy at the Capitol.

UPCOMING MEETINGS

Chair Napstad reported that the next BWSR Board Meeting is April 27, 2011 in St. Paul. He asked board members to mark their calendars for August 24-25, Board Tour and Meeting in the Little Falls area.

Chair Napstad stated that the Public Relations, Outreach & Strategic Planning Committee meets today immediately following adjournment of the Board meeting.

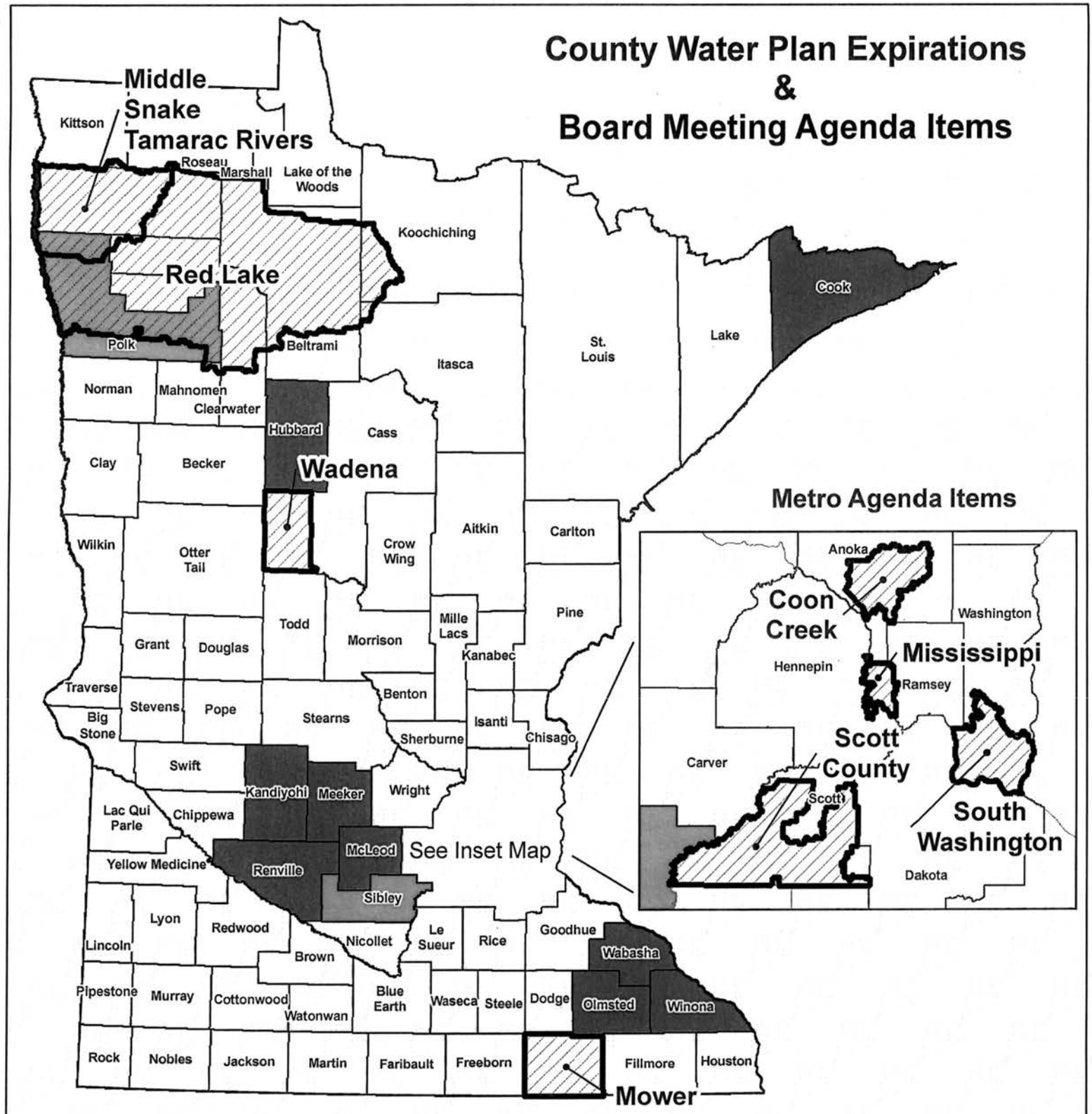
** 11-20 Moved by LuAnn Tolliver, seconded by Bob Burandt, to adjourn the meeting at 1:05 PM.

Respectfully submitted,

Mary Jo Anderson
Recorder

DRAFT

County Water Plan Expirations & Board Meeting Agenda Items



Metro Agenda Items

Plan Expires

- Overdue
- 2011
- 2012
- Beyond 2012

Metro Items	Outstate Items
Coon Creek	Red Lake WD
South Washington	Middle-Snake-Tamarac Rivers WD
Scott County	Wadena County
Mississippi	Mower County

N

Minnesota Board of Water & Soil Resources
WWW.BWSR.STATE.MN.US

April 2011

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Dispute Resolution Committee Report

Meeting Date: April 27, 2011

Agenda Category: ☐ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☐ Decision ☐ Discussion ☒ Information

Section/Region: Land and Water Section

Contact: Travis Germundson

Prepared by: Travis Germundson

Reviewed by: _____ Committee(s)

Presented by: Paul Brutlag/Travis Germundson

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED
None

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

Dispute Resolution Committee Report. The report provides a monthly update on the number of appeals filed with the BWSR.

Dispute Resolution Report
April 15, 2011,
By: Travis Germundson

There are presently **17** appeals pending. All of the appeals involve WCA except File 10-10. There has been **no** new appeals filed since the last report (March 23rd 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 11-4 (2-13-11) This is an appeal of a restoration order in Aitkin County. The appeal regards the excavation, draining, and filling of wetlands resulting in over 2 acres of impact. Additional impacts from scope and effect of the new drainage ditch and lowering of culvert have not been calculated. The appeal has been placed in abeyance and the Restoration Order stayed for the submittal of supporting documentation and for the Technical Evaluation Panel to convene on site and develop written findings of fact.

File 11-3 (2-11-11) This is an appeal of a restoration order in Waseca County. The appeal regards the draining and filling of approximately 8.3 acres of a Type 2 wetland. This involves the same location and similar issues as File 11-2. The appeal has been placed in abeyance and the restoration order stayed until the there is a final decision on the appeal of the exemption and no loss determinations (File 11-2).

File 11-2 (1-24-11) This is an appeal of an exemption and no-loss determination in Waseca County. The appeal regards the denial of an exemption and no-loss application. A previous denial of the same exemption and no loss application had been appealed (File 8-4). The appeal was remanded for or further technical evaluation and a hearing, and now the current denial has been appealed. The appeal has been granted and a copy of the record has been submitted. A pre-hearing conference has been scheduled for May 3, 2011.

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.

File 10-15 (11-29-10) This is an appeal of a restoration order in Mille Lacs County. The appeal regards the filling of approximately 5,800 square feet of wetland for lakeshore access and to create a larger recreational area. The appeal has been placed in abeyance for submittal of technical analyses of the onsite drainage modifications.

File 10-12 (8-27-10) This is an appeal of a restoration order in St. Louis County. The appeal regards the excavation and filling of approximately 43,394 square feet of wetland and the construction of over 1,000 feet of drainage ditches. The appeal has been placed in abeyance and the restoration order stayed to allow the LGU to respond to the data practices request and for the TEP to convene and develop written findings. The appellant has recently applied for an after-the-fact wetland application to retain the open water areas on the site.

File 10-10 (6-10-10) This is an appeal filed under Minn. Stat. 103D.535 regarding an order of the managers of the Wild Rice Watershed District not to go forward with the Upper Becker Dam Enhancement Project as proposed. Appeals filed under 103D.535 require that the Board follow the Administrative Procedures Act. The Act requires that the hearing be conducted by an Administrative Laws Judge through the Office of Administrative Hearings. The appeal has been placed in abeyance pending settlement discussions. A verbal settlement agreement has been reached by the parties. (at the December 2001 Board meeting, Managers voted 6 to 1 to move forward with Option D)

File 10-7 (2-19-10) This is an appeal of a restoration order in Stearns County. The appeal regards draining and filling impacts to approximately 18.44 acres of Type2/3 wetland and 3.06 acres of Type 2 wetland. The appeal has been placed in abeyance and the restoration order stayed for submittal of "as built" or project information pertaining to a public drainage system.

File 10-3 (2-1-10) This is an appeal of a restoration order in Stearns County. The appeal regards the placement of agricultural drain tile and the straightening and rerouting of a county ditch that resulted in over 12 acres of wetland impacts. The appellant has granted BWSR additional time to make a decision on the appeal. No decision has been made on the appeal.

File 09-22 (10-02-09) This is an appeal of a restoration order in Carlton County. The appeal regards three separate investigation areas encompassing over 18 acres of wetland impacts from excavation, filling, and ditching. The replacement order has been stayed and the appeal has been placed in abeyance pending further technical work and for submittal of complete wetland replacement plan, exemption, or no-loss application.

File 09-13 (8-20-09) This is an appeal of an exemption decision in Otter Tail County. The appeal regard the denial of an exemption request for agricultural/drainage actives. A previous denial of the same exemption decision had been appealed (File 09-6). The appeal was remanded for further technical evaluation and a hearing, and now the current denial has been appealed. The appeal has been granted. A pre hearing conference convened on November 12, 2009. At which time parties agreed to hold off scheduling written briefs until the petition before NRCS is concluded. The appeal has been placed in abeyance by mutual agreement until there is a final decision by the Department of Agriculture National Appeals Division.

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 pre-hearing conferences convened on October 13 and 30, and December 14, 2009. 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 on determining the viability of a new wetland banking plan application.

File 09-3 (2-20-09) This is an appeal of a replacement plan decision in Anoka County. The appeal regards the approval of a wetland replacement plan for 11,919 square feet of impacts associated with a residential development. The appeal has been placed in abeyance and the replacement plan decision stayed for submittal of a revised replacement plan application. The three owners are also in the process of splitting up the property.

File 08-9. (03/06/08) This is an appeal of a replacement order in Pine County. The appeal regards impacts to approximately 11.26 acres of wetland. The replacement order has been stayed and the appeal has been placed in abeyance pending disposition with the U.S. Dept of Justice.

File 06-23. (05/19/06) This is an appeal of a replacement plan decision in Kanabec County. The LGU denied the wetland replacement plan application. A previous denial of the same replacement plan application had been appealed, the appeal was remanded for a hearing, and now the current denial has been appealed. The appeal has been placed in abeyance pending the outcome of a lawsuit between the landowner and the county. The lawsuit concerns the county's possible noncompliance with the 60-day rule. The county prevailed in district court; however the decision was appealed to the Court of Appeals where the county again prevailed. An appeal to the Minnesota Supreme Court was denied review. It is likely the appeal will soon be placed on the calendar for DRC proceedings.

File 06-17. (05/27/06) This is an appeal of a replacement plan decision in the City of Montgomery in LeSueur County. The LGU denied an after-the-fact wetland replacement plan application based on a lack of sufficient reasons why the restoration could not be completed. The appeal was been remanded for further processing at the local level. The City of Montgomery has gradually been working on removing the debris and restoring the wetland in accordance with MPCA requirements.

File 05-1. (01/13/05) This is an appeal of a replacement plan decision by the Rice Creek Watershed District. The District previously made a decision that was appealed which resulted in a remand for an expanded TEP. Now there is an appeal of the decision made under remand since the decision differed from the TEP report. At issue are wetland delineation and the Comprehensive Wetland Protection and Management Plan that BWSR approved. After a hearing before the DRC, the board remanded the matter for new wetland delineation and for submission on an updated, complete replacement plan application. On 12-9-09 the District made a new wetland delineation decision. The applicant has not yet submitted an updated replacement plan application.

Draft Summary Table

Type of Decision	Total for Calendar Year 2010	Total for Calendar Year 2011
Order in favor of appellant	2	
Order not in favor of appellant	5	
Order Modified		
Order Remanded	1	
Order Place Appeal in Abeyance	5	3
Negotiated Settlement	1	
Withdrawn/Dismissed	3	

COMMITTEE RECOMMENDATIONS

Metro Water Planning Committee

1. Coon Creek Watershed District Boundary Change Petition – Bob Burandt/Travis Germundson – ***DECISION ITEM***

2. Coon Creek Watershed District Boundary Change Hearing – Jim Haertel – ***DECISION ITEM***

3. Amendment to South Washington Watershed District Watershed Management Plan – Jim Haertel – ***DECISION ITEM***

4. Scott Watershed Management Organization Plan Amendment - Brad Wozney – ***DECISION ITEM***

5. Mississippi Watershed Management Organization Revised Watershed Management Plan – Brad Wozney – ***DECISION ITEM***

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Coon Creek WD Boundary Change Petition

Meeting Date: April 27, 2010

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business
Item Type: ☒ Decision ☐ Discussion ☐ Information
Section/Region: Metro
Contact: Travis Germundson
Prepared by: Travis Germundson
Reviewed by: Metro Water Planning Committee Committee(s)
Presented by: Bob Burandt/Travis Germundson

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☒ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Approval of the Coon Creek Watershed District Boundary Change

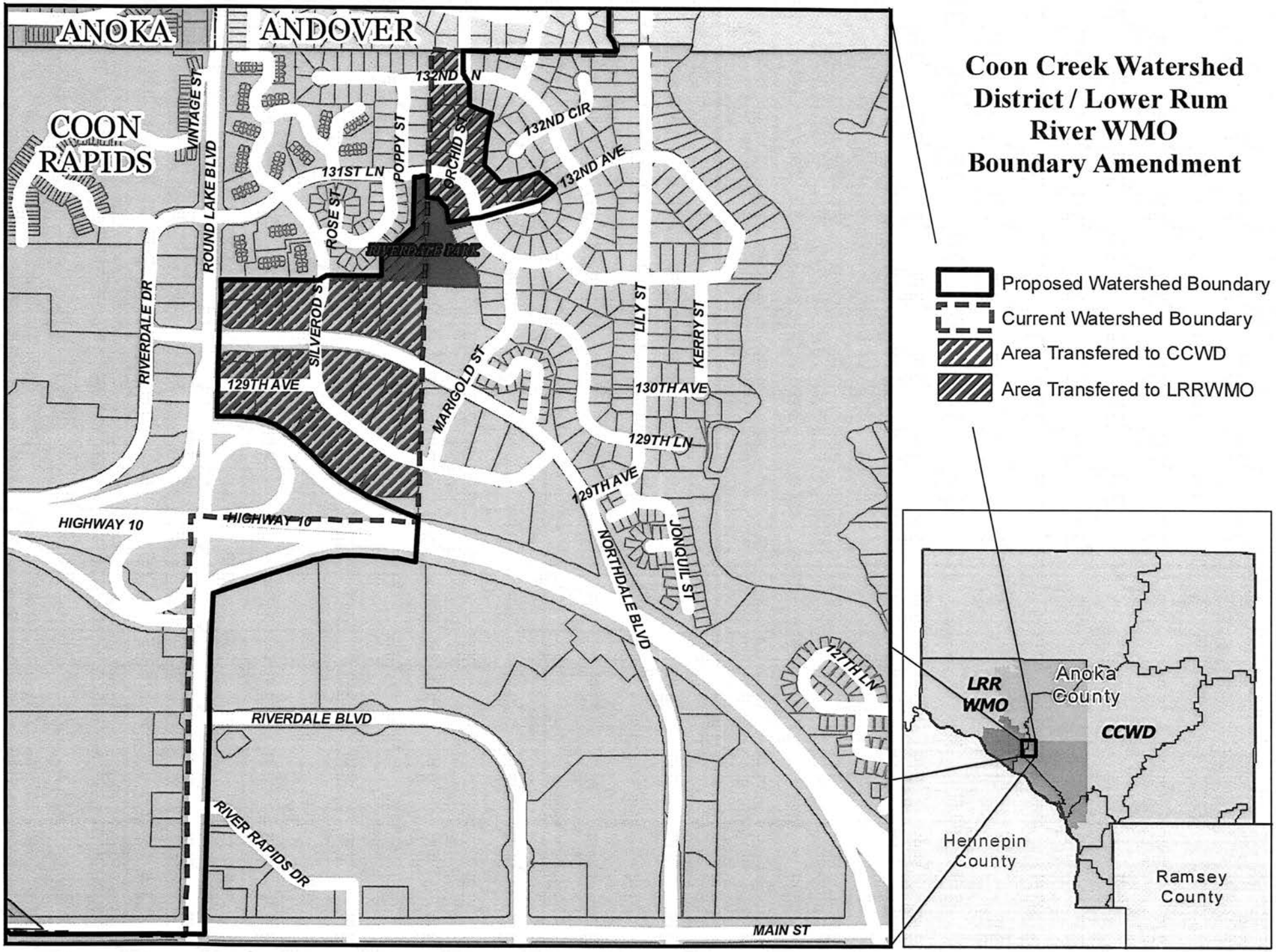
SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)

The Coon Creek Watershed District (CCWD) submitted a boundary change petition dated February 15, 2011. The Petition was submitted pursuant to Minn. Stat. § 103B.215 together with the required written statements of concurrence from City of Coon Rapids and Lower Rum River Water Management Organization (LRRWMO). The statue allows the boundary change to be approved by BWSR with no public hearing after proper notice and if no timely request for a hearing is received as pursuant to Minn. Stat. § 103B.215 Subd. 3. The legal Notice of Filing was published in a legal newspaper for two successive weeks and no timely request for a hearing was received.

The proposed boundary change would achieve a more accurate alignment between the hydrologic and legal boundaries of the CCWD and the LRRWMO. The proposed boundary change encompasses approximately 34.7 acres of land in Section 5 of Coon Rapids, Minnesota that would change the common boundary of the CCWD and the LRRWMO. The Petition proposes the following: 1.) Transferring 6.8 acres currently within CCWD legal boundaries to the LRRWMO, and 2.) Transferring 27.9 acres currently within LRRWMO legal boundaries to the CCWD.

The Metro Water Planning Committee met on April 12, 2011 and unanimously voted to recommend approval of the Petition to the full Board.

A copy of the Petition and a map illustrating the proposed boundary change are attached. Also attached is a draft Board Order that would approve the boundary change.


ANOKA
ANDOVER
COON RAPIDS
VINTAGE ST
ROUND LAKE BLVD
RIVERDALE DR
ROSE ST
POPPY ST
ORCHID ST
132ND LN
132ND CIR
132ND AVE
131ST LN
RIVERDALE PARK
SILVEROD ST
MARIGOLD ST
LILY ST
KERRY ST
129TH AVE
130TH AVE
129TH LN
HIGHWAY 10
HIGHWAY 10
NORTHDALE BLVD
JONQUIL ST
127TH LN
RIVERDALE BLVD
RIVER RAPIDS DR
MAIN ST
Coon Creek Watershed District / Lower Rum River WMO Boundary Amendment
Proposed Watershed Boundary
Current Watershed Boundary
Area Transfered to CCWD
Area Transfered to LRRWMO
LRR WMO
Anoka County
CCWD
Hennepin County
Ramsey County

Request for Order

COON CREEK WATERSHED DISTRICT
BOARD OF MANAGERS

RESOLUTION 11-03

PETITION FOR AN ORDER
CHANGING THE BOUNDARY BETWEEN
THE LOWER RUM RIVER WATERSHED MANAGEMENT ORGANIZATION
AND
THE COON CREEK WATERSHED DISTRICT

WHEREAS, a watershed is defined under Minnesota Statutes section 103B.205 (11) (2007) as a drainage area having boundaries which are substantially coterminous with those of an aggregation of contiguous minor watershed units possessing similar drainage patterns and which cross the borders of two or more local government units; and

WHEREAS, The Coon Creek Watershed is a watershed under Minnesota Statutes section 103B.205 (11); and

WHEREAS, The Coon Creek Watershed District is established and authorized under Minnesota Statutes 103D; and is a watershed management organization as defined under Minnesota Statutes section 103B.205 (13) (2007) to manage the drainage area of Coon Creek; and

WHEREAS, The Coon Creek Watershed District is a watershed district wholly within the "metropolitan area" as defined under Minnesota Statutes sections 103B.205 (8) and 473.121 (2) (2007); and

WHEREAS, The boundaries of a watershed district wholly within the metropolitan area may be changed pursuant to this section or chapter 103D.215; and

WHEREAS, On February 14, 2011 the Board of Managers of the Coon Creek Watershed District voted unanimously to amend the boundary of the Coon Creek Watershed District with the Lower Rum River Watershed Management Organization using the process described in M.S. 103B.215

NOW, THEREFORE, BE IT RESOLVED, the Coon Creek Watershed District petitions the Minnesota Board of Water and Soil Resources pursuant to Minnesota Statutes section 103B.215 to issue an order changing the boundary of the Coon Creek Watershed District, the Lower Rum River Watershed Management Organization as described in the "Petition of Coon Creek Watershed"

The adoption of the foregoing resolution was made by Manager MacNally and seconded by Manager Marvin. The motion carried with the following vote:

	Yea	Nay
Westlund	X	
MacNally	X	
Marvin	X	
Hoffman	Absent	
Capra	X	

STATE OF MINNESOTA
COUNTY OF ANOKA
COON CREEK WATERSHED DISTRICT

I, Tim Kelly, Administrator to the Board of Managers of the Coon Creek Watershed District, Anoka County, State of Minnesota, do hereby certify that I have compared the foregoing copy of the resolution with the original minutes of the proceedings of the Board of Managers of the Coon Creek Watershed District, Anoka County, Minnesota at their regular meeting on the 14th day of February 2011, now on file in the District office, and have found the same to be true and correct copy thereof.

Witness my hand and official seal of the Coon Creek Watershed District this 15th day of February, 2011.

_____
Tim Kelly, District Administrator

STATE OF MINNESOTA
BOARD OF WATER AND SOIL RESOURCES

PETITION OF COON CREEK WATERSHED DISTRICT FOR AN ORDER CHANGING ITS BOUNDARY BETWEEN THE LOWER RUM RIVER WATERSHED MANAGEMENT ORGANIZTION AND THE COON CREEK WATERSHED DISTRICT

Summary and Request

The Coon Creek Watershed District is petitioning the Minnesota Board of Water and Soil Resources to change the Boundary between the Lower Rum River Watershed Management Organization and the Coon Creek Watershed District in Sections 5, of Coon Rapids, Minnesota. The reason for the requested boundary change is to achieve a more accurate alignment between the hydrologic and legal boundaries of the two WMOs. This will be accomplished by:

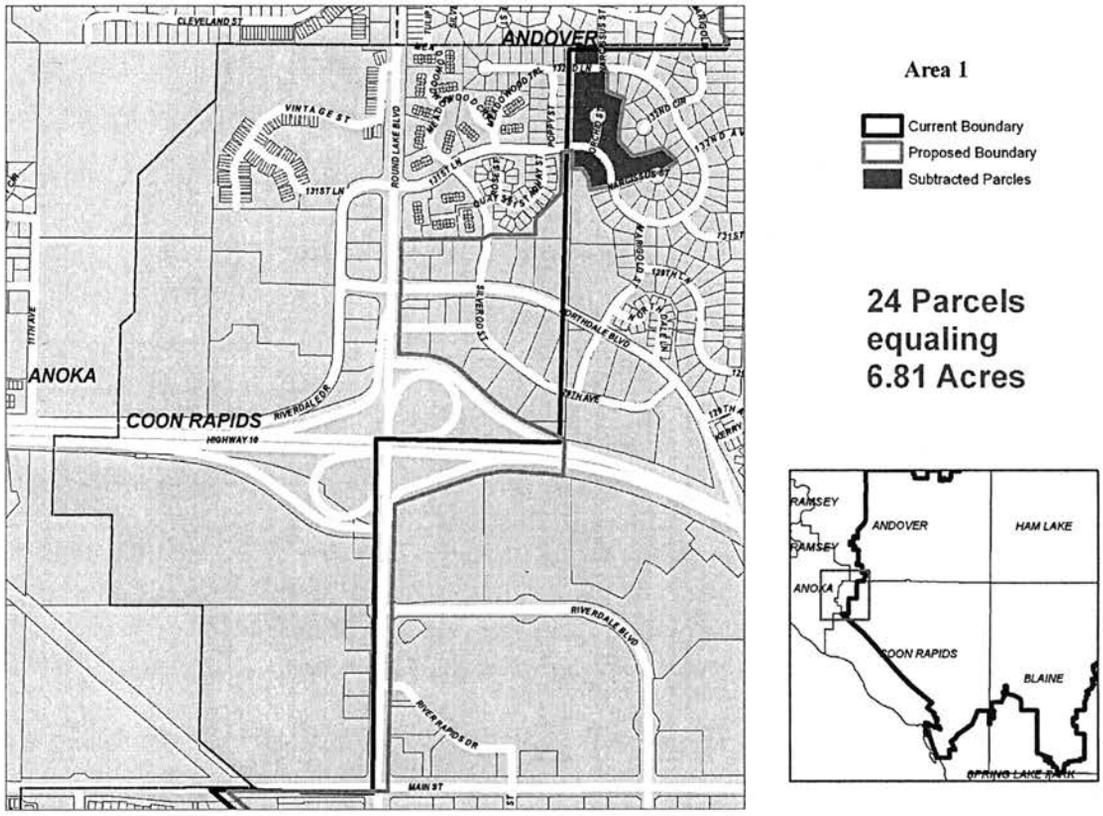
1. Transferring 6.8 acres currently within the Coon Creek Watershed District legal boundaries to the Lower Rum River Watershed Management Organization

2. Transferring 27.9 acres currently within the Lower Rum River Watershed Management Organization legal boundaries to the Coon Creek Watershed District.

	Page
Location	2
Background and Record of Actions	2
Watershed Boundary Change Process under M.S. 103B.215	
Authorization	4
Petition	4
Description of Boundary Change	5
Description of Affected Area	6
Statutory Intent	8
Properties Involved	9
Requests for Statements of Concurrence	13

Location

The Coon Creek watershed boundary within the City of Coon Rapids and between Coon Creek watershed and the watershed of the Six Cities WMO is shown below. The map also shows the locations of the Coon Creek WD boundary, the City of Coon Rapids relative to Anoka County and the proposed boundary amendments.



Background and Record of Actions

In 2004 the Coon Creek Watershed District Comprehensive Plan was approved by the Board of Water and Soil resources. The Comprehensive Plan committed the Coon Creek Watershed District to a review of its boundaries.

On July 12, 2010 the Board of Managers of the Coon Creek Watershed District affirmed amending the boundary through the 103B.215 process.

In November and December 2010 staff reviewed the proposed boundary on a parcel and stormsewer basis with Coon Rapids and Blaine staffs to ensure an accurate hydrologic boundary.

In December 2010 a revised parcel maps and list of PINs was forwarded to Anoka County. Anoka County made corrections and additions and raised several questions and concerns about properties the County has listed as Rice Creek WD and the type of taxing district listed and Six Cities WMO/Pleasure Creek. The concerns are in the process of being clarified and will be resolved by seeking for a "Letter of Concurrence" from Anoka County prior to submittal the BWSR

On January 10, 2011 the Board of Managers requested "Letters of Concurrence" (LOC) from:

Entity	LOC Received
City of Coon Rapids	2/3/11
Lower Rum river Watershed Management Organization	1/31/11

Watershed Boundary Change Process under M.S. 103B.215

Authorization
The Coon Creek Watershed District, Lower Rum River Management Organization are wholly within the "metropolitan area" as defined under Minnesota Statutes sections 103B.205 (8) and 473.121 (2) (2007).

Both organizations are watershed management organizations as defined under Minnesota Statutes section 103B.205 (13) (2007).

On July 12, 2010 the Board of Managers of the Coon Creek Watershed District voted unanimously to amend the boundary of the Coon Creek Watershed District with the Lower Rum River Watershed Management Organization using the process described in M.S. 103B.215

Petition
Under the boundary amendment process described in M.S. 103B.215, the governing board of a watershed management organization may petition the Board of Water and Soil Resources for an order changing the boundaries of a watershed district wholly within the metropolitan area, by adding new territory to the district or by transferring territory that is within the district to the jurisdiction of another watershed management organization.

The petition must include the following:

1. **Description of the Requested Change in the Boundary**	A description of the requested change in boundary, the territory affected, and the reasons for the change
2. **Description of Statutory Consistency**	An explanation that the change is consistent with the purposes and requirements of sections 103B.205 to 103B.255
3. **List of Affected Properties**	Identify property subject to section 103B.225
4. **Statement of Concurrence**	A written "statement of concurrence" from the governing body of each statutory or home rule charter city and town and each watershed management organization having jurisdiction over the territory proposed to be added or transferred

Description of the Requested Change in the Boundary

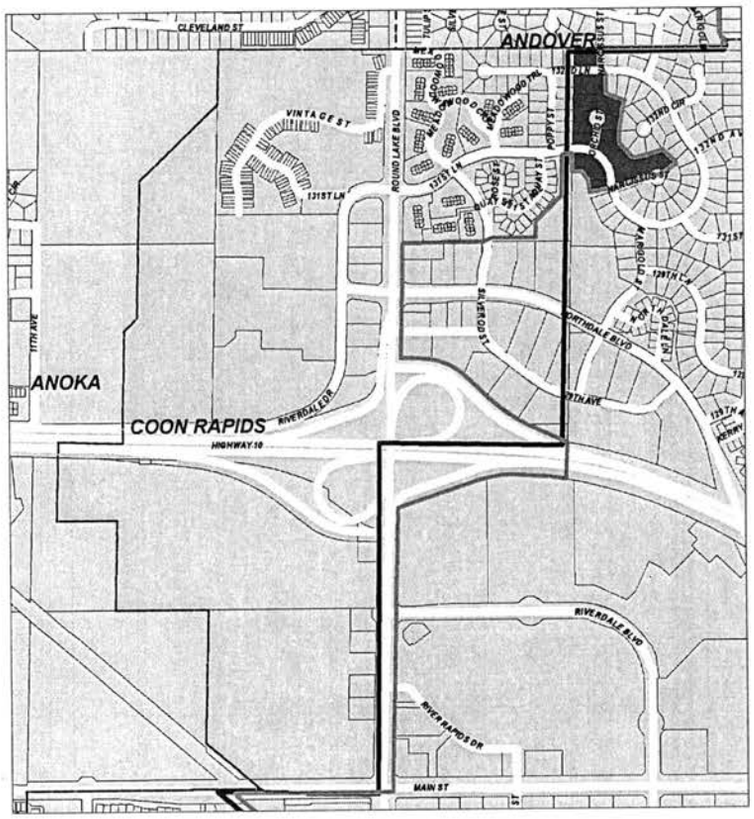
Between 1978 and 2003, the Coon Creek Watershed District and the City of Coon Rapids reviewed development plans adjacent to the District boundary with Six Cities Watershed Management Organization in Coon Rapids. During the permit review process it became apparent that boundary adjustments were necessary to more accurately describe the hydrologic boundary between the districts.

In 2004 as part of the Watershed District's Comprehensive Planning process and again in 2008, the City of Coon Rapids requested that Coon Creek Watershed District evaluate the boundary between the District and Six Cities WMO within the City.

The proposed boundary change involves

1. Transferring 6.8 acres currently within the Coon Creek Watershed District legal boundaries to the Lower Rum River Watershed Management Organization

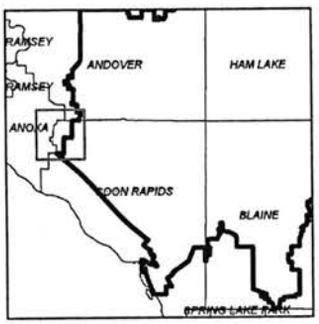
2. Transferring 27.9 acres currently within the Lower Rum River Watershed Management Organization legal boundaries to the Coon Creek Watershed District.



Area 1

Current Boundary
Proposed Boundary
Subtracted Parcles

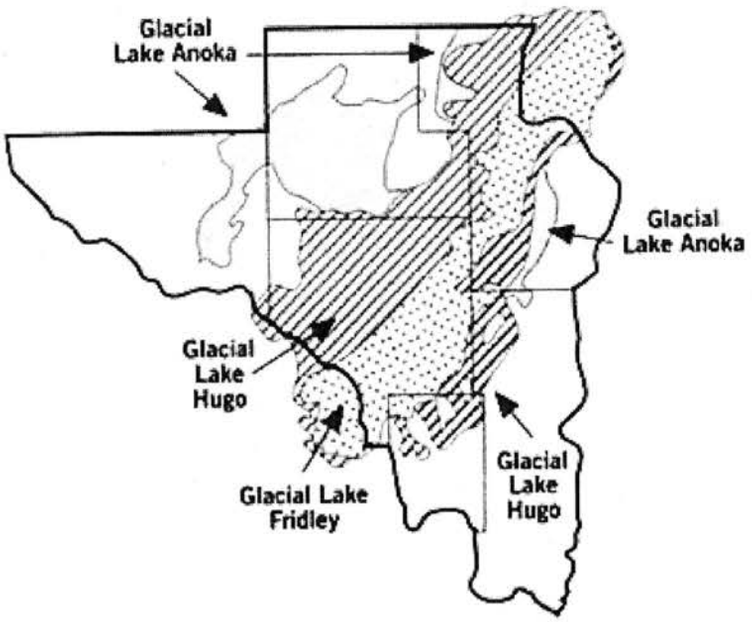
24 Parcels equaling 6.81 Acres



Description of the Affected Area

Geomorphology

The area under review is within the Lake Hugo Lake Plain and Glacial Lake Fridley Lake Plain portions of the Anoka Sand Plain. The area is a broad undulating sand plain comprised of rolling dunes and small flats in the upland, and low-lying depressions and flats. Topographic changes are typically 5-15 feet.



Native Plant Communities

Dominant native plant communities include

- Mixed Oak Forest
- Deciduous forest (Oak & Aspen)
- Wet to Wet-mesic prairie
- Shrub Carr
- Sedge meadows

Soils

The hydrologic boundary contains the following soils. The boundary is dominated by Sartell and Zimmerman sands.

Soils	Acres Added	Pct
Alluvial	1.0	0.4%
Becker	1.7	0.8%
Cut and Fill	0.7	0.3%
Dickman	8.0	3.6%
Hayden	6.8	3.1%
Hubbard	23.8	10.8%
Isanti	7.6	3.5%
Kratka	1.9	0.8%
Lino	10.8	4.9%
Markey	0.4	0.2%
Millerville	0.2	0.1%
Nymore	0.4	0.2%
Sartell	75.8	34.6%
Seelyeville	2.9	1.3%
Water	0.2	0.1%
Zimmerman	77.2	35.2%
	219.11	

Hydrology

The area is characterized by a naturally occurring high water table that is at or near the surface of the land in most depressed areas

The area hydrologically within Coon Creek Watershed drains to county ditch 54 and to Coon Creek and then to the Mississippi River.

Land Use

The affected area is currently in the following land uses:

Land Use	Acres Added	Acres Subtracted
Commercial	31.30	17.61
Industrial	0.15	2.90
Major Highway	41.90	14.46
Multi-Family Residential	18.05	5.55
Parks & Rec	3.44	2.99
Public / Semipublic	13.38	18.48
Railway	0.06	0.71
Single Family Residential	81.87	51.73
Vacant	28.90	10.57
Water	0.25	0.30

Consistency with the purposes and requirements of M.S. 103B.205 to .255 (Metropolitan Surface Water Management Act)

Hydrologic Consistency

Requirement: Minnesota Statutes section 103B.205 (11) defines "Watershed" as "a drainage area having boundaries which are substantially coterminous with those of an aggregation of contiguous minor watershed units possessing similar drainage patterns and which cross the borders of two or more local government units."

Evidence: The "land use in the boundary adjustment area" map shows areas within and outside the hydrologic boundaries of the Coon Creek Watershed. The areas proposed to be removed from the Coon Creek Watershed District are found to be lands that are clearly outside of the hydrologic boundary of the watershed. These lands were confirmed through review of municipal stormwater plans and street and road surveys conducted by the City Coon Rapids and Anoka County Highways during preparation of this petition

Watershed Management Plans

Purpose: Minnesota Statutes section 103B.205 to 103B.255 generally describes the required data and program elements to comprehensively manage surface water resources within the metropolitan area

Response: Including the areas which are hydrologically within the Coon Creek Watershed District and within Lower Rum River Watershed Management Organization will allow the two WMOs to manage their water resources in a uniform manner consistent with the purposes and requirements of the Metropolitan Surface Water Management Act.

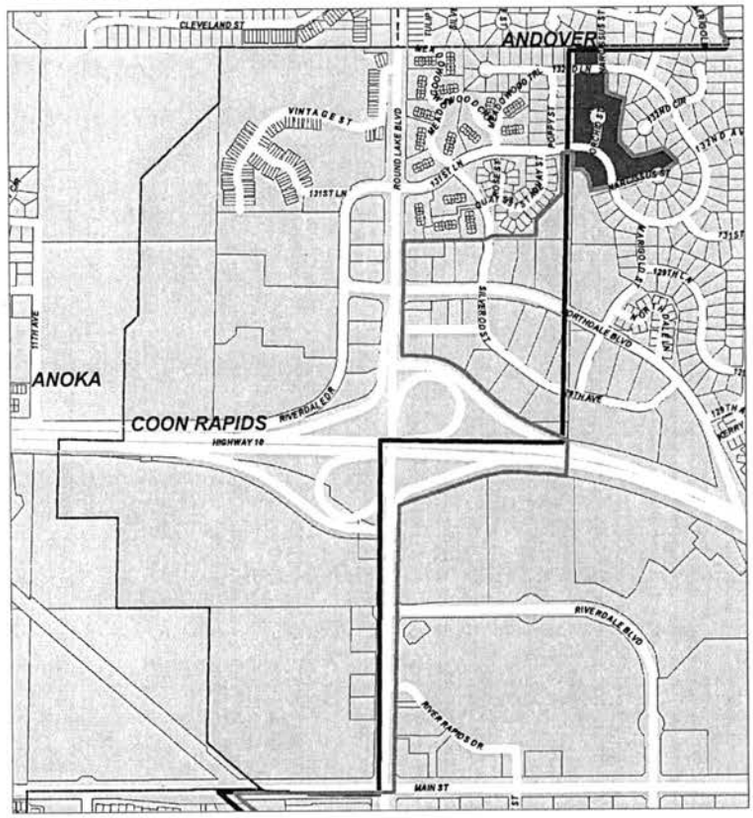
Incorporating these properties in the Coon Creek Watershed District will not affect the benefits or damages for any improvement previously constructed by the Coon Creek Watershed District or Anoka County

Affected Properties

Lower Rum River Watershed Management Organization

The following table indicates parcels currently within Coon Creek Watershed District that are proposed to be transferred to Lower Rum River Watershed Management Organization in the City of Coon Rapids. This area totals 6.8 acres.

Parcels to be transferred from CCWD to LRRWMO



Area 1

Current Boundary
Proposed Boundary
Subtracted Parcles

24 Parcels equaling 6.81 Acres

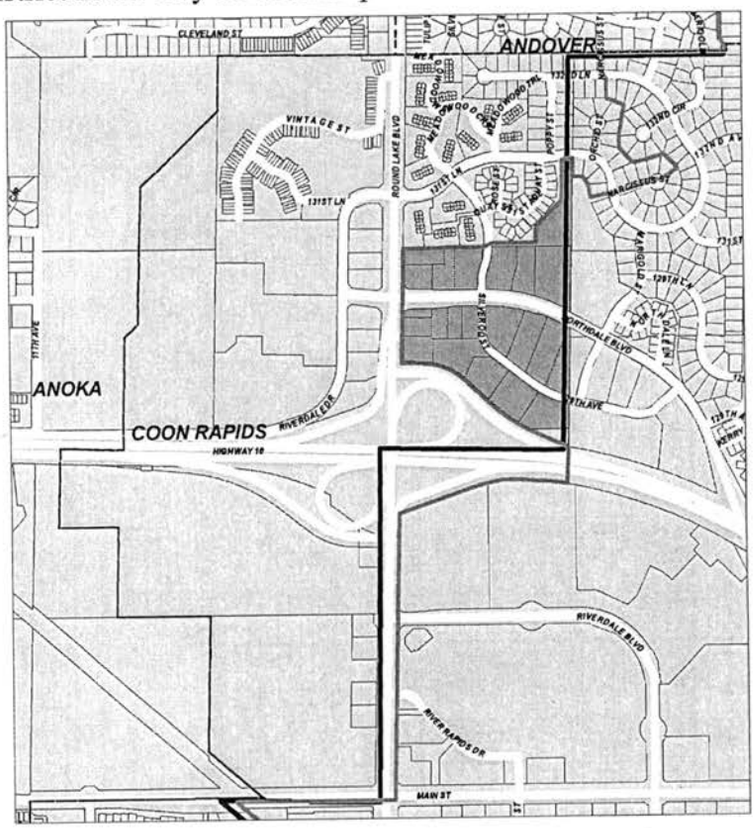


Area1: Subtracted	FROM CCWD TO Lower Rum River WMO	
PIN	LOC ADDR	CITY
05-31-24-11-0007	3391 132ND LN NW	COON RAPIDS
05-31-24-11-0008	3381 132ND LN NW	COON RAPIDS
05-31-24-11-0021	3390 132ND LN NW	COON RAPIDS
05-31-24-11-0022	3380 132ND LN NW	COON RAPIDS
05-31-24-11-0023	3370 132ND LN NW	COON RAPIDS
05-31-24-11-0053	13182 NARCISSUS ST NW	COON RAPIDS
05-31-24-11-0054	13174 NARCISSUS ST NW	COON RAPIDS
05-31-24-11-0055	13166 NARCISSUS ST NW	COON RAPIDS
05-31-24-11-0056	13158 NARCISSUS ST NW	COON RAPIDS
05-31-24-11-0057	13150 NARCISSUS ST NW	COON RAPIDS
05-31-24-11-0058	3377 131ST LN NW	COON RAPIDS
05-31-24-11-0059	13155 ORCHID ST NW	COON RAPIDS
05-31-24-11-0060	13165 ORCHID ST NW	COON RAPIDS

05-31-24-11-0061	13175 ORCHID ST NW	COON RAPIDS
05-31-24-11-0062	13185 ORCHID ST NW	COON RAPIDS
05-31-24-11-0063	13195 ORCHID ST NW	COON RAPIDS
05-31-24-11-0064	13190 ORCHID ST NW	COON RAPIDS
05-31-24-11-0065	13180 ORCHID ST NW	COON RAPIDS
05-31-24-11-0066	13170 ORCHID ST NW	COON RAPIDS
05-31-24-11-0067	13160 ORCHID ST NW	COON RAPIDS
05-31-24-11-0093	3396 131ST LN NW	COON RAPIDS
05-31-24-11-0094	3384 131ST LN NW	COON RAPIDS
05-31-24-11-0095	3372 131ST LN NW	COON RAPIDS
05-31-24-11-0096	3360 131ST LN NW	COON RAPIDS

Parcels to be transferred from LRRWMO to CCWD

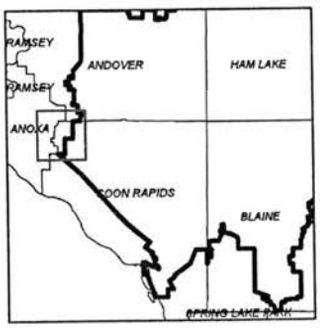
The following table indicates parcels currently within Lower Rum Watershed Management Organization that are proposed to be transferred to Coon Creek Watershed District in the City of Coon Rapids.



Area 1

Current Boundary
Proposed Boundary
Added Parcels

25 Parcels equaling 27.89 Acres



Area1: Added	ADD TO CCWD. NOT CURRENTLY IN A WATERSHED	
PIN	LOC ADDR	CITY
05-31-24-12-0276		COON RAPIDS
05-31-24-13-0008		COON RAPIDS
05-31-24-13-0010	13001 ROUND LAKE BLVD NW	COON RAPIDS
05-31-24-13-0014	3505 NORTHDALE BLVD NW	COON RAPIDS
05-31-24-13-0015		COON RAPIDS
05-31-24-13-0021	13051 ROUND LAKE BLVD NW	COON RAPIDS
05-31-24-13-0023	3393 NORTHDALE BLVD NW	COON RAPIDS
05-31-24-13-0025		COON RAPIDS
05-31-24-13-0027	12999 ROUND LAKE BLVD NW	COON RAPIDS
05-31-24-13-0029	13057 ROUND LAKE BLVD NW	COON RAPIDS
05-31-24-13-0030	3550 NORTHDALE BLVD NW	COON RAPIDS
05-31-24-13-0032	3500 129TH AVE NW	COON RAPIDS
05-31-24-13-0033	3550 129TH AVE NW	COON RAPIDS
05-31-24-13-0034		COON RAPIDS

05-31-24-13-0036	3530 NORTHDALE BLVD NW	COON RAPIDS
05-31-24-13-0037	3510 NORTHDALE BLVD NW	COON RAPIDS
05-31-24-13-0039	3470 129TH AVE NW	COON RAPIDS
05-31-24-13-0040	3430 129TH AVE NW	COON RAPIDS
05-31-24-13-0041	3420 129TH AVE NW	COON RAPIDS
05-31-24-13-0042	3490 NORTHDALE BLVD NW	COON RAPIDS
05-31-24-13-0043	3430 NORTHDALE BLVD NW	COON RAPIDS
05-31-24-13-0045	3495 NORTHDALE BLVD NW	COON RAPIDS
05-31-24-13-0046	3465 NORTHDALE BLVD NW	COON RAPIDS
05-31-24-13-0047	3420 NORTHDALE BLVD NW	COON RAPIDS
05-31-24-13-0048	3410 NORTHDALE BLVD NW	COON RAPIDS

Statements of Concurrence

Two Statements of concurrence are required. Letters requesting these Statements of Concurrence from the following units of government are attached as are the responses.

Entity	LOC Requested	LOC Received
City of Coon Rapids	1/14/11	2/3/2011
Lower Rum River Watershed Management Organization	1/14/11	1/31/2011

January 14, 2011

Matt Fulton, City Administrator
City of Coon Rapids
11155 Robinson Dr
Coon Rapids, MN 55433

RE: Request for Statement of Concurrence on Proposed Boundary Change between Coon Creek Watershed District and Six Cities Watershed Management Organization in the City of Coon Rapids.

We are requesting a "**Statement Of Concurrence**" from the City of Coon Rapids as required under M.S. 103B.215 to be submitted with the petition for boundary change.

Attached is a copy of a DRAFT petition to the Board of Water and Soil Resources (BWSR) under M.S. 103B.215. The reason for the proposed boundary change is to achieve a more accurate alignment between the hydrologic and legal boundaries of the two Watershed Management Organizations (WMOs).

The Coon Creek Watershed District (CCWD) Board of Managers hopes to address the final petition at its February 14, 2011 meeting. We are requesting your response **by Friday February 11, 2011**.

.

If you have questions or concerns please call me at 763-755-0975.

Sincerely,

Tim Kelly
District Administrator

CC: Steve Gatlin, Coon Rapids
Doug Vierzba, Coon Rapids
M. Lewis, BWSR
T. Germundson, BWSR

January 14, 2011

Todd Haas, Chair
Lower Rum River WMO
7550 Sunwood Dr NW,
Ramsey, MN 55303

RE: Request for Statement of Concurrence on Proposed Boundary Change between Coon Creek Watershed District and Six Cities Watershed Management Organization

We are requesting a "**Statement Of Concurrence**" from the Six Cities Watershed Management Organization as required under M.S. 103B.215 to be submitted with the petition for boundary change.

Attached is a copy of a DRAFT petition to the Board of Water and Soil Resources (BWSR) under M.S. 103B.215. The reason for the proposed boundary change is to achieve a more accurate alignment between the hydrologic and legal boundaries of the two Watershed Management Organizations (WMOs).

The Coon Creek Watershed District (CCWD) Board of Managers hopes to address the final petition at its February 14, 2011 meeting. We are requesting your response **by Friday February 11, 2011**.

If you have questions or concerns please call me at 763-755-0975.

Sincerely,

Tim Kelly
District Administrator

CC: Doug Vierzba, Coon Rapids
M. Lewis, BWSR
T. Germundson, BWSR

11155 Robinson Drive
Coon Rapids MN 55433
Tel 763-755-2880
Fax 763-767-6491
www.coonrapidsmn.gov

COON RAPIDS
Minnesota

February 1, 2011

Coon Creek Watershed District
12301 Central Avenue NE, Suite 100
Blaine, MN 55434

Attn: Tim Kelly, District Administrator

Subject: **Statement of Concurrence** for Proposed Watershed Boundary Changes within the City of Coon Rapids

Dear Mr. Kelly,

On February 1, 2011, the Coon Rapids City Council approved the proposed watershed boundary changes as proposed by the Coon Creek Watershed District.

Sincerely,

Doug Vierzba
City Engineer

RECEIVED
FEB 3 2011
COON CREEK
WATERSHED DISTRICT

11155 Robinson Drive
Coon Rapids MN 55433
Tel 763-755-2880
Fax 763-767-6491
www.coonrapidsmn.gov

COON RAPIDS
Minnesota

February 8, 2011

Mr. Tim Kelly, Administrator
Coon Creek Watershed District
12301 Central Avenue NE, Suite 100
Blaine, MN 55434

Subject: Statement of Concurrence, Proposed Boundary Changes

Dear Tim:

The City of Coon Rapids has reviewed documents describing a proposed boundary change between the Coon Creek Watershed District and two watershed management organizations within the city of Coon Rapids including the Lower Rum River Watershed Management Organization and the Six Cities Watershed Management Organization. The proposed changes include the following:

- 24 parcels equaling 6.81 acres transferred from the CCWD to LRRWMO
- 25 parcels equaling 27.89 acres added to CCWD not currently in a watershed district
- 13 parcels equaling 3.63 acres transferred from the CCWD to SCWMO
- 122 parcels equaling 62.15 acres transferred from SCWMO/Pleasure Creek WMO to CCWD
- 104 parcels equaling 47.80 acres transferred from SCWMO/Pleasure Creek WMO to CCWD
- 3 parcels equaling .96 acres transferred from CCWM to SCWMO

The City concurs with these actions and sees it as a means of providing improved protection to the water resources and a higher level of service to the residents of Coon Rapids. We understand that this action pertains only to the process of improving the accuracy between the alignment of hydrologic and legal boundaries within our city.

Thank you for the opportunity to review this proposal. We look forward to continuing our excellent working relationship with the Coon Creek Watershed District.

Sincerely,

Matt Fulton
City Manager

cc: Jean Keely, Blaine City Engineer
Doug Vierzba, Coon Rapids City Engineer

LOWER RUM RIVER WATERSHED MANAGEMENT ORGANIZATION
ANDOVER - ANOKA - COON RAPIDS - RAMSEY
2015 First Avenue • Anoka, MN 55303

January 21, 2011

Tim Kelly, District Administrator
Coon Creek Watershed District
12301 Central Avenue NE
Blaine, MN 55434

Re: Statement of Concurrence on Proposed Boundary Change between Coon Creek Watershed District and Lower Rum River WMO in the City of Coon Rapids

Dear Mr. Kelly:

The Lower Rum River WMO at their meeting of January 20, 1011, approved the proposed boundary change between the Coon Creek Watershed District and the Lower Rum River WMO.

If you have any questions, feel free to contact me at (763) 767-5131.

Sincerely,

Todd Haas
Chair

cc: Chris Lord, ACD
LRRWMO

RECEIVED
JAN 3 1 2010
COON CREEK
WATERSHED DISTRICT

COUNTY OF ANOKA

PROPERTY RECORDS AND TAXATION DIVISION

GOVERNMENT CENTER • 2100 3RD AVENUE • ANOKA, MN 55303
FAX (763) 323-5421

• Property Assessment
• Property Records and Public Service
• Property Tax Accounting and Research

February 11, 2011

Coon Creek Watershed District
Attn: Tim Kelly, District Administrator
12301 Central Avenue Northeast, Suite 100
Blaine, MN 55434

RE: Statement of Concurrence on Proposed Boundary Change between Coon Creek Watershed District and Six Cities Watershed Management Organization.

I have reviewed the DRAFT petition received by our office on January 18, 2011, and from a purely administrative standpoint, concur that Anoka County can complete the proposed boundary changes as presented.

If you have any questions, please contact me at (763) 323-5438.

Sincerely,

Jodie Raymond

Jodie Raymond
Tax & Assessment Research Analyst

Affirmative Action / Equal Opportunity Employer

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, Minnesota 55155

In the Matter of the Boundary Change for the Coon Creek Watershed District in Anoka County pursuant to Minnesota Statutes § 103B.215

ORDER BOUNDARY CHANGE

Whereas, the Coon Creek Watershed District filed a Petition dated February 15, 2011 with the Board of Water and Soil Resources (Board) on February 16, 2011, to change the boundary of the Coon Creek Watershed District (CCWD) pursuant to Minn. Stat. § 103B.215, and;

Whereas, the Board has completed its review of the Petition;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order.

FINDINGS OF FACT

1. **Petition.** The Petition to change the boundary of the CCWD with the Lower Rum River Water Management Organization (LRRWMO) was filed by the CCWD Board of Managers with the Board on February 16, 2011.

2. **Property Description.** The territory included in the boundary change, the Petitioned Area, is located in the City of Coon Rapids in Section 5 in Anoka County entirely within the metropolitan area and totals approximately 34.7 acres of land. The Petitioned Area includes the transfer of 6.8 acres from the CCWD to the LRRWM, and the transfer of 27.9 acres from LRRWMO to CCWD. The Petitioned Area is depicted on maps attached to the Petition and further identified in property identification tables attached to the Petition.

3. **Reasons for Boundary Change.** The proposed boundary change would achieve a more accurate alignment between the hydrologic and legal boundaries of the CCWD and LRRWMO. The requested boundary change is consistent with the purposes and requirements of Minn. Stat. §§ 103B.205 to 103B.255.

4. **Statements of Concurrence.** The required statements of concurrence pursuant to Minn. Stat. §103B.215, Subd. 2 item c from the City of Coon Rapids, and the LRRWMO where submitted with the Petition.

5. **Effect on Benefits and Damages.** The Petition states the proposed boundary change will not affect the benefits or damages for any improvements previously constructed by the CCWD or the LRRWMO.

6. **Notice of Filing.** Legal Notice of Filling of the proposed boundary change, pursuant to Minn. Stat. § 103B.215, Subd. 3, was published in the Anoka County Union on February 25 and March 4, 2011.

7. **Public Hearing.** The Legal Notice of Filing was published pursuant to Minn. Stat. § 103B.215, Subd.3, which requires within 20 days of the last date of publication of the Notice of Filing of the Petition that at least one request for hearing be received by the Board before a hearing will be held. No requests for hearing and no comments were received during the specified period of time and no hearing was held.

8. **Metro Water Planning Committee.** On April 12, 2011, the Board's Metro Water Planning Committee and staff met in St. Paul to review as discuss the boundary change Petition. Those in attendance from the Board's Committee were Louise Smallidge, Faye Sleeper, Christy Jo Fogarty, and Bob Burandt as chair. Board staff in attendance were Metro Region Supervisor Jim Haertel, Board Conservationists Melissa Lewis and Brad Wozney, and Water Management Specialist Travis Germundson. CCWD District Administrator Tim Kelly was also present. Board staff recommended approval of the boundary change. After discussion, the Committee unanimously voted to recommend approval of the Petition to the full Board.

CONCLUSIONS

1. The Petition for Boundary change of the CCWD is valid in accordance with Minn. Stat. § 103B.215.

2. All relevant substantive and procedural requirements of law and rule have been fulfilled.

3. The Board has proper jurisdiction in the matter of ordering a watershed district boundary change.

4. The territory included in the requested boundary change is within the hydrologic boundaries of the CCWD or the LRRWMO.

5. The governing bodies of the City of Coon Rapids, and LRRWMO concur with the requested boundary change.

6. The requested boundary change is consistent with the purpose and requirements of Minn. Stat. §§ 103B.205 to 103B.255.

7. The requested boundary change can be accomplished in conformance with Minn. Stat. § 103B.225 regarding benefits and damages.

8. The proposed boundary change should be approved per the Petition for CCWD, and the LRRWMO should be encouraged to change their organizational boundaries consistent with this Order.

ORDER

The Board hereby orders that the boundaries of the Coon Creek Watershed District are changed per the Petition as depicted on the maps, attached to this Order and made a part hereof, including the data sets the maps were created from. The Board strongly recommends that the Lower Rum River Water Management Organization take immediate action to change its organizational boundary consistent with this Order.

Dated at Saint Paul, Minnesota this 27th day of April, 2010.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brian Napstad, Chair

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Coon Creek WD Boundary Change Hearing

Meeting Date: April 27, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Metro

Contact: Jim Haertel

Prepared by: Jim Haertel

Reviewed by: Metro Planning Committee(s)

Presented by: Jim Haertel

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☒ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Order Public Hearing for Boundary Change Petition for Coon Creek Watershed District

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
In conjunction with the dissolution of the Six Cities Watershed Management Organization, the Coon Creek Watershed District submitted a boundary change petition to enlarge the district into areas of the former Six Cities Watershed Management Organization. The petition involves parts of the Cities of Blaine, Coon Rapids, Fridley and Spring Lake Park. Minn. Stat. § 103B.215, subd. 3, item a requires a Notice of Filing be published once each week for two successive weeks, that the notice be mailed to several entities, that the notice invite written comments, and that the notice allow for a public hearing to be requested by any person. Staff recommended the Notice of Filing not be done and the Board directly order a public hearing be held. There are two reasons for the recommendation.

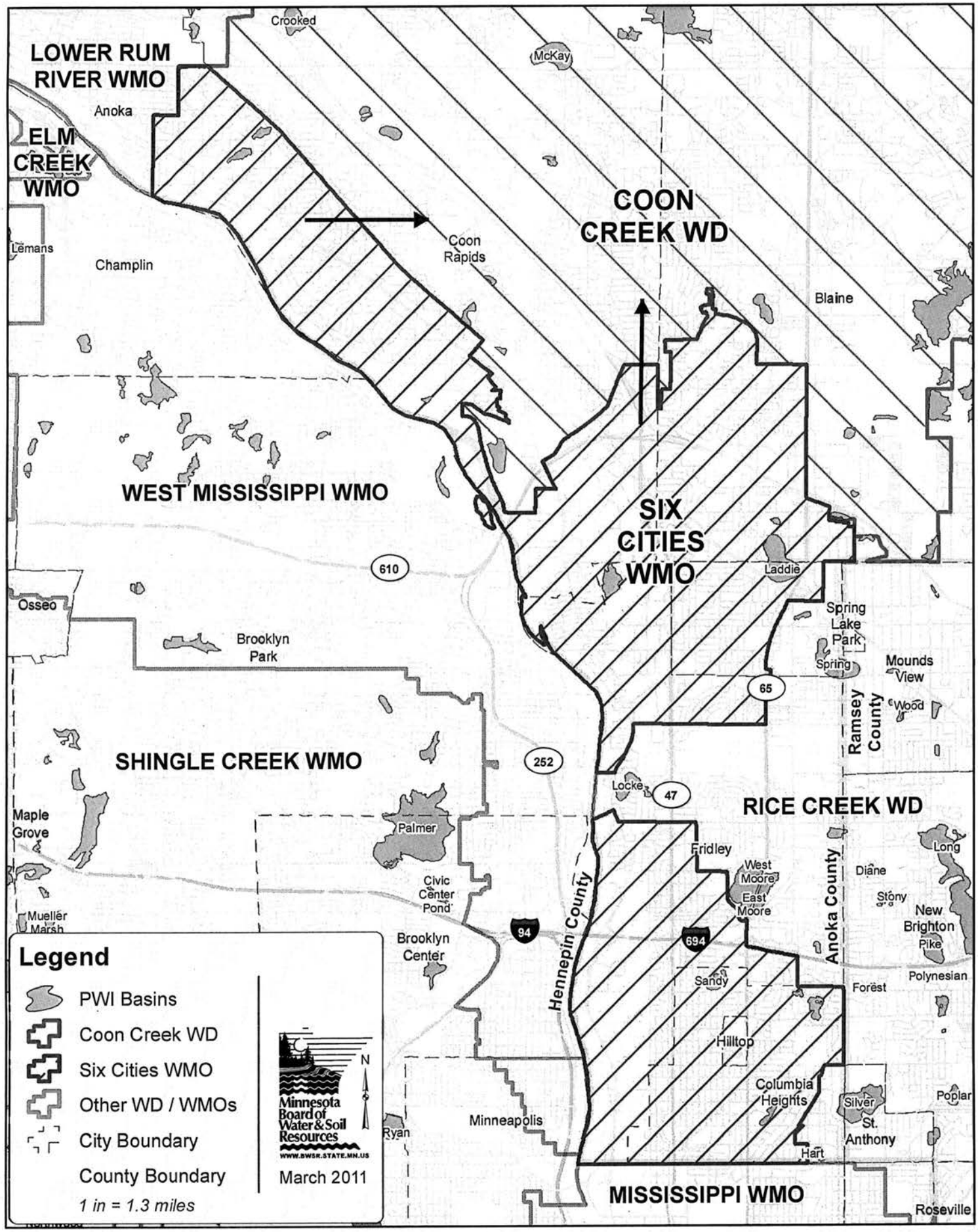
1. There are certain timing issues with the Department of Revenue associated with the filing of the Board's Order for the boundary change with the Secretary of State. If the Notice of Filing was published after the April 27th Board meeting there may not be enough time to bring the matter to the Board's June meeting and, if a hearing was requested then there would certainly not be enough time to bring the matter to the Board's June meeting. If the boundary change is not approved by the Board and filed with the Secretary of State by June 30th, then Department of Revenue regulations would preclude the district from levying in the new areas in 2012.

2. A hearing is likely to be requested. Staff believe it is likely a public hearing would be requested in response to the Notice of Filing. Bypassing the Notice of Filing and ordering a public hearing would be efficient, timely and likely save the Board the costs of two rounds of publications for the Notice of Filing. Timing of the publication of the Notice of Public Hearing and the date of the hearing would be done so no one is deprived of any rights to comment.

The Metro Water Planning Committee met on April 12, 2011. After review of information, the Committee decided with a unanimous vote to recommend the Board order a public hearing be held within 35 days of the date of the Board's Order after proper notice has been given, that the Metro Water Planning Committee preside over the public hearing and bring recommendations on the Petition to the Board, and that the Executive Director set the date, time and location of the public hearing after coordination with the appropriate parties, per the attached draft Order.

Coon Creek Watershed District

Proposed Boundary Change



Minnesota Board of Water and Soil Resources
520 Lafayette Road North
Saint Paul, MN 55155

In the Matter of the Petition for a Boundary Change of the Coon Creek Watershed District in the Cities of Blaine, Coon Rapids, Fridley and Spring Lake Park, Anoka County, pursuant to Minnesota Statutes Section 103B.215.

ORDER
WATERSHED DISTRICT
BOUNDARY CHANGE
PUBLIC HEARING

Whereas, a petition (Petition) for a boundary change of the Coon Creek Watershed District (CCWD) was filed by the CCWD Board of Managers with the Board on March 24, 2011, pursuant to Minn. Stat. § 103B.215, and;

Whereas, the Board has completed its review of the Petition;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order.

FINDINGS OF FACT

1. On March 24, 2011 the Board received a Petition for a boundary change of the CCWD from the CCWD Board of Managers pursuant to Minn. Stat. §103B.215.

2. The proposed watershed district boundary change would enlarge the watershed district into areas of the former Six Cities Watershed Management Organization involving parts of the Cities of Blaine, Coon Rapids, Fridley and Spring Lake Park.

3. Written statements of concurrence from the governing bodies of each affected city, town, and watershed management organization accompanied the Petition as required by Minn. Stat. § 103B.215, subd. 2, item c.

4. Staff has determined that a valid Petition exists pursuant to Minn. Stat. § 103B.215.

5. Minn. Stat. § 103B.215, subd. 3, item a requires a Notice of Filing be published once each week for two successive weeks, that the notice be mailed to several entities, that the notice invite written comments, and that the notice allow for a public hearing to be requested by any person.

6. The Board's Metro Water Planning Committee and staff met on April 12, 2011 in St. Paul to review and discuss the Petition. Those in attendance from the Board's Committee were Christy Jo Fogarty, Louise Smallidge, Faye Sleeper, and Robert Burandt as chair. Board staff in attendance were Metro Regional Supervisor Jim Haertel and Board Conservationist Melissa Lewis. Board staff recommended the Notice of Filing not be done and the Board order a public hearing be held after proper notice is given due to certain timing issues with the Department of Revenue associated with the filing of the Board's Order for the boundary change with the Secretary of State. Board staff noted it is likely a public hearing would be requested in response to the Notice of Filing, thus ordering a public hearing would be efficient, timely and likely save the Board the costs of two rounds of publications for the Notice of Filing. Timing of the publication of the Notice of Public Hearing and the date of the hearing would be done so no one is deprived of any rights to comment. After discussion, the Committee unanimously voted to recommend to the full Board that a public hearing be ordered to be held within 35 days of the date of the Board's Order after proper notice has been given, that the Metro Water Planning Committee preside over the public hearing and bring recommendations on the Petition to the Board, and that the Executive Director set the date, time and location of the public hearing after coordination with the appropriate parties.

CONCLUSIONS

1. The Petition for a boundary change is valid in accordance with Minn. Stat. § 103B.215.

2. All relevant, substantive and procedural requirements of law and rule have been fulfilled.

3. The Board has proper jurisdiction in the matter of ordering a public hearing to determine whether the proposed boundary change should be approved in accordance with Minn. Stat. § 103B.215.

4. A public hearing should be held within thirty-five days of the date of this order after proper notice has been given.

5. The Board's Metro Water Planning Committee should preside over the public hearing and bring recommendations on the Petition to the Board after the public hearing has been held.

6. The Executive Director should set the date, time and location of the public hearing after coordination with the appropriate parties.

ORDER

The Board hereby orders a public hearing be held within 35 days of the date of this Order on the Petition for a boundary change of the Coon Creek Watershed District to be presided over by the Board's Metro Water Planning Committee at a date, time and location set by the Executive Director, after proper legal notice of the public hearing has been given.

Dated at Saint Paul, Minnesota this 27th day of April, 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brian Napstad, Chair

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: SWWD Watershed Plan Amendment

Meeting Date: April 27, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Metro

Contact: Melissa Lewis

Prepared by: Melissa Lewis

Reviewed by: Metro Planning Committee(s)

Presented by: Jim Haertel

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☒ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

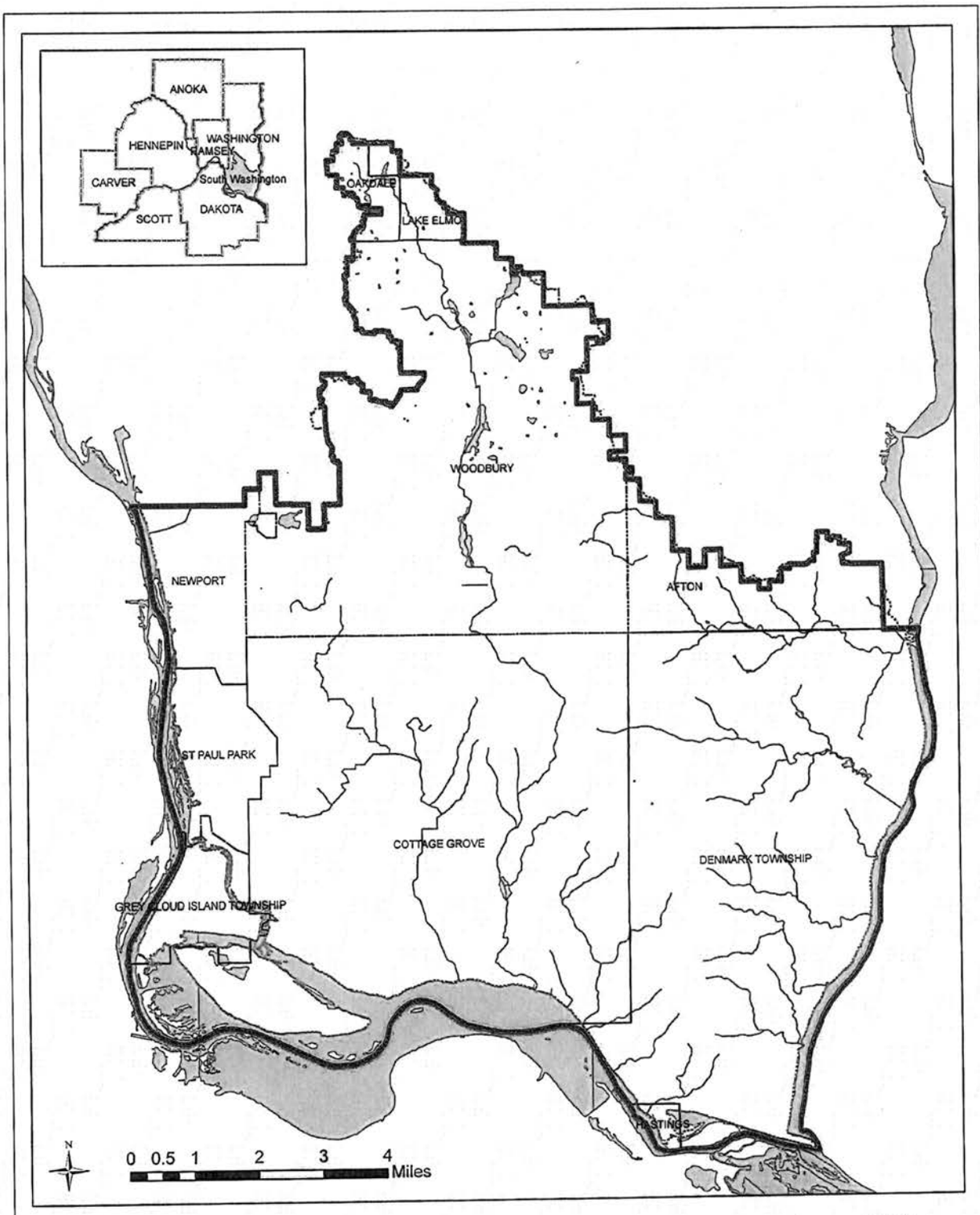
☐ Other: _____

ACTION REQUESTED

Approval of Amendment to South Washington Watershed District Watershed Management Plan

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

The South Washington Watershed District (SWWD) was established in 1993 and is located in the eastern portion of the Metropolitan Area entirely within Washington County, bound by the Mississippi River to the south and west, the Ramsey-Washington Metro Watershed District to the northwest, the Valley Branch Watershed District to the north and east and the St. Croix River to the east. The mission of the District is to manage water and related resources within the District in cooperation with citizens and communities. The Amendment incorporates natural resource data, issues, and goals for the area of the former Lower St. Croix Watershed Management Organization (LSCWMO) into the Plan, consistent with the former LSCWMO Watershed Management Plan and consistent with the BWSR Board Order that enlarged the SWWD to include part of the former LSCWMO. The Amendment also establishes the area of the former LSCWMO as a watershed management unit for project funding by stormwater utility fees. The Metro Water Planning Committee met on April 12, 2011. After review of information, the Committee decided with a unanimous vote to recommend approval of the Plan Amendment by the Board per the attached draft Order.



Map 1.1: SWWD Jurisdictional Area & Member Cities

South Washington Watershed District

Member Cities
SWWD Juristictional Boundary
Hydrological Boundary

Amended 2011
Data Sources: MN DNR Data Deli, SWWD

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, Minnesota 55155

In the Matter of the review of the Amendment to the Watershed Management Plan for the **South Washington Watershed District**, pursuant to Minnesota Statutes Section 103B.231, Subdivision 11.

ORDER APPROVING AMENDMENT TO WATERSHED MANAGEMENT PLAN

Whereas, the Board of Managers of the South Washington Watershed District (District) submitted an Amendment to the Watershed Management Plan (Plan) dated March 9, 2011, to the Minnesota Board of Water and Soil Resources (Board) pursuant to Minnesota Statutes Section 103B.231, Subd. 11, and;

Whereas, the Board has completed its review of the Amendment;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions and Order:

FINDINGS OF FACT

1. **Watershed District Establishment.** The District was established in 1993 as the Cottage Grove Ravine Watershed District. The District name was changed in 1995 to the South Washington Watershed District to prevent confusion with the City of Cottage Grove. The District was enlarged in 2003 to include the area formerly within the East Mississippi Watershed Management Organization and again in 2009 and 2010 to include portions of the area formerly within the Lower St. Croix Watershed Management Organization (LSCWMO). The mission of the District is to manage water and related resources of the South Washington Watershed District in cooperation with citizens and communities.

2. **Authority to Plan.** The Metropolitan Surface Water Management Act requires the preparation of a watershed management plan for the subject watershed area which meets the requirements of Minnesota Statutes Sections 103B.201 to 103B.251. The current District watershed management plan was approved by Board Order on September 26, 2007. The watershed management plan may be amended according to Minnesota Statutes Section 103B.231, Subd. 11.

3. **Nature of the Watershed.** The District is located in the eastern portion of the Metropolitan Area entirely within Washington County and includes all or portions of Denmark and Grey Cloud Island Townships and the cities of Afton, Cottage Grove, Hastings, Lake Elmo, Newport, Oakdale, St. Paul Park, and Woodbury. The District encompasses approximately 101.8 square miles;

bound by the Mississippi River to the south and west, the Ramsey-Washington Metro Watershed District to the northwest, the Valley Branch Watershed District to the north and east, and the St. Croix River to the east. The drainage pattern of the portion of the district draining to the Mississippi River is generally from north to south. The topography of this area is characterized by two distinct regimes; the northern landscape of ridges and knolls separated by areas of flat and wide valleys, and the southern landscape with more subtle changes in elevation for most of the area with steep ravines adjacent to the Mississippi River. The portion of the District draining generally west to east towards the St. Croix River is dominated by exposed bedrock and dissected till and outwash plain characterized by long swells and swales. This area includes numerous well-defined stream channels, steep ravines, and river bluff and terrace deposits.

4. **Amendment Development and Review.** The District circulated a copy of the draft Amendment to the Board, other state agencies, Metropolitan Council, and local governments for their review pursuant to Minnesota Statutes Section 103B.231, Subd. 7 on December 17, 2010. A summary of comments received and the District's response was received on February 22, 2011. A public hearing was held on March 8, 2011. No comments were received. The final draft of the Amendment was received by the Board on March 15, 2011.

5. **Local Review.** The District distributed copies of the draft Plan to local units of government for their review pursuant to Minnesota Statutes Section 103B.231, Subd. 7.

   City of Afton. The City requested the District incorporate additional information about the St. Croix River and include that the City is the Local Government Unit responsible for administering the Wetland Conservation Act. The District responded by including the additional text requested.

6. **Metropolitan Council Review.** The Council did not comment on the Amendment.

7. **Department of Agriculture Review.** The MDA did not comment on the Amendment.

8. **Department of Health Review.** The MDH did not comment on the Amendment.

9. **Department of Natural Resources Review.** The DNR did not comment on the Amendment.

10. **Pollution Control Agency Review.** The PCA did not comment on the Amendment.

11. **Department of Transportation Review**. The DOT requested the Amendment include a flat water quality policy and standards rather than one that changes based on the TMDL. The District responded that the variable standard in the Plan would remain.

12. **Board Review.** Board staff requested a map of the current jurisdictional boundary be included with the final submittal, minor changes to a table in the Amendment, and that the maps on the District website be updated with the current jurisdictional boundary prior to final submittal. The District fully addressed these comments.

13. **Amendment Summary.** The Amendment incorporates natural resource data, issues, and goals for the area of the former LSCWMO into the Plan. The information incorporated is consistent

with the former LSCWMO Watershed Management Plan. The Amendment also establishes this area as a watershed management unit for project funding by stormwater utility fees.

14. **Metro Water Planning Committee Meeting.** On April 12, 2011, the Board's Metro Water Planning Committee and staff met in St. Paul to review and discuss the Amendment. Those in attendance from the Board's Committee were Christy Jo Fogarty, Louise Smallidge, Faye Sleeper, and Robert Burandt as chair. Board staff in attendance were Metro Region Supervisor Jim Haertel and Board Conservationist Melissa Lewis. Board staff recommended approval of the Amendment. After discussion, the Committee unanimously voted to recommend approval of the Amendment to the full Board.

CONCLUSIONS

1. All relevant substantive and procedural requirements of law and rule have been fulfilled.
2. The Board has proper jurisdiction in the matter of approving an Amendment to the Watershed Management Plan for the South Washington Watershed District pursuant to Minnesota Statutes Section 103B.231, Subd. 11.
3. The attached Amendment is in conformance with the requirements of Minnesota Statutes Sections 103B.201 to 103B.251.

ORDER

The Board hereby approves the attached Amendment, dated March 9, 2011, to the South Washington Watershed District Watershed Management Plan.

Dated at St. Paul, Minnesota this 27th day of April, 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chair

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Scott WMO Plan Amendment**

Meeting Date: April 27, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business
Item Type: ☒ Decision ☐ Discussion ☐ Information
Section/Region: Metro Region
Contact: Brad Wozney, Board Conservationist
Prepared by: Brad Wozney, Board Conservationist
Reviewed by: Metro Water Planning Committee(s)
Presented by: Brad Wozney, Board Conservationist

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☒ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested
☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget
☐ Other: _____

ACTION REQUESTED

Approval of the Scott Watershed Management Organization Watershed Management Plan Amendment

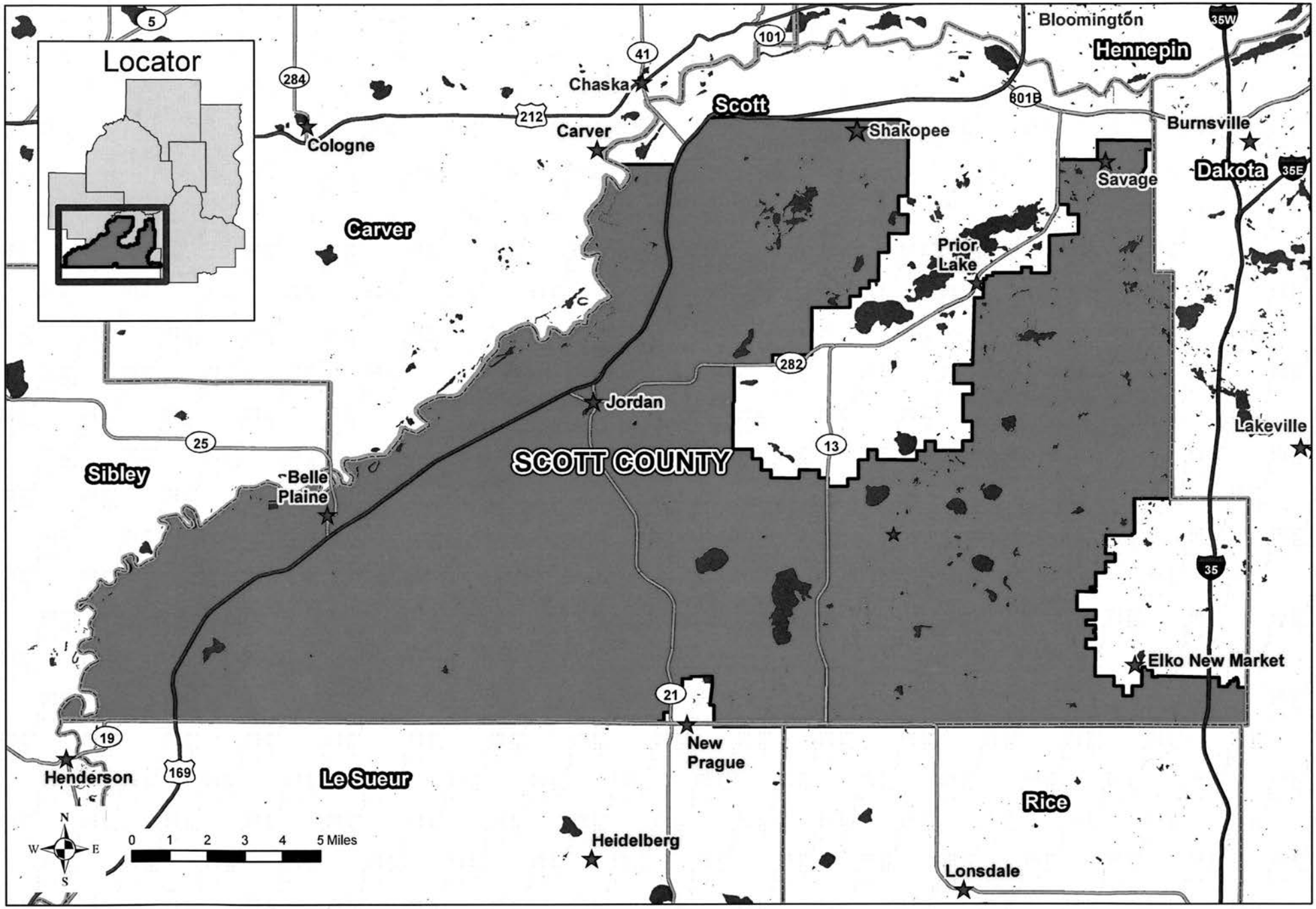
SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
The Scott Watershed Management Organization (SWMO) extends over 287 square miles of Scott County. The remaining portions of Scott County are addressed by the Lower Minnesota River WD, Prior Lake-Spring Lake WD, the Vermillion River Watershed Joint Powers Organization, and Black Dog WMO. There are also approximately two square miles tributary to the Cannon River in the southeast corner of the county that is subject to the Metropolitan Surface Water Management Act and is considered part of the SWMO area. Drainage of Scott County is predominantly toward the Minnesota River which forms the northern border of the County.

The SWMO became necessary after the failure of four Joint Powers Agreement WMO's in 1996 which had originally been established under the Metropolitan Surface Water Management Act. Scott County resolved to take over water planning activities in the areas previously addressed by the Sand Creek, Shakopee Basin, Southwest Scott, Credit River, and portions of Prior Lake-Spring Lake watershed management organizations in July 2000. The current plan was approved by BWSR in May 2009.

The plan amendment proposes to modify the capital improvement program, add and revise various implementation strategies, and incorporate the county adopted "Scott Clean Water Education Comprehensive Plan". This amendment reflects SWMO's willingness to regularly review their implementation program and amend the Plan as studies are completed and projects identified. During the formal comment period, Met Council recommended further analysis of the use of alum on aquatic life, which the Commission will address before and during the permit process. No other comments were received during the formal comment period or at the public hearing regarding the amendment. The amendment does not change the overall planning level budget because the original plan had a preliminary budget amount for projects in anticipation that strategies and projects would be added and further defined in an amendment.

The Metro Water Planning Committee met on April 12, 2011. BWSR staff recommended approval. After review of the information, the Committee unanimously voted to recommend approval of the Plan Amendment per the attached draft Order.

Scott County
Watershed Management Organization



Minnesota Board of Water and Soil Resources
520 Lafayette Road North
Saint Paul, Minnesota 55155

In the Matter of the review of the Amendment to the Watershed Management Plan for the **Scott Watershed Management Organization**, pursuant to Minnesota Statutes Section 103B.231, Subdivision 11.

ORDER APPROVING AMENDMENT TO WATERSHED MANAGEMENT PLAN

Whereas, the Board of the Scott Watershed Management Organization (SWMO) submitted a Watershed Management Plan Amendment dated April 2011(Amendment), to the Minnesota Board of Water and Soil Resources (Board) pursuant to Minnesota Statutes Section 103B.231, Subd. 11, and;

Whereas, the Board has completed its review of the Amendment;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions and Order:

FINDINGS OF FACT

1. **WMO Establishment.** The SWMO became necessary after the failure of four Joint Powers Agreement WMO's in 1996 which had originally been established under the Metropolitan Surface Water Management Act. Scott County resolved to take over water planning activities in the areas previously addressed by the Sand Creek, Shakopee Basin, Southwest Scott, Credit River, and portions of Prior Lake-Spring Lake watershed management organizations in July 2000.

2. **Authority to Plan.** The Metropolitan Surface Water Management Act requires the preparation of a watershed management plan for the subject watershed area which meets the requirements of Minnesota Statutes Sections 103B.201 to 103B.251. The watershed management plan may be amended according to Minnesota Statutes Section 103B.231, Subd. 11.

3. **Nature of the Watershed.** The SWMO extends over 287 square miles of Scott County. The remaining portions of Scott County are addressed by the Lower Minnesota River Watershed District, Prior Lake-Spring Lake Watershed District, the Vermillion River Watershed Joint Powers Organization, and Black Dog WMO. There are also approximately two square miles tributary to the Cannon River in the southeast corner of the county that is subject to the Metropolitan Surface Water Management Act and is considered part of the SWMO area. Drainage of Scott County is predominantly toward the Minnesota River which forms the northern border of the county. Agricultural land use dominates the landscape; however urbanization is occurring in the northern portions of the county.

4. **Amendment Development and Review.** The Amendment revises the Capital Improvement Program, adds and revises various implementation strategies, and incorporates the county adopted "Scott Clean Water Education Comprehensive Plan". The draft Amendment was submitted to the Board, other state agencies, and local governments for the required 60-day review on October 1, 2010. The SWMO received a comment letter from Metropolitan Council and the Board. The SWMO held a public hearing on January 11, 2011. No new suggested changes were offered during the meeting. The final draft Amendment was submitted to the Board and plan review agencies on February 11, 2011, for the required 90-day review and approval period.

5. **Metropolitan Council Review.** Met Council was supportive of the amendment stating it is consistent with the Council's *Water Resources Management Policy Plan*. However the Council commented that proposed alum treatments on the two lakes should be further assessed for its impacts on macro-invertebrates and bottom feeding fish. SWMO stated that they will follow DNR and MPCA permit requirements which are set to be protective of aquatic life. SWMO will also thoroughly review all studies and evidence related to the topic and consider alternatives.

6. **Department of Agriculture Review.** The MDA did not comment on the Amendment.

7. **Department of Health Review.** The MDH did not comment on the Amendment.

8. **Department of Natural Resources Review.** The DNR did not comment on the Amendment.

9. **Pollution Control Agency Review.** MPCA provided an updated schedule of completing future TMDL studies in the WMO.

10. **Local Review.** The Commissions circulated a copy of the draft Amendment to local units of government for their review pursuant to Minnesota Statutes Section 103B.231, Subd. 7.

11. **Board Review.** Board staff commended the Commissions for its systematic approach to maintaining a current Plan.

12. **Highlights of the Plan Amendment.** The plan amendment proposes to modify the capital improvement program, add and revise various implementation strategies, and incorporate the county adopted "Scott Clean Water Education Comprehensive Plan". This amendment reflects SWMO's willingness to regularly review their implementation program and to amend the Plan as studies are completed and projects identified.

13. **Metro Water Planning Committee Meeting.** The Board's Metro Water Planning Committee met on April 12, 2011, to review and discuss the Amendment. Those in attendance from the Board's Committee were Christy Jo Fogarty, Faye Sleeper, Louise Smallidge, and Robert Burandt as chair. Board staff in attendance were Metro Region Supervisor Jim Haertel and Board Conservationists Brad Wozney and Melissa Lewis.

Board staff recommended approval of the Amendment. After discussion, the Committee unanimously voted to recommend approval of the Amendment to the full Board.

CONCLUSIONS

1. All relevant substantive and procedural requirements of law and rule have been fulfilled.

2. The Board has proper jurisdiction in the matter of approving an Amendment to the Watershed Management Plan for the Scott Watershed Management Organization pursuant to Minnesota Statutes Section 103B.231, Subd. 11.

3. The Scott Watershed Management Organization's Amendment attached to this Order defines the need and purpose of the Plan changes and the methods of financing.

4. The attached Amendment is in conformance with the requirements of Minnesota Statutes Sections 103B.201 to 103B.251.

ORDER

The Board hereby approves the attached Amendment dated April 2011 to the Scott Watershed Management Organization's Watershed Management Plan.

Dated at Saint Paul, Minnesota this 27th day of April 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chair

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Mississippi WMO Revised Plan**

Meeting Date: April 27, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Metro Region

Contact: Brad Wozney, Board Conservationist

Prepared by: Brad Wozney, Board Conservationist

Reviewed by: Metro Water Planning Committee(s)

Presented by: Brad Wozney, Board Conservationist

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☒ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Approval of the Mississippi Watershed Management Organization Watershed Management Plan

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
BACKGROUND: The [Middle] Mississippi Watershed Management Organization (MWMO) was established in 1985 and included the University of Minnesota. The first Watershed Management Plan was published in December 1986. In 1997, a Joint and Cooperative Agreement, more commonly entitled "Joint Powers Agreement" across the metro region, was entered into by the cities of Minneapolis, St. Paul, Lauderdale, Falcon Heights, St. Anthony, and the Minneapolis Park and Recreation Board. This agreement added the new MWMO business name to the organization, formerly the Middle Mississippi WMO, and replaced the agreement executed in 1985 that created the original organization. In 1999, the MWMO's legal boundary was redrawn to exclude the city of Falcon Heights, which is now a part of the Capitol Region Watershed District. The second Watershed Management Plan was approved by the Board in 2000. In 2001 the legislature granted MWMO the authority as a "special purpose taxing district" under MN Statutes § 275.066.

The MWMO is located in Hennepin and Ramsey Counties in the heart of the Minneapolis – St. Paul seven county metropolitan area. It is bound by the Six Cities Watershed Management Organization to the north, on the west by the West Mississippi / Shingle Creek Watershed Management Organizations and Bassett Creek Watershed Management Organization, on the south by Minnehaha Creek Watershed District, and on the east by the Capitol Region and Rice Creek Watershed Districts. The MWMO encompasses 13,602 acres (31.5 square miles) of fully developed urban lands (90%), parks and open space (7%), and open water (3.6%). The MWMO consists of portions of the cities of Lauderdale, St. Paul, St. Anthony, and Minneapolis including property owned by the Minneapolis Park and Recreation Board. It is important to note that 95% of the watershed is within the City of Minneapolis. As of 2010 the population within MWMO was over 236,000 and projected to be over 248,000 by 2020. Over the course of the next ten years Minneapolis is proposing significant redevelopment around "growth centers" which are characterized by a concentration of employment-generating development. The Mississippi River is the primary water resource in the MWMO, but other water resources include Loring Park Pond – an eight acre, annually stocked recreational fishing lake, and Mallard

Marsh and Kasota Ponds. There are three dams with navigation locks on the Mississippi River within the MWMO. Subwatersheds in the region that were historically defined by topography are now defined by extensive networks of stormwater tunnels and pipes. Bassett Creek flows by way of a tunnel through the MWMO.

Five Commissioners comprise the MWMO Board, one from each member organization.

REVISED PLAN PROCESS AND SUMMARY: The MWMO Plan was a culmination of an extensive 2.5 year public involvement process with 12 different sources of input and over a 1,000 comments collected during the issues identification phase. The result is the ultimate buy in and support of all member cities and agencies.

BWSR staff have been involved throughout all phases of the Plan development process, including several special meetings between BWSR and MWMO staff and numerous correspondences via phone and email. Beginning in 2007 in order to assist the MWMO Commissioners with the development of the plan, two technical advisory committees were organized: an Implementation Advisory Group (IAG) made up of staff from member communities and related agencies; and a Science Advisory Group (SAG) comprised of staff from member communities, agencies, and the University of Minnesota who have a science background and experience in various aspects of watershed management. The IAG and SAG met five times over the course of the planning process to discuss issues, goals, stormwater standards, and implementation strategies offering opportunities for stakeholders and state agencies to provide verbal and written comments. During the issue identification planning phase, extensive efforts to acquire citizen input were made through an online survey, a series of meetings with two focus groups – one representing businesses and the other recreational interests, the Citizen Advisory Committee, and four open houses. The draft revised Plan was submitted to the Board, other state agencies, and local governments for the 60-day review on June 4, 2010. A public hearing was held on November 9, 2010. In response to comments received at the public hearing the MWMO requested staff meet with Minneapolis and MNDOT to resolve remaining issues. On March 10, 2011, the final draft of the revised Plan was received by the Board and other state agencies for the final 90-day period. MWMO staff are committed to working with member communities and other authorities over the next two years to finalize standards language which will result in changes to the Plan.

The Plan outlines a good framework for protecting the water resources of the MWMO. Overall the Plan is weighted toward non-structural and programmatic solutions, however modeling and other efforts will be completed early in Plan implementation to develop water quality/quantity trend analyses and identify projects for expanding the CIP. Ten key focus areas are outlined in the Plan:

Water Quality Focus Area
- Protect and improve the water resources of the MWMO.
- Account for water quality conditions upstream that impact the MWMO.
- Participate in the development and implementation of TMDLs.
- Identify the role the MWMO will take in addressing soil contamination and groundwater quality.

Water Rate and Volume Focus Area
- Manage the causes and reduce the effects of flooding that impact the watershed.
- Manage the causes and reduce the effects of drought that impact the watershed.

Monitoring & Data Assessment Focus Area
- Make decisions based on science and best available data.

Education and Outreach Focus Area
- Provide resources and opportunities to build capacity and leadership and promote responsible stewardship of water and natural resources.
- Create education and outreach connections within MWMO programs
- Enhance communications between MWMO and constituents.

Ecosystem Health Focus Area
- Find ways to protect, create, and enhance vegetated areas, springs, native plant communities, habitat, open space, and green infrastructure.

□ Protect more land that significantly impacts surface and groundwater resources and natural resources.

Regulations & Enforcement Focus Area
□ Promote consistency in rules, regulations, standards and enforcement across jurisdictions.
□ Improve compliance and enforcement of regulations related to water and natural resources.

Urban Stormwater Management Focus Area
□ Promote unique and innovative solutions for stormwater management in highly developed urban areas.

Emergency Preparedness & Response Focus Area
□ Protect natural resources when natural disasters and emergencies occur.

Emerging Issues Focus Area
□ Develop new approaches that protect water and natural resources as conditions change and emerging issues arise.

Financial Responsibilities and Strategies Focus Area
□ Develop a comprehensive financial framework to implement goals, strategies and actions of the plan.
□ Maintain a funding strategy that is effective, efficient and transparent.

Financing of this Plan is levied funds through the "Special Taxing District" authority, similar to watershed districts, granted to MWMO by the legislature in 2001. The projected annual budget ranges from $4.66 million in 2010 to $6.37 million in 2016 when they will be fully staffed at 12-14 full-time employees.

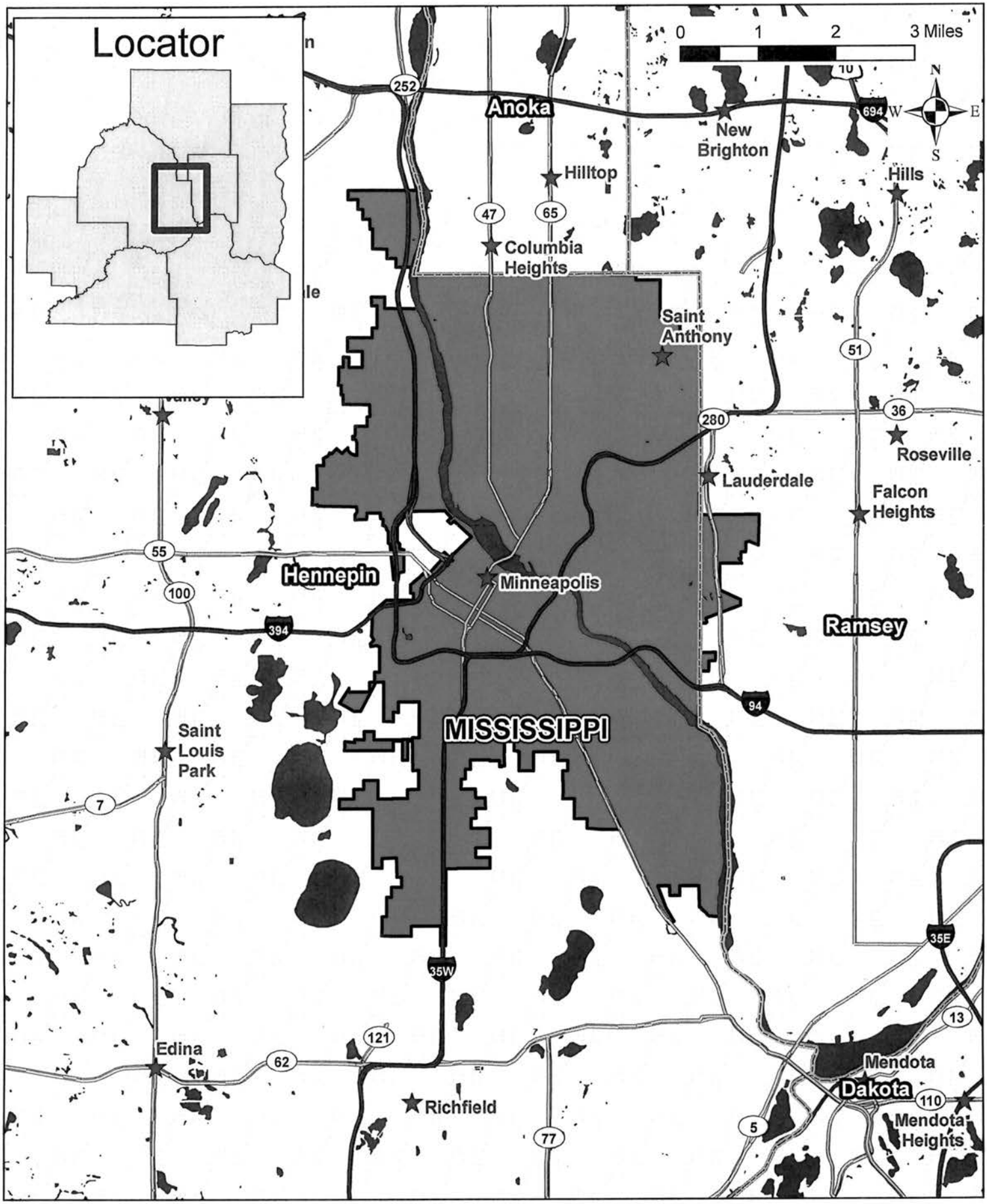
REVISED PLAN HIGHLIGHTS: The highlights of the revised Plan include:

- Ample opportunities to provide upfront comments on the Plan prior to submitting the formal draft.
- Completion of a very comprehensive gap analysis of the water related activities and regulations of the member communities and adjacent WMOs.
- Outline of clear roles, responsibilities, and standards for the member communities to update their local water plans.
- For effective management the Plan is organized into four "pipeshed" (subwatershed) areas.
- A robust set of implementation programs such as a significant monitoring program to prove results and support the management approaches, a successful education and outreach program which has most notably made effective connections within the Hmong Community, an Emergency Response Fund Program which has expanded in light of the I35W bridge collapse, a land conservation program to purchase property or acquire easements to enhance greenway corridors, and a program partnering with Minnehaha Creek Waterswhed Ddistrict to fund innovative practices, activities, and research.
- An active, effective, and engaged Citizen Advisory Committee.
- An aggressive staffing plan to meet the high future workload demands.
- Annual review of the implementation of the stormwater standards including project design and construction costs and criteria of variances granted to ensure the standards are implementable, progressive, clear, and cost effective.

Local and state comments received in regards to the revised Plan have been sufficiently addressed.

METRO WATER PLANNING COMMITTEE: On April 12, 2011, the Board's Metro Water Planning Committee and staff met with representatives from the MWMO in St. Paul to review and discuss the Plan. Board staff recommended approval of the Plan. After review of the information, the Committee voted unanimously to recommend approval of the Revised Plan to the full Board per the attached draft Order. .

Mississippi
Watershed Management Organization



Minnesota Board of Water and Soil Resources
520 Lafayette Road North
Saint Paul, Minnesota 55155

In the Matter of the review of the Watershed Management Plan for the **Mississippi Watershed Management Organization**, pursuant to Minnesota Statutes Section 103B.231, Subdivision 9.

ORDER APPROVING WATERSHED MANAGEMENT PLAN

Whereas, the Board of Commissioners of the Mississippi Watershed Management Organization (MWMO) submitted a Watershed Management Plan (Plan) to the Minnesota Board of Water and Soil Resources (Board) pursuant to Minnesota Statutes Section 103B.231, Subd. 9, and;

Whereas, the Board has completed its review of the Plan;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions and Order:

FINDINGS OF FACT

1. **WMO Establishment.** The [Middle] Mississippi WMO (MWMO) was established in 1985 and included the University of Minnesota. The first Watershed Management Plan was published in December 1986. In 1997, a Joint and Cooperative Agreement, more commonly entitled "Joint Powers Agreement" across the metro region, was entered into by the cities of Minneapolis, St. Paul, Lauderdale, Falcon Heights, St. Anthony, and the Minneapolis Park and Recreation Board. This agreement added the new MWMO business name to the organization, formerly the Middle Mississippi WMO, and replaced the agreement executed in 1985 that created the original organization. In 1999, the MWMO's legal boundary was redrawn to exclude the city of Falcon Heights, which is now a part of the Capitol Region Watershed District. The second Watershed Management Plan was approved by the Board in 2000. In 2001 the legislature granted MWMO the authority as a "special purpose taxing district" under Minnesota Statutes § 275.066.

2. **Authority to Plan.** The Metropolitan Surface Water Management Act requires the preparation of a watershed management plan for the subject watershed area which meets the requirements of Minnesota Statutes §§ 103B.201 to 103B.251.

3. **Nature of the Watershed.** The MWMO is located in Hennepin and Ramsey Counties in the heart of the Minneapolis – St. Paul seven county metropolitan area. It is bound by the Six Cities Watershed Management Organization to the north, on the west by the West Mississippi / Shingle Creek Watershed Management Organizations and Bassett Creek

Watershed Management Organization, on the south by the Minnehaha Creek Watershed District, and on the east by the Capitol Region and Rice Creek Watershed Districts. The MWMO encompasses 13,602 acres (31.5 square miles) of fully developed urban lands (90%), parks and open space (7%), and open water (3.6%). The MWMO consists of portions of the cities of Lauderdale, St. Paul, St. Anthony, and Minneapolis including property owned by the Minneapolis Park and Recreation Board. It is important to note that 95% of the watershed is within the City of Minneapolis. As of 2010 the population within MWMO was over 236,000 and projected to be over 248,000 by 2020. Over the course of the next ten years Minneapolis is proposing significant redevelopment around "growth centers" which are characterized by a concentration of employment-generating development. The Mississippi River is the primary water resource in the MWMO, but other water resources include Loring Park Pond – an eight acre, annually stocked recreational fishing lake, and Mallard Marsh and Kasota Ponds. There are three dams with navigation locks on the Mississippi River within the MWMO. Subwatersheds in the region that were historically defined by topography are now defined by extensive networks of stormwater tunnels and pipes. Bassett Creek flows by way of a tunnel through the MWMO.

4. **Plan Development and Review.** Beginning in 2007 in order to assist the MWMO Commissioners with the development of the plan, two technical advisory committees were organized: an Implementation Advisory Group (IAG) made up of staff from member communities and related agencies; and a Science Advisory Group (SAG) comprised of staff from member communities, agencies, and the University of Minnesota who have a science background and experience in various aspects of watershed management. The IAG and SAG met five times over the course of the planning process to discuss issues, goals, stormwater standards, and implementation strategies offering opportunities for stakeholders and state agencies to provide verbal and written comments. During the issue identification planning phase, extensive efforts to acquire citizen input were made through an online survey, a series of meetings with two focus groups – one representing businesses and the other recreational interests, the Citizen Advisory Committee, and four open houses. The draft revised Plan was submitted to the Board, other state agencies, and local governments for the 60-day review on June 4, 2010. A public hearing was held on November 9, 2010. In response to comments received at the public hearing the MWMO requested staff meet with Minneapolis and MNDOT to resolve remaining issues. On March 10, 2011, the final draft of the revised Plan was received by the Board and other state agencies for the final 90-day period.

5. **Local Review.** The MWMO distributed copies of the draft Plan to local units of government for their review pursuant to Minnesota Statutes § 103B.231, Subd. 7. The MWMO received comments from the cities of Minneapolis, St. Paul, Lauderdale, and the Bassett Creek WMO. The primary comments from Minneapolis were related to: language clarification of MWMO standards to simplify the process of applying the standards, questioning the need for and scientific basis for requiring volume control in an ultra-urban setting when the receiving water is the Mississippi River, request for municipal financial assistance to cities to help meet MWMO stormwater standards, concerns for infiltration requirements in contaminated and unsuitable soils, lack of adequate analysis on the financial impact to LGUs as a result of this Plan, and add a map

of known flooding problems or flood-prone areas. The MWMO responded in writing to all municipalities who provided comments, addressing each concern. The MWMO has elected to delay the adoption of a runoff volume standard until results from studeis have been analyzed.

6. **Metropolitan Council Review.** The Council commented on the need for a plan amendment within the first five years of implementation to examine needs for capital projects. The Council recommended the Plan outline the amendment process to include potential projects listed. The MWMO addressed each comment resulting in changes to the Plan.

7. **Department of Agriculture Review.** The MDA did not comment on the Plan.

8. **Department of Health Review.** The MDH did not comment on the Plan.

9. **Department of Natural Resources Review.** The DNR did not comment on the Plan.

10. **Pollution Control Agency Review.** The PCA requested language clarification on the industrial stormwater permit narrative and recommended referring to the Phase 1 municipal stormwater permits for Minneapolis and St Paul for language related to combined sewer overflows. The MWMO adjusted the Plan text accordingly.

11. **Department of Transportation Review.** MNDOT offered many comments throughout the planning process. Comments centered around the following: a requested alternative approach or standard for volume control on linear projects but in-lieu fees are not an option, clarification of redevelopment definition as it relates to linear projects, and the impracticality of the 3 year deadline for producing an alternatives analysis of MNDOT road projects to meet certain stormwater standards. The MWMO stated that they have a shared goal with MNDOT to develop stormwater standards over the next 2.5 years that are suitable and reasonable in an urban setting balancing the economic, transportation, and natural resource needs of the watershed. All comments were addressed resulting in revisions to the Plan.

12. **Board Review.** Board staff recommended adding the following to the Plan: an outline of MWMO's role and process when an LGU is considering variances, details on how Total Maximum Daily Load (TMDL) implementation plan strategies will be incorporated, more detailed descriptions of proposed capital improvement projects (CIPs), define a maintenance program, clarification that the CIP must be reviewed for potential amendments minimally every two years, avoid the use of "passive verbs" for action items in the implementation table, specify that cost share expenditures are capped at 25% of the total CIP budget annually, list cost share program priority areas and criteria for project selection, adjust the plan expiration to 10 years after BWSR approval, and include the executed joint powers agreement with the final submittal. The MWMO addressed the comments resulting in revisions to the Plan.

13. **Plan Summary and Highlights.** The Plan outlines an excellent framework for protecting the water resources of the MWMO. The basis of this is largely the result of

numerous studies completed under the previous plan. A brief self assessment document that lists accomplishments of the previous plan was incorporated into the revised Plan in the Executive Summary. The highlights of the revised Plan include:

- The MWMO offered ample opportunities to provide upfront comments on the Plan prior to submitting the formal draft.
- Completed a very comprehensive gap analysis of the water related activities and regulations of the member communities and adjacent WMOs.
- Offers clear roles, responsibilities, and standards for the member communities to update their local water plans.
- For effective management the Plan is organized into four "pipeshed" (subwatershed) areas.
- A robust set of implementation programs such as a significant monitoring program to prove results and support the management approaches, a successful education and outreach program which has most notably made effective connections within the Hmong Community, an Emergency Response Fund Program which has expanded in light of the I35W bridge collapse, a land conservation program to purchase property or acquire easements to enhance greenway corridors, and a program partnering with the Minnehaha Creek WD to fund innovative practices, activities, and research.
- An active, effective, and engaged Citizen Advisory Committee.
- An aggressive staffing expansion plan to meet the high future workload demands.
- Annual review of the implementation of the stormwater standards including project design and construction costs, and criteria of variances granted to ensure the standards are implementable, progressive, clear, and cost effective.

14. **Metro Water Planning Committee Meeting.** On April 12, 2011, the Board's Metro Water Planning Committee and staff met with representatives from the MWMO in St. Paul to review and discuss the Plan. Those in attendance from the Board's Committee were Rebecca Flood, Christy Jo Fogarty, Faye Sleeper, Louise Smallidge, and Robert Burandt as chair. Board staff in attendance were Metro Region Supervisor Jim Haertel and Board Conservationists Brad Wozney and Melissa Lewis. Representatives from the MWMO included Administrator Doug Snyder and Program Coordinator Dan Kalmon. Board staff recommended approval of the Plan. After discussion, the Committee voted unanimously to recommend approval of the Plan to the full Board.

CONCLUSIONS

1. All relevant substantive and procedural requirements of law and rule have been fulfilled.

2. The Board has proper jurisdiction in the matter of approving a Watershed Management Plan for the Mississippi Watershed Management Organization pursuant to Minnesota Statutes § 103B.231, Subd. 9.

3. The Mississippi Watershed Management Organization Watershed Management Plan attached to this Order defines water and water-related problems within the MWMO's boundaries, possible solutions thereto, and an implementation program.

4. The attached Watershed Management Plan is in conformance with the requirements of Minnesota Statutes §§ 103B.201 to 103B.251.

ORDER

The Board hereby approves the attached Watershed Management Plan dated March 9, 2011, as the Watershed Management Plan for the Mississippi Watershed Management Organization.

Dated at Saint Paul, Minnesota this 27th day of April, 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chair

COMMITTEE RECOMMENDATIONS

Northern Water Planning Committee

1. Red Lake Watershed District Plan Amendment for Formation of a Water Management District – Keith Mykleseth – ***DECISION ITEM***

2. Middle-Snake-Tamarac Rivers Watershed District Order to Hold a Public Hearing on Watershed Plan - Gene Tiedemann – ***DECISION ITEM***

3. Wadena County Water Plan Amendment – Quentin Fairbanks – ***DECISION ITEM***

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Amendment to the Red Lake WD Plan

Meeting Date: April 27, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☐ Decision ☐ Discussion ☐ Information

Section/Region: North Region

Contact: Brian Dwight

Prepared by: Brian Dwight

Reviewed by: Northern Plan Review Committee Committee(s)

Presented by: Keith Mykleseth

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Board approval of Order prescribing an Amendment to the Red Lake Watershed District Plan

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

Petition for a Water Management Plan (Plan) Amendment was filed by Red Lake Watershed District (RLWD) with the Board of Water and Soil Resources on December 9, 2010 to establish a water management district. The petition proposes to amend the District's Plan to establish a water management district for the Thief River Falls Flood Damage Reduction Project. Territory is limited to lands adjacent to Pennington County Ditch #1 encompassing approximately 1,070 acres. The establishment of the water management district will allow the watershed district to collect revenues to fund a portion of the flood damage reduction component of the project. The petition was submitted pursuant to Minn. Stat. §§ 103D.411, and 103D.729 and signed by the Chairman of the District.

The Amendment was initiated as a requirement to establish a water management district for the purpose of collecting revenues and paying costs for projects pursuant to Minn. Stat. § 103D.729. The purpose of the proposed Amendment is to allow the RLWD to collect revenues and pay a portion of the costs of the Thief River Falls Flood Damage Reduction Project initiated under Minn. Stat. § 103D.605. The project will provide a diversion, and installation of storm sewer through the city. The necessary charges will be limited to 30 percent of all costs associated with the Flood Damage Reduction component of the project not to exceed $700,000. The method used to determine the charges is based on runoff volume calculated from lands within the territory on a per parcel basis. The construction charges for the water management district will be assessed and recovered over a period not to exceed 20 years. The water management district will be established in perpetuity for maintaining the flood damage reduction portion of the project.

BOARD OF WATER AND SOIL RESOURCES

Red Lake Watershed District Proposed Amendment to Create a Water Management District regarding Thief River Falls Flood Damage Reduction Project (TRF FDR) Project #171A	Petition for Water Management Plan Amendment

The Red Lake Watershed District Board of Managers (District) hereby petitions the Board of Water and Soil Resources (BWSR) to amend the District's watershed management plan (WMP) to establish a water management district (WMD).

1. **Authority:** Under Minnesota Statutes Section 103D.729, a watershed district may establish a water management district by amendment to its plan in accordance with Section 103D.411 for the purpose of collecting revenues and paying the costs of projects initiated under section 103D.605. The amendment shall describe with particularity the territory or the area to be included in the water management district, the amount of the necessary charges, the methods used to determine charges, and the length of time the water management district will remain in force. A detailed description of these requirements is included in the proposed plan amendment language herein.

2. **Purpose:** The District has initiated the Thief River Falls Flood Damage Reduction Project (TRF FDR) to reduce flood damages and support continued progress towards achieving water quantity goals as listed in the District's WMP. A WMD established for the project will have the purpose of generating revenues to pay costs for a portion of the TRF FDR Project.

3. **Findings:** The Managers have made the following findings:

a. That the infrastructure that supports the water quantity goals listed in the District WMP is important to the economic future of the area affected by the TRF FDR Project.

b. That it is essential to the sound management of waters for the TRF FDR Project, that the District adopt, implement, and amend its WMP to accomplish the WMD's purpose.

c. That the TRF FDR Project is a project initiated by the District under 103D.605 on July 8, 2010 and amended on September 9, 2010 under a finding that the project will be conducive to public health, promote the general welfare, and is in compliance with the watershed management plan.

d. That the TRF FDR Project is proceeding toward a Final Hearing under Minn. Stat. §103D.605 upon completion of required intermediate proceedings and actions under the statute. The ability to implement water management charges for the project is considered essential to successful project implementation.

e. That an amendment to the District's WMP to provide for a WMD for the proposed TRF FDR Project area is consistent with 103D.729 and will provide a necessary and equitable method to generate revenues for a portion of the TRF FDR Project from properties benefiting from or contributing to the need for the project.

f. That properties within the TRF FDR Project area will benefit from the project because it will protect the economic vitality of the area, maintain property values, and prevent destruction to vital public and private infrastructure.

g. That the proposed TRF FDR Project area will benefit from a stable source of revenues to provide for construction and maintenance of the flood control and stormwater management project.

4. **Amendment to Section 7.1.6.2 of WMP**: The language of Section 7.1.6.2 which will become part of the District's WMP, if approved, is as follows:

> **7.1.6.2** In order to collect revenues and pay a portion of the basic water management (flood control) features of the Thief River Falls Flood Damage Reduction Project (TRF FDR) initiated under Minn. Stat. §103D.605, a Water Management District (WMD) is established in accordance with Minn. Stat. §§103D.729 and 103D.411 for the purpose of collecting revenues and paying the costs of TRF FDR Project. The WMD is designated the "Thief River Falls Flood Damage Reduction Project Water Management District".
>
> Pennington County Ditch #1 (CD 1) has been a source of agricultural and urban flooding problems for years. Since its construction 100 or more years ago, the ditch has routinely flooded out of its banks in spite of cleanouts and culvert replacements. In 2005, the Pennington County Board of Commissioners, Thief River Falls City Council, Red Lake Watershed District (RLWD), and others requested a drainage study, which suggested several alternatives to remedy the drainage and flooding problems. Due to funding limitations and procedural uncertainties related to Minnesota ditch law, no entity was able to advance the project forward until a landowner ditch improvement petition was received by the RLWD in 2009.
>
> In response to the landowner petition for improvement of CD 1, the RLWD has approved the Preliminary Survey Report and Detailed Survey Report in accordance with Minnesota (MN) Statute 103E. These reports explain the project in detail and are available for review from the RLWD upon request.
>
> Because of the severity of the flooding problem and the complexity and cost of the proposed CD 1 improvement within the urban environment, the RLWD established a separate project, the TRF FDR Project, in accordance with Minn. Stat. §103D.605. The TRF FDR project addresses the works necessary (the basic water management or flood control features), in addition to the CD 1

improvement, to achieve the water quantity objectives contained in the District's watershed management plan.

As part of the funding strategy for the project, the RLWD will implement a water management charge system to generate revenues to pay for a portion of the costs of construction and maintenance of the TRF FDR Project. Items a-d below describes the framework of the WMD and charge system.

a. The territory or area to be included in the WMD shall be limited to the CD 1 drainage area north of CSAH 8 / Challenger Road generally depicted in "Figure 1 attached hereto." A parcel listing for the WMD shall be developed and included in the project record for the TRF FDR Project.

b. The amount of necessary initial charges will be limited to $700,000, or the local share (30%) of the projects costs of the TRF FDR Project as indicated in Table 1 below, whichever is less.

Table 1. Project Funding Breakdown

Project Component	Funding Source
Flood Damage Reduction	35% Red Lake Watershed District
	35% State of MN - FDR Program
	30% WMD charges

c. The initial charges for the WMD for construction of the TRF FDR Project shall be implemented over a period not to exceed 20 years. In addition to the initial cost recovery period of 20 years, the WMD will remain in-place perpetually, unless terminated by the District, in order to generate revenue for maintaining the project as a work of the District. The imposition of charges for maintenance of the project are subject to the fund limitations found in Minn. Stat. §103D.631

d. The method used to determine the amount of charges each parcel will pay to the WMD run-off and pollutant loading values associated with various landforms and land uses within the WMD. Associated run-off Curve Number (Cn) values are used to evaluate related contributions for various classes of properties.

The charge value, as a relative number, is determined by an approximation of the volume of storm water runoff from a parcel. Runoff volume is a factor of the parcel's area, and the portion of the area that has impervious surfaces, such as rooftops, parking lots, driveways, and sidewalks. Each parcel that falls within the WMD boundaries will be placed into a land use

classification, and assigned a Residential Equivalency Factor (REF) for each classification as follows in Table 2 below.

Because the area with the WMD is subject to future municipal development, a portion of the water management charge for undeveloped property may be deferred and imposed at a future date as development occurs. This process is necessary to ensure that similar properties, currently developed and future developed, are treated similarly relative to their contributions to the function and need for the project.

Table 1. Residential Equivalency Factor (REF)

Land Use Classification	Residential Equivalency Factor (REF)
Single Family	1.0
Manufactured Home	1.0
Multi-Family Residential	1.5
Commercial/Industrial	1.5
Schools/Churches/Institutional	1.5
City-Owned Land	1.0
Vacant/Vegetative/Agricultural/Unimproved	0.1 with cap

Then, the formula for determining the monthly charge is as follows:

Water Management District Charge = (REF) x size of parcel (acres) x fee per acre

5. **Additional Matters:** The Board's Order under Minn. Stat. §103D.411 may include addition requirements including, but not limited to evaluation of the WMD during any ten-year WMP revision. Appeals from orders of the District related to the WMD or the TRF FDR Project are subject to the requirements of Minn. Stat. §§103D.535 to .539 and 103D.729, as applicable. The Board may limit the effective date of the WMD to coincide with the final order of the District establishing the TRF FDR Project under Minn. Stat. §103D.605 and the expiration of resolution of any appeals to that order.

Dated:_____ RED LAKE WATERSHED DISTRICT, PETITIONER

By:_____
Dale Nelson, Chairman

Water Management District

The WMD is approximately 1,070 acres in area and is a mix of agricultural, commercial, industrial, and residential properties. See Figure below for a map of the WMD boundary.

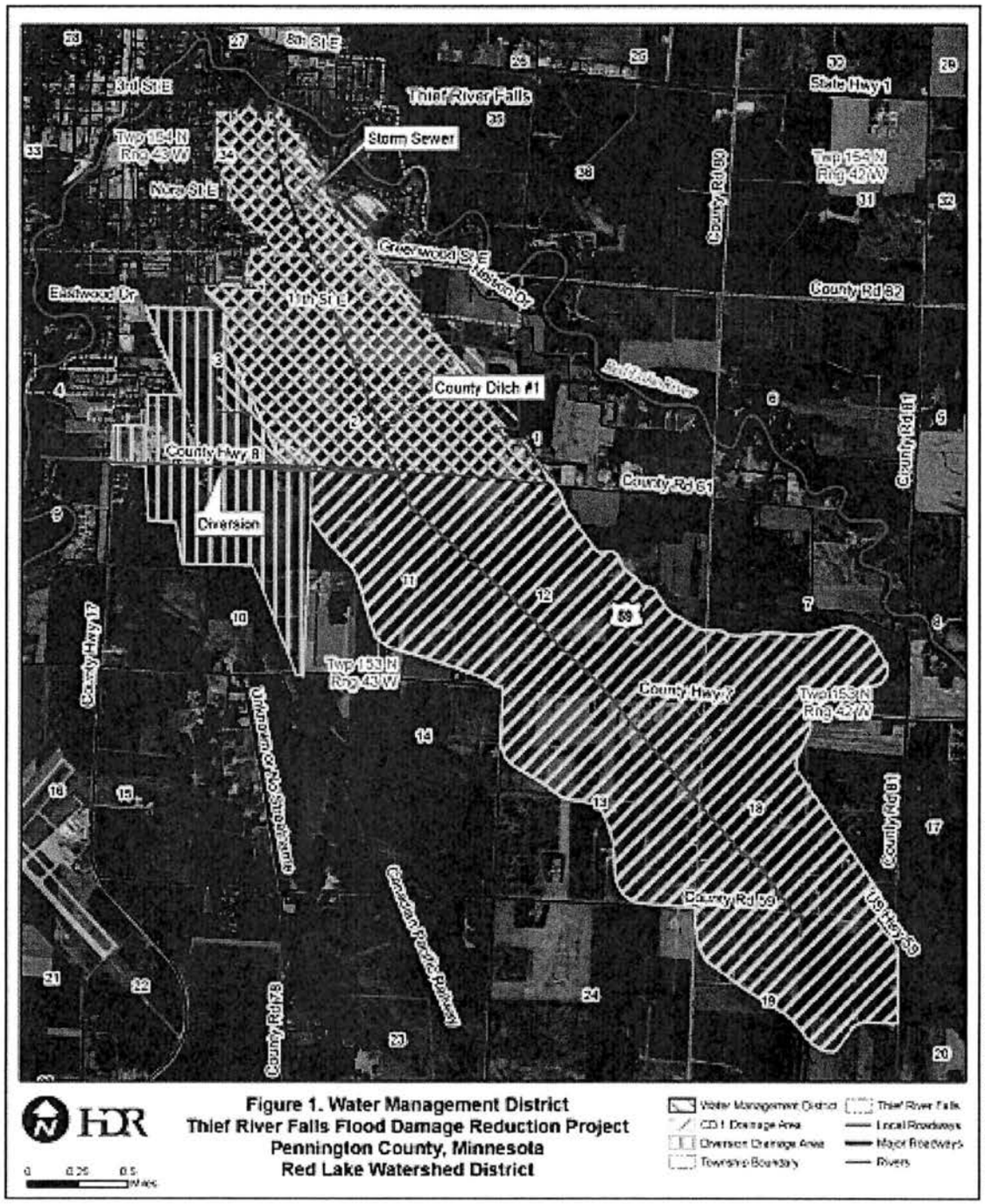


Figure 1. Water Management District
Thief River Falls Flood Damage Reduction Project
Pennington County, Minnesota
Red Lake Watershed District

Red Lake Watershed District

President
Dale M. Nelson

Vice President
Gene Tiedemann

Treasurer
Lee Coe

1000 Pennington Avenue South
Thief River Falls, MN 56701
218-681-5800
218-681-5839 FAX
e-mail: rlwaters@wiktel.com
www.redlakewatershed.org

Secretary
Orville Knott

Managers
Albert Mantz
Leroy Ose
Kelly Nordlund

April 21, 2011

John Jaschke
Executive Director
Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, MN 55155

Dear Mr. Jaschke:

At your request, I am providing this correspondence in response to the April 19, 2011 letter submitted to you by Jodie R. Torkelson, City Administrator for the City of Thief River Falls, MN.

The initial petition for improvement of the legal drainage system requested that the improvement be designed to provide drainage relief. Subsequent meetings with petitioners affirmed the goal of providing drainage capacity for a ten year frequency event, in accordance with the goals of the Red River Basin Mediation Agreement. While this drainage goal could likely be accomplished in the rural areas, the establishment of such a drainage system would put the urban area at risk for increased flooding during events larger than the proposed improvement's 10 year event design. In addition, it is the Engineer's assessment that the costs of this alternative would exceed the benefits of the project (as determined by a redetermination of benefits), thereby eliminating the referenced alternative in accordance with ditch law.

Because of this, the flood protection project was considered, which would included a structure that would provide an option for 100% diversion of the drainage waters located south of the proposed diversion and 100 year flood protection for the drainage area located north of the proposed diversion.

The entire drainage improvement project area is being viewed by the viewers as if the 10 year event protection improvement is to be constructed as requested in the Petitioner's Petition and damages and benefits are being assessed to the entire drainage improvement area for the cost associated with the design and construction of such an improvement.

The additional costs associated with the diversion and storm sewer pipe urbanization are proposed to be funded through the establishment of a water management district. The proposed diversion and storm sewer pipe urbanization will give the land located north of the proposed diversion 100 year flood event protection. The land located south of the proposed diversion will only have the petitioned for 10 year event protection.

All of the drainage improvement area is being assessed for benefits and damages based upon a 10 year event drainage system design. The water management district is proposed to also be assessed for its share of costs associated with the additional 90 year flood event protection. Since only lands located north of the proposed diversion will receive this additional benefit, they are the only lands included in the proposed water management district.

The lands located south of the proposed diversion will only have their assessed 10 year event design benefit and will flood during an 11 year or greater event occurrence. The proposed diversion and storm sewer urbanization will provide no flood protection to these lands greater than the 10 year event drainage system design.

For this reason, the lands located south of the proposed diversion are not contemplated to be a part of the water management district. If you have any further questions relating to this matter, please feel free to contact me.

Sincerely,

Myron Jesme
Administrator

City of Thief River Falls

OFFICE OF THE CITY ADMINISTRATOR

CITY HALL
405 Third Street East • P.O. Box 528
Thief River Falls, MN 56701-0528

PHONE: 218-681-2943 • FAX: 681-6223
email: admin@citytrf.net
HISTORIC SOO LINE R.R. DEPOT

Equal Opportunity Employer

April 19, 2011

RECEIVED
APR 21 2011
Bd. of Water & Soil Resources
St. Paul

Mr. John Jaschke, Executive Director
Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, MN 55155

Dear Mr. Jaschke:

I am writing on behalf of the City of Thief River Falls to express our concerns about limiting the area that will be included in a newly proposed Water Management District for the Thief River Falls Flood Damage Reduction Project pertaining to Pennington County Ditch #1.

We believe that the entire County Ditch #1 drainage improvement area should be also included in the proposed Water Management District. If, by the RLWD's logic, everyone contributes to the runoff or drainage problem and that is why everyone should pay to improve drainage, then continuing to use that logic, everyone should pay to reduce their perceived flooding.

According to the Detailed Survey Report prepared by HDR Engineering, Inc. in October 2010, landowners upstream "currently ha(ve) approximately a 5 year flood frequency capacity in some areas, and as low as a 1-year flood frequency capacity in problem areas." When the diversion that is being proposed to provide a new outlet with increased capacity is completed, they will have 10 year event flood protection and yet are not being assessed for any of the cost because they are not included as part of the Water Management District.

It is our understanding that you will be reviewing the proposed establishment of a Water Management District in the near future and we hope you will keep our concerns in mind as you do so.

Sincerely,

Jodie R. Torkelson
City Administrator

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
Saint Paul, MN 55155

In the Matter of prescribing an Amendment of Watershed Management Plan to establish Water Management District for the **Red Lake Watershed District** pursuant to Minnesota Statutes Sections 103D.411 and 103D.729	ORDER PRESCRIBING AMENDMENT OF WATERSHED MANAGEMENT PLAN

Whereas, the Board of Managers of the Red Lake Watershed District (RLWD) filed a petition to make an amendment of the RLWD Watershed Management Plan (Plan) dated December 6, 2010 and a revised final petition on March 10, 2011 with the Board of Water and Soil Resources (Board) on December 9, 2010 pursuant to Minn. Stat. § 103D.411, and 103D.729, and;

Whereas, the Board has completed its review of the Petition;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order.

FINDINGS OF FACT

1. **Petition.** On December 9, 2010 the Board received a petition from RLWD for a water management plan amendment to establish a water management district pursuant to Minn. Stat. §§103D.411, and 103D.729.

2. **District Establishment.** The RLWD was initially established as the Red Lake Drainage and Conservancy District. In April of 1970 the Minnesota Water Resource Board approved the RLWD as a Watershed District.

3. **Amendment of Plan.** The Amendment was initiated as a requirement to establish a water management district for the purpose of collecting revenues and paying costs for projects pursuant to Minn. Stat. § 103D.729. The purpose of the proposed Amendment is to allow the RLWD to collect revenues and pay a portion of the costs of the Thief River Falls Flood Damage Reduction Project initiated under Minn. Stat. § 103D.605. The project will provide a diversion, and installation of storm sewer through the city. The necessary charges will be limited to 30 percent of all costs associated with the Flood Damage Reduction component of the project not to exceed $700,000 dollars. The method used to determine the charges is based on runoff volume calculated from lands within the territory on a per parcel basis. The construction charges for the water management district will be assessed and recovered over a period not to exceed 20 years. The water management district will be established in perpetuity for maintaining the flood damage reduction portion of the project.

4. **Territory.** The territory to be included in the water management district encompassing approximately 1,070 acres and is limited to lands adjacent to Pennington County Ditch # 1 within the City of Thief River Falls. The territory consists of agricultural, commercial, industrial, and residential properties.

5. **Nature of the Watershed.** The RLWD encompasses an area of approximately 5,990 square miles in northwestern Minnesota. The RLWD includes the watersheds of the Red Lake River, Thief River, Clearwater River, and the Grand Marais River, which are tributaries to the Red River of the North. The RLWD includes all or parts of the following counties; Beltrami, Clearwater, Itasca, Koochiching, Mahnomen, Marshall, Pennington, Polk, Red Lake and Roseau. The RLWD also encompasses a major portion of the Red Lake Indian Reservation.

6. **Water Management Districts.** BWSR guidelines dated December 2010 states that for water management districts established in perpetuity, Watershed Districts must establish a local appeal process and evaluate the water management district in each ten-year plan revision. The RLWD's Amendment to establish a water management district was being developed when BWSR finalized guidelines for water management districts.

7. **Notification and Review.** The RLWD sent a copy of the proposed petition to local units of government for their review pursuant to Minn. Stat. § 103D.411. The Amendment was sent to the Beltrami, Clearwater, Itasca, Koochiching, Mahnomen, Marshall, Pennington, Polk, Red Lake and Roseau county auditors and Soil and Water Conservation Districts, all municipalities affected by the RLWD, the Commissioner of the Department of Natural Resources, and the Board.

8. **Public Hearing.** On March 31, 2011 the RLWD held a public hearing in Thief River Falls Minnesota to hear testimony on the Amendment to establish a water management district to assist in the financing of the Thief River Falls Flood Damage Reduction Project

9. **Board Review.** Board staff agreed that the proposed Amendment supports the water quantity, water quality, and natural resource goals of the District's Plan. That the Plan Amendment process identified in Minn. Stat. § 103D.411 was adequately followed. That the Amendment adequately describes the required items to establish a water management district as identified in Minn. Stat. § 103D.729.

10. **Department of Natural Resources (DNR) Review**. Comments received from the DNR stated that the proposed Amendment adequately addressed the general requirements specified in statute. It was recommended that a stormwater management plan be created prior to construction to reduce erosion and sedimentation along the project corridor.

11. **Other review comments.** The city of Thief River Falls provided testimony at the March 31, 2011 public hearing that supported the purpose of the project and were in support of the Amendment and the establishment of a water management district to assist in the financing of the Thief River Falls Flood Damage Reduction Project. The city submitted, during the review period a list of questions to the RLWD which focused on project details, cost distribution, and fee schedule.

12. **Notice of Filing.** The Legal Notice of Filing was published pursuant to Minn. Stat. §103D.105, Subd. 2, which requires within 30 days of the last date of publication of the Notice of Filing of the Petition that at least one request for hearing be received by the Board before a hearing will be held. No requests for hearing and no comments were received during the specified period of time and no hearing was held.

    Legal Notice of Filing of the proposed amendment pursuant to Minn. Stat. §103D.105, Subd. 2, was published in the Leader Record on January 31, 2011, the Bemidji Pioneer on February 1, 2011, the Stephen Messenger, Thief River Falls Times, The Exponent, Red Lake Falls Gazette, Herald Review, and The Daily Journal on February 2, 2011, the Mahnomen Pioneer on February 3, 2011, and the Roseau Times Region on February 5, 2011. Further, a copy of the notice of filing was mailed to several addressees including all of the counties, cities, and SWCD's in the RLWD.

13. **Board Staff Report.** In review of the petition submitted by the RLWD for a plan amendment to establish a water management district under Minn. Stat. § 103D.729, the proposed amendment to the watershed management plan meets these requirements. With these requirements being met, Board staff recommend the Amendment to the RLWD watershed management plan be approved giving the RLWD the authority to initiate charges under a water management district if they determine it is necessary to fund the Thief River Falls Flood Damage Reduction Project.

14. **Northern Water Planning Committee.** The Committee met on Wednesday, April 13, 2011 in Bemidji. Committee members present were Quentin Fairbanks, Gene Tiedemann, Keith Mykleseth, Brain Napstad, and Paul Brutlag. Board staff present were Ron Shelito and Brian Dwight. Based on the entire record, the Committee made a unanimous decision to make a recommendation to approve the Plan Amendment as submitted.

CONCLUSIONS

1. The petition for an amendment to the RLWD Plan to establish a water management district is valid in accordance with Minn. Stat. §§ 103D.411, and 103D.729.

2. Proper notice of filing was given and no request for a hearing was submitted in accordance with applicable laws.

3. All relevant, substantive and procedural requirements of law and rule have been fulfilled.

4. The Board has proper jurisdiction in the matter of approving a amendment of watershed plan to establish a watershed district.

5. The attached Amendment to the Plan to establish a water management district of the RLWD as proposed in the Petition would be for the public welfare and public interest and the purpose of Minn. Stat. Chapter 103D would be served.

6. For water management districts established in perpetuity, watershed districts should consider establishing a local appeal process for land owners who feel their fee/charges deserve adjustment due to land treatment/use changes.

7. Watershed Districts must include an evaluation of the use and effectiveness of the water management district and make needed adjustments in each ten-year plan revision.

ORDER

The Board hereby prescribes the attached Plan Amendment dated March 10, 2011 as a formal Amendment to the April 2006 Revised Plan for the RLWD to establish a water management district and the RLWD must include an evaluation of the use and effectiveness of the water management district in each ten-year plan revision.

Dated at Saint Paul, Minnesota this 27th day of April, 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brian Napstad, Chair

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **MSTRWD Order to Hold Public Hearing on Plan**

Meeting Date: April 27, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: North region

Contact: Brian Dwight

Prepared by: Brian Dwight

Reviewed by: Northern Water Planning Committee Committee(s)

Presented by: Gene Teidemann

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☐ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

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

On March 4, 2011 the Middle-Snake-Tamarac River Watershed District (MSTRWD) announced a 60-day review period of MSTRWD Plan update. This plan was sent out for review to multiple local, state, federal agencies and Red River Basin organizations. Included in this review list is the Department of Natural Resources. Pursuant to Minn. Stat. § 103D.405 Subd.5 (a). the Board must give notice and hold a hearing on the proposed Plan within 45 days after receiving the Department of Natural Resources' recommendation on the revised Plan. The DNR review comments are anticipated to be received around May 1st. With the next Northern Water Planning Committee (Committee) and BWSR meetings scheduled for June, the Committee considered this Order and made a recommendation to the full Board to approve at this time so the stautatory requirement can be met.

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
Saint Paul, MN 55155

In the Matter of a Revised Watershed Management Plan public hearing for the Middle-Snake-Tamarac Rivers Watershed District pursuant to Minnesota Statutes 103D.405	**ORDER REVISED PLAN HEARING**

Whereas, the Board of Managers of the Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) filed a proposed Revised Watershed Management (Plan) dated March 2011 with the Board of Water and Soil Resources (Board) on March 9, 2011, pursuant to Minn. Stat. § 103D.405, and;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order.

FINDINGS OF FACT

1. **District Establishment.** The District was established on August 28, 1970 by Order of the Water Resource Board. The District is located in the northwest portions of Minnesota and includes parts of Marshall, Kittson, Polk, Pennington, and Roseau Counties. The mission of the District is to manage the District's resources for the efficient movement of water across the District for purposes of reducing flooding, providing agricultural drainage to protect and improve water quality.

2. **Requirement to Plan.** A watershed district is required to revise their watershed management plan at least once every ten years pursuant to Minn. Stat. § 103D.405, Subd. 1 (a). The latest Water Management Plan of the District was prescribed by the Board on October 26 1994. This Plan was amended in December 2004 for purposes of addressing water management issue in the Tamarac River watershed for which the Watershed District was expanded to include by petition from the Marshall Count board of Commissioners in 2002. The Plan includes an inventory of the District's physical features and water resources, describes water-related problems and possible solutions, describes activities and projects that the District has completed, and states objectives for current and future water resource management.

3. **Nature of the Watershed.** The MSTRWD is approximately 1,476 square miles in size and is located in Northwestern Minnesota in the Red River of the North Basin. Lands within the District are distributed in Marshall, Kittson, Polk, Pennington, and Roseau Counties. The MSTRWD includes the watersheds of the Middle River, Snake River, and Tamarac River.

4. **Highlight of the Plan**. The MSTRWD Revised Water Management Plan is a very comprehensive plan, which sets quantifiable flood damage reduction and natural resource enhancement goals for five individual planning regions covering the entire watershed district. The Plan establishes a watershed wide monitoring system which will be used to evaluate progress in the area of stream flow reductions, water quality and overall stream health.

5. **Filing. P**ursuant to Minn. Stat. § 103D.405 Subd. 3 the Plan was filed for review by the Board of Managers of the MSTRWD with the Marshall, Kittson, Polk, Pennington, and Roseau County Auditors and Soil and Water Conservation Districts, all municipalities affected by the MSTRWD, the Commissioner of the Department of Natural Resources, and the Board. In addition the plan was filed for review with multiple local, state, federal agencies, and Red River Basin organizations.

6. **Public Hearing.** The Board must give notice and hold a hearing on the proposed Plan within 45 days after receiving the Department of Natural Resources' recommendation on the revised Plan pursuant to Minn. Stat. § 103D.405 Subd.5 (a).

7. **Hearing Panel.** Board members of the Northern Water Planning Committee should preside over the hearing and bring a recommendation to the Board.

8. **Hearing Time.** The Executive Director should determine the time and date of the hearing after coordinating with the appropriate parties.

9. **Hearing Location.** The public hearing should be held at a location in the city of Warren in Marshall County. If scheduling conflicts arise the Executive Director should choose another suitable location.

CONCLUSIONS

1. The proposed Revised Plan is valid in accordance with Minn. Stat. § 103D.405.

2. All relevant, substantive and procedural requirements of law and rule have been fulfilled.

3. The Board has proper jurisdiction in the matter of ordering a watershed district Revised Plan hearing.

4. The hearing on the Revised Plan for the MSTRWD shall be presided over by the Northern Water Planning Committee.

5. The Executive Director shall make a decision on the date of the public hearing after coordinating with the appropriate parties.

6. The public hearing shall be held at the (location) in (county).

7. If scheduling conflicts arise the Executive Director shall choose another suitable location.

ORDER

The Board hereby orders a public hearing be held within 45 days after receiving the Department of Natural Resources' recommendation on the revised Plan for the MSTRWD to be presided over by the Northern Water Planning Committee at a date and location to be determined by the Executive Director.

Dated at Saint Paul, Minnesota this 27th day of April, 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brian Napstad, Chair

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Wadena County Water Plan Amendment**

Meeting Date: April 27, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Northern Region

Contact: Dan Steward

Prepared by: Dan Steward

Reviewed by: Northern Water Planning Committee Committee(s)

Presented by: Quentin Fairbanks

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Decision

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

Amendment of Local Water Management Plan - Wadena County

By Board Order, the Board of Water and Soil Resources (Board) approved the Wadena County Comprehensive Local Water Management Plan (Plan) on March 22, 2006. The Plan covers the ten year period of March 2006 to March 2016 and contained a 2006-2011 five year implementation section. Board Order required an update of the Implementation section (Goals, Objectives and Actions) by March 31, 2011. Following the guidelines established by the Board, Wadena County has completed the local water management plan amendment process and submitted the 'Implementation Plan Amendment March 2011 - March 2016'. The Board's Northern Water Planning Committee (Committee) met on January 12, 2011 to review the Wadena County Plan Amendment, and on April 13, 2011 to review the summary of the February 1, 2011 public hearing. The Committee recommends approval of the Plan Amendment.

See attachments: Board Order, County Location Map and the Wadena LWP Implementation Plan Amendment March 2011 - March 2016 DECISION ITEM.

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, Minnesota 55155

In the Matter of Reviewing the Local Water Management Plan Update for Wadena County (Minnesota Statutes , Section 103B.311, Subdivision 4 and Section 103B.315, Subdivision 5.)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN UPDATE

Whereas, on March 26, 2006, the Minnesota Board of Water and Soil Resources Board (Board), by Board Order, approved the Wadena County Comprehensive Local Water Management Plan Update (Plan); and

Whereas, The Board Order stipulated Wadena County was required to update the action plan in five-years (2011); and

Whereas, the Wadena County Board of Commissioners submitted a Local Water Management Plan 2011 Amendment to the Board on December 3, 2010; and

Whereas, the 2011 Amendment contains the updated five-year implementation section as ordered by the Board; and

Whereas, the Board has completed its review of the 2011 Amendment;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1) On August 3, 2010, Wadena County passed a resolution to amend the five-year implementation portion of the LWMP and delegated the Wadena SWCD the responsibility of amending the plan.

2) On October 4, 2010, Wadena County convened its water plan task force to review to review past accomplishments and review proposed changes to the Plan.

3) On December 3, 2010, Wadena County submitted the 2011 Amendment, which includes the 2010-2014 five year implementation schedule for the required state agency review.

4) On December 3, 2010, Wadena County also submitted the 2011 Amendment to adjacent counties.

5) This update will be in effect until March 31, 2016.

CONCLUSIONS

1. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of approving a Comprehensive Water Plan Update of Wadena County pursuant to Minnesota Statutes , 103B.315, Subd. 5.

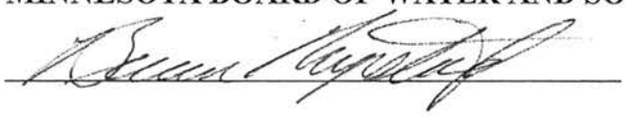
2. The Wadena County Plan Update attached to this Order states water and water-related problems within the county; possible solutions; general goals, objectives, and actions of the county; and an implementation program. The attached Plan Update is in conformance with the requirements of M.S. Section 103B.301.

ORDER

The Board hereby approves the attached update of the Wadena County Local Water Management Plan.

Dated at St. Paul, Minnesota, this 27th day of April 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES



BY: Brian Napstad, Chair

COMMITTEE RECOMMENDATIONS

Southern Water Planning Committee

1. Mower County Local Water Management Plan Amendment – Paul Langseth – ***DECISION ITEM***

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Mower Water Plan Amendment

Meeting Date: April 27, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business
Item Type: ☒ Decision ☐ Discussion ☐ Information
Section/Region: Southern Region
Contact: Jeff Nielsen
Prepared by: Chris Hughes
Reviewed by: Southern Water Planning Review Committee(s)
Presented by: Paul Langseth

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested
☐ Other:

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

ACTION REQUESTED
Decision

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
Amendment of Local Water Management Plan of Mower County

By Board Order, the Board of Water and Soil Resources (Board) approved the Mower County Comprehensive Local Water Plan (Plan) on December 14, 2005. This Plan covered a ten-year period of 2006–2015 and contained a 2006–2010 five-year implementation section. Board Order stipulated that the County was required to revise/update the implementation section by December 31, 2010. Following the guidelines established by the Board, Mower County has completed the local water management plan amendment process and submitted their 2010 Plan Amendment. The Board's Southern Water Planning Review Committee met on November 4, 2010 to review the County's 2010 Amendment. This committee will provide its recommendation to the Board on April 27, 2011.

Mower County
Local Water Management Plan
2006 – 2015

Implementation Plan Updated In 2010

1.0 Executive Summary

1.1 Location and History

Mower County is situated in southeastern Minnesota approximately 100 miles south of Minneapolis, 362 miles northwest of Chicago, 381 miles northeast of Kansas City and 197 miles east of Sioux Falls, South Dakota. It is bordered on the north by Dodge and Olmsted Counties, Minnesota; on the east by Fillmore County, Minnesota; on the west by Freeborn County, Minnesota; and the northern border of Iowa on the south. It contains 449,920 acres or 703 square miles of rich, productive agricultural land. Austin, a city of approximately 23,900 people located in the west central section of the county, is the county seat. Thirteen smaller cities serve as trade centers for the rural population.

Historically, two major factors are responsible for the growth of the Mower County economy. The first is the rich agricultural land and good agricultural climate, which is conducive to the growing of wheat and later corn, soybeans and other crops. More recently the highly productive soil made it easy to grow livestock feeding crops which in turn fostered the growth of livestock raised in the area. The other factor which fostered the early growth of the Mower County community was the coming of the railroads in the late 1800's. The railroads enabled the farmers to market their products to other than local markets. High agricultural productivity of the area and the ability to market these crops via the good railroad system fostered the growth of the second largest industry in the county – the meat packing industry.

Although a few additional industries have developed in the county, there have not been many and as a result the Mower County economy has been dominated by agriculture and meat packing since its early development. Mower County took its first step in water planning on November 23, 1987, when the County Board established by resolution the Mower County Water Policies Resource Policy Committee. The Committee included representatives of the City of Austin, Mower County Board of Commissioners, Austin Utilities, Township Association, County Planning Commission, City Planning Commission and citizens. The committee met many times during this period as it developed its Comprehensive Water Plan and Action Implementation Plan. The County held their public information meeting on March 15, 1988. Citizen comments and concerns were also requested.

1.2 Purpose of the Local Water Management Plan

The purpose of this updated Local Water Management (LWM) Plan for Mower County is:

- To focus efforts on identified existing and potential priority concerns and/or opportunities for protection, management, and development of water resources and related land resources in the county.
- To continue to develop, update, and implement a plan of action to promote sound management of water and related land resources in the county through the use of Best Management Practices.
- To intensify work aimed at effective environmental protection and management in the county by addressing existing and potential priority concerns on a watershed basis.

1.3 Description of Priority Concerns

Through the Water Plan update process, 5 priority concerns were identified to focus water management efforts in 2006 through December 31, 2015; Soil Erosion, Flooding, TMDL, Pollution Management and Groundwater. The process through which these priority concerns were identified is further detailed in the Priority Concerns Scoping Document contained in Appendix A.

1.4 Summary of Goals and Actions

The implementation portion of the plan was updated in 2010. Additions were made to the action items to document the actions that were accomplished from 2006-2010. Specific action items were added to outline goals for the next five years. The following is a summary of goals and actions to be taken for the five identified priority concerns:

- Soil Erosion – Protect our surface water and farm land from excessive soil erosion.
- Flooding – Identify all potential properties that might be at risk for flooding.
- TMDL – To work towards bringing Mower County rivers, streams and lakes into compliance with TMDL requirements.
- Pollution Management – To protect surface and ground water resources from pollution sources.
- Groundwater – To protect ground water resources by determining which hydrologic units are determined to be vulnerable due to geography or geology and implement protection strategies.

In the process of the LWM plan update, Mower County examined the Turtle Creek Watershed, Cedar River Watershed District, other counties, and State Agencies to ensure consistency with other water resource management efforts.

1.5 Consistency of the Plan with Other Pertinent Local, State & Regional Plans

The Mower County LWM plan fits well as a customized application of the Pollution Control Agency's (PCA) recently completed Lower Mississippi River Basin Water Quality Plan.

The Turtle Creek Watershed District revised their overall plan in 2004. Major needs or issues of concern from the plan focus on: 1) Permit Requirement; 2) Criteria for Reviewing Permit Applications; and 3) Enforcement Powers of Managers. Additional cooperation between the County and Turtle Creek Watershed is expected due to the proposed BWSR grant to study flooding, etc. in Mower County, Freeborn County and Steele County.

The Cedar River Watershed District was established in 2007. The CRWD is charged with reducing flood damage and addressing water quality concerns. The District has set a goal of reducing flows through the City of Austin by 20%. The District is also addressing area needs of Erosion and sediment control, Wetlands, Natural Resources, Recreation, Habitat, Shoreland Management, Groundwater, Education and Public Involvement.

1.6 Recommended Amendments to Other Plans

Mower County does not see the need for any amendment to other plans and official controls.

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, Minnesota 55155

In the Matter of Reviewing the Local Water Management Plan Amendment for **Mower County** (Minnesota Statutes, Section 103B.314, Subdivision 6)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN AMENDMENT

Whereas, on December 14, 2005, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Mower County 2006 – 2015 Comprehensive Local Water Plan Update (Plan), which contained a 2006 – 2010 five-year implementation section; and

Whereas, this Board Order stipulated that Mower County was required to update the implementation section by December 31, 2010; and

Whereas, the Mower County Board of Commissioners submitted the Mower County Plan 2010 Amendment to the Board on March 11, 2011; and

Whereas, this 2010 Amendment contains the updated five-year implementation section as ordered by the Board; and

Whereas, the Board has completed its review of the 2010 Amendment.

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. On July 30, 2010, the Board received a resolution from Mower County stating its intent to amend its current Plan by providing for the required update of the five-year implementation section, pursuant to M.S. Section 103B.314, Subd. 6.

2. On June 24, 2010 and July 26, 2010 Board staff provided information on the amendment process to Mower County.

3. On July 29, 2010, Mower County provided proper notice to local units of government and state agencies of the county's intent to amend its five-year implementation section and invited all recipients to participate in the amendment process.

4. On August 30, 2010, Mower County convened its water plan task force to initiate the five-year implementation section update. An additional task force meeting was conducted on January 28, 2011.

5. Mower County received written comments from the Minnesota Department of Agriculture, the Minnesota Pollution Control Agency, and the Minnesota Department of Natural Resources in September 2010. Written comments were also received from the Minnesota Department of Health.

6. No other state agency or local government unit provided written comments to Mower County.

7. The final document developed by Mower County, which includes the revised five-year implementation section January 2011 – December 2015 is entitled the Local Water management Plan 2006-2015 - Implementation Plan Updated in 2010.

8. On February 1, 2011, after providing for proper public notice, Mower County conducted a public hearing on the proposed 2010 Amendment. No additional comments were submitted at the hearing.

9. On March 11, 2011, the BWSR received the Mower County 2010 Amendment, a record of the public hearing, and copies of all written comments pertaining to the 2010 Amendment, pursuant to M.S. Section 103B.314, Subd. 6.

10. On November 4, 2010, the Board's regional Water Planning Committee (Committee) reviewed the Mower County 2010 Amendment, pursuant to 103B.301 and guidelines established by the Board.
11. Board regional staff provided its recommendation of contingent approval to the Committee.
12. The Committee voted to recommend approval to the full Board contingent upon Mower County approval, having a public hearing and getting staff approval.

13. This 2010 Amendment will be in effect until **December 31, 2015.**

CONCLUSIONS

1. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of approving a Comprehensive Water Plan Amendment of Mower County pursuant to Minnesota Statutes, 103B.314, Subd. 6.

2. The Mower County 2010 Amendment attached to this Order states goals, objectives, and actions the county will address in the five-year implementation section January 2011 – December 2015. The 2010 Amendment, as well as the previously approved Mower County 2006 – 2015 Comprehensive Local Water Plan Update, is in conformance with the requirements of M.S. Section 103B.301.

ORDER

The Board hereby approves the attached 2010 Amendment of the Mower County Water Management Plan for January 1, 2006 – December 31, 2015. Mower County will be required to provide for a complete update of its Water Management Plan prior to December 31, 2015.

Dated at St. Paul, Minnesota, this **27th day of April 2011**.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

_____

BY: Brian Napstad, Chair

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, Minnesota 55155

In the Matter of Reviewing the Local Water Management Plan Amendment for **Mower County** (Minnesota Statutes, Section 103B.314, Subdivision 6)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN AMENDMENT

Whereas, on December 14, 2005, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Mower County 2006 – 2015 Comprehensive Local Water Plan Update (Plan), which contained a 2006 – 2010 five-year implementation section; and

Whereas, this Board Order stipulated that Mower County was required to update the implementation section by December 31, 2010; and

Whereas, the Mower County Board of Commissioners submitted the Mower County Plan 2010 Amendment to the Board on March 11, 2011; and

Whereas, this 2010 Amendment contains the updated five-year implementation section as ordered by the Board; and

Whereas, the Board has completed its review of the 2010 Amendment.

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. On July 30, 2010, the Board received a resolution from Mower County stating its intent to amend its current Plan by providing for the required update of the five-year implementation section, pursuant to M.S. Section 103B.314, Subd. 6.

2. On June 24, 2010 and July 26, 2010 Board staff provided information on the amendment process to Mower County.

3. On July 29, 2010, Mower County provided proper notice to local units of government and state agencies of the county's intent to amend its five-year implementation section and invited all recipients to participate in the amendment process.

4. On August 30, 2010, Mower County convened its water plan task force to initiate the five-year implementation section update. An additional task force meeting was conducted on January 28, 2011.

5. Mower County received written comments from the Minnesota Department of Agriculture, the Minnesota Pollution Control Agency, and the Minnesota Department of Natural Resources in September 2010. Written comments were also received from the Minnesota Department of Health.

6. No other state agency or local government unit provided written comments to Mower County.

7. The final document developed by Mower County, which includes the revised five-year implementation section January 2011 – December 2015 is entitled the Local Water management Plan 2006-2015 - Implementation Plan Updated in 2010.

8. On February 1, 2011, after providing for proper public notice, Mower County conducted a public hearing on the proposed 2010 Amendment. No additional comments were submitted at the hearing.

9. On March 11, 2011, the BWSR received the Mower County 2010 Amendment, a record of the public hearing, and copies of all written comments pertaining to the 2010 Amendment, pursuant to M.S. Section 103B.314, Subd. 6.

10. On November 4, 2010, the Board's regional Water Planning Committee (Committee) reviewed the Mower County 2010 Amendment, pursuant to 103B.301 and guidelines established by the Board.
11. Board regional staff provided its recommendation of contingent approval to the Committee.
12. The Committee voted to recommend approval to the full Board contingent upon Mower County approval, having a public hearing and getting staff approval.

13. This 2010 Amendment will be in effect until **December 31, 2015.**

CONCLUSIONS

1. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of approving a Comprehensive Water Plan Amendment of Mower County pursuant to Minnesota Statutes, 103B.314, Subd. 6.

2. The Mower County 2010 Amendment attached to this Order states goals, objectives, and actions the county will address in the five-year implementation section January 2011 – December 2015. The 2010 Amendment, as well as the previously approved Mower County 2006 – 2015 Comprehensive Local Water Plan Update, is in conformance with the requirements of M.S. Section 103B.301.

ORDER

The Board hereby approves the attached 2010 Amendment of the Mower County Water Management Plan for January 1, 2006 – December 31, 2015. Mower County will be required to provide for a complete update of its Water Management Plan prior to December 31, 2015.

Dated at St. Paul, Minnesota, this **27th day of April 2011**.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chair

NEW BUSINESS

1. Chesapeake Bay Presentation – Richard Batiuk, EPA; and Warren Formo, Minnesota Ag Water Resources Coalition – ***INFORMATION ITEM***

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Chesapeake Bay Watershed: Water Quality

Meeting Date: April 27, 2011

Agenda Category: ☐ Committee Recommendation ☒ New Business ☐ Old Business

Item Type: ☐ Decision ☒ Discussion ☐ Information

Section/Region:

Contact: John Jachke

Prepared by: John Jaschke

Reviewed by: Committee(s)

Presented by: Richard Batiuk, EPA & Warren Formo, MAWRC

☒ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other:

ACTION REQUESTED

Discussion with Q & A.

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

The EPA's Chesapeake Bay Total Maximum Daily Load (TMDL) was adopted in late 2010 and the NRCS released a study assessing conservation practices ag-land in the region. There are some potential approaches and ideas that could be relevant for MN and the Minnesota Ag Water Resources Coalition recently visited the Bay area to assess past and planned activities. EPA and MAWRC presenters will provide some background and assessement of federal, state and local efforts to achieve water quality improvements in the Chesapeake Bay watershed. Presenters: Richard Batiuk, Associate Director for Science, U.S. Environmental Protection Agency,Chesapeake Bay Program Office and Warren Formo, Executive Director, MN Ag Water Resources Coalition.

Chesapeake Bay Watershed: Water Quality Improvement Pursuits

The Chesapeake Bay constitutes the largest estuary in the United States and is one of the largest and most biologically productive estuaries in the world. Despite significant efforts by federal, state, and local governments and other interested parties, pollution in the Chesapeake Bay prevents attainment of existing water quality standards. The pollutants that are largely responsible for impairment of the Bay are nutrients, in the form of nitrogen and phosphorus, and sediment.

1. The United States Environmental Protection Agency (EPA), in coordination with the jurisdictions of Maryland, Virginia, Pennsylvania, Delaware, West Virginia, New York, and the District of Columbia (DC), developed and, on December 29, 2010, established a nutrient and sediment pollution diet for the 64,000 square mile Chesapeake Bay watershed , consistent with Federal Clean Water Act requirements, to guide and assist Chesapeake Bay restoration efforts. This pollution diet is known as the Chesapeake Bay Total Maximum Daily Load (TMDL), or Bay TMDL (see: http://www.epa.gov/chesapeakebaytmdl).

2. The USDA-NRCS recently released a study, "Assessment of Conservation Practices on Cultivated Cropland in the Chesapeake Bay Region," (see: www.nrcs.usda.gov/technical/nri/ceap/chesapeake_bay/index.html) which quantifies environmental gains and identifies opportunities for further progress. The study also shows that there are opportunities for further reductions of sediment and nutrient losses from agriculture by focusing conservation activities on the most vulnerable acres.

   Key findings of the Conservation Effects Assessment Project (CEAP) study include:

   - Conservation practices have reduced edge-of-field losses of sediment by 55%, nitrogen in surface runoff by 42%, nitrogen in subsurface flow by 31% and phosphorus by 40%.

   - Targeting enhances effectiveness and efficiency. Additional conservation practices on acres with a high need for additional treatment can reduce per-acre sediment and nutrient losses by more than twice that of treatment of acres with low or moderate conservation needs.

   - Comprehensive conservation planning and implementation are essential. The study shows that the most significant conservation concern on cultivated cropland in the watershed is the loss of nitrogen by leaching and overland flow. Suites of conservation practices that include soil erosion and comprehensive nutrient management are required to address soil erosion and nutrient losses simultaneously.

3. There are some potential approaches and ideas that could be relevant for MN and thus the Minnesota Ag Water Resources Coalition (See: www.mawrc.com) recently visited the Bay area to assess past and planned activities (see: http://www.agrinews.com/extension/specialist/sees/challenges/with/chesapeake/bay/tmdl/story-3449.html). The University of Maryland - Extension and others are evaluating the allocation process that will enable Maryland to meet a key requirement for the Bay TMDL and Maryland's Watershed Implementation Plan: the sub-allocation of major basin loading caps of nutrient and sediment to each of 58 "segment-sheds" in Maryland – the land areas that drain to each impaired Bay water quality segment – and to each pollutant source sector in those areas.

Appendix – possible discussion questions for Board members.

1. Why did the EPA take on a special role in this TMDL?
2. Is there a timeline associated with the pollution reduction allocations?
3. What roles are expected of the states?
4. What roles are expected of the local governments?
5. Are there other significant water issues in the watershed, e.g. flooding, water supply, groundwater, aquatic habitat?
6. What portion of the watershed is in ag production now compared to years/decades past?
7. Are there and special funding mechanisms established to address water quality in the Chesapeake Bay watershed?
8. Does each jurisdiction (state) or subwatershed have the same standards for "reasonable assurance" that the actions will achieve the nutrient and sediment reductions necessary to implement the TMDL within their respective boundaries?
9. Are the models used to assess the entire watershed accurate at a much smaller subwatershed scale? If not, what alternate approaches are used?
10. Are there projects and practices that work well for addressing both nitrogen and phosphorus?

From: Sean Rolland [mailto:s.rolland@asiwpca.org]
Sent: Friday, April 22, 2011 11:37 AM
To: AHC Watershed Management <AHCWatershedManagement@asiwpca.org>; AHC Nutrient Policy <AHCNutrientPolicy@asiwpca.org>; WG Animal Ag - PC TF <WGAnimalAg-PCTF@asiwpca.org>
Subject: ARTICLE: EPA Plans New Measures To Ease Farms' Compliance With Nutrient Limits

EPA Plans New Measures To Ease Farms' Compliance With Nutrient Limits
Posted: April 21, 2011

EPA and the U.S. Department of Agriculture (USDA) are beginning to develop pilot projects to help quantify the effectiveness of agricultural best management practices (BMPs) in reducing nutrient pollution from farm runoff, and couple those BMPs with a compliance assurance program -- key actions the agriculture industry has long sought to ease their compliance with strict nutrient limits. EPA Administrator Lisa Jackson and USDA Secretary Tom Vilsack announced the new effort April 19 after touring several farms and a biodiesel plant in Iowa, listening to concerns from farmers and agriculture representatives. Quantifying how much nutrient pollution is kept from waterbodies when using certain BMPs can help EPA and USDA measure the effectiveness of those practices on overall waterbody health, the officials said.

Vilsack added that coupling those quantitative improvements with some form of assurance to farmers that their efforts will be considered compliant with the Clean Water Act (CWA) could mitigate much of the opposition and uncertainty that the agriculture industry has voiced towards EPA and its regulations.
"What that has led to is a discussion about the possibility of at some point being better at being able to quantify and measure these [practices] . . . and do it in concert with EPA so this management approach will get regulatory certainty," Vilsack said. "So those are two emerging concepts and ideas, and there's a lot of interest in Iowa, from the secretary of agriculture and from a number of commodity groups to flesh out these concepts and ideas."

Jackson added that she observed "some real head nods in the room" from stakeholders as this concept was being discussed, and acknowledged that the agency currently does not have a wealth of data on how effective different BMPs are in reducing the flow of nonpoint sources of nutrients to waterbodies.
"We don't have a lot of quantitative impacts [of BMPs] on water quality and I think coordinating with both USDA and ag groups" to develop such a model would be beneficial, Jackson said.

Jackson also said the agency does not intend to institute a Chesapeake Bay-style total maximum daily load (TMDL) program for the Mississippi River basin, which was a concern that was voiced to her by several farmers.
"There's a real fear that we're going to take what we're doing in the Chesapeake Bay and translate it here, verbatim, without regard to what's happening on the ground," Jackson said. "We were able to assure [farmers] that no, our approach in the Chesapeake is special; they shouldn't assume that's our plan to apply everywhere."

Quantification of nutrient reductions has long been a barrier to more widespread use of BMPs and the advent of nutrient trading programs. When a farmer installs a buffer zone between his cultivated field and an adjacent stream or stormwater trench, for example, it demonstrably reduces the levels of sediment, nitrogen and phosphorus in the receiving water. But there is no universal mechanism for predicting how much of a reduction in those pollutants occurs when a given BMP is undertaken, and so being able to extrapolate how much of a reduction would be gained by investing in BMPs across a watershed is virtually unknowable. Further, farmers are reluctant to install costly BMPs without knowing whether they will be enough to ensure their compliance with the CWA.

Reps. Bob Goodlatte (R-VA) and Tim Holden (D-PA) included in their alternative Chesapeake Bay bill, which they introduced in the 111th Congress, a provision that would instruct the USDA secretary to develop "achievable and economically practicable conservation practice standards" for farmers to comply with, and that if those standards were met, farmers and private forest landowners "shall be deemed to be in full compliance with applicable Federal and State water quality requirements under" the CWA.

USDA officials have expressed an interest in developing a "safe harbor" mechanism between USDA and EPA before. In October, Ann Mills, USDA deputy under secretary for natural resources and the environment, told a meeting of EPA's Farm, Ranch & Rural Communities Committee that the department has been working with EPA to develop a "safe harbor" or "reasonable assurance" program for agricultural producers in order to increase BMPs among farmers. Mills said the program was being considered along the lines of an Endangered Species Act guidance that USDA issued last year to protect sage grouse from extinction, and its success sparked interest in exchanging voluntary compliance for enforcement deterrence in the CWA arena.

The agriculture industry has expressed interest in having USDA take a leading role in regulating runoff from farms, with several industry sources saying they hope to include provisions in the forthcoming Farm Bill to strengthen the regulatory bond between USDA and mitigating the role of EPA in overseeing CWA enforcement from farms. Activists have also eyed the Farm Bill as a vehicle to strengthen conservation requirements as a condition of farm subsidies and crop insurance

---

Sean Rolland, Esq.
Deputy Director
Association of State and Interstate Water Pollution Control Administrators
1221 Connecticut Ave. , NW, 2d Floor
Washington, DC 20036
202-465-7179 (T); 202-230-4247 (C); 202-756-0605 (F) s.rolland@asiwpca.org;
www.asiwpca.org <http://www.asiwpca.org/> Clean Water Everywhere for Everyone

OLD BUSINESS

1. Allocation of Available Clean Water Funds – Dave Weirens – ***DECISION ITEM***

2. Adjustment to 2011 BWSR Board Meeting Schedule – John Jaschke – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Allocation of Available Clean Water Funds

Meeting Date: April 27, 2011

Agenda Category: ☐ Committee Recommendation ☐ New Business ☒ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Land and Water Section

Contact: Dave Weirens

Prepared by: Dave Weirens

Reviewed by: Administrative Advisory Committee(s)

Presented by: Dave Weirens

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☒ **Resolution** ☐ **Order** ☐ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☐ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☒ Clean Water Fund Budget

☒ Other: Clean Water Legacy

ACTION REQUESTED

The Board is requested to adopt the attached resolution that grants the executive director the authority to allocate available and previously unallcated Clean Water Legacy and Clean Water Fund Funds to local governments that have previously made an application to BWSR for these funds.

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
BWSR has received numerous appropriation over the past four years for the Clean Water Legacy and Clean Water Fund programs. Funds have been awarded to local governments for a variety of projects and activities. Funds are occasionally returned when a project has been completed unbder budget, or projects components cannot be completed. The following funds are currently available:

1. FY2008 Clean Water Legacy ISTS Inventory Funds - $27,753
2. FY2009 Clean Water Legacy Non-point Restoration Funds - $49,753
3. FY2010/2011 Clean Water Fund - $38,235

At this time there are two projects that BWSR staff are recommending recieve some of these funds, these are both projects that were previously applied for under the Clean Water Legacy and Clean Water Fund grant programs, these are:

1. FY2008 Clean Water Legacy: South St. Louis SWCD-Miller Creek Jumbo Gully Remediation Project. An additional $12,000 is requested due to project cost overruns that resulted from delays while land title issues were resolved.

2. FY2011 Clean Water Fund SSTS Inventory: Stearns County. This project was emailed to BWSR by the deadline but never received by BWSR. This application would have been funded if included in the pool of projects that were considered in December.

Board Resolution # 11-

ALLOCATION OF AVAILABLE CLEAN WATER LEGACY AND CLEAN WATER FUND FUNDS

WHEREAS, the Board has authority under Minn. Stat. 103B.3369 to make grants to cities, townships, counties, soil and watershed districts, watershed districts, joint powers organizations, and other special purpose districts or authorities with jurisdiction in water and related land resources management when a proposed project or activity implements a county water plan, watershed management plan, or county groundwater plan; and

WHEREAS, Laws of Minnesota 2007, Chapter 57, Section 5 appropriated Clean Water Legacy funds to the Board of Water and Soil Resources (BWSR); and,

WHEREAS, the Board adopted resolution #08-11 on January 23, 2008 which awarded FY2008 Clean Water Legacy funds; and,

WHEREAS, the Board adopted resolution #08-115 on December 17, 2008 which awarded FY2009 Clean Water Legacy funds; and,

WHEREAS, Laws of Minnesota 2009, Chapter 172, Section 6 appropriated Clean Water Funds to the BWSR; and,

WHEREAS, the Board adopted resolution #10-06 on January 28, 2010 which awarded FY2010 Clean Water Funds; and,

WHEREAS, Laws of Minnesota 2010, Chapter 361, Article 2, Section 6 appropriated additional Clean Water Fund funds to BWSR; and,

WHEREAS, the Board adopted resolution #10-109 on December 15, 2010 which awarded FY2011 Clean Water Funds; and,

WHEREAS, the Board regularly receives returned grant funds from local governments when projects are completed under budget.

NOW THEREFORE BE IT RESOLVED, that the executive director is authorized to allocate funds to eligible local units of government that have previously made an application for funds consistent with the intent of prior Board resolutions, governing appropriations and statutes.

_____ Date: _____

Brain Napstad, Chair
Board of Water and Soil Resources

Board Resolution # 11- 32

ALLOCATION OF AVAILABLE CLEAN WATER LEGACY AND CLEAN WATER FUND FUNDS

WHEREAS, the Board has authority under Minn. Stat. 103B.3369 to make grants to cities, townships, counties, soil and water conservation districts, watershed districts, joint powers organizations, and other special purpose districts or authorities with jurisdiction in water and related land resources management when a proposed project or activity implements a county water plan, watershed management plan, or county groundwater plan; and

WHEREAS, Laws of Minnesota 2007, Chapter 57, Section 5 appropriated Clean Water Legacy funds to the Board of Water and Soil Resources (BWSR); and,

WHEREAS, the Board adopted resolution #08-11 on January 23, 2008 which awarded FY2008 Clean Water Legacy funds; and,

WHEREAS, the Board adopted resolution #08-115 on December 17, 2008 which awarded FY2009 Clean Water Legacy funds; and,

WHEREAS, Laws of Minnesota 2009, Chapter 172, Section 6 appropriated Clean Water Funds to the BWSR; and,

WHEREAS, the Board adopted resolution #10-06 on January 28, 2010 which awarded FY2010 Clean Water Funds; and,

WHEREAS, Laws of Minnesota 2010, Chapter 361, Article 2, Section 6 appropriated additional Clean Water Fund funds to BWSR; and,

WHEREAS, the Board adopted resolution #10-109 on December 15, 2010 which awarded FY2011 Clean Water Funds; and,

WHEREAS, the Board regularly receives returned grant funds from local governments when projects are completed under budget.

NOW THEREFORE BE IT RESOLVED, that the executive director is authorized to allocate funds to eligible local units of government that have previously made an application for funds consistent with the intent of prior Board resolutions, governing appropriations and statutes.

Date: 4/27/11

Brain Napstad, Chair
Board of Water and Soil Resources

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Adjustment to 2011 BWSR Board Meeting Schedule**

Meeting Date: _____

Agenda Category: ☐ Committee Recommendation ☐ New Business ☒ Old Business
Item Type: ☐ Decision ☐ Discussion ☐ Information
Section/Region: _____
Contact: _____
Prepared by: John Jaschke
Reviewed by: Chair Napstad Committee(s)
Presented by: John Jaschke

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☒ **Resolution** ☐ **Order** ☐ **Map** ☐ **Other Supporting Information**

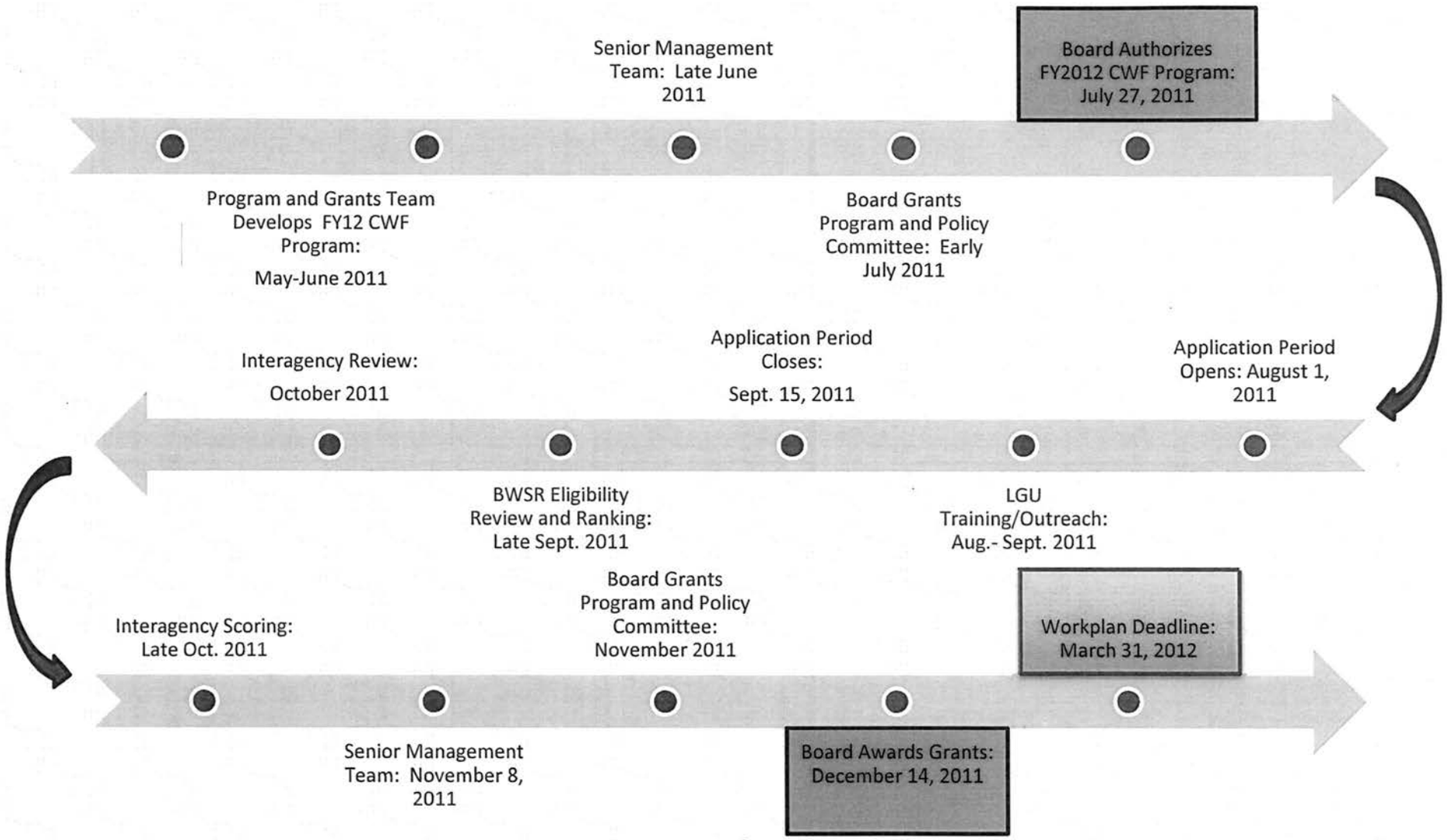
Fiscal/Policy Impact

☐ None
☐ Amended Policy Requested
☐ New Policy Requested
☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget
☐ Other: _____

ACTION REQUESTED

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
The schedule for Board decision-making related to the anticipated Clean Water Fund (CWF) grants will necessitate adding a July meeting (July 27th) if the Legislature's adjournment remains on schedule for May 23rd. To keep meetings to a minimum, we are planning to cancel the May (May 25th) meeting. This meeting calendar adjustment will be an agenda item at the upcoming April Board meeting.

DRAFT: FY2012 Clean Water Fund Grants Program Timeline



Date: April 5, 2011

Board Resolution # _____

Revised 2011 BWSR Board Meeting Schedule

(Fourth Wednesday of the month unless noted)

January 26

February - no meeting

March 23

April 27

May 25 - no meeting

June 22

July 27

August 24-25 - Tour and Meeting

September 28

October 26

November – no meeting

December 14

_____ Date _____

Brian Napstad, Chair
Minnesota Board of Water and Soil Resources

Board Resolution # 11-33

Revised 2011 BWSR Board Meeting Schedule

(Fourth Wednesday of the month unless noted)

January 26

February - no meeting

March 23

April 27

May 25 - no meeting

June 22

July 27

August 24-25 - Tour and Meeting

September 28

October 26

November – no meeting

December 14

Date 4/27/11

Brian Napstad, Chair
Minnesota Board of Water and Soil Resources

BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, JUNE 22, 2011

BOARD MEMBERS PRESENT:
Linda Bruemmer, MDH; Bob Burandt, Christy Jo Fogarty, Quentin Fairbanks, Sandy Hooker, Paul Langseth, Tom Loveall, Joe Martin, Keith Mykleseth, Brian Napstad, Dave Schad, DNR; Faye Sleeper, MES; Louise Smallidge, Gene Tiedemann, LuAnn Tolliver, Doug Wetzstein, MPCA; Matthew Wohlman, MDA

BOARD MEMBERS ABSENT:
Paul Brutlag
John Meyer

STAFF PRESENT:
Mary Jo Anderson, Julie Blackburn, Jon Fure, Travis Germundson, Jim Haertel, John Jaschke, Al Kean, Les Lemm, Melissa Lewis, Ron Shelito, Dave Weirens, Marcey Westrick, Steve Woods, Brad Wozney, Wayne Zellmer

OTHERS PRESENT:
Don Baloun, Tim Koehler, Paul Flynn, NRCS
Ray Bohn, MAWD
Chris Elvrum, Department of Health

Chair Napstad called the meeting to order at 9:00 a.m.

PLEGE OF ALLEGIANCE

Chair Napstad welcomed everyone to the meeting today.

** 11-35 **ADOPTION OF AGENDA** – Moved by Keith Langseth, seconded by Paul Langseth, to adopt the agenda as presented. Motion passed on a voice vote.

** 11-36 **MINUTES OF APRIL 27, 2011 MEETING** – Moved by Louise Smallidge, seconded by Quentin Fairbanks, to approve the minutes of April 27, 2011, as circulated. Motion passed on a voice vote.

RECOGNITION OF SERVICE – Chair Napstad recognized Joe Martin for his time and efforts as a Board Member. John Jaschke, on behalf of BWSR, presented Joe Martin with a plaque acknowledging Joe's six years of service on the BWSR Board, 2005 – 2011, representing Minnesota Department of Agriculture, and as a recent citizen member. Joe's vacancy will be filled through the Governor's appointments process. Joe thanked John and the BWSR; he enjoyed his time serving the Board; BWSR is a good agency, and he wished the Board the best of luck in the future.

CONFLICT OF INTEREST DECLARATION – Chair Napstad reported that one agenda item today needs the Conflict of Interest Declaration form submitted. The agenda item is the Farm Bill Assistance Program Grant. Chair Napstad read the statement:

"A conflict of interest whether actual 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 identify any potential conflicts of interest they may have regarding today's business."

Chair Napstad asked board members to submit their completed Conflict of Interest Declaration forms to John Jaschke. John explained BWSR's policy on grant authorization and completing the form. The Conflict of Interest Declaration document will be filed for the grant decision item.

REPORTS

Chair's Report – Brian Napstad reported that he attended two Environmental Quality Board (EQB) meetings, Travis Germundson and Dave Schad, DNR, also attended. EQB is made up of ten state agencies and five citizen members, all appointed by the Governor. EQB is part of the executive branch of government responsible for

coordination of environmental issues in the State of Minnesota. Chair Napstad stated that the first meeting was an introductory EQB meeting, at which time they scheduled a retreat to discuss the future role and responsibilities of the EQB. The next meeting was to determine what the Governor would like the EQB's role to be, looking for direction on big picture issues. Chair Napstad stated that this was a great opportunity for open discussions on the future of EQB. Dave Schad stated that the three-legged stool (economy/quality of life/environmental protection) was discussed and the right people were around the table to provide a balanced approach.

Chair Napstad reported that there is a wetland violation in his district; he's becoming involved to learn more about the process, which is important as this deals with private property.

Executive Director's Report – John Jaschke reported that there is no budget, no Legacy bill, no bonding bill, and only a few environmental policy items that passed. The Wetland Conservation Act (WCA) provisions did get passed, that is on the agenda later today.

John stated that the Lessard Outdoor Heritage Council and the Clean Water Council have been meeting. John did not attend the MAWD summer meeting and tour due to potential State government shutdown contingency planning. John attended the Red River Basin meeting; he stated that flooding in the northwest directly affects BWSR clientele. Flooding in North Dakota is much more severe.

John reported on the contingency planning for the potential State government shutdown on July 1, 2011. BWSR sent out messages to LGUs; future notices will be sent out consolidating messages that will be posted on the BWSR website as updates are received from Minnesota Management and Budget (MMB). Two main messages from BWSR: 1) grants and contracts are subject to a future court decision, a provisional decision by BWSR, grants with upfront money that do not require state requirement or intervention are able to go forward and carry out their work. 2) all other grants/contracts for projects will be suspended because they either do not receive dollars upfront, or some state verification is needed during the project. A set of Q & As will also be sent and posted on BWSR's website.

John reported that the WCA program continues and will carry on without state participation, WCA banking credits will be on hold, appeals to the state will be in abeyance.

John reported that all BWSR staff will be in lay-off status in the event of the State government shutdown; no one will be working. Staff are planning for contingencies.

Chair Napstad asked for agency comments on the potential State government shutdown.

Dave Schad, DNR, stated that 200 of 2600 DNR staff will be working. Conservation officers will be in force, state parks will be closed, no fishing licenses, projects suspended , grantees same as other agencies; water permits issued and potentially suspended, logging contracts/permits will also be suspended. Dave stated that there will be a potential economic hardship. LuAnn Tolliver asked if watershed districts that have received delegated authority for protected water permits, can continue. Dave will check into that.

Linda Bruemmer, MDH, stated that 37 of 300 MDH staff will be working as critical employees, water labs, some health inspections and infectious disease staff will be in place. Linda stated that laws remain on the books.

Doug Wetzstein, MPCA, stated that a small number of MPCA will be working, critical services emergency response, otherwise most MPCA staff will be in lay-off status. MPCA is attempting to coordinate responses with other agencies and FAQs are on MPCA's website.

Quentin Fairbanks asked if agencies are keeping track of the amount of time being spent on contingency planning. Yes, agencies have been directed to keep track of time being spent on contingency planning for the potential State government shutdown.

John Jaschke reviewed items in the Board Meeting packet today: "For Your Information" - BWSR Committees, Lori Dowling, DNR NW Regional Director, will represent DNR on the Northern Water Planning Committee. John reported on the "BWSR Snapshots" article regarding the dedication ceremony honoring Bob Jacobsen at the Janet Johnson Wildlife Management Area. John announced the "RIM 25th Anniversary" event on July 21st in Steele County, coordinated with NRCS. John reported on the BWSR Tour, August 24, 2011, the invitation and tour itinerary have been sent. Logistical details of the tour will be sent to board members at a later date.

Dispute Resolution Committee (DRC) – Travis Germundson reported that one new appeal has been filed, #11-6 is an appeal of a restoration order in Kittson County. Travis reported that File #11-5, an appeal has been granted and a pre-hearing conference is in the process of being scheduled. Travis reported that appeals in Waseca County, #11-3 and #11-2, have been combined and will be processed as one decision. Travis reported that the DRC has scheduled a refresher training session on August 18, to review the hearing prcoess. Joe Martin requested that Chair Napstad

appoint a citizen representative to the Dispute Resolution Committee. The DRC will receive electronic mailings.

Wetlands Committee – LuAnn Tolliver reported that the Wetlands Committee will meet in the near future in conjunction with a Board Meeting. Quentin Fairbanks asked if time is available for the Wetlands Committee to meet in August during board tour/meeting. Chair Napstad will look at the schedule and plan accordingly for efficiency.

Grants Program & Policy Committee – Louise Smallidge reported that the Grants Program & Policy Committee met on June 13th to review the proposed response to policy change related to the Legislative Auditor's findings; the Committee met again last night, reviewed the staff alternatives and has a recommendation on the agenda later today. Chair Napstad reported that he also attended the Grants Program & Policy Committee meeting last night.

Public Relations, Outreach & Strategic Planning Committee – Keith Mykleseth reported that the Public Relations, Outreach & Strategic Planning Committee met on April 27th, after the Board meeting. The Committee's survey results were summarized and has four priority topics for future discussion: 1) alignment of planning efforts; 2) Clean Water Legacy funds; 3) organized major watersheds; and 4) moving forward toward goals. The Committee also briefly discussed the Board Tour at the last meeting. The Public Relations, Outreach & Strategic Planning Committee's next scheduled meeting is July 27. Keith asked if that date would be effected by the potential state government shutdown. Chair Napstad stated that this will be discussed later on the agenda.

RIM Reserve Planning Committee – John Jaschke reported that the RIM Reserve Planning Committee has not met, there will likely be a meeting in late summer/early fall to establish payment rates and sign-up procedures.

Drainage Work Group – Tom Loveall reported that the Drainage Work Group met on January 6 and discussed the Smith Partners LCCMR project draft recommendations. Tom reported that three recommendations and five considerations were developed. Quentin Fairbanks asked if the Drainage Work Group discusses this with DNR? Tom stated that the Drainage Work Group does talk with DNR. Discussion followed regarding the ditch law, and the differences in northern Minnesota as compared to other areas of the state. Al Kean stated that Louis Smith and Chuck Holtman were the primary authors, potential to have report presented at a future board meeting. Chair Napstad would like Smith Partners to come before the Board to present the report.

Administrative Advisory Committee (AAC) – Brian Napstad reported that the Administrative Advisory Committee met this morning. The AAC discussed the potential State government shutdown; the July 27 Board Meeting; Board Member appointment status; and the Heron Lake Watershed District, on the agenda later today.

COMMITTEE RECOMMENDATIONS

Grants Program & Policy Committee

Grants Monitoring, Reconciliation, and Verification Policy – Dave Weirens reported that the Office of the Legislative Auditor found that BWSR was not in full compliance with the Office of Grants Management Policies 08-08 and 08-10, in its May 2010 report. A staff team, chaired by Ron Shelito, has been working to develop a policy and process to comply with these policies. Ron Shelito presented the policy purpose and background. The BWSR Grants Monitoring, Reconciliation, and Verification policy requires: that BWSR staff annually monitor all grants; that competitive conservation program grants be paid in three scheduled payments and; that financial verification of grant reconciliations will be performed on ten percent of all BWSR grants annually. This policy will be implemented beginning in FY 2012.

Ron reported that the Grants Program and Policy Committee met on June 13, 2011, and recommends approval of this policy. Keith Mykleseth commended staff on their efforts. Dave Weirens reported that the Board Resolution #10-64, rescinds previous requirements from last June, and revises the Cost-Share Grant Program close-out procedures. Moved by Quentin Fairbanks, seconded by Louise Smallidge, to approve
** 11-37 the Grants Monitoring, Reconciliation, and Verification Policy, and rescinds the Board Resolution #10-64. LuAnn Tolliver also commended staff on their work to incorporate this policy. LuAnn stated that the Office of the Legislative Auditor needs to get expectations in line with BWSR budget reductions, doing more with less. Chair Napstad agreed with LuAnn, there are more requirements with less. Motion passed on a voice vote.

Chair Napstad requested that board members submit the Conflict of Interest Declaration form.

Authorizing the FY12 Clean Water Fund Competitive Grants Program – Dave Weirens reported that the Grants Program & Policy Committee met on June 21, 2011; reviewed and recommends approval of the FY12 Clean Water Fund Competitive Grants Policy. Dave reported that BWSR does not have a budget; however, BWSR anticipates being appropriated Clean Water Funds to make grants to local governments to address water quality needs. In addition, the Minnesota Department of Health and Minnesota Department of Agriculture are expected to contribute funds to this grant program. All BWSR competitive grant programs are being combined into a single RFP that will allow

local governments to address needs identified in their local water management plan or to implement a TMDL.

Dave reviewed the Clean Water Fund Competitive Grants Policy appropriations as part of the enactment of the FY12-13 biennial budget. John Jaschke stated that a guidance manual is posted on BWSR's website: http://www.bwsr.state.mn.us/grants/manual/index.php#/Purpose%20&%20Sc

Dave also reviewed the Request for Proposals (RFP), the application deadline and timeline. Joe Martin stated that clarification and consistency is needed regarding the eligibility for the Ag BMP loan program. Dave will pursue improved language for the eligibility criteria. Dave reviewed the resolution.

** 11-38 Moved by Louise Smallidge, seconded by Paul Langseth, to authorize staff to finalize, distribute and promote a Request for Proposal (RFP) for the FY2012 Clean Water Fund and Competitive Grants Program consistent with the provisions of past Clean Water Fund appropriations and those expected to be enacted in 2011, Minn. Stat. 103B.3369 and this Board resolution; and adopts the FY2012 Clean Water Fund Competitive Grants Policy. Louise stated that staff have done a really good job on this document; each page has the policy stated on the RFP. Chair Napstad expressed appreciation for the coordinated efforts with agencies to make this an efficient grant process. Motion passed on a voice vote.

Chair Napstad stated that NRCS State Conservationist Don Baloun and staff are present, so the agenda item WCA-Swampbuster Coordination Opportunity, will be presented immediately after the break.

Chair Napstad called for a break in the meeting at 10:55 a.m. The meeting reconvened at 11:05 a.m.

WCA-Swampbuster Coordination Opportunity – Chair Napstad welcomed Don Baloun, State Conservationist, Natural Resources Conservation Service. Don Baloun thanked BWSR for the coordinated efforts of Les Lemm and Julie Blackburn working together with NRCS staff to implement a program, using the enhanced ability of relationships from working together. Don reported that in December of 2009, NRCS, BWSR, and MASWCD signed a Memorandum of Understanding regarding implementation of the Wetland Conservation Act and the Swampbuster provisions of the federal Farm Bill, leveraging opportunities with federal and state dollars. Don stated that BWSR staff has been providing training to SWCD staff, and working with NRCS staff, no better time than now to get things done in western Minnesota, the prairie pothole area. Don thanked BWSR for the continued relationship and great efforts to get things done quickly.

Les Lemm reiterated that this is a great opportunity to provide consistency with both WCA and Swampbuster programs. BWSR and NRCS have been exploring ways to partner with Soil and Water Conservation Districts or other local governments with WCA responsibilities for joint implementation of certain WCA and Swampbuster provisions through Contribution Agreements. This NRCS effort will benefit from a newly funded four-state USDA initiative in the Prairie Pothole Region aimed at reducing the backlog of certified wetland determinations. Under the "North Central Wetland Conservation Initiative," NRCS would develop agreements with individual local governments to perform technical work associated with certified wetland determinations and other related functions. The resulting products could be used for both USDA and WCA purposes, significantly improving program consistency. A similar process has been in place in Mower County for several years where it has worked well and serves as a working model for additional agreements.

Paul Flynn, NRCS, stated that this is unique to Minnesota, one-stop opportunities for landowners, federal/state using the same base guidelines for WCA and Swampbuster. Want to concentrate on farmer mitigation process in Minnesota; hopeful that this effort with NRCS, BWSR, and SWCDs will streamline the paperwork process. Don Baloun reported that new staff will not need to be hired for this effort as existing staff are working on this effort. Joe Martin suggested an outreach effort. Don stated that an extensive outreach effort will be done, the USDA NRCS Chief David White will announce this effort and then it will move forward. Paul Langseth stated that he's happy to see this effort, help is needed sooner than later. Bob Burandt asked about the wetland determinations, Paul Flynn stated that mapping procedures are being updated, WCA determinations and exemptions will determine eligibility. Les stated that consistency will be done. Don clarified that this is not a massive redo effort, this is a win/win for agriculture and wetlands, with third party involvement.

Don mentioned the RIM 25th Anniversary event, July 21, at the Straight River Marsh Wetland Restoration Project in Steele County. Don appreciated the hard work of Julie Blackburn and Tim Koehler on this celebration. Don reported that Chief White will attend. Don stated that leveraging WRP dollars does work. Chair Napstad thanked Don for his report.

John Jaschke reported that Conflict of Interest Declaration forms were received, all are board members are eligible to vote on the Farm Bill Assistance Program Grants.

Farm Bill Assistance Program Grant Awards – Dave Weirens reported that the Farm Bill Assistance Program provides funds to SWCDs to hire staff to accelerate implementation of the Farm Bill as well as other state and federal conservation projects that involve grasslands and wetlands. The FY12 Farm Bill Assistance Program is

expected to be funded from several revenue sources, including the Legislative-Citizens Commission on Minnesota Resources (LCCMR). The Grants Program and Policy Committee met on June 13, 2011, to review the proposed grants and recommends
** approval. Moved by Keith Mykleseth, seconded by Louise Smallidge, to authorize staff
11-39 to allocate up to $313,000 from appropriated ENRTF funds, $150,000 in funds transferred from the DNR, up to $100,000 of available FY2011 CWF funds, and any additional available program funds consistent with the program purpose. Motion passed on a voice vote.

Non-Point Engineering Assistance Program (NPEAP) Policy – Al Kean reported that BWSR has provided technical assistance and engineering funds to regional SWCD joint powers boards since 1995 for the implementation of soil and water conservation, water quality, and wildlife habitat practices and projects. The SWCDs technical assistance areas have been realigned and reduced from eleven to eight. BWSR staff have developed a program policy that documents program expectations and operating procedures and make updates to match current grant management policies, and is intended to be used beginning in FY12 to support implementation of this program.
** Moved by Paul Langseth, seconded by Louise Smallidge, to provide clear expectations
11-40 for the local administration of NPEAP grants in accordance with applicable Minnesota Statutes, Board policies, and other applicable laws, the Board hereby adopts the Non-Point Engineering Assistance Program Grant Administration Policy. Discussion followed. Paul Langseth stated that this has been a very beneficial program. Motion passed on a voice vote.

Metro Water Planning Committee

Wright County Local Water Management Plan Five-Year Amendment – Bob Burandt reported that the Metro Water Planning Committee met on May 31, 2011 to review the Wright County Local Water Management Plan five-year amendment and recommends approval. Brad Wozney reported that BWSR staff recommends approval of the plan amendment, which is consistent with the Priority Concerns Scoping
** Document. Moved by Bob Burandt, seconded by Christy Jo Fogarty, approves the
11-41 2011 five-year amendment of the Wright County Local Water Management Plan 2006-2015. Wright County will be required to provide for a complete update of its Water Management Plan prior to December 31, 2015. Motion passed on a voice vote.

Northern Water Planning Committee

Clearwater River Watershed District Plan – Keith Mykleseth reported that the Northern Water Planning Committee met on June 15, 201, to review the Clearwater
** River Watershed District Plan and recommends approval. Moved by Keith Mykleseth,
11-42 seconded by Quentin Fairbanks, to approve the revised Watershed Management Plan for the Clearwater River Watershed District. Motion passed on a voice vote.

Cook County Water Plan Extension – Quentin Fairbanks reported that the Northern Water Planning Committee met on June 15, 2011, to review the Cook County Water Plan two-year extension, and recommends approval. Moved by Quentin Fairbanks, seconded by Keith Mykleseth, to approve the extension of the Cook County Local Water Plan until October 26, 2014. Motion passed on a voice vote.

** 11-43

Middle-Snake-Tamarac Rivers Watershed District Revised Plan – Keith Mykleseth reported that a public hearing was held on the revised plan on June 9, 2011, no citizens attended. The Northern Water Planning Committee met on June 15, 2011, to review the Middle-Snake-Tamarac River Watershed District Revised Plan, and recommends approval. Keith has a compact disc with the ten-year plan if board members would like a copy contact Mary Jo Anderson. Moved by Keith Mykleseth, seconded by Quentin Fairbanks, to approve the revised watershed management plan for the Middle-Snake-Tamarac Rivers Watershed District. Motion passed on a voice vote.

** 11-44

Faye Sleeper stated that a few months ago she requested staff to provide more information on plans, and she is now receiving a good amount of information.

North Fork Crow River Watershed District and Sauk River Watershed District Boundary Change – Gene Tiedemann reported that the Northern Water Planning Committee met on June 15, 2011, to review the North Fork Crow River Watershed District and Sauk River Watershed District boundary change and recommends approval. The change will better reflect the hydrology of the watersheds. The petition was reviewed by BWSR staff and found to be in accordance with the hydrology and the process followed by statute and policy. Moved by Gene Tiedemann, seconded by Keith Mykelseth, that the BWSR Board hereby approves and orders that the boundaries of the Sauk River Watershed District and the North Fork Crow River Watershed District are changed per the Petition as presented. Motion passed on a voice vote.

** 11-45

Polk County Priority Concerns Scoping Document – Gene Tiedemann reported that the Northern Water Planning Committee met on June 15, 2011, to discuss with representatives of Polk County the Priority Concerns Scoping Document (PCSD), and recommend approval of the Polk County Priority Concerns Scoping Document. Gene reported that the priority concerns for Polk County are surface water quality, water quantity, management, enhancement and preservation of natural resources within the Glacial Lake Agassiz Beach Ridge area, exotic and invasive species management. Moved by Gene Tiedemann, seconded by Louise Smallidge, to approve the Polk County Priority Concerns Scoping Document. Motion passed on a voice vote.

** 11-46

Establishment Hearing for the Upper Red Lower Otter Tail Watershed District – Quentin Fairbanks reported that the Northern Water Planning Committee met on June 15, 2011. A petition to establish the Upper Red Lower Otter Tail Watershed District was filed by Wilkin County with BWSR on January 18, 2011. Territory to be included in the proposed watershed district is an area that affects Wilkin and Otter Tail Counties approximately 430 square miles in size. The area is bordered on the south by the Bois de Sioux Watershed District, on the north by the Buffalo-Red River Watershed District and on the west by the State boundary/Red River. The petition was signed by Wilkin County Commissioners.

Travis Germundson reported that Minn. Stat. § 103D.205, Sub. 3, item 3. allows an establishment petition to be signed by counties having 50 percent or more of the area within the proposed watershed district. Wilkin County contains more than 50 percent of the area in the proposed watershed district, the petition has the required number of petitioner signatures. A petition that has the requisite number of petitioner signatures cannot be dismissed. Therefore, the Northern Water Planning Committee is recommending that BWSR proceed with an Establishment Hearing Order.

However, deficiencies where noted in the petition, most notable the lack of potential managers names residing in Otter Tail County. A petition that has the requisite number of petitioner signatures cannot be dismissed because of defects since the petitioners have the ability to amend a defective establishment petition at any time prior to the end of the establishment hearing.

Otter Tail County Commissioners have passed a resolution opposing the establishment of the Upper Red Lower Otter Tail Watershed District. DNR submitted the required preliminary report and watershed map, and supports the establishment of a watershed district within the Ottertail River system and has no objections to the proposed petition.

On April 18th, Wilkin County requested BWSR hold the establishment hearing in June or July. This will give Wilkin County additional time to solicit manager nominees who reside in Otter Tail County and avoid conflicts for those who are involved with farm activities. Keith Mykleseth stated that this area of the Red River Basin is the only area in the Red River Valley that does not have a watershed district.

** 11-47 Moved by Quentin Fairbanks, seconded by Keith Mykleseth, hereby orders a public hearing be held within 35 days of the date of this Order on the establishment Petition for the Upper Red Lower Otter Tail Watershed District presided over by the Northern Water Planning Committee on July 20, 2011 at 7:30 p.m., at the Rothsay High School.

Travis stated, on the legal advice of the Attorney General's office, if the State government is shutdown, the public hearing on the establishment petition will be cancelled and rescheduled to another business day. Motion passed on a voice vote.

Southern Water Planning Committee

Sibley County Priority Concerns Scoping Document – Paul Langseth reported that the Southern Water Planning Committee met on April 27, 2011, reviewed and recommends approval of the Sibley County Priority Concerns Scoping Document.

** 11-48 Moved by Paul Langseth, seconded by Sandy Hooker, to approve the Sibley County Priority Concerns Scoping Document. Motion passed on a voice vote.

NEW BUSINESS

Heron Lake Watershed District – Hearing for Revised Watershed Management Plan – Travis Germundson reported that on May 13, 2011, the Heron Lake Watershed District announced a 60-day review period of the District's draft revised watershed manage plan. Travis stated that pursuant to Minn. Stat. 1-3D.405, Subd. 5(a) the Board must give notice and hold a hearing on the proposed Plan within 45 days after receiving the Department of Natural Resources' recommendation on the revised plan unless the Board finds the plan noncontroversial. During the review it was discovered that the plan proposed to establish a water management district pursuant to Minn. Stat. 103D.729 for the purpose of collecting revenues and paying cost of projects; this option was incorporated into the plan late in the process. Travis reported that BWSR staff recommend a public hearing be held. The Administrative Advisory Committee met this

** 11-49 morning and recommends approval of a public hearing . Moved by Paul Langseth, seconded by LuAnn Tolliver, to hereby order a public hearing be held within 45 days after receiving the Department of Natural Resources' recommendation on the revised Plan for the Heron Lake Watershed District to be presided over by the Southern Water Planning Committee at a date, time, and location to be determined by the Executive Director. Motion passed on a voice vote.

2011 BWSR Board Meeting Schedule – John Jaschke explained that due to the potential State government shutdown, staff recommend cancelling the July 27, 2011, Board Meeting, while staff are working and able to cancel the meeting leaving the Chair

** 11-50 to call a special meeting if needed. Moved by LuAnn Tolliver, seconded by Louise Smallidge, to cancel the July 27, 2011, Board Meeting as recommended by staff. Motion passed on a voice vote.

Keith Mykleseth asked about the Public Relations, Outreach, and Strategic Planning Committee, scheduled to meet on July 27. Due to the potential State government shutdown, the Committee meeting on July 27th will be cancelled, as required in bylaws, and rescheduled as needed.

Wetland Conservation Act (WCA) Statute Changes – Les Lemm reported that several statute changes affecting the Wetland Conservation Act were approved by the 2011 Legislature. As part of SF1115, the changes were signed by the Governor on May 27, and take effect August 1, 2011. Les explained that BWSR worked with stakeholders for nearly two years to come to a general consensus about most of the changes contained in this bill. Les summarized the changes: establishing DNR as a local government unit (LGU) for the review and approval wetland banking projects used solely to mitigate mining impacts, and applying reduced fees for such banks; allowing for "electronic transmission" of statute-required LGU notices regarding applications and decisions; eliminating the current public-lands-only limitation on the allocation of replacement credits for wetland preservation; simplifying the siting critera for replacement wetlands while providing a technical basis for identifying appropriate replacement wetland siting opportunities; directing appeals of restoration orders to the BWSR Executive Director rather than the LGU; eliminating the requirement for a local appeal of LGU staff decisions; and allowing BWSR to set wetland banking fees below the otherwise required amounts for "single-user" or other dedicated accounts. LuAnn Tolliver asked if additional rule changes or policy changes are needed as she looks at upcoming work for the Wetland Committee. Les stated that additional information will be coming. Louise Smallidge stated that she appreciated the concise summary and likes the highlighted changes on the document. Chair Napstad thanked Les for his efforts.

AGENCY REPORTS

Minnesota Department of Agriculture (MDA) – Matthew Wohlman reported that the MDA budget was passed and signed by Governor Dayton. MDA staff have not received layoff notices; it appears MDA will be open for business; the Court will make the decision. Matt reported that Barbara Weismann will coordinate the MDA conservation piece of the Farm Bill; seek to have recommendations to the Governor in September or October. Barbara is meeting with BWSR staff on this effort.

Minnesota Department of Health (MDH) – Linda Bruemmer reported that she has been assigned as the MDH representative to BWSR. Linda introduced Chris Elvrum, newly hired staff at MDH. Linda stated that unfortunately, Chris received his lay-off notice on the first day of work!

Minnesota Department of Natural Resources (DNR) – Dave Schad reported that DNR recently hired Marybeth Block as coordinator of the new Walk-in Hunting Access Program. Dave reported that the Conference Committee report vetoed by Governor Dayton would have had severe governmental impacts; DNR is very concerned about potential impacts as negotiations move forward. The DNR hydrologists water management function impacts local governments. DNR is working with BWSR to prepare proposals on the Outdoor Heritage Fund. DNR is looking at specific proposals

for teams to provide funding to protect, restore, enhance habitat, the deadline for proposals is mid-July. Dave reported that there is a long and complicated history in northwestern Minnesota on drainage issues. Assistant Commissioner Mike Carroll is working with the Drainage Work Group. Dave and Commissioner Landwehr are planning a trip to northwestern Minnesota and look forward to working with Quentin and others on this issue.

Minnesota Extension Service (MES) – Faye Sleeper reported that the University of Minnesota is open. Faye stated that budget issues are not easy, layoffs at MES have been going on for a few years now; and they are also watching federal dollars disappear.

Minnesota Pollution Control Agency (MPCA) – Doug Wetzstein reported that the MPCA Water Program Directors are meeting in Chicago today. MPCA continues efforts with EPA on TMDLs, federal funding, they are working through it all. Doug stated that in the event of the potential State government in shutdown, MPCA would respond to environmental emergencies.

ADVISORY COMMENTS

Minnesota Association of Townships (MAT) – Sandy Hooker reported that MAT staff are conducting summer training around the state; she admired them for putting in lots of time on their efforts. John stated that MAT asked BWSR to assist with training on technical assistance for wetlands and roads.

Minnesota Association of Watershed Districts (MAWD) – Ray Bohn reported that MAWD held their summer tour last week, over 100 people in attendance. Red Lake Watershed District and Middle-Snake-Tamarac Rivers Watershed District were hosts. The tour included education and a good sample of work being done in the area. Ray appreciated the attendance of board members Paul Langseth, LuAnn Tolliver, and Gene Tiedemann. Ray stated that MAWD supports BWSR, DNR, PCA funding and how it effects MAWD. Local hydrologist are relied on by watershed district. If there's anything MAWD can do to assist during the potential shutdown, let them know.

Ray commended John Jaschke, Julie Blackburn, and Steve Woods, on their great efforts during the legislative session, they really do a good job, BWSR is always there, the hardest working crew at the Capitol!

Ray reported that the Local Government Water Roundtable staff met yesterday. Discussions included: agenda items for summer/fall. Ray stated that the Roundtable is looking at efficiencies and possible consolidations. Drainage Work Group -- very important, terrific working group. Ray stated that MAWD appreciated working with

BWSR on the BWSR Academy to develop training for watershed district staff. Angie Becker-Kudelka does a great job in working with watershed districts. MAWD is working on policy issues. Ray stated that he's proud to be involved in the RIM event, especially because of the ties to Governor Perpich who started it. He looks forward to celebrating a national model, the 25th Anniversary celebration on July 21.

LuAnn Tolliver stated that she enjoyed the great MAWD summer tour in Gene Tiedemann's host area; she learned about ditches, diversions and impoundments. Paul Langseth appreciated the educational MAWD tour.

UPCOMING MEETINGS
Board Tour & Meeting – August 24-25, 2011 in Little Falls

** 11-51 Moved by LuAnn Tolliver, seconded by Paul Langseth, to adjourn the meeting at 12:50 PM. Motion passed on a voice vote.

Respectfully submitted,

Brian Napstad
Chair

BOARD OF WATER AND SOIL RESOURCES
Attendance Roster

	Name	Affiliation	Phone #
1.	Ron Shelito	BWSR	
2.	Chris Elvrum	MDH	
3.	Ray Bohn	MAWD	
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			
21.			
22.			
23.			
24.			
25.			

BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, APRIL 27, 2011

BOARD MEMBERS PRESENT:
Linda Bruemmer, MDH; Paul Brutlag, Bob Burandt, Christy Jo Fogarty, Quentin Fairbanks, Sandy Hooker, Tom Landwehr, DNR; Paul Langseth, Tom Loveall, Joe Martin, John Meyer, Keith Mykleseth, Brian Napstad, Gaylen Reetz, MPCA; Faye Sleeper, MES; Louise Smallidge, Gene Tiedemann, LuAnn Tolliver, Matthew Wohlman, MDA

BOARD MEMBERS ABSENT:
Joe Martin

STAFF PRESENT:
Mary Jo Anderson, Brian Dwight, Travis Germundson, Jim Haertel, Jeff Hrubes, John Jaschke, Al Kean, Jeff Nielsen, Dave Weirens, Marcey Westrick, Steve Woods, Brad Wozney

OTHERS PRESENT:
Matt Moore, South Washington Watershed District
Doug Snyder and Dan Kalmon, Mississippi WMO
Rob Sip and Barbara Weismann, MDA
Wayne Anderson, MPCA
Richard Batiuk, Associate Director for Science, EPA
Warren Formo, Minnesota Ag Water Resources Coalition
Tim Koehler, NRCS
Tim Gieseke, Ag Resource Strategies, LLC

Chair Napstad called the meeting to order at 9:00 a.m.

PLEDGE OF ALLEGIANCE

** 11-21 **ADOPTION OF AGENDA** – Moved by Louise Smallidge, seconded by Quentin Fairbanks, to approve the agenda as presented. Motion passed on a voice vote.

MINUTES OF MARCH 23, 2011 MEETING – LuAnn Tolliver reported that a correction is needed on page ten, it should state that Jill Crafton is with the Riley Purgatory Bluff Creek Watershed District. Moved by LuAnn Tollver, seconded by Paul Brutlag, to approve the corrected minutes of March 23, 2011 as circulated. Motion passed on a voice vote.

CONFLICT OF INTEREST DECLARATION – Chair Napstad reported that one agenda item today needs the Conflict of Interest Declaration form submitted. The agenda item is the Allocation of Available Clean Water Funds. Chair Napstad read the statement:

"A conflict of interest whether actual 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 identify any potential conflicts of interest they may have regarding today's business."

Chair Napstad asked board members to submit their completed Conflict of Interest Declaration forms to John Jaschke. John explained BWSR's policy on grant authorization and completing the form. The Conflict of Interest Declaration documents will be filed for each grant decision item.

REPORTS

Chair's Report – Brian Napstad reported that he attended the Northern Water Planning Committee meeting on April 13th. Chair Napstad reported that Dan Steward, Board Conservationist, presented the history of water planning and Chair Napstad encouraged the Southern and Metro Water Planning Committees to also discuss this informative topic.

Chair Napstad reported that he and Vice Chair Paul Brutlag met with John Jaschke last night and conducted John's annual performance evaluation. Chair Napstad thanked board members for their participation in the executive director's review process. He assured board members that each comment was reviewed with John. Board member comments varied, yet comments were very positive. Chair Napstad stated that he is very pleased with Executive Director John Jaschke. John scored 4.4 out of five points,

excellent! Chair Napstad stated that he is always proud to introduce John Jaschke as Executive Director of BWSR; he's a great spokesman for the agency, and is well respected by board members, staff, legislators, and clientele. Paul Brutlag stated that he and Chair Napstad had an excellent discussion with John last night. Paul stated that John appropriately balances staff respect and morale, has established a good relationship with board members, and we need to keep John as a functional working asset to BWSR. Chair Napstad stated that board members may request more details of the evaluation if interested.

Executive Director's Report – John Jaschke reviewed items in the Board Meeting packet today: BWSR Committees, dated March 22, 2011; BWSR Member location map; "BWSR Snapshots"; and the 2011 MAWD Summer Tour Information. John stated that board members interested in attending the MAWD tour should submit their registration to Mary Jo Anderson for direct billing.

John reported that the Legislature took a break last week. John attended a wetland staff meeting in Brainerd on Monday; he also attended meetings and field visits with Aitkin County, Crow Wing County, Douglas County and the Sauk River Watershed District. A listening session and legislative update with Metro area local governments was held Wednesday. John was in Rochester on Thursday for an Earth Day event in the morning and an afternoon meeting with local governmental units.

John gave a brief legislative update. There is no news to report yet on the budget. The Legacy amendment work is going on this week to appropriate funding for Clean Water and Outdoor Heritage Fund projects. BWSR's WCA policy bill is moving forward. The rulemaking moratorium proposed may create obstacles with other current and past legislation.

Christy Jo Fogarty and Sandy Hooker arrived at the meeting at 9:15 a.m.

Dispute Resolution Committee – Travis Germundson reported that one new appeal was received, a forestry exemption in Cook County. Travis reported that appeal #11-2, in Waseca County, has a prehearing conference scheduled for next week. Chair Napstad thanked Travis for his report.

Wetlands Committee – LuAnn Tolliver stated that the Wetlands Committee has not met; a meeting will be scheduled in conjunction with an upcoming Board meeting.

Grants Program & Policy Committee – Louise Smallidge stated that the Grants Program & Policy Committee has not met; there is an item on the agenda later today.

Public Relations, Outreach & Strategic Planning Committee – Keith Mykleseth distributed copies of the Public Relations, Outreach & Strategic Planning Committee meeting minutes of March 23, 2011, and the agenda for today's Committee meeting. The Committee is meeting today following adjournment of the Board Meeting; and immediately following adjournment of the Southern Water Planning Committee meeting. Keith stated that the Committee decided to conduct a survey of board members' interest in various topics that could be addressed in BWSR's Strategic Plan. The survey is in board members' packets. Chair Napstad asked board members to select three topics and submit the completed survey to Mary Jo Anderson today.

RIM Reserve Planning Committee – Paul Brutlag stated that the RIM Reserve Planning Committee has not met.

Drainage Work Group – Tom Loveall reported that Drainage Work Group has not met.

Administrative Advisory Committee – Brian Napstad reported that Administrative Advisory Committee (AAC) met this morning. The AAC discussed the Executive Director's performance evaluation; allocations available for the Clean Water Legacy and Clean Water Funds; legislative update; Committee meetings scheduled; and a letter from Wilkin County regarding establishment of Upper Red Lower Otter Tail Watershed District.

COMMITTEE RECOMMENDATIONS

Metro Water Planning Committee

Coon Creek Watershed District Boundary Change Petition –Travis Germundson reported that the Coon Creek Watershed District (CCWD) submitted a boundary change petition pursuant to Minn. Stat. § 103B.215 to change the legal boundaries between the CCWD and Lower Rum River Water Management Organization (LRRWMO). The CCWD's 2004 Comprehensive Plan directs the Watershed District to review its boundaries on an ongoing basis to ensure accuracy. The proposed boundary change would achieve a more accurate alignment between the hydrologic and legal boundaries of the CCWD and the LRRWMO. Travis reported that all relevant substantive procedural requirements have been fulfilled. The Metro Water Planning Committee met on April 12, 2011 and unanimously voted to recommend approval of the Petition.

** 11-23 Moved by Bob Burandt, seconded by Christy Jo Fogarty, that BWSR hereby orders that the boundaries of the Coon Creek Watershed District are changed per the Petition as depicted. The Board strongly recommends that the Lower Rum River Water Management Organization take immediate action to change its organizational boundary consistent with the Order. Chair Napstad stated that he appreciates the defined map showing the boundary amendment. Motion passed on a voice vote.

Coon Creek Watershed District Boundary Change Hearing – Jim Haertel reported that in conjunction with the dissolution of the Six Cities Watershed Management Organization, the Coon Creek Watershed District submitted a boundary change petition to enlarge the district into areas of the former Six Cities Watershed Management Organization. The petition involves parts of the Cities of Blaine, Coon Rapids, Fridley and Spring Lake Park. The Board action is to order a public hearing on the petition. Jim
** reported that the Metro Water Planning Committee recommends a hearing. Moved by
11-24 Paul Langseth, seconded by Bob Burandt, that the Board hereby orders a public hearing to be held within 35 days of the date of this Order on the Petition for a boundary change of the Coon Creek Watershed District to be presided over by the Metro Water Planning Committee at a date, time and location set by the Executive Director, after proper legal notice of the public hearing has been given. Motion passed on a voice vote.

Amendment to South Washington Watershed District Watershed (SWWD) Management Plan – Jim Haertel introduced Matt Moore, Administrator of the SWWD. Jim reported that the mission of the SWWD is to manage water and related resources within the District in cooperation with citizens and communities. The Amendment to the SWWD Plan incorporates natural resource data, issues, and goals for the area of the former Lower St. Croix Watershed Management Organization (LSCWMO). The Amendment was ordered by the BWSR Board in conjunction with the enlargement of the SWWD into areas of the former LSCWMO. The Amendment is consistent with the former LSCWMO Watershed Management Plan. The Amendment establishes the area of the former LSCWMO as a watershed management unit for project funding by stormwater utility fees. The Metro Water Planning Committee met on April 12, 2011. After review of information, the Committee unanimously recommends approval of the
** Plan Amendment. Moved by Louise Smallidge, seconded by Matt Wohlmann, that the
11-25 Board hereby approves the amendment, dated March 9, 2011, to the South Washington Watershed District Watershed Management Plan. Paul Brutlag stated that BWSR has properly done what was hydrologically corrected. Motion passed on a voice vote.

Scott Watershed Management Organization (WMO) Plan Amendment – Brad Wozney reported that a Plan amendment to the Scott WMO Watershed Management Plan was filed with the Board on February 11, 2011. The Metro Water Planning
** Committee recommends approval of the Plan amendment. Moved by Bob Burandt,
11-26 seconded by Louise Smallidge, that the Board hereby approves the amendment to the Scott Watershed Management Organization's Watershed Management Plan. Louise stated that the mapping done by staff is much appreciated! Motion passed on a voice vote.

Mississippi Watershed Management Organization (MWMO) Revised Watershed Management Plan – Brad Wozney introduced Doug Snyder, MWMO Executive Director, and Dan Kalmon, MWMO Planner and Program Manager. Brad reported that the MWMO offered LGUs and state agencies a number of opportunities to provide input via Technical Advisory Committee meetings and releasing preliminary drafts. Brad reported that approximately 1,000 comments were received for this Plan. Brad reported that the Metro Water Planning Committee met on April 12, 2011, with a presentation on the history and key focus areas of the MWMO as well as highlights of the implementation section of the revised Plan. After review of the information, the
** Committee unanimously recommends approval of the Plan. Moved by Louise
11-27 Smallidge, seconded by Keith Mykleseth, that the Board hereby approves the Mississippi Watershed Management Organization Revised Watershed Management Plan. Motion passed on a voice vote. Chair Napstad thanked Doug Snyder and Dan Kalmon for coming in today.

Northern Water Planning Committee

Red Lake Watershed District (RLWD) Plan Amendment for Formation of a Water Management District – Keith Mykleseth introduced Dale Nelson, President, and Myron Jesme, Administrator, Red Lake Watershed District. Brian Dwight reported that the RLWD proposes a watershed management plan amendment providing for the establishment of a Water Management District for the Thief River Falls Flood Damage Reduction Project. The RLWD has developed a comprehensive flood damage reduction solution that involves numerous partners including the RLWD, state, city, county, townships, and local landowners. This project will address a long-standing flooding problem in the City of Thief River Falls. Brian reported that the Northern Water Planning Committee met on April 13, 2011, reviewed the Plan amendment and recommends
** approval. Moved by Quentin Fairbanks, seconded by, Keith Mykleseth, that the Board
11-28 hereby prescribes the Plan amendment dated March 10, 2011, as a formal amendment to the April 2006 Revised Plan for the RLWD to establish a water management district and the RLWD must include an evaluation of the use and effectiveness of the water management district in each ten-year plan revision. Gene Tiedemann abstains from voting as he is a Board Member of the RLWD. Paul Brutlag commended the Red Lake Watershed District for their efforts on a good Plan amendment, they are setting precedence for others to follow. Motion passed on a voice vote. Chair Napstad thanked Myron Jesme and Dale Nelson for coming in today.

Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) Order to Hold a Public Hearing on Watershed Plan – Brian Dwight reported that the Board must give notice and hold a hearing on Watershed District Plan updates within 45 days after receiving the Department of Natural Resources' recommendation on the revised Plan

pursuant to Minn. Stat. § 103D.405 Subd.5 (a). Brian reported that the Northern Water Planning Committee recommends approval at this time so the statutory requirement can be met. Moved by Gene Tiedemann, seconded by Sandy Hooker, that the Board hereby orders a public hearing be held within 45 days after receiving the Department of Natural Resources' recommendation on the revised Plan for the MSTRWD to be presided over by the Northern Water Planning Committee at a date and location to be determined by the Executive Director. Motion passed on a voice vote.

** 11-29

Wadena County Water Plan Amendment – Quentin Fairbanks reported that the Northern Water Planning Committee reviewed the Wadena County Water Plan amendment and recommends approval. Moved by Quentin Fairbanks, seconded by Paul Brutlag, that the Board hereby approves the update of the Wadena County Local Water Management Plan. Paul Langseth, chair of the Southern Water Planning Committee, stated that this is a good process to have in place to review amendments. Quentin stated that it's a good learning experience to have discussion between Committees. Chair Napstad stated that he and John Jaschke have been discussing this also. Motion passed on a voice vote.

** 11-30

Southern Water Planning Committee

Mower County Local Water Management Plan Amendment – Paul Langseth reported that the Southern Water Planning Committee met on November 4, 2010, to review the Mower County Comprehensive Local Water Plan 2010 Amendment, and recommends approval. The December 14, 2005, BWSR Order approving the 10-year plan required a review and update of the implementation section in five years. Moved by Paul Langseth, seconded by Sandy Hooker, that the Board hereby approves the 2010 amendment of the Mower County Water Management Plan for January 1, 2006 – December 31, 2015. Mower County will be required to provide a complete update of its Water Management Plan prior to December 31, 2015. Motion passed on a voice vote.

** 11-31

Chair Napstad called for a break in the meeting at 10:05 a.m. The meeting reconvened at 10:15 a.m.

NEW BUSINESS

Chesapeake Bay Presentation – John Jaschke introduced Richard Batiuk, Associate Director for Science, U.S. Environmental Protection Agency, Chesapeake Bay Program Office; and Warren Formo, Executive Director, Minnesota Ag Water Resources Coalition. Mr. Batiuk presented information and an assessment of federal, state and local efforts to achieve water quality improvements in the Chesapeake Bay watershed. EPA, in conjunction with the jurisdictions of Maryland, Virginia, Pennsylvania, Delaware, West Virginia, New York, and the District of Columbia, developed and, on December 29, 2010, established a nutrient and sediment pollution diet for the 64,000 square mile

Chesapeake Bay watershed, consistent with Federal Clean Water Act requirements, to guide and assist Chesapeake Bay restoration efforts. This pollution diet is known as the Chesapeake Bay Total Maximum Daily Load (TMDL). NRCS recently released a study, "Assessing Conservation Practices on Cultivated Cropland in the Chesapeake Bay Region". The study shows the opportunities for further reductions of sediment and nutrient losses from agriculture by focusing conservation activities on the most vulnerable acres.

Warren Formo, stated that the Minnesota Ag Water Resources Coalition (MAWRC) recently visited the Bay area to assess past and planned activities. Mr. Formo stated that there are some potential approaches and ideas that could be relevant for Minnesota. Minnesota needs to stay involved; we can learn from one another, and from EPA's achievements in the Chesapeake Bay area. Chair Napstad thanked Rich Batiuk and Warren Formo for coming in today.

OLD BUSINESS
Chair Napstad requested that board members submit the Conflict of Interest Declaration forms.

Allocation of Available Clean Water Funds – John Jaschke explained that BWSR has received numerous appropriations over the past four years for the Clean Water Legacy and Clean Water Fund programs. Funds have been awarded to local governments for a variety of projects and activities. Funds are occasionally returned when a project has been completed under budget, or project components cannot be completed. The resolution will allow highly ranked proposals to be authorized with the returned funds.

** 11-32 Moved by Paul Brutlag, seconded by Quentin Fairbanks, to authorize the Executive Director to allocate funds to eligible local units of government that have previously made an application for funds consistent with the intent of prior Board resolutions, governing appropriations and statutes. Discussion followed. Faye asked about the Stearns County allocation. Jeff Hrubes stated that Stearns County's allocation was about $23,000.

John Jaschke reported that Conflict of Interest Declaration forms were received, all board members are eligible to vote on this matter. Motion passed on a voice vote.

Adjustment to 2011 BWSR Board Meeting Schedule – John Jaschke explained that the schedule for Board decision-making related to the anticipated Clean Water Fund (CWF) grants will necessitate adding a July meeting if the Legislature's adjournment remains on schedule for May 23. To keep meetings to a minimum, we are planning

** to cancel the May 25th meeting, and add a July 27th meeting. Moved by Louise

11-33 Smallidge, seconded by Sandy Hooker, to approve the revised 2011 BWSR Board Meeting Schedule, eliminating the May 25th meeting; and adding the July 27th meeting. Motion passed on a voice vote.

AGENCY REPORTS

Minnesota Department of Agriculture – Matthew Wohlman reported that Barbara Weismann continues to lead the Farm Bill interagency team, a partnership effort in collaboration with MDA, BWSR, DNR, and MPCA. Matt stated that recommendations for the Farm Bill focus on conservation policy to leverage federal dollars.

Minnesota Department of Health (MDH) – Linda Bruemmer reported that next week is "Drinking Water Week". Events will be held in St. Peter. MDH encourages stopping the drinking of commercial bottled water, the City of Minneapolis has adopted that effort also.

Tom Landwehr left the meeting at 11:45 a.m.

Minnesota Extension Service – Faye Sleeper reported that the College of Food, Ag and Natural Resource Science is holding a symposium, "Water and Agriculture in the 21st Century", May 6th, 9:00– 3:30, at the St. Paul Student Center. Faye invited board members to attend, the symposium is free, but pre-registration is required.

Minnesota Pollution Control Agency (MPCA) – Gaylen Reetz reported that SWCDs will be eligible for Clean Water Partnership funds if proposed legislation is passed; MPCA recognizes that SWCDs are an important part of clean water efforts.

ADVISORY COMMENTS

Minnesota Association of Townships (MAT) – Sandy Hooker reported that MAT is planning a celebration in September in Washington, D.C.

Natural Resources Conservation Service – Tim Koehler reported that NRCS has a new WRP initiative in the Red River Basin, $10M allocated to MN and ND to start this water plan. Tim stated that the NRCS Farm Bill program workload has been split in two. Tim is working on easements and CRP; Myron Taylor is working on cost-share programs EQIP and CSP. NRCS has hired additional staff for RIM-WRP easements. Tim continues to work with Kevin Lines and BWSR staff on easements. Tim reported that the Red River Basin Commission formed a retention authority to deal with retention and water quality issues in the Basin. There is a need to secure easements for flood mitigation and wildlife. Keith Mykleseth stated that the Flood Damage Reduction Work Group plays a part in the funding allocation Tim is reporting on. Tim stated that Don Baloun has been with Minnesota NRCS a year as State Conservationist!

UPCOMING MEETINGS

Chair Napstad reported that the next BWSR Board Meeting is June 22, 2011, in St. Paul.

Chair Napstad stated that the Southern Water Planning Committee meets immediately following adjournment of the Board meeting; then the Public Relations, Outreach, and Strategic Planning Committee meets today immediately following adjournment of the Southern Water Planning Committee meeting. The Metro Water Planning Committee will meet on May 31, immediately following the 7:00 p.m. public hearing, in Blaine. The Northern Water Planning Committee meets June 8, location to be determined.

** 11-34 Moved by Louise Smallidge, seconded by LuAnn Tolliver, to adjourn the meeting at 12:10 p.m.

Respectfully submitted,

Mary Jo Anderson
Recorder

Board of Water and Soil Resources
Grants Conflict of Interest Declaration

Meeting: Farm Bill Assistance Program Grants **Date: June 22, 2011**

Policy 08-01: Grants Conflict of Interest Minnesota state agencies must work to deliberately avoid both actual and perceived conflicts of interest related to grant-making at both the individual and organizational levels. When a conflict of interest concerning state grant-making exists, transparency shall be the guiding principle in addressing it.

Grant Making Meeting Procedure
Meetings that are part of the grant making process will include an agenda item to identify and disclose actual or perceived conflicts of interest. During this agenda item, the chair of the meeting shall make a statement that defines what a conflict of interest is and a request that meeting participants disclose any actual or perceived conflicts. This statement is as follows:

Agenda Item: Conflicts of Interest Declaration.
Chair Statement: *"A conflict of interest whether actual 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 identify any potential conflicts of interest they may have regarding today's business."*

This form provides Board of Water and Soil Resources (BWSR) grant reviewers an opportunity to disclose any conflicts of interest, or potential for conflicts of interest that exist during a grant making process. It is the grant reviewer's obligation to be familiar with the Conflict of Interest Policy for State Grant-Making and to disclose any conflicts of interest. The grant reviewer is not required to explain the reason for the conflict of interest as this form is considered public data under Minn. Statute 13.599-Grants. **A disclosure does not automatically result in the grant application reviewer being removed from the review process.**

Please read the descriptions of conflict of interest below and mark the appropriate box that pertains to you and your status as a reviewer of this grant.

Descriptions of conflicts of interest: - A conflict of interest shall be deemed to exist when a review of the situation by the grant reviewer (or other agency personnel) determines any one of the following conditions to be present:

(a) A grant reviewer uses his/her status or position to obtain special advantage, benefit, or access to the grantee or grant applicant's time, services, facilities, equipment, supplies, badge, uniform, prestige, or influence.

(b) A grant reviewer receives or accepts money or anything else of value from a state grantee or grant applicant or has equity or a financial interest in or partial or whole ownership of an applicant organization.

(c) A grant reviewer is an employee of a grant applicant or is a family member of anyone involved in the grantee or grant applicant's agency.
(d) A grant reviewer is in a position to devise benefit by directly influencing a grant-making process to favor an organization the grant reviewer has an interest in.

- ☐ Based on the descriptions above, I do not have a conflict of interest.
- ☐ Based on the descriptions above, I have or may have an actual or perceived conflict of interest, which I am listing below. *(The grant reviewer should list the specific grant-making evaluation, recommendation, or allocation with which they may have a conflict of interest. The grant reviewer may describe the nature of the conflict in the space below, but this information is not required since this form is considered public information.)*

  _____
  _____
  _____
  _____
  _____

  (*continue below or on an attachment if needed*)

- ☐ Based on the descriptions above, I am unable to participate in this evaluation, recommendation or allocation process because of a conflict of interest.

If at any time during the grant-making process I discover a conflict of interest, I will disclose that conflict to the meeting chair immediately.

Name:_____

Signature:_____

All forms must be submitted to the lead staff for the meeting and filed with the meeting agenda by the BWSR Grant Coordinator upon completion.

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Dispute Resolution Committee Report

Meeting Date: June 22, 2011

Agenda Category: ☐ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☐ Decision ☐ Discussion ☒ Information

Section/Region: Land and Water Section

Contact: Travis Germundson

Prepared by: Travis Germundson

Reviewed by: _____ Committee(s)

Presented by: Paul Brutlag/Travis Germundson

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED
None

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

Dispute Resolution Committee Report. The report provides a monthly update on the number of appeals filed with the BWSR.

Dispute Resolution Report
June 9, 2011
By: Travis Germundson

There are presently **18** appeals pending. All of the appeals involve WCA except File 10-10. There have been no new appeals filed since the last report (April 27th 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 11-5 (4-13-11) This is an appeal of a forestry exemption decision in Carlton County. This involves the same location and similar issues as File 10-16. The LGU under a remand reversed their previous decision and denied the after-the-fact forestry exemption application for the construction of a forest logging road. Now that denial is being appealed by the Minnesota Timber Producers Association on behalf of the landowner. *The appeal has been granted and a pre-hearing conference is in the process of being scheduled.*

File 11-4 (2-13-11) This is an appeal of a restoration order in Aitkin County. The appeal regards the excavation, draining, and filling of wetlands resulting in over 2 acres of impact. Additional impacts from scope and effect of the new drainage ditch and lowering of culvert have not been calculated. The appeal has been placed in abeyance and the Restoration Order stayed for the submittal of supporting documentation and for the Technical Evaluation Panel to convene on site and develop written findings of fact.

File 11-3 (2-11-11) This is an appeal of a restoration order in Waseca County. The appeal regards the draining and filling of approximately 8.3 acres of a Type 2 wetland. This involves the same location and similar issues as File 11-2. The appeal has been placed in abeyance and the restoration order stayed until the there is a final decision on the appeal of the exemption and no loss determinations (File 11-2). *The appeal has been combined with File 11-2 and will be processed as one decision.*

File 11-2 (1-24-11) This is an appeal of an exemption and no-loss determination in Waseca County. The appeal regards the denial of an exemption and no-loss application. A previous denial of the same exemption and no loss application had been appealed (File 8-4). The appeal was remanded for or further technical evaluation and a hearing, and now the current denial has been appealed. *The appeal has been combined with File 11-3 and will be processed as one decision.*

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.

File 10-15 (11-29-10) This is an appeal of a restoration order in Mille Lacs County. The appeal regards the filling of approximately 5,800 square feet of wetland for lakeshore access and to create a larger recreational area. The appeal has been placed in abeyance for submittal of technical analyses of the onsite drainage modifications.

File 10-12 (8-27-10) This is an appeal of a restoration order in St. Louis County. The appeal regards the excavation and filling of approximately 43,394 square feet of wetland and the construction of over 1,000 feet of drainage ditches. The appeal has been placed in abeyance and the restoration order stayed to allow the LGU to respond to the data practices request and for the TEP to convene and develop written findings. The appellant has recently applied for an after-the-fact wetland application to retain the open water areas on the site.

File 10-10 (6-10-10) This is an appeal filed under Minn. Stat. 103D.535 regarding an order of the managers of the Wild Rice Watershed District not to go forward with the Upper Becker Dam Enhancement Project as proposed. Appeals filed under 103D.535 require that the Board follow the Administrative Procedures Act. The Act requires that the hearing be conducted by an Administrative Laws Judge through the Office of Administrative Hearings. The appeal has been placed in abeyance pending settlement discussions. A verbal settlement agreement has been reached by the parties. (at the December 2001 Board meeting, Managers voted 6 to 1 to move forward with Option D)

File 10-7 (2-19-10) This is an appeal of a restoration order in Stearns County. The appeal regards draining and filling impacts to approximately 18.44 acres of Type2/3 wetland and 3.06 acres of Type 2 wetland. The appeal has been placed in abeyance and the restoration order stayed for submittal of "as built" or project information pertaining to a public drainage system.

File 10-3 (2-1-10) This is an appeal of a restoration order in Stearns County. The appeal regards the placement of agricultural drain tile and the straightening and rerouting of a county ditch that resulted in over 12 acres of wetland impacts. The appellant has granted BWSR additional time to make a decision on the appeal. No decision has been made on the appeal.

File 09-22 (10-02-09) This is an appeal of a restoration order in Carlton County. The appeal regards three separate investigation areas encompassing over 18 acres of wetland impacts from excavation, filling, and ditching. The replacement order has been stayed and the appeal has been placed in abeyance pending further technical work and for submittal of complete wetland replacement plan, exemption, or no-loss application.

File 09-13 (8-20-09) This is an appeal of an exemption decision in Otter Tail County. The appeal regard the denial of an exemption request for agricultural/drainage actives. A previous denial of the same exemption decision had been appealed (File 09-6). The appeal was remanded for further technical evaluation and a hearing, and now the current denial has been appealed. The appeal has been granted. A pre hearing conference convened on November 12, 2009. At which time parties agreed to hold off scheduling written briefs until the petition before NRCS is concluded. The appeal has been placed in abeyance by mutual agreement until there is a final decision by the Department of Agriculture National Appeals Division.

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 pre-hearing conferences convened on October 13 and 30, and December 14, 2009. 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 on determining the viability of a new wetland banking plan application.

File 09-3 (2-20-09) This is an appeal of a replacement plan decision in Anoka County. The appeal regards the approval of a wetland replacement plan for 11,919 square feet of impacts associated with a residential development. The appeal has been placed in abeyance and the replacement plan decision stayed for submittal of a revised replacement plan application. The three owners are also in the process of splitting up the property.

File 08-9. (03/06/08) This is an appeal of a replacement order in Pine County. The appeal regards impacts to approximately 11.26 acres of wetland. The replacement order has been stayed and the appeal has been placed in abeyance pending disposition with the U.S. Dept of Justice.

File 06-23. (05/19/06) This is an appeal of a replacement plan decision in Kanabec County. The LGU denied the wetland replacement plan application. A previous denial of the same replacement plan application had been appealed, the appeal was remanded for a hearing, and now the current denial has been appealed. The appeal has been placed in abeyance pending the outcome of a lawsuit between the landowner and the county. The lawsuit concerns the county's possible noncompliance with the 60-day rule. The county prevailed in district court; however the decision was appealed to the Court of Appeals where the county again prevailed. An appeal to the Minnesota Supreme Court was denied review. It is likely the appeal will soon be placed on the calendar for DRC proceedings.

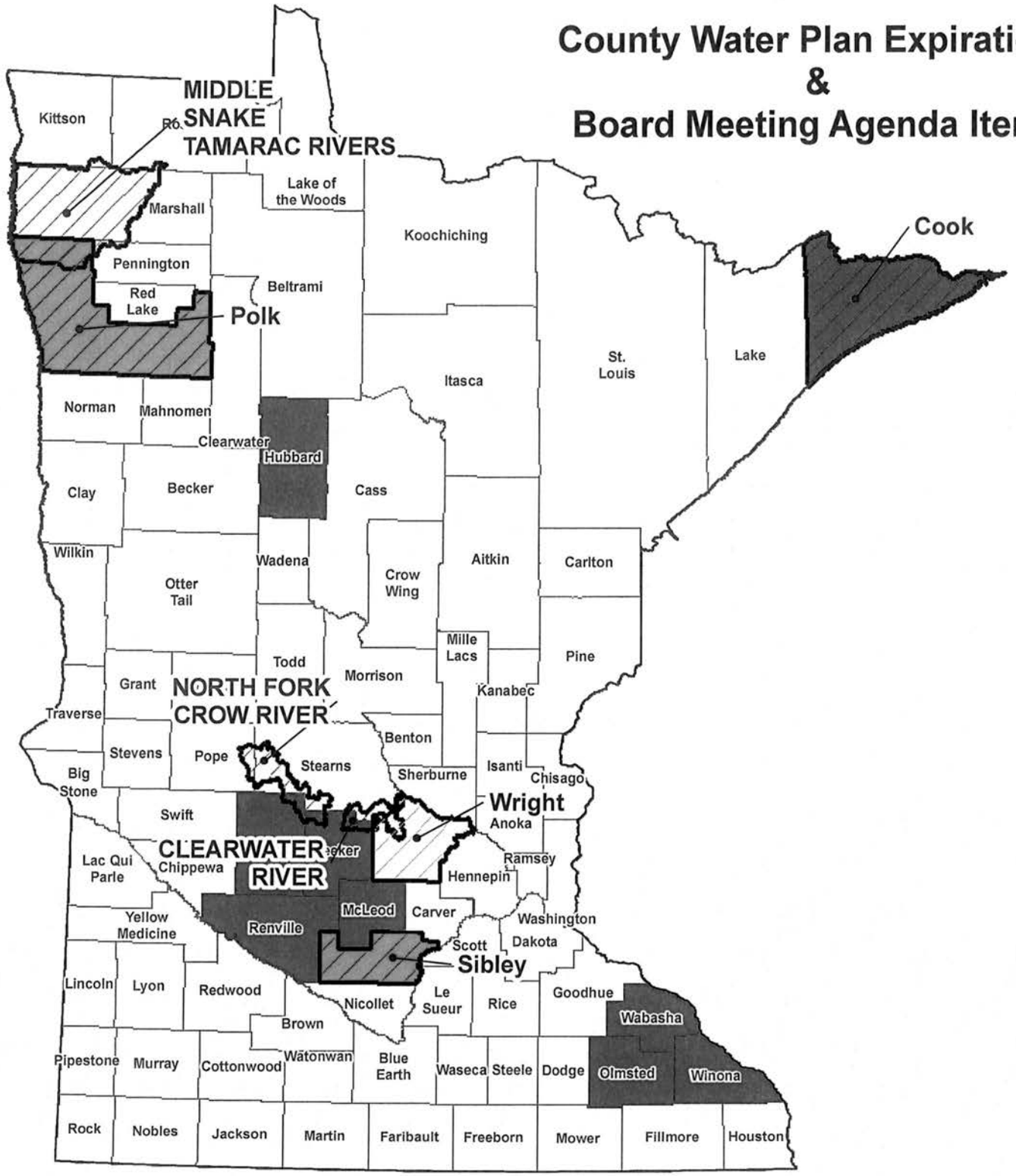
File 06-17. (05/27/06) This is an appeal of a replacement plan decision in the City of Montgomery in LeSueur County. The LGU denied an after-the-fact wetland replacement plan application based on a lack of sufficient reasons why the restoration could not be completed. The appeal was been remanded for further processing at the local level. The City of Montgomery has gradually been working on removing the debris and restoring the wetland in accordance with MPCA requirements.

File 05-1. (01/13/05) This is an appeal of a replacement plan decision by the Rice Creek Watershed District. The District previously made a decision that was appealed which resulted in a remand for an expanded TEP. Now there is an appeal of the decision made under remand since the decision differed from the TEP report. At issue are wetland delineation and the Comprehensive Wetland Protection and Management Plan that BWSR approved. After a hearing before the DRC, the board remanded the matter for new wetland delineation and for submission on an updated, complete replacement plan application. On 12-9-09 the District made a new wetland delineation decision. The applicant has not yet submitted an updated replacement plan application.

Draft Summary Table

Type of Decision	Total for Calendar Year 2010	Total for Calendar Year 2011
Order in favor of appellant	2	
Order not in favor of appellant	5	
Order Modified		
Order Remanded	1	
Order Place Appeal in Abeyance	5	3
Negotiated Settlement	1	
Withdrawn/Dismissed	3	

County Water Plan Expirations & Board Meeting Agenda Items



Plan Expires

- Overdue
- 2011
- 2012
- Beyond 2012

Items on June 2011 Agenda

- Clearwater River WD
- Cook County
- Middle-Snake-Tamarac Rivers WD
- North Fork Crow River WD
- Polk County
- Sibley County
- Wright County

Minnesota Board of Water & Soil Resources
WWW.BWSR.STATE.MN.US

N

June 2011

COMMITTEE RECOMMENDATIONS

Grants Program & Policy Committee

1. Grants Monitoring, Reconciliation, and Verification Policy – Dave Weirens - ***DECISION ITEM***

2. Authorizing the FY12 Clean Water Fund Competitive Grants Program – Dave Weirens - ***DECISION ITEM***

3. Farm Bill Assistance Program Grant Awards – Tabor Hoek - ***DECISION ITEM***

4. Non-Point Engineering Assistance (NPEA) Program Policy – Dave Weirens and Mark Hiles - ***DECISION ITEM***

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Grants Monitoring, Reconciliation, and Verification Policy**

Meeting Date: June 22, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business
Item Type: ☒ Decision ☐ Discussion ☐ Information
Section/Region: LAND & WATER
Contact: Dave Weirens
Prepared by: Dave Weirens
Reviewed by: GRANTS PROGRAM & POLICY Committee(s)
Presented by: Dave Weirens

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☒ **Resolution** ☐ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☒ Amended Policy Requested
☒ New Policy Requested
☐ Other: _____

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

ACTION REQUESTED

Board approval of the resolution which contains the following actions:

1. Adopt the Grants Monitoring, Reconciliation and Verification Policy;
2. Rescind Board Resolution #10-64 - Revising Cost Share Grant Program Closeout Procedures; and
3. That with adoption of the above referenced policy, acknowledge that BWSR is in compliance with Office of Grants Management Policies 08-08 and 08-10.

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
The Grants Program & Policy Committee is requesting the Board adoption of the policy and process to comply with Office of Grants Management Policies 08-08 (Grant Payments) and 08-10 (Grants Monitoring) as the May 2010 Office of Legislative Auditor Report found that BWSR was not in compliance with these policies. Since the release of the May 2010 Audit report, BWSR staff have been developing a comprehensive grant oversight system that will bring the Board into compliance with these policies. In addition, the proposed Grants Monitoring, Reconciliation and Verification Policy incorporates the elements of Board resolution #10-64 thereby enabling the Board to rescind this Resolution.

The Grants Program and Policy Committee met on June 13, 2011 to review documents associated with this resolution.

Board Resolution # 11-37

Grants Monitoring, Reconciliation, and Verification Policy

WHEREAS, Board Resolution #10-05, Implementation of Minnesota Grants Management Policies, adopted at the January 28, 2010 Meeting, resolved compliance with Minnesota Grants Management Policies, excluding policy 08-08 (Policy on Grant Payments) and 08-10 (Policy on Grant Monitoring); and,

WHEREAS, the Office of the Legislative Auditor issued a report on May 27, 2010 that found that BWSR was not in full compliance with policies 08-08 and 08-10; and

WHEREAS, a staff team was established in May 2010 to bring BWSR into compliance with these policies while establishing a unified system to monitor, close out, reconcile, and verify grant activities that will increase grant program administrative efficiency, while continuing to ensure a high degree of compliance and substantial project outcomes; and

WHEREAS, on March 10, 2010, the Board received an exception from the Office of Grants Management on Policy 08-08 which requires annual reconciliation on all grants receiving advance payments, and has requested an exception to policy 08-10 which, if granted, will establish a three-payment and reconciliation schedule for all competitive grants; and,

WHEREAS, the implementation of the BWSR Grants Monitoring, Reconciliation, and Verification Policy will result in the:

- Annual monitoring of all grants in accordance with policy 08-10; and,
- Make competitive grant payments in three parts, with each grant being reconciled prior to making the second and third payments; and,
- Perform annual financial verifications of grant reconciliations on ten percent of grants in compliance with Policy 08-08 and 08-10; and,

WHEREAS, in the current Board Resolution # 10-64, Revising Cost Share Grant Program Closeout Procedures resolved elements concerning Soil and Water Conservation District Grant Closeout Reporting, BWSR Monitoring Procedures, and BWSR Closeout Procedures, are incorporated into the BWSR Grants Monitoring, Reconciliation, and Verification Policy; and

WHEREAS, the Grants Program and Policy Committee reviewed the Grants Monitoring, Reconciliation and Verification Policy on June 13, 2011 and recommends the Board adopt said policy.

NOW THEREFORE, be it resolved that the Board adopts the *BWSR Grants Monitoring, Reconciliation, and Verification Policy* and rescinds the Board Resolution # 10-64.

Date: 6/22/11

Brian Napstad, Chair
Board of Water and Soil Resources

Attachments:
(1) Board Resolution #10-05, Implementation of Minnesota Grants Management Policies
(2) BWSR Grants Monitoring, Reconciliation, and Verification Policy
(3) Board Resolution #10-64, Revising Cost Share Grant Program Closeout Procedures

Minnesota Board of Water & Soil Resources

Grants Monitoring, Reconciliation And Verification Policy

June 22, 2011

Table of Contents

1.0 Policy Purpose and Background 1

2.0 Definition of Terms 2

3.0 Policy Statement 2

4.0 Implementation Plan 2

1.0 Policy Purpose and Background

The May 27, 2010 Office of Legislative Auditor Report found that BWSR was not in compliance with Office of Grants Management (OGM) Policies 08-08 and 08-10. Policy 08-08 requires annual financial reconciliation for grants with advance payments. Policy 08-10 sets monitoring and reconciliation requirements for grants greater than $50,000 and other additional requirements for grants greater than $250,000. The OLA report stated that "*The Board of Water and Soil Resources did not fully implement Office of Grants Management oversight policies.*" The report recommended the following:

The board should reconcile grant recipients' actual expenditures in a timely manner to ensure that the grantees used the funds in accordance with the grant agreements, as required by state policies.

The board should formalize its grants oversight procedures, including the procedures used to conduct and document financial monitoring visits.

The board should enhance its electronic reporting system so that it has sufficient detail about grant recipients' expenditures and has evidence of review or approval of the expenditure reports options considered.

This policy is adopted in response to the recommendations contained in the OLA Report dated May 27, 2010. The implementation of this policy supports the exemption requests approved by the OGM dated March 10, 2011, and is intended to put BWSR into compliance with OGM policies 08-08 and 08-10.

2.0 Definition of Terms

2.1 Monitoring – The purpose of monitoring is to review, and to document that the grantee is making progress implementing the grant and complying with the grant agreement.

2.2 Final Financial Report– This report is forwarded to BWSR by LGU after all grant funds have been spent or grant agreement expires. The final financial report is reviewed for approval by BWSR staff and does not require on site review in the LGU office.

2.3 Reconciliation – The review of project expenses based on LGU submittal of invoices and reports. Reconciliation may be performed in BWSR offices and is used to approve final grant payment.

2.4 Verification – Reconciliation with demonstrated evidence of expenditures. Verification is most often conducted in the LGU office.

3.0 Policy Statement

The BWSR Grants Monitoring, Reconciliation, and Verification policy requires:

- That BWSR staff annually monitor all grants;
- That competitive conservation program grants be paid in three scheduled payments and;
- That financial verification of grant reconciliations will be performed on ten percent of all BWSR grants annually.

This policy will be implemented beginning in FY 2012.

4.0 Implementation Plan

The BWSR Grants Monitoring, Reconciliation, and Verification Policy will be implemented according to a strategy developed by staff and reviewed with the Board or its designated committee.

Grants Monitoring, Reconciliation, and Verification Background

Report Date: June 22, 2011

Purpose and Background

The May 2010 Office of Legislative Auditor Report found that BWSR was not in compliance with Office of Grants Management (OGM) Policies 08-08 and 08-10. Policy 08-08 requires annual financial reconciliation for grants with advance payments. Policy 08-10 sets monitoring and reconciliation requirements for grants greater than $50,000 and other additional requirements for grants greater than $250,000. SMT created a work group to establish a unified system to monitor, close out, reconcile, and verify grant activities that will increase grant program administrative efficiency, while continuing to ensure a high degree of compliance and substantial project outcomes. The work group was also charged with developing rationale to justify exceptions from OGM policies as deemed necessary.
Grants Monitoring Team Members:

- Ron Shelito – Chair
- Tom Fischer
- Matt Drewitz
- Conor Donnelly
- Wayne Zellmer
- Dave Weirens and Bill Eisele, as needed

Key Findings and Recommendations from the Office of the Legislative Auditor (OLA) Internal Controls and Compliance Audit Report May 27, 2010

Finding 2 The Board of Water and Soil Resources did not fully implement Office of Grants Management oversight policies. The board had the following weaknesses in its oversight of the grant programs we reviewed:

- The board did not timely reconcile granted funds to actual grantee expenditures, as required by state policy 8.
- The board did not have standardized procedures or documented evidence to substantiate grant-monitoring activities 10.
- Although the board required grantees to periodically report expenditures through an electronic system it developed, the reports did not contain sufficient detail to determine the appropriateness of the expenditures.

Recommendations

- *The board should reconcile grant recipients' actual expenditures in a timely manner to ensure that the grantees used the funds in accordance with the grant agreements, as required by state policies.*
- *The board should revise the due dates for the Cost Share Work Grant close out reports to comply with the deadline required by the board's policy.*
- *The board should formalize its grants oversight procedures, including the procedures used to conduct and document financial monitoring visits.*
- *The board should enhance its electronic reporting system so that it has sufficient detail about grant recipients' expenditures and has evidence of review or approval of the expenditure reports options considered.*

Definition of Terms

- Monitoring – The purpose of monitoring is to review, and to document that the grantee is making progress implementing the grant and complying with the grant agreement.
- Final Financial Report– This report is forwarded to BWSR by LGU after all grant funds have been spent or grant agreement expires. The final financial report is reviewed for approval by BWSR staff and does not require on site review in the LGU office.
- Reconciliation – The review of project expenses based on LGU submittal of invoices and reports. Reconciliation may be performed in BWSR offices and is used to approve final grant payment.
- Verification – Reconciliation with demonstrated evidence of expenditures. Verifications are most often conducted in the LGU or grant recipient's office.

Recommended Policy and Implementation Plan

The BWSR Grants Monitoring, Reconciliation, and Verification policy requires:

- That BWSR staff annually monitor all grants;
- That competitive conservation project grants be paid in three scheduled payments and;
- That financial verification of grant reconciliations will be performed on ten percent of all BWSR grants annually.

The BWSR Grants Monitoring, Reconciliation, and Verification Policy will be implemented beginning FY2012 as follows:

1. Conservation Program and Operations Grant (CPOG) Monitoring

   BWSR staff will review and approve all required annual reports in conjunction with the appropriate reporting deadline. BWSR staff will annually conduct report reviews and address non-compliance issues before the June BWSR meeting. The Grants Administrator will annually present a grants monitoring report to the BWSR Board at the June Board meeting.

   As part of the monitoring process, the LGU will submit a final financial report that will be reviewed and approved by BWSR staff. The purpose is to confirm the completion of the grant.

   BWSR staff will use an on-line grant monitoring journal to further document informal conversation, emails, and other contact with grant recipients as part of the BWSR oversight and monitoring process.

2. Project Grants Payments Schedule

   The payment schedule for all competitive conservation project grants includes three payments:

   - Initial payment of (50%) after the grant agreement is executed,
   - Midterm payment of (40%) after a midterm reconciliation has been approved by BWSR and,
   - Final payment (10%) made upon final grant reconciliation.

3. Grant Verifications

   BWSR will annually perform financial verifications on a minimum of 10% of all grants. A minimum of four (4) counties will be selected in the BWSR north region, four (4) in the south region, and one (1) in the metro region. Grants issued in the compatible year from the previous biennium for all grant recipients in the selected counties will be verified. For instance if we are in year one of the current biennium, grants from year one of the previous biennium will be reviewed in the selected counties. Additional local governments may be added for verification as warranted. Verification of the grant recipient's expenditures will determine compliance with statute, rule, and the grant agreement.

What's new in this policy?

1. Random verification of ten percent of all grants being annually,
2. Annual monitoring of all grants and improved documentation,
3. On Line Journal for added documentation of monitoring efforts,
4. Three scheduled payments for competitive conservation project grants and
5. Monitoring and financial verification report to the board in June of each year.

What's combined as a result of the new policy

1. NRBG Match Verification Process is discontinued and rolled into the 10% verification process
2. SWCD Web reviews are included in the annual monitoring efforts
3. Cost Share closeout process is rolled into the 10% financial verification process
4. Potential For:
    a. PRAP to be combined with verifications
    b. WCA Spot Checks to be done consistent with verifications

How We Got There

The following options were considered by the Grants Monitoring Work Group and are based on the FY 2011 issuance of 1,200 grants.

1) Strict Reconciliation as per OGM Policies: This option would require switching all BWSR grants to a reimbursement schedule. The workgroup assumed a quarterly invoice and reimbursement schedule. BWSR issued 1,200 grants in FY2011. The team used this number in its development of cost estimates.

2) Grants Monitoring Team 180 Option: This option proposes a two phased approach. Phase 1 would require annual monitoring of all BWSR grants (1,200) after the February 1 deadline. Phase 2 would enact a system of verifying the financial reconciliation on a random basis for 10% of BWSR's grants and all grants over $50K. This would result in 180 grants requiring verification each year.

3) Grants Monitoring Team 120 Option: This option proposes the same two-phased approach listed in option 2, but the number of grants verified is based only on 10% of the total grant number or approximately 120 grants.

4) Competitive Grants Scheduled Payment Options: This option distinguishes competitive grants from conservation program and operation grants (CPOG) (i.e. base grants). This option proposes that competitive grants be set up on a reimbursement schedule with one upfront payment, a midpoint reimbursement/reconciliation, and a final reconciliation and payment based on invoices and reporting requirements. CPOGs would be annually monitored and staff will review all required annual reports in conjunction with the appropriate reporting deadline. This combined approach strengthens BWSR's annual monitoring and documentation of CPOGs, while putting more emphasis on a reimbursement for competitive grants.

5) The recommended approach combines elements of options 3 and 4 and results in a process that requires :

    - Annual monitoring of all grants
    - Payments for competitive conservation program grants on a pre-determined schedule
    - Ten percent verification of all grants on an annual basis

Rationale for Recommended Option

The grants monitoring team believes that the combination of annual monitoring of all grants, scheduled payments for competitive grants, random financial reconciliation of 10% of BWSR grants, greater documentation of monitoring activities, final grant closeouts, and annual reports to the BWSR board provides comprehensive oversight that will meet or exceed the requirements of OGM policies 08-08 and 08-10.

OGM Policies Exceptions

The recommended option requires exceptions from OGM policies 08-08 and 08-10. OGM policy 08-08 states in part that *"all advance payments on grants must be reconciled within 12 months of the beginning of the grant period."* OGM policy 08- 10 states that *" It is the policy of the State of Minnesota to conduct at least one monitoring visit per grant period on all state grants of over $50,000 and to conduct at least annual monitoring visits on grants of over $250,000."* Policy 8-10 also states that *"State agencies must also conduct a financial reconciliation of grantees' expenditures at least once during the grant period on grants over $50,000."*

IN FY2011 BWSR processed 1,200 individual grants, all pre- paid. Approximately 70 of these grants exceed the $50,000 limit referenced in OGM policy 08-10, which triggers an annual monitoring visit. The workgroup believes that reconciling all 1,200 grants annually would be a great burden on existing BWSR staff and would add additional workload to already taxed LGU staff. The workgroup discussed the possibility of converting to a reimbursable approach for all 1,200 BWSR grants to avoid the annual reconciliation requirement for those under $50,000. The workgroup concluded that the added effort required would not be manageable without additional staff. The additional effort needed at the LGU level would also likely cause problems. In addition, LGU cash flow could be hampered if BWSR went to a reimbursement based approach for all grants.

With the above rationale in mind BWSR submitted exception requests to the OGM on December 7, 2010 seeking an exception from the OGM policy 08-08 requirement that all advance payments be reconciled within 12 months. BWSR also requested exception from OGM policy 08-10 requiring financial reconciliation of grants over $50,000 at least once during the grant period.

The exemption request proposing scheduled payments for Conservation Projects Grants from Policy 08-08 was approved on March 10, 2011. The approval of this exception requires an up-front, midterm, and final payment schedule and only for those grants where a midterm and final reconciliation will be completed prior to making payment.

We are still waiting on final approval of the Conservation Programs and Operations grants exception request.

Comparison of Options

Table 1: Grants Monitoring and Verification Estimated Additional Costs		
Options	**Estimated Additional Hours**	**Estimated Additional Staff Costs**
Option 1: Strict Reconciliation as per OGM Policies	10,800	$379,600
Option 2: Grants Monitoring Team 180 Option	4,704	$164,570
Option 3: Grants Monitoring Team 120 Option	3,264	$114,170
Option 4: Competitive Grants Scheduled Payment Options with annual monitoring of CPOGs. a. All Competitive Grants b. Competitive Grants >$50K c. Competitive Grants >$250K	 2,536 2,254 2,374	 $89,440 $86,920 $85,430
<u>Recommended Option</u>: Scheduled payments, annual monitoring, financial reconciliation, and 10% verification.	2,968	$119,510

All options, except for Option 1, will require an exception from the Office of Grants Management.

Costs are based on a rate of $40/hr for BWSR staff time and $30/hr for LGU staff time for a total of 1,200 grants.

Table 2: Pros and Cons of the Reimbursement Process (Option 1)	
Pros	**Cons**
Reconciliation and monitoring quarterly throughout the grant period ensures compliance with OGM policies.	Number of annual transactions increases
No reconciliation on grants <$50K	Paperwork flow may be hard to track
No OGM exception request required.	May need additional grants staff
Requires LGUs to keep current with eLINK4WEB.	Need better grants tracking system for so many transactions
The LGU may not actually need all 4 quarterly payments, as many may spend money quickly and be done in one or two quarters. They'll spend BWSR $ first.	Less time available for field staff to do other work.
	BWSR would need to make some modifications to eLINK4WEB to address the new grant compliance requirements.
	1,200 grants equals 100 grant per BC, but number of grants will be spread unevenly, which will result in varying workloads.
	Quarterly reimbursement requests will affect work scheduling.
	Possible up-to 3 month delay in making reimbursable payments to the LGU.
	Match requirements based on the reimbursement process unclear and difficult to confirm.
	May still need closeout to confirm the match and other program requirements.
	Increased administrative costs and more steps in the process for the LGU and BWSR.
	LGUs may not be able to front the money and wait until the reimbursement transaction occurs.

Table 3: Pros and Cons of the Grants Monitoring Proposal with Annual Monitoring and Spot Checks (Option 2 and 3)	
Pros	**Cons**
Annual monitoring requires less staff time than full reimbursement process (quarterly reimbursement).	Some eLINK4WEB modifications will be needed.
Results in better documentation than the current process.	Need to develop new policies and guidelines.
Spot checks provide onsite verification.	Need exception from OGM.
Annual monitoring of all grants not just those > $50K.	Increased workload for BWSR and LGUs to report and monitor every grant.
Reconciliation and verification of CPOGs we are not currently reviewing.	
Maintains up-front payments for LGUs.	
Same grants process LGUs are used to.	
Less BWSR and LGU costs compared to Option 1.	

Table 4: Pros and Cons of the Competitive Conservation Projects Grants Scheduled Payments (Option 4)	
Pros	**Cons**
Comprehensive oversight.	Scheduled payments require more administrative tracking and managing the payment process resulting in more staff time for LGUs and BWSR.
Doesn't add much additional staff time or cost.	BWSR will still need an exception from OGM.
Provides greater scrutiny for competitive grants.	
Scheduled payments allow BWSR to pay based on outcomes.	
Still includes upfront payment to help LGUs jump start projects.	
LGU controls midpoint payment time line.	

Table 5: Pros and Cons of the Recommended Option	
Pros	**Cons**
Comprehensive oversight. Combines annual monitoring of all grants with scheduled payments and reconciliations and 10% verifications.	Scheduled payments require more administrative tracking and managing the payment process resulting in more staff time for LGUs and BWSR.
Cost not prohibitive	BWSR will still need 2 exceptions from OGM.
Provides greater scrutiny for competitive grants.	Increased workload for BWSR and LGUs to report and monitor every grant and to monitor scheduled payment process.
Scheduled payments allow BWSR to pay based on outcomes.	
Still includes upfront payment to help LGUs jump start projects.	
LGU controls midpoint payment time line.	
Grant process remains basically the same for LGUs	

April 19, 2011

FY11 Allocation Summary

	Grant Program	Number	Amounts
COMPETITIVE	Conservation Drainage	3	$302,725
	CWF Clean Water Assistance	33	$3,228,286
	CWF Lake Protection Challenge	13	$99,893
	CWF Restoration Technical Assistance	12	$1,318,887
	CWF Runoff Reduction	16	$3,147,800
	CWF Shoreland Improvement	13	$1,325,417
	CWF SSTS Abatement	21	$1,357,221
	Drainage Records Modernization	3	$130,000
	FWQMG	21	$2,901,122
	MPCA SSTS Inventory	2	$366,975
	MRBI	9	$315,500
	Native Buffer	7	$385,443
	SSTS Program Enhancement	7	$370,573
NON-COMPETITIVE	DNR Shoreland Base	87	$371,029
	Easement Implementation	11	$176,000
	Easement Services	90	$282,015
	Farm Bill Assistance	31	$706,521
	General Services	90	$1,707,053
	LWM Base	87	$1,119,998
	Metro WCA Enforcement	11	$100,000
	MPCA 09 Performance Credit	51	$213,150
	MPCA CY '10 Performance Credit	50	$224,535
	MPCA Feedlot Base	55	$1,689,179
	MPCA SSTS Base	87	$730,000
	MPCA SSTS Base		$133,997
	MPCA SSTS Educational Stipend	12	$18,000
	NPEA Base	8	$1,060,000
	State Cost Share Base	90	$1,161,081
	SWCD MN Walk-In	15	$71,570
	Southern MN Flood Recovery – Phase 1	22	$863,200
	Southern MN Flood Recovery – Phase 2	14	$866,000
	WCA Base	87	$1,874,412
	Total	**921**	**$28,617,583**

Clean Water Funds

Grants Monitoring Verification Implementation Schedule

Action	Implementation Date	Who Responsible	Other Action Needed
G-Team Review Recommended GMT Policy	May 26, 2011	Ron/Dave	G-Team decision needed
SMT Update	June 2, 2011	Ron, Wayne	Finalize status report and policy.
GPP Committee	June ?	Dave	Ron and Wayne in support
Board Packet	June 10, 2011	Ron	
Board Action Item	June 10, 2011	Ron	
Board Presentation	June 22, 2011	Dave	Ron and Wayne will assist with the presentation.
Finalize Forms and Guidance	July 11, 2011	Work Team	
Select Counties	July 11, 2011 July 12, 2011 (SMT)	Dave and Regional Supervisors	
Verification Team Assignments	July 12, 2011 (SMT)	SMT	
Notify BC's	July 15, 2011	Dave	
Train Verification Team Members	July 15th to August 1st, 2011	Work Team	
Notify Counties	July 18, 2011	Dave	
Short Term electronic Journal	August 1, 2011	OAS/IT	Conor discuss electronic options with IT staff and Ron talks with regional OAS on options.
Record Retention of Verification Materials	August 1, 2011	Kari/Carla	Find location of information on W: or S: drives.
Develop DRAFT Compliance Policy	September 28, 2011 (BWSR Board Meeting)	Dave	Look at NRBG match verification compliance policy.

SELECTED GRANTS TERMS AND PROCESSES

The following are, in some cases, new terms for old processes. These terms now align with OGM policy for these terms. We believe, the implementation of these as described, will meet OGM and OLA policy and requirements.

Monitoring – The focal point for monitoring is to review, and equally important, to document that the grantee is making progress implementing the grant and complying with the grant agreement. *Not new. LGU office visit optional as needed.*

- Required of all grants
- Accomplished via
    1. eLINK detailed report (annual, semi-annual, and final) reviews and status updates
    2. Website reporting checks
    3. Memos
    4. Work plan approvals
    5. emails
    6. Reconciliations
    7. Grantee office visit (documented)
    8. Phone call (documented)
- eLINK "Journal" coming

Closeout – Initiated by LGU after all grant funds have been spent or grant agreement expires. *Performed in BC's office.*

- Required for State Cost Share (Base, CWMP, FWQM, Native Buffer, Disaster grants, CWL, CWF and other grants as required.
    1. LGU submits and BC approves Final Report
    2. LGU submits Final Financial Report
    3. LGU submits Return of State Grant Funds form (if needed)
- This term used to mean *verification*. See below. The old Cost Share Close-Out, conducted in the SWCD office, is discontinued as of now. This former procedure will be rolled into the future verification procedure.

Reconciliation – Review of project expenses based on LGU submittal of invoices and reports. *Performed in the BC's office*. Procedure used to approve final grant payment.

- Procedure currently applies only to competitive grants
- Refer to FY 10 -11 Final Payment Authorization for BWSR Competitive Grants

Verification – Reconciliation with demonstrated evidence of expenditures. *Most often conducted in the LGU office on 10% of all grants.*

- *This procedure is not currently required.*
- Scheduled to be implemented in the summer of 2011.

The old NRBG Match Verification, conducted in the LGU office, is discontinued as of now. This former procedure will be rolled into the future verification procedure.

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Authorizing the FY12 Clean Water Fund Competitive Grants Program**

Meeting Date: June 22, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Land and Water Section

Contact: Dave Weirens

Prepared by: Dave Weirens

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

Presented by: Dave Weirens

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☐ None
☐ Amended Policy Requested
☒ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☒ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

The Board is requested to adopt the recommendation of the Grants Program and Policy Committee to adopt the FY2012 Clean Water Fund Competitive Grants Policy and authorize staff to finalize, distribute and promote a request for proposals for these grants.

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

BWSR expects to be appropriated Clean Water Funds as part of an enactment of the FY12-13 State biennial budget. In anticipation of this, staff have prepared the FY2012 Clean Water Fund Competitive Grants Policy and request for proposals. These documents are based on the Legacy Legislation that was being considered as the Legislature adjourned on May 23, 2011. In addition, BWSR has been in communication with the Minnesota Department of Health and the Minnesota Department of Agriculture regarding adding related implementation programs to this RFP. Preparation of these program documents and having Board approval will minimize any delay associated with implemention following enactment of a State budget.

The Grants Program and Policy Committee met on June 13, 2011 and will meet on June 21, 2011 to review documents associated with this resolution.

Minnesota Board of Water & Soil Resources

Grants Program and Policy Committee Draft
Final Review on June 21, 2011

FY 2012 Clean Water Fund Competitive Grants
Request for Proposal (RFP)

CLEAN WATER LAND & LEGACY AMENDMENT

The Clean Water Fund was established to implement part of Article XI, Section 15, of the Minnesota Constitution, with the purpose of protecting, enhancing, and restoring water quality in lakes, rivers, and streams in addition to protecting ground water and drinking water sources from degradation. The appropriation language governing the use of these funds is in MN Special Session Laws 2011, Chapter XXX. These funds must supplement traditional sources of funding and may not be used as a substitute to fund activities or programs. Table 1 lists the various Clean Water Fund (CWF) programs available to BWSR and other executive branch agencies. Final funding decisions will be dependent on the actual funds available.

Table 1: FY2012 Competitive Clean Water Grant Funding Available

Agency Fund	FY12 Amount	Governmental Units Eligible for Funding	Required Match
BWSR Clean Water Assistance Grants	$XX,XXX,XXX	SWCDs, Watershed Districts, WMOs, Counties, Cities*, and JPBs of these organizations	25%**
BWSR Clean Water Accelerated Implementation Grants	$X,XXX,XXX	SWCDs, Watershed Districts, WMOs, Counties, Cities*, and JPBs of these organizations	25%
BWSR Conservation Drainage Grants	$XXX,XXX	SWCDs, Watershed Districts, WMOs, Counties, and JPBs of these organizations	25%
BWSR Community Partners Conservation Program Grants	$X,XXX,XXX	SWCDs, Watershed Districts, WMOs, Counties, Cities*, and JPBs of these organizations	25%
MDA Ag BMP Loans	$X,XXX,XXX	Any LGU may apply, but awards will be coordinated through existing contract holders.	Not required
MDH Well Sealing Grants	$XXX,XXX	??	50%
Total	**$XX,XXX,XXX**		

* Cities must have a state approved local water management plan. BWSR recognizes city water plans approved by a Watershed District or a Watershed Management Organization (WMO) as a State approved plan.
**Low Income SSTS Abatement Projects require a minimum 5% match

TABLE OF CONTENTS

RFP GENERAL INFORMATION 3

WHAT'S NEW FOR 2012 3
BWSR ASSISTANCE 3
MINNESOTA DEPARTMENT OF AGRICULTURE (MDA) ASSISTANCE 3
MINNESOTA HEALTH DEPARTMENT (MDH) ASSISTANCE 3
GRANT AND LOAN CATEGORIES 3
APPLICANT ELIGIBILITY 4
PROJECT PERIOD 5
PAYMENT SCHEDULE 5
PERMITTING 6
NATIVE VEGETATION 6
APPLICATION DEADLINE AND TIMELINE FOR FY2012 CLEAN WATER FUND COMPETITIVE GRANTS 6
INCOMPLETE APPLICATIONS: 6
CWF PROJECT REPORTING REQUIREMENTS 7
GRANTS AND PUBLIC INFORMATION 7
PREVAILING WAGE 7
CONFLICT OF INTEREST 8
MINIMUM SOFTWARE REQUIREMENTS 8
QUESTIONS 8

APPLICATION GUIDELINES 9

BWSR CLEAN WATER ASSISTANCE GRANTS 10
BWSR CLEAN WATER ASSISTANCE GRANTS: *GENERAL REQUIREMENTS* 10
BWSR CLEAN WATER ASSISTANCE GRANTS: *LIVESTOCK WASTE MANAGEMENT SYSTEM SPECIFIC REQUIREMENTS* 11
BWSR CLEAN WATER ASSISTANCE GRANTS: *SUBSURFACE SEWAGE TREATMENT SYSTEM (SSTS) ABATEMENT SPECIFIC REQUIREMENTS* 12
BWSR CLEAN WATER ACCELERATED IMPLEMENTATION GRANTS 14
BWSR CLEAN WATER CONSERVATION DRAINAGE GRANTS 15
BWSR COMMUNITY PARTNERS CONSERVATION PROGRAM GRANTS 17
MINNESOTA DEPARTMENT OF HEALTH (MDH) WELL SEALING PROGRAM 20
MINNESOTA DEPARTMENT OF AGRICULTURE AGBMP LOAN PROGRAM 21

Grants Program and Policy Committee Draft
Final Review on June 21, 2011

RFP General Information

What's New for 2012

1. Applicants who have previously received a grant from BWSR, must be in compliance with BWSR requirements for grantee website and eLINK reporting before grant execution and payment.
2. Applicants must have a current state approved and locally adopted water/watershed plan by October 1st, 2011 to be eligible to apply for funding.
3. Two new grant programs: Clean Water Accelerated Implementation Grants and Community Partners Grants.
4. The payment schedule has changed. Funds will be paid in three installments, with 50% of the funds paid upon execution of the grant agreement.
5. Match may be provided from any non-state source.
6. The grant period has been extended until December 31, 2014.
7. Community engagement and education must be incorporated when implementing practices, projects and activities.
8. Minimum software requirements are established.
9. Documentation of Conflict of Interest procedures is required for awardees.

BWSR Assistance

BWSR Board Conservationists are available to help applicants with grant application development and questions. A map showing the Board Conservationist work areas is available at: http://www.bwsr.state.mn.us/contact/BC_areas.pdf .

Minnesota Department of Agriculture (MDA) Assistance

Questions about the AgBMP Loan Program and requesting funds through this application can be answered by calling Dwight Wilcox or David Miller at (651) 201-6618 or AgBMP.Loans@state.mn.us.

Minnesota Health Department (MDH) Assistance

Questions about the Well Sealing Grants and requesting funds through this application process can be answered by calling XXXXXXXX.

Grant and Loan Categories

Projects must implement priority activities identified in a state approved and locally adopted local water management plan, metro county groundwater plan, local surface water management plan, surface water intake plan, well head protection plan, or activities implementing an approved total maximum daily load (TMDL).

- **BWSR Clean Water Assistance Grants.** Funds are to be used to protect, enhance and restore water quality in lakes, rivers and streams and to protect groundwater and drinking water. Activities include structural and vegetative practices to reduce runoff and retain water on the land, feedlot water quality projects, SSTS abatement grants for low income individuals, and stream bank, stream channel and shoreline protection

projects. Initial funding targets for SSTS Imminent Public Health Threat Abatement Grants and Feedlot Water Quality Management Grants have been set at $1.5 Million and $2 Million, respectively. These are initial targets and may be raised or lowered depending on the quality and number of applications received.

- **BWSR Clean Water Accelerated Implementation Grants.** These funds are for non-structural practices and activities (such as ordinances, organization capacity, and state of the art targeting tools) that complement, supplement, or exceed current state standards for protection, enhancement, and restoration of water quality in lakes, rivers, and streams or that protect groundwater from degradation.
- **BWSR Conservation Drainage Grants.** These funds are for pilot projects to retrofit existing drainage systems with water quality improvement practices, evaluate outcomes and provide outreach to landowners, public drainage authorities, drainage engineers, contractors and others.
- **BWSR Community Partners Conservation Program Grants.** These funds are to be used for community partners within a LGUs jurisdiction to implement structural and vegetative practices to reduce stormwater runoff and retain water on the land to reduce the movement of sediment, nutrients and pollutants. LGUs will be the primary applicant and provide sub-grants to community partners who are implementing practices to accomplish restoration, protection or enhancement of water quality in lakes, rivers and streams and/or protection of groundwater and drinking water.
- **MDH Well Sealing Program.** (Add detail when it becomes available).
- **MDA Ag BMP Loan Program.** Approximately $4 million will be available for eligible loans. AgBMP loans can be issued only to: rural landowners, farmers, or farm supply businesses; therefore, some urban landowners may not be eligible for AgBMP loans.

  Funding through the AgBMP Loan Program for this RFP will be coordinated with successful Clean Water Fund Grant requests made through this application. The applicant will indicate in the grant application that there is a loan component in the proposal and the amount they are requesting for loans. No additional details of the loan component will be required in the grant application; however, the applicant must fully respond to all grant project description requests. Successful applicants that are awarded grants will also receive the requested loan component, subject to other AgBMP Loan Program limitations and funding availability. Simply enter the amount of AgBMP Loan funding requested in the column labeled "XXXXXX" on the budget sheets for any project with a loan component.

Applicant Eligibility

- LGUs are eligible to receive grant funds if they are working under a current (as defined below) state approved and locally adopted local water management plan or implementing an approved total maximum daily load (TMDL). All activities must be consistent with a current watershed management plan, county comprehensive local water management plan, metropolitan local water plan, metropolitan groundwater plan, surface water intake plan or well head protection plan that has been **state approved and locally adopted by October 1, 2011**. Partner organizations such as non-

profits, watershed groups, school districts or lake associations must work in conjunction with these eligible applicants.

- Watershed management organizations and metro watershed districts are not eligible for grants if a plan is more than 10 years beyond the plan approval dates by BWSR unless the plan specifies an earlier date (that is not less than five years beyond the BWSR approval date). Non-metro Watershed Districts are not eligible if a plan is more than 11 years and 3 months beyond the BWSR approval date. Counties are not eligible if the plan is more than 10 years beyond the BWSR approval date unless properly extended. Cities must have a state approved local water management plan. BWSR recognizes city water plans approved by a Watershed District or a Watershed Management Organization (WMO) as a State approved plan.

- Any LGU eligible to receive grants may request AgBMP Loan funds; however, successful projects will be awarded the funds under existing AgBMP contracts for the jurisdiction.

Project Period

The project period starts when the grant agreement is "executed," meaning all required signatures has been obtained. Work that occurs before this date is not eligible for reimbursement with grant funds, and cannot be used as match. All grants must be completed by December 31, 2014.

If a project receives federal funds, the period of grant agreement may be extended to equal the length of time that the federal funds are available subject to limitation. The BWSR must be notified that the project is receiving federal funds before executing the grant agreement.

AgBMP Loans are available upon execution of the respective contract amendment and is available to the LGU in perpetuity or until rescinded in accordance with existing contracts.

Payment Schedule

Grant payments will be distributed in three installments to the grantee. The first payment of 50% of the grant amount will be paid after execution of the grant agreement. However, initial grant payments will be retained until applicants are in compliance with all BWSR website and eLINK reporting requirements for previously awarded BWSR grants. The grantee will provide notification to BWSR when a minimum of 50% of the grant funds have been expended. The second payment of 40% of the grant amount will be paid once the grantee has expended the first 50% of the grant and has provided BWSR with reconciliation of these expenditures. The last 10% will be paid after all final reporting requirements are met by the established reporting timelines and grantee has provided BWSR with reconciliation of these expenditures.

AgBMP Loan funds will be disbursed to participating lenders on a cost-incurred basis in accordance with existing contracts.

Permitting
If applicable, successful applicants will be required to provide sufficient documentation that the project expects to receive or has received all necessary federal, state and local permits and meets all water quality rules including those that apply to the utilization of an existing water body as a water quality treatment device. Applicants are encouraged to contact the appropriate regulatory agencies early in the project development process to ensure potential projects can meet all applicable regulatory requirements.

Native Vegetation
To the extent possible, applicable projects must have vegetation planted or seed sown only of ecotypes native to Minnesota, and preferably of the local ecotype, using a high diversity of species originating from as close to the project site as possible, and protect existing native prairies from genetic contamination. See guidance at:
http://www.bwsr.state.mn.us/native_vegetation/seeding_guidelines.pdf .

Application Deadline and Timeline for FY2012 Clean Water Fund Competitive Grants
No late submissions or incomplete applications will be considered for funding.

- August 1, 2011 — Application period begins
- **September 15, 2011** — **Application deadline at 11:59 PM***
- December 15, 2011 — BWSR Board authorizes grant awards (proposed)
- December 16, 2011 — Award notices sent out to applicants (proposed)
- January-February 2012 — BWSR grant agreements sent out to recipients
- March 15, 2012 — AgBMP Loan Program amendments sent to recipients
- March 30, 2012 — Work plan approval deadline
- April 30, 2012 — Grant execution deadline

*The application must be received by BWSR by 11:59 PM. Applications submitted by the applicant electronically before 11:59 PM and not electronically received by BWSR until after the deadline will not be considered.

Incomplete Applications:
Applications that do not comply with all application requirements will not be considered for funding, as provided below.

- Components of the application are incomplete, missing, or exceeds narrative page length requirements;
- Any required documentation is missing; and
- The match amount does not meet grant requirements.

CWF Project Reporting Requirements

- All grant recipients are required to report on the outcomes, activities, and accomplishments of Clean Water Fund grants. The grant funds may be used for local grant administration and reporting that are directly related to and necessary for implementing the activity.
- BWSR CW Funds will be administered via a standard grant agreement. BWSR will use grant agreements as contracts for assurance of deliverables and compliance with appropriate statutes, rules and established policies. Willful or negligent disregard of relevant statutes, rules and policies may lead to imposition of financial penalties on the grant recipient.
- All BWSR funded projects will be required to develop a work plan including detail relating to the outcome(s) of the proposed project. All activities will be reported via the eLINK reporting system. For more information on eLINK go to: http://www.bwsr.state.mn.us/outreach/eLINK/index.html.
- Grant recipients must display on their website the previous calendar year's detailed information on the expenditure of grant funds and measurable outcomes as a result of the expenditure of funds according to the format specified by the BWSR, by March 15th of each year.
- Completed AgBMP Loan projects must be submitted in accordance with established AgBMP procedures and be included in the LGU's annual report to the MDA.

Grants and Public Information

Under Minnesota Statute 13.599, responses to an RFP are nonpublic until the application deadline is reached. At that time, the name and address of the grantee, and the amount requested becomes public. All other data is nonpublic until the negotiation of the grant agreement with the selected grantee is completed. After the application evaluation process is completed, all data (except trade secret data) becomes public. Data created during the evaluation process is nonpublic until the negotiation of the grant agreement with the selected grantee(s) is completed.

Prevailing Wage

It is the responsibility of the grant recipient or contractor to pay prevailing wages on construction projects to which state prevailing wage laws apply (Minn. Stat. 177.42 – 177.44). All laborers and mechanics employed by grant recipients and subcontractors funded in whole or in part with state funds included in this RFP shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality. Additional information on prevailing wage requirements is available on the Department of Labor and Industry (DOLI) website: http://www.dli.mn.gov/LS/PrevWage.asp . Questions about the application of prevailing wage rates should be directed to DOLI at 651-284-5091. The Grant recipient is solely responsible for payment of all required prevailing wage rates.

Conflict of Interest

State Grant Policy 08-01, (see http://www.admin.state.mn.us/ogm_policies_and_statute.html) Conflict of Interest for State Grant-Making, also applies to BWSR grantees. Grantees' conflicts of interest are generally considered organizational conflicts of interest. Organizational conflicts of interest occur when:

1) A grantee is unable or potentially unable to render impartial assistance or advice due to competing duties or loyalties,
2) A grantee's objectivity in carrying out the grant is or might be otherwise impaired due to competing duties or loyalties, or
3) A grantee or potential grantee has an unfair competitive advantage through being furnished unauthorized proprietary information or source selection information that is not available to all competitors.

Minimum Software Requirements

The applicant must use Microsoft (MS) Office 2007 or newer software in order to utilize the applications MS Excel and MS Word documents.

Questions

This RFP and the 2012 Clean Water Fund Policy adopted by the BWSR (http://www.bwsr.state.mn.us/grants/index.html) provide the framework for funding and administration of the 2012 Clean Water Fund Competitive Grant Program. Questions regarding grant applications should be directed to your area Board Conservationist or Clean Water Specialist (http://www.bwsr.state.mn.us/contact/index.html). Questions may also be submitted by email to cwfquestions@state.mn.us. Questions submitted with BWSR's responses will be posted on the BWSR website weekly. Questions regarding the AgBMP Loan Program can be made by calling (651) 201-6618 or by email to AgBMP.Loans@state.mn.us.

Application Guidelines

- Proposals should demonstrate significant, measureable project outputs and outcomes[1] that will help to achieve water quality objectives. As appropriate, outputs should include scientifically credible estimates of both short-term and long term pollutant reductions expected as a result of the project as well as other measures such as: acres of wetlands/forest, miles of riparian buffer or stream bank restored, acres treated by stormwater BMPs, acres of specific agricultural conservation practices implemented.
- Maps showing highly vulnerable drinking water supply management areas for the state can be found at http://www.bwsr.state.mn.us/easements/wellhead/index.html.
- Proposals must include one map and may include one photograph.
- Proposals must have plans for long-term maintenance and inspection monitoring for the duration of the project's effective life.
- Proposals should demonstrate that, when appropriate, a sufficient partnership exists to implement the project.
- Proposals submitted under the Clean Water Fund must request state funds that equal or exceed $30,000. Applications submitted that do not meet this minimum dollar amount will not be accepted. Actual awards may be less than this minimum when applications receive partial funding.
- Proposals from applicants that were previously awarded Clean Water Funds will be considered during the review process for the current round of funding. Applicants that have expended less than 50% of the previous award at the time of this application will need to demonstrate organizational capacity to finalize current projects and complete new projects concurrently.
- BWSR CWF grants require a minimum match of 25% (non-state) or in-kind cash value that can be directly attributed to project accomplishments.
- Projects and practices must be of long-lasting public benefit.[2]
  a. Best management practices must be designed and maintained for a minimum effective life of 10 years.
  b. Capital Improvement Projects must be designed and maintained for a minimum effective life of 25 years and LGUs must provide assurances that the landowner or land occupier will keep the project in place for the expected lifespan of the project. Such assurances may include easements, enforceable contracts, and termination or performance penalties. Capital Improvement Projects may be part of but are not expected or required to be listed in a Capital Improvement Program.

---

[1] The term "outcome" means the result, effect or consequence that will occur from carrying out the environmental program or activity associated with the application. Outcomes may be environmental, behavioral, health related or programmatic in nature but must be quantitative. They may not necessarily be achievable within the grant agreement timeline.
The term "output" or "intermediate outcome" means an environmental activity, effort and/or associated work product related to an environmental goal and objective that will be produced or provided over a period of time or by a specified date. Outputs may be quantitative or qualitative but must be measurable during the grant agreement timeline.

2 Effective life is the length of time that a project or practice provides the anticipated environmental benefits for which it was designed and the length of time that it is intended to remain in place. Periodic routine maintenance activities may be required to preserve treatment capacity for the life of the project or practice. This RFP sets out minimum standards for effective life. Information provided in the application that exceeds those standards will be considered in funding decisions. Work plans developed for funded applications will rely on the information provided in the application for operation, maintenance and inspection requirements.

BWSR Clean Water Assistance Grants

Funds are to be used to protect, enhance and restore water quality in lakes, rivers and streams and to protect groundwater and drinking water. Activities include structural and vegetative practices to reduce runoff and retain water on the land, feedlot water quality projects, SSTS abatement grants for low income individuals, and stream bank, stream channel and shoreline protection projects. Initial funding targets for SSTS Imminent Public Health Threat Abatement Grants and Feedlot Water Quality Management Grants have been set at $1.5 Million and $2 Million, respectively. These are initial targets and may be raised or lowered depending on the quality and number of applications received.

There are three types of grants under this program category:

- Clean Water Assistance Grants;
- Livestock Waste Management System Grants; and
- Subsurface Sewage Treatment System (SSTS) Abatement Grants.

BWSR Clean Water Assistance Grants:

General Requirements

Funds are to be used to protect, enhance and restore water quality in lakes, rivers and streams and to protect groundwater and drinking water. Activities include structural and vegetative practices to reduce runoff and retain water on the land, feedlot water quality projects, SSTS abatement grants for low income individuals, and stream bank, stream channel and shoreline protection projects.

Ineligible Activities

Projects or practices that address the following will not be considered:

- Stormwater conveyances that collect and move runoff but do not provide water quality treatment;
- Municipal or industrial wastewater treatment or drinking water supply facilities;
- Enforcing existing state minimum standards; and
- That has the primary purpose of water quality monitoring or assessment.

Ranking Criteria for 2012 Clean Water Assistance Grants

An interagency work team (BWSR, MPCA, MDA, MDH and DNR) will be reviewing and ranking all Clean Water Fund applications.

Table 2: Clean Water Assistance Grant Ranking Criteria	
Ranking Criteria	**Maximum Points Possible**
Project Description: The proposed project demonstrates a high potential of long-term success based on project organization and management structure, partner support and community involvement within the project area.	20
Anticipated Outcomes: The outcomes expected upon completion of the project initiatives on the water resources are identified, including a description of the resulting primary and secondary public benefits such as pollution reduction, groundwater or drinking water protection, hydrologic restoration, or aquatic health improvement.	35
Project Readiness: The application has a set of specific initiatives that can be implemented soon after grant award.	20
Prioritization and Relationship to Plan: The proposal is based on priority protection or restoration actions listed in or derived from an approved local water management plan or address pollutant load reductions prescribed in an approved TMDL.	25
Total Points Available	**100**

BWSR Clean Water Assistance Grants: *Livestock Waste Management System Specific Requirements*

General Requirements

- Eligible practices are limited to best management practices listed in the MN USDA-NRCS docket (http://efotg.sc.egov.usda.gov/references/public/MN/2011EQIPpayschedMAR9.pdf).
- Funding is limited to feedlots that are not classified as a Concentrated Animal Feeding Operation (CAFO) and have less than 500 animal units (AUs), in accordance with MN Rule Chapter 7020.
- Feedlot closures are ineligible for funding with Livestock Waste Management System Grant funds.
- Pollution reduction estimates must be provided for each specific livestock management system being addressed. MINNFARM program pollution estimates and index rating are required for all livestock management practices, except for:
  - Milk house waste facilities, or
  - Other alternative treatment systems (ex. silage leachate treatment).
- All State feedlot inventory data for funded projects must be up to date in the MPCA Delta Reporting system to be eligible for funding. The feedlot registration AU number in the application must be equal or less than the registration number in Delta.
- See the FY2012 Clean Water Fund Competitive Grants Policy for eligible and ineligible practices.

Ranking Criteria for 2012 Livestock Waste Management Systems

For purposes of the 2012 Livestock Waste Management Systems Grants, riparian areas and open lot agreement as defined as shown below.

- **Riparian Areas:** projects located in riparian areas will be given a higher priority for funding. Riparian is defined as:
  - 1000 feet from a lake,
  - 300 feet from a stream,
  - 300 feet from a DNR public water wetland,
  - 300 feet from a sinkhole,
  - 300 feet from open tile intake,
  - Within a drinking water supply management area (DWSMA), and
  - 300 feet from a private or public ditch.
- **Open Lot Agreement:** livestock operations that have signed an open lot agreement, have corrective actions that need to be taken to come into compliance with MN Rules Chapter 7020, and have actively pursued State and Federal funding.

Table 3: Livestock Waste Management System Ranking Criteria	
Ranking Criteria	**Maximum Points Possible**
MinnFARM Index	20
MinnFARM Loading (P, N, BOD)	20
Prioritization and Relationship to Plan	15
Located in Riparian Zone	25
Open Lot Agreement	20
Total Points Available	100

BWSR Clean Water Assistance Grants: ***Subsurface Sewage Treatment System (SSTS) Abatement Specific Requirements***

General Requirements

- Only identified imminent threat to public health threat systems (ITPHS) SSTS are eligible for funding.
- Project landowners must meet low income thresholds. Applicants are strongly suggested to use existing income guidelines from the U.S. Rural Development as the basis for their definition of low income.
- Projects that are proposing to construct small community cluster systems must have previously applied to the Minnesota Public Facilities Authority (PFA) Small Community Wastewater Treatment Program and have completed the appropriate technical feasibility analysis in order to be eligible for funding. (NOTE: add link)
- See the FY2012 Clean Water Fund Competitive Grants Policy for eligible and ineligible practices.
- Projects must have a minimum nonstate match of 5%.
- Priority given to projects located in Riparian Areas: Riparian is defined as:
  - 1000 feet from a lake,
  - 300 feet from a stream,
  - 300 feet from a DNR public water wetland,
  - 300 feet from a sinkhole,

- 300 feet from open tile intake,
- Within a DWSMA, and
- 300 feet from a private or public ditch.

Table 4: SSTS Abatement Ranking Criteria	
Ranking Criteria	**Maximum Points Possible**
Prioritization and Relationship to Plan	20
SSTS Located in a Riparian Zone	30
SSTS identified	50
Total Points Available	100

DRAFT

BWSR Clean Water Accelerated Implementation Grants

These funds are for non-structural practices and activities (such as ordinances, organization capacity, and state of the art targeting tools) that complement, supplement, or exceed current state standards for protection, enhancement, and restoration of water quality in lakes, rivers, and streams or that protect groundwater from degradation.

General Requirements

- Projects and activities for accelerated targeting, planning, and environmental controls (i.e., special area ordinance, targeting tools) that complement, supplement, or exceed current state standards for protection, enhancement, and restoration of water quality in lakes, rivers, and streams or that protects groundwater from degradation.
- Resulting outputs need to be incorporated into the next water management or comprehensive plan amendment/revision or otherwise be incorporated into routine activities resulting in increased water quality protection and enhancement or accelerated water quality restoration.
- Information, tools and project outputs that will lead to the more effective use of future implementation funding will be prioritized.

Ineligible projects include:

- Updating local water plans,
- Clean Water Partnership Phase 1 diagnostic studies or equivalent, and
- Land acquisition or easement payments.

Ranking Criteria for 2012 Accelerated Implementation Grants

Table 5: Clean Water Accelerated Implementation Grants Ranking Criteria

Ranking Criteria	Maximum Points Possible
Clarity of project's goals, standards addressed and projected impact on land and water management and enhanced effectiveness of future implementation projects.	40
Prioritization and Relationship to Plan: The proposal is based on priority protection or restoration actions listed in or derived from an approved local water management plan or address pollutant load reductions prescribed in an approved TMDL.	25
Means and measures for assessing the program's impact and capacity to measure project outcomes.	20
Timeline for implementation.	15
Total Points Available	**100**

BWSR Clean Water Conservation Drainage Grants

These funds are for pilot projects to retrofit existing drainage systems with water quality improvement practices, evaluate outcomes and provide outreach to landowners, public drainage authorities, drainage engineers, contractors and others.

General Requirements

All applicants, or the jurisdiction where the project work is proposed, must have submitted their current annual Public Drainage Ditch Buffer Strip Report to BWSR, if applicable.

Eligible Activities

Proposed activities must be conducted on existing drainage systems (i.e., retrofits). Eligible activities may include, but are not limited to:

- Side inlet controls to drainage ditches to reduce erosion, provide temporary detention, and sediment settling;
- Alternative tile intakes (e.g., perforated riser on an open tile intake, or dense pattern tile replacing an open tile intake),
- Buffers at side inlet or tile intake locations,
- Control structures on existing tile systems for controlled subsurface drainage,
- Woodchip Bioreactors on existing tile drainage systems,
- Technical assistance and planning to develop drainage system-scale implementation plans to achieve designated water quality and water quantity goals. The project plan should consider practices, such as culvert sizing and other hydrology management practices, on a sub watershed basis that reduce peak flows and erosion potential downstream. Plans for which technical assistance is provided must have a high potential for implementation of conservation drainage or other prioritized conservation practices, as explained in the project application, and
- Other innovative conservation drainage practices that directly improve water quality and/or manage runoff hydrology to improve water quality.

Ineligible Practices:

- Culvert replacements associated with roads,
- Bridge replacements, and
- Ambient water quality monitoring.

Required Project Components and Policies

Proposed projects must contain the following components:

- Outcomes: Proposed projects must be conducted on a reach scale or a suitable scale such that project outcomes can be evaluated,
- Outreach: The project must include an outreach component. Examples include: 1) hosting public meeting(s)/workshop(s) to discuss project objectives, benefits and results; 2) developing project fact sheets that are distributed to landowners/operators; 3) hosting field day(s) to show and discuss project objectives and outcomes on-site, and

- Practice Implementation: Proposed projects must have an on the ground implementation component. Projects only conducting planning will not be considered.

Ranking Criteria for FY2012 Conservation Drainage Grants

Project proposals will be reviewed and ranked by the interagency Drainage Management Team, with final selection by the Board of Water and Soil Resources.

Table 6: Conservation Drainage Grant Ranking Criteria	
Ranking Criteria	**Maximum Points Possible**
Problem Identification snd Relationship to Plan	20
Consistency with Conservation Drainage Program Purposes	20
Project Located on a Public Drainage System	10
Project Evaluation Plan	20
Public Outreach Plans	10
Overall Proposal Quality and Completeness	20
Total Points Available	100

BWSR Community Partners Conservation Program Grants

These funds are to be used for community partners within a LGUs jurisdiction to implement structural and vegetative practices to reduce stormwater runoff and retain water on the land to reduce the movement of sediment, nutrients and pollutants. LGUs will be the primary applicant and provide sub-grants to community partners who are implementing practices to accomplish restoration, protection or enhancement of water quality in lakes, rivers and streams and/or protection of groundwater and drinking water.

General Requirements

- Community partners include non-profits, citizen groups, businesses, student groups, faith organizations, and neighborhood, lake, river, or homeowner associations.
- Proposals shall indicate the types of structural and vegetative practices proposed for sub-grants to community partners to reduce stormwater runoff and retain water on the land to reduce the movement of sediment, nutrients and pollutants. An estimate of outputs (# of grants anticipated) need to be included in BWSR grant application
- The maximum dollar amount an LGU can apply for is $150,000
    - All grants require a minimum match of 25% non-state, non-federal government cash or in-kind cash value that can be directly attributed to project accomplishments.
    - Proposed LGU sub-grant program must solicit proposals for structural or vegetative management practices that reduce storm water runoff and/or proven and effective water retention practices to keep water on the land. Broad types of practices need to be identified in the BWSR application.
- Ranking criteria and selection process for the proposed sub-grant program must be developed by the LGU and approved by BWSR prior to receiving grant funds.
- Funding contract or grant agreement template drafted by local legal advisor between the LGU and Community Partner must be reviewed and approved by BWSR prior to the LGU receiving grant funds.

Guidelines for Local Sub-Grants to Community Partners:

- Grant maximum up to $30,000 per project,
- Projects must be consistent with local water management plans or TMDL implementation plans,
- Projects must accomplish restoration, protection or enhancement of water quality in lakes, rivers and streams and/or protect groundwater and drinking water,
- Projects must have minimum life span of 10 years,
- Project outcomes must be estimated prior to receiving grant funds,
- A recipient of funds shall incorporate community engagement and public education when implementing projects and programs funded under this article, and
- To the extent possible, applicable projects must have vegetation planted or seed sown only of ecotypes native to Minnesota, and preferably of the local ecotype, using a high

diversity of species originating from as close to the project site as possible, and protect existing native prairies from genetic contamination (see guidance at http://www.bwsr.state.mn.us/native_vegetation/seeding_guidelines.pdf).

- All sub-grants must comply with the FY 2012 BWSR Clean Water Fund Grant policy.

Ineligible Activities

- Aquatic invasive species control (curly leaf pondweed, carp control),
- In-lake treatments (alum, iron filings, ferric chloride, barley straw, etc.),
- Educational events such as garbage clean-ups, etc., and
- Project enhancements – i.e., park benches, aesthetic shrubbery/plantings.

Ranking Criteria for 2012 Community Partners Conservation Program Grants

Table 7: Community Partners Conservation Program Grant Ranking Criteria	
Ranking Criteria	**Maximum Points Possible**
Clarity of project goals, projected impact, and involvement with community partners.	40
Prioritization and Relationship to Plan: The proposal is based on priority protection or restoration actions listed in or derived from an approved local water management plan or address pollutant load reductions prescribed in an approved TMDL.	30
Plan for assessing the programs impact and capacity to measure project outcomes.	20
LGU capacity to implement the local grant program processes and protocols.	10
Total Points Available	**100**

Financial Review of Nongovernmental Organizations: State Grant Policy 08-06, Financial Review of Nongovernmental Organizations, (see http://www.admin.state.mn.us/ogm_policies_and_statute.html) requires that before awarding a grant of over $25,000 to a nongovernmental organization, a recent financial statement from that organization must be assessed. Items of significant concern must be discussed with the grant applicant and resolved to the satisfaction of state agency staff before a grant is awarded.

1) Grant applicants with annual income of under $25,000 or who have not been in existence long enough to have a completed IRS Form 990 or audit must submit their most recent board-reviewed financial statements.
2) Grant applicants with annual income of over $25,000 and under $750,000 must submit their most recent IRS Form 990.
3) Grant applicants with annual income of over $750,000 must submit their most recent certified financial audit.

For all community partner applicants requesting over $25,000, BWSR is also requiring the following information:

1) Most recent audited financials (unaudited financials if audited are not available);

2) List of current Board of Directors (with all organization affiliations);
3) List of current Key Staff/ Members *; and
4) Conflict of Interest Policy **

*Key personnel that will be working to complete this grant project, along with their roles and responsibilities.

** If an organization does not have an official policy, a brief description of how the organization would handle any conflicts of interest that may occur must be submitted to BWSR.

DRAFT

Minnesota Department of Health (MDH) Well Sealing Program

(Need to get info from MDH)

DRAFT

Minnesota Department of Agriculture AgBMP Loan Program

The AgBMP Loan Program provides low interest loans to farmers, rural landowners, and agriculture supply businesses to solve water quality problems. The program encourages implementation of Best Management Practices that prevent or reduce pollution problems, such as runoff from feedlots; erosion from farm fields and shoreline; and noncompliant septic systems and wells. For more information on program specifics, go to the MDA website at: http://www.mda.state.mn.us/agbmploans.

General Requirements:

- AgBMP loans can only be issued to rural landowners, farmers, and farm supply businesses. Urban landowners may not be eligible for AgBMP loans. The maximum amount of an individual loan is $100,000.
- The MDA will provide requested AgBMP Loan components for all successful grant applications, up to a maximum of $300,000 per government unit. The amount awarded may be adjusted in coordination with prior AgBMP Loan awards.
- AgBMP Loan awards must go through one of the program's existing local governmental unit contracts. Watershed organizations, cities, townships, etc., can apply for AgBMP Loans, but the amount awarded will ultimately be added to the existing contract for the project area. The applicant must coordinate their efforts with the area's existing local AgBMP Loan program.
- AgBMP Loan awards are ONLY for implementation of proven BMPs. Research and demonstration projects are not eligible components of an AgBMP Loan request.
- AgBMP Loans are considered non state, non federal, non public MATCH.
- If an LGU is ONLY requesting AgBMP Loan funds and NO coordinating grants, then the LGU should submit their request in the usual, annual application and report that is distributed to the participating LGUs about Jan 1, 2012 and will due back to the MDA by the first Friday of Feb (2/3/2012). LGUs should NOT apply through the BWSR Competitive Grant RFP just for strictly AgBMP Loan requests.

Grants Program and Policy Committee Draft
Final Review on June 21, 2011

FY 2012 Clean Water Fund Competitive Grants Policy

Purpose

The Clean Water Fund was established to implement part of Article XI, Section 15, of the Minnesota Constitution, with the purpose of protecting, enhancing, and restoring water quality in lakes, rivers, and streams and to protect groundwater and drinking water sources from degradation. The purpose of this policy is to provide expectations for implementation activities conducted via Board of Water and Soil Resources (BWSR) Clean Water Fund (CWF) grants.

BWSR will use grant agreements for assurance of deliverables and compliance with appropriate statutes, rules and established policies. Willful or negligent disregard of relevant statutes, rules and policies may lead to imposition of financial penalties or future sanctions on the grant recipient.

1.0 Applicant Eligibility Criteria and Requirements

Local government units (LGUs) are eligible to receive grant funds if they are working under a current state approved and locally adopted local water management plan[1] or implementing an approved total maximum daily load (TMDL). All activities must be consistent with a current watershed management plan, county comprehensive local water management plan, metropolitan local water plan, metropolitan groundwater plan, and surface water intake plan or well head protection plan that has been state approved and locally adopted by October 1, 2011. The FY 2012 Clean Water Fund Request for Proposals (RPF) may identify more specific requirements or eligibility criteria when specified by statute, rule or appropriation language.

2.0 Match Requirements

A non-state match equal to at least 25% of the amount of Clean Water Funds requested and/or received is required, unless specified differently in the RFP document. Matching

[1] For the purposes of this policy watershed management organizations and metro watershed districts are not eligible if the management plan is more than 10 years beyond the BWSR plan approval date unless the plan states a lesser period of time; non-metro watershed districts are not eligible if the plan is more than 11 years 3 months beyond the BWSR approval date; and counties are not eligible if the management plan is more than 10 years beyond the BWSR approval date unless properly extended.

cash or in-kind cash value provided by a landowner, land occupier, local government or other non-state source may be used to match CWF grants.

3.0 Eligible Activities

The primary purpose of activities funded with grants associated with the Clean Water Fund is the control, reduction, or prevention of chemical or nutrient runoff, soil erosion, sedimentation, or materials that affect human or aquatic system health. Eligible activities can consist of structural practices and projects, non-structural practices and measures, project support activities, and grant administration and reporting. Technical and engineering assistance necessary to implement these activities are considered essential and are to be included in the total project or practice cost.

3.1 Structural Practices and Projects:

3.1.1 Best Management Practices

a. Must be designed and maintained for a minimum effective life of ten years,
b. Operation and maintenance for the life of the practice shall be included with the design standards,
c. An inspection schedule, procedure, and assured access shall be included as a component of maintaining the effectiveness of the practice, and
d. The local unit of government must provide assurances that the landowner or land occupier will keep the practice in place for its intended use for the expected lifespan of the practice. Such assurances may include easements, deed recordings, enforceable contracts, performance bonds, letters of credit, and termination or performance penalties. BWSR may allow replacement of a practice that does not comply with expected lifespan requirements with a practice that provides equivalent water quality benefits.

3.1.2 Capital Improvement Projects

a. Must be designed and maintained for a minimum effective life of 25 years,
b. Operation and maintenance for the life of the project shall be included with the design standards,
c. An inspection schedule, procedure, and assured access for maintenance shall be included as a component of maintaining the effectiveness of the project, and
d. The local unit of government must provide assurances that the landowner or land occupier will keep the project in place for its intended use for the expected lifespan of the project. Such assurances may include easements, deed recordings, enforceable

contracts, performance bonds, letters of credit and termination or performance penalties. BWSR may allow replacement of a practice or project that does not comply with expected lifespan requirements with a practice or project that provides equivalent water quality benefits.

3.1.3 Livestock Waste Management Practices

a. The application of conservation practice components to improve water quality associated with livestock management systems that were constructed before October 23, 2000 are eligible for funding.
b. Eligible practices and project components must meet all applicable local, State, and Federal standards and permitting requirements. Funded projects must be in compliance with standards when the project is complete.
c. Eligible practices are limited to best management practices listed by the MN USDA-NRCS. (http://efotg.sc.egov.usda.gov/references/public/MN/2011EQIPpayschedMAR9.pdf).
d. Funding is limited to feedlots that are not classified as a Concentrated Animal Feeding Operation (CAFO) and have less than 500 animal units (AUs), in accordance with MN Rule Chapter 7020.
e. BWSR reserves the right to deny, postpone or cancel funding where financial penalties related to livestock waste management violations have been imposed on the operator.
f. Feedlot Roof Structure is an eligible practice with the following condition:
    1) Flat rate payment: The maximum grant for a feedlot roof structure is $150 per registered animal unit (NRCS EQIP Rate) or $100,000, whichever is the lesser amount. Funding is not eligible for projects already receiving flat rate payment equaling or exceeding this amount from the NRCS or other State grant funds.
g. Feedlot relocation is an eligible practice, with the following conditions:
    1) The existing eligible feedlot must be permanently closed in accordance with the local and State requirements and, thereafter, is no longer eligible for Clean Water Funding. Closure activities at the existing feedlot include fence removal, waste storage facility closure and seeding, but funding is not authorized for removal or land application of manure from an open lot or waste storage facility.
    2) The relocated feedlot must be in compliance with all environmental requirements.
    3) Maximum grant for feedlot relocation is $1,000 per registered animal unit, or $100,000, whichever is the lesser amount.
    4) The existing and relocated livestock waste management systems sites are considered one project for grant funding.

h. An alternatives analysis prepared by a technical provider, which documents the most practicable and feasible alternative, is required to be submitted with the grant application to BWSR for the following:
   1) Livestock management systems proposing the construction of roof structures under section 3.1.3(f),
   2) Projects proposing a feedlot relocation under section 3.1.3(g), and
   3) Any livestock management system that results in $100,000 or more in State Clean Water Funds being directed to an individual livestock waste management project.

i. Relevant technical and/or engineering expertise is required to develop, install, and inspect livestock waste management projects.

3.1.4 Subsurface Sewage Treatment Systems

a. Only identified imminent threat to public health systems (ITPHS) are eligible for grants funds.
b. All applicants must document adoption of local low income criteria and thresholds for individual landowners receiving Clean Water Funds.
c. Small community wastewater treatment systems involving multiple landowners are eligible for funding, but must first apply to the Minnesota Pollution Control Agency (MPCA) for the project to be ranked on the project priority list. The community may also be asked to apply to the Minnesota Public Facility Authority (PFA) for the Small Community Wastewater Treatment Program.
d. In an unsewered area that is connecting into a sewer line to a municipal waste water treatment plant (WWTP), the costs associated with connecting homes to the sewer line are eligible for funding pending review from the PFA.

3.2 Non-Structural Practices And Measures

3.2.1 Non-structural practices and activities that complement, supplement, or exceed current state standards for protection, enhancement, and restoration of water quality in lakes, rivers, and streams or that protect groundwater from degradation are eligible.

3.2.2 Incentives may be used to encourage landowners to install or adopt land management practices that improve or protect water quality. Incentive payments and enhanced protection measures should be reasonable and justifiable, supported by LGU policy, consistent with prevailing local conditions, and must be accomplished using established standards. All incentives must have a minimum duration of at least 3 years with a goal of ongoing landowner adoption.

3.3 Project Support Activities

Community engagement, outreach, and other activities, which directly support or supplement the goals and outcomes expected with the implementation of items identified in 3.1 and 3.2 above.

3.4 Grant Management and Reporting

3.4.1 All grant recipients are required to report on the outcomes, activities, and accomplishments of Clean Water Fund grants. The grant funds may be used for local grant management and reporting that are directly related to and necessary for implementing the project or activity.

3.4.2 Applicants, who have previously received a grant from BWSR, must be in compliance with BWSR requirements for grantee website and eLINK reporting before grant execution and payment.

4.0 Ineligible Activities

Projects or practices that address the following will not be considered:

a. Stormwater conveyances that collect and move runoff, but do not provide water quality treatment;
b. Municipal wastewater treatment or drinking water supply facilities;
c. Enforcing existing state minimum standards;
d. Routine maintenance activities within the effective life of existing practices or projects;
e. Activities having the primary purpose of water quality monitoring or assessment.
f. Livestock Waste Management Systems activities:
    1) That provide partial compliance with standards when the project is completed;
    2) Buildings;
    3) Feed storage facilities;
    4) Feeding facilities and equipment;
    5) Manure application equipment;
    6) Barn cleaners and flush systems; and
    7) Building foundation costs not associated with a manure storage facility.
g. Subsurface Sewage Treatment Systems (SSTS) activities:
    1) Small community wastewater treatment systems serving over 10,000 gallons per day with a soil treatment system, and
    2) A small community wastewater treatment system that discharges treated sewage effluent directly to surface waters without land treatment.

DRAFT

5.0 Structural Practice and Project Requirements

In order to insure long-term public benefit of structural practices and projects, the following requirements must be met by all grant recipients.

5.1 Technical and Engineering Components

Technical and/or engineering expertise is required to develop, install, and inspect projects. Grant recipients will be required to submit documentation in their work plan outlining:

a. Who will provide technical assistance for each of the practices or projects to be implemented, their credentials for providing this assistance, or the method for selecting appropriate technical providers, and
b. Approved design, construction, operation, and maintenance standards for the practices or projects to be implemented.

BWSR reserves the right to review the qualifications of all persons providing technical assistance.

5.2 Practice or Project Construction and Sign-Off

The LGU shall verify that the practice or project was properly installed and completed according to the plans and specifications, including technically approved modifications, prior to authorization for payment by the LGU.

5.3 Post Construction and Follow-Up Activities

To ensure that a practice or project is functioning properly, an operation and maintenance plan tailored to fit the site shall be developed. The operation and maintenance plan should identify all of the maintenance activities that are needed and specify how they will be accomplished. The plan shall be reviewed with the land owner or occupier before installation of the practices or projects.

LGUs shall assure that the operation and maintenance plan is being followed and that the practices or projects are functioning as designed by conducting periodic site inspections.

6.0 Grantee Administration of Clean Water Fund Grants

DRAFT

LGUs have the responsibility to approve expenditure of funds within their organization. The LGU administering the grant must approve or deny expenditure of funds. The action taken must be documented in the LGU board's meeting minutes.

All LGU expenditure of funds providing financial assistance to landowners requires a contract with the landowner or land occupier. The contract must adequately address all the lifespan and operation and maintenance requirements of the practice or project as provided by this policy. The contract must specify what LGU enforcement provisions are, up to and including repayment of funds at a rate up to 150% of the original agreement amount. BWSR recommends all contracts be reviewed by the LGUs legal counsel.

Grant reporting, fiscal management, and administration requirements are the responsibility of the grant recipient.

7.0 BWSR Grant Reporting, Reconciliation, and Verification Requirements

BWSR staff is authorized to develop grant agreements, including requirements and processes for project outcomes reporting, closeouts, fiscal reconciliations, and grant verifications.

7.1 BWSR Grant Reconciliation and Verification Procedures

a. BWSR staff will review grant recipient compliance with contractual requirements in a manner which is consistent with the policies established by the Office of Grants Management and adopted by the BWSR Board.
b. Elements described in the project work plan will be reviewed during grant reconciliation.
c. Project files for CWF expenditures including landowner contact information, contracts, bills and invoices, inspection schedule, structural practice and project operation and maintenance information, design plans, and miscellaneous communication must be retained by the LGU pursuant to MS 138.17 and consistent with ongoing record retention schedules.
d. In the event there is a violation of the terms of the grant agreement, BWSR will enforce the grant agreement and evaluate appropriate actions including repayment of grant funds at a rate up to 150% of the grant agreement.

For additional guidance, see the BWSR grants manual at:
http://www.bwsr.state.mn.us/grants/manual/index.php#/Purpose%20&%20Scope/7/top

Board Resolution # 11-38

FY 2012 CLEAN WATER FUND AND COMPETIVE GRANTS PROGRAM: POLICY AND REQUEST FOR PROPOSALS

WHEREAS, the Clean Water Fund (CWF) is established in M.S. 114D.50; and,

WHEREAS, the Legislature is expected to appropriate Clean Water Funds to BWSR in any special session that is called to enact a FY12-13 Biennial Budget; and,

WHEREAS, the Minnesota Department of Health, through interagency transfer, is expected to transfer to BWSR Clean Water Funds that are expected to be appropriated for cost-share assistance to seal unused wells; and,

WHEREAS, the Minnesota Department of Agriculture is expected to contribute up to $2.0 million of Agricultural Best Management Practices Loan Program funds; and,

WHEREAS, the Board has authority under Minn. Stat. 103B.3369 to make grants to cities, townships, counties, soil and water conservation districts, watershed districts, joint powers organizations, and other special purpose districts or authorities with jurisdiction in water and related land resources management when a proposed project or activity implements a county water plan, watershed management plan, or county groundwater plan; and

WHEREAS, BWSR implementation of appropriated CWF funds is based on the Minnesota Constitution, Article XI, Section 15 which provides that funds may be "spent only to protect, enhance, and restore water quality in lakes, rivers, and streams and to protect groundwater from degradation", and that "dedicated money under this section must supplement traditional sources of funding for these purposes and may not be used as a substitute"; and,

WHEREAS, the Board has previously endorsed an inter-agency granting strategy that included the MN Department of Agriculture (MDA), the Department of Natural Resources (DNR), the Pollution Control Agency (MPCA), the Department of Health (MDH), and the BWSR with the goal of effectively coordinating water quality projects funded by the CWF and the State's General Fund, and

WHEREAS, the CWF implementation strategy incorporates the purpose of M.S. 114D.20 which directs the implementation of Clean Water Funds to be coordinated with existing authorities and program infrastructure; and,

WHEREAS, BWSR expects to receive appropriations and is preparing to make grants in the following categories for FY12:

- Clean Water Assistance Grants;
- Clean Water Assistance-Livestock Waste Management System Grants;
- Clean Water Assistance-Subsurface Sewage Treatment System (SSTS) Abatement Grants;
- Clean Water Accelerated Implementation Grants;
- Conservation Drainage Grants; and
- Conservation Partner Program Grants; and

WHEREAS, the FY 2012 Clean Water Assistance project proposals will be evaluated by an interagency team consisting of staff from the MDA, the DNR, the MPCA, the MDH, and the BWSR based on the following criteria:

Ranking Criteria	Maximum Points Possible
1. Project Description: The proposed project demonstrates a high potential of long-term success based on project organization and management structure, partner support and community involvement within the project area.	20
2. Anticipated Outcomes: The outcomes expected upon completion of the project initiatives on the water resources are identified, including a description of the resulting primary and secondary public benefits such as pollution reduction, groundwater or drinking water protection, hydrologic restoration, or aquatic health improvement.	35
3. Project Readiness: The application has a set of specific initiatives that can be implemented soon after grant award.	20
4. Prioritization and Relationship to Plan: The proposal is based on priority protection or restoration actions listed in or derived from an approved local water management plan or address pollutant load reductions prescribed in an approved TMDL.	25
Total Points Available	**100**

WHEREAS, the FY 2012 Clean Water Assistance-Livestock Waste Management Systems project proposals will be evaluated by an interagency team consisting of staff from the MPCA and the BWSR based on the following criteria:

Ranking Criteria	Maximum Points Possible
1. MinnFARM Index	20
2. MinnFARM Loading (Phosphorus, Nitrogen, Biochemical Oxygen Demand)	20
3. Prioritization and Relationship to Plan	15
4. Located in Riparian Zone	25
5. Open Lot Agreement	20
Total Points Available	100

WHEREAS, the FY 2012 Clean Water Assistance-Subsurface Sewage Treatment System (SSTS) Abatement project proposals will be evaluated by an interagency team consisting of staff from the MPCA and the BWSR based on the following criteria:

Ranking Criteria	Maximum Points Possible
1. Prioritization and Relationship to Plan	20
2. SSTS Located in a Riparian Zone	30
3. SSTS identified	50
Total Points Available	100

WHEREAS, the FY 2012 Clean Water Accelerated Implementation project proposals will be evaluated by an interagency team consisting of staff from the MDA, the DNR, the MPCA, the MDH, and the BWSR based on the following criteria:

Ranking Criteria	Maximum Points Possible
1. Clarity of project's goals, standards addressed and projected impact on land and water management and enhanced effectiveness of future implementation projects.	40
2. Prioritization and Relationship to Plan: The proposal is based on priority protection or restoration actions listed in or derived from an approved local water management plan or address pollutant load reductions prescribed in an approved TMDL.	25
3. Means and measures for assessing the program's impact and capacity to measure project outcomes.	20
4. Timeline for implementation.	15
Total Points Available	**100**

WHEREAS, the Conservation Drainage project proposals will be evaluated by an interagency team consisting of staff from the MDA, the DNR, the MPCA, University of Minnesota, USDA-Natural Resources Conservation Service, Minnesota State University-Mankato, and the BWSR based on the following criteria:

Ranking Criteria	Maximum Points Possible
1. Problem Identification & Relationship to Plan.	20
2. Consistency with Conservation Drainage Program Purposes.	20
3. Project Located on a Public Drainage System.	10

4. Project Evaluation Plan.	20
5. Public Outreach Plans.	10
6. Overall Proposal Quality and Completeness.	20
Total Points Available	**100**

WHEREAS, the FY 2012 Community Partners Conservation Program project proposals will be evaluated by an interagency team consisting of staff from the MDA, the DNR, the MPCA, the MDH, and the BWSR based on the following criteria:

Ranking Criteria	Maximum Points Possible
1. Clarity of project goals, projected impact, and involvement with community partners.	40
2. Prioritization and Relationship to Plan: The proposal is based on priority protection or restoration actions listed in or derived from an approved local water management plan or address pollutant load reductions prescribed in an approved TMDL.	30
3. Plan for assessing the programs impact and capacity to measure project outcomes.	20
4. LGU capacity to implement the local grant program processes and protocols.	10
Total Points Available	**100**

WHEREAS, the Grants Program and Policy Committee reviewed Clean Water Fund and Competitive Grants Program proposals developed by staff on June 13, 2010.

NOW THEREFORE BE IT RESOLVED, the Board hereby:

1. Authorizes staff to finalize, distribute and promote a Request For Proposals (RFP) for the FY2012 Clean Water Fund and Competitive Grants Program consistent with the provisions of past Clean Water Fund appropriations and those expected to be enacted in 2011, Minn. Stat. 103B.3369 and this Board resolution; and,

2. Adopts the attached FY2012 Clean Water Fund Competitive Grants Policy.



Date: 6/22/11

Brian Napstad, Chair
Board of Water and Soil Resources

Attachment: FY2012 Clean Water Fund Competitive Grants Policy

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: WCA-Swampbuster Coordination Opportunity

Meeting Date: June 22, 2011

Agenda Category: ☐ Committee Recommendation ☒ New Business ☐ Old Business

Item Type: ☐ Decision ☐ Discussion ☒ Information

Section/Region: Land and Water Section

Contact: Les Lemm, WCA Coordinator

Prepared by: Les Lemm

Reviewed by: _____ Committee(s)

Presented by: Les Lemm

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☒ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

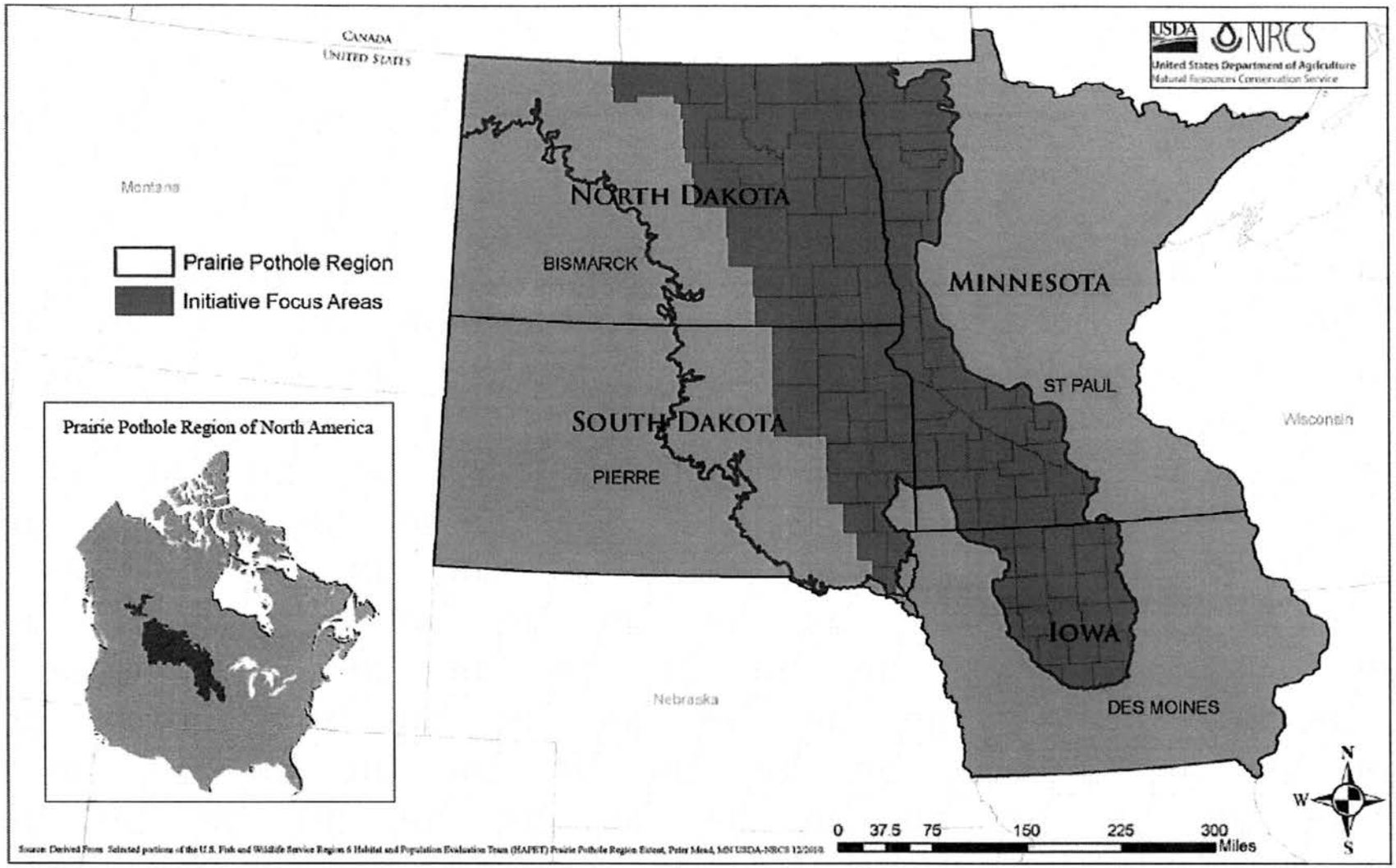
☐ Other: _____

ACTION REQUESTED

None - Informational

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

In December of 2009, BWSR and the USDA Natural Resources Conservation Service signed a Memorandum of Understanding regarding implementation of the Wetland Conservation Act (WCA) and the "Swampbuster" provisions of the federal farm bill. NRCS has also been exploring ways to partner with Soil and Water Conservation Districts or other local governments with WCA responsibilities for joint implementation of certain WCA and Swampbuster provisions through Contribution Agreements. This NRCS effort will benefit from a newly funded 4-state USDA initiative in the Prairie Pothole Region aimed at reducing the backlog of certified wetland determinations. Under the "North Central Wetland Conservation Initiative," NRCS would develop agreements with individual local governments to perform technical work asscociated with certified wetland determinations and other related functions. The resulting products could be used for both USDA and WCA purposes, significantly improving program consistency. A similar process has been in place in Mower County for several years where it has worked well and serves as a working model for additional agreements.



Source: Derived From Selected portions of the U.S. Fish and Wildlife Service Region 6 Habitat and Population Evaluation Team (HAPET) Prairie Pothole Region Extent, Peter Mead, MO USDA-NRCS 12/2010

North Central Wetland Conservation Initiative

Prairie Pothole Region Focus Areas

Total Focus Area Acres: 55,200,823 Acres / 83,126 Square Miles

State	Acres	Sq Miles	% Focus Area
Iowa	7,842,676	12,254	15
Minnesota	16,524,703	25,820	31
North Dakota	19,079,480	29,812	36
South Dakota	9,753,963	15,241	18
Total	53,200,823	83,126	100

USDA North Central Wetland Conservation Initiative

An opportunity for WCA – Swampbuster Coordination

In December of 2009, BWSR and the USDA Natural Resources Conservation Service signed a Memorandum of Understanding regarding implementation of WCA and the "Swampbuster" provisions of the federal farm bill. NRCS has also been exploring ways to partner with LGUs or SWCDs with WCA responsibilities for joint implementation of certain WCA and Swampbuster provisions through Contribution Agreements. This NRCS effort will benefit from a newly funded 4-state initiative in the Prairie Pothole Region aimed at reducing the backlog of certified wetland determinations. A similar process has been in place in Mower County for several years where it has worked well and serves as a working model for additional agreements.

Benefits of such an agreement include:

- This type of arrangement provides the best opportunity to address differences in implementation between the two programs, including current barriers to interagency coordination, and advance the shared goals of the interagency MOU.
- WCA LGUs are already involved with and spending time on many of these projects. The Swampbuster work may not add much time which makes this an efficient way of implementing these two programs.
- The current funding situation for WCA and other state/local programs is not getting any better, and could potentially deteriorate even more. This necessitates exploring new and innovative ways to implement programs and effectively provide services to landowners.
- Better service to landowners by improving certainty and consistency.

Details are being worked out, but the program will generally include:

- Up to a 3-year agreement period for up to approximately $20,000 annually for participating LGUs.
- The LGU/SWCD will need to have technically sound staff, trained and competent in wetland delineation and offsite methodologies.
- The LGU/SWCD will need to contribute a minimum of 25% (2.5 hours for every 7.5 hours NRCS pays for), however, time spent for the WCA side of things would count.
- The primary Swampbuster responsibilities and base payment rates (75% of amount) will likely be:
    1. response to form AD1026 ($60);
    2. certified wetland determinations ($400);
    3. development of "minimal effect agreements" ($400); and
    4. other work tasks related to wetland activities could also be included in the agreements.
- BWSR and NRCS will agree to the procedures used to develop the wetland maps (that could be used for both WCA and Swampbuster purposes) and provide training.
- The program will likely include an agreement with BWSR for specified services.

SWCDs expressing interest as of 6-3-11

- Area 1: West Polk, East Polk, Roseau, Red Lake, Marshall, Norman, Mahnomen
- Area 2: West Ottertail, Clay, Douglas, Wilkin, Pope, Becker
- Area 5: Yellow Medicine, Lyon, Lincoln, Nobles, Redwood, Big Stone (County is the LGU)
- Area 6: Waseca, Martin, Renville
- Area 7: Mower

Minnesota Board of Water & Soil Resources

RIM 25th Anniversary Event

Straight River Marsh Wetland Restoration Project

July 21

Join us in celebrating the nation's premier wetland restoration program!

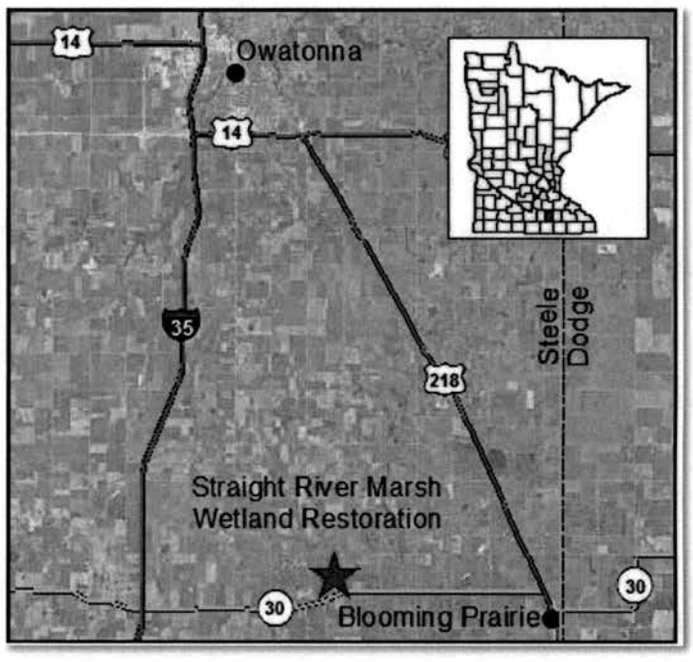
BWSR's RIM Reserve program is a critical component of the state's efforts to protect and restore wildlife habitat on private lands and protect and improve our state's water quality. Since 1996, the state has appropriated nearly $170 million for conservation easements and the BWSR, along with local SWCDs, has acquired over *6,400 easements totaling more than 230,000 acres*. Since 1998, RIM Reserve has leveraged an additional $260 million from the United States Department of Agriculture through the Natural Resources Conservation Service Wetland Restoration Program.



Celebration Event Details

(more details coming soon!)

- Thursday, July 21 from 10:00 am to 12:30 pm
- Busing will be provided from a central location to the event site
- Program speakers include:
  - Governor Dayton (Invited)
  - BWSR, John Jaschke Executive Director
  - NRCS, Chief David White
  - Representatives from partner groups and elected officials yet to be confirmed
- Food and refreshments will be provided
- Inclement weather site will be at the Steele County Fairgrounds with optional project site tour following the program



Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Farm Bill Assistance Program Grant Awards

Meeting Date:

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business
Item Type: ☒ Decision ☐ Discussion ☐ Information
Section/Region: Land and Water Section
Contact: Dave Weirens
Prepared by: Dave Weirens
Reviewed by: Grants Program and Policy Committee(s)
Presented by: Tabor Hoek

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☐ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☒ Clean Water Fund Budget

☒ Other: LCCMR and DNR Funds

ACTION REQUESTED

The Board is requested to authorize the Farm Bill Assistance Grants pending passage of the Legislative Citizen Commission on Minnesota Resources (LCCMR) funding recommendations.

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
The Farm Bill Assistance Program provides funds to SWCDs to hire staff to accelerate implementation of the Farm Bill as well as other state and federal conservation projects that involve grasslands and wetlands.The FY12 Farm Bill Assistance Program is expected to be funded from several revenue sources, chief among them, the Legislative-Citizens Commission on Minnesota Resources. The Board is being requested to authorize these grants in order to minimize the delay in getting funds to SWCDs following the enactment of a biennial budget.

The Grants Program and Policy Committee met on June 13, 2011 and to review documents associated with this resolution.

Minnesota Board of Water & Soil Resources

PHASE XI FARM BILL ASSISTANCE GRANT REQUEST FOR PROPOSALS July 1, 2011-June 30, 2012

APPLICATION DEADLINE: June 10, 2011

As a soil and water conservation district (SWCD) that is in the MN Pheasant Range priority area you are invited to submit an application for funding under this project. The purpose of this project is to employ staff in local SWCD offices to increase grassland and wetland program enrollment for both wildlife habitat and water quality. See the attached job description.

The budget period for Phase XI will run from July 1, 2011 through June 30, 2012. If you are interested in applying there is an application attached to this RFP that must be completed by **June 10, 2011**.

This program operates on a quarterly reimbursement basis for hours worked under the contract agreement. Farm Bill Assistance contracts will be calculated using a $45,000 budget for 1 FTE. The contract will cover 70% of the approved budget with 25% coming from the SWCD and 5% from a local partner organization. You will be required to solicit and document this 5% support by contacting your local Pheasants Forever Chapter or other locally based group for the funding.

An addition to our funding package this year is the MN Walk In Access Program. Funding available through this program will be used in partnership with traditional FBA funding in the sense that it will utilize some of the existing staff positions and comes at a time when FBA funding falls short of the level needed to sustain the existing program. The WI funding will be distributed through a separate process but will be considered part of the annual staff budget where applicable in the 21 county project area.

The committee is looking forward to the continued work achieved by this project. We believe this is the most effective way to promote grassland and wetland conservation for water quality and wildlife habitat in the state of MN. We will again collectively invest over $1 million in this project during Phase XI.

PROPOSAL EVALUATION

Proposals will be evaluated on a scale of *High*, *Medium*, or *Low* based on historical performance, location within the DNR Working Lands Initiative areas, resource opportunity/need, ability to provide the necessary match, and the goals identified in your application.

SELECTION PROCESS

A selection committee comprised of BWSR, DNR and Pheasants Forever will make recommendations for allocating available funds based on the information provided in applications submitted by June 10, 2011.

FARM BILL ASSISTANCE ELIGIBLE GRANT DUTIES

The purpose of the Farm Bill Assistance Project is to accelerate the implementation of conservation programs that result in more acres of grass and wetlands for water quality and wildlife habitat. Following is a partial listing of activities relating to the work priorities of the FBA committee (DNR, BWSR and Pheasants Forever). Should you have any specific questions about eligible duties, please contact Tabor Hoek at 507-537-7260 or tabor.hoek@state.mn.us.

DUTIES ELIGIBLE FOR FUNDING:

- Marketing conservation programs that achieve clean water, grass and wetland cover:
  Programs such as CRP, CCRP, WRP, WLI, WHIP, CRP Re-enrollment, MN Clean Water Funding
- Conservation plans for these programs
- Practice implementation via vendors
- Mid-contract management planning
- Guidance of landowners on non-FBA activities to appropriate staff/programs
- Attendance at training events and meetings necessary to stay up to date on private lands program offerings.

DUTIES NOT ELIGIBLE FOR FUNDING:

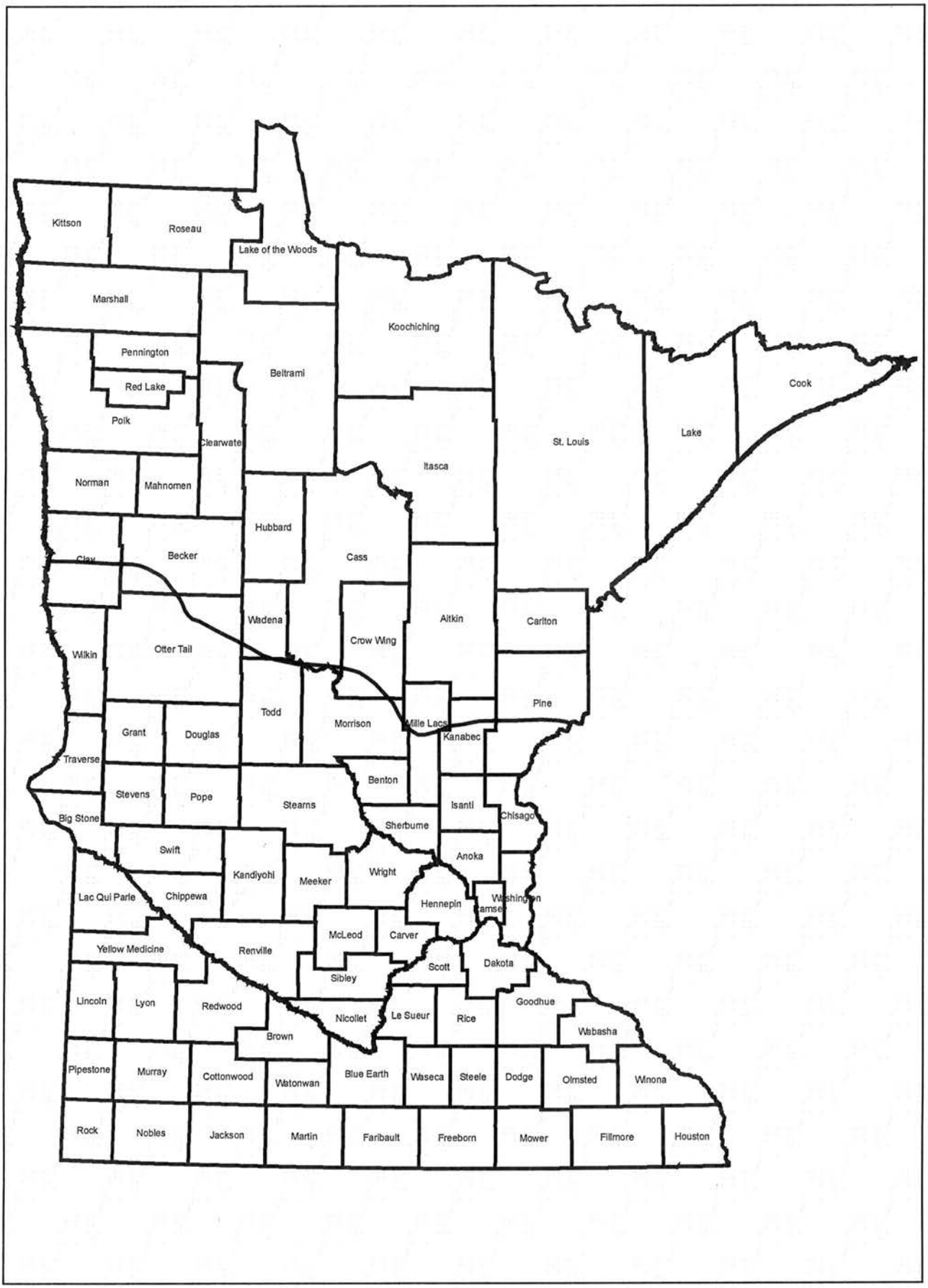
- Non-wetland/grassland CCRP practices (waterways, windbreaks etc.)
- Tree planting/matting-SWCD tree program
- Grass planting-SWCD drill program
- Conducting a prescribed burn
- Most EQIP practices
- CSP applications
- Construction management of general conservation practices

MAY BE ELIGIBLE FOR FUNDING:

- Living snowfences
- Stream bank restoration

s:2farmbill/Phase X/jobdesc10.doc

Southern Minnesota Pheasant Range



Source: MN DNR Pheasant Plan

Board Resolution # 11-39

FY 2012 MN Conservation Assistance Program Authorization

WHEREAS, the MN Board of Water and Soil Resources (BWSR), in partnership with the MN Department of Natural Resources (DNR), Soil and Water Conservation Districts (SWCD) and Pheasants Forever (PF), have been implementing a program called the MN Farm Bill Assistance Project to accelerate staffing efforts at the local level for implementation of the Federal Farm Bill programs and other clean water, grassland and wetland programs; and,

WHEREAS, BWSR acting as fiscal agent for the program, is anticipating funding from the MN Legislative Citizen Commission on Minnesota Resources (LCCMR) through the Environmental Natural Resources Trust Fund (ENRTF), BWSR Clean Water Fund technical assistance, and the DNR to make grants to SWCD's for employing staff; and,

WHEREAS, BWSR, DNR and PF have conducted a Request for Proposals from SWCD's for funding; and,

WHEREAS, BWSR has adopted the following grant and allocation policies based upon the partnership recommendations:

- Eligible SWCD's will be competitively selected to receive a 70% state funded contribution towards employment of a staff position. The staff budget is established at $45,000/full time equivalent. The SWCD will provide a 30% cash match.
- Proposals will be evaluated based on historical performance, location within the MN pheasant range, resource opportunity/need, ability to provide match and fulfill the goals identified in the application.
- A selection committee comprised of BWSR, DNR and PF that will make recommendations for allocating available funds based on the information contained in received applications.

WHEREAS, the Grants Program and Policy reviewed the proposed Farm Bill Assistance Program authorization on June 13, 2011 and recommends the Board adopt the proposed allocation of funds.

NOW THEREFORE BE IT RESOLVED, the BWSR hereby authorizes staff to allocate up to $313,000 from appropriated ENRTF funds, $150,000 in funds transferred from the DNR, up to $100,000 of available FY2011 CWF funds, and any additional available program funds consistent with the program purpose and this resolution.

Brian Napstad, Chair
Board of Water and Soil Resources

Date: 6/22/11

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Non-Point Engineering Assistance Program Policy**

Meeting Date:

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business
Item Type: ☒ Decision ☐ Discussion ☐ Information
Section/Region: Land and Water Section
Contact: Dave Weirens
Prepared by: Dave Weirens
Reviewed by: Grants Program and Policy Committee(s)
Presented by: Dave Weirens and Mark Hiles

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☐ None
☐ Amended Policy Requested
☒ New Policy Requested
☐ Other:

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

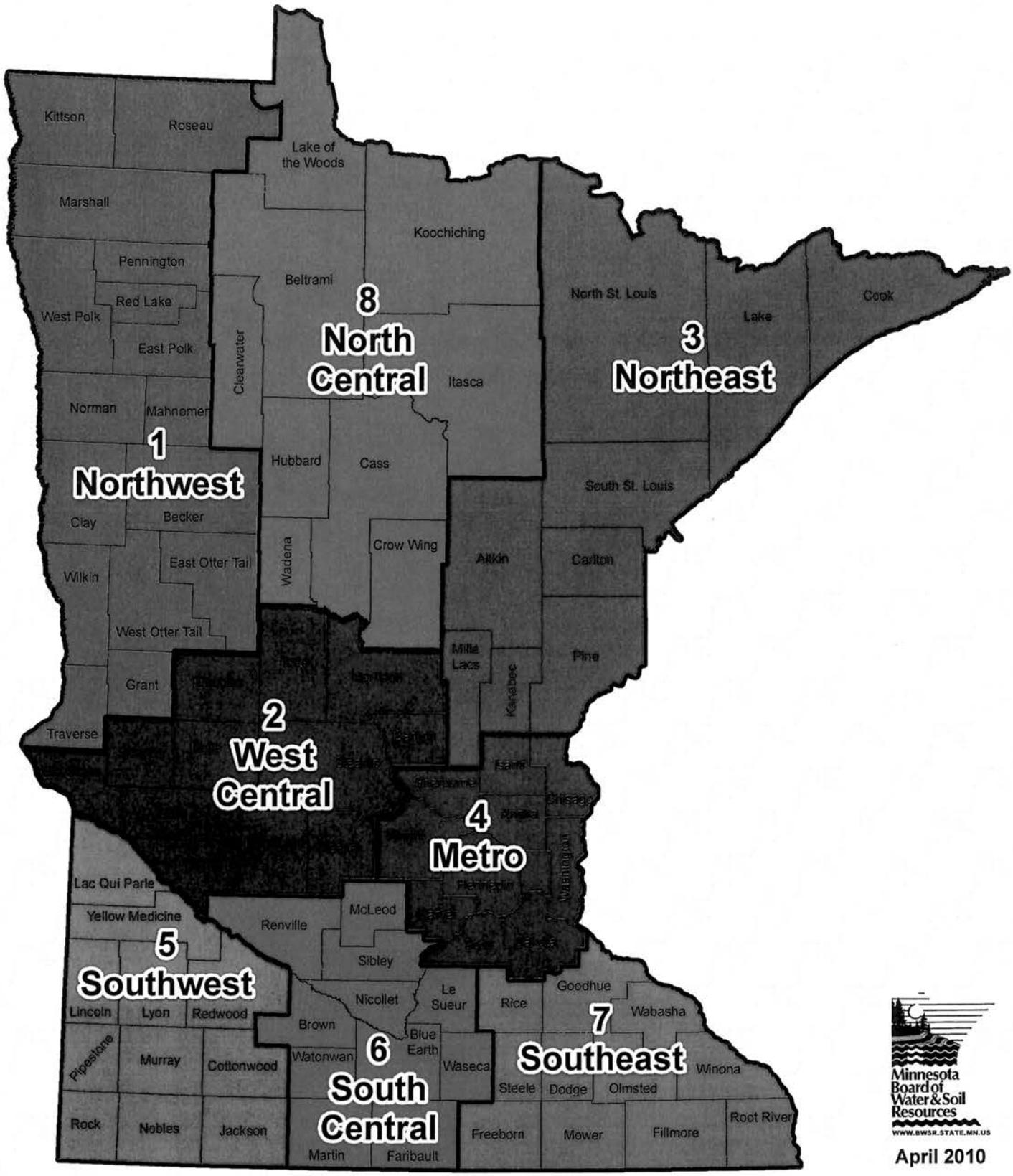
ACTION REQUESTED

Adopt proposed policy that establishes program expectation and procedures.

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
BWSR has provided technical assistance and engineering funding to regional SWCD joint powers boards since 1995. Over the past several months a staff team has developed a Program policy that documents program expectations and operating procedures and makes updates to match current grant management policies.

The Grants Program and Policy Committee met on June 13, 2011 to review documents associated with this resolution.

Minnesota Association of Soil & Water Conservation Districts & SWCD Technical Service Areas



Minnesota Board of Water & Soil Resources
WWW.BWSR.STATE.MN.US

April 2010

Non-Point Engineering Assistance Program
Work Group Report:
Developing Grant Administration Policy

The Non-Point Engineering Assistance Program (NPEAP) helps fund the costs of providing shared engineering and associated technical assistance for the implementation of soil and water conservation, water quality, and wildlife habitat practices and projects. The NPEAP is implemented through eight Soil and Water Conservation District (SWCD)Technical Service Areas (TSAs) covering all of Minnesota, which are co-aligned with Minnesota Association of Soil and Water Conservation Districts (MASWCD) administrative areas. Each TSA is governed by a Joint Powers Organization of SWCDs. The directive of this work team is to provide clear expectations for ***NPEAP grant administration and associated reporting policy****.*

Reason for the Work Group: Current NPEAP grant administration policy does not meet the minimum requirements of the Office of Grants Management and is not consistent with grant administration policies for other BWSR programs.

Approach: NPEAP Work Group was formed to develop grant administration and reporting policy. This group did not address program administration or funding allocation schedules. The work group will provide a draft policy to G-Team. The G-Team will review and provide a recommendation to the Senior Management Team (SMT). The policy will then move through the BWSR Board Grants Program and Policy Committee and the full Board for approval.

Goals: Develop NPEAP grant administration and reporting policy recommendations that closely adhere to other BWSR grant administration requirements and processes for adoption by the Board.

Assumptions: Office of Grants Management Policies. The monitoring, verification, and non-compliance procedures are based on the assumption that the Office of Grants Management approves the BWSR grant program exception requests for OGM Policies 08-08 and 08-10, or the Office of Grants Management changes these policies.

~ ~ ~ ~ ~ ~ ~

Program and Policy Purposes

- Program purpose and structure was reviewed and summarized for context in the recommended grant administration policies.
- Shared engineering and associated technical assistance provided through the NPEA Program and SWCD TSAs is considered essential to the conservation delivery system in Minnesota.
- Pursuant to Minnesota Statutes, §103C.231 an SWCD may join or cooperate by agreement as provided in Section 471.59 with another SWCD in an operation or project in which the SWCDs have a common interest.
- SWCD Joint Powers Organizations, associated host SWCDs and the fiscal agent SWCDs are responsible for the administration and decisions concerning the local use of these funds in accordance with applicable Minnesota Statutes, BWSR policies, and other applicable laws. BWSR will use grant agreements as contracts for assurance of deliverables and compliance with program policies.

- SWCD JPOs and member SWCDs are eligible to apply for and receive other state and federal funds that can be used for NPEAP local share / match, In accordance with the applicable program policies.

Eligible Activities

The primary purpose of activities funded with NPEAP grants is to provide shared engineering and associated technical assistance for site evaluation, design, and construction of erosion and sediment control, water quality, and wildlife habitat practices and projects. This assistance is provided to and through TSA member SWCDs. The NPEAP work group defined the following four categories of eligible activities: **Technical and Engineering** (7 TSAs have staff engineers and technicians, TSA 3 has a combination engineering and forestry technician, and Metro TSA 4 hires consulting engineers and has landscape restoration technician positions as match), **Administration and Coordination** (by host SWCD(s)), **Education/Information**(training provided by TSA staff)**, and Equipment and Supplies** (necessary to provide shared technical assistance)**.** These categories are to be used as initiatives in eLINK4Web for grant work plans and reporting. The Supplies and Equipment initiative was added to eLINK to help better define the expenditures.

Grant Match Requirements

When the NPEAP TSAs were consolidated and co-aligned with MASWCD boundaries in 2008, the cash local share / match requirement recommended by the Conservation Technical Assistance Committee (CTAC) was a minimum of 10% of the grant amount. This was one component of the program reorganization adopted by BWSR in resolution number 08-86. The minimum 10% cash local match is required from funds other than NPEAP grant funds, including other State, Local and Federal funds for which the JPO and member SWCDs are eligible. The anticipated source(s) shall be identified in the grant work plan.

Grant Work Plan and Reporting Requirements

A key goal is to make work plan and reporting requirements for the NPEA Program more consistent with other BWSR grant program administration and processes.

- It is recommended that the eligible NPEAP activities defined above be used as initiatives in the grant work plan, which must be prepared in eLINK4Web.
- Approval of the grant work plan by BWSR is required before a grant agreement can be processed, as for other BWSR grants.
- The work group discussed language limiting administrative expenses. Attachment B of BWSR resolution 08-86 included an NPEAP funding formula that allocates $5,000 per host and/or fiscal agent SWCD per year. It was decided that TSAs have been and continue to be motivated to minimize administrative costs and Board Conservationists review and approve NPEAP grant work plans. Therefore, no specific policy language was considered necessary.
- The work group had substantial discussion and debate about reporting both financial as well as technical assistance outcomes / accomplishments. Financial reporting via eLINK4Web (or its future replacement) is considered a given. It was considered desirable to have NPEAP reporting due at the same time as other annual reporting (February 1) and at the close of each grant agreement, as is done for other BWSR grants. Technical assistance accomplishment reporting is complicated by the fact that annual NPEAP grants with a 2-year period overlap and calendar year reporting of accomplishments works best for an annual reporting deadline of February 1. Grant management reporting needs for audits were considered to be somewhat different than accomplishments information needed for legislative purposes. Accomplishments reporting

needs of TSAs was another consideration. Calendar year accomplishments reporting could be done via an electronic form and tied to eLINK via an attachment, but calendar year reporting may include multiple grant agreements. The work group decided to recommend separating work plan reporting (financial and technical assistance outcomes tied to grant initiatives) from accomplishments reporting by calendar year. The scope and electronic method for annual NPEAP accomplishments reporting was not completed by the work group, but was anticipated to involve a spreadsheet form with at least some of the characteristics of the NPEAP accomplishments reports that were developed in previous years. Further work is necessary in this regard.

- Work group recommended grant closeout requirements that are consistent with other BWSR grants. It is recommended that these requirements apply starting with the FY 2011 NPEAP grants.
- The financial statement policy recommendation is consistent with other BWSR program requirements for SWCDs, as is the audit policy recommendation.
- The records retention policy recommendation is as applies to all state and local governments in Minnesota.

BWSR Program Monitoring, Verification, and Non-Compliance Procedures

In order to comply with the Office of Grants Management grant administration policies, the work group incorporated the following policies into the NPEAP grant policies requirements consistent with other BWSR programs. The following recommendations are proposed:

- Monitoring: As with other BWSR grant programs, BWSR staff will annually monitor all the NPEAP grants for compliance with the grant administration policy.
- Verification: Verification will be conducted for compliance with contractual requirements in a manner which is consistent with the policies established by the Office of Grants Management and adopted by the BWSR Board.
- Non-Compliance policy recommendations:
    a. Any SWCD JPO that does not complete the work plan and reporting requirements will not be eligible to receive funds from this program until the past reporting has been completed.
    b. Financial penalties up to 150% of the grant amount may be applied to a grant recipient that does not meet the requirements and terms of the grant agreement.

Future Considerations

- Ability to track Technical Assistance at the project level in eLINK. It is recommended that potential new reporting systems developed by BWSR incorporate the ability to track who (organization, local government unit, federal, or private) is providing technical assistance (site evaluation, design, construction) at the project level.

- Ability of SWCD JPOs to expand capacity to meet increased technical assistance needs. SWCD JPOs may be in the best position to absorb (expand or hire staff) the increased workload from BWSR appropriations that are related to Clean Water Fund implementation and Disaster Response or other unforeseen appropriations that depend on increased technical capacity to implement. How best to promote and enable SWCD TSAs to appropriately grow shared technical assistance capacity?

- Accomplishment report & guidance needs development, as well as the process for submitting it to BWSR. There was consideration that there is value provided to the TSA at a greater level of detail (e.g. by project and SWCD) than is needed by BWSR. Should not be a huge task for TSA to accomplish. The NPEAP Work Group could further explore this with NPEAP host SWCD managers and staff to identify a mutually beneficial and consistent reporting method.

- eLINK reporting and work plan guidance development will need to be updated to reflect NPEAP grant administration and reporting policies.

Proposed Implementation Schedule

May 26, 2011	G Team reviews policy
June 2, 2011	Senior Management Team (SMT) reviews policy
June 13, 2011	Grants Program and Policy Committee reviews policy
June 22, 2011	BWSR Board Action requested on the policy

NPEAP Work Group Members

Mark Hiles (chair)	Al Kean (SMT Liaison)
Brad Wozney	Chad Severts
Mary Kells	Jim Haertel
Wayne Zellmer (ex officio)	

Minnesota Board of Water & Soil Resources

Non-Point Engineering Assistance Program

Grant Administration Policy

Table of Contents

1.0 Program and Policy Purposes 1

2.0 Eligible Activities 2

3.0 Grant Match Requirements 2

4.0 Grant Work Plan and Reporting Requirements 2

5.0 BWSR Program Monitoring, Verification, and Non-Compliance Procedures 3

1.0 Program and Policy Purposes

The Non-Point Engineering Assistance Program (NPEAP) has been an important component of the local conservation delivery system in Minnesota since 1995. NPEAP delivery is implemented via eight Soil and Water Conservation District (SWCD) Technical Service Areas (TSAs) covering all of Minnesota, which are co-aligned with Minnesota Association of Soil and Water Conservation District (MASWCD) administrative areas. Each TSA is governed by a Joint Powers Organization (JPO) of SWCDs. NPEAP grants are used to help fund the costs of providing shared engineering and associated technical assistance for the implementation of soil and water conservation, water quality, and wildlife habitat practices and projects on private lands through member SWCDs and partners. Technical assistance and administrative activities necessary to implement this purpose are considered essential to the success of private lands conservation programs administered by BWSR and other state and federal agencies.

The purpose of this policy is to provide clear expectations for the administration of NPEAP grants and associated reporting. Pursuant to Minnesota Statutes, §103C.231, an SWCD may join or cooperate by agreement as provided in Section 471.59 with another SWCD in an operation or project in which the SWCDs have a common interest. SWCD JPO and staff are responsible for the administration and decisions concerning the local use of these funds in accordance with applicable Minnesota Statutes, BWSR policies, and other applicable laws. BWSR will use grant agreements as contracts for assurance of deliverables and compliance with applicable laws and program policies. SWCD JPO may apply for and receive other BWSR program funds in accordance with the applicable program policy.

Based on the following minimum criteria, available funds are allocated to SWCD JPO that has fully complied with all program policies:

- Past success of the SWCD JPO in providing shared engineering and associated technical assistance for conservation practices and projects to and through member SWCDs;
- Ability of the SWCD JPO to expend the funds in a timely manner; and

- The past success of the SWCD JPO in complying with the applicable minimum grant reporting requirements.

2.0 Eligible Activities

The primary purpose of activities funded with NPEAP grants is to provide shared engineering and associated technical assistance for site evaluation, design, and construction of erosion and sediment control, water quality, and wildlife habitat practices and projects. Eligible activities are split into the following four categories:

2.1 Technical and Engineering. A key priority for NPEAP funds is shared engineering and associated technical assistance activities and expenses for site evaluation, design, and construction of conservation practices and projects for erosion and sediment control, water quality, and wildlife habitat, in accordance with the approved grant work plan.

2.2 Administration and Coordination Activities. Eligible activities include the administrative costs of the host district(s) and fiscal agent approved in the grant work plan, including: NPEAP staff training and coordination with the JPO, member SWCDs and partners.

2.3 Education and Information. Eligible items and expenses include the associated costs of NPEAP staff providing training to member SWCDs and partners approved in the grant work plan.

2.4 Equipment and Supplies. Eligible expenses include necessary equipment, hardware, software, and supplies, in accordance with the approved grant work plan.

3.0 Grant Match Requirements

A minimum 10% cash match is required from local, other state and federal funds which the JPO is eligible to receive. The anticipated source(s) for this match shall be identified in the grant work plan.

4.0 Grant Work Plan and Reporting Requirements

To ensure the continued success of the Non-Point Engineering Assistance Program, development of grant work plans and regular reporting of financials, as well as technical assistance accomplishments, are required. Guidance for developing applicable grant work plans and reporting is available on the BWSR website. This reporting shall be completed through entries and documentation provided in the work plan and reporting guidance.

4.1 Grant Work Plan. Work plan approval by BWSR staff is required to receive the associated grant. Work plans shall be developed in accordance with the guidelines for entering Non-Point Engineering Assistance Program work plans and reporting available on the BWSR website. Work plans shall be developed in eLINK4Web with an initiative for each eligible activity, a description of the anticipated activity accomplishments, and grant and match funding amounts to accomplish each of the activities. Changes during the grant period deviating on spending between initiatives from the originally budgeted amounts in the work plan by greater than 10% shall follow the Board of Water and Soil Resources grant recipient administrative requirements policy.

4.2 Reporting. For Fiscal Year 2011 grants and beyond, annual reporting is required on a calendar year basis by the reporting deadline established by BWSR (February 1st). The

SWCD JPO shall post and retain the annual financial statement and work plans on the SWCD JPO fiscal agent's website according to the timeline and guidelines established by BWSR.

a. Work Plan Reporting – Descriptions of actual results and financial expenditures for each initiative must be reported according to the applicable guidelines for entering work plans and reporting available on the BWSR website. Work plan reporting is required for each grant on a calendar year basis and at the end of the grant agreement period.

b. Accomplishments Report - Annual accomplishments reporting shall be submitted to the BWSR in accordance with the associated guidance and template provided. Accomplishment reporting is required on a calendar year basis. Accomplishment reporting shall include all projects and assistance provided by the TSA for the calendar year regardless of grant fund used to fund the project or assistance.

4.3 Grant Closeout. Within thirty (30) calendar days of the conclusion of each grant agreement or expenditure of all grant funds, fiscal agents of SWCD JPO are required to:

a. Provide on-line documentation of all work plan activities completed with the grant funding;
b. Submit a Final Financial Report to BWSR, signed by the grantee's authorized representative; and
c. Return any unspent funds as instructed on the Returned Check Form, found on the BWSR website.

These requirements apply to FY 2011 NPEAP grants and beyond.

4.4 Annual Financial Statement. The SWCD JPO must submit an annual financial statement to BWSR by July 30th of each year pursuant to MN Statutes, §471.698. BWSR will then submit to the Office of the State Auditor.

4.5 Audit. A JPO will be audited at least once every three years or whenever the fiscal agent district total revenue since last audit reaches $500,000. The "total revenue" figure is taken off the year-end "Statement of Revenues, Expenditures and Changes in Fund Balance" in the actual column. This is a cumulative total of fiscal agent annual revenues, thereby requiring an audit for the year in which the $500,000 threshold is reached. The audit must be conducted by an independent certified public accountant and then submitted first to the Office of the State Auditor in draft form, and once approved, sent to BWSR.

4.6 Records Retention. Program files must be retained by the JPO pursuant to Minnesota Statutes, §138.17 and consistent with ongoing records retention schedules.

5.0 BWSR Program Monitoring, Verification, and Non-Compliance Procedures

5.1 Monitoring. BWSR Board Conservationists whose work area encompasses the fiscal agent SWCD will annually monitor all the Non-Point Engineering Assistance Program grants reporting for compliance with reporting requirements of the Non-Point Engineering Assistance Program policy above.

5.2 Verification. Verification will be conducted for compliance with contractual requirements in a manner consistent with the policies established by the Office of Grants Management and adopted by the BWSR Board. Elements described in the grant work plan will be reviewed in the verification.

5.3 Non-Compliance Procedures.

a. Non-compliance with grant work plan and reporting requirements - Any SWCD JPO that does not complete the work plan and reporting requirements in section 4 will not be eligible to receive funds from this program until all past work plan and reporting requirements have been completed.

b. Non-compliance with the terms of the Grant Agreement - Financial penalties up to 150% of the grant amount may be applied to a grant recipient that does not meet the requirements and terms of the grant agreement.

DRAFT

Board Resolution # 11-40

Non-Point Engineering Assistance Program
Grant Administration Policy

WHEREAS, the Non-Point Engineering Assistance Program (NPEAP) is an important component of the local conservation delivery system in Minnesota; and,

WHEREAS, the NPEAP helps fund the costs of providing shared engineering and associated technical assistance for the implementation of soil and water conservation, water quality, and wildlife habitat practices and projects; and,

WHEREAS, the legislature appropriates funds to the Board for the NPEA Base Grant Program; and

WHEREAS, the Grants Program and Policy reviewed the proposed policy on June 13, 2011 and recommends the Board adopt said policy.

NOW THEREFORE BE IT RESOLVED, to provide clear expectations for the local administration of NPEAP grants in accordance with applicable Minnesota Statutes, Board policies, and other applicable laws, the Board hereby adopts the attached *Non-Point Engineering Assistance Program Grant Administration Policy.*

Date: 6/22/11

Brian Napstad, Chair
Board of Water and Soil Resources

Attachment: *Non-Point Engineering Assistance Program Grant Administration Policy*

H:NPEAPGAPBR

COMMITTEE RECOMMENDATIONS

Metro Water Planning Committee

1. Wright County Local Water Management Plan Five-Year Amendment – Bob Burandt/Brad Wozney – ***DECISION ITEM***

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Wright Co. Water Mgt Plan 5-Year Amendment**

Meeting Date: June 22, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☐ Decision ☐ Discussion ☐ Information

Section/Region: Metropolitan

Contact: Brad Wozney, Board Conservationist

Prepared by: Brad Wozney, Board Conservationist

Reviewed by: Metro Water Planning Committee(s)

Presented by: Robert Burandt, Brad Wozney

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☒ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED
Approval of the 2011 Plan Amendment to the Wright County Local Water Management Plan

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
The Wright SWCD is currently responsible for the administration of the Local Water Management Plan 2006 – 2015 (Plan) for Wright County as delegated by the County Board of Commissioners. The county is located in the western metro area and contains three main transportation corridors: State Highway 12 through the south, State Highway 55 through the center, and I-94 through the north. Wright County is bound by the Clearwater and Mississippi Rivers to the north, McLeod and Carver Counties to the south, Meeker County to the west, and the Crow River and Hennepin County to the east. The county is blessed with a diverse and abundant mix of water resources, including over 300 lakes, 2 major river systems, many miles of creeks and ditches, and over 34,000 acres of wetlands. The total surface water comprises 16% of the county total land area.

The Wright County Water Management Task Force is a nine member advisory body appointed by the County Commissioners who provide input and direction. Members represent citizens, lake associations, cities, sportsmen's and ag groups.

The Plan expires on December 31, 2015.

Several Wright County Water Plan Task Force and Interagency Technical Advisory meetings were held throughout the planning process allowing opportunities for state and local agencies and citizen input in the plan development. Notice of intent to amend the plan was properly distributed to local units of government and state agencies in July of 2010 following the County Board's approval of a resolution on June 22, 2010. It also requested upfront input on priorities and action items. On December 1, 2010, notice was sent to LGUs and state agencies requesting comments on the draft Plan Amendment prior to the release of the formal draft. Upfront input and/or draft Plan Amendment comments were received from DNR, MPCA, and BWSR. On February 9, 2011, Wright SWCD formally released the draft 2011 Plan Amendment for LGU and state agency review. Comment letters recommending approval of the Amendment were received from MPCA and MDA.

BWSR staff provided written and verbal recommendations throughout the planning process, many of which were incorporated in the draft Plan Amendment. Wright County held a public hearing on the 2011 Plan Amendment on April 19, 2011, after proper public notice, and no additional comments were received.

The Priority Concerns and Goals to be addressed within the Plan are:

Goal A: Groundwater Quality: Provide high quality groundwater supplies to the citizens of Wright County. Actions focus on the implementation of the following objectives:

- Increase available background information of Wright County's groundwater through monitoring, analysis, outside data sources and better information distribution
- Work to prevent failure of individual septic treatment systems (ISTS) and related sewage pollution in Wright County

Goal B: Surface Water Quality: Position Wright County to maximize local control and funding for TMDLs. Actions focus on the implementation of the following objectives:

- Expedite the TMDL process for all of the 303d listed waters in Wright County
- Identify and prioritize all the impaired river systems and "General Development and Recreation Lakes" of Wright County

Goal C: Development Pressures: Develop regulations, educate and offer incentives to ensure orderly development with minimal impacts to Wright County's water quality. Actions focus on the implementation of the following objectives:

- Guide new development with comprehensive planning, accessible information and consideration for natural resources
- Influence existing developments and landowners use practices which reduce and/or mitigate negative human impact on natural resources

Goal D: Agricultural Land Use: Achieve countywide use of environmentally conscious practices by agricultural producers to protect and enhance Wright County's natural resources. Actions focus on the implementation of the following objectives.

- Continue Wright County's partnership with the MPCA to ensure all county feedlots are in compliance with 7020 rules.
- Influence agricultural operators to use practices which either reduce and/or mitigate negative human impact on natural resources

The Wright County Local Water Management Plan meets all requirements set forth in MS 103B and the BWSR guidance documents including:

- ☐ Focuses on the priority concerns identified in the Priority Concerns Scoping Document;
- ☐ Sets forth appropriate goals and objectives;
- ☐ Outlines a detailed five-year implementation program with measurable actions, timeline, and budget; and
- ☐ Includes all required sections.

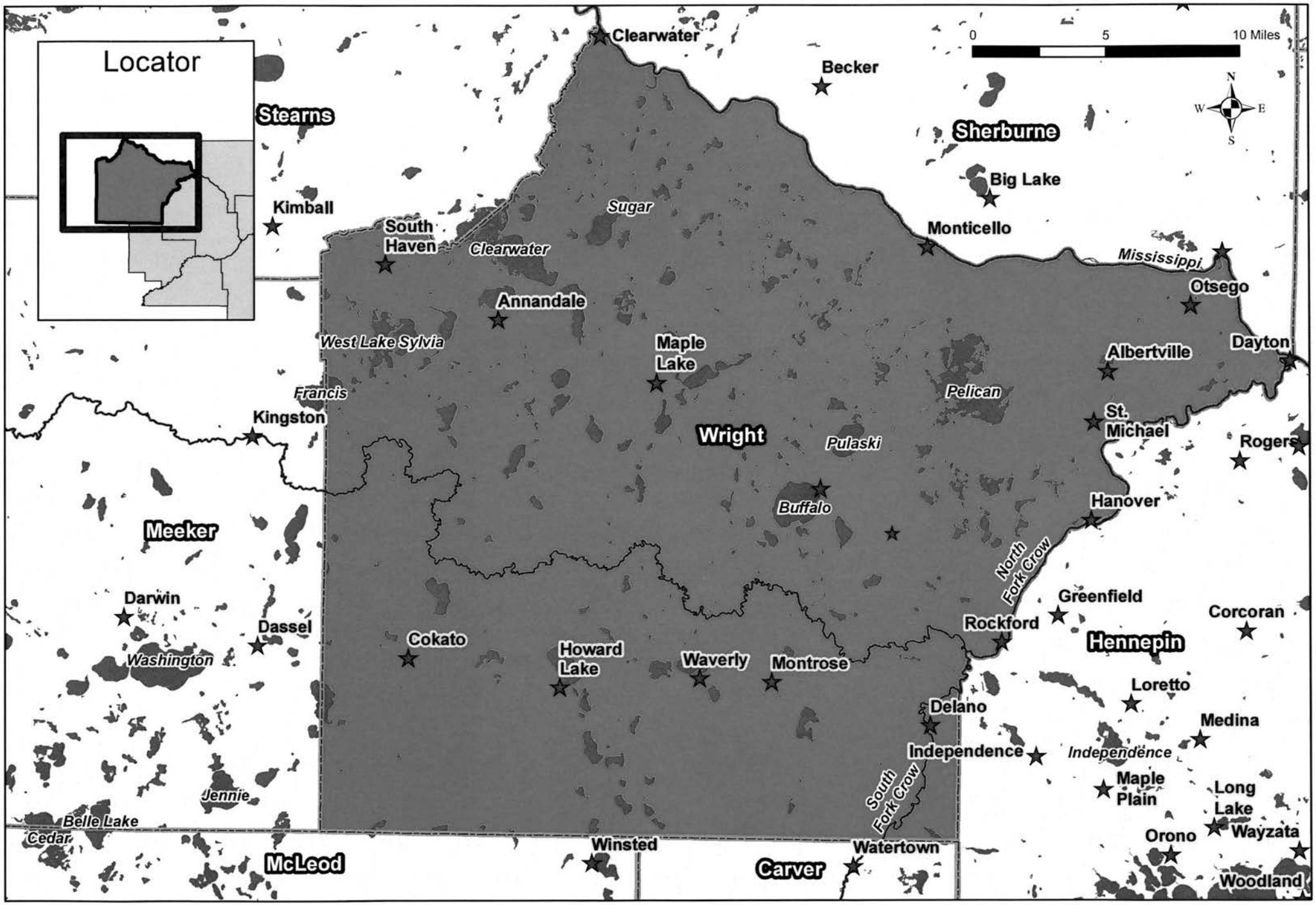
The highlights of the Amendment include:

1) A close working relationship with the County Commissioners.
2) Proposed adoption of countywide erosion control and stormwater management ordinances with the intent to be one of the first counties in the state to invoke authorities in MS 103B.325 and 103B.331.
3) Aggressive lake and stream water quality monitoring program.
4) Assuming lead role on TMDL studies and other diagnostic water quality studies.
5) Incorporation of water plan components into the County Comp Land Use Plan.
6) A lake prioritization scheme for targeting and prioritizing water quality efforts.

Recommendation

The county has proposed comprehensive and unique strategies to address the priority concerns via the five-year implementation program. The Metro Water Planning Committee met on May 31, 2011, and recommended approval of the entire Wright County 2011 Plan Amendment to the full BWSR Board per the attached draft Order.

Wright County



Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, Minnesota 55155

In the Matter of Reviewing the Local Water Management Plan Amendment for Wright County (Minnesota Statutes §§ 103B.314, Subd. 6 and 103B.315, Subd. 5.)

ORDER APPROVING

LOCAL WATER MANAGEMENT PLAN AMENDMENT

Whereas, on September 26, 2007, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Wright County Local Water Management Plan Update 2006 – 2015 (Plan); and

Whereas, the Board Order stipulated that Wright County was required to update the implementation section by December 31, 2010; and

Whereas, the Wright County Board of Commissioners submitted the Wright County 2011 Plan Amendment on April 21, 2011; and

Whereas, this 2011 Plan Amendment contains the updated five-year implementation section as ordered by the Board; and

Whereas, the Board has completed its review of the 2011 Plan Amendment;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1) On June 22, 2010, Wright County passed a resolution to amend its current Plan by providing for the required update of the five-year implementation section, pursuant to Minn. Stat. § 103B.314, Subd. 6 and delegated the Wright Soil and Water Conservation District (SWCD) the responsibility of amending the Plan.

2) On July 11, 2010, Wright SWCD provided proper notice to local units of government and state agencies of the county's intent to amend its five-year implementation section and invited all recipients to participate in the amendment process.

3) On July 21, 2010, December 8, 2010, and March 24, 2011, Wright SWCD convened its water plan task force to review past accomplishments and proposed changes to the Plan.

4) On December 1, 2010, Wright SWCD provided proper notice to local units of government and state agencies requesting comments on the draft 2011 Plan Amendment prior to the formal comment period.

5) On February 9, 2011, Wright SWCD formally submitted the 2011 Plan Amendment, which included the 2011-2015 implementation schedule for the required state agency review.

6) On April 19, 2011, after providing for proper public notice, Wright County conducted a public hearing on the proposed 2011 Plan Amendment. No additional comments were received at the hearing.

7) On April 21, 2011, the Board received the Wright County 2011 Plan Amendment, a record of public hearing, and copies of all written comments pertaining to the 2011 Plan Amendment, pursuant to Minn. Stat. § 103B.314, Subd. 6.

8) On May 31, 2011, the Metro Water Planning Committee of the Board reviewed the recommendations of the state review agencies regarding final approval of the Wright County 2011 Plan Amendment. Recommendations of the state review agencies were:

   A) Minnesota Department of Agriculture: Recommends approval.
   B) Minnesota Department of Health: Did not comment.
   C) Minnesota Department of Natural Resources: Did not comment.
   D) Minnesota Pollution Control Agency: Recommends approval.
   E) Minnesota Environmental Quality Board: Did not comment.
   F) Minnesota Board of Water and Soil Resources metro staff: Recommends approval.

   No other local unit of government provided written comments to Wright SWCD.

   The Metro Water Planning Committee decided with a unanimous vote to recommend to the full Board that the Plan Amendment be approved.

9) This Plan Amendment will be in effect until December 31, 2015.

CONCLUSIONS

1. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of approving a Comprehensive Local Water Plan Amendment of Wright County pursuant to Minnesota Statutes §§ 103B.314, Subd. 6 and 103B.315, Subd. 5.

2. The Wright County 2011 Plan Amendment attached to this Order states goals, objectives, and actions of the county and a five-year implementation program. The attached 2011 Plan Amendment, as well as the previously approved Wright County Local Water Management Plan Update 2006 - 2015, is in conformance with the requirements of Minn. Stat. § 103B.301.

ORDER

The Board hereby approves the attached 2011 Plan Amendment of the Wright County Local Water Management Plan 2006 - 2015. Wright County will be required to provide for a complete update of its Water Management Plan prior to December 31, 2015.

Dated at St. Paul, Minnesota, this **22nd day of June 2011**.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chairman

COMMITTEE RECOMMENDATIONS

Northern Water Planning Committee

1. Clearwater River Watershed District Plan – Quentin Fairbanks - ***DECISION ITEM***

2. Cook County Water Plan Extension – Quentin Fairbanks - ***DECISION ITEM***

3. Middle-Snake-Tamarac Rivers Watershed District Revised Plan – Quentin Fairbanks - ***DECISION ITEM***

4. North Fork Crow River Watershed District and Sauk River Watershed District Boundary Change – Quentin Fairbanks - ***DECISION ITEM***

5. Polk County Priority Concerns Scoping Document – Quentin Fairbanks - ***DECISION ITEM***

6. Establishment Hearing for the Upper Red Lower Otter Tail Watershed District – Quentin Fairbanks – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Clearwater River WD Plan Approval

Meeting Date: June 22, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Northern

Contact: Jason Weinerman

Prepared by: Jason Weinerman

Reviewed by: Northern Water Planning Committee(s)

Presented by: Quentin Fairbanks

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED
Approval of the updated 10 year Clearwater River Watershed District Plan

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
In 1975, the BWSR established the Clearwater River Watershed District. The most recent watershed district plan was approved by the BWSR on 2003 and this is a ten year plan update.

The BWSR received the plan in February of 2011. Following the arrival of the plan, a legal notice of filing was submitted to several area newspapers and mailings of the notice of filing were also sent to the appropriate county auditors, administrators, soil and water conservation districts, and cities within the watershed district. The Department of Natural Resources had no comments or objections to the plan. No other comments were received.

The Watershed District plan will be presented to the Northern Water Planning Committee on June15, 2011. As the plan met state statutes and is non-controversial, the Committee is expected to recommend forwarding the plan to the full board for approval.

This draft item is contingent upon the Committee's final recommendation.

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
Saint Paul, MN 55155

In the Matter of prescribing a Revised Watershed Management Plan for the **Clearwater River Watershed District** pursuant to Minnesota Statutes Sections 103D.405	**ORDER PRESCRIBING WATERSHED MANAGEMENT PLAN**

Whereas, the Board of Managers of the Clearwater River Watershed District (CWRWD) filed a proposed Revised Watershed Management (Plan) dated January 2011 with the Board of Water and Soil Resources (Board) on February 17, 2011 pursuant to Minn. Stat. § 103D.405, and;

Whereas, the Board has completed its review of the Plan;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order.

FINDINGS OF FACT

1. **District Establishment.** The District was established on April 9, 1975 by Order of the Minnesota Water Resource Board. The District is located in the central portion of Minnesota and includes parts of, Meeker, Stearns, and Wright Counties and encompasses the Clearwater Chain of Lakes. The mission of the District is to promote, preserve, and protect water resources within the District.

2. **Requirement to Plan.** A watershed district is required to revise their watershed management plan at least once every ten years pursuant to Minnesota Statutes Section 103D.405, Subd. 1 (a). The latest Water Management Plan of the District was prescribed by the Board in 2003. The Plan includes an inventory of the District's physical features and water resources, describes water-related problems and possible solutions, describes activities and projects that the District has completed, and states objectives for current and future water resources management.

3. **Nature of the Watershed.** The Clearwater River Watershed District lies in central Minnesota and occupies land within Meeker, Stearns, and Wright Counties. The headwaters of the district are located in northeastern Meeker County, southeastern Stearns County, and northern Wright County. The Clearwater River runs into Clearwater Lake and then outlets into the Mississippi River. The upper portions of the watershed are dominated by

agricultural land use while the lower portions of the watershed trend towards suburban developments.

4. **Territory.** The CWRWD is approximately 159 square miles in size and is located in central Minnesota. Lands within the District are distributed in the following counties: Meeker (29%), Stearns (34%), and Wright (37%).

5. **Local Review.** The CWRWD sent a copy of the draft Plan to local units of government for their review pursuant to Minn. Stat. § 103D.405.

6. **Department of Natural Resources Review.** The DNR had no objections nor comments to the Plan.

7. **Department of Agriculture Review.** Not required by law to review.

8. **Department of Health Review**. Not required by law to review.

9. **Pollution Control Agency Review**. Not required by law to review.

10. **Other review comments.** No other review comments received.

11. **Highlights of the Plan**. The Clearwater River Watershed District plan contains a series of "Lake Report Cards" that provide a historical sampling of the conditions of each of the lakes within the district. In addition to the status of the lakes, these report cards also provide recommendations for either maintaining lake quality or improving water quality in lakes that are seeing a decline in quality. The plan also provides broader management recommendations for land use and best management changes throughout the watershed district. Finally, as the watershed district maintains several wastewater treatment facilities, the plan does a good job of looking at the long term maintenance of these facilities.

12. **Hearing Notice.** The Legal Notice of Filing on the Plan, pursuant to Minn. Stat. § 103D.105 Subd. 2, was published in the Annadale Advocate and Eden Valley Journal Patriot on May 11, and 18, 2011, and in the Tri County News on May 12 and 19, 2011. Further, a copy of the notice of filing was mailed to several addresses notifying them of the legal notice of filing, including the Meeker, Stearns, and Wright County Auditors, Administrators, and Soil and Water Conservation Districts; all of the cities within the watershed district; and representative for the Watershed District.

13. **Public Hearing**. The Legal Notice of Filing was published pursuant to Minn. Stat. § 103D.105 Subd. 2, which requires within 30 days of the last date of publication of the Notice of Filing of the Revised Water Management Plan that a least one request for hearing be received by the Board before a hearing will be held. No request for hearing and no comments were received during the specified period of time and no hearing was held.

14. **Board Staff Report.** The Clearwater River Watershed District board and contract staff held several planning sessions that included both members of the public and interested government officials. Once the plan was developed, the District sent a preliminary draft to the board conservationist for review and to ensure compliance with State statute and policy. The overall plan of the Clearwater River Watershed District meets the requirements of M.S. 103D.405 and follows the guidelines provided by the Board of Water and Soil Resources.

15. **North Region Water Plan Review Committee.** The committee met on June 15, 2011 those in attendance from the Board's Committee were Fairbanks, Brutlag, Tiedermann, and Mykleseth. Board staff in attendance were Ron Shelito, Jason Weinerman, Brian Dwight and Peter Waller. Board staff recommended approval of the plan. After discussion, the committee unanimously voted to recommend approval of the Plan pending the June 17th closing of the notice of filing with no recommendation for a formal board hearing.

CONCLUSIONS

1. The proposed Revised Plan is valid in accordance with Minn. Stat. § 103D.405.

2. Proper notice of filing was given in accordance with applicable laws.

3. All relevant, substantive and procedural requirements of law and rule have been fulfilled.

4. The Board has proper jurisdiction in the matter of approving a Plan for the CWRWD pursuant to Minn. Stat. § 103D.405.

5. The attached Plan is in conformance with the requirements of Minn. Stat. Chapter 103D, Board guidelines for Watershed District Plan content, and is consistent with the affected counties' comprehensive water plans.

ORDER

The Board hereby prescribes the attached Plan dated January 2011 as the Revised Watershed Management Plan for the Clearwater River Watershed District.

Dated at Saint Paul, Minnesota this 22 day of June, 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brian Napstad, Chair

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Cook County Water Plan Extension Request

Meeting Date: June 22, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: North

Contact: Ryan Hughes

Prepared by: Ron Shelito

Reviewed by: Northern Water Planning Committee(s)

Presented by: Quentin Fairbanks

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Action requested to approve the Cook County Water Plan Extension to October 26, 2014

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

The current Cook County Water Plan is due to expire October 26, 2012. The County is requesting that BWSR grant an extension of this expiration date through October 26, 2014. The basis for this request is recent staff turnover at the Cook SWCD and Cook County. The current water planner resigned on June 1, 2011. This extension will allow the new water plan staff to to gain familiarity with the water plan process and to gain an understanding of the local water related issues. The county belives this is necessary to provide for a high quality plan. In additon, the SWCD was recently awarded a Lake Protection Challenge Grant from BWSR. This extension will allow the information collected through this grant to be incorporated into the revised plan.

The information submitted is draft contingent upon the Northern Water Planning Committee recommendation at their June 15, 2011 meeting.

DATE: June 8, 2011

TO: BWSR Northern Water Planning Committee

FROM: Ryan Hughes, BWSR Board Conservationist

SUBJECT: Cook County Local Water Plan (LWP) Extension Request

---

The Cook County Board of Commissioners adopted a resolution requesting an extension to the Cook County LWP at their March 22, 2011 regular meeting. Cook County submitted an extension request cover letter and the resolution to the BWSR Board Conservationist March 30, 2011. The current plan expires October 26, 2012.

The Cook County Soil and Water Conservation District (SWCD) and Cook County Water Plan Advisory Committee recommended approval of the extension request to the County Board.

The Cook County SWCD has adopted the Cook County LWP as its Comprehensive Plan and administers the LWP for the County. The Cook County SWCD is integrated with the County and has offices in the County Courthouse and works closely with other County services such as Planning and Zoning.

The basis for the request is staff turnover at both the County and SWCD. Specific positions with new staff include staff responsible for land use and wetlands permits in the County Planning and Zoning office. The SWCD has replaced all staff within the last two years: manager, technician, secretary and water planner. The current water planner resigned June 1, 2011. This extension will allow the new staff responsible for administering the LWP time to become familiar with the local issues and processes to create a more effective, updated LWP.

In addition, the SWCD was recently awarded a Lake Protection Challenge Grant from BWSR. An extension is necessary in order to utilize and incorporate the information obtained from this grant into the local water management plan.

I recommend approval of the request to extend the expiration date of the Cook County LWP and that the extension be granted for two years per M.S. 103B.311, Subdivision 4. If approved the extension would be effective until October 26, 2014.

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, Minnesota 55155

In the Matter of Extending the Local Water Plan For Cook County pursuant to M.S. 103B.311, Subdivision 4, Authorizing BWSR to Grant Extensions	**ORDER EXTENDING LOCAL WATER PLAN**

Whereas, Cook County has a state approved Local Water Plan that is effective until October 26, 2012, pursuant to M.S. 103B.301, and

Whereas, the Board of Water and Soil Resources has authorization to grant extensions pursuant to M.S. 103B.311, Subdivision 4.

Now therefore, the Board of Water and Soil Resources hereby makes the following Findings of Fact, Conclusions and Order:

FINDINGS OF FACT

1. On April 4, 2011 the Board of Water and Soil Resources Board Conservationist received a cover letter and resolution from Cook County requesting an extension of their Local Water Plan.
2. The Board Conservationist recommended approval of the extension due valid circumstances related to changes in staff and to allow completion of the BWSR Lake Protection Challenge Grant to the Cook County Soil and Water Conservation District.
3. In accordance with Board of Water and Soil Resources Local Water Plan guidance, the extension request must be for two (2) years.

CONCLUSIONS

All relevant requirements of law and rule have been fulfilled. The Board of Water and Soil Resources has proper jurisdiction in the matter of extending the Local Water Plan for Cook County pursuant to Minnesota Statute 103B.311, Subdivision 4.

ORDER

The Board of Water and Soil Resources hereby approves the extension of the Cook County Local Water Plan until October 26, 2014. Dated at St. Paul, Minnesota, this 22nd day of June 2011.

By: _____
Brian Napstad, Chairperson

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Middle-Snake-Tamarac Rivers Watershed District Revised Plan**

Meeting Date: June 22, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Norther Region

Contact: Brian Dwight

Prepared by: Brian Dwight

Reviewed by: Northern Water Planning Committee(s)

Presented by: To be determined at the June 15 NPRC

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Persrcibe by or the Revised Middle-Snake-Tamarac Watershed District Plan

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

The Middle-Snake-Tamarac Rivers Watershed District Plan update process has resulted in a very comprehensive, thoroughly thought-out plan. The Watershed District has engaged the public, local, state, and federal agencies in the process by the establishment of two committees; a citizen's advisory committee (CAC) and a technical advisory committee (TAC). In addition to the committees the Watershed District held five public input meetings throughout the District in the late winter/early spring of 2009, in which 20 to 30 citizens per session attended. The issues identified at these session along with water management concerns of the District were then divided into areas of concern and sub-committees of the CAC and TAC were established to develop goals and objectives for these areas of concern. These committees focused on education, water quality, flood damage reduction, natural resource enhancement, and erosion/sedimentation.

The individual Watershed District Board members were also very engaged in the process. All board members did a very thorough review on all the drafts of the revised plan and provided comments and discussed them as a full board as they moved through the planning process. I met with the staff and full board on many occasions to discuss and challenge them on plan content and process. These meetings gave me assurance that this board and staff were not taking this plan revision lightly. BWSR staff reviewed and provided input from not only a water management perspective but also meeting state statute (103D.405) and Flood Damage Reduction Mediation agreement requirements.

In an effort to assure that the watershed planning principles were followed, the planning processes incorporated the following actions:

- The development of a citizen's advisory committee (CAC) that brought local decision makers, landowners, and the watershed district to the planning table during the plan development stage rather than at the final review stage.
- The development of a technical advisory committee not only brought sound scientific based decision making to the process, it also allowed for dialogue to take place during the plan development stage between the policy makers and the scientific community (local, state, federal, and non-governmental organizations) leading to a better understanding of the views of all.
- The planning effort was supported by the development of hydrologic model of the watershed district. This allowed for the evaluation of the effects a project or combination of projects can have early in the project development stage leading to better coordination of project implementation.
- This planning effort was supported by a natural resource inventory and assessment process, which identified the area(s) within the watershed district that natural resource enhancement is most needed and is likely to succeed.
- In addition to the modeling and the natural resource assessment, the Department of Natural Resources inventoried the rivers and streams as well as looked at stream morphology (age and health of the rivers and streams).
- The Watershed District developed an implementation plan that is based on the nature, extent, and severity of the flood damage related issues, as well as the natural resource issues. The resulting solution alternatives will then be weighed on their ability to achieve both flood damage reduction goals and natural resource enhancement goals.

Due to a planning process which relied on the input of a cross-section of interested parties, the use of models, and scientific data to identify and prioritize flood damage reduction needs and natural resource enhancement opportunities, there now exists a high level of ownership by many in the Watershed District Plan. The process also fostered a better understanding and appreciation of the differing opinions among the participants. With the high level of interest and energy that went into these planning efforts it is expected that the Watershed District long range plan will be referred to often.

This item is draft cotingent upon the Northern Water Planning Committee's recommendation at their June 15, 2011 meeting.

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
Saint Paul, MN 55155

In the Matter of prescribing a Revised Watershed Management Plan for the Middle-Snake-Tamarac Rivers Watershed District pursuant to Minnesota Statutes Sections 103D.405	ORDER PRESCRIBING WATERSHED MANAGEMENT PLAN

Whereas, the Board of Managers of the Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) filed a proposed Revised Watershed Management (Plan) dated March 2011 with the Board of Water and Soil Resources (Board) on March 4, 2011 and final revised Plan dated May 2011 pursuant to Minn. Stat. §§ 103D.405, and;

Whereas, the Board has completed its review of the Plan;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order.

FINDINGS OF FACT

1. **District Establishment.** Portions of the MSTRWD comprising of the watersheds of the Middle River and Snake River were initially established by an order of the Water Resources Board on August 28, 1970. By order of the Board on August 28, 2002 the MRSRWD was increased in size to include the Tamara River. The order also change the name to the Middle-Snake-Tamarac Rivers Watershed District (MSTRWD)

2. **Requirement to Plan.** A watershed district is required to revise their watershed management plan at least once every ten years pursuant to Minn. Stat. § 103D.405, Subd. 1 (a). The latest Water Management Plan of the District was prescribed by the Board on October 26 1994. This Plan was amended in December 2004 for purposes of addressing water management issues in the Tamarac River watershed for which the Watershed District was expanded to include by petition from the Marshall Count board of Commissioners in 2002. The Plan includes an inventory of the District's physical features and water resources, describes water-related problems and possible solutions, describes activities and projects that the District has completed, and states objectives for current and future water resource management.

3. **Nature of the Watershed.**
The topography of the District is nearly level on the Lake Agassiz Plain to slightly undulating in the transitional and upland areas to the east. Three major flowages transect the District generally from east to west ultimately joining the Red River of the North. These include the Snake River, the Middle River and the Tamarac River. The entire District is drained by intermittent streams which usually cease to flow by about the second week in June each year. With no natural lakes within the District boundaries, the only significant source of surface water is the Red River of the North.

3 **Territory.** The MSTRWD is approximately 1,476 square miles in size and is located in Northwestern Minnesota in the Red River of the North Basin. Lands within the District are distributed in Marshall, Kittson, Polk, Pennington, and Roseau Counties. The MSTRWD includes the watersheds of the Middle River, Snake River, and Tamarac River.

4 **Local Review.** On May 4, 2011 The MSTRWD sent a copy of the draft Plan to those required pursuant to Minn. Stat. § 103D.405. The MSTRWD also provided copies to additional local, state, and federal agencies, citizens' advisory committee, technical advisory committee, and provided access to copies for the general public at the District office and website.

5 **Department of Natural Resources Review.** Comments received from the DNR provided sources where further detailed information could be found regarding fish, wildlife and significant natural resources occurrences in the MSTRWD. They also provided some suggestive changes to the format of sections of the plan that would provide a better understanding on how the implementation of actions can affect multiple goals and policies mentioned in the Plan.

6 **Minnesota Pollution Control Agency Review**. Comments received from the MPCA provided suggestive language changes that were less technical in nature, set a higher priority on actions addressing impaired, and were further clarifying in nature

7 **U.S. Army Corp of Engineers Review.** Comments received from the ACOE were further clarification in nature, in the areas of existing wetlands and grasslands in the MSTRWD, federal laws and regulations, and commended the MSTRWD for the inclusion of Clean Water Act section 404 elements throughout the Plan.

8 **Minnesota Board of Water and Soil Resources.** Comments provide by the BWSR included the identification and encouragement to utilize additional studies and reports done by state agencies that inventoried and assessed resources within the MSTRWD. Other comments made were the need to provide information on planned and active projects and programs, and grammatical and clarification in nature.

9 **Highlights of the Plan**. The MSTR WD Revised Water Management Plan is a very comprehensive plan, which sets quantifiable flood damage reduction and natural resource enhancement goals for five individual planning regions covering the entire watershed district. The plan identifies actions the MSTRWD will consider implementing to meet these goals. The Plan also establishes a watershed wide monitoring system which will be used to evaluate progress in the area of stream flow reductions, water quality and overall stream health and refines the Army Corp of Engineers project review process for projects needing Clean Water Act Section 404 authorization, referred to as the "Points of Concurrence" process.

10 **Hearing Notice.** Legal notice of the public hearing on the Plan, pursuant to Minn. Stat. § 103D.405 Subd. 5, was published in the Warren Sheaf on May 18, and 25, 2011 (Exhibit 13), in the Crookston Times on May 18 and 25, 2011 (Exhibit 11), in the Thief River Times on May 18 and 25, 2011 (Exhibit 10), in the Stephen Messenger on May 19, and 26 2011 (Exhibit 17), in the Middle River Honker on May 21 and 28, 2011, in the Roseau Times on May 21 and 28, 2011 (Exhibit 12), and in the Kittson County Enterprise May 25, and June 1, 2011 (Exhibit 14). Further, a copy of the hearing notice and map was mailed to several addresses notifying them of the public hearing, including the Marshall, Kittson, Polk, Pennington, and Roseau County Auditors, Administrators, and Soil and Water Conservation Districts; all cities within the watershed district; and representative for the Watershed District (Exhibit 9).

11 **Public Hearing**. A public hearing was held on the Plan on June 9, 2011 at 7:00PM at the Bremer Bank Building, 202 W. Johnson Ave., Warren, MN. The proceedings were recorded. The hearing panel consisted of Northern Water Planning Committee Board members Gene Tiedemann, Keith Mylkeseth, Paul Brutlag, and Quentin Fairbanks as chair. Board staff in attendance was Travis Germundson, and Brian Dwight. Travis Germundson entered Exhibit 1 through Exhibit 18 into the record by reading a brief description of each exhibit.

The following list of exhibits comprises the hearing record.

Exhibit 1. Compact Disk of Draft Revised Watershed Management Plan for the Middle-Snake-Tamarac Rivers Watershed District dated March 2011, received March 9, 2011 consisting of Exhibit 1A.

Exhibit 1A. Request for public review and comment on the Middle-Snake-Tamarac Rivers Watershed District Draft Revised Watershed Management Plan from Nick Drees with the Middle-Snake-Tamarac Rivers Watershed District, dated March 4, 2011.

Exhibit 2. Letter dated April 4, 2011 from Brian Dwight with the Board of Water and Soil Resources to the Board's Northern Plan Review Committee notifying them that staff recommends that a public hearing be held on the plan update including a draft order.

Exhibit 3. Review comments dated April 8, 2011 from Jan Kaspari, Marshall County Zoning Administrator on the 10 year updated plan.

Exhibit 4. Letter dated April 12, 2011 from Rebecca Flood with the Minnesota Pollution Control Agency to Nick Drees with the Middle-Snake-Tamarac-Rivers Watershed District review commits on the draft plan.

Exhibit 5. Letter dated April, 28, 2001 from Brian Dwight with the Board of Water and Soil Resources to the Middle-Snake-Tamarac-Rivers Watershed District Board of Managers review commits on the draft plan.

Exhibit 6. Letter dated April 28, 2011 from Brian Napstad, Chair of the Board of Water and Soil Resources to Middle-Snake-Tamarac Rivers Watershed District notifying them that the Board has issued an Order to hold a public hearing on the revised water management plan, consisting of Exhibit 3A.

Exhibit 6A. Order dated April 27, 2011 from Brain Napstad, Chair of the Board of Water and Soil Resources ordering a public hearing to be held on the revised watershed management plan.

Exhibit 7. Letter dated May 4, 2011 from Garry Bennett with the Department of Natural Resources to the Middle-Snake-Tamarac Rivers Watershed District Board of Managers review commits on the draft plan.

Exhibit 8. Letter dated May 5, 2011, from Tamara Cameron with the U.S. Corps of Engineers to Nick Drees, with the Middle-Snake-Tamarac-Rivers Watershed District review comments on the draft plan.

Exhibit 9. Letter dated May 13, 2011 from Travis Germundson with the Board of Water and Soil Resources to several addresses notifying them of the public hearing, including list of addressees, and legal notice.

Exhibit 10. Affidavit of Publication dated May 25, 2011, of Legal Notice in the Thief River Falls Times on May 18 and 25, 2011.

Exhibit 11. Affidavit of Publication dated May 27, 2011, of Legal Notice in Crookston Daily Times on May 18 and 25, 2011.

Exhibit 12. Affidavit of Publication dated May 31, 2011, of Legal Notice in the Roseau Times-Region on May 21 and 28 2011.

Exhibit 13. Affidavit of Publication dated April 31, 2011 of Legal Notice in Warren Sheaf on May 18 and 25, 2011.

Exhibit 14. Affidavit of Publication dated June 1, 2011 of Legal Notice in the Kittson County Enterprise on May 25, and June 1, 2011

Exhibit 15. Letter date June 1, 2011 from Brian Dwight with the Board of Water and Soil Resources to the Board's Northern Plan Review Committee summarizing the plan development and review process.

Exhibit 16. Letter dated June 6, 2011 from Nick Drees with the Middle-Snake-Tamarac Rivers Watershed District to various individuals and entities responding to comments received on the plan during the public comment period.

Exhibit 17. Affidavit of Publication dated June 6, 2011 of Legal Notice in the Stephen Messenger on May 19, and May 26, 2011.

Exhibit 18. Updated Revised Watershed Management Plan for the Middle-Snake-Tamarac Rivers Watershed District dated May 2011.

12 **Board Staff Report.** The Plan development process provided much opportunity for public input, comment, and review. The Plan indentifies quantifiable goals, objects, and actions needed to accomplish these goals. The Plan meets the requirements of 103D.405, follows the guidelines provided by Board of Water and Soil Resources, and upholds the intent of the "Red River Basin Flood Damage Reduction Work Group Agreement of December 9, 1998".

13 **North Region Water Plan Review Committee.** The committee met on Wednesday, June 15, 2010, at the County Administration Building in Bemidji Minnesota. Committee members present where Gene Tiedemann, Keith Mykleseth, Paul Brutlag, and Quentin Fairbanks as chair. Board staff present where Ron Shelito, Brian Dwight. Representatives from the MSTRWD were administrator Nick Drees and Board managers Ben Kleinwachter and Dough Sorenson. Based on the public hearing record, the Plan meeting the requirements of 103D.405, and the intent of the Flood Damage Reduction Workgroup Agreement of December 1988, the staff recommendation is to approve the Plan, The committee unanimously recommended approval of the Plan.

CONCLUSIONS

1. The proposed Revised Plan is valid in accordance with Minn. Stat. §§ 103D.405,

2. Proper notice of hearing was given and one public hearing was held in accordance with applicable laws.

3. All relevant, substantive and procedural requirements of law and rule have been fulfilled.

4. The Board has proper jurisdiction in the matter of approving a Revised Plan for the MSTRWD pursuant to Minn. Stat. §§ 103D.405

5. The attached Revised Plan of the MSTRWD dated May 2011 would be for the public welfare and public interest and the purpose of Minn. Stat. Chapter 103D would be served.

ORDER

The Board hereby approves the attached Plan dated May 2011 as the Revised Watershed Management Plan for the Middle-Snake-Tamarac Rivers Watershed District.

Dated at Saint Paul, Minnesota this 22rd day of June, 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brian Napstad, Chair

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **North Fork Crow River WD/Sauk River WD Boundary Change**

Meeting Date: June 22, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business
Item Type: ☒ Decision ☐ Discussion ☐ Information
Section/Region: Northern
Contact: Jason Weinerman
Prepared by: Jason Weinerman
Reviewed by: Northern Water Planning Committee(s)
Presented by: Quentin Fairbanks

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED
Approval of the Boundary Change between the North Fork of the Crow River Watershed District and the Sauk River Watershed District.

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
On March 11, 2011, the Sauk River Watershed District and the North Fork of the Crow River Watershed District submitted a boundary change petition to the Board of Water and Soil Resources. The Boundary change will realign the boundary between the two watershed districts to better align with hyrdological and legal boundaries.

A notice of filing was published in local newspapers and submitted to all affected local government units. There were no requests for a hearing received during the specified period and no hearing was held. There were no comments received from informal inquiries to agency and government partners. Therefore, this boundary change is non-controversial.

This boundary change petition will be reviewed by the Northern Water Planning Committee on June 15, 2011. As the boundary change is supported by both Watershed Districts and is non-controversial, the Committee is anticipated to recommend approval of the boundary change. This item is draft contingent upon the Committee's recommendation.

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, Minnesota 55155

In the Matter of the Boundary Change between The Sauk River Watershed District and the North Fork Crow River Watershed District, pursuant to Minnesota Statutes § 103D.251

ORDER BOUNDARY CHANGE

Whereas, the Board of Managers of the Sauk River Watershed District (SRWD) and the North Fork Crow River Watershed District (NFCRWD) filed a Petition dated October 11, 2010 with the Board of Water and Soil Resources (Board) on March 11, 2011, to change the common boundary between the two watershed districts pursuant to Minn. Stat. § 103D.251, and;

Whereas, the Board has completed its review of the Petition;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order.

FINDINGS OF FACT

1. **Petition.** The Petition to change the boundary between the SRWD and NFCRWD was filed by the two watershed districts with the Board on March 11, 2011. The Petition was accompanied by supporting resolutions from the two watershed districts.

2. **Property Description.** The territory included in the boundary change, the Petitioned Area, is located in Lake George Township, in the SE¼ of Section 5, Stearns County, totals approximately 160 acres of land, and effects one property. The Petitioned Area includes the transfer of 160 acres from NFCRWD to the SRWD. The Petitioned Area is depicted on a map attached to the petition and further identified as property identification number 15.08324.000.

3. **Reasons for Boundary Change.** The proposed boundary change would achieve a more accurate alignment between the hydrologic and legal boundaries of the SRWD and NFCRWD and provide jurisdiction over lands draining to County Ditch # 9 to SRWD. The requested boundary change is consistent with the purposes and requirements of Minn. Stat. § 103D.251.

4. **Board of Managers Resolution.** Resolutions authorizing the boundary change and the managers to sign the Petition were adopted by the Board of Managers of the SRWD and the NFCRWD on October 11, 2010.

5. **Notice of Filing.** Legal Notice of Filling of the proposed boundary change, pursuant to Minn. Stat. § 103D.105 Subd. 2., was published in the Sauk Centre Herald on March 29, and April 5, 2011, and in the Paynesville Press on March 30, and April 6, 2011. Further, a copy of the notice of filing was mailed to several addressees including the affected county, township, and Soil and Water Conservation District.

6. **Public Hearing.** The Legal Notice of Filing was published pursuant to Minn. Stat. § 103D.105, Subd.2, which requires within 30 days of the last date of publication of the Notice of Filing of the Petition that at least one request for hearing be received by the Board before a hearing will be held. No requests for hearing and no comments were received during the specified period of time and no hearing was held.

7. **Board Staff Review.** Both watershed district administrators have been contacted regarding the proposed change and concur that the boundary should be adjusted. In addition, both watershed district boards have concurred with the boundary changes. Finally, no landowners within the proposed area have expressed concern regarding the boundary change. Therefore, field staff recommend approval of the boundary change as petitioned.

8. **Northern Water Planning Committee.** The Northern Water Planning Committee met on June 15, 2011. The Committee members (Fairbanks, Brutlag, Tiedermann, and Mykleseth) reviewed the petition and voted to forward the petition for a boundary change to the full board with a recommendation for approval.

CONCLUSIONS

1. The Petition for boundary change of the SRWD and NFCRWD is valid in accordance with Minn. Stat. §103D.251.

2. Proper notice was given and public hearing was not held in accordance with applicable laws.

3. All relevant substantive and procedural requirements of law and rule have been fulfilled.

4. The Board has proper jurisdiction in the matter of ordering a watershed district boundary change.

5. The requested boundary change is consistent with the purpose and the requirements of Minn. Stat. §103D.251.

6. The boundary change as proposed in the Petition would be for the public welfare and public interest and would advance the purpose of Minnesota Statutes Chapter 103D.

7. The boundaries of the SRWD and the NFCRWD as proposed in the Petition are more accurately based on the hydrology of the subject area then the present boundaries.

8. The proposed boundary change should be approved per the Petition.

ORDER

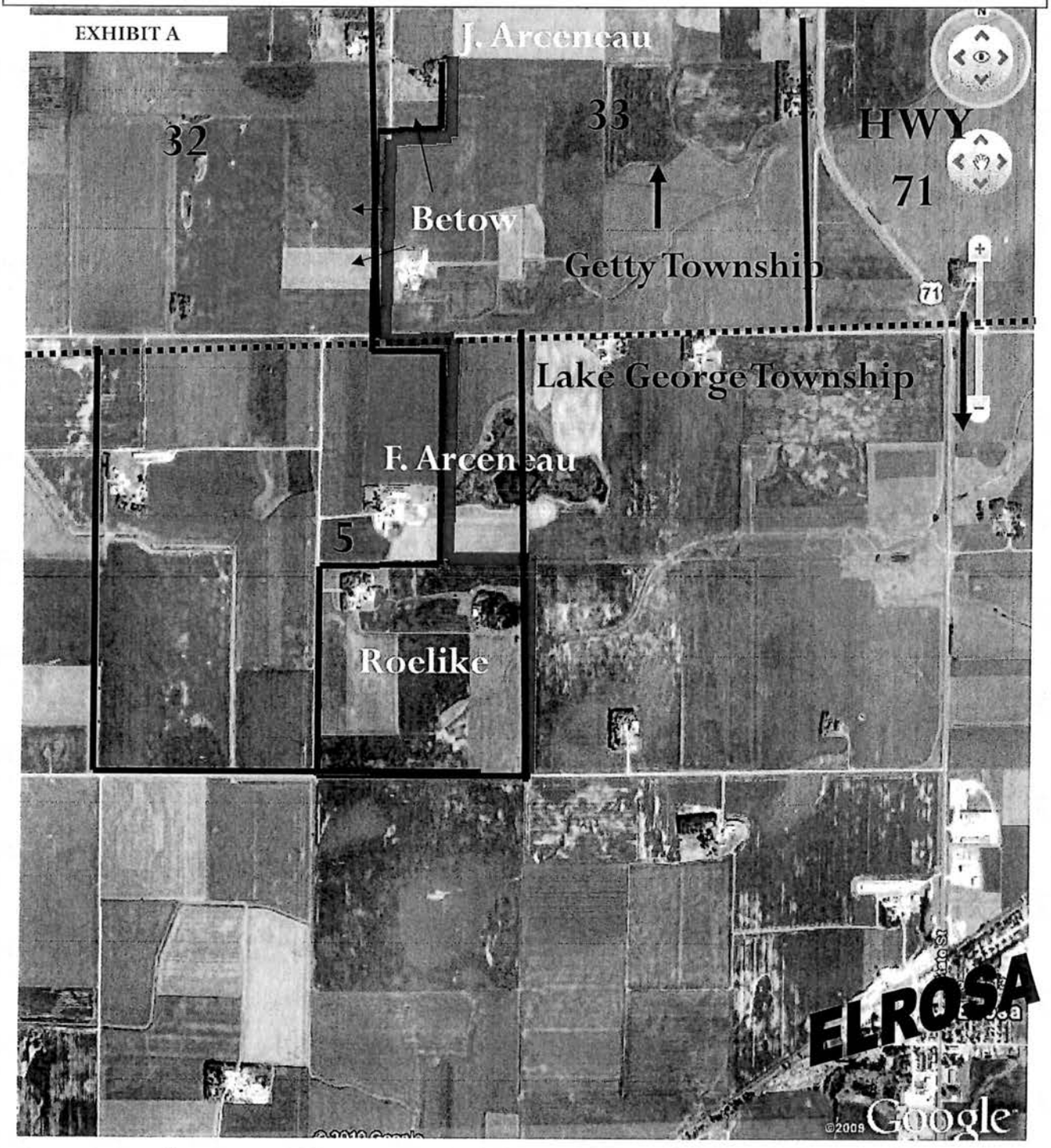
The Board hereby orders that the boundaries of the SRWD and the NRCRWD are changed per the Petition as depicted on the map attached to this Order and made a part hereof.

Dated at Saint Paul, Minnesota this 22 day of June, 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brian Napstad, Chair

Watershed Boundary Change for North Fork Crow River and Sauk River Watershed Districts



Current Watershed's Boundary between North Fork & Sauk River

Proposed Revision to Watershed's Boundary between North Fork & Sauk River

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Polk County Priority Concerns Scoping Document**

Meeting Date: June 22, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: North Region

Contact: Brian Dwight

Prepared by: Brian Dwight

Reviewed by: Northern Water Planning Committee(s)

Presented by: To be determined at the June 15 NPRC

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
The Polk County Local Water Management Plan (LWMP) will be expiring on December 31, 2011. This Plan with a two-year extension will have been in effect for seven years. To assure that Polk County has a current LWMP the plan administrators (East and West Polk SWCDSs) initiated the LWMP update process in the fall of 2010. The process has experienced good input from the local planning task force, and state review agencies. As with many LWMP update processes, the public input meetings were very poorly attended with no additional input.

Priority concerns were submitted by:

Cities: Crookston, Neilsville, and Climax
Watershed Districts: Red Lake and Sand Hill River
Polk County Planning and Zoning
Marshall County
Townships: Hill River, Ertsonville, Northland, Scandic, and Grand Forks
Lake Associations: Cable Lake, Union Lake, Lake Sara, and Maple Lake
State Agencies: MPCA, MDH, MDA, and BWSR

Only one review comment of the PCSD was received. This was submitted by the MPCA. In review and discussion with the water planners it was agreed that the comments submitted where comments related to final plan content and there was no need to adjust the PCSD.

The Polk County PCSD does not reflect much of a change for the Polk County LWMP. With the enormous amount of input received and the discussions that took place during the task force meetings as the PCSD was developed, this is an accurate reflection of the priority concerns for Polk County. The process followed and the resulting document meet statute requirements found in 103B.301-.335 as well as BWSR guidelines.

This item is contingent upon the Northern Water Planning Committee's recommendation at their June 15, 2011 meeting.

List of Priority Concerns – Polk County Local Water Management Plan Update

Through the Advisory Work Group process with excellent representation and input by the Work Group, as well as a comprehensive call for input to the Polk County Local Water Management update process, it was determined that the three Priority Concerns identified in the expiring plan were still relevant with the addition of a fourth Priority Concern. The three previous Priority Concerns (PC 1, 2, and 3) will be updated as needed to reflect current data and information with appropriate action items.

Priority Concern 1: Surface Water Quality

The Polk County Local Water Management Plan will focus on protection and enhancement of surface water quality. Specific areas of focus will be:

- Lakes region in the eastern part of the county, with specific focus on the human impacts ○ Increases in development around smaller, non-recreational lakes and larger wetland complexes should be assessed to determine if adverse impacts have affected the water quality of the these smaller bodies of water
    - ○ For nearly all of the lakes in this ecoregion, phosphorus is the limiting factor. Major management efforts related to water quality are directed at limiting the amount of phosphorus loading into the lakes
    - ○ Sediment loading has also become a major concern to the water quality of the lakes. Proper land use management and implementation of *Best Management Practices* needs to be analyzed and addressed

- Source water supplies in the western part of the county ○ The City of East Grand Forks (and to some extent the City of Grand Forks) receives its public water supply from the Red Lake River
    - ○ The Red Lake River is impaired for turbidity and management efforts should focus on sediment loading into the Red Lake River and its tributaries

Polk County will be an active participant of the *Total Maximum Daily Load (TMDL)* process as they are initiated in the associated watersheds.

Priority Concern 2: Water Quantity

The Polk County Local Water Management Plan will focus on the *quantity* of water passing through the County and its associated watersheds by inventorying, assessing and evaluating the drainage infrastructure.

Due to the fluvial geomorphic characteristics of the Red River of the North Basin, Polk County is subject to frequent flooding. Some factors such as topography and increased precipitation are unmanageable, but other factors such as floodplain encroachment, channelization of waterways, land use practices and ineffective private drainage into public systems, are factors that can be assessed for *Best Management Practices*.

Water quantity, whether in excess or lack of, has an impact on the natural resources and economy of Polk County and its associated watersheds.

Priority Concern 3: Management, Enhancement and Preservation of Natural Resources within the Glacial Lake Agassiz Beach Ridge area

The Polk County Local Water Management Plan will focus on *Best Management Practices*, enhancement activities and preservation of the unique geographical features and the wide diversity of flora and fauna found in these areas.

The Glacial Lake Agassiz Beach Ridge area in Polk County contains some of the largest tracts of native prairie in the state. These prairies are typically of high quality and including good examples of dry mesic and wet prairies.

With the unique natural resource benefits found in the Glacial Lake Agassiz Beach and the native prairie and pre-settlement restoration that has occurred through the Nature Conservancy's Glacial Ridge Project, there is an economic benefit to Polk County and its citizens.

Priority Concern 4: Exotic and Invasive Species Management

The Polk County Local Water Management Plan will identify any new or yet to date undiscovered exotic and invasive plant and aquatic species for prevention and management practices

- Currently one lake in eastern Polk County has been identified to have an infestation of Eurasian Water Milfoil
- Spotted knapweed, Leafy spurge and Wild parsnip are examples of some of the noxious weeds that have readily established themselves in Polk County

Identification, education and management are beneficial tools that would be used to control and in some cases, hopefully, eradicate this resource management problem

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Watershed District Establishment Hearing**

Meeting Date: June 22, 2011

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: North Region Water Plan

Contact: Pete Waller or Travis Germundson

Prepared by: Pete Waller

Reviewed by: North Region Water Plan Committee(s)

Presented by: Quentin Fairbanks

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Board authorization is needed to schedule and hold a public hearing regarding the establishment of the Upper Red Lower Otter Tail Watershed District to be held within 35 days of the Order's date.

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

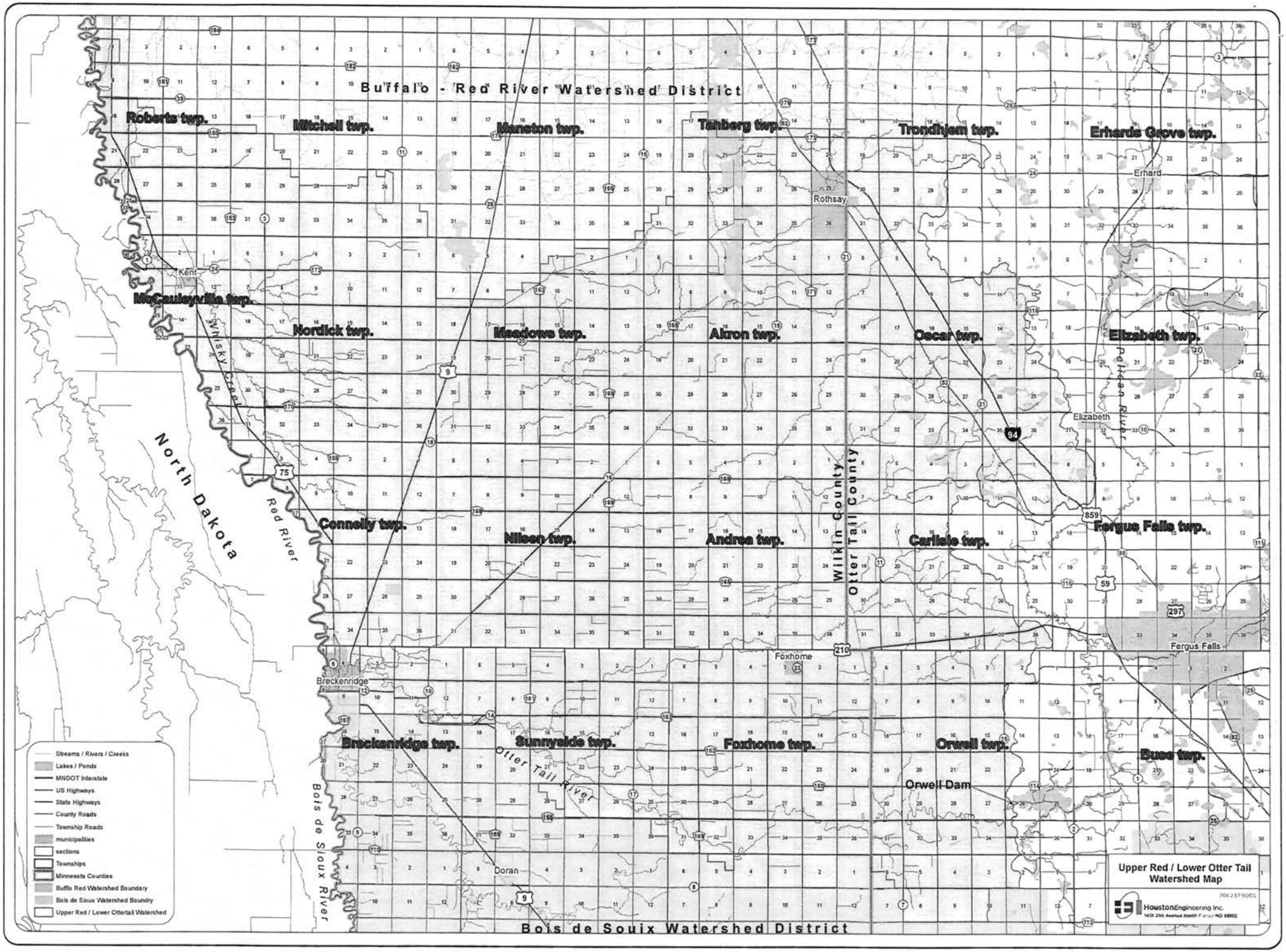
A petition to establish a watershed district was filed by Wilkin County with the BWSR on January 18, 2011. The petition proposes the establishment of the Upper Red Lower Otter Tail Watershed District. Territory to be included in the proposed watershed district is an area that affects Wilkin and Otter Tail Counties, bordered on the south by the Bois de Sioux Watershed District and bordered on the north by the Buffalo-Red River Watershed District, and is approximately 430 square miles.

The Board must determine if the establishment petition has the requisite number of petitioner signatures, pursuant to 103D.205 Subd. 3. A petition that has the requisite number of petitioner signatures cannot be dismissed.

April 13, 2011, the Northern Water Planning Committee reviewed the petition and concluded it is a valid petition as MS 103D.205, Subd 3, item 3 allows an establishment petition to be signed by counties having 50% or more of the area within the proposed watershed district. The Committee recommends an establishment hearing be ordered.

April 18, 2011 Wilkin County requested BWSR hold the establishment hearing in June or July to avoid conflicts for Wilkin County Commissioners and the public involved with farm activities due to the area's spring flood event being later than usual this year. Without a May BWSR meeting the Committee's recommendation was held for the June BWSR meeting.

June 15, 2011, the Northern Water Planning Committee will discuss specific dates for the hearing to be held and make that recommendation to the Executive Director, who will make the determination as per the drafted Order.


Buffalo - Red River Watershed District
Roberts twp.
Mitchell twp.
Manston twp.
Tanberg twp.
Trondhjem twp.
Erhards Grove twp.
McCauleyville twp.
Nordick twp.
Meadows twp.
Akron twp.
Oscar twp.
Elizabeth twp.
Connelly twp.
Nilsen twp.
Andrea twp.
Carlisle twp.
Fergus Falls twp.
Breckenridge twp.
Sunnyside twp.
Foxhome twp.
Orwell twp.
Buse twp.
Kent
Rothsay
Erhard
Elizabeth
Foxhome
Breckenridge
Fergus Falls
Orwell Dam
Doran
North Dakota
Red River
Whisky Creek
Wilkin County
Otter Tail County
Pelican River
Otter Tail River
Bois de Sioux River
Bois de Souix Watershed District
Streams / Rivers / Creeks
Lakes / Ponds
MNDOT Interstate
US Highways
State Highways
County Roads
Township Roads
municipalities
sections
Townships
Minnesota Counties
Buffalo Red Watershed Boundary
Bois de Sioux Watershed Boundry
Upper Red / Lower Ottertail Watershed
Upper Red / Lower Otter Tail Watershed Map
701.237.5065
HoustonEngineering Inc.

RESOLUTION NO. 8-11

A RESOLUTION AUTHORIZING THE CHAIRMAN OF THE BOARD TO PETITION ON BEHALF OF THE WILKIN COUNTY BOARD FOR THE UPPER RED LOWER OTTER TAIL WATERSHED DISTRICT.

WHEREAS, the Minnesota Watershed Act provides for the establishment of a watershed district upon petition of one-half of the counties within the proposed district.

AND, WHEREAS, a resolution was previously signed, specifically Resolution No. 3-11, dated January 11, 2011, which resolution contained an incorrect statute number.

NOW, THEREFORE, It Is Hereby Resolved, that a petition for the establishment of the Upper Red Lower Otter Tail Watershed District has been executed by the Chairman of the Wilkin County Board on behalf of Wilkin County and that said petition has been served and filed pursuant to Minnesota Statutes Section 103D.205.

Dated this 15 day of February, 2011.

Stephanie Miramontes
Chairman, Wilkin County Board

Attest:

Wayne Brandt
Wilkin County Auditor

RESOLUTION NO. 3-11

A RESOLUTION AUTHORIZING THE CHAIRMAN OF THE BOARD TO PETITION ON BEHALF OF THE WILKIN COUNTY BOARD FOR THE UPPER RED LOWER OTTER TAIL WATERSHED DISTRICT.

WHEREAS, the Minnesota Watershed Act provides for the establishment of a watershed district upon petition of one-half of the counties within the proposed district.

NOW, THEREFORE, It Is Hereby Resolved, that a petition for the establishment of the Upper Red Lower Otter Tail Watershed District be executed by the Chairman of the Wilkin County Board on behalf of Wilkin County and that said petition shall be served and filed pursuant to Minnesota Statutes Section 112.37, Subd. 1B.

Dated this 11 day of January, 2011.

Chairman, Wilkin County Board

Attest:

Wilkin County Auditor

AFFIDAVIT OF SERVICE BY MAIL

STATE OF MINNESOTA)
) ss
COUNTY OF WILKIN)

Barbara J. Olsen, of the City of Breckenridge, County of Wilkin, State of Minnesota, being duly sworn, says that on the 14th day of January, 2011, she served the annexed Resolution and Establishing Petition (with attachments) on the following individuals by mailing to them copies thereof enclosed in an envelope, postage prepaid, and directed to said individuals at the addresses listed:

Mary Jo Anderson, Executive Assistant
Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, MN 55155

Tom Landwehr, Commissioner
Department of Natural Resources
500 Lafayette Road - Box 32
St. Paul, MN 55155-4032

Otter Tail County Auditor
Government Services Center
510 Fir Avenue West
Fergus Falls, MN 56537

Wilkin County Auditor
Wilkin County Courthouse
300 South 5th Street
Breckenridge, MN 56520

Dated this 14th day of January, 2011.

Barbara J. Olsen

Barbara J. Olsen

Subscribed and sworn to before
me this 14th day of January, 2011.

Liane J. Mauch
Notary Public, Wilkin Co., MN
My commission expires 01-31-2015

LIANE J. MAUCH
Notary Public - MINNESOTA
My Commission Expires:
January 31, 2015

STATE OF MINNESOTA
BOARD OF WATER AND SOIL RESOURCES
ST. PAUL, MINNESOTA

In the Matter of the Petition for the Establishment of the Upper Red Lower Otter Tail Watershed District.	)))	ESTABLISHMENT PETITION

The undersigned petitioner respectfully represents and states to the State Board of Water and Soil Resources:

I.

That the County of Wilkin consists of at least one-half of the counties within the proposed district, the district hereinafter described to be known as the Upper Red Lower Otter Tail Watershed District and that this Petition is made pursuant to the Minnesota Watershed Act for the establishment of said district.

II.

That the area to be embraced within the proposed watershed district is marked on the attached map which area affects Wilkin County and Otter Tail County.

III.

That the proposed district is needed as a means of conserving and making prudent use of the waters and natural resources of the state within the territory to be included in the district and that the district be established for the following purposes:

1. Control or alleviation of damage by flood waters;
2. Improvement of stream channels for drainage, navigation, and any other public purpose;
3. Reclaiming or filling wet and overflowed lands;
4. Providing water supply for irrigation;
5. Regulating the flow of streams and conserving the waters thereof;
6. Diverting or changing watercourses in whole or in part;

7. Providing and conserving water supply for domestic, industrial, recreational, agricultural, or other public use;

8. Providing for sanitation and public health and regulating the use of streams, ditches, or watercourses for the purpose of disposing of waste;

9. Repair, improve, relocate, modify, consolidate, and abandon, in whole or in part, drainage systems within a watershed district;

10. Imposition of preventive or remedial measures for the control or alleviation of land and soil erosion and siltation of watercourses or bodies of water affected thereby;

11. Regulating improvements by riparian landowners of the beds, banks, and shores of lakes, streams, and marshes by permit or otherwise in order to preserve the same for beneficial use;

12. Protecting or enhancing the quality of water in watercourses or bodies of water;

13. Providing for the protection of groundwater and regulating groundwater use to preserve groundwater for beneficial use.

IV.

That the formation and establishment of the proposed district is necessary and may be conducive to the public health and public welfare and accomplish the purposes of this chapter for the following reasons:

1. Would prevent damage to farm buildings and farm yards, public roads and farmlands due to flooding.

2. Would remove county boundaries from determining an overall and comprehensive use of the water and natural resources.

3. Would control and regulate private ditching, obstruction of natural waterways and the antagonism amongst neighboring land owners regardless of the county in which they were located.

V.

That the nature and extent of the contemplated improvements to be made by the district within the territory described above are as follows:

1. A total re-evaluation of drainage, ditches, affected areas and proper assessment districts including a re-determination of benefits derived from drainage as is

currently assessed which assessment could be made on the territory affected regardless of county boundaries.

2. A comprehensive plan for water use and natural resources within the district.

VI.

The petitioner proposed five managers for the district and that the names and address of the proposed managers for the district are as follows:

Cathy Affield, 2010 250th Street, Kent, MN 56553;
Karlo Etten, 3138 370th Street, Foxhome, MN 56543;
Vance Johnson, 3318 State Highway 9, Breckenridge, MN 56520;
Troy Larson, 3239 220th Street, Rothsay, MN 56579;
Tony Nordick, 2212 170th Avenue, Kent, MN 56553;
Randy Tobias, 1512 Chet Drive, Breckenridge, MN 56520;

(Four nominations were reserved for Otter Tail County. The Otter Tail County Board of Commissioners declined to submit nominations when requested.)

all of whom reside within the proposed district and do not hold any public office in the State or Federal Government or any political subdivision thereof.

WHEREFORE, the petitioner prays that the Board fix a time and place for a hearing hereon and upon such hearing make its order:

1. Establishing said watershed district.

2. Appointing the Board of Managers therefore.

3. Fixing and defining the boundaries of the district.

4. For such other and further orders as may be necessary for the establishment of the district as allowed by law.

Signed this 11 day of January, 2011, by the Chairman of the Wilkin County Board of Commissioners as authorized by resolution of said Board and attested to by the Wilkin County Auditor.

Chairman, Wilkin County Board

Wayne Bjerke
Wilkin County Auditor

Minnesota Department of Natural Resources
Division of Ecological and Water Resources
1509 1st Avenue North
Fergus Falls, MN 56537
April 1, 2011

Mr. John Jaschke
Executive Director
MN Board of Water and Soil Resources
520 Lafayette Road, St. Paul, MN 55155

Dear Mr. Jaschke;

WILKIN COUNTY PETITON TO ESTABLISH THE UPPER RED LOWER OTTER TAIL WATERSHED DISTRICT

The Department of Natural Resources (DNR) has received notification that the Wilkin County Board of Commissioners has petitioned the Board of Soil and Water Resources (BWSR) to establish a watershed district under Minnesota Statutes 103D.205. The purpose of the watershed district is to conserve and make prudent use of the waters and natural resources within the district.

Minnesota Statutes 103D.215 requires the Director of the DNR Division of Waters, to prepare a preliminary watershed map and a preliminary report about the watershed district. This letter fulfills the Department's obligation under Minnesota Statute.

The preliminary watershed map attached shows the natural watershed boundaries within the proposed watershed district and the entire Otter Tail River watershed. The proposed watershed district boundary joins established watershed district boundaries on the north and south. The western boundary of the proposed watershed district is the Red River of the North. The eastern boundary of the proposed watershed district is consistent with the catchment boundaries DNR has used to delineate the watershed.

The proposed Upper Red Lower Ottertail River Watershed District includes only the lower portion of the Otter Tail River watershed. The Department normally would like to see the whole watershed included within the boundary of any proposed watershed district so resource issues can be handled in a more holistic manner. However, considering that the Otter Tail River watershed is large (approximately 1983 square miles) and diverse in land use and topography, it is not unreasonable to include only the lower Otter Tail River watershed in the district at this time. The lower Otter Tail River watershed is primarily agricultural land, unlike the forests and lakes of the upper Otter Tail River watershed, and includes a more manageable land area of approximately 427 square miles. The primary water resource management concerns expressed by the petitioners are located within in the proposed watershed district boundary.

The DNR has completed review of the Establishment Petition for the Upper Red Lower Ottertail Watershed District. The DNR supports the establishment of a watershed district within the Ottertail River system and has no objections to the proposed petition.

If established it would be essential that the overall water management plan for the district include an inventory and evaluation of natural resource enhancement opportunities within the district.

The Department encourages the newly formed watershed district to consider membership in Red River Watershed Management Board.

If you have any questions or concerns with this position, please contact me @ 218-739-7576 ext 243 or at julie.aadland@state.mn.us.

Sincerely,

Julie Aadland

Julie Aadland
Area Hydrologist

cc: Steve Hirsch, Director Division of Ecological and Water Resources
Peter Buesseler, Regional Manager
Dan Lais, Acting Assistant Regional Manager
Pete Waller, BWSR
Wilkin County Auditor
Otter Tail County Auditor
Wilkin County SWCD
East Otter Tail County SWCD
West Otter Tail County SWCD
City of Breckenridge
City of Foxhome
City of Rothsay
City of Kent

OTTER TAIL COUNTY BOARD OF COMMISSIONERS

Government Services Center * 515 Fir Avenue West * Fergus Falls, MN 56537 * 218-998-8060 * Fax 218-998-8075 * www.co.otter-tail.mn.us

RECEIVED
JAN 2[illegible] 2011
Bd. of Water & Soil Resourc
St. Paul

RESOLUTION IN OPPOSITION TO PETITION FOR THE ESTABLISHMENT OF AN UPPER RED LOWER OTTER TAIL WATERSHED DISTRICT

Otter Tail County Resolution 2011 - 06

Commissioner Froemming offered the following and moved for its adoption.

Whereas, Otter Tail County has received a copy of an establishment petition from Wilkin County for the establishment of an Upper Red Lower Otter Tail Watershed District; and

Whereas, Otter Tail County was approached by Wilkin County to discuss the possibility of a joint petition, and then had public hearings with Otter Tail County citizens; and

Whereas, the citizens of Otter Tail County within the proposed watershed district are universally opposed to the establishment of the district; and

Whereas, the Otter Tail County Board of Commissioners attempted to find citizens willing to serve as managers on the proposed watershed district board, but were unable to find anyone willing to so serve; and

Whereas, Otter Tail County informed Wilkin County of its inability to find any citizens to serve, and has been informed by Wilkin County that it has made attempts to find Otter Tail County residents to serve, including a public hearing held in the city of Rothsay; and

Whereas, Otter Tail County has been informed that Wilkin County has also been unable to find any Otter Tail County residents willing to serve on the board of managers; and

Whereas, because of the lack of the number of managers required to be proposed, the petition is defective, and based on the information known, the defect cannot be corrected; and

Whereas, Otter Tail County is willing to work with Wilkin County to find other means to address water issues; and

Whereas, on behalf of its citizens the Board of Commissioners objects to the petition filed by Wilkin County and will oppose the establishment of the proposed watershed district.

Now, Therefore, Be It Resolved, that the Otter Tail County Board of Commissioners hereby objects to the petition of Wilkin County to establish a watershed district.

Commissioner Huebsch seconded the motion and upon a roll call vote, the resolution was adopted as follows:

Board of County Commissioners	YEA	NAY	ABSENT	ABSTAIN
Roger Froemming	X			
Wayne D. Johnson	X			
Doug Huebsch	X			
Leland R. Rogness	X			
John Lindquist	X			

Dated: January 18, 2011

OTTER TAIL COUNTY BOARD OF COMMISSIONERS

Attest: Larry Krohn
Larry Krohn, Clerk

By: John Lindquist
John Lindquist, Board of Commissioners Chair

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
Saint Paul, MN 55155

In the Matter of the Establishment Petition for the Upper Red Lower Otter Tail Watershed District in Wilkin and Otter Tail Counties pursuant to Minnesota Statutes § 103D.221 Subd. 1

ORDER ESTABLISHMENT HEARING

Whereas, Wilkin County in the proposed Upper Red Lower Otter Tail Watershed District in Wilkin and Otter Tail Counties filed a Petition dated January 11, 2011 with the Board of Water and Soil Resources (Board) on January 18, 2011, to establish a watershed district pursuant to Minn. Stat. § 103D.205, and;

Whereas, the Board has completed its review of the Petition;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order.

FINDINGS OF FACT

1. **Establishment Petition Signatures.** The establishment Petition dated January 11, 2011 was filed with the Board on January 18, 2011 by Wilkin County. Wilkin County contains more than 50 percent of the area in the proposed watershed district. Minn. Stat. § 103D.205, Sub. 3, item 3 allows an establishment petition to be signed by counties having 50 percent or more of the area within the proposed watershed district.

2. **Property Description.** The territory to be included in the proposed watershed district is depicted in map attached with the Petition and is an area that affects Wilkin and Otter Tail Counties, bordered on the south by the Bois de Sioux Watershed District and bordered on the north by the Buffalo-Red River Watershed District, approximately 430 square miles in several communities, which includes land in the Cities of Breckenridge, Kent, Rothsay, and Foxhome.

3. **Necessity for Watershed District.** The Petition states the establishment is necessary for the following reasons:

   a. Would prevent damage to farm buildings and farm yards, public roads and farmlands due to flooding

b. Would remove county boundaries from determining an overall and comprehensive use of water and natural resources.

c. Would control and regulate private ditching, obstruction of natural waterways and the antagonism amongst neighboring land owners regardless of the county in which they were located.

4. **Contemplated Improvements.** The Petition list contemplated improvements, as follows:

   a. A total re-evaluation of drainage, ditches, affected areas and proper assessment districts including a re-determination of benefits derived from drainage as is currently assessed which assessment could be made on the territory affected regardless of county boundaries.

   b. A comprehensive plan for water use and natural resources within the district.

5. **District Name.** The Petition states the name of the proposed district shall be the Upper Red Lower Otter Tail Watershed District.

6. **Number of Managers.** The Petition specifies the proposed number of managers as five (5).

7. **Filing.** The Petition was filed with the Wilkin County Auditor, Otter Tail County Auditor, the Commissioner of the Department of Natural Resources, and the Board

8. **Hearing Panel.** Board members of the Northern Water Planning Committee should preside over the hearing and bring a recommendation to the Board.

9. **Hearing Time.** The Executive Director should determine the date of the hearing after coordinating with the appropriate parties.

10. **Hearing Location.** The public hearing should be held at the Rothsay Public School in Wilkin County. If scheduling conflicts arise the Executive Director should choose another suitable location.

CONCLUSIONS

1. The petition for establishment of the Upper Red Lower Otter Tail Watershed District is valid in accordance with Minn. Stat. §§ 103D.205.

2. All relevant, substantive and procedural requirements of law and rule have been fulfilled.

3. The Board has proper jurisdiction in the matter of ordering a watershed district establishment hearing.

4. The establishment hearing on the Petition for establishment of the Upper Red Lower Otter Tail Watershed District should be presided over by the Northern Water Planning Committee.

5. The Executive Director shall make a decision on the date of the public hearing after coordinating with the appropriate parties.

   The public hearing shall be held at the Rothsay Public School in Wilkin County.

   If scheduling conflicts arise the Executive Director shall choose another suitable location.

ORDER

The Board hereby orders a public hearing be held within 35 days of the date of this Order on the establishment Petition for the Upper Red Lower Otter Tail Watershed District presided over by the Northern Water Planning Committee at a date and location to be determined by the Executive Director.

Dated at Saint Paul, Minnesota this 22nd day of June, 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brian Napstad, Chair

COMMITTEE RECOMMENDATIONS

Southern Water Planning Committee

1. Sibley County Priority Concerns Scoping Document – Paul Langseth – ***DECISION ITEM***

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Sibley County PCSD Approval

Meeting Date: June 22, 2011

Agenda Category: ☒ Committee Recommendation ☒ New Business ☐ Old Business
Item Type: ☒ Decision ☐ Discussion ☐ Information
Section/Region: South Region
Contact: Jeff Nielsen
Prepared by: Carla Swanson-Cullen & Thomas Fischer
Reviewed by: South Region Local Water Management Committee(s)
Presented by: Paul Langseth, chair

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☒ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested
☐ Other:

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

ACTION REQUESTED

Approval of Sibley County Local Water Management Plan Priority Concerns Scoping Document

SUMMARY (*Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation*)
The 3rd generation of the Sibley County Local Water Management Plan is due to expire on December 31, 2011. The County passed a resolution to begin the updating process on June 22, 2010. The Sibley County Priority Concerns Scoping Document was distributed to state agencies for their review on March 4, 2011. Comments were received from the Minnesota Department of Agriculture and the Minnesota Pollution Control Agency. These comments were reviewed by BWSR.

On April 27, 2011, the Southern Water Planning Committee met to review the Sibley County Priority Concerns Scoping Document. After review and discussion, the Committee decided with a unanimous vote to recommend approval of the Sibley County Priority Concerns Scoping Document and bring it forward to the full BWSR Board.

Minnesota Board of Water & Soil Resources

Date: April 12, 2011

To: Jeff Nielsen, BWSR Southern Region Supervisor

From: Thomas Fischer, BWSR Board Conservationist

RE: Review of Sibley County Priority Concerns Scoping Document

The current third generation Sibley County Comprehensive Local Water Plan (CLWP) will expire on December 31, 2011. Sibley County Water Plan Coordinator Ron Otto is housed in the Sibley Soil and Water Conservation District (SWCD) office in Gaylord, Minnesota.

On January 21, 2010, I met with Ron Otto at the SWCD office to discuss the process for updating a Local Water Management Plan (LWP). I provided informational material for his use.

On June 22, 2010 Sibley County Board of Commissioners adopted a resolution to update its LWP.

From July 2010 through February 2011, public input (local survey) and state agencies comments were obtained. Almost 400 surveys were returned. Written comments were received from the Board of Water and Soil Resources (BWSR), Minnesota Department of Agriculture (MDA), Minnesota Department of Natural Resources (MN DNR), and Minnesota Pollution Control Agency (MPCA). The county water plan coordinator facilitated three meetings of the Sibley County Water Resources Advisory Committee to review the current CLWP as well as the input and comments that were received. The end result was the selection of priority concerns that will be the focus for water resources planning and management in Sibley County for 2012 – 2021.

On March 4, 2011, the Sibley County Priority Concerns Scoping Document (PCSD) was mailed to the BWSR, MN DNR, MDA, MPCA, Minnesota Department of Health, and Minnesota Environmental Quality Board. (BWSR received on March 7, 2011.) Each recipient was requested to provide comment to the BWSR Southern Region office by April 10, 2011. MDA responded that they concur with the priority concerns identified. MPCA responded that they strongly recommend, but do not require, a revision to the PCSD to address county waters on the 303(d) Impaired Waters list. MPCA also offered comments to be considered when drafting the LWM Update.

On behalf of the BWSR, I have completed my review of the Sibley County Priority Concerns Scoping Document and recommend that the BWSR concur with the priority concerns identified:

1. Drinking Water Quality
2. Water Quantity
3. Nutrient, Manure and Human Waste
4. Soil Erosion

I look forward to working with Sibley County and SWCD officials, staff and residents as they work towards completing the fourth generation Local Water Management Plan Update. I can be contacted at (507) 359-6091 or Tom.D.Fischer@mn.state.us.

Bemidji
70 Minnesota Avenue
Suite 234
Bemidji, MN 56601
phone (218) 755-4235
fax (218) 755-4201

Brainerd
1601 Minnesota Drive
Brainerd, MN 56401
phone (218) 828-2383
fax (218) 828-6036

Duluth
394 S. Lake Avenue
Room 403
Duluth, MN 55802
phone (218) 723-4752
fax (218) 723-4794

Fergus Falls
1004 Frontier Trail
Fergus Falls, MN 56537
phone (218) 736-5445
fax (218) 736-7215

Marshall
1400 E. Lyon Street
Box 267
Marshall, MN 56258
phone (507) 537-6060
fax (507) 537-6368

New Ulm
261 Highway 15 S.
New Ulm, MN 56073
phone (507) 359-6074
fax (507) 359-6018

Rochester
2300 Silver Creek
Road N.E.
Rochester, MN 55906
phone (507) 281-7797
fax (507) 285-7144

Saint Paul
520 Lafayette Road N.
Saint Paul, MN 55155
phone (651) 296-3767
fax (651) 297-5615

Web: www.bwsr.state.mn.us TTY: (800) 627-3529 An equal opportunity employer ♻ Printed on recycled paper

Minnesota Board of Water & Soil Resources

June 22, 2011

Sibley County Commissioners
c/o Ron Otto, Water Plan Coordinator
111 6th Street, P.O. Box 161
Gaylord, MN 55334

Dear Sibley County Commissioners:

RE: Official Comments Pertaining to the State Review of the Sibley County Priority Concerns Scoping Document

Pursuant to Minnesota Statutes 103B.313, subdivision 5, this letter communicates the State's official comments pertaining to the priority concerns Sibley County has chosen to address in the update of their Comprehensive Local Water Management (LWM) Plan. The Board of Water and Soil Resources (BWSR), along with the state review agencies, were mailed the Sibley County Priority Concerns Scoping Document (PCSD) on March 4, 2011.

Sibley County has reviewed the identified concerns raised during the public input process and selected the following priority concerns for inclusion in the revision of the LWM Plan as listed below.

1. Drinking Water Quality
2. Water Quantity
3. Nutrient, Manure, and Human Waste
4. Soil Erosion

The BWSR received comments from the Minnesota Department of Agriculture (MDA) and Minnesota Pollution Control Agency (MPCA) on the Sibley County PCSD during the official review period. No agency comments were received from the Minnesota Department of Natural Resources, the Department of Health, or the Environmental Quality Board during this review period. MDA concurred with the priority concerns identified and felt the priority concern identification process was commendable. MPCA strongly recommended, but did not require, a revision to the PCSD to address county waters on the 303(d) Impaired Waters list. MPCA also offered comments to be considered when drafting the LWM Update.

The BWSR Southern Water Planning Committee (hereinafter referred to as Committee) met on April 27, 2011, to discuss the content of the PCSD, state review agency comments on the PCSD, and recommendations for the content of the final LWM Plan.

Bemidji 701 Minnesota Ave., Suite 234 Bemidji, MN 56601 (218) 333-8024
Brainerd 1601 Minnesota Drive Brainerd, MN 56401 (218) 828-2383
Duluth 394 South Lake Ave., Room 403 Duluth, MN 55802 (218) 723-4752
Fergus Falls 1004 Frontier Drive Fergus Falls, MN 56537-2505 (218) 736-5445
Marshall 1400 East Lyon St., Box 267 Marshall, MN 56258 (507) 537-6060
Mankato 1160 Victory Drive S., Suite 5 Mankato, MN 56001-5358 (507) 389-1967
New Ulm 261 Highway 15 South New Ulm, MN 56073 (507) 359-6074
Rochester 2300 Silver Creek Rd N.E. Rochester, MN 55906 (507) 206-2889

Central Office / Metro Office 520 Lafayette Road North Saint Paul, MN 55155 Phone: (651) 296-3767 Fax: (651) 297-5615

www.bwsr.state.mn.us TTY (800) 627-3529 An equal opportunity employer

The Committee commends Sibley County for the process they used to select the concerns – including soliciting input from local government, citizens, and state agencies – and incorporating that information into the four priority concern areas. The priority concerns to be addressed in the LWM Plan are deemed to be appropriate; the Committee does not recommend or require any changes to the PCSD as drafted.

Sincerely,

Brian Napstad, Chair
Minnesota Board of Water and Soil Resources

c: Becky Balk, MDA
Princesa VanBuren Hansen, EQB
Art Persons, MDH
Cathi Fouchi, DNR
David L. Johnson, MPCA
Matthew Wohlman, MDA
Linda Bruemmer, MDH
Paul Langseth, BWSR Board
Tom Loveall, BWSR Board
Joe Martin, BWSR Board
John Meyer, BWSR Board
Sandra Hooker, BWSR Board
Sibley Soil & Water Conservation District
Jeff Nielsen, BWSR Southern Region Supervisor
Thomas Fischer, Board Conservationist

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Plan Update Hearing for the Heron Lake WD

Meeting Date: June 22, 2011

Agenda Category: ☐ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Administrative Advisory Committee/

Contact: Travis Germundson

Prepared by: Travis Germundson

Reviewed by: _____ Committee(s)

Presented by: Brian Napstad/Travis Germundson

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☒ **Order** ☐ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

Board authorization is need to schedule and hold a public hearing on the Heron Lake Watershed District Revised Watershed Management Plan.

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

On May 13, 2011 the Heron Lake Watershed District announced a 60 day review period of the District's draft revised watershed management plan. The plan was sent out for review to multiple local, state, and federal agencies. Pursuant to Minn. Stat. § 103D.405 Subd.5 (a) the Board must give notice and hold a hearing on the proposed Plan within 45 days after receiving the Department of Natural Resource's recommendation on the revised plan unless the Board finds the plan noncontroversial (103D.105 Subd 2.). During the review it was discovered that the Plan proposes to a establish water management district pursuant to Minn. Stat. 103D.729 for the purpose of collecting revenues and paying cost of projects. This option was incorperated in the plan late in the planning process with limited input from local partners and constituents. BWSR staff has recommended that a public hearing be held. Watershed District staff has decided to visit all four County Board Meetings to discuss and provide information related to the proposed updated plan and establishment of the water management district.

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
Saint Paul, MN 55155

In the Matter of a Revised Watershed Management Plan for the Heron Lake Watershed District pursuant to Minnesota Statutes 103D.405	**ORDER REVISED PLAN HEARING**

Whereas, the Board of Managers of the Heron Lake Watershed District (HLWD) filed a proposed Revised Watershed Management (Plan) dated May 12, 2011 with the Board of Water and Soil Resources (Board) on May 13, 2011, pursuant to Minn. Stat. §§ 103D.405, and 103D.729 and;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order.

FINDINGS OF FACT

1. **District Establishment.** The Commissioners in Nobles, Jackson, Murray, and Cottonwood counties submitted a petition requesting the establishment of the Middle Des Moines Watershed District on April 2, 1969. The petition was approved on February 25, 1970. In October of 1995, the name of the district was changed to the Heron Lake Watershed District. The District is located in portions of Nobles, Jackson, Murray, and Cottonwood counties. The mission of the District is to protect and improve the water resources within its boundaries by supporting watershed residents through the use of education and financial programs.

2. **Requirement to Plan.** A watershed district is required to revise their watershed management plan at least once every ten years pursuant to Minnesota Statutes Section 103D.405, Subd. 1 (a). The latest Water Management Plan of the District was prescribed by the Board on September 26, 2001. The Plan includes an inventory of the District's water and land resources, describes water and natural resources in the HLWD and an assessment of the resources and their current status, and states objectives for current and future water resource management. The plan also establishes a water management district pursuant to Minn. Stat. § 103D.729 for the purpose of collection revenues and paying cost for projects initiated under Minn. Stat. §§ 103D.601, 103D.605, 103D.611 or 103D.730.

3. **Nature of the Watershed.** The HLWD is approximately 472 square miles in size and is located in southwestern Minnesota in the Heron Lake Basin. Lands within the District are distributed in Nobles, Jackson, Murray and Cottonwood counties

4. **Highlight of the Plan**. Heron Lake and its watershed encompass many of the same problems seen in other rural, agricultural areas in Minnesota. Point and non-point source pollution, intensive tillage, noncompliant septic systems, feedlots, and urban storm water runoff are all problems that must be addressed. The HLWD implements a watershed approach for education and implementation efforts that is invaluable for determining environmental and economic stability. The plan has identified seven goals to address including: Water Quality, Water Quantity, Drainage Systems and Natural Waterways, Biotic Habitat, Wetlands, Education, and Funding. This WMP provides a detailed approach for the HLWD to create water management districts (WMDs) as a means to limit dependence upon funds generated through means external to the HLWD, such as grants, thereby ensuring sufficient revenue for on-the-ground projects. It is anticipated that this new effort will help to enhance the HLWD's ability to the manage water resources.

5. **Filing.** The Plan filed by the Board of Managers of the Heron Lake Watershed District with the Nobles County Auditor, Jackson County Auditor, Cottonwood County Auditor, Murray County Auditor, Municipalities (9) within the Watershed District, Nobles Soil and Water Conservation District (SWCD), Jackson SWCD, Cottonwood SWCD, Murray SWCD, the Commissioner of the Department of Natural Resources, and the Board.

6. **Public Hearing.** The Board must give notice and hold a hearing on the proposed Plan within 45 days after receiving the Department of Natural Resources' recommendation on the revised Plan pursuant to Minn. Stat. § 103D.405 Subd.5 (a).

7. **Hearing Panel.** Board members of the Southern Water Planning Committee should preside over the hearing and bring a recommendation to the Board.

8. **Hearing Time.** The Executive Director should determine the date of the hearing after coordinating with the appropriate parties.

9. **Hearing Location.** The Executive Director should determine the location of the hearing after coordinating with the appropriate parties.

CONCLUSIONS

1. The proposed Revised Plan is valid in accordance with Minn. Stat. § 103D.405.

2. All relevant, substantive, and procedural requirements of law and rule have been fulfilled.

3. The Board has proper jurisdiction in the matter of ordering a watershed district Revised Plan hearing.

4. The hearing on the Revised Plan for the HLWD should be presided over by the Southern Water Planning Committee.

5. The Executive Director shall make a decision on the date, time, and location of the public hearing after coordinating with the appropriate parties.

ORDER

The Board hereby orders a public hearing be held within 45 days after receiving the Department of Natural Resources' recommendation on the revised Plan for the HLWD to be presided over by the Southern Water Planning Committee at a date, time, and location to be determined by the Executive Director.

Dated at Saint Paul, Minnesota this 22nd day of June, 2011.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brian Napstad, Chair

RESOLUTION # 11-50

2011 BWSR Board Meeting Schedule

Due to the potential State government shutdown on July 1, 2011, the Minnesota Board of Water and Soil Resources will cancel the July 27, 2011 BWSR Board Meeting.

Brian Napstad, Chair
Minnesota Board of Water & Soil Resources

6/22/11
Date

NEW BUSINESS

1. Wetland Conservation Act (WCA) Statute Changes – Les Lemm – ***INFORMATION ITEM***

2. WCA-Swampbuster Coordination Opportunity – Less Lemm – ***INFORMATION ITEM***

Minnesota Board of Water & Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Wetland Conservation Act Statute Changes

Meeting Date: June 22, 2011

Agenda Category: ☐ Committee Recommendation ☒ New Business ☐ Old Business

Item Type: ☐ Decision ☐ Discussion ☒ Information

Section/Region: Land and Water Section

Contact: Les Lemm, WCA Coordinator

Prepared by: Les Lemm

Reviewed by: _____ Committee(s)

Presented by: Les Lemm

☐ **Audio/Visual Equipment Needed for Agenda Item Presentation**

Attachments: ☐ **Resolution** ☐ **Order** ☐ **Map** ☐ **Other Supporting Information**

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

☐ Other: _____

ACTION REQUESTED

None - Informational

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

Several statute changes affecting the Wetland Conservation Act (WCA) were approved by the legislature in the 2011 session. As part of SF1115, the changes were signed by the Governor on May 27 and take effect August 1, 2011. BWSR worked with stakeholders for nearly two years to come to a general consensus about most of the changes contained in this bill. These changes included: establishing DNR as a local government unit (LGU) for the review and approval wetland banking projects used solely to mitigate mining impacts, and applying reduced fees for such banks; allowing for "electronic transmission" of statute-required LGU notices regarding applications and decisions; eliminating the current public-lands-only limitation on the allocation of replacement credits for wetland preservation; simplifying the siting critera for replacement wetlands while providing a technical basis for identifying appropriate replacement wetland siting opportunities; directing appeals of restoration orders to the BWSR Executive Director rather than the LGU; eliminating the requirement for a local appeal of LGU staff decisions; and allowing BWSR to set wetland banking fees below the otherwise required amounts for "single-user" or other dedicated accounts.

2011 WCA STATUTE CHANGES

Summary of Key Changes with Explanations - Effective August 1, 2011

WETLAND BANKING

103G.005, Subd. 10e. Local government unit. "Local government unit" means:

(1) outside of the seven-county metropolitan area, a city council, county board of commissioners, or a soil and water conservation district or their delegate;

(2) in the seven-county metropolitan area, a city council, a town board under section 368.01, a watershed management organization under section 103B.211, or a soil and water conservation district or their delegate; ~~and~~

(3) on state land, the agency with administrative responsibility for the land; and

(4) for wetland banking projects established solely for replacing wetland impacts under a permit to mine under section 93.481, the commissioner of natural resources.

Effect of Change: This change establishes the DNR as an LGU responsible for implementing the WCA wetland banking provisions only for projects that will be used exclusively to replace wetland impacts occurring under a permit to mine. This will increase flexibility for the DNR and mining companies in complying with WCA replacement requirements, while increasing transparency for local governments and other interested parties when banking is proposed to mitigate mine related wetland impacts.

103G.2242, Subd. 14. Fees established. (a) Fees must be assessed for managing wetland bank accounts and transactions as follows:

(1) account maintenance annual fee: one percent of the value of credits not to exceed $500;

(2) account establishment, deposit, or transfer: 6.5 percent of the value of credits not to exceed $1,000 per establishment, deposit, or transfer; and

(3) withdrawal fee: 6.5 percent of the value of credits withdrawn.

(b) The board may establish fees at or below the amounts in paragraph (a) for single-user or other dedicated wetland banking accounts.

(c) Fees for single-user or other dedicated wetland banking accounts established pursuant to section 103G.005, subd. 10, paragraph (e), clause (4) are limited to establishment of a wetland banking account and are assessed at the rate of 6.5 percent of the value of the credits not to exceed $1,000.

Effect of Change: Allowing BWSR to establish fees less than those otherwise required recognizes that certain special account types, specifically including those established per 103G.005, Subd. 10(e) above, may have reduced administrative costs associated with them due to their nature and operation, and thus a reduced fee can be appropriate. BWSR's fee structure will be adjusted accordingly for banking projects approved for mining. Any other reduced fees would be established via board policy.

ELECTRONIC COMMUNICATIONS AND NOTICING

103G.005, Subd. 10f. Electronic transmission. "Electronic transmission" means the transfer of data or information through an electronic data interchange system consisting of, but not limited to, computer modems and computer networks. Electronic transmission specifically means electronic mail, unless other means of electronic transmission are mutually agreed to by the sender and recipient.

103G.2373 ELECTRONIC TRANSMISSION.

For purposes of sections 103G.221 to 103G.2372, notices and other documents may be sent by electronic transmission unless the recipient has provided a mailing address and specified that mailing is preferred.

Effect of Change: The above paragraphs provide a definition for "electronic transmission," which was previously undefined. WCA was enacted in 1991 and, although amended numerous times, the statute had not kept pace with current technologies. Specifically, statute required LGU notices regarding applications, decisions, etc. to be sent via U.S. mail. This requirement was counter to how many people prefer to communicate, resulting in delays and increased workload, and increased printing expenses. Allowing communication by electronic transmission will simplify noticing procedures, reduce costs, and increase efficiency. This definition and other amendments to various other parts of WCA statute relating to electronic transmission will allow for such communication. However, the definition will also allow landowners to continue to receive notices via U.S. mail if preferred.

103G.2242, Subd. 6. Notice of application. (a) ~~Except as provided in paragraph (b), within ten days of receiving an~~ Application for approval of a replacement plan under this section must be reviewed by the local government according to Minnesota Statutes 15.99, subdivision , paragraph (a). Copies of the complete application must be mailed or sent by electronic transmission to the members of the Technical Evaluation Panel, the managers of the watershed district if one exists, and the commissioner of natural resources. Individual members of the public who request a copy shall be provided information to identify the applicant and the location and scope of the project.

(b) ~~Within ten days of receiving an application for approval of a replacement plan under this section for an activity affecting less than 10,000 square feet of wetland, a summary of the application must be mailed to the members of the Technical Evaluation Panel, individual members of the public who request a copy, and the commissioner of natural resources.~~

Effect of Change: The change in paragraph (a) and the deletion of paragraph (b) establishes a single requirement for providing application notices. This change simplifies program administration, reduces local government costs, and provides consistent project information to interested parties. The change also references MN Stat. 15.99 rather than providing a specific timeframe to provide notice (the previous "10 days" was less than, and somewhat inconsistent with, 15.99).

REPLACEMENT WETLAND SITING

103G.222, Subd. 3. Wetland replacement siting. (a) ~~Siting wetland replacement~~ Impacted wetlands in a 50 to 80 percent area must be replaced in a 50 to 80 percent area or in a less than 50 percent area. Impacted wetlands in a less than 50 percent area must be replaced in a less than 50 percent area. All wetland replacement must follow this priority order:

(1) on site or in the same minor watershed as the ~~affected~~ impacted wetland;

(2) in the same watershed as the ~~affected~~ impacted wetland;

(3) in the same county or wetland bank service area as the ~~affected~~ impacted wetland;

(4) ~~for replacement by wetland banking, in the same wetland bank service area as the impacted wetland, except that impacts in a 50 to 80 percent area must be replaced in a 50 to 80 percent area and impacts in a less than 50 percent area must be replaced in a less than 50 percent area;~~

~~(5) for project specific replacement, in an adjacent watershed to the affected wetland, or for replacement by wetland banking,~~ in ~~an adjacent~~ another wetland bank service area~~, except that impacts in a 50 to 80 percent area must be replaced in a 50 to 80 percent area and impacts in a less than 50 percent area must be replaced in a less than 50 percent area~~; and

~~(6)~~ (5) statewide for public transportation projects, except that wetlands ~~affected~~ impacted in less than 50 percent areas must be replaced in less than 50 percent areas, and wetlands ~~affected~~ impacted in the seven-county metropolitan area must be replaced at a ratio of two to one in: (i) the affected county or, (ii) in another of the seven metropolitan counties, or (iii) in one of the major watersheds that are wholly or partially within the seven-county metropolitan area, but at least one to one must be replaced within the seven-county metropolitan area.

(b) ~~Notwithstanding paragraph (a), siting wetland replacement in greater than 80 percent areas may follow the priority order under this paragraph: (1) by wetland banking after evaluating on-site replacement and replacement within the watershed; (2) replaced in an adjacent wetland bank service area if wetland bank credits are not reasonably available in the same wetland bank service area as the affected wetland, as determined by a comprehensive inventory approved by the board; and (3) statewide.~~

~~(c) Notwithstanding paragraph (a), siting wetland replacement in the seven-county metropolitan area must follow the priority order under this paragraph: (1) in the affected county; (2) in another of the seven metropolitan counties; or (3) in one of the major watersheds that are wholly or partially within the seven-county metropolitan area, but at least one to one must be replaced within the seven-county metropolitan area.~~

~~(d)~~ The exception in paragraph (a), clause ~~(6)~~ (5), does not apply to replacement completed using wetland banking credits established by a person who submitted a complete wetland banking application to a local government unit by April 1, 1996.

~~(e)~~ (c) When reasonable, practicable, and environmentally beneficial replacement opportunities are not available in siting priorities listed in paragraph (a), the applicant may seek opportunities at the next level.

~~(f)~~ (d) For the purposes of this section, "reasonable, practicable, and environmentally beneficial replacement opportunities" are defined as opportunities that:

(1) take advantage of naturally occurring hydrogeomorphological conditions and require minimal landscape alteration;

(2) have a high likelihood of becoming a functional wetland that will continue in perpetuity;

(3) do not adversely affect other habitat types or ecological communities that are important in maintaining the overall biological diversity of the area; and

(4) are available and capable of being done after taking into consideration cost, existing technology, and logistics consistent with overall project purposes.

(e) Applicants and local government units shall rely on board approved comprehensive inventories of replacement opportunities and watershed conditions, including the Northeast Minnesota Wetland Mitigation Inventory and Assessment (January 2010), in determining whether reasonable, practicable, and environmentally beneficial replacement opportunities are available.

~~(g)~~ (f) Regulatory agencies, local government units, and other entities involved in wetland restoration shall collaborate to identify potential replacement opportunities within their jurisdictional areas.

Effect of Change: Language in the first two sentences of the subdivision was relocated from clauses 4 and 5 and modified to provide a single standard for all wetland replacement (both project-specific and banking), allowing impacts in wetland rich areas of the state to be replaced in areas with fewer wetlands, but not the opposite. The priority order must still be followed, however. This change makes the replacement wetland siting criteria simpler and more effective.

Changing "affected" to "impacted" clarifies the language consistent with MN Rule 8420 and other parts of statute. The addition of "wetland bank service area" in paragraph (a), clause 3 simplifies the siting criteria by treating project-specific wetland replacement the same as replacement through wetland banking, which was previously located in clause 4.

The deleted paragraphs (b) and (c) are no longer necessary because of the changes in paragraph (a), clauses 1-5 above, and the new language in paragraph (e) which provides a technical basis for identifying appropriate siting opportunities. This is consistent with the "Northeast MN Wetland Mitigation Inventory and Assessment" funded by the legislature in 2007 and completed by BWSR in 2010. Allowing replacement wetland siting based on actual data and watershed conditions will increase opportunities available to landowners and improve the resource benefits provided by replacement wetlands. Paragraph (e) also allows for board approval of future inventories, which then can be used for making decisions on siting and the availability of wetland replacement.

The deletions also remove somewhat obsolete language. For example, much of the intent behind paragraph (c) is now accomplished by the implementation of stormwater treatment requirements and metropolitan watershed management plans prepared under MN Stat. 103B. Replacing this language with a single watershed-based standard will still require applicants to investigate opportunities for replacement close to the impact site, when beneficial opportunities are not available, will allow flexibility to move farther out in the watershed to find sites regardless of political boundaries.

DECISIONS AND APPEALS

103G.2242, Subd. 2a. Wetland boundary or type determination.

(d) ~~Appeals of decisions made by designated local government staff must be made to the local government unit. Notwithstanding any law to the contrary, a ruling on an appeal must be made by the local government unit within 30 days from the date of the filing of the appeal.~~

Effect of Change: This deletion removes the mandate for a local appeals process for decisions made by designated local government staff. Now all designated staff decisions are final unless the local government chooses to establish a local appeals process under their own authority. Appeals go to BWSR when no local appeals process is established. Guidance on local appeals will be developed and provided to LGUs.

~~(e)~~ The local government unit decision is valid for ~~three~~ five years unless the Technical Evaluation Panel determines that natural or artificial changes to the hydrology, vegetation, or soils of the area have been sufficient to alter the wetland boundary or type.

Effect of Change: Increasing the timeframe that decisions are valid provides consistency with federal wetland regulations, increased flexibility and simplification for landowners, and slight workload reductions for local governments.

103G.2242, Subd. 9. ~~Appeal~~ Appeals to the board. (a) Appeal of a replacement plan, sequencing, exemption, wetland banking, wetland boundary or type determination, or no-loss decision~~, or restoration order~~ may be obtained by mailing a petition and payment of a filing fee, which shall be retained by the board to defray administrative costs, to the board within 30 days after the postmarked date of the mailing or date of sending by electronic transmission specified in subdivision 7. If appeal is not sought within 30 days, the decision becomes final. If the petition for hearing is accepted, the amount posted must be returned to the petitioner. Appeal may be made by:

(1) the wetland owner;

(2) any of those to whom notice is required to be mailed or sent by electronic transmission under subdivision 7; or

(3) 100 residents of the county in which a majority of the wetland is located.

(b) Within 30 days after receiving a petition, the board shall decide whether to grant the petition and hear the appeal. The board shall grant the petition unless the board finds that:

(1) the appeal is ~~meritless~~ without sufficient merit, trivial, or brought solely for the purposes of delay;

(2) the petitioner has not exhausted all local administrative remedies;

(3) expanded technical review is needed;

(4) the local government unit's record is not adequate; or

(5) the petitioner has not posted a letter of credit, cashier's check, or cash if required by the local government

unit.

(c) In determining whether to grant the appeal, the board, executive director, or dispute resolution committee shall also consider the size of the wetland, other factors in controversy, any patterns of similar acts by the local government unit or petitioner, and the consequences of the delay resulting from the appeal.

(d) ~~All appeals~~ If an appeal is granted, the appeal must be heard by the committee for dispute resolution of the board, and a decision must be made by the board within 60 days of filing the local government unit's record and the written briefs submitted for the appeal and the hearing. The decision must be served by mail ~~on~~ or by electronic transmission to the parties to the appeal, and is not subject to the provisions of chapter 14. A decision whether to grant a petition for appeal and a decision on the merits of an appeal must be considered the decision of an agency in a contested case for purposes of judicial review under sections 14.63 to 14.69.

Effect of Change: The changes to Subd. 9 specifically allow the appeal of LGU decisions regarding sequencing, deletes "restoration order" which is covered separately (below), and allows appeals to be made and noticed via electronic transmission consistent with other changes. Statute previously did not specifically allow appeal of sequencing decisions, while MN Rule did. Other changes clarify the processing of appeals and modifies Board authority to make decisions on appeals when they are without sufficient merit as determined by a review of the appeal petition and the LGU record. These statute changes improve consistency with current rule.

103G.2242, Subd. 9a. Appeals of Restoration or Replacement Orders. A landowner or other responsible party may appeal the terms and conditions of a restoration or replacement order within 30 days of receipt of written notice of the order. The time frame for the appeal may be extended beyond 30 days by mutual agreement, in writing, between the landowner or responsible party, the local government unit, and the enforcement authority. If the written request is not submitted within 30 days, the order is final. The board's executive director must review the request and supporting evidence and render a decision within 60 days of receipt of a petition. A decision on an appeal must be considered the decision of an agency in a contested case for purposes of judicial review under sections 14.63 to 14.69.

Effect of Change: This new subdivision establishes a process for the appeal of restoration orders that is different than for local government decisions. Restoration orders are enforcement orders that are not made by local governments and therefore warrant a different appeal process. This issue was identified during the WCA rulemaking that concluded in August 2009 and is the result of an inadvertent statutory change made in 2007. The intent is to have primarily the same process and timeframes as was provided in the 2002 and 2007 Wetland Conservation Act rules. The new language is consistent with the 2009 rule and does not affect the current appeal process.

WETLAND PRESERVATION FOR REPLACEMENT CREDIT

103G.2251 STATE CONSERVATION EASEMENTS; WETLAND BANK CREDIT.

In greater than 80 percent areas, preservation of wetlands ~~owned by the state or a local unit of government,~~ protected by a permanent conservation easement as defined under section 84C.01 and held by the board, may be eligible for wetland replacement or mitigation credits, according to rules adopted by the board. To be eligible for credit under this section, a conservation easement must be established after May 24, 2008, and approved by the board. Wetland areas preserved under this section are not eligible for replacement or mitigation credit if the area has received financial assistance from public conservation programs.

Effect of Change: This allows the preservation of important high quality wetlands for replacement credit, regardless of property ownership (statute previously limited preservation to public lands). This provides more options in >80% areas where traditional replacement opportunities are limited and improves consistency with federal wetland regulations. It will also improve the targeting of preservation to wetlands truly at risk, help protect valuable wetland functions critical to watershed health, and improve consistency with federal rules. The last sentence provides further assurance that wetlands protected by other conservation easements are not eligible.