

Minnesota Board of Water and Soil Resources. Minutes.

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Version 3
August 20, 2018

Minnesota Board of Water & Soil Resources

DATE: December 9, 2013

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

FROM: John Jaschke, Executive Director

SUBJECT: BWSR Board Meeting Notice – December 18, 2013

The Board of Water and Soil Resources (BWSR) will meet on Wednesday, December 18, 2013, beginning at 9:00 a.m. The meeting will be held in the lower level Board Room at 520 Lafayette Road N., St. Paul. Parking is available in the lot directly in front of the building (see hooded parking area).

The following information pertains to agenda items:

COMMITTEE RECOMMENDATIONS

Metro Region Committee

1. **Hennepin County Petition to Discontinue the Hennepin Conservation District** - The Hennepin County Board of Commissioners submitted a petition to discontinue the Hennepin Conservation District and transfer the duties and authorities of the District to Hennepin County pursuant to Minnesota Statutes section 383B.761. Section 383B.761 resulted from legislation last spring that allowed the Hennepin County Board of Commissioners to submit the petition and allowed the BWSR Board to make a decision on the petition without conducting a referendum that would otherwise be required under Minnesota Statutes section 103C. Section 383B.761 set forth a narrow standard of review for the BWSR Board to follow in making a decision on the petition. The Metro Region Committee held a public hearing on October 21, 2013. The Committee met on December 3, 2013 and, after discussion, the Committee decided with a unanimous vote to recommend approval of the petition to the full Board per the attached draft Order. ***DECISION ITEM***

Southern Region Committee

1. **Big Stone County Local Water Management Plan Update** - Big Stone County submitted their Local Water Management 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 on September 6, 2013. On November 7, 2013, the Board's Southern Region Committee (Committee) reviewed the recommendation of the State review agencies and recommends approval of the Big Stone County Local Water Management Plan Update. ***DECISION ITEM***

2. **Chippewa County Local Water Management Plan Update** - Chippewa County submitted their Local Water Management 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 on September 4, 2013. On November 7, 2013, the Board's Southern Region Committee (Committee) reviewed the recommendation of the State review agencies and recommends approval of the Chippewa County Local Water Management Plan Update. ***DECISION ITEM***

Bemidji	Brainerd	Duluth	Fergus Falls	Mankato	Marshall	New Ulm	*Rochester*
403 Fourth Street NW Suite 200 Bemidji, MN 56601 (218) 755-2600	1601 Minnesota Drive Brainerd, MN 56401 (218) 828-2383	394 S. Lake Avenue Suite 403 Duluth, MN 55802 (218) 723-4752	1004 Frontier Drive Fergus Falls, MN 56537 (218) 736-5445	12 Civic Center Plaza Suite 3000B Mankato, MN 56001 (507) 344-2821	1400 East Lyon Street Marshall, MN 56258 (507) 537-6060	261 Highway 15 South New Ulm, MN 56073 (507) 359-6074	3555 9th Street NW Suite 350 Rochester, MN 55901 (507) 206-2889

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3. **Lac qui Parle County Local Water Management Plan Update** - Lac qui Parle County submitted their Local Water Management 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 on September 6, 2013. On November 7, 2013, the Board's Southern Region Committee (Committee) reviewed the recommendation of the State review agencies and recommends approval of the Lac qui Parle County Local Water Management Plan Update. ***DECISION ITEM***

4. **Swift County Local Water Management Plan Update** - Swift County submitted their Local Water Management 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 on September 6, 2013. On November 7, 2013, the Board's Southern Region Committee (Committee) reviewed the recommendation of the State review agencies and recommends approval of the Swift County Local Water Management Plan Update. ***DECISION ITEM***

5. **Renville County Soil and Water Conservation District (SWCD) Nomination Districts Resolution** - The Renville County SWCD approved a Nomination Districts Resolution on August 15, 2013, which proposed to change nomination districts for the Renville County SWCD supervisor seats. The proposed Nomination Districts will provide consistent and equal distribution of township representation in the County. BWSR's Southern Region Committee met on November 7, 2013, discussed said Resolution, and unanimously voted to recommend approval of the Renville County SWCD Nomination Districts Resolution. ***DECISION ITEM***

6. **Houston County Local Water Management Plan Amendment** - By Board Order, the Board of Water and Soil Resources (Board) approved the Houston County 2007 - 2017 Comprehensive Local Water Management Plan (Plan) on December 19, 2007. This Plan contains an implementation section with goals, objectives and actions to address the County's priority concerns. The Board Order required Houston County to update the Plan's implementation section by December 31, 2012. Houston County adopted and submitted a resolution and written request to the Board requesting a two-year extension for the required five-year update of the implementation section of their Plan. On August 23, 2012, the Board approved the two-year extension until December 31, 2014. Houston County followed the amendment process guidelines established by the Board and submitted their 2013 - 2017 Local Water Management Plan Addendum on October 11, 2013. The Southern Region Committee (Committee) met on November 7, 2013, reviewed the Plan amendment, and recommends approval of the Houston County 2013 - 2017 Local Water Management Plan Amendment. ***DECISION ITEM***

7. **Nobles County Local Water Management Plan Amendment** - By Board Order, the Board of Water and Soil Resources (Board) approved the Nobles County 2009 - 2019 Local Water Management Plan (Plan) on March 25, 2009. This Plan contains an implementation section with goals, objectives and actions to address the County's priority concerns. The Board Order required Nobles County to update the Plan's implementation section by March 25, 2014. Nobles County followed the amendment process guidelines established by the Board and submitted their 2013 - 2018 Local Water Management Plan Amendment on October 22, 2013. The Southern Region Committee (Committee) met on November 7, 2013, reviewed the Plan amendment, and recommends approval of the Nobles County 2013 - 2018 Local Water Management Plan Amendment. ***DECISION ITEM***

Public Relations, Oversight and Strategic Planning (PROSP) Committee

1. **One Watershed, One Plan Implementation** – The requested One Watershed, One Plan agenda item represents the first formal steps that the Board is being asked to take in the development and implementation of the One Watershed, One Plan Program since the June 26th Board Workshop. At the workshop the Board concurred with a general outline for development of the program that included developing a set of guiding principles, operating procedures, and a pilot/test program. Since then Board staff, the Senior Management Team, and the Public Relations Oversight and Strategic Planning (PROSP) Committee have developed and will be presenting and requesting action on: 1) a set of One Watershed, One Plan Guiding Principles; 2) distribution and request for review and comment of a draft suggested boundary framework map; 3) plan types for pilot watersheds; and 4) authorization for staff to initiate a pilot watershed request for interest. Advancing the required suggested boundary framework and plan types for the pilot watersheds are necessary at this point in time if we are to stay on course for selecting the pilot watershed areas in June of 2014. There are a still number of remaining policy questions, operating procedures, and standards that are needed prior to initiation of the pilot watersheds and final program and which will continue to take place in the coming months. These additional work products will utilize a staff workgroup, local government roundtable workgroup and the PROSP Committee in their development. ***DECISION ITEM***

RIM Reserve Management Planning Committee (RRMPC)

1. **Resolutions Authorizing RIM-WRP, RIM Buffers, RIM Wellhead Protection, RIM ACUB and RIM Wild Rice Programs** - The Board is requested to approve the recommendation of the RRMPC to authorize the RIM-WRP, RIM Buffers, RIM Wellhead Protection, RIM ACUB and RIM Wild Rice resolutions that provide general authorization for these programs. The purpose of this request is to authorize standing resolutions for each program that establish and set the broad parameters for each program. These resolutions will remain in effect regardless of the year and/or source of funding until substantial material changes occur in the program that would cause staff to seek an amended resolution. Periodic program updates will be given to the RRMPC and to the full Board. ***DECISION ITEM***

2. **Resolution Authorizing the RIM – Grasslands for the Future Pilot Project** - The Board is requested to approve the recommendation of the RRMPC to authorize the RIM - Grasslands for the Future Pilot Project resolution that provides authorization for this program. The RIM - Grasslands for the Future Pilot Project was approved by the Lessard-Sams Outdoor Heritage Council (LSOHC) and the Legislature, and funding was appropriated to BWSR on July 1, 2013. This pilot project will utilize RIM or Minnesota Land Trust easements in cooperation with The Conservation Fund to protect priority grasslands and utilize conservation grazing plans to manage the vegetation to optimize wildlife habitat while providing numerous other benefits. ***DECISION ITEM***

3. **Resolution Authorizing RIM Standard Easement Payment Rates** - The Board is requested to approve the recommendation of the RRMPC to authorize staff to establish RIM standard easement payment rates. The standard rates will utilize township land values as established by the Department of Revenue and posted on the University of Minnesota Land Economics website as the basis for determining the rates. The Board is requested to approve the recommendation of the RRMPC to authorize staff to establish RIM standard easement payment rates. ***DECISION ITEM***

4. **RIM Easement Alteration** - The Board is requested to approve the recommendation of the RRMPC to authorize easement staff to modify easement 17-31-01-01 in Cottonwood County. The alteration was requested by the landowner and is consistent with the requirements of the Easement Alteration Policy. ***DECISION ITEM***

NEW BUSINESS

1. **Clean Water Fund Roadmap Presentation –** At the request of the Clean Water Funded Executive branch agency heads, the Clean Water Fund Interagency Coordination Team launched a project this past June, with the assistance of Environmental Initiative, to establish a Clean Water Fund Roadmap. The idea behind the Roadmap is to develop a few key goals and measures for Clean Water Fund implementing agencies to monitor our pace of progress in achieving those goals over the course of the 25 years of constitutional amendment funding; the **project web page**. While the ultimate goal is to achieve clean, sustainable water resources, the executive branch agencies believe it is important to track progress on a high level, and use this information to make course corrections as we move forward. MPCA Commissioner John Linc Stine and Sarah Strommen, Assistant Director of the Board of Water and Soil Resources will provide an update on the status of the project. ***INFORMATION ITEM***

If you have any questions regarding the agenda, please feel free to call me at 651-296-0878. The Board meeting is expected to adjourn about noon. I look forward to seeing you on December 18th!

BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, DECEMBER 18, 2013

PRELIMINARY AGENDA

9:00 AM CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

ADOPTION OF AGENDA

MINUTES OF OCTOBER 23, 2013 BOARD MEETING

PUBLIC ACCESS FORUM (10-minute agenda time, two-minute limit/person)

INTRODUCTION OF NEW BWSR EMPLOYEES

- Luke Anderson, Conservation Easement Technician, St. Paul *(Bill Penning)*
- Tom Garry, Conservation Easement Technician, St. Paul *(Bill Penning)*
- Jeannette Austin, Grants Compliance Specialist, Brainerd *(Ron Shelito)*
- Steve Christopher, Board Conservationist, St. Paul *(Jim Haertel)*

REPORTS

- Chair – Brian Napstad
- Administrative Advisory Committee – Brian Napstad
- Executive Director – John Jaschke
- Dispute Resolution Committee – Gerald Van Amburg
- Wetlands Committee – Gerald Van Amburg
- Grants Program & Policy Committee – Paul Langseth
- Public Relations, Oversight & Strategic Planning Committee – Jack Ditmore
- RIM Reserve Management Planning Committee – Gene Tiedemann
- Drainage Work Group – Tom Loveall/Al Kean

COMMITTEE RECOMMENDATIONS
Metro Region Committee

1. Petition to Discontinue the Hennepin Conservation District – Jim Haertel – ***DECISION ITEM***

COMMITTEE RECOMMENDATIONS
Southern Region Committee

1. Big Stone County Local Water Management Plan Update – Steve Sunderland - ***DECISION ITEM***

2. Chippewa County Local Water Management Plan Update – Steve Sunderland - ***DECISION ITEM***

3. Lac qui Parle County Local Water Management Plan Update – Sandy Hooker - ***DECISION ITEM***

4. Swift County Local Water Management Plan Update – Tom Loveall - ***DECISION ITEM***

5. Renville County Soil and Water Conservation District (SWCD) Nomination Districts Resolution – Paul Langseth – ***DECISION ITEM***

6. Houston County Local Water Management Plan Amendment – Chris Elvrum - ***DECISION ITEM***

7. Nobles County Local Water Management Plan Amendment – Paul Langseth - ***DECISION ITEM***

Public Relations, Oversight, & Strategic Planning Committee

1. One Watershed, One Plan Implementation – Jack Ditmore and Doug Thomas – ***DECISION ITEM***

RIM Reserve Management Planning Committee

1. Resolutions Authorizing RIM-WRP, RIM Buffers, RIM Wetland Protection, RIM ACUB and RIM Wild Rice Programs – Bill Penning – ***DECISION ITEM***

2. Resolution Authorizing the RIM - Grasslands for the Future Pilot Project – Bill Penning – ***DECISION ITEM***

3. Resolution Authorizing RIM Standard Easement Payment Rates – Bill Penning – ***DECISION ITEM***

4. RIM Easement Alteration – Tim Fredbo – ***DECISION ITEM***

NEW BUSINESS

1. Clean Water Fund Roadmap Presentation – Sarah Strommen and MPCA Commissioner John Linc Stine – ***INFORMATION ITEM*** *(This item is scheduled for 9:30 AM)*

AGENCY REPORTS

- Minnesota Department of Agriculture – Matthew Wohlman
- Minnesota Department of Health – Chris Elvrum
- Minnesota Department of Natural Resources – Tom Landwehr
- Minnesota Extension Service – Faye Sleeper
- Minnesota Pollution Control Agency – Rebecca Flood

ADVISORY COMMENTS

- Association of Minnesota Counties – Annalee Garletz
- Minnesota Association of Conservation District Employees – Matt Solemsaas
- Minnesota Association of Soil & Water Conservation Districts – LeAnn Buck
- Minnesota Association of Townships – Sandy Hooker
- Minnesota Association of Watershed Districts – Ray Bohn
- Natural Resources Conservation Service – Don Baloun

UPCOMING MEETINGS

- BWSR Board Meeting – January 22, 2014, in St. Paul

Noon **ADJOURN**

BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
ST. PAUL, MINNESOTA 55155
WEDNESDAY, OCTOBER 23, 2013

BOARD MEMBERS PRESENT:
Joe Collins, Jack Ditmore, Chris Elvrum, MDH; Rebecca Flood, MPCA; Christy Jo Fogarty, Paul Langseth, Tom Landwehr, DNR; Tom Loveall, Brian Napstad, Judy Ohly, Tom Schulz, Faye Sleeper, MES; Steve Sunderland, Gene Tiedemann, Gerald VanAmburg, Matt Wohlman, MDA

BOARD MEMBERS ABSENT:
Sandy Hooker

STAFF PRESENT:
Mary Jo Anderson, Mike Anderson, Angie Becker Kudelka, Jason Beckler, Adam Beilke, Donna Caughey, Tim Dykstal, Matt Fischer, Travis Germundson, Tom Gile, Tim Gillette, Jim Haertel, John Jaschke, Al Kean, Julie Krebs, Jeff Nielsen, Bill Penning, DeAnne Pierzinski, Mary Peterson, Ron Shelito, John Voz, Tom Wenzel, Dave Weirens, Marcey Westrick, Brad Wozney

OTHERS PRESENT:
Brad Redlin, Josh Stamper, Marcey McLaughlin, Rob Sip, MDA

DRAFT

Chair Napstad called the meeting to order at 9:00 AM

PLEDGE OF ALLEGIANCE

ADOPTION OF AGENDA – Chair Napstad stated that 'Conflict of Interest Declaration' was
** inadvertently listed on the agenda; there are no items today to declare as conflict of interest. Moved by Paul Langseth, seconded by Christy Jo Fogarty, to adopt the agenda as amended.
13-83 *Motion passed on a voice vote.*

INTRODUCTION OF NEW BWSR EMPLOYEES

- Mike Anderson, Engineering Technician, Willmar
- Adam Beilke, Board Conservationist, New Ulm
- Tom Gile, Board Conservationist, Rochester
- Julie Krebs, Grants Compliance Specialist, Mankato
- John Voz, Easement & Working Lands Specialist, Detroit Lakes
- Jason Beckler, Farm Bill Partnership Coordinator, Marshall
- DeAnne Pierzinski, Grants Compliance Specialist, Brainerd

Ron Shelito recognized Donna Caughey's attendance at the meeting today. Chair Napstad welcomed the new employees to BWSR.

** **MINUTES OF SEPTEMBER 25, 2013 BOARD MEETING** - Moved by Jack Ditmore, seconded
13-84 by Paul Langseth, to approve the minutes of September 25, 2013 as circulated. *Motion passed on a voice vote.*

REPORTS

Chair's Report – Brian Napstad reported that he attended the EQB meeting. Discussions at the meeting included the Silica Sand Subcommittee will hold meetings to gather public input on model standards and criteria for silica sand projects; and a new silica sand website for tracking state agencies' activities regarding the mining, processing, and transporting of silica sand.

Executive Director's Report – John Jaschke reported that BWSR is working with the Governor's office, DNR, and the U of M regarding the tax valuation of RIM conservation easements, working lands, and forest easements. For both the assessors and landowners the easement document will need administrative clarification.

John reported that BWSR, DNR, PCA, MDH, MDA, MES, and other stakeholders met on October 21, 2013, an initial meeting on the Clean Water Fund Roadmap; leading to a cost effective and ecological measures for water quality trends, and also communicating and charting work in progress and ahead.

John reviewed information in board member packets. The MASWCD, MAWD, and AMC annual meetings will be held in December; if board members are interested in attending, contact Mary Jo Anderson today or Sherri Johnson by November 1st.

DRAFT

John reported that BWSR's communication manager Jen Maleitzke's last day was yesterday; she has taken a position in the private sector. The communications manager position is posted and the hiring process will begin. Angie Becker Kudelka is the point person for communications during the vacancy.

Judy Ohly suggested a flow chart of the Clean Water Fund; the general public is not aware of the appropriations process. John Jaschke stated that public outreach is needed.

Dispute Resolution Committee (DRC) – Travis Germundson provided a status report of appeals. Travis reported that the DRC attended a training workshop on September 25, 2013, facilitated by the Attorney General's Office. Travis stated that it would be useful to offer a refresher session again in the future. Chair Napstad attended the workshop; he stated it was a valuable session and thanked board members for attending.

Grants Program & Policy Committee – Paul Langseth reported that the Grants Program & Policy Committee met last night; recommendations are on the agenda later today.

Public Relations, Oversight & Strategic Planning Committee – Jack Ditmore reported that the Public Relations, Oversight & Strategic Planning Committee met last night; the Committee reviewed materials for the One Watershed One Plan (1W1P) guiding principles. The Committee will meet again and bring recommendations before the Board at the December 18 meeting. Jack stated that the Strategic Plan Report Card will come before the Board in 2014. Jack and Chair Napstad thanked the Committee for all their work.

RIM Reserve Management Planning Committee – Gene Tiedemann reported that the RIM Reserve Management Planning Committee will meet in December.

Drainage Work Group – Tom Loveall stated that the Drainage Work Group did not meet in October; three sub-groups were developed. Al Kean reported that the three sub-groups met; he provided a summary of the recent discussions. The next meeting of the Drainage Work Group is scheduled for November 14, 2013. Discussion followed. Chair Napstad thanked Tom and Al for their report.

Tom Landwehr entered the meeting at 10:05 a.m.

COMMITTEE RECOMMENDATIONS

Metro Region Committee

Boundary Change for Coon Creek Watershed District – Mary Peterson reported that the Coon Creek Watershed District submitted a Petition to change the boundary of the District pursuant to Minn. Stat. § 103B.215. The Petition proposes to transfer 290 acres in the City of Coon Rapids from the Lower Rum River WMO to the Coon Creek WD. The City, WMO and WD concur in the Petition. There is no opposition to the proposed boundary change in the record. The Metro Region Committee met on October 1, 2013 and unanimously recommends approval of the boundary change. Moved by Joe Collins, seconded by Faye Sleeper, to approve the Coon Creek Watershed District boundary change. *Motion passed on a voice vote.*

** 13-85

Ramsey-Washington Metro Watershed District Management Plan Amendment – Mary Peterson reported that the current watershed management plan was approved by the Board on April 25, 2007. In June 2012, by Board Order, the Ramsey-Washington Metro WD (RWMWD) boundaries were enlarged to include the area of the former Grass Lake WMO (GLWMO) and the RWMWD was furthered ordered to amend the watershed management plan to include the new area in the Plan. This Amendment incorporates the former GLWMO area into the RWMWD's Watershed Management Plan and makes minor plan text and map changes to reflect the portion of the Cities of Shoreview and Roseville that are now part of the RWMWD. The Amendment also reflects recent changes in the lakes and creeks listed by the MPCA as impaired acknowledging the planning efforts currently underway or being planned to address these impairments. The Metro Region Committee met on October 1, 2013. After review of the information, the Committee unanimously voted to recommend approval of the Amendment.

** 13-86 Moved by Joe Collins, seconded by Christy Jo Fogarty, to approve Ramsey-Washington Metro Watershed District Management Plan Amendment. *Motion passed on a voice vote.*

Northern Region Committee

Hubbard County Water Plan Extension Request – Tom Schulz reported that Hubbard County submitted a resolution requesting a two-year extension of their County Water Plan on October 1, 2013. The Hubbard County Local Water Management Plan would expire on January 25, 2014. Ron Shelito stated that staff and the Northern Region Committee met on October 9, 2013, and recommends approval of the two-year extension of the Hubbard County Water

** 13-87 Management Plan until October 23, 2015. Moved by Tom Schulz, seconded by Gene Tiedemann to approve the Hubbard County Water Plan extension until October 23, 2015. Jack Ditmore expressed his concern that this is effectively a three-year extension. Chair Napstad explained that Hubbard County wanted to include the new watershed data and methodology consistent with other plans in the Upper Mississippi River Basin. Discussion followed. *Motion passed on a voice vote.*

Stearns County Five Year Plan Amendment – Tom Schulz reported that on January 23, 2008, the Board of Water and Soil Resources approved Stearns County's Comprehensive Local Water Management Plan for a ten year period from 2008-2017 with a required amendment by 2013. On April 11, 2012, Stearns County passed a resolution to begin the amendment process. The amended plan was submitted to the BWSR Brainerd office on June 24, 2013. The Northern Region Committee met on October 9, 2013, reviewed the plan amendment and recommends

** 13-88 approval of the update through December 2017. Moved by Steve Sunderland, seconded by Matt Wohlman, to approve the Stearns County five-year plan amendment. *Motion passed on a voice vote.*

Traverse County Water Plan Synchronization – Gerald VanAmburg reported that Traverse County wishes to synchronize their planning and implementation efforts with the three Watershed Restoration and Protection Strategies (WRAPS) and the two Watershed Districts efforts, and requests BWSR extend their Local Water Plan expiration date. Gerald stated that BWSR needs to be flexible if the 1W1P effort is to be successful. The Northern Region

** Committee recommends approval of the synchronization. Moved by Gerald VanAmburg;
13-89 seconded by Tom Loveall, to approve the Traverse County plan synchronization, extends the Plan expiration date until the end of the calendar year following the Bois de Sioux Watershed

District Plan amendment or December 31, 2017. Jack Ditmore questioned the extension dates. Discussion followed. John stated that the alignment schedules and data are being synchronized. *Motion passed on a voice vote.*

Wilkin County Local Water Plan Synchronization – Gerald VanAmburg reported that Wilkin County requests to synchronize their planning and implementation efforts with the three Watershed Restoration and Protection Strategies (WRAPS) and the two Watershed Districts efforts. Wilkin County requests BWSR to: 1) rescind the BWSR Order which extended the required five-year update of the local water management plan to December 31, 2014; 2) waives the five-year required plan update; and 3) extends the Wilkin County Local Water Plan expiration date to December 31, 2018. The Northern Region Committee recommends approval.

** 13-90 Moved by Gerald VanAmburg, seconded by Gene Tiedemann, to hereby rescind its September 26, 2012, Order which extended the required five-year update of the Local Water Management Plan to December 31, 2014, waives the five-year required Plan update, and extends the Plan expiration date until one year following the last Watershed District Plan Amendment or December 31, 2018, as per BWSR Resolution #12-85 dated September 26, 2012. Discussion followed. Paul Langseth questioned the extension date. Ron Shelito explained the effectiveness in staggering the dates. Joe Collins stated that flexibility is needed; adjustments need to be included in the principles of the strategic planning. Tom Landwehr requested to see a finished WRAP and tailor Plans accordingly. Rebecca Flood stated that a presentation can be provided in 2014. *Motion passed on a voice vote.*

Revised Watershed Management Plan Hearing for the Sauk River Watershed District – Gene Tiedemann reported that the Northern Region Committee met on October 9, 2013 and recommended that a public hearing be held within 45 days after receiving the Department of Natural Resource's recommendation on the revised plan. The Northern Region Committee will preside over the public hearing, the Executive Director will set the date, time and location of the public hearing after coordinating with the appropriate parties. Moved by Gene Tiedemann,

** 13-91 seconded by Tom Schulz, to order a public hearing be held within 45 days after receiving the DNR's recommendation on the revised Plan for the Sauk River Watershed District to be presided over by the Northern Region Committee at a date and location to be determined by the Executive Director. Discussion followed. *Motion passed on a voice vote.* John Jaschke will work with staff in scheduling the date, time and location.

Public Hearing for Redistribution of Managers of the Middle-Snake-Tamarac Rivers Watershed District – Gene Tiedemann reported that a public hearing date has been set for the petition for the redistribution of Managers of Middle-Snake-Tamarac River Watershed District submitted to BWSR by Polk County. The Northern Region Committee set the hearing date of Wednesday, November 13, 2013; starting at 6:00 p.m., adjourning no sooner than 7:30 p.m., at the Bremer Bank Community Room, 202 West Johnson Avenue, Warren, MN 56762.

Chair Napstad called for a break in the meeting at 10:47 a.m. The meeting reconvened at 11:00 a.m.

Grants Program & Policy Committee

Targeted Watershed Demonstration Program – Paul Langseth reported that the Grants Program and Policy Committee met October 22, 2013. Marcey Westrick reported that staff are requesting authorization to initiate the Targeted Watershed Demonstration Program as provided for in the 2013 Clean Water Fund appropriations. Marcey reviewed the revisions made at the Committee meeting last night and explained the application approach and granting process. Dave Weirens reported that the Grants Program and Policy Committee recommends authorizing staff to finalize, distribute and promote a Request for Information (RFI). Paul Langseth stated that this a pilot project. Moved by Paul Langseth, seconded by Steve Sunderland, to authorize staff to finalize, distribute and promote the Request for Information (RFI) for the Targeted Watershed Demonstration Program consistent with the provisions of appropriations enacted in 2013, Minn. Stat. 103B.3369. Discussion followed. Faye Sleeper supports the RFI granting approach. Matt Wohlman asked for clarification regarding eligible applicant areas. Staff will make adjustments and modifications to the RFI hydrologic unit. John stated that the match requirements are a significant workload; need to find ways in this unique approach to assist in the process of the demonstration program. *Motion passed on a voice vote.*

** 13-92

Soil Erosion and Drainage Law Compliance Program – Gene Tiedemann reported that the 2013 Minnesota Legislature appropriated Clean Water Funds to BWSR to be used for grants to local units of government to ensure compliance with Minnesota Statutes Chapter 103E (Drainage Law) and Sections103F.401 to 103F.455 (state Soil Erosion Control provisions), including enforcement efforts. In response to this appropriation, BWSR created the Soil Erosion and Drainage Law Compliance Program. The program is to restore and protect surface water quality, particularly impaired waters, by supplementing local efforts to apply existing soil erosion reduction and drainage statutes across Minnesota. Moved by Gene Tiedemann, seconded by Paul Langseth, authorizes staff to finalize, distribute and promote a Request For Proposals (RFP) for the FY2014 Clean Water Fund Competitive Soil Erosion and Drainage Law Compliance Grants Program consistent with the provisions of appropriations enacted in 2013, Minn. Stat. 103B.3369. Al Kean explained the RFP, ranking criteria, applicable eligibility and activity for Subprogram 1 – Soil Erosion; Subprogram 2 – Drainage Ditch Inventory and Inspection; and Subprogram 3 – Redetermination of Benefits and Drainage Ditch Buffer Strips. Discussion followed. Matt Wohlman stated that the 103F.411 statute calls for model ordinance and review. John stated that advice is taken; staff will follow statute and review the model ordinance. *Motion passed on a voice vote.*

** 13-93

NEW BUSINESS

2014 Proposed BWSR Board Meeting Schedule – John Jaschke reported that the Board meets the fourth Wednesday of the month (unless noted); and presented the proposed meeting dates for 2014. Moved by Steve Sunderland, seconded by Paul Langseth, to adopt the 2014 Board meeting schedule. *Motion passed on a voice vote.*

** 13-94

Status Report on MN Ag Water Quality Certification Program (MAWQCP) – Matt Wohlman introduced MDA staff Brad Redlin, Josh Stamper, and Marcey McLaughlin. Matt presented an overview of the Minnesota Agricultural Water Quality Certification Program (MAWQCP) and provided the status of various program elements. This voluntary program is designed to accelerate adoption of on-farm conservation practices that protect Minnesota's lakes and rivers.

Producers who implement and maintain approved farm management practices will be certified and in turn assured that their operation meets the state's water quality goals and standards for a period of 10 years. Josh Stamper explained the evaluation tool development and assessment and the logistics of local government program support and a certainty contract underway via an MDA team with support from BWSR, MPCA, DNR and NRCS. Discussion followed. Chair Napstad thanked Matt and Josh for their informative presentation.

AGENCY REPORTS

Minnesota Department of Health (MDH) – Chris Elvrum reported that MDH is involved in health risk assessments and the effects from human exposures to environmental hazards.

Minnesota Department of Natural Resources (DNR) – Tom Landwehr reported that the Governor's pheasant hunting opener was held October 11-12, in Madelia. The announcement of a new critical habitat pheasant license plate was unveiled during the pheasant opener, the ring-necked pheasant license plates will be available later this fall. Tom distributed the "Minnesota Walk-In Access Hunting Atlas 2013" a joint project with DNR, BWSR, and SWCDs.

Minnesota Extension Service – Faye Sleeper reported that the Climate Adaptation Conference will be held November 7, 2013, at the St. Paul Science Museum. Faye reported that attendance was down this year at the Water Resources Conference held October 19; need to look at dates and other variables in the future.

Minnesota Pollution Control Agency (PCA) – Rebecca Flood reported that the draft Nutrient Reduction Strategy is available for public review and comment until December 18, 2013; and the river unification standards 60-day comment period will be available mid-November.

UPCOMING MEETINGS

- BWSR Academy, October 28–30, 2013, Cragun's, Brainerd
- MASWCD Annual Meeting, December 1-3, 2013, Bloomington
- MAWD Annual Meeting, December 5-7, 2013, Alexandria
- AMC Annual Meeting, December 9-11, 2013, Minneapolis
- BWSR Board Meeting – December 18, 2013, St. Paul

** 13-95 Moved by Rebecca Flood, seconded by Judy Ohly, to adjourn the meeting at 1:00 p.m. *Motion passed on a voice vote.*

Respectfully submitted,

Mary Jo Anderson
Recorder

DRAFT

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Dispute Resolution Committee Report**

Meeting Date: December 18, 2013

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

Item Type: ☐ Decision ☐ Discussion X Information

Section/Region: Land and Water Section

Contact: Travis Germundson

Prepared by: Travis Germundson

Reviewed by: Committee(s)

Presented by: Travis Germundson/Gerald VanAmburg

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

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

Fiscal/Policy Impact

X None
☐ Amended Policy Requested
☐ New Policy Requested
☐ Other:

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

ACTION REQUESTED

None.

LINKS TO ADDITIONAL INFORMATION

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
December 6, 2013
By: Travis Germundson

There are presently **13** appeals pending. All of the appeals involve WCA except File 10-10. There have been no new appeals filed since the last report dated October 23, 2013

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 13-9 (9-23-13) This is an appeal of a restoration order in Stearns County. The appeal regards drainage impacts to wetlands associated with a private drainage ditch project.~~ *The restoration order was affirmed in part and modified in part. The restoration order was modified to reduce the number of structures required to be constructed along the ditch.*

~~File 13-8 (9-5-13) This is an appeal of a restoration order in St. Louis County. The appeal regards the placement of approximately 2,076 square feet of fill in a Type 3 wetland within the shore impact zone of Coon Lake for lake access.~~ *The appeal was denied.*

File 13-7 (8-30-13) This is an appeal of several replacement plan decisions in Le Sueur County. The appeal involves the same project and local unit of government decisions as File 13-6. The appeal has been combined with File 13-6 and remanded for further technical work and administrative proceedings.

File 13-6 (8-28-13) This is an appeal of several replacement plan decisions in Le Sueur County. The appeal regards the approval of three wetland replacement plan applications for a silica sand mining operation. At issue is that the decisions allow for substantial wetland impacts to occur without replacement. The appeal has combined with File 13-7 and remanded for further technical work and administrative proceedings.

File 13-5 (6-11-13) This is an appeal of a replacement plan decision in Stearns County. The appeal regards the approval of a wetland replacement plan application. A pervious appeal (File 12-19) was remanded for further technical work and administrative proceedings, and now that new decision is being appealed. At issue is the adequacy of the TEP's Report to address partial drainage. The appeal has been remanded for further technical work directing the TEP to produce a revised written report adequately addressing partial drainage.

File 13-3 (3-19-13) This is an appeal of a restoration order in Big Stone County. The appeal regards impacts to DNR Public Waters and WCA wetlands on state property associated with an agricultural drainage project. 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 13-1 (1-9-13) This is an appeal of a restoration order in Swift County. The appeal regards drainage impacts to multiple wetlands associated with an agricultural drain tile project. 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 12-16 (11-16-12). This is an appeal of a wetland banking credit deposit request in Stearns County. The appeal regards the approval of a wetland banking plan request to deposit 9.9 acres of credit. A previous appeal (File 12-13) was remanded for the LGU to develop an adequate record, and now that new decision is being appealed. At issue are the eligibility requirements for banking credits. The appeal has been accepted and the briefing and hearing schedule stayed by mutual agreement to allow informal settlement discussions to continue.

File 12-12 (7-16-12) This is an appeal of an exemption determination in Renville County. The appeal regards the denial of an agricultural drainage exemption associated with a 1.5 acre wetland. At issue is the wetland type determination. A previous appeal (File 12-5) was remanded for further technical evaluation and administrative proceedings, and now the current approval is being appealed. A verbal settlement agreement has since been reached that includes submittal of a replacement plan application. The appeal has been placed in abeyance by mutual agreement to determine the viability of a wetland replacement plan application.

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 and confirmation of required mitigation.

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 proceed 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. A mediated settlement agreement was reached with the condition that if the watershed district fails to carry out Option D the appeal shall go forward. The appeal has been placed in abeyance.

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. A portion of the site has been restored and it appears the landowner is committed to restoring the remaining areas.

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 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 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.

Summary Table

Type of Decision	Total for Calendar Year 2012	Total for Calendar Year 2013
Order in favor of appellant	1	
Order not in favor of appellant	5	2
Order Modified		1
Order Remanded	4	4
Order Place Appeal in Abeyance	1	2
Negotiated Settlement		1
Withdrawn/Dismissed	4	

COMMITTEE RECOMMENDATIONS

Metro Region Committee

1. Petition to Discontinue the Hennepin Conservation District – Jim Haertel – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Hennepin County Petition to Discontinue the Hennepin Conservation District**

Meeting Date: 12/18/2013

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 Region 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
☐ Other: _____

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

ACTION REQUESTED

Approval of Petition

LINKS TO ADDITIONAL INFORMATION

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

The Hennepin County Board of Commissioners (Hennepin County) submitted a Petition to discontinue the Hennepin Soil and Water Conservation District, d/b/a Hennepin Conservation District, (District) and transfer the duties and authorities of the District to Hennepin County pursuant to Minn. Stat. § 383B.761. The Metro Region Committee presided over a public hearing on October 21, 2013.

About a year ago the Board evaluated legislation being proposed by Hennepin County. Legislation was subsequently adopted that resulted in the Petition being filed. As discussed last year, the District has received little funding for more than a decade from Hennepin County or from other sources of revenue typical for soil and water conservation districts. During that time period, the Hennepin County Department of Environmental Services, through about a dozen staff members, has provided many of the services and duties commonly undertaken by soil and water conservation districts in the metropolitan area. The District's Board of Supervisors

has had frequent turnover during the past decade. The District has had a disproportionate amount of administrative costs compared to project and program funding during the past decade.

Due to the recent history of the District, Hennepin County petitioned to discontinue the District and have the County carry out the delivery of conservation services and the duties of a soil and water conservation district. The Petition lists several reasons:

A. The responsibilities and authorities of the District are consistent with Hennepin County's mission, vision and overarching goals.

B. The conservation programs identified in Minnesota Statutes Chapter 103C are important for maintaining a healthy and clean environment for the more than one million residents of Hennepin County.

C. Hennepin County has delivered the conservation services identified in Minnesota Statutes Chapter 103C under county auspices since 2003.

D. Hennepin County has provided technical services regarding the state cost-share program, the Reinvest in Minnesota (RIM) program, and the Wetland Conservation Act (WCA) program pursuant to a cooperative agreement since 2006.

E. There are 45 municipalities involved in regulating development that affects natural resources in Hennepin County.

F. There are 12 watershed management organizations in Hennepin County charged with protecting water and land resources.

G. There has been substantial changes in environmental management and conservation funding in the past ten years.

H. The District lacks the financial and technical resources to address these complex issues and opportunities.

I. The District, for the past ten years, has not secured financial resources from other sources to fulfill its programmatic responsibilities.

J. Hennepin County strives to provide services in an efficient and fiscally responsible way.

K. It is more efficient and fiscally responsible to provide all conservation services through Hennepin County, which eliminates the costs associated with negotiating and executing cooperative agreements with the District's Board of Supervisors as well as the administrative costs associated with maintaining the District's Board of Supervisors.

The standard of review is set forth in Minn. Stat. § 383B.761, subd. 2:

The Minnesota Board of Water and Soil Resources shall review the petition submitted under subdivision 1 to determine whether progress toward the goals identified in section 103C.005 can be achieved by discontinuing the Hennepin Soil and Water Conservation District and transferring the duties and authorities of the district to the Hennepin County Board of Commissioners. If the Board of Water and Soil Resources determines that progress toward the goals identified in section 103C.005 can be achieved by the discontinuance of the district

and the transfer of district duties and authorities to the Hennepin County Board of Commissioners, the Board of Water and Soil Resources shall order the discontinuance of the Hennepin Soil and Water Conservation District.

Minnesota Statutes § 103C.005, Soil and Water Conservation Policy, states:

Maintaining and enhancing the quality of soil and water for the environmental and economic benefits they produce, preventing degradation, and restoring degraded soil and water resources of this state contribute greatly to the health, safety, economic well-being, and general welfare of this state and its citizens. Land occupiers have the responsibility to implement practices that conserve the soil and water resources of the state. Soil and water conservation measures implemented on private lands in this state provide benefits to the general public by reducing erosion, sedimentation, siltation, water pollution, and damages caused by floods. The soil and water conservation policy of the state is to encourage land occupiers to conserve soil, water, and the natural resources they support through the implementation of practices that:

(1) control or prevent erosion, sedimentation, siltation, and related pollution in order to preserve natural resources;
(2) ensure continued soil productivity;
(3) protect water quality;
(4) prevent impairment of dams and reservoirs;
(5) reduce damages caused by floods;
(6) preserve wildlife;
(7) protect the tax base; and
(8) protect public lands and waters.

The standard of review requires the Board "…to determine whether progress toward the goals identified in [Minn. Stat.] section 103C.005 can be achieved by discontinuing the Hennepin Soil and Water Conservation District and transferring the duties and authorities of the district to the Hennepin County Board of Commissioners." Making a determination on whether progress towards the goals identified in the Soil and Water Conservation Policy can be achieved is essentially deciding if Hennepin County can deliver conservation services and carry out the duties of the Hennepin Soil and Water Conservation District. Because Hennepin County, through staff of its Environmental Services Department, for the past decade has been delivering conservation services and carrying out many of the duties commonly undertaken by soil and water conservation districts in the metropolitan area, the confidence level is extremely high for Hennepin County to continue to do so. Thus, Hennepin County can be expected to achieve progress toward the goals in the Soil and Water Conservation Policy. Therefore, with an extremely high level of confidence, the Board can decide the requirements set forth in the standard of review will be substantially met.

The hearing record contains both support for, and opposition to, the Petition. The hearing record clearly supports that Hennepin County can deliver conservation services and carry out the duties of the Hennepin Soil and Water Conservation District. Nothing in the hearing record indicates Hennepin County cannot deliver conservation services or that Hennepin County cannot carry out the functions of the Hennepin Soil and Water Conservation District. That is the information to be considered under the standard of review in this matter.

Much of the opposition to the Petition in the hearing record focuses on a precedent being set by approval of the Petition, that other soil and water conservation districts in the state have been defunded by counties but still exist, the assistance the District has given, and the importance of the partnership between a county board of commissioners and a district board of supervisors. Although important, none of those factors are given weight under the standard of review set forth in statute.

If the District is discontinued, Minn. Stat. § 383B.761, subd. 6 sets forth two different avenues for reestablishment of the District without a referendum. Hennepin County may petition the Board to reestablish the District. Alternatively, the Board, under its authority in Minn. Stat. § 103C.201, may give notice to Hennepin County of corrective actions and time to implement corrective actions. After the time to implement the corrective actions has passed, the Board may reestablish the District if it determines the goals identified in Minn. Stat. § 103C.005 are not being achieved. Thus, a discontinuance of the District and the transfer of duties and authorities of the District to Hennepin County is in place until such time as the District may be reestablished under Minn. Stat. § 383B.761, subd. 6.

Staff found progress toward the goals identified in Minn. Stat. § 103C.005 can be achieved by discontinuing the District and transferring the duties and authorities of the District to Hennepin County because Hennepin County staff for the past decade has been delivering conservation services and carrying out many of the duties commonly undertaken by soil and water conservation districts in the metropolitan area. Therefore, the proposed discontinuance of the District and the transfer of duties and authorities from the District to Hennepin County would be substantially consistent with the purposes and requirements of Minn. Stat. § 383B.761. Staff recommended the discontinuance of the District and the transfer of all duties and authorities of the District to Hennepin County be approved as proposed in the Petition, that the District's Board of Supervisors must transfer all assets of the District to Hennepin County within 60 days of the date of the Board's Order, and that the discontinuance of the District and the transfer of duties and authorities to Hennepin County is effective the day the transfer of all assets of the District to Hennepin County is completed.

The Metro Region Committee met on December 3, 2013 and decided with a unanimous vote to recommend to the full Board approval of the Petition per the attached draft Order.

Minnesota Board of Water & Soil Resources

DATE: October 23, 2013

HAND DELIVERED

TO: Mark Ritchie, Secretary of State

FROM: Jim Haertel, Metro Region Manager

SUBJECT: **Order, Coon Creek Watershed District Boundary Change**

Pursuant to Minn. Stat. § 103B.215, Subd. 4, paragraph d, hereby enclosed for filing is a certified copy of the Minnesota Board of Water and Soil Resources Findings of Fact, Conclusions and Order dated October 23, 2013, including attachment of two maps fully incorporated in the Order, six pages total, changing the boundary of the Coon Creek Watershed District.

Please contact me at (651) 297-2906 if you have any questions.

Enclosures (to all listed)

cc: Anoka County Board of Commissioners
Anoka County Auditor
Anoka Conservation District
Mayor, City of Andover
Mayor, City of Blaine
Mayor, City of Columbus
Mayor, City of Coon Rapids
Mayor, City of Fridley
Mayor, City of Ham Lake
Mayor, City of Spring Lake Park
Steve Hirsch, DNR-Eco Waters Director
Keith Parker, DNR Regional Administrator, St. Paul
Coon Creek Watershed District
Ray Bohn, MAWD
Rob Sip, MDA
Nick Proulx, DNR-Ecological & Water Resources
Pat Bailey, MDH-Rochester
Juline Holleran, MPCA
Judy Sventek, Metropolitan Council
BWSR: Mary Peterson, Aaron Spence

Bemidji	Brainerd	Duluth	Fergus Falls	Mankato	Marshall	New Ulm	*Rochester*
403 Fourth Street NW Suite 200 Bemidji, MN 56601 (218) 755-2600	1601 Minnesota Drive Brainerd, MN 56401 (218) 828-2383	394 S. Lake Avenue Suite 403 Duluth, MN 55802 (218) 723-4752	1004 Frontier Drive Fergus Falls, MN 56537 (218) 736-5445	12 Civic Center Plaza Suite 3000B Mankato, MN 56001 (507) 344-2821	1400 East Lyon Street Marshall, MN 56258 (507) 537-6060	261 Highway 15 South New Ulm, MN 56073 (507) 359-6074	3555 9th Street NW Suite 350 Rochester, MN 55901 (507) 206-2889

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

In the Matter of the Discontinuance of the Hennepin Conservation District and the Transfer of Duties and Authorities to Hennepin County pursuant to Minnesota Statutes § 383B.761

ORDER
HENNEPIN SOIL AND WATER CONSERVATION DISTRICT DISCONTINUANCE

DRAFT

Whereas, a petition (Petition) to discontinue the Hennepin Soil and Water Conservation District and transfer the duties and authorities to the Hennepin County Board of Commissioners was filed with the Board of Water and Soil Resources (Board) on September 17, 2013, pursuant to Minnesota Statutes § 383B.761, 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 discontinue the Hennepin Soil and Water Conservation District, d/b/a Hennepin Conservation District, (District) and transfer the duties and authorities of the District to the Hennepin County Board of Commissioners (Hennepin County) was filed by Hennepin County with the Board on September 17, 2013.

2. **Reasons for Discontinuance and Transfer of Duties and Authorities.** The Petition lists, among other items, the following reasons for discontinuing the District and transferring the duties and authorities of the District to Hennepin County:

   A. The responsibilities and authorities of the District are consistent with Hennepin County's mission, vision and overarching goals.

B. The conservation programs identified in Minnesota Statutes Chapter 103C are important for maintaining a healthy and clean environment for the more than one million residents of Hennepin County.

C. Hennepin County has delivered the conservation services identified in Minnesota Statutes Chapter 103C under county auspices since 2003.

D. Hennepin County has provided technical services regarding the state cost-share program, the Reinvest in Minnesota program, and the Wetland Conservation Act program pursuant to a cooperative agreement since 2006.

E. There are 45 municipalities involved in regulating development that affects natural resources in Hennepin County.

F. There are 12 watershed management organizations in Hennepin County charged with protecting water and land resources.

G. There has been substantial changes in environmental management and conservation funding in the past ten years.

H. The District lacks the financial and technical resources to address these complex issues and opportunities.

I. The District, for the past ten years, has not secured financial resources from other sources to fulfill its programmatic responsibilities.

J. Hennepin County strives to provide services in an efficient and fiscally responsible way.

K. It is more efficient and fiscally responsible to provide all conservation services through Hennepin County, which eliminates the costs associated with negotiating and executing cooperative agreements with the District's Board of Supervisors as well as the administrative costs associated with maintaining the District's Board of Supervisors.

3. **Recent History of the District.** The District has received little funding for more than a decade from Hennepin County or from other sources of revenue typical for soil and water conservation districts. During that time period, the Hennepin County Department of Environmental Services, through about a dozen staff members, has provided many of the services and duties commonly undertaken by soil and water conservation districts in the metropolitan area. See Exhibit 15. The District's Board of Supervisors has had frequent turnover during the past decade. The District has had a disproportionate amount of administrative costs compared to project and program funding during the past decade.

4. **Notice of Public Hearing.** A Legal Notice of Filing and Public Hearing was published in the Finance and Commerce (MN) newspaper on September 24, 2013, and October 1, 2013. Further, a copy of the Legal Notice of Filing and Public Hearing together with a copy of the Petition was mailed to several addressees including Hennepin County, the District, all of the municipalities in Hennepin County, all of the towns in Hennepin County, all of the watershed management organizations in Hennepin County, and the Minnesota Association of Soil and Water Conservation Districts.

5. **Public Hearing.** A public hearing was held on the Petition on Monday, October 21, 2013 at 7:00 PM in the lunch room at the Plymouth City Hall, 3400 Plymouth Boulevard, Plymouth, Minnesota. The hearing proceedings were tape recorded. The hearing panel was the Board's Metro Region Committee which consisted of Jack Ditmore, Christy Jo Fogarty, Rebecca Flood, Faye Sleeper, and Joe Collins as chair.

Jim Haertel, Board staff, entered Exhibits 1 through 11 into the hearing record by reading a brief description of each exhibit. Exhibits 12 through 17 were entered into the hearing record by individuals present during the hearing.

Exhibit 1. Petition to Discontinue the Hennepin Soil and Water Conservation District and transfer the duties and authorities to the Hennepin County Board of Commissioners dated August 29, 2013, received September 17, 2013 consisting of Exhibits 1A-1B.

Exhibit 1A. Hennepin County Resolution No. 13-0301 approving petitioning for the discontinuance of the Hennepin Soil and Water Conservation District and the transfer of duties and authorities, adopted August 27, 2013.

Exhibit 1B. Letter dated September 10, 2013 from Carl Michaud, Hennepin County Department of Environmental Services Director, to John Jaschke, Board of Water and Soil Resources Executive Director, transmitted with Exhibits 1 and 1A.

Exhibit 2. Letter dated September 19, 2013 from Travis Germundson, Board of Water and Soil Resources, to several addressees notifying them of the public hearing, including legal notice of the hearing, copy of the petition and list of addressees.

Exhibit 3. Affidavit of Publication dated October 1, 2013 of Legal Notice of Filing and Public Hearing in the Finance and Commerce (MN) newspaper on September 24 and October 1, 2013.

Exhibit 4. Letter dated September 18, 2013 from Doug Baines, Elm Creek Watershed Management Commission Chair, to Jim Haertel, Board of Water and Soil Resources, in support of the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

Exhibit 5. Letter dated September 19, 2013 from Lisa Whalen, Pioneer-Sarah Creek Watershed Management Commission Chair, to Jim Haertel, Board of Water and Soil Resources, in support of the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

Exhibit 6. Letter dated October 2, 2013 from Elizabeth Weir, City of Medina Mayor, to Jim Haertel, Board of Water and Soil Resources, in support of the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

Exhibit 7. Letter dated October 17, 2013 from Mike Opat, Hennepin County Board of Commissioners Chair, to Travis Germundson, Board of Water and Soil Resources, in support of the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

Exhibit 8. Board of Water and Soil Resources staff report titled "Delivery of Conservation Services by the Hennepin Conservation District and the Hennepin County Environmental Services Department", dated November 13, 2012 summarizing the status and relevant history of the Hennepin Conservation District operations.

Exhibit 9. Board of Water and Soil Resources Resolution No. 12-112, dated December 12, 2012, directing staff to work with Hennepin County officials to pursue legislative language that would allow the Hennepin County Board of Commissioners to directly petition the Board of Water and Soil Resources to transfer the duties and authorities of the Hennepin Conservation District without a referendum.

Exhibit 10. Copy of Minnesota Statutes § 383B.761; Discontinuance of Hennepin County Soil and Water Conservation District; Transfer of Duties.

Exhibit 11. Letter dated October 18, 2013 from Mark Zabel, MN Association of Soil and Water Conservation Districts President, to the Board of Water and Soil Resources, in opposition to the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

Exhibit 12. Letter dated October 16, 2013 from Jerry Posey to Erik Cedarleaf-Dahl, Hennepin Conservation District supervisor, in opposition to the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

Exhibit 13. Letter dated October 16, 2013 from Brad Spencer, City of Independence council member, to Erik Cedarleaf-Dahl, Hennepin Conservation District supervisor, in opposition to the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

DRAFT

Exhibit 14. Testimony given at the public hearing on October 21, 2013 of Richard Strong, Hennepin Conservation District supervisor, in opposition to the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

Exhibit 15. Fact sheet titled "Hennepin County Conservation Services" dated October 2013, prepared by the Hennepin County Department of Environmental Services, including a listing of conservation services provided directly by Hennepin County and a listing of conservation services provided by Hennepin County on behalf of the Hennepin Conservation District.

Exhibit 16. Testimony given at the public hearing on October 21, 2013 of Mary Wetter, MN Association of Soil and Water Conservation Districts, in opposition to the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

Exhibit 17. Letter dated October 21, 2013 from the Anoka Conservation District Board of Supervisors to the Board of Water and Soil Resources in opposition to the Hennepin County petition to discontinue the Hennepin Conservation District and transfer duties and authorities.

After all people present at the public hearing were given an opportunity to speak and to submit pertinent information the hearing record was closed and the hearing was adjourned.

6. **Statutory Authorization.** Laws 2013, chapter 114, article 4, section 96, codified as Minnesota Statutes § 383B.761, authorizes Hennepin County to petition the Board to discontinue the District and transfer the duties and authorities of the District to Hennepin County and authorizes the Board to discontinue the District and transfer the duties and authorities of the District to Hennepin County without conducting a referendum.

7. **Standard of Review.** The standard of review for this matter is set forth in Minnesota Statutes § 383B.761, subdivision 2, which states in pertinent part:

> The Minnesota Board of Water and Soil Resources shall review the petition submitted under subdivision 1 to determine whether progress toward the goals identified in section 103C.005 can be achieved by discontinuing the Hennepin Soil and Water Conservation District and transferring the duties and authorities of the district to the Hennepin County Board of Commissioners. If the Board of Water and Soil Resources determines that progress toward the goals identified in section

103C.005 can be achieved by the discontinuance of the district and the transfer of district duties and authorities to the Hennepin County Board of Commissioners, the Board of Water and Soil Resources shall order the discontinuance of the Hennepin Soil and Water Conservation District.

Minnesota Statutes § 103C.005, Soil and Water Conservation Policy, states:

> Maintaining and enhancing the quality of soil and water for the environmental and economic benefits they produce, preventing degradation, and restoring degraded soil and water resources of this state contribute greatly to the health, safety, economic well-being, and general welfare of this state and its citizens. Land occupiers have the responsibility to implement practices that conserve the soil and water resources of the state. Soil and water conservation measures implemented on private lands in this state provide benefits to the general public by reducing erosion, sedimentation, siltation, water pollution, and damages caused by floods. The soil and water conservation policy of the state is to encourage land occupiers to conserve soil, water, and the natural resources they support through the implementation of practices that:
>
> (1) control or prevent erosion, sedimentation, siltation, and related pollution in order to preserve natural resources;
> (2) ensure continued soil productivity;
> (3) protect water quality;
> (4) prevent impairment of dams and reservoirs;
> (5) reduce damages caused by floods;
> (6) preserve wildlife;
> (7) protect the tax base; and
> (8) protect public lands and waters.

8. **Metro Region Committee Meeting.** On December 3, 2013, the Board's Metro Region Committee and staff met to review and discuss the Petition. Those in attendance from the Board's Committee were Jack Ditmore, Rebecca Flood, Faye Sleeper and Joe Collins as chair. Board staff in attendance were Clean Water Specialist Brad Wozney and Metro Region Manager Jim Haertel.

Board staff noted the standard of review in making a decision is to determine whether Hennepin County can make progress toward achieving the goals identified in Minnesota Statutes § 103C.005, which is essentially if Hennepin County can deliver conservation services and carry out the duties of the Hennepin Soil and Water Conservation District, by discontinuing the District and transferring the duties and authorities of the District to Hennepin County. Because county staff during the past decade have been delivering conservation services and carrying out many of the duties commonly undertaken by soil

and water conservation districts in the metropolitan area, Board staff were confident Hennepin County will continue to substantially achieve the requirements set forth in the standard of review. See Exhibit 15. Board staff noted nothing in the hearing record indicates Hennepin County cannot deliver conservation services or that Hennepin County cannot carry out the duties of the Hennepin Soil and Water Conservation District. Board staff noted Minnesota Statutes § 383B.761, subdivision 6 allows for reestablishment of the District without a referendum if the District is discontinued. Board staff recommended discontinuance of the Hennepin Soil and Water Conservation District and the transfer of duties and authorities to Hennepin County per the Petition.

After discussion, the Committee found that progress toward the goals identified in Minnesota Statutes § 103C.005 can be achieved by discontinuing the District and transferring the duties and authorities of the District to Hennepin County because Hennepin County staff during the past decade have been delivering conservation services and carrying out many of the duties commonly undertaken by soil and water conservation districts in the metropolitan area. Therefore, the Committee found that discontinuance of the Hennepin Soil and Water Conservation District and the transfer of duties and authorities from the District to Hennepin County would be substantially consistent with the purposes and requirements of Minnesota Statutes § 383B.761. The Committee decided with a unanimous vote to recommend to the full Board that the discontinuance of the Hennepin Soil and Water Conservation District and the transfer of all duties and authorities of the District to Hennepin County be approved as proposed in the Petition, that the District's Board of Supervisors must transfer all assets of the District to Hennepin County within 60 days of the date of this Order, and that the discontinuance of the District and the transfer of duties and authorities to Hennepin County is effective the day the transfer of all assets of the District to Hennepin County is completed and no later than 60 days from the date of this Order.

DRAFT

CONCLUSIONS

1. The Petition for the discontinuance of the Hennepin Soil and Water Conservation District, d/b/a Hennepin Conservation District, (District) and the transfer of duties and authorities of the District to the Hennepin County Board of Commissioners (Hennepin County) is valid in accordance with Minnesota Statutes § 383B.761, subdivision 1.

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

3. The Board has proper jurisdiction in the matter of ordering the discontinuance of the District, and the transfer of all duties, authorities and assets of the District to Hennepin County, pursuant to Minnesota Statutes § 383B.761, subdivisions 2, 3 and 4.

4. With discontinuance of the District and the transfer of duties and authorities from the District to Hennepin County, Hennepin County can make progress toward achieving the goals identified in Minnesota Statutes § 103C.005 because Hennepin County staff during the past decade have been providing many services and duties commonly undertaken by soil and water conservation districts in the metropolitan area.

5. Discontinuance of the District and the transfer of duties and authorities from the District to Hennepin County is substantially consistent with the purposes and requirements of Minnesota Statutes § 383B.761.

6. The District's Board of Supervisors must transfer all assets of the District to Hennepin County no later than 60 days from the date of this Order pursuant to Minnesota Statutes § 383B.761, subdivision 4.

7. The District will be discontinued and all duties and authorities of the District will be transferred in their entirety to Hennepin County effective the day the District's Board of Supervisors completes the transfer of all assets of the District to Hennepin County and no later than 60 days from the date of this Order pursuant to Minnesota Statutes § 383B.761, subdivisions 2, 3 and 4.

DRAFT

ORDER

The Board hereby orders that the Hennepin Soil and Water Conservation District, d/b/a Hennepin Conservation District, (District) is discontinued and all the duties and authorities of the District are transferred in their entirety to the Hennepin County Board of Commissioners effective the day the District's Board of Supervisors completes the transfer of all assets of the District to the Hennepin County Board of Commissioners and no later than 60 days from the date of this Order.

The discontinuance of the Hennepin Soil and Water Conservation District and the transfer of duties and authorities of the District to the Hennepin County Board of Commissioners is in place until such time as the District may be reestablished under Minnesota Statutes § 383B.761, subdivision 6.

Dated at Saint Paul, Minnesota this 18th day of December, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brian Napstad, Chair

DRAFT

COMMITTEE RECOMMENDATIONS

Southern Region Committee

1. Big Stone County Local Water Management Plan Update – Steve Sunderland - ***DECISION ITEM***

2. Chippewa County Local Water Management Plan Update – Steve Sunderland - ***DECISION ITEM***

3. Lac qui Parle County Local Water Management Plan Update – Sandy Hooker - ***DECISION ITEM***

4. Swift County Local Water Management Plan Update – Tom Loveall - ***DECISION ITEM***

5. Renville County Soil and Water Conservation District (SWCD) Nomination Districts Resolution – Paul Langseth – ***DECISION ITEM***

6. Houston County Local Water Management Plan Amendment – Chris Elvrum - ***DECISION ITEM***

7. Nobles County Local Water Management Plan Amendment – Paul Langseth - ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Big Stone County Comprehensive Water Plan**

Meeting Date: December 18, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Southern Region

Contact: Jeff Nielsen, Regional Supervisor

Prepared by: David Sill, Board Conservationist

Reviewed by: Southern Region Committee(s)

Presented by: Steve Sunderland

☐ **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

LINKS TO ADDITIONAL INFORMATION

http://www.bigstonecounty.org/environmental/waterplanning/2014BigStoneCountyWaterPlan[FinalStateReview].pdf

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

On March 27, 2013, the Board of Water and Soil Resources (BWSR) provided official comments pertaining to the State Review of the Big Stone County Priority Concerns Scoping Document. On March 27, 2013, the BWSR officially approved Big Stone County's written request to extend the current Local Water Management Plan (Plan), which would expire on May 28, 2013. The extended end date of the current Plan is December 31, 2013.

On September 6, 2013, the BWSR received the final draft Big Stone County Comprehensive Local Water Plan 2014-2023 as required for final review by state agencies. I have completed my final review of the Plan and find that it does meet the requirements of Minnesota Statute 103B.314. The Plan:

- focuses on the priority concerns identified in the Priority Concerns Scoping Document;
- assess the priority concerns and sets forth appropriate goals and objectives;
- provides an implementation program with measurable actions, timeline and budget; and
- includes all required sections.

Big Stone County contracted with Midwest Community Planning, LLC. to assist with Plan development. More specifically, Water Plan Coordinator Darren Wilke and the Big Stone County Water Plan Task Force worked diligently throughout the plan process to make this a useful plan. Specifically on Chapter Three of the Plan (Goals, Objectives and Actions to Address Priority Concerns) significant effort was made to insure the action steps were targeted and measurable.

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 Big Stone County (Minnesota Statutes, Section 103B.311, Subdivision 4 and Section 103B.315, Subdivision 5.)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN UPDATE

Whereas, the Big Stone County (County) Board of Commissioners submitted a Local Water Management Plan Update (Plan Update) to the Board of Water and Soil Resources (Board) on September 6, 2013 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 January 7, 2013, the Board received a Priority Concerns Scoping Document (PCSD) from the County, pursuant to M.S. Section 103B.312.

2. On January 25, 2013, the Board received a written request (resolution) from the County for an extension of their current local water management plan.

3. On March 27, 2013, the Board approved official comments on the County PCSD, which were mailed to the County on March 27, 2013. The priority concerns the PCSD and Plan Update addresses include:

   - Reduce Priority Pollutants – Surface Water Quality
   - Surface Water Management
   - Groundwater Quality & Quantity
   - Plan Administration

4. On March 27, 2013, the Board approved the extension request made by the County. The end date of the current local water management plan was extended to December 31, 2013. This approval was mailed to the County on March 27, 2013.

5. On September 6, 2013, the Board received the County Plan Update, a record of the public hearing, and copies of all written comments pertaining to the Plan Update for final State review pursuant to M.S. Section 103B.315, Subd. 5.

6. On November 7, 2013, the Southern Region Committee of the Board met to review the following state agency comments, commendations and approval recommendations regarding the final approval of the County Plan Update:

   - Minnesota Pollution Control Agency (MPCA) noted the Plan does not violate any statutory or rule requirements administered by MPCA and recommends approval of the entire Plan as submitted. (MPCA did provide several comments providing corrections or minor clarification.)
   - Minnesota Department of Health (MDH) provided no comments.
   - Minnesota Department of Natural Resources (DNR) noted Plan Update does not violate any statutory or rule requirement administered by DNR and recommends approval of the entire Plan Update.
   - Minnesota Department of Agriculture (MDA) noted Plan Update does not violate any statutory or rule requirement administered by the MDA and recommends approval of the entire Plan Update. (MDA also offered several comments for consideration for clarification purposes regarding that crop prices are not the only factor that may cause increases in tiled farmland.)
   - Minnesota Environmental Quality Board provided no comments.

   The Committee's decision was to present a recommendation of approval of the Plan Update to the Board at the Board's December 18, 2013 meeting.

7. On December 18, 2013, the Southern Region Water Planning Committee of the Board presented its recommendation of approval of the Big Stone County Local Water Management Plan Update to the Board. The Board adopted the Committee's recommendation.

8. This Plan Update will be in effect for a ten-year period until December 18, 2023, with the Goals, Objectives and Action items amended by December 18, 2018.

CONCLUSIONS

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

2. The Big Stone County Plan Update states water and water-related problems within the County; possible solutions; goals, objectives, and actions of the County; and an implementation program. The Plan Update is in conformance with the requirements of M.S. Section 103B.301.

ORDER

The Board hereby approves the update of the Big Stone County Local Water Management Plan 2014-2023 with a required update of the Implementation section (Goals, Objectives, and Action) to be completed by December 18, 2018.

Dated at St Paul, Minnesota this December 18, 2013.

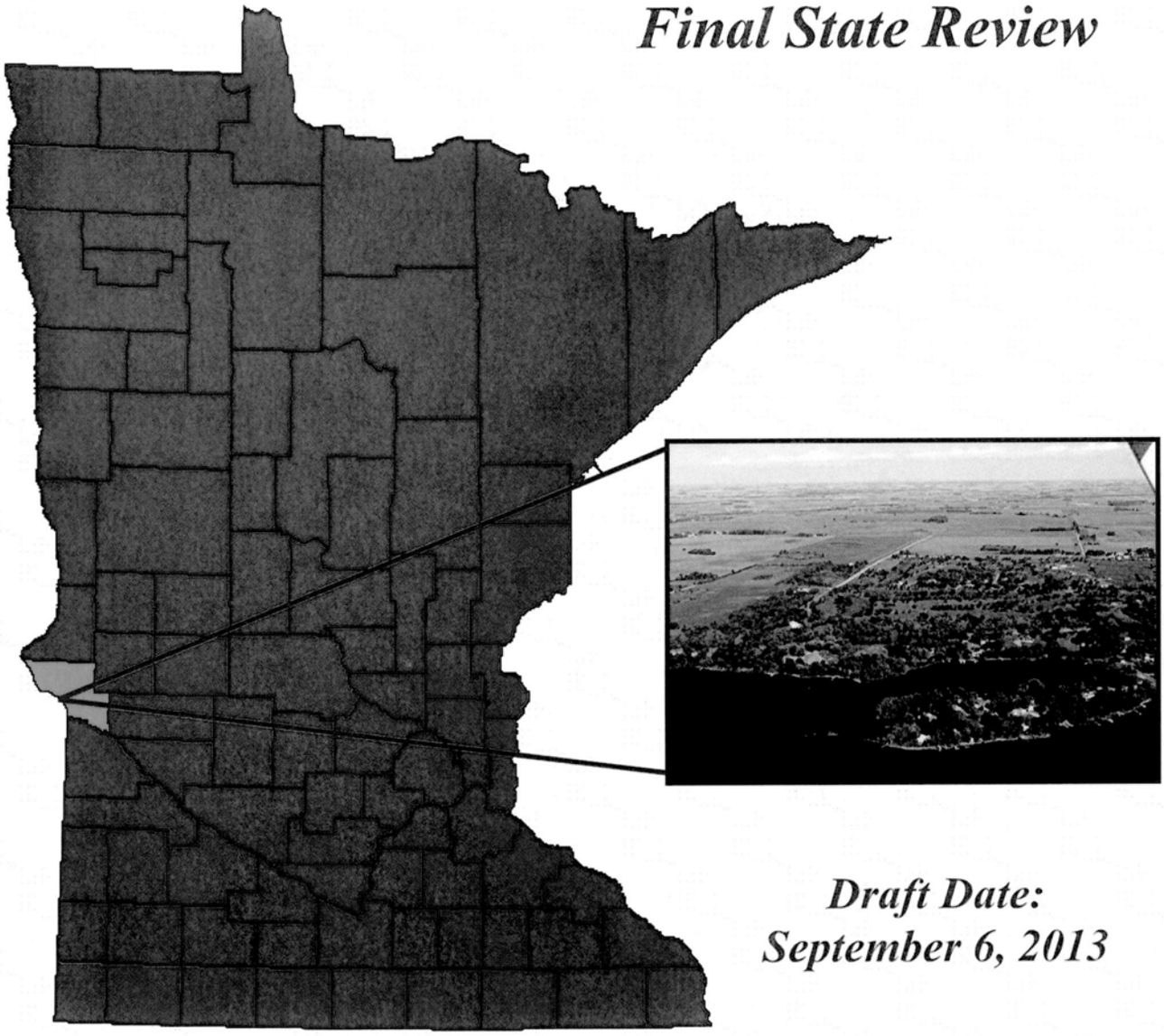
MINNESOTA BOARD OF WATER AND SOIL RESOURCES

_____

BY: Brian Napstad, Chair

Big Stone County
Water Plan (2014-2023)

Final State Review



Draft Date:
September 6, 2013

Prepared by
Big Stone County, with assistance from
Midwest Community Planning, LLC

Big Stone County Water Plan:

~ Table of Contents ~

Executive Summary ..... **iv**

A: Purpose of the Local Water Plan iv

B: A Description of Big Stone County's Priority Concerns v

C: Summary of Goals, Objectives, Action Steps, and Estimated Cost v

D: Relationship to Other Plans x

Chapter One: Big Stone County Priority Concerns Scoping Document **1-1**

Section One: Introduction to the Water Plan & Big Stone County 1-1

A: Water Plan Background 1-1

B: Big Stone County Profile 1-2

Section Two: Priority Concerns Scoping Document Planning Process 1-4

C: Resolution to Update the Big Stone County Water Plan 1-4

D: Notice of Plan Update 1-4

E: Water Plan Public Meeting 1-4

F: State & Local Stakeholder Comments 1-5

Section Three: Big Stone County Priority Water Planning Issues 1-10

H: Water Plan Task Force 1-10

I: Priority Water Planning Issues 1-10

J: Priority Issues Not Addressed by this Water Plan 1-11

Section Four: Big Stone County Ongoing Water Plan Activities 1-12

Chapter Two: Assessment of Priority Concerns 2-1

Section One: Surface Water Quality: Reducing Priority Pollutants 2-2

A: Watersheds Assessment 2-2

B: TMDL Implementation Assessment 2-25

C: Feedlots and Livestock Management Assessment 2-31

D: Subsurface Sewage Treatment Systems Assessment 2-33

E: Erosion and Sediment Control Assessment 2-25

Section Two: Surface Water Management 2-33

F: Agricultural Drainage Assessment 2-39

G: Stormwater Management Assessment 2-44

H: Wetlands and Water Storage/Retention Assessment 2-46

I: Shoreland Management Assessment 2-44

Section Four: Groundwater Quality and Quantity 2-45

J: Groundwater Quality Assessment 2-45

K: Groundwater Quantity Assessment 2-56

Chapter Three: Goals, Objectives, and Action Steps 3-1

A: Definition of Goals, Objectives and Action Steps 3-1

B: Action Step Information 3-1

C: Goals, Objectives, and Action Steps (2014-2018) 3-3

Chapter Four: Water Plan Administration 4-1

A: Plan Coordination 4-1

B: Implementation Plan and Priorities 4-1

C: Types and Sources of Water Plan Funds 4-2

D: Recommended State Cooperation 4-3

E: Intergovernmental Conflicts/Resolution Process 4-4

F: Water Plan Amendment Procedure 4-4

G: Water Plan Key Stakeholders 4-5

Big Stone County Water Plan:

Executive Summary

The Big Stone County Water Plan follows the provisions set forth in Minnesota State Statutes 103B.314 - Contents of Water Plan.

A. Purpose of the Local Water Plan

According to Minnesota Statute 103B, each county is encouraged to develop and implement a local water management plan with the authority to:

- Prepare and adopt a local water management plan that meets the requirements of this section and section 103B.315;
- Review water and related land resources plans and official controls submitted by local units of government to assure consistency with the local water management plan; and
- Exercise any and all powers necessary to assure implementation of local water management plans.

Pursuant to the requirements of the law, the Big Stone County Water Plan:

- Covers the entire area of Big Stone County;
- Addresses water problems in the context of watershed units and groundwater systems;
- Is based upon principles of sound hydrologic management of water, effective environmental protection and efficient management;
- Is consistent with comprehensive water plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or groundwater system; and
- Will serve as a 10-year water plan (2014-2023), with a 5-year implementation plan (2014-2018). In 2018, the implementation plan will be updated.

In addition, the Water Plan will also serve as the Big Stone County Soil and Water Conservation District's (SWCD) Comprehensive District Plan. This will need to be passed by the SWCD's Board of Supervisors by Resolution.

B. A Description of Big Stone County's Priority Concerns

Chapter Two provides a detailed assessment of the priority concerns. Based upon the Big Stone County Water Plan Survey, and comments received by the various water plan stakeholders, the Water Plan Task Force identified the following priority water planning issues (note: these issues are not ranked):

1. Reducing Priority Pollutants ~ Surface Water Quality
    a. TMDL Implementation
    b. Feedlot/Livestock Management
    c. Subsurface Sewage Treatment Systems
    d. Erosion and Sediment Control

2. Surface Water Management
    a. Agricultural Drainage
    b. Stormwater Management
    c. Wetlands and Water Storage/Retention

3. Groundwater Quality & Quantity
    a. Wellhead Protection Areas
    b. Irrigation
    c. Drinking Water Quality

4. Plan Administration
    a. Stakeholder Cooperation – Watershed Focus
    b. Raising Public Awareness – Education

C. Summary of Goals, Objectives, Action Steps, and Estimated Costs

To address the priority concerns identified in the scoping process, the Big Stone County Water Plan Task Force held meetings to develop the four goal areas. These four goal areas are further broken down into interrelated objectives that address each of the priority concerns. Most importantly, each objective has a series of action steps designed to help achieve implementation of the identified goal.

A summary of the County's Water Plan Goals, Objectives and Action Steps is provided below. Collectively they form the Implementation Plan for the County. In addition, a summary of annual estimated costs is provided. These estimated expenses are separated into Overall Costs and Local Costs. Overall Costs include all monies spent by water plan stakeholders, including the County, watershed districts, state agencies, and landowners. The Local Costs include funds spent and activities performed by Big Stone County (including items such as the County's 103E administrative costs) and the Big Stone County SWCD. The Water Plan Task Force recognizes that not all of the identified Action Items will be accomplished over the course of the Water Plan's time-frame, however, the intent is to accomplish as many implementation activities as feasible. Also keep in mind the costs identified are only estimates, and actual direct and/or indirect costs may be more or less than indicated. Finally, many of the Action Items will be dependent upon receiving grants. Chapter Three contains the Water Plan's complete Goals, Objectives, and Action Steps, and Chapter Four provides additional details on administering the Water Plan.

Surface Water Quality Initiatives

The first goal area focuses on addressing surface water quality issues. Objectives were developed for protecting and enhancing the County's surface water resources, removing waters off the MPCA's 303d list of impaired waters, feedlots, failing Subsurface Sewage Treatment Systems (SSTS), and Aquatic Invasive Species (AIS). Implementation steps under the first goal area include a wide range of the following surface water quality Best Management Practices (BMPs):

- Surface Water Quality Monitoring: including developing a web-based mapping application that connects users with water quality data from specific monitoring sites.

- Surface Water Quality Profiles: including seeking opportunities to refine watershed analysis and management strategies using detailed GIS information, water quality data, and other tools to guide plan actions, target implementation and augment funding from outside sources.

- Marsh Lake Restoration: Support/sponsor the Marsh Lake restoration efforts that will restore the Pomme de Terre River to its historic channel, modify the Marsh Lake Dam, construct fishway, construct secondary drawdown structure, breach dike at abandoned fish pond, install gated culvert in the Louisburg Grade Road (2017).

- Target Areas: Implementing BMPs to protect and enhance water quality on Artichoke, Big Stone, Long, and East Toqua Lakes; Twelve Mile Creek/County Ditch 4; and Dry Wood Creek.

- Feedlots: Identifying and cost-sharing sites where cattle exclusions are needed; upgrading five feedlots with BMPs to eliminate runoff to nearby waters, and promoting 500 acres of pasture management.

- SSTS and Wastewater: Upgrading ten noncompliant SSTS systems annually; and resolving wastewater treatment-related pollution issues in Ortonville and Browns Valley.

- Aquatic Invasive Species (AIS): Developing an AIS Management Plan for Big Stone County and creating a local AIS Task Force.

The various action steps identified to address the first goal area of surface water quality improvements in Big Stone County are estimated to have an overall 5-year cost of $3,590,000. Of this amount, $359,000 is estimated to come from the County, including direct and indirect (in-kind) SWCD estimated costs. Many of these implementation activities will be eligible for grant funding.

Erosion and Sedimentation Control Initiatives

The second goal area is aimed at reducing erosion and controlling sedimentation. The specific objective is to "Work with landowner to identify priority sites to implement erosion and sediment control Best Management Practices." Implementation steps include the following BMPs:

- Cost-sharing BMPs, such as water and sediment control basins, alternative tile intakes, stream bank stabilization projects, grassed waterways, buffer strips, rain gardens, and wetland restorations.

- Targeting Stoney Run, Fish Creek, Long Tom Lake, and Artichoke Lake subwatersheds for erosion and sediment control BMPs.

- Soil Health: Promoting soil health by targeting marginal land for BMPs.

- Stabilizing the shoreline on Artichoke Lake.

- Completing ravine terrain analysis for Fish, Meadowbrook and Stoney Run Creeks;

- Participating with implementing the MN Prairie Plan goals/objective to have 40% grassland and 20% wetland coverage in key corridors.

The various action steps identified to address the second goal area of erosion and sediment control improvements in Big Stone County are estimated to have an overall 5-year cost of $605,000. Of this amount, $106,000 is estimated to come from the County, including direct and indirect (in-kind) SWCD estimated costs.

Surface Water Management Initiatives

The third goal area is aimed at reducing managing surface water quantity issues, including separate objectives for agricultural drainage, stormwater management, wetlands/surface water retention, and shoreline restorations. The key implementation steps include the following:

- Drainage: Completing a ditch inventory and drainage records modernization project; conducting a buffer inventory; pursing funds to establish a two-stage ditch site; cost-sharing drainage BMPs; and targeting County Ditch 2 and 12 Mile Creek/County Ditch 4 for BMPs and the development of drainage management plans.

- Stormwater Management: Cost-sharing stormwater BMPs, such as urban stormwater ponds and rain gardens; assisting with developing a Stormwater Management Plans with the cities of Ortonville and Graceville.

- Wetlands/Water Retention: Restoring two wetlands countywide annually; increasing the number of Wetland Reserve Program easements by two each year; partnering with the Bois de Sioux on restoring Moonshine Lake Basin; targeting West Toqua Lake subwatershed with flood mitigation projects; and working with stakeholders to restore the original Upper Minnesota River near Ortonville and the Big Stone National Wildlife Refuge.

- Shoreland Restorations: Using LIDaR and GIS technology to annually identify potential sites; cost-sharing two shoreland restorations annually; and targeting Big Stone, Long Tom, Artichoke, Long, and East Toqua Lakes with shoreline BMPs.

The various action steps identified to address the third goal area of erosion surface water management issues in Big Stone County are estimated to have an overall 5-year cost of $1,990,000. Of this amount, $386,000 is estimated to come from the County, including direct and indirect (in-kind) SWCD estimated costs.

Groundwater Quantity and Quality Initiatives

The fourth goal area focuses on addressing groundwater quality and quantity issues. Objectives were developed for drink water quality and groundwater quantity BMPs. Implementation steps include a wide range of the following groundwater Best Management Practices (BMPs):

- Groundwater Quality BMPs: Target sensitive groundwater recharge areas and Wellhead Protection Areas with groundwater quality BMPs; and cost-sharing sealing twenty-five abandoned wells.

- Pesticide Container Collection: Host an annual pesticide container collection day.

- Wellhead Protection: Working with cities on mutually agreed upon ordinance language for Wellhead Protection Areas.

- Groundwater Quantity: Increasing irrigation management by 1,000 acres; continue monitoring groundwater quantity; completing a County Geologic Atlas; and developing a Water Conservation/Drought Contingency Plan.

The various action steps identified to address the fourth goal area of groundwater quality and, quantity BMPs in Big Stone County are estimated to have an overall 5-year cost of $600,000. Of this amount, $137,500 is estimated to come from the County, including direct and indirect (in-kind) SWCD estimated costs.

Plan Administration Initiatives

The fifth goal area is aimed at effectively implementing the County's Water Plan. The specific objective is to "Engage the Citizens and Stakeholders on key water planning issues and implementation opportunities." Implementation steps include the following:

- Education/Outreach: Publishing quarterly newsletters; establishing BMP test sites; annually hosting workshops; and semi-annually promoting BMP programs in local newspapers.

- Watershed Focus and Stakeholder Cooperation: Partnering with watershed/stakeholder groups on implementation activities to minimize expenditures and to maximize results.

The various action steps identified to address the fifty goal area of effectively administering the Water Plan in Big Stone County are estimated to have an overall 5-year cost of $85,000. Of this amount, $60,000 is estimated to come from the County, including direct and indirect (in-kind) SWCD estimated costs.

Summary of Estimated Costs

The five water plan goal areas and their corresponding estimated costs are summarized below in Table 1. The initiatives identified in Chapter Three are estimated to cost approximately $1,328,400 annually overall, with approximately $209,700 coming from local/county funds.

Table 1:
Summary of Big Stone County's Water Plan
Estimated Overall and Local Costs

	Overall	*Local/County*
Goal Area One: Surface Water Quality	$3,362,000	$359,000
Goal Area Two: Erosion & Sedimentation Control	$605,000	$106,000
Goal Area Three: Surface Water Management	$1,990,000	$386,000
Goal Area Four: Groundwater Quality & Quantity	$600,000	$137,500
Goal Area Five: Plan Administration	$85,000	$60,000
5-Year Estimated Costs	**$6,642,000**	**$1,048,500**
Average Annual Estimated Costs	**$1,328,400**	**$209,700**

These estimated expenses are separated into Overall Costs and Local Costs. The Local costs include funds spent and activities performed (i.e., in-kind expenses) by Big Stone County and the Big Stone County SWCD.

*Note: Please refer to Chapters Three and Four for a more detailed description of the estimated overall costs and the estimated total local costs to Big Stone County and the Big Stone County SWCD. Expenses may seem exaggerated, but actually represent the numerous stakeholders involved and a collaboration of their corresponding activities and budgets.

D. Relationship to other Plans

The Big Stone County Water Plan Task Force includes a diverse group of people representing a number of key water plan stakeholders. Assistance from the Task Force in the planning process, along with information requested from Local Governmental Units, helped to ensure the Water Plan, and its corresponding Goals, Objectives and Action Steps, were developed to be consistent with existing plans and official land use controls. As a result, the updated Big Stone County Water Plan is believed to be consistent with the plans and official controls of the other pertinent local, State and regional plans and controls. In conclusion, there are no recommended amendments to other plans and official controls to achieve consistency with this Water Plan.

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Chippewa County Comprehensive Water Plan**

Meeting Date: December 18, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Southern Region

Contact: Jeff Nielsen, Regional Supervisor

Prepared by: David Sill, Board Conservationist

Reviewed by: Southern Region Committee(s)

Presented by: Steve Sunderland

☐ **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

LINKS TO ADDITIONAL INFORMATION

http://www.co.chippewa.mn.us/Water Plan Draft 2013.pdf

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

On March 27, 2013, the Board of Water and Soil Resources (BWSR) provided official comments pertaining to the State Review of the Chippewa County Priority Concerns Scoping Document. On March 27, 2013, the BWSR officially approved Chippewa County's written request to extend the current Local Water Management Plan (Plan), which would expire on May 28, 2013. The extended end date of the current Plan is December 31, 2013.

On September 4, 2013, the BWSR received the final draft Chippewa County Comprehensive Local Water Plan 2013-2023 as required for final review by state agencies. I have completed my final review of the Plan and find that it does meet the requirements of Minnesota Statute 103B.314. The Plan:

- focuses on the priority concerns identified in the Priority Concerns Scoping Document;
- assess the priority concerns and sets forth appropriate goals and objectives;
- provides an implementation program with measurable actions, timeline and budget; and
- includes all required sections.

Chippewa County contracted with Midwest Community Planning, LLC. to assist with Plan development. More specifically, Water Plan Coordinator JoAnn Bloome and the Chippewa County Water Plan Task Force worked diligently throughout the plan process to make this a useful plan. Specifically on Chapter Two of the Plan (Implementation to Address Priority Concerns) significant effort was made to insure the action steps were targeted and measurable.

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 Chippewa County (Minnesota Statutes, Section 103B.311, Subdivision 4 and Section 103B.315, Subdivision 5.)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN UPDATE

Whereas, the Chippewa County (County) Board of Commissioners submitted a Local Water Management Plan Update (Plan Update) to the Board of Water and Soil Resources (Board) on September 4, 2013 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 December 7, 2012, the Board received a Priority Concerns Scoping Document (PCSD) from the County, pursuant to M.S. Section 103B.312.

2. On January 24, 2013, the Board received a written request (resolution) from the County for an extension of their current local water management plan.

3. On March 27, 2013, the Board approved official comments on the County PCSD, which were mailed to the county on March 27, 2013. The priority concerns the PCSD and Plan Update addresses include:

   - Reduce Priority Pollutants – Surface Water Quality
   - Surface Water Management
   - Groundwater Quality & Quantity
   - Recreation and Biodiversity
   - Plan Administration

4. On March 27, 2013, the Board approved the extension request made by the County. The end date of the current local water management plan was extended to December 31, 2013. This approval was mailed to the County on March 27, 2013.

5. On September 4, 2013, the Board received the County Plan Update, a record of the public hearing, and copies of all written comments pertaining to the Plan Update for final State review pursuant to M.S. Section 103B.315, Subd. 5.

6. On November 7, 2013, the Southern Region Committee of the Board met to review the following state agency comments, commendations and approval recommendations regarding the final approval of the County Plan Update:

   - Minnesota Pollution Control Agency (MPCA) provided no comments.
   - Minnesota Department of Health (MDH) provided no comments.
   - Minnesota Department of Natural Resources (DNR) noted Plan Update does not violate any statutory or rule requirement administered by DNR and recommends approval of the entire Plan Update.
   - Minnesota Department of Agriculture (MDA) noted Plan Update does not violate any statutory or rule requirement administered by the MDA and recommends approval of the entire Plan Update. (MDA also offered several comments for consideration for clarification purposes which the county was adopting.)
   - Minnesota Environmental Quality Board provided no comments.

   The Committee's decision was to present a recommendation of approval of the Plan Update to the Board at the Board's December 18, 2013 meeting.

7. On December 18, 2013, the Southern Region Committee of the Board presented its recommendation of approval of the Chippewa County Local Water Management Plan Update to the Board. The Board adopted the Committee's recommendation.
8. This Plan Update will be in effect for a ten-year period until December 18, 2023, with the Goals, Objectives and Action items amended by December 18, 2018.

CONCLUSIONS

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

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

ORDER

The Board hereby approves the update of the Chippewa County Local Water Management Plan 2013-2023 with a required update of the Implementation section (Goals, Objectives, and Action) to be completed by December 18, 2018.

Dated at St Paul, Minnesota this December 18, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

_____

BY: Brian Napstad, Chair

The 2013-2023 Chippewa County Water Plan

~ With 2013-2018 Implementation Plan ~

Prepared by the Chippewa County Water Plan Task Force and Midwest Community Planning, LLC.

DRAFT

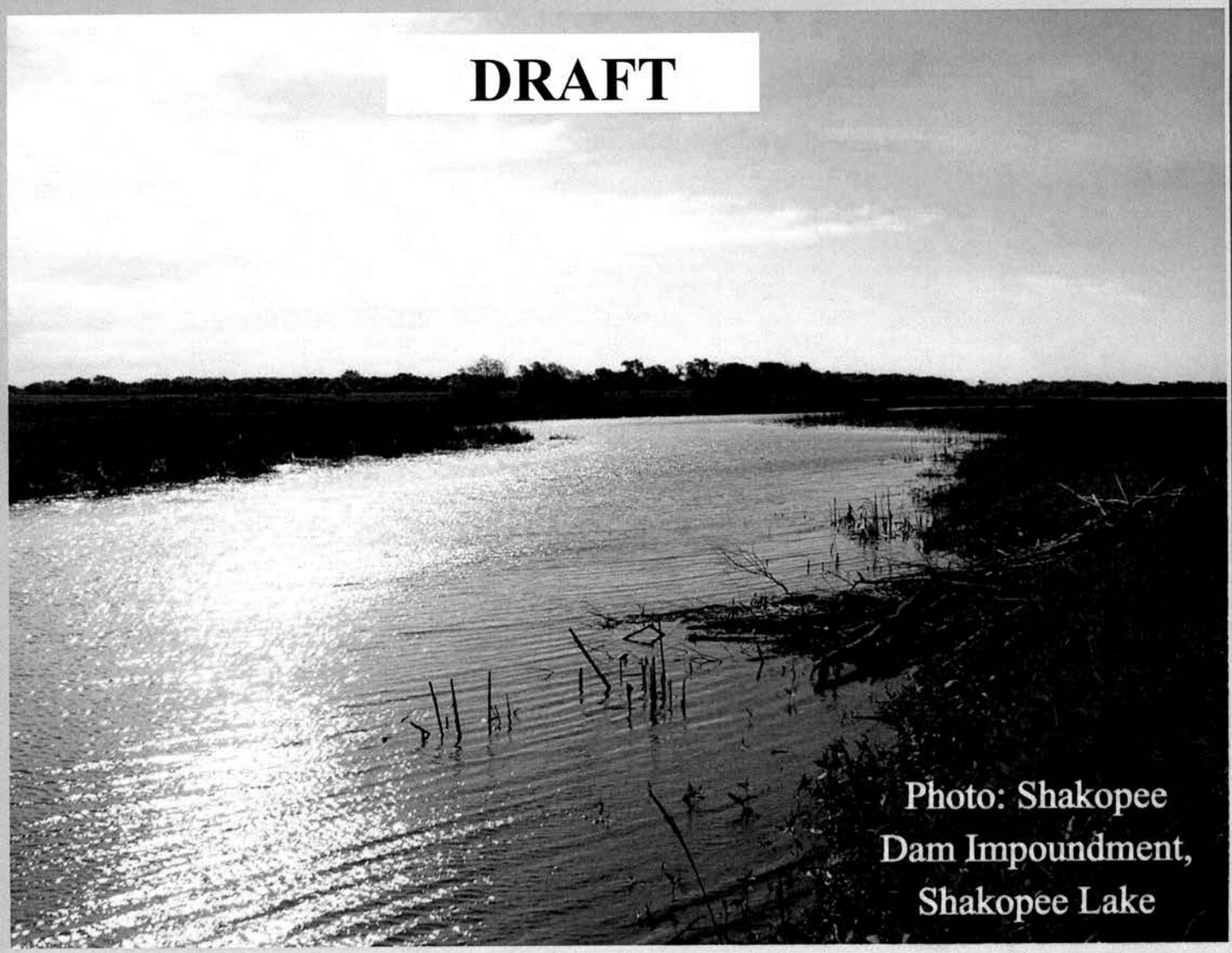


Photo: Shakopee Dam Impoundment, Shakopee Lake

"Each generation has its own rendezvous with the land, for despite our fee titles and claims of ownership, we are all brief tenants on this planet. By choice, or by default, we will carve out a land legacy for our heirs. We can misuse the land and diminish the usefulness of resources, or we can create a world in which physical affluence and affluence of the spirit go hand in hand." – *Stewart Udall in the forward to his 1963 book, "The Quiet Crisis", published by Holt, Rinehardt & Winston.*

Table of Contents

Water Plan Committee Members: iv

Chippewa County Water Plan: 1

Executive Summary 1

A. Purpose of the Local Water Plan 1

B. A Summary of Chippewa County's Priority Concerns, Goals, and Objectives 2

C. Description of Goals, Objectives, Action Steps, and Estimated Costs 3

D. Summary of Estimated Costs 6

E. Relationship to other Plans 7

CHAPTER ONE: 8

Chippewa County Assessment of Priority Concerns 8

Priority Concern 1. Surface Water Quality and Quantity Impairments and Concerns 8

A. Watershed Data 8

Chippewa River Watershed Project 8

Hawk Creek Watershed Project 35

Upper Minnesota River Watershed 40

B. Minnesota River Basin Plan 2001 43

C. Minnesota Environmental Quality Board: 2010 Minnesota Water Plan 43

D. 2012 Local Work Group Development of Local EQIP 43

E. Public Drainage Ditch Buffer Study 2006 44

F. Minnesota Prairie Conservation Plan 44

G. Additional --- Surface Water Management assessment info 45

H. Water Plan Committee Trends, Concerns and New Technology Identified 46

Priority Concern 2. Groundwater Water Quality and Quantity Concerns 49

A. Minnesota Environmental Quality Board: 49

2010 Minnesota Water Plan 49

Managing for Water Sustainability 50

B. Minnesota River Basin Plan 2001 51

C. Minnesota Pollution Control Agency (MPCA) 51

Report on Chemicals of Emerging Concern in Groundwater 51

Groundwater Monitoring and Assessment Program (GWMAP) / Ambient Groundwater Monitoring / Statewide Baseline Study 52

D. Minnesota Geological Survey (MGS 58

E. United States Geological Survey (USGS) 58

Groundwater Recharge Areas 58

F. Minnesota Department of Health (MDH) 61

Wellhead Protection Areas 61

Drinking Water Supply Management Areas 62

Drinking Water Supply Management Area DWSMA Vulnerability 62

Chippewa County's Online Source Water Protection Areas 62

Source Water Assessment 63

Minnesota Well Records Online Data Base 65

Well Water Testing through Countryside Public Health at Benson, MN Certified Lab 65

G. Minnesota Department of Agriculture (MDA) 69

Groundwater Quality Monitoring: 2013 Annual Work Plan....69
Nitrate Water Testing Program....70
MDA's Source Water Protection Web Mapping Application....71
Minnesota's Groundwater Condition: A Statewide View (2007)....71
H. Minnesota Department of Natural Resources (DNR)....73
Chippewa County's DNR Observation Wells....73
County Atlas – Regional Assessment Program....75
County Geologic Atlas....75
Regional Hydrogeologic Assessment: Upper Minnesota River Basin, MN....75
I. The Freshwater Society....76
Minnesota's Groundwater: Is Our Use Sustainable?....76
J. Summary of Groundwater Implications and Assessments....77

Priority Concern 3. Public Awareness and Plan Administration....78
A. Gap Analysis....78
B. Key Organizations Providing Water-Based Education....78

CHAPTER TWO:....79

Implementation to Address Priority Concerns....79

Priority Concern 1: Surface Water Quality & Quantity Impairments and Concerns....80
Goal 1:....80
Remove Chippewa County's water bodies from the MPCA's 303d List of Impaired Waters by 2033.....80
Goal 2:....85
Have all feedlots in the county in compliance with MN Statutes 7020 standards by 2023.....85
Goal 3:....87
Promote wise use of nutrients for optimum economic benefit to the producer while minimizing impacts on the environment.....87
Goal 4:....87
Manage new and existing Subsurface Sewage Treatment Systems (SSTS).....87
Goal 5:....88
Establish and implement a management program to ensure that existing SSTS are operated and maintained properly to prevent the impairment or degradation of surface and ground waters.....88
Goal 6:....89
Reduce and minimize the effects of soil erosion and sedimentation.....89
Goal 7:....92
Storm Water Management....92
Goal 8:....94
Shoreland....94

Priority Concern 2: Groundwater Quality & Quantity Impairments and Concerns....94
Goal 1:....94
Protect and improve groundwater based drinking water sources.....94

Priority Concern 3: Public Awareness and Plan Administration....98
Goal 1:....98
Maintain a Watershed Focus....98
Goal 2:....99
Staff and Coordinate Stakeholder Cooperation....99
Goal 3:....101
Raise Public Awareness on Key Water Planning Issues.....101

CHAPTER THREE: **104**

Maps & Tables **104**

Map 1A: Chippewa County's Cities, Townships and Location *105*

Map 2A: Chippewa County's Major & Minor Watersheds *106*

Map 2B: Chippewa County's Soils *107*

Map 2C: Pre-settlement Vegetation *108*

Map 2D: Land Use *109*

Map 2E: Land Ownership *110*

Map 2F: DNR Observation Wells *111*

Map 2G: Wetlands *112*

Map 2H: Floodplains *113*

Map 3A: Erosion Prone Soils *114*

Map 4A: Calcareous Fens *115*

Map 4B: Priority Tributaries / Steep Slopes *116*

Map 4C: Priority Restorable Wetlands / Steep Slopes *117*

Map 5A: Feedlots *118*

Map 5B: Septic Systems *119*

Map 6A: County Drainage *120*

Map 6B: County Drainage *121*

Map 6C: County Drainage *122*

Map 6D: County Drainage *123*

Map 7A: City of Granite Falls DWSMA *124*

Map 7B: City of Milan DWSMA *125*

Map 7C: City of Montevideo DWSMA *126*

Map 7D: City of Watson DWSMA *127*

Map 8A: MN Remaining Native Prairie *128*

Map 8B: Prairie Core Areas *129*

Table 1A: Conservation Lands Summary *130*

APPENDICES **132**

Priority Concerns Scoping Document: Approved by BWSR Board on March 27, 2013 ..... *132*

Chippewa County Water Plan:
Executive Summary

The Chippewa County Water Plan follows the provisions set forth in Minnesota State Statutes 103B.314 - Contents of Water Plan.

A. Purpose of the Local Water Plan

According to Minnesota Statute 103B, each county is encouraged to develop and implement a local water management plan with the authority to:

- Prepare and adopt a local water management plan that meets the requirements of this section and section 103B.315;
- Review water and related land resources plans and official controls submitted by local units of government to assure consistency with the local water management plan; and
- Exercise any and all powers necessary to assure implementation of local water management plans.

Pursuant to the requirements of the law, the Chippewa County Water Plan:

- Covers the entire area of Chippewa County;
- Addresses water problems in the context of watershed units and groundwater systems;
- Is based upon principles of sound hydrologic management of water, effective environmental protection and efficient management;
- Is consistent with comprehensive water plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or groundwater system; and
- Will serve as a 10-year water plan (2014-2023), with a 5-year implementation plan (2014-2018). In 2018, the implementation plan will be updated.

In addition, the Water Plan will also serve as the Chippewa County Soil and Water Conservation District's (SWCD) Comprehensive District Plan. This will be passed by the SWCD's Board of Supervisors by Resolution.

B. A Summary of Chippewa County's Priority Concerns, Goals, and Objectives

Chapter Two provides a detailed assessment of the priority concerns. Based upon the Chippewa County Water Priority Concerns Scoping Document, and comments received by the various water plan stakeholders, the Water Plan Task Force identified the following priority water planning issues:

Priority Concern 1: Surface Water Quality and Quantity Impairments and Concerns

Goal 1: Remove Chippewa County's water bodies from the MPCA's 303d List of Impaired Waters by 2033.

- Address Fecal Coliform/Bacteria TMDL Implementation for Chippewa River Watershed and Hawk Creek Watershed.
- Address Turbidity TMDL Implementation for Chippewa River Watershed and Hawk Creek Watershed.

Goal 2: Have all feedlots in the county in compliance with MN Statutes 7020 standards by 2023.

- Provide assistance to producers to reduce water quality concerns related to animal agriculture.
- Encourage the development and updating of manure management plans.
- Provide education on proper setbacks from sensitive areas.
- Encourage the proper crediting of manure nutrients.

Goal 3: Promote wise use of nutrients for optimum economic benefit to the producer while minimizing impacts on the environment.

- Provide education and information on proper application rates.

Goal 4: Manage new and existing Subsurface Sewage Treatment Systems (SSTS).

- Maintain SSTS programs to protect surface and ground water quality.

Goal 5: Establish and implement a management program to ensure that existing SSTS are operated and maintained properly to prevent the impairment or degradation of surface and ground waters.

- Maintain SSTS programs to protect surface and ground water quality.

Goal 6: Reduce and minimize the effects of soil erosion and sedimentation.

- Market conservation programs and best management practices (BMP's) that reduce soil erosion and sedimentation in regard to water and wind erosion.
- Multipurpose Drainage Management Planning.
- Preserve and protect the most sensitive areas of Chippewa County.

Goal 7: Stormwater Management

- Assist and encourage non-regulated communities to develop Storm Water Management Plans.
- Encourage communities to promote or provide incentives for homeowners to implement best management practices at the lot size level.

Goal 8: Shoreland

- Protect Shoreland areas in the County.

Priority Concern 2: Groundwater Quality and Quantity Impairments and Concerns

Goal 1: Protect and improve groundwater based drinking water sources.

- Implement Best Management Practices in Wellhead Protection Areas (WPA).
- Ensure landowners and homeowners that their supply of water is safe for drinking.
- Groundwater Quantity/I.D. Recharge Areas

Priority Concern 3: Public Awareness and Plan Administration

Goal 1: Maintain a Watershed Focus

- Support watersheds in Chippewa County

Goal 2: Staff and Coordinate Stakeholder Cooperation

- Stakeholder Cooperation
- Implement the County's land use controls

Goal 3: Raise Public Awareness on Key Water Planning Issues

- Raise public awareness through education and cooperation with residents, business and schools.

C. Description of Goals, Objectives, Action Steps, and Estimated Costs

To address the priority concerns identified in the scoping process, the Chippewa County Water Plan Task Force held meetings to develop the priority concern areas. The three priority concern areas were further broken down into interrelated goals and objectives that address each of the priority concerns. Most importantly, each objective has a series of action steps designed to help achieve implementation of the identified goal.

A summary of the County's Water Plan Goals, Objectives and Action Steps is provided below. Collectively they form the Implementation Plan for the County. In addition, a summary of the estimated costs is provided. These estimated expenses include all monies spent by water plan stakeholders, including the County, watershed districts, state agencies, and landowners.

Local costs include funds spent and activities performed by Chippewa County (including items such as the County's 103E administrative costs) and the Chippewa County SWCD. The Water Plan Task Force recognizes that not all of the identified Action Items will be accomplished over the course of the Water Plan's time-frame, however, the intent is to accomplish as many implementation activities as feasible. The costs identified are also only estimates, and actual direct and/or indirect costs may be more or less than indicated. Finally, many of the Action Items will be dependent upon receiving grants.

<u>Surface Water Quality and Quantity Initiatives</u>

The first priority concern area focuses on addressing surface water quality and quantity issues. Goals and Objectives were developed for numerous topics, including address

Impaired Waters, feedlots, nutrient management, Subsurface Sewage Treatment Systems, erosion, stormwater management, and protecting shoreland. The following water plan action steps highlight Chippewa County's key implementation strategies:

- Completing a Level 3 Feedlot Inventory and brining 20% of non-compliant feedlots into compliance by 2018.
- Providing technical and cost-share assistance with Manure Management Plans.
- Review implementing property transfer inspections for Subsurface Sewage Treatment Systems (SSTS) and developing an Operation and Maintenance Planning Program for SSTS users.
- Extensive bank stabilization projects throughout the Chippewa River and Hawk Creek Watersheds.
- Completing a Drainage Water Management Plan on Buffalo Lake/JD 18 and cost-sharing drainage Best Management Practices (BMPs), such as installing alternative tile intakes. In addition, seek funding to hire a drainage engineer who will complete a public drainage system survey, inventory and evaluation on at least the Dry Weather Creek Watershed and the Shakopee Creek Watershed (for a 3-year grant period).
- Seeking Clean Water Legacy funds to complete a terrain analysis of Chippewa County. Contract with the Water Resources Center at the Minnesota State University in Mankato to complete a Geographic Information System (GIS) terrain analysis for the County.
- Work with ag suppliers and producers on following the University of MN application rates.
- Marketing conservation programs and best management practices (BMP's) that reduce soil erosion and sedimentation in regard to water and wind erosion.
- Apply for a grant with joint partners along the MN River Valley to preserve and protect approximately 200 acres of Granite Rock Outcrops in Chippewa County and their associated wetlands, plus improve water quality and aquatic habitat within the Minnesota River Valley.
- Seek funds to implement urban best management practice demonstration sites for stormwater throughout the municipalities in Chippewa County. In addition, offer incentives to homeowners for on-lot infiltration practices, including reduced lot grading, rain gardens or rain barrels, which control runoff at its source.
- Inventory/Assess status of required 50' buffer in shoreland areas and offer existing programs to help become complaint.

The various action steps identified to address the first priority concern area of surface water quality and quantity improvements in Chippewa County are estimated to have an overall 5-year cost of $4,756,050. This amount represents a vast amount of staff time and money from all of Chippewa County's water plan stakeholders. In addition, many of the implementation activities will only be accomplished if grant funding becomes available.

Groundwater Quality and Quantity Initiatives

The second priority concern area is aimed at protecting and improving groundwater. Three objectives were developed to properly address Wellhead Protection Areas (WPAs), safe drinking water, and groundwater recharge (groundwater quantity). The key implementation steps include the following groundwater initiatives:

- Participating with Wellhead Protection Plans in the development and implementation stages, including inventorying abandoned wells in Wellhead Protection Areas (WPAs).
- Incorporating the County's sensitive groundwater recharge areas map into the local land use decision making process.
- Creating a gift certificate (not to exceed $50) for free well testing for new parents that get their drinking water from private wells and offer free annual nitrate water testing through the Minnesota Department of Agriculture water testing clinics.
- Establishing suitable pharmaceutical collection spots.
- Pursue funding through a CWF to establish a Water Conservation/Drought Contingency Plan.
- Purchase rain barrels and offer them at a reduced rate to urban residents promoting water conservation.

The various action steps identified to address the second priority concern area of groundwater quality and quantity issues in Chippewa County are estimated to have an overall 5-year cost of $66,700. Most of this amount is estimated to come from local sources, including direct and indirect (in-kind) expenses. This amount does not include, however, grant dollars awarded to address the issues and topics identified in the various action steps.

Public Awareness and Plan Administration Initiatives

The third priority concern area is aimed at effectively raising public awareness on key water planning issues and properly administering the County's Water Plan. Three specific goals were included to maintain a watershed focus, staff and coordinate stakeholder cooperation,

and to raise public awareness on key water planning issues. Key implementation steps include the following:

- Support watershed planning, monitoring and implementation activities by providing financial (in-kind) and technical assistance by attending and participating in the Local Work Group meetings, monthly meetings and annual meetings.

- Annually review monitoring data with the watersheds and implementation accomplishments to continue coordinating future initiatives. Participate and be informed via the watershed restoration and protection strategy (led me MPCA) and be an active participant as the watershed transitions to Comprehensive Watershed Management planning.

- Participate in training on how to use LIDAR based data to target BMPs to the most critical landscapes and improve the competitiveness of conservation grant proposal applications.

- Focus education and outreach efforts on two to three water planning issues a year. Integrate those efforts with the watershed projects educational goals. Identify the priority issues in spring each year.

- Hold five Problem Material Collections. Items to be collected are tires, appliances, electronics, fluorescent bulbs and other mercury items, cell phones and rechargeable batteries.

The various action steps identified to address the third priority concern area of effectively administering the Water Plan in Chippewa County are estimated to have an overall 5-year cost of $1,040,950. This averages to approximately $203,190 annually over the next five years.

D. Summary of Estimated Costs

The estimated costs for the three priority concern areas and their corresponding action steps are summarized below in Table 1. The initiatives are estimated to cost approximately $7,839,200 over the next five years. This averages to approximately $1,567,840 annually to address all of Chippewa County's water resource concerns.

Table 1:
Summary of Chippewa County's Water Plan
5-Year Estimated Costs*

	Cost Estimates
Priority Concern Area 1: Surface Water Quality/Quantity	$4,756,050
Priority Concern Area 2: Groundwater Quality/Quantity	$66,700
Priority Concern Area 3: Public Awareness/Plan Administration	$1,040,950
5-Year Totals:	$5,863,700
Average Annual Costs:	$1,172,740

****Note:*** Expenses may seem high but they actually represent the numerous stakeholders involved and a collaboration of their corresponding activities and budgets.

E. Relationship to other Plans

The Chippewa County Water Plan Task Force includes a diverse group of people representing a number of key water plan stakeholders. Assistance from the Task Force in the planning process, along with information requested from Local Governmental Units, helped to ensure the Water Plan, and its corresponding Goals, Objectives and Action Steps, were developed to be consistent with existing plans and official land use controls. As a result, the updated Chippewa County Water Plan is believed to be consistent with the plans and official controls of the other pertinent local, State and regional plans and controls. In conclusion, there are no recommended amendments to other plans and official controls to achieve consistency with this Water Plan.

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Lac qui Parle County Comprehensive Water Plan**

Meeting Date: December 18, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Southern Region

Contact: Jeff Nielsen, Regional Supervisor

Prepared by: David Sill, Board Conservationist

Reviewed by: Southern Region Committee(s)

Presented by: Sandra Hooker

☐ **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

LINKS TO ADDITIONAL INFORMATION

http://lacquiparleswcd.org/Home/Lac qui Parle Water Plan 2014-23 Final with Appendices.pdf

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

On March 27, 2013, the Board of Water and Soil Resources (BWSR) provided official comments pertaining to the State Review of the Lac qui Parle County Priority Concerns Scoping Document. On March 27, 2013, the BWSR officially approved Lac qui Parle County's written request to extend the current Local Water Management Plan (Plan), which would expire on May 28, 2013. The extended end date of the current Plan is December 31, 2013.

On September 6, 2013, the BWSR received the final draft Lac qui Parle County Comprehensive Local Water Plan 2014-2023 as required for final review by state agencies. I have completed my final review of the Plan and find that it does meet the requirements of Minnesota Statute 103B.314. The Plan:

- focuses on the priority concerns identified in the Priority Concerns Scoping Document;
- assess the priority concerns and sets forth appropriate goals and objectives;
- provides an implementation program with measurable actions, timeline and budget; and
- includes all required sections.

Lac qui Parle County contracted with Midwest Community Planning, LLC. to assist with Plan development. More specifically, Water Plan Coordinator Terry Wittnebel and the Lac qui Parle County Resource Commission worked diligently throughout the plan process to make this a useful plan. Specifically on Chapter Three of the Plan (Goals, Objectives and Actions to Address Priority Concerns) significant effort was made to insure the action steps were targeted and measurable.

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 Lac qui Parle County (Minnesota Statutes, Section 103B.311, Subdivision 4 and Section 103B.315, Subdivision 5.)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN UPDATE

Whereas, the Lac qui Parle County (County) Board of Commissioners submitted a Local Water Management Plan Update (Plan Update) to the Board of Water and Soil Resources (Board) on September 6, 2013 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 December 7, 2012, the Board received a Priority Concerns Scoping Document (PCSD) from the County, pursuant to M.S. Section 103B.312.

2. On February 7, 2013, the Board received a written request (resolution) from the County for an extension of their current local water management plan.

3. On March 27, 2013, the Board approved official comments on the County PCSD, which were mailed to the county on March 27, 2013. The priority concerns the PCSD and Plan Update addresses include:

   - Reduce Priority Pollutants – Surface Water Quality
   - Surface Water Management
   - Groundwater Quality & Quantity
   - Plan Administration

4. On March 27, 2013, the Board approved the extension request made by the County. The end date of the current local water management plan was extended to December 31, 2013. This approval was mailed to the County on March 27, 2013.

5. On September 6, 2013, the Board received the County Plan Update, a record of the public hearing, and copies of all written comments pertaining to the Plan Update for final State review pursuant to M.S. Section 103B.315, Subd. 5.

6. On November 7, 2013, the Southern Region Committee of the Board met to review the following state agency comments, commendations and approval recommendations regarding the final approval of the County Plan Update:

   - Minnesota Pollution Control Agency (MPCA) noted the Plan does not violate any statutory or rule requirements administered by MPCA and recommends approval of the entire Plan as submitted. (MPCA did provide several comments providing minor corrections or clarification.)
   - Minnesota Department of Health (MDH) provided no comments.
   - Minnesota Department of Natural Resources (DNR) noted Plan Update does not violate any statutory or rule requirement administered by DNR and recommends approval of the entire Plan Update.
   - Minnesota Department of Agriculture (MDA) noted Plan Update does not violate any statutory or rule requirement administered by the MDA and recommends approval of the entire Plan Update. (MDA also offered several comments for consideration for clarification purposes regarding that crop prices are not the only factor that may cause increases in tiled farmland.)
   - Minnesota Environmental Quality Board provided no comments.

   The Committee's decision was to present a recommendation of approval of the Plan Update to the Board at the Board's December 18, 2013 meeting.

7. On December 18, 2013, the Southern Region Committee of the Board presented its recommendation of approval of the Lac qui Parle County Local Water Management Plan Update to the Board. The Board adopted the Committee's recommendation.

8. This Plan Update will be in effect for a ten-year period until December 18, 2023, with the Goals, Objectives and Action items amended by December 18, 2018.

CONCLUSIONS

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

2. The Lac qui Parle County Plan Update states water and water-related problems within the county; possible solutions; goals, objectives, and actions of the county; and an implementation program. The Plan Update is in conformance with the requirements of M.S. Section 103B.301.

ORDER

The Board hereby approves the update of the Lac qui Parle County Local Water Management Plan 2014-2023 with a required update of the Implementation section (Goals, Objectives, and Action) to be completed by December 18, 2018.

Dated at St Paul, Minnesota this December 18, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

_____

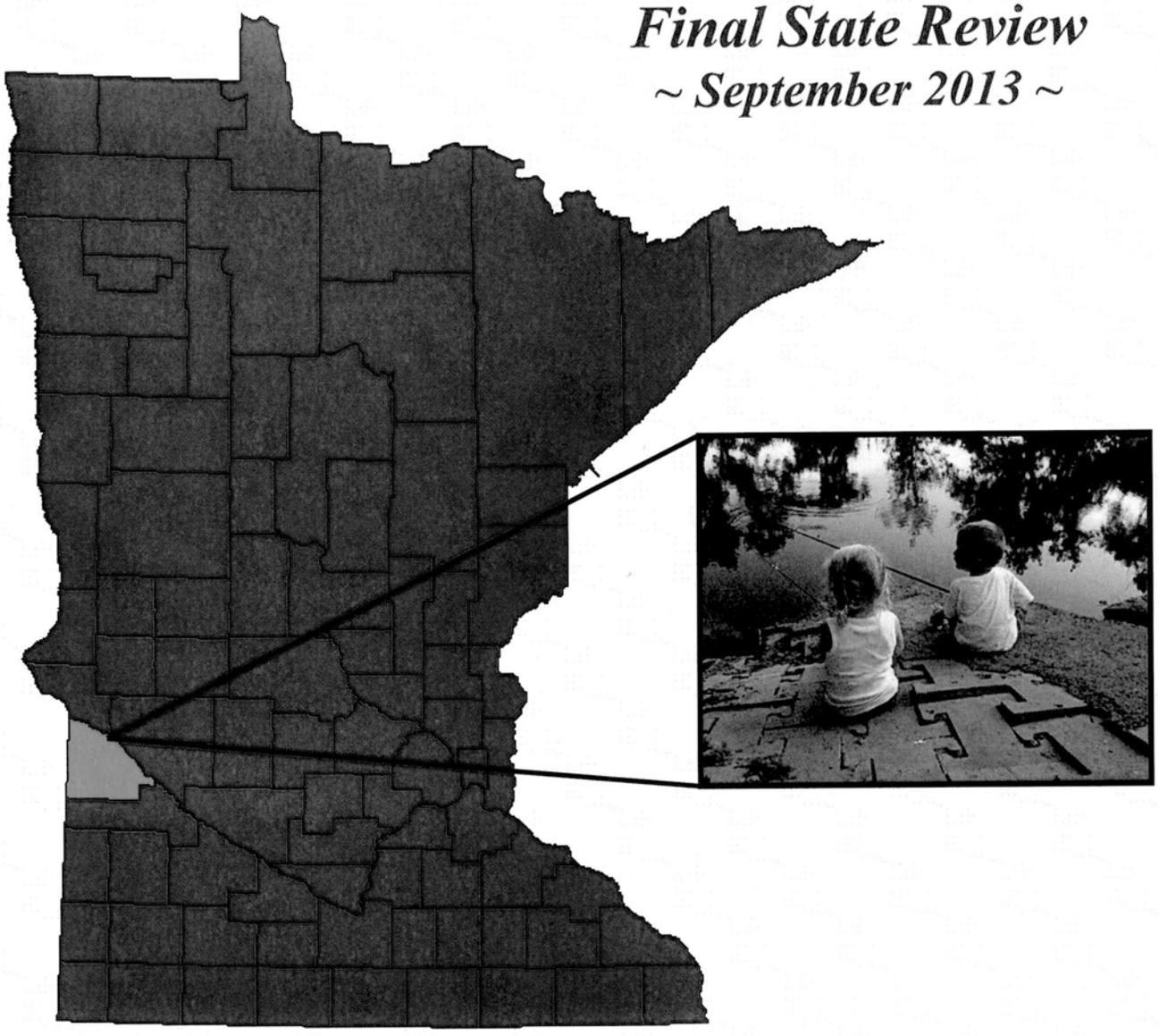
BY: Brian Napstad, Chair

Lac qui Parle County

Local Water Management Plan

Final State Review

~ September 2013 ~



Prepared by

The Lac qui Parle County Resource Commission,

with assistance from Midwest Community Planning, LLC

Lac qui Parle County
Water Plan (2014-2023)
~ Table of Contents ~

Executive Summary ..... **iv**

A: Purpose of the Local Water Plan iv

B: A Description of Lac qui Parle County's Priority Concerns v

C: Summary of Goals, Objectives, Action Steps, and Estimated Cost v

D: Relationship to Other Plans x

Chapter One: Lac qui Parle County Priority Concerns Scoping Document **1-1**

Section One: Introduction to the Water Plan & Lac qui Parle County 1-1

A: Water Plan Background 1-1

B: Water Plan Accomplishments 1-2

C: Lac qui Parle County Profile 1-9

Section Two: Priority Concerns Scoping Document Planning Process 1-11

D: Resolution to Update the Lac qui Parle County Water Plan 1-11

E: Notice of Plan Update 1-11

F: Water Plan Survey Results 1-11

G: Water Plan Public Meeting 1-16

H: State & Local Stakeholder Comments 1-18

Section Three: Lac qui Parle County Priority Water Planning Issues 1-22

I: Resource Commission 1-22

J: Priority Water Planning Issues 1-22

K: Priority Issues Not Addressed by this Water Plan 1-23

Section Four: Lac qui Parle County Ongoing Water Plan Activities 1-24

Chapter Two: Assessment of Priority Concerns 2-1

Section One: Surface Water Quality: Reducing Priority Pollutants 2-2

A: Watersheds Assessment 2-2

B: TMDL Implementation Assessment 2-14

C: Feedlots and Livestock Management Assessment 2-24

D: Subsurface Sewage Treatment Systems Assessment 2-28

E: Erosion and Sediment Control Assessment 2-29

Section Two: Surface Water Management 2-34

F: Agricultural Drainage Assessment 2-34

G: Stormwater Management Assessment 2-42

H: Wetlands and Water Storage/Retention Assessment 2-44

I: Flooding Assessment 2-49

Section Three: Groundwater Quality and Quantity 2-53

J: Groundwater Quality Assessment 2-53

K: Groundwater Quantity Assessment 2-64

Chapter Three: Goals, Objectives, and Action Steps 3-1

A: Definition of Goals, Objectives and Action Steps 3-1

B: Action Step Information 3-1

C: Goals, Objectives, and Action Steps (2014-2018) 3-3

Chapter Four: Water Plan Administration 4-1

A: Plan Coordination 4-1

B: Implementation Plan and Priorities 4-1

C: Types and Sources of Water Plan Funds 4-4

D: Recommended State Cooperation 4-5

E: Intergovernmental Conflicts/Resolution Process 4-6

F: Water Plan Amendment Procedure 4-6

G: Water Plan Key Stakeholders 4-6

Lac qui Parle County Water Plan:

Executive Summary

The Lac qui Parle County Water Plan follows the provisions set forth in Minnesota State Statutes 103B.314 - Contents of Water Plan.

A. Purpose of the Local Water Plan

According to Minnesota Statute 103B, each county is encouraged to develop and implement a local water management plan with the authority to:

- Prepare and adopt a local water management plan that meets the requirements of this section and section 103B.315;
- Review water and related land resources plans and official controls submitted by local units of government to assure consistency with the local water management plan; and
- Exercise any and all powers necessary to assure implementation of local water management plans.

Pursuant to the requirements of the law, the Lac qui Parle County Water Plan:

- Covers the entire area of Lac qui Parle County;
- Addresses water problems in the context of watershed units and groundwater systems;
- Is based upon principles of sound hydrologic management of water, effective environmental protection and efficient management;
- Is consistent with comprehensive water plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or groundwater system; and
- Will serve as a 10-year water plan (2014-2023), with a 5-year implementation plan (2014-2018). In 2018, the implementation plan will be updated.

In addition, the Water Plan will also serve as the Lac qui Parle County Soil and Water Conservation District's (SWCD) Comprehensive District Plan. This will be adopted by the SWCD's Board of Supervisors by Resolution.

B. A Description of Lac qui Parle County's Priority Concerns

The Lac qui Parle County Resource Commission met on August 14, 2012, to review the Water Plan Survey results and the Priority Concerns Input Forms received (Appendix A contains a copy of the Sign in Sheets). Based upon the survey results, the comments received during the Water Plan Public Meeting, and the comments received in the Priority Concerns Input Forms, the Resource Commission identified the following as Lac qui Parle County's priority water planning issues (note: these issues are not ranked):

1. Surface Water Management
    a. Agricultural Drainage
    b. Stormwater Management
    c. Wetlands and Water Storage/Retention
    d. Flooding

2. Reducing Priority Pollutants ~ Surface Water Quality
    a. TMDL Implementation
    b. Feedlot/Livestock Management
    c. Subsurface Sewage Treatment Systems
    d. Erosion and Sediment Control

3. Groundwater Quality & Quantity
    a. Wellhead Protection Areas
    b. Irrigation
    c. Drinking Water Quality

4. Plan Administration
    a. Watershed Focus
    b. Stakeholder Cooperation
    c. Raising Public Awareness

C. Summary of Goals, Objectives, Action Steps, and Estimated Costs

To address the priority concerns identified in the scoping process, the Lac qui Parle County Resource Commission held meetings and developed four goal areas. These four goal areas are further broken down into interrelated objectives that specific resource concerns. More importantly, each objective has a series of action steps designed to help address the priority concerns.

A summary of the County's Water Plan Goals, Objectives and Action Steps is provided below. Collectively they form the Implementation Plan for the County. In addition, a summary of annual estimated costs is provided. These estimated expenses are separated into Overall Costs and Local Costs. Overall Costs include all monies spent by water plan stakeholders, including the County, watershed districts, state agencies, and landowners. The Local Costs include funds spent and activities performed by Lac qui Parle County (including items such as the County's 103E administrative costs) and the Lac qui Parle County SWCD. The Lac qui Parle County Resource Commission recognizes that not all of the identified Action Items will be accomplished over the course of the Water Plan's time-frame, however, the intent is to accomplish as many implementation activities as feasible. Also keep in mind the costs identified are only estimates, and actual direct and/or indirect costs may be more or less than indicated. Finally, many of the Action Items will be dependent upon receiving grants. Chapter Three contains the Water Plan's complete Goals, Objectives, and Action Steps, and Chapter Four provides additional details on administering the Water Plan.

Goal 1: Protect and Improve Surface Water Quality by Reducing Priority Pollutants

The first goal area focuses on addressing surface water quality issues. Objectives were developed for TMDL implementation (removing waters off the MPCA's 303d list of Impaired Waters), feedlots and fertilizers, Subsurface Sewage Treatment Systems (SSTS), and erosion and sediment control. Implementation steps under the first goal area include a wide range of the following surface water quality Best Management Practices (BMPs):

- **TMDLs.** Targeting the impaired subwatersheds with numerous types of cropland, surface water management, streambank, and livestock BMPs. Key examples include increasing tillage residue by 10-15%, cost-sharing installing alternative tile intakes, restoring wetlands, developing manure management plans, and stabilizing streambank erosion sites.

- **Feedlots/Fertilizers.** Using the County's Level 3 Feedlot Inventory (when completed) to prioritize and target BMPs; seeking cost-share/incentive funds for producers with fewer than 300 animal units to develop nutrient management plans; and improving 100 acres of pasture management by implementing BMPs, such as stream crossing, fencing, remote water systems, managed grazing, etc.

- **SSTS.** Seeking funds to inspect all SSTS in Lac qui Parle County's impaired subwatersheds and securing MPCA and MDA funding to provide low interest loans to upgrade noncompliant systems.

- **Erosion and Sediment Control.** Target erosion and sediment control BMPs along Emily Creek; working with producers to increase tillage residue; installing grade control

structures; targeting floodplain acres for new enrollment in long-term grassland programs; and assisting producers to adopt improved pasture management techniques such as rotational grazing, prescribed grazing, or other pasture improvement BMPs.

The various action steps identified to address the first goal area of surface water quality improvements in Lac qui Parle County are estimated to have an overall 5-year cost of $4,175,500. Of this amount, $560,000 is estimated to come from the County, including direct and indirect (in-kind) SWCD estimated costs. Many of these implementation activities will be eligible for grant funding.

Goal 2: Groundwater Quantity and Quality Initiatives

The second goal area focuses on addressing groundwater quality and quantity issues. Objectives were developed for drinking water quality and groundwater quantity BMPs. Implementation steps include a wide range of the following groundwater Best Management Practices (BMPs):

- **Wellhead Protection Areas (WPA).** Participate in the preparation and implementation of wellhead protection plans for public water suppliers. Communities of Dawson, Madison, and Boyd are scheduled to be phased into the Wellhead Protection Program in 2017; targeting groundwater BMPs in Drinking Water Supply Areas (DWSAs) and WPAs; and sealing abandoned wells.

- **Safe Drinking Water.** Securing funding to provide technical assistance for the installation of BMPs; working with MN Geological Society and DNR to develop a hydrogeologic assessment as part of the County Geologic Atlas Program for Lac qui Parle County; conducting annual nitrate testing clinics; and holding annual pesticide and household hazardous waste collection days.

- **Groundwater Quantity.** Assist with groundwater quantity monitoring efforts and promote the adoption of measures to protect groundwater supplies; secure funding to cost share conversion of conventional irrigation systems to conservation systems; and seek funding to develop a County Water Conservation Plan.

The various action steps identified to address the second goal area of groundwater quality and quantity BMPs in Lac qui Parle County are estimated to have an overall 5-year cost of $866,500. Of this amount, $196,500 is estimated to come from the County, including direct and indirect (in-kind) SWCD estimated costs.

Goal 3: Surface Water Management Initiatives

The third goal area is aimed at reducing surface water management/quantity issues, including separate objectives for agricultural drainage, stormwater management, wetlands/surface water retention, and flooding. The key implementation steps include the following:

- **Agricultural Drainage:** Increasing the number of stream miles protected by riparian buffers by one mile annually; seeking funds to provide incentive for implementation of saturated buffers on 15% ditches/streams within target watershed for each year of funding; and seeking funds to develop multipurpose drainage management plans.

- **Stormwater Management:** Work with landowners to help ensure that stormwater is managed properly and that both water quality and quantity issues are addressed; installing water and sediment control basins; and targeting the promotion of BMPs in critical areas of the landscape, encouraging use of federal, state, or other BMP implementation funds through the use of newsletter, news releases, radio, workshops, booth/display, personal contacts, or other means.

- **Wetlands/Water Retention:** Ensuring that wetlands and water storage/retention are managed properly and that both water quality and quantity issues are addressed; and creating an inventory using LiDar, terrain analysis, and other tools as they become available to identify the most important landscapes for wetland restoration for the purpose of water storage, sediment/nutrient reduction downstream, flood storage, and/or metering water flow.

- **Flooding:** Restoring one wetland annually in headwater areas of subwatersheds; improving residue management on 500 acres annually; and increasing the number of stream miles protected by riparian buffers/filter strips by one mile.

The various action steps identified to address the third goal area of surface water management issues in Lac qui Parle County are estimated to have an overall 5-year cost of $1,615,000. Of this amount, $265,000 is estimated to come from the County, including direct and indirect (in-kind) SWCD estimated costs.

Goal 4: Plan Administration Initiatives

The fourth goal area is aimed at effectively administering the Lac qui Parle County Water Plan. A specific objective was developed to "Engage the Citizens and Stakeholders on key water planning issues and implementation opportunities." Implementation steps include the following:

- **Maintain Adequate Staffing.** Effectively administer the County's Water Plan; SSTS, Shoreland, and Feedlot programs; and Wetlands Conservation Act (WCA).

- **Maintain Stakeholder Cooperation.** Partner with stakeholders on implementation activities to minimize expenditures and to maximize results; and create an annual work plan for the water plan.

- **Watershed Focus.** Assist the MPCA's comprehensive monitoring efforts as part of the watershed approach and provide technical and/or financial assistance to partners.

The various action steps identified to address the fifty goal area of effectively administering the Water Plan in Lac qui Parle County are estimated to have an overall 5-year cost of $120,000. Of this amount, approximately $45,000 is estimated to come from the County, including direct and indirect (in-kind) SWCD estimated costs.

Summary of Estimated Costs

The four water plan goal areas and their corresponding estimated costs are summarized below in Table 1. The initiatives identified in Chapter Three are estimated to cost approximately $1,355,400 annually overall, with approximately $213,300 coming from local/county funds.

Table 1:
Summary of Lac qui Parle County's Water Plan
Estimated Overall and Local Costs

	Overall	*Local/County*
Goal Area One: Surface Water Quality	$4,175,500	$560,000
Goal Area Two: Groundwater Quality/Quantity	$866,500	$196,500
Goal Area Three: Surface Water Management	$1,615,000	$265,000
Goal Area Four: Plan Administration	$120,000	$45,000
5-Year Estimated Costs	**$6,777,000**	**$1,066,500**
Average Annual Estimated Costs	**$1,355,400**	**$213,300**

These estimated expenses are separated into Overall Costs and Local Costs. The Local costs include funds spent and activities performed (i.e., in-kind expenses) by Lac qui Parle County and the Lac qui Parle County SWCD.

Note: Please refer to Chapters Three and Four for a more detailed description of the estimated overall costs and the estimated total local costs to Lac qui Parle County and the Lac qui Parle County SWCD. Expenses may seem exaggerated, but actually represent the numerous stakeholders involved and a collaboration of their corresponding activities and budgets.

D. Relationship to other Plans

The Lac qui Parle County Resource Commission includes a diverse group of people representing a number of key water plan stakeholders. Assistance from the Resource Commission in the planning process, along with information requested from Local Governmental Units, helped to ensure the Water Plan, and its corresponding Goals, Objectives and Action Steps, were developed to be consistent with existing plans and official land use controls. As a result, the updated Lac qui Parle County Water Plan is believed to be consistent with the plans and official controls of the other pertinent local, State and regional plans and controls. In conclusion, there are no recommended amendments to other plans and official controls to achieve consistency with this Water Plan.

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Swift County Comprehensive Water Plan**

Meeting Date: December 18, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Southern Region

Contact: Jeff Nielsen, Regional Supervisor

Prepared by: David Sill, Board Conservationist

Reviewed by: Southern Region Committee(s)

Presented by: Tom Loveall

☐ **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

LINKS TO ADDITIONAL INFORMATION

http://www.swiftcounty.com/vertical/sites/%7BCB23E7E9-8CD6-437F-AE42-22084996955A%7D/uploads/Swift_County_Water_Plan_2014-23.pdf

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

On March 27, 2013, the Board of Water and Soil Resources (BWSR) provided official comments pertaining to the State Review of the Swift County Priority Concerns Scoping Document. On March 27, 2013, the BWSR officially approved Swift County's written request to extend the current Local Water Management Plan (Plan), which would expire on May 28, 2013. The extended end date of the current Plan is December 31, 2013.

On September 6, 2013, the BWSR received the final draft Swift County Comprehensive Local Water Plan 2014-2023 as required for final review by state agencies. I have completed my final review of the Plan and find that it does meet the requirements of Minnesota Statute 103B.314. The Plan:

- focuses on the priority concerns identified in the Priority Concerns Scoping Document;
- assess the priority concerns and sets forth appropriate goals and objectives;
- provides an implementation program with measurable actions, timeline and budget; and
- includes all required sections.

Swift County contracted with Midwest Community Planning, LLC. to facilitate the Plan process and develop the Plan. The Swift County Local Water Plan technical team, task force and watershed partners worked diligently throughout the plan process to make this a useful plan with significant effort made to insure the action steps were targeted and measurable.

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 Swift County (Minnesota Statutes, Section 103B.311, Subdivision 4 and Section 103B.315, Subdivision 5.)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN UPDATE

Whereas, the Swift County (County) Board of Commissioners submitted a Local Water Management Plan Update (Plan Update) to the Board of Water and Soil Resources (Board) on September 6, 2013 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 January 7, 2013, the Board received a Priority Concerns Scoping Document (PCSD) from the County, pursuant to M.S. Section 103B.312.

2. On February 6, 2013, the Board received a written request (resolution) from the County for an extension of their current local water management plan.

3. On March 27, 2013, the Board approved official comments on the County PCSD, which were mailed to the county on March 27, 2013. The priority concerns the PCSD and Plan Update addresses include:

   - Reduce Priority Pollutants – Surface Water Quality
   - Surface Water Management
   - Groundwater Quality & Quantity
   - Plan Administration

4. On March 27, 2013, the Board approved the extension request made by the County. The end date of the current local water management plan was extended to December 31, 2013. This approval was mailed to the County on March 27, 2013.

5. On September 6, 2013, the Board received the County Plan Update, a record of the public hearing, and copies of all written comments pertaining to the Plan Update for final State review pursuant to M.S. Section 103B.315, Subd. 5.

6. On November 7, 2013, the Southern Region Committee of the Board met to review the following state agency comments, commendations and approval recommendations regarding the final approval of the County Plan Update:

   - Minnesota Pollution Control Agency (MPCA) provided no comments.
   - Minnesota Department of Health (MDH) provided no comments.
   - Minnesota Department of Natural Resources (DNR) noted Plan Update does not violate any statutory or rule requirement administered by DNR and recommends approval of the entire Plan Update.
   - Minnesota Department of Agriculture (MDA) noted Plan Update does not violate any statutory or rule requirement administered by the MDA and recommends approval of the entire Plan Update. (MDA also offered several comments for consideration for clarification purposes regarding that crop prices are not the only factor that may cause increases in tiled farmland.)
   - Minnesota Environmental Quality Board provided no comments.

   The Committee's decision was to present a recommendation of approval of the Plan Update to the Board at the Board's December 18, 2013 meeting.

7. On December 18, 2013, the Southern Region Committee of the Board presented its recommendation of approval of the Swift County Local Water Management Plan Update to the Board. The Board adopted the Committee's recommendation.

8. This Plan Update will be in effect for a ten-year period until December 18, 2023, with the Goals, Objectives and Action items amended by December 18, 2018.

CONCLUSIONS

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

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

ORDER

The Board hereby approves the update of the Swift County Local Water Management Plan 2014-2023 with a required update of the Implementation section (Goals, Objectives, and Action) to be completed by December 18, 2018.

Dated at St Paul, Minnesota this December 18, 2013.

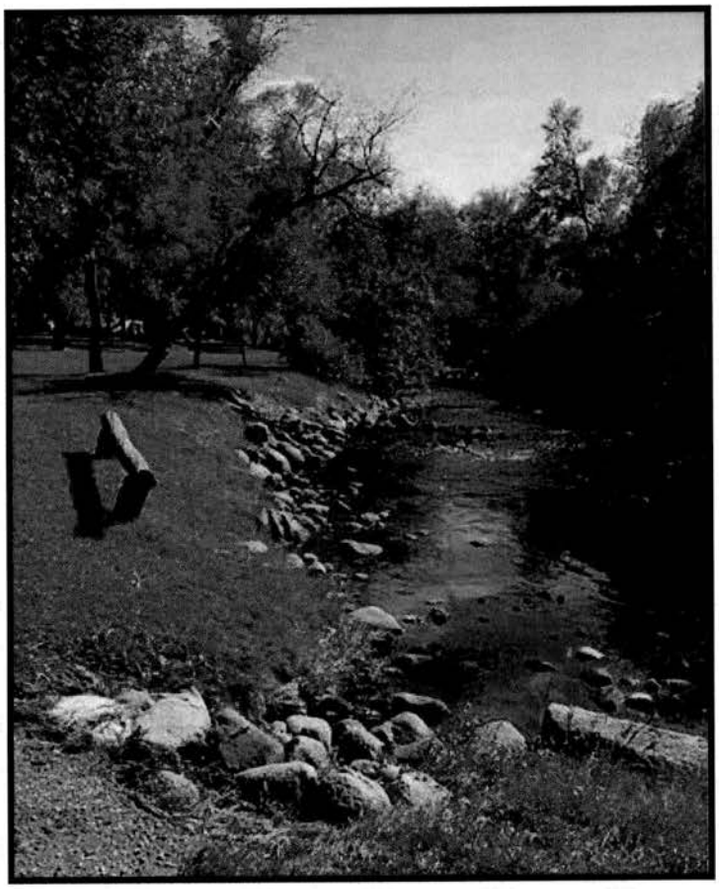
MINNESOTA BOARD OF WATER AND SOIL RESOURCES

_____

BY: Brian Napstad, Chair

Swift County
2014-2023 Local Water Plan

~ With 5-Year Implementation Plan (2014-18) ~



Chippewa River



Final State Review
September 2013

Prepared by Swift County with assistance from
Midwest Community Planning, LLC

Swift County Water Plan:

~ Table of Contents ~

Executive Summary ..... **iv**

A: Purpose of the Local Water Plan iv

B: A Description of Swift County's Priority Concerns v

C: Summary of Goals, Objectives, Action Steps, and Estimated Cost v

D: Relationship to Other Plans ix

Chapter One: Swift County Priority Concerns Scoping Document **1-1**

Section One: Introduction to the Water Plan & Swift County 1-1

A: Water Plan Background 1-1

B: Swift County Profile 1-2

Section Two: Priority Concerns Scoping Document Planning Process 1-4

C: Resolution to Update the Swift County Water Plan 1-4

D: Notice of Plan Update 1-4

E: Water Plan Public Meeting 1-4

F: State & Local Stakeholder Comments 1-5

Section Three: Swift County Priority Water Planning Issues 1-9

G: Water Plan Task Force 1-9

H: Priority Water Planning Issues 1-9

I: Priority Issues Not Addressed by this Water Plan 1-10

Section Four: Swift County Ongoing Water Plan Activities 1-11

Chapter Two: Assessment of Priority Concerns 2-1

Section One: Surface Water Quality: Reducing Priority Pollutants 2-2

A: Watersheds Assessment 2-2

B: TMDL Implementation Assessment 2-36

C: Feedlots and Livestock Management Assessment 2-42

D: Subsurface Sewage Treatment Systems Assessment 2-45

E: Erosion and Sediment Control Assessment 2-46

Section Two: Surface Water Management 2-50

F: Agricultural Drainage Assessment 2-50

G: Stormwater Management Assessment 2-55

H: Wetlands and Water Storage/Retention Assessment 2-57

Section Three: Groundwater Quality and Quantity 2-63

I: Groundwater Quality Assessment 2-63

J: Groundwater Quantity Assessment 2-75

Chapter Three: Goals, Objectives, and Action Steps 3-1

A: Definition of Goals, Objectives and Action Steps 3-1

B: Action Step Information 3-1

C: Goals, Objectives, and Action Steps (2014-2018) 3-3

Chapter Four: Water Plan Administration 4-1

A: Plan Coordination 4-1

B: Implementation Plan and Priorities 4-1

C: Types and Sources of Water Plan Funds 4-2

D: Recommended State Cooperation 4-4

E: Intergovernmental Conflicts/Resolution Process 4-4

F: Water Plan Amendment Procedure 4-4

G: Water Plan Key Stakeholders 4-5

Swift County Water Plan:

Executive Summary

The Swift County Water Plan follows the provisions set forth in Minnesota State Statutes 103B.314 - Contents of Water Plan.

A. Purpose of the Local Water Plan

According to Minnesota Statute 103B, each county is encouraged to develop and implement a local water management plan with the authority to:

- Prepare and adopt a local water management plan that meets the requirements of this section and section 103B.315;
- Review water and related land resources plans and official controls submitted by local units of government to assure consistency with the local water management plan; and
- Exercise any and all powers necessary to assure implementation of local water management plans.

Pursuant to the requirements of the law, the Swift County Water Plan:

- Covers the entire area of Swift County;
- Addresses water problems in the context of watershed units and groundwater systems;
- Is based upon principles of sound hydrologic management of water, effective environmental protection and efficient management;
- Is consistent with comprehensive water plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or groundwater system; and
- Will serve as a 10-year water plan (2014-2023), with a 5-year implementation plan (2014-2018). In 2018, the implementation plan will be updated.

In addition, the Water Plan will also serve as the Swift County Soil and Water Conservation District's (SWCD) Comprehensive District Plan. This will be passed by the SWCD's Board of Supervisors by Resolution.

B. A Description of Swift County's Priority Concerns

The Swift County Water Plan Task Force met on December 12, 2012, to review the Priority Concerns Input Forms received (Appendix A contains a copy of the Sign in Sheet). The Water Plan Task Force identified the following as Swift County's priority water planning issues (note: these issues are not ranked):

1. Surface Water Management
    a. Agricultural Drainage
    b. Stormwater Management
    c. Wetlands and Water Storage/Retention

2. Reducing Priority Pollutants ~ Surface Water Quality
    a. TMDL Implementation
    b. Feedlot/Livestock Management
    c. Subsurface Sewage Treatment Systems
    d. Erosion and Sediment Control

3. Groundwater Quality & Quantity

4. Plan Administration
    a. Watershed Focus - Stakeholder Cooperation
    b. Raising Public Awareness - Education

C. Summary of Goals, Objectives, Action Steps, and Estimated Costs

To address the priority concerns identified in the scoping process, the Swift County Water Plan Task Force held meetings and developed four goal areas. These four goal areas are further broken down into interrelated objectives that specific resource concerns. More importantly, each objective has a series of action steps designed to help address the priority concerns.
A summary of the County's Water Plan Goals, Objectives and Action Steps is provided below. Collectively they form the Implementation Plan for the County. In addition, a summary of annual estimated costs is provided. These estimated expenses are separated into Overall Costs and Local Costs. Overall Costs include all monies spent by water plan stakeholders, including the County, watershed districts, state agencies, and landowners. The Local Costs include funds spent and activities performed by Swift County (including items such as the County's 103E administrative costs) and the Swift County SWCD. The Swift County Water Plan Task Force recognizes that not all of the identified Action Items will be accomplished over the course of the

Water Plan's time-frame, however, the intent is to accomplish as many implementation activities as feasible. Also keep in mind the costs identified are only estimates, and actual direct and/or indirect costs may be more or less than indicated. Finally, many of the Action Items will be dependent upon receiving grants. Chapter Three contains the Water Plan's complete Goals, Objectives, and Action Steps, and Chapter Four provides additional details on administering the Water Plan.

Goal 1: To Ensure Swift County's Surface Water Resources Exceed Minimum Water Quality Standards

The first goal area focuses on addressing surface water quality issues. Objectives were developed for maintaining a watershed focus and removing waters off the MPCA's 303d list of Impaired Waters. Additional objectives address feedlots, Subsurface Sewage Treatment Systems (SSTS), and erosion and sediment control. Implementation steps under the first goal area include a wide range of the following initiatives and Best Management Practices (BMPs):

- **Watershed Focus/TMDLs.** Supporting watershed planning, monitoring, and implementation by providing financial and in-kind assistance; annually reviewing monitoring data and participating in the watershed restoration and protection strategy with the Chippewa River, Pomme de Terre, and Upper Minnesota River Watersheds; and seeking opportunities to refine watershed analysis and management through GIS and other technology.

- **Feedlots.** Target feedlot inspections in shoreland areas; host annual educational meetings with feedlot operators; and cost share ag/waste feedlot BMPS, including nutrient management plans, closing unused ag waste impoundments; and identifying where grazing management improvements are needed.

- **SSTS.** Work with approximately 30 homeowners annually on compliance inspections; provide low interest loans to upgrade noncompliant systems; cost-share upgrading four low income noncompliant systems annually; and inspect all SSTS in impaired subwatersheds.

- **Erosion and Sediment Control.** Installing 80 acres of vegetative buffer strips annually (target J.D. 19 and Shakopee Creek); annually install two water and sediment control structures, five alternative tile intakes, two stream bank stabilization projects, and 1,000 feet of living snow fences. In addition, work with the watersheds districts/projects on implementing their numerous erosion and sediment control projects.

The various action steps identified to address the first goal area of surface water quality improvements in Swift County are estimated to have an overall 5-year cost of $2,325,000, which

averages to approximately $465,000 annually. Many of the implementation activities will be paid for through grants and in-kind expenses.

Goal 2: Surface Water Management Initiatives

The second goal area is aimed at effectively managing surface water resources for multiple purposes (surface water quantity). Separate objectives are included for agricultural drainage, stormwater management, and wetlands/surface water retention. The key implementation steps include the following:

- **Agricultural Drainage:** Re-determining the benefits on systems as requested; maintain and update a County Ditch Inventory; installing ten side inlets annually to control erosion; cost-sharing a wide range of drainage BMPs; and seeking funds to complete a drainage management plan.

- **Stormwater Management:** Assist with stormwater management planning; providing educational, technical, and financial support for the implementation of stormwater BMPs; and cost-sharing providing 50 rain barrels annually.

- **Wetlands/Water Retention:** Targeting impaired subwatersheds for wetland restorations and increasing the number of Wetland Reserve Program easements by two each year on marginal farmland.

The various action steps identified to address the second goal area of surface water management in Swift County are estimated to have an overall 5-year cost of $600,000, which averages to approximately $120,000 annually. Many of the implementation activities will be paid for through grants and in-kind expenses.

Goal 3: Groundwater Quantity and Quality Initiatives

The third goal area focuses on addressing groundwater quality and quantity issues. Objectives were developed for wellhead protection areas, ensuring there is an adequate supply of safe drinking water, and working with stakeholders to protect groundwater levels for multiple uses. Implementation steps include a wide range of the following groundwater Best Management Practices (BMPs):

- **Wellhead Protection Areas (WPA).** Target groundwater BMP Programs in Wellhead Protection Areas, such as RIM, CRP, manure management and nutrient planning,

abandoned well sealing and proper SSTS compliance; and target sealing all abandoned wells in Wellhead Protection Areas.

- **Safe Drinking Water.** Complete a pesticide management plan and water conservation plan with each new irrigation system; incorporate Swift County's sensitive groundwater recharge areas map into to the local land use decision making process; implement two groundwater BMP projects into the local and use decision making process annually.

- **Groundwater Quantity.** Continue to monitor 26 groundwater test sites annually; host a workshop every three years with the DNR and Minnesota Geological Survey on how best to incorporate the county's geologic and groundwater information into the land use making process; pursue funding to establish a water conservation/drought contingency plan.

The various action steps identified to address the third goal area of groundwater quality and quantity in Swift County are estimated to have an overall 5-year cost of $349,000, which averages to approximately $69,800 annually. Many of the implementation activities will be paid for through grants and in-kind expenses.

Goal 4: Plan Administration Initiatives

The fourth goal area is aimed at effectively administering the Swift County Water Plan. A specific objective was developed to "Engage the Citizens and Stakeholders on key water planning issues and implementation opportunities." Implementation steps include the following:

- **Ongoing Issues and Programs.** Properly raise awareness on key water planning issues and available BMP funding opportunities.

- **Water Plan Funding/Support.** Secure funding to properly implement the water plan and meet annually to review progress.

- **Watershed Focus and Stakeholder Cooperation.** Partner with watershed and stakeholder groups on implementation activities.

The various action steps identified to address the fifty goal area of effectively administering the Water Plan in Swift County are estimated to have an overall 5-year cost of $65,000, which averages to approximately $13,000 a year.

Summary of Estimated Costs

The four water plan goal areas and their corresponding estimated costs are summarized below in Table 1. The initiatives identified in Chapter Three are estimated to cost approximately $3,339,000 over the five years, which averages to approximately $667,800 annually.

Table 1:
Summary of Swift County's Water Plan
Estimated Overall and Local Costs

	5-Year	Yearly
Goal Area One: Surface Water Quality	$2,325,000	$465,000
Goal Area Two: Surface Water Management	$600,000	$120,000
Goal Area Three: Groundwater Quality/Quantity	$349,000	$69,800
Goal Area Four: Plan Administration	$65,000	$13,000
Totals	**$3,339,000**	**$667,800**

*Note: Please refer to Chapters Three and Four for a more detailed description of the estimated five-year and annual costs; expenses may seem exaggerated, but actually represent the numerous stakeholders involved and a collaboration of their corresponding activities and budgets.

D. Relationship to other Plans

The Swift County water planning process included feedback from local governmental units and stakeholders to ensure the Water Plan, and its corresponding Goals, Objectives and Action Steps, were developed to be consistent with existing plans and official land use controls. As a result, the updated Swift County Water Plan is believed to be consistent with the plans and official controls of the other pertinent local, State and regional plans and controls. In conclusion, there are no recommended amendments to other plans and official controls to achieve consistency with this Water Plan.

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Renville County SWCD Nomination Districts**

Meeting Date: December 18, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Southern

Contact: Jeff Nielsen

Prepared by: Jeff Nielsen

Reviewed by: Southern Region 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

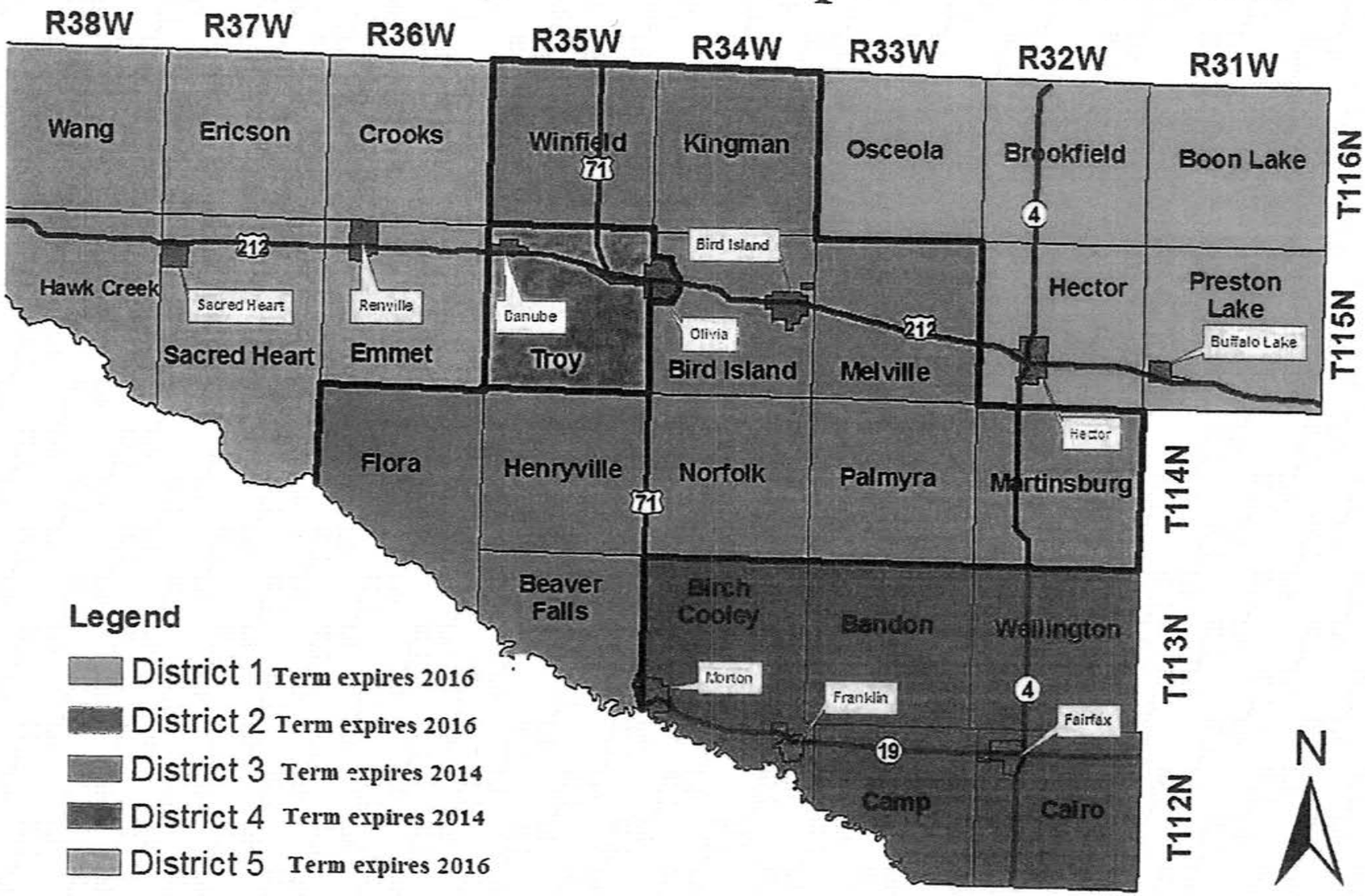
Decision on Renville County Soil and Water Conservation District Nomination District Changes

LINKS TO ADDITIONAL INFORMATION

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

The Renville County Soil and Water Conservation District (SWCD) approved a Nomination Districts Resolution on August 15, 2013. The reason for this resolution is to the redistricting conducted by Renville County Commissioners in April, 2012 as pursuant to Minnesota Statutes Chapter 375, which establishes the procedure and requires a process for redistricting County Commissioner districts based on population figures from the Federal Census. Pursuant to these statutes the 2010 Federal Census population figures were used to redraw these nomination district boundaries.

Renville County SWCD Supervisor Districts



Updated 8/15/2013

NOMINATION DISTRICTS RESOLUTION

Be it resolved by the Renville County Soil and Water Conservation District Supervisors that pursuant to M.S. 103C.311, subd 2, the district be divided into five areas for nomination of candidates for the positions of Soil and Water Conservation District Supervisors to be elected by nomination district. Said nomination districts will be established by the Renville County Board as County Commissioner District precincts under M.S. 204B.14. Boundaries of the Supervisor Districts will be redrawn by the Renville County Board after each decennial federal census as provided in M.S. 204B.135. Current Districts are:

Districts	**Boundaries**
I	Townships of Osceola, Brookfield, Boon Lake, Preston Lake and Hector. Cities of Hector and Buffalo Lake.
II	Townships of Birch Cooley, Bandon, Wellington, Camp and Cairo and the cities of Morton, Franklin and Fairfax.
III	Townships of Winfield, Kingman, Bird Island, Melville, Flora, Henryville, Norfolk, Palmyra, Martinsburg and Beaver Falls and the City of Bird Island
IV	Township of Troy and Cities of Olivia and Danube
V	Townships of Wang, Ericson, Crooks, Hawk Creek, Sacred Heart and Emmet and the cities of Sacred Heart and Renville.

I, David Guggisberg, Secretary/Treasurer of the Renville County Soil and Water Conservation District, do hereby certify that the above resolution relating to the division of Renville County Soil and Water Conservation District into five nominating areas was adopted by the said District Supervisors at a regular meeting held on August 15, 2013. That I have compared the above copy with the original resolution as set forth in the minutes of said meeting and it is a true and correct copy of and transcript from said original and the whole thereof. I further certify that said meeting of the Board was duly called and held, that a quorum of members of said Board was present thereat, and that said resolution was duly adopted thereat by a vote of 5 to 0 of the members present.

Signed: David Guggisberg
Secretary/Treasurer
Renville County Soil and Water Conservation District

Be it resolved by the Board of Water and Soil Resources that the division of the Renville County Soil and Water Conservation District into five nominating areas as set forth in the above resolution adopted by the supervisors of said district on August 15, 2013, is hereby approved.

I, John Jaschke, Executive Director of the Board of Water and Soil Resources, do hereby certify that I have compared the above copy of resolution relating to the division of the Renville County Soil and Water Conservation District into five nominating areas adopted by said Board at a regular meeting held on August 15, 2013, with the original as set forth in the minutes of said meeting and that said copy is a true and correct copy of and transcript from said original and the whole thereof. I further certify that said meeting of said Board was duly called and held, that a quorum of members of said Board was present thereat, and that said resolution was duly adopted thereat by a vote of 5 to 0 of the members present.

Signed:_____
Executive Director
Board of Water and Soil Resources

Filed_____day of _____, 20____.

Signed_____
County Auditor
_____County

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Houston County Water Management Plan Five-Year Amendment**

Meeting Date: December 18, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Southern Region

Contact: Jeff Nielsen, Regional Supervisor

Prepared by: Steve Lawler, Board Conservationist

Reviewed by: Southern Region Committee(s)

Presented by: Chris Elvrum

☐ **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

LINKS TO ADDITIONAL INFORMATION

Houston County Five-Year Amendment

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

By Board Order, the Board of Water and Soil Resources (Board) approved the Houston County 2007 - 2017 Comprehensive Local Water Management Plan (Plan) on December 19, 2007. This Plan contains an implementation section with goals, objectives and actions to address the county's priority concerns. The Board Order required Houston County to update the Plan's implementation section by December 31, 2012.

On March 20, 2012, the Houston County Board of commissioners adopted and submitted a resolution and written request to BWSR requesting a two-year extension for the required five-year update of the implementation section of their Plan. On August 23, 2012, the Board approved the two-year extension. The extended end date of the implementation section update is December 31, 2014.

- Houston County followed the amendment process guidelines established by the Board and submitted their 2013 - 2017 Local Water Management Plan Amendment on October 11, 2013.

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 **Houston County** (Minnesota Statutes, Section 103B.314, Subdivision 6)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN AMENDMENT

Whereas, on December 19, 2007, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Houston County 2007 – 2017 Local Water Management Plan Update (Plan), which contained a 2007 – 2012 five-year Implementation section; and

Whereas, this Board Order stipulated that Houston County was required to update the implementation section by December 31, 2012; and

Whereas, on March 21, 2012, the Board received a resolution and written request from the Houston County Board of Commissioners requesting a two-year extension of the implementation section update; and

Whereas, on August 23, 2012, the Board approved the request to extend the implementation section update to December 31, 2014, and

Whereas, the Houston County Board of Commissioners submitted the Houston County Plan 2013 Amendment to the Board on October 11, 2013; and

Whereas, this 2013 Amendment contains the updated five-year implementation section as ordered by the Board; and

Whereas, the Board has completed its review of the 2013 Amendment.

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

FINDINGS OF FACT

1. On July 28, 2010 and November 21, 2011, Board staff sent information on the amendment process to Houston County and the Root River SWCD.

2. On December 26, 2012 Houston County passed a resolution and submitted it to the Board 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 December 26, 2012, Houston County authorized establishment of the Water Management Advisory Committee to initiate the five-year implementation section update.

4. On August 8, 2013, Houston 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.

5. Houston County received written comments from the Minnesota Department of Agriculture, the Minnesota Department of Health, and one Houston County landowner. The Minnesota Board of Water and Soil Resources attended the water plan task force meeting(s) and provided comments.

6. No other state agency or local government unit provided written comments to Houston County.

7. The final document developed by Houston County, which includes the revised five-year implementation section 2013 - 2017 is entitled the Houston County Comprehensive Water Plan 2007 - 2017.

8. On September 24, 2013, after providing for proper public notice, Houston County conducted a public hearing on the proposed 2013 Amendment. No additional comments were submitted at the hearing.

9. On October 11, 2013, the BWSR received the Houston County 2013 Amendment, a record of the public hearing, and copies of all written comments supplied at the hearing pertaining to the 2013 Amendment, pursuant to M.S. Section 103B.314, Subd. 6.

10. On November 7, 2013, the Board's Southern Region Committee (Committee) reviewed the Houston County 2013 Amendment, pursuant to 103B.301 and guidelines established by the Board. Board regional staff provided its recommendation of approval to the Committee. The Committee voted to recommend approval to the full Board at its next scheduled meeting.

11. This 2013 Amendment will be in effect until **December 31, 2017.**

CONCLUSIONS

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

2. The Houston County 2013 Amendment attached to this Order states goals, objectives and actions the County will address in the five-year implementation section 2013–2017. The 2013 Amendment, as well as the previously approved Houston County 2007 – 2017 Local Water Management Plan Update, is in conformance with the requirements of M.S. Section 103B.301.

ORDER

The Board hereby approves the attached 2013 Amendment of the Houston County Local Water Management Plan for 2013 –2017. Houston County will be required to provide for a complete update of its Water Management Plan prior to December 31, 2017.

Dated at St. Paul, Minnesota, this **18th day of December 2013**.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

_____

BY: Brian Napstad, Chair

Houston County

Comprehensive Water Plan

2007 – 2017

Table of Contents

Introduction 3

Commissioners, Water Plan Advisory Board, RRSWCD Board 4

Executive Summary 5

Houston County Watersheds 6

Root River Watershed 6

Upper Iowa Watershed 7

Upper Mississippi—Reno Watershed 7

Upper Mississippi—La Crescent Watershed 8

Priority Concerns 9

Issue 1: Changes in Agriculture and Affects on Water Resources 10

Issue 2: Impact of Development on the Sensitive Karst Topography 12

Issue 3: Recreation Uses of Water and Impact to the Environment 14

Issue 4: Education and Awareness of Resources and Sensitivity 15

Issue 5: Ground Water Sensitivity in Karst Topography 18

Goals 21

5-Year Implementation Schedule 23

Ongoing Practices 30

Appendix 31

Acronym Key

Executive Summary

The purpose of this plan is to identify the primary water resource concerns of local citizens and outline strategies to address those concerns through sound public policy, coordinating implementation with cooperating agencies and partners. These local citizen concerns are referred to as "Priority Concerns."

The Priority Concerns identified for Houston County are:

Goal 1: Protect ground water in order to maintain an adequate supply of safe drinking water for current and future generations.

Goal 2: Improve surface water quality in rivers and streams in Houston County.

Goal 3: Manage storm water runoff to minimize risk to human life, property and the environment.

Goal 4: Optimize recreational uses of water resources.

Goal 5: Review of local and regional plans and ordinances for compliance/compatibility.

An in-depth discussion of these concerns is outlined on the attached Priority Concerns Scoping Document. Houston County Water Plan was originally adopted in March1990 and updated in 1996, 2000 and expired on December 30, 2007. The current plan adopted in 2007 is being updated in 2013 and expires December 30, 2017.

We have provided an analysis of the watershed units as well as groundwater systems. Because of the complex interconnectivity of surface and groundwater in our Karst topography along with similarities in land use and physical characteristics, Houston County has addressed resource concerns across watershed boundaries.

Five major goals identified in the priority scoping document will be addressed through focus on efforts to reduce negative impacts of changes in agriculture and land use and implement cost effective measures to prevent potential degradation of resources through new and/or innovative applications of technology. A combined approach of information and education, technical and financial assistance from federal, state, county and private agencies, together with regulations will be utilized. An estimated $740,000 cash along with in-kind services will be expended from 2012 – 2017.

Every effort has been made to maintain consistency with other local water management plans and to coordinate efforts with local, state, and federal plans and contacts. The plan covers the policies, goals, and effectiveness which the county intends to follow over the coming ten years (2007 – 2017).

Implementation Schedule

GOAL #1 – Protect ground water in order to maintain an adequate supply of safe drinking water for current and future generations					
Issues/Objectives	**Actions/Brief Description**	**Lead Agency(ies)**	**Est. Cost In-kind/Cash**		**Timeline**
A. Provide technical and financial assistance to land users to properly manage and utilize agriculture nutrients	*1. Provide technical assistance on ag waste management on 20 per year.*	SWCD/SRF	*5,000/yr*	*15,000/yr*	*2012 – 2017*
	2. Establish demonstration plot exploring manure application rate and nitrogen/phosphorus rates.	*UME*	*500/yr*	*1,500*	*2014*
	3. Manure Application Field Day.	*SWCD – UME*		*1,000*	*2014*
B. Address non-conforming Individual Sewage Treatment Systems (ISTS)	*1. Update 50 non-conforming ISTS.*	*Zoning*	*10,000/yr*	*9,000/yr*	*Ongoing*
	2. Inspect all new & upgraded ISTS.	*Zoning*	*10,000/yr*	*9,000/yr*	*Ongoing*
	3. Administer Ag BMP loan program.	*Zoning*	*3,000/yr*	*0*	*Ongoing*
	4. Enter all new & upgraded ISTS inspections on a parcel bases.	*Zoning*	*1,000/yr*	*2,000/yr*	*2013/Ongoing*
C. Well Tests	*1. Offer free infant well tests to15 families/year.*	*Public Health*	*500/yr*	*500/yr*	*Ongoing*
	2. Offer well water testing kit at low cost to landowners.	*SWCD*	*300/yr*	*300/yr*	*Ongoing*
	3. Participate in SE MN Domestic Well Network.	*SWCD*	*2,000/yr*	*2,000/yr*	*2013 - 2015*
	4. Provide annual free nitrate testing to Houston County residents.	*SWCD*	*500/yr*	*500/yr*	*Ongoing*
	5. Prepare two news articles annually on well testing.	*SWCD*	*500/yr*	*500/yr*	*Ongoing*
	6. Prepare posters on prenatal and infant care & place where appropriate.	*Public Health*	*300*	*300*	*2014*
D. Support community public water suppliers in implementing their wellhead protection plans	*1. Provide financial incentives for sealing unused unsealed wells with priority give to those wells in Drinking Water Supply Management Areas.*	*Zoning*	*1,000/yr*	*10,000/yr*	*Ongoing*

Implementation Schedule

GOAL #2 – Improve surface water quality in rivers and streams in Houston County					
Issues/Objectives	**Actions/Brief Description**	**Lead Agency(ies)**	**Est. Cost In-kind/Cash**		**Timeline**
A. Explore methods to slow decline in perennial vegetation	*1. Promote existing programs which offer incentives to establish/maintain perennial vegetation.*	UME/SWCD	*1,000/yr*	*5,000/yr*	*2012 – 2017*
	2. Develop local/regional incentives to establish 1,000/acres of perennial vegetation annually.	UME/SWCD	*5,000/yr*	*10,000/yr*	*Ongoing*
	3. Information/education campaign on importance of hay land for erosion control and runoff reduction.	UME/HC	*500/yr*	*500/yr*	*Ongoing*
	4. Assist with implementation/ administration of programs that support/promote animal agriculture.	UME/SWCD	*0*	*0*	*Ongoing*
	5. Promote perennial vegetation within the riparian zone through buffer initiatives that reduce sediment delivery and nutrient reduction. Goal of 20 acres annually.	SWCD/TNC	*1,000/yr*	*5,000/yr*	*2014 - 2017*
B. Provide incentives to adopt conservation practices which will offset the effects of current cropping trends on runoff and erosion in Houston County	*1. Establish incentive program to plant 500 acres of fall cover crops.*	SWCD/TNC	*1,000/yr*	*7,500/yr*	*2013*
	2. Continue technical assistance to the NRCS through contribution agreements and other related programs to install approved EQIP conservation practices.	SWCD	*2,500/yr*	*5,000/yr*	*2012 - 2017*
	3. Seek federal, state and local grants including but not limited National Fish & Wildlife (NFWF), Emergency Defense Fund (EDF), Clean Water Fund (CWF), and The Nature Conservancy to provide cost share and technical assistance to landowners for	SWCD	*500/yr*	*500/yr*	*Ongoing*

Implementation Schedule

	conservation practice implementation county wide.				
	4. Conduct one annual meeting with county commissioners and watershed groups to discuss funding mechanisms for BPM installation.	SWCD	*500/yr*	*500/yr*	*Annually*
	5. Continue partnership opportunities with The Nature Conservancy and NRCS to install 500 linear ft of stream bank restoration and 30 acres of stream bank buffers and 20 BMP's within priority areas of the Root River Watershed.	SWCD/NRCS/TNC	*5,000/yr*	*50,000/yr*	*2013 - 2017*
	6. Provide technical and administrative assistance to the Crooked Creek Watershed to implement their watershed plan.	SWCD	*1,000/yr*	*11,000/yr*	*Ongoing*
	7. Contact ARS (Agriculture Research Station) to obtain cover crop data information for Houston County landowners and conduct one landowner workshop.	UME/SWCD/BWSR/ NRCS	*500*	*500*	*2015*
	8. Assist Minnesota Board of Water & Soil Resources (BWSR) in the conservation practice implementation and enhancement of the Hokah Wetland Bank Project. Plant/maintain 15 acres of trees. Enhance/maintain 80 acres of native grass plantings.	SWCD	*0*	*20,000*	*2013 - 2014*
	9. Provide outreach to landowners/landlords throughout the county through two annual news articles on the importance of conservation planning and installation of recommended practices. Goal of 20 per year.	SWCD	*1,500/yr*	*500/yr*	*Ongoing*
	10. Provide guidance, cost share assistance and recommendations to	SWCD/NRCS	*1,000/yr*	*20,000*	*2014 - 2017*

Implementation Schedule

	20 Bee/Duck Creek Watershed landowners through the federal EQIP program.				
	11. Provide technical assistance and cost-share to 30 private forest landowners using various programs (CRP, EQIP, State) for forest stewardship activities that reduce runoff, improve wildlife habitat and maintain, expand and improve perennial cover.	DNR Forestry/FSA/ NRCS/BWSR/SWCD	*1,000*	*125,000/ yr*	*2016*
	12. Continue prioritization and promotion of BMPs using LiDAR and the Stream Power Index (SPI) as a way to target sensitive landscape features that contribute a disproportionate amount of sediment and nutrients.	SWCD	*1,000/yr*	*0*	*Ongoing*
C. Provide technical and financial assistance on feedlots	*1. Provide planning and financial assistance for low-cost feedlot fixes on five (5) lots per year.*	Zoning/SWCD	*10,000/yr 5,000 yr*	*30,000/yr 0*	*2013 2014-2017*
	2. Provide technical assistance to Houston County to conduct inspections and provide maintenance recommendations on 7% of open lot agreements (OLA program) per year.	SWCD	*15,000/yr*	*15,000/yr*	*2012 - 2017*
	3. Promote residue management on 500 acres of highly erodible land annually.	SWCD	*1,000/yr*	*1,000/yr*	*Ongoing*
	4. Encourage wetland restoration on two (2) sites in Houston County.	SWCD	*500/yr*	*500/yr*	*2013 - 2017*
	5. Plan and implement grazing plans on 250 acres of sensitive areas annually.	SWCD/NRCS	*300/yr*	*1,000/yr*	*Ongoing*
D. Provide technical and financial assistance to land users to establish practices which will reduce discharge of	*1. Continue ongoing partnership with county feedlot officer to address open lot agreement workload.*	SWCD	*2,500/yr*	*5,000/yr*	*Ongoing*

Implementation Schedule

pollutants from animal feedlots					
	2. Assist JPB with two (2) large feedlot storage and runoff projects.	SWCD	*500/yr*	*1,000/yr*	*Ongoing*
E. Develop additional alternatives to promote non-traditional livestock operations	*1. Prepare and submit an annual news article on information and opportunities for non-traditional livestock operations and agricultural operations that support the use of perennial vegetation.*	UME/SWCD	*100/yr*	*100/yr*	*Ongoing*
	2. Provide most updated information and material related to non-traditional livestock operation and provide guidance and contacts to interested residents.	UME/SWCD	*300/yr*	*300/yr*	*Ongoing*

GOAL #3 – Manage storm water runoff to minimize risk to human life, property and the environment					
Issues/Objectives	**Actions/Brief Description**	**Lead Agency(ies)**	**Est. Cost In-kind/Cash**		**Timeline**
A. Provide technical and financial assistance to establish practices that reduce sediment delivery	*1. Provide financial incentives to establish five (5) push-up ponds annually.*	SWCD	5,000/yr	*5,000/yr*	*2012 – 2017*
	2. Develop program providing storm water retention through road culvert/or ditch size reduction on two (2) township and county roads annually.	SWCD/HC DOT	*1,000/yr*	*1,000/yr*	*2013 - 2017*
B. Explore opportunities to reduce peak flow from rural and urban residential development	*1. Provide home site evaluations on average of 12 rural building sites per year.*	Zoning/SWCD	5,000/yr	*500/yr*	*Ongoing*
C. Explore opportunities for solutions to flooding concerns throughout the county, including prioritization of water retention/flood storage using LiDAR Terrain Analysis and	*1. Participate with US Fish and Wildlife Service, Root River Citizens Committee and other partners.*	SWCD/USFS/ Root River CC	*500/yr*	*100/yr*	*Ongoing*

Implementation Schedule

solicitation of funding sources for project costs and technical assistance along with utilizing upstream jurisdiction and other partners					
D. Provide administrative and technical assistance to address issues related to existing wetland within Houston County	*1. Assist the county in administrating the Wetland Conservation Act (WCA).*	SWCD	*12,000/yr*	*12,000/yr*	*Ongoing*
E. New Technology	*1. Provide funding and in-kind contributions for improved technology using LiDAR, stream monitoring projects and computer design software in an effort to enhance natural resource protection.*	SWCD/NRCS/BWSR /DNR/DOT/Houston County	*1,000/yr*	*20,000/yr*	*2013 - 2017*
	2. Discuss and prepare staff training needs for both technical and administrative employees.	SWCD	*500/yr*	*500/yr*	*Ongoing*
F. Flood retention	*1. Complete 2007, 2008 flood workload (Staggemeyer site 2).*	SWCD	*5,000*	*90,000*	*2013 -2014*
	2. Provide annual maintenance on existing Winnebago Watershed flood control structures.	SWCD	*3,000/yr*	*3,000/yr*	*2012 - 2017*
	3. Provide technical and planning assistance to the Bee/Duck Creek, Crooked Creek and Winnebago Watershed committees.	SWCD	*500/yr*	*500/yr*	*Ongoing*
	4. Seek funding opportunities for cost share assistance through the Clean Water Grant proposal to install flood retention structures within the Bee/Duck Creek, Crooked Creek and Winnebago Watersheds.	SWCD	*1,000/yr*	*1,000/yr*	*Ongoing*

Implementation Schedule

GOAL #4 – Optimize recreational uses of water resources					
Issues/Objectives	**Actions/Brief Description**	**Lead Agency(ies)**	**Est. Cost In-kind/Cash**		**Timeline**
A. Recreation access to water resources	*1. Operate Wildcat Park.*	Houston County Auditor	*2,000/yr*	*0*	*Ongoing*
	2. Develop Botcher Park.	Houston County	*2,000/yr*	*5,000/yr*	*Ongoing*
	3. Provide access information on Houston County Hwy. maps.	Houston County DOT	*1,000/yr*	*0*	*Ongoing*

GOAL #5 – Review of local and regional plans and ordinances for compliance/compatibility					
Issues/Objectives	**Actions/Brief Description**	**Lead Agency(ies)**	**Est. Cost In-kind/Cash**		**Timeline**
A. Administer all provisions of Houston County Water Plan	*1. Staff part-time Water Plan Coordinator.*	SWCD	*6,000/yr*	*12,000/yr*	*Ongoing*
	2. Continue participation on SE WRB.	SWCD	*500/yr*	*4,000/yr*	*Ongoing*
	3. Review local/regional plans to insure compliance with Water Plan.	SWCD	*500/yr*	*0*	*As Needed*

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Nobles County Water Management Plan Five-Year Amendment**

Meeting Date: December 18, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Southern Region

Contact: Jeff Nielsen

Prepared by: Carla Swanson-Cullen

Reviewed by: Southern Region 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

LINKS TO ADDITIONAL INFORMATION

Nobles County Five-Year Amendment

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

On March 25, 2009, the Board of Water and Soil Resources (BWSR), by board order, approved the Nobles County 2009 – 2019 ten-year Comprehensive Local Water Plan Update. The Plan contained an implementation section with goals, objectives, and action steps covering a five-year period of 2009 - 2014. The Board Order stipulated that Nobles County was required to revise / update this implementation section by March 25, 2014.

On April 2, 2013 the Nobles County Board of Commissioners resolved to amend its five-year implementation section as directed by BWSR. Nobles County conducted a public hearing on the plan on October 22, 2013. The County followed the process for amending as described within the Comprehensive Local Water Management guidance document developed by BWSR.

On October 22, 2013 the BWSR regional staff received the 2013 Amendment to the Nobles County Comprehensive Local Water Plan. The 2013 Amendment contains an Executive Summary and a new 2014 - 2018 implementation section. The amendment has prioritized action items in the implementation section of the plan. The implementation section addresses the following priority concerns:

- Surface Water Quality
- Drainage Management
- Public Water Supply

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 **Nobles County** (Minnesota Statutes, Section 103B.314, Subdivision 6)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN AMENDMENT

Whereas, on March 25, 2009, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Nobles County 2009 – 2019 Local Water Management Plan Update (Plan), which contained a 2009 – 2014 five-year Implementation section; and

Whereas, this Board Order stipulated that Nobles County was required to update the implementation section by March 25, 2014; and

Whereas, the Nobles County Board of Commissioners submitted the Nobles County Plan 2014 Amendment to the Board on October 22, 2013; and

Whereas, this 2013 Amendment contains the updated five-year implementation section as ordered by the Board; and

Whereas, the Board has completed its review of the 2014 Amendment.

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

FINDINGS OF FACT

1. On April 2, 2013, Nobles County passed a resolution 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 July 9, 2013, Nobles 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.

3. On July 23, 2013, Board staff sent information on the amendment process to Nobles County and Nobles SWCD.

4. On August 1, 2013 and September 18, 2012, Nobles County convened its water plan task force and held public update information meetings to develop the five-year implementation update.

5. Nobles County received written comments from the Minnesota Department of Agriculture, the Minnesota Board of Water and Soil Resources, and one Nobles County landowner. The Minnesota Board of Water and Soil Resources attended the water plan task force meeting(s) and provided comments.

6. No other state agency or local government unit provided written comments to Nobles County.

7. The final document developed by Nobles County, which includes the revised five-year implementation section 2013 – 2018 is entitled the Nobles Local Water Management Plan, a 10-year plan with a five-year implementation schedule 2009-2018, 2013 Amendment.

8. On October 22, 2013, after providing for proper public notice, Nobles County conducted a public hearing on the proposed 2013 Amendment. No additional comments were submitted at the hearing.

9. On October 22, 2013, the BWSR received the Nobles County 2013 Amendment.

10. On October 31, 2013 the BWSR received a record of the public hearing, and copies of all written comments supplied at the hearing pertaining to the 2013 Amendment, pursuant to M.S. Section 103B.314, Subd. 6.

11. On November 7, 2013, the Board's Southern Region Committee (Committee) reviewed the Nobles County 2013 Amendment, pursuant to 103B.301 and guidelines established by the Board. Board regional staff provided its recommendation of approval to the Committee. The Committee voted to recommend approval to the full Board at its next scheduled meeting.

12. This 2013 Amendment will be in effect until **March 25, 2019.**

CONCLUSIONS

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

2. The Nobles County 2013 Amendment attached to this Order states goals, objectives and actions the County will address in the five-year implementation section 2013–2018. The 2013 Amendment, as well as the previously approved Nobles County 2009 – 2018 Local Water Management Plan Update, is in conformance with the requirements of M.S. Section 103B.301.

ORDER

The Board hereby approves the attached 2013 Amendment of the Nobles County Local Water Management Plan for 2013 –2018. Nobles County will be required to provide for a complete update of its Water Management Plan prior to March 25, 2019.

Dated at St. Paul, Minnesota, this **18th day of December 2013**.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

_____

BY: Brian Napstad, Chair

NOBLES LOCAL WATER MANAGEMENT PLAN

A 10-year plan with a five-year implementation schedule 2009-2018

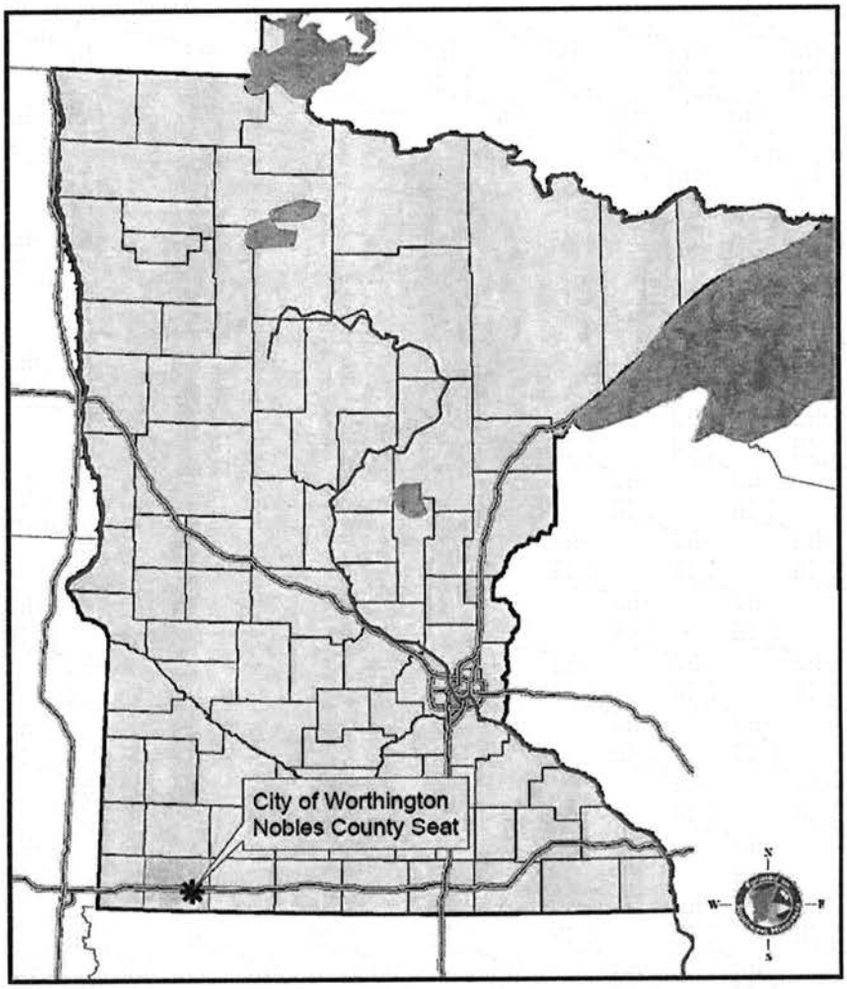
2013 AMENDMENT

*****DRAFT*****

*****10/22/13*****

Prepared for the Nobles County Local Water Management Plan Task Force
By Nobles Soil & Water Conservation District and
Nobles County Environmental Services

Covering Nobles SWCD, Nobles County Environmental Services,
Kanaranzi-Little Rock Watershed District, Okabena-Ocheda Watershed District



A. Executive Summary

Nobles County is located in southwestern Minnesota, adjacent to Rock, Murray, Cottonwood, and Jackson counties. Iowa's Lyon and Osceola counties are located south of the state line. The City of Worthington is the county seat. Nobles County's population in the 2010 U.S. Census was 21,378.

Nobles County is divided between the Mississippi and Missouri major water basins. The West Fork Des Moines major watershed flows east into the Heron Lake system. The Little Sioux watershed drains southeast into Iowa. The Rock River watershed drains the western part of the county south and west. Groundwater is the primary source of drinking water.

A.1 Purpose & Introduction

The *Nobles Local Water Management Plan* is intended to identify existing and potential water issues in the context of watershed units and groundwater systems, informing specific implementation actions to achieve goals for sound hydrological management of water and related resources.

Nobles County developed a unified comprehensive water resources management plan for the entire county over a period from 1994 to 1998, incorporating the Nobles Soil and Water Conservation District (SWCD) comprehensive plan and watershed district plans for the Kanaranzi-Little Rock Watershed District (KLRWD) and Okabena-Ocheda Watershed District (OOWD). While not a formal member of this plan, the Heron Lake Watershed District (HLWD) is an important collaborator on water planning in Nobles County. The KLRWD also includes areas of Rock County.

A.1.a Plan Requirements

In 2008 Nobles County developed a unified comprehensive water resources management plan for the entire county incorporating the Nobles County Local Water Plan, Nobles SWCD comprehensive plan and watershed district plans for the KLRWD and OOWD. This was a collaborated effort to achieve goals for sound hydrological management of water and related sources. The plan is a ten-year plan effective until March 25, 2019. However it was developed with a five-year implementation schedule. The plan is now being reviewed and updated including a new five-year implementation schedule. The intent is that this plan is to continue to cover the four participating water management organizations.

Requirements of a local water plan are set forth in current state statute (Minnesota Statute §103B.311, Subd. 4.). The plan must address management of water, effective environmental protection, and efficient resource management, and must be consistent with local water management plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or ground water systems. This Water Plan is a ten-year management plan with a five-year implementation schedule.

SWCDs often adopt the local water management plan as their comprehensive plan required for certain state funding, as long as the plan has details of "high priority erosion problems" and "high priority water quality problems". Watershed Districts have additional requirements to meet for their Watershed Management Plan, which like the SWCD are subject to Board of Water and Soil Resources (BWSR) guidelines and are implemented in more detailed work plans. Minn. Stat. §103D.405 requires that a revised watershed management plan include:

> (1) updates and supplements of the existing hydrological and other statistical data of the watershed district;
>
> (2) specific projects and programs to be considered for implementation;
>
> (3) a statement of the extent that the purposes for which the watershed district had been established have been accomplished;
>
> (4) a description of problems requiring future action by the watershed district;
>
> (5) a summary of completed studies on active or planned projects, including financial data; and
>
> (6) an analysis of the effectiveness of the watershed district's rules and permits in achieving its water management objectives in the watershed district.

This plan attempts to balance the requirements of each water management organization to achieve a useful, strategic document that is easily understandable and useful for decision makers and residents of Nobles County. It is intended to describe a vision for the future, not as an encyclopedic reference of the past. Historical information contained in previous editions of the water plan are incorporated by reference.

A.1.b Accomplishments

Major accomplishments under Nobles County's previous water management plans included from 2009-2013:

- Appointed Co-Water Planners in the SWCD and County Environmental Office.
- Provided technical assistance for wellhead protection updates for the cities of Ellsworth, Adrian, Lismore, Worthington and the Community of Leota.
- Partnered with the HLWD for continuation of a Minnesota Pollution Control Agency (MPCA) Clean Water Partnership (CWP) grant.
- Supplied data and collected surveys for a Red Rock Rural Water project to bring water to the four townships in southeast Nobles County.
- Funded a conservation tillage cost-share program for the Upper Elk Creek.
- Provided Funding and staff time to an annual education program by the Prairie Ecology Bus Center for local schools.
- Participated in the multi-state Upper Des Moines River Watershed Accelerated Implementation Plan.
- Completion of 1 Critical Area Planting.

- Completion of 28 Grassed Waterways
- Completion of 232 Terraces and Water and Sediment Control Basins
- Completion of 4 Clean Water Diversions
- Planted 52.7 acres of Farmstead Windbreaks
- Installed 600 feet of Field windbreaks.
- Planted 13.3 acres of private wildlife plantings.
- Enrolled and planted 41.5 acres of riparian buffers.
- Enrolled 29.7 acres of permanent easements.
- Enrolled/re-enrolled 1131.7 acres of non-wetland Conservation Reserve Program (CRP) acres.
- Enrolled/re-enrolled 90.4 acres of wetland practice CRP acres.
- Assisted with the completion of 20 Nutrient Management Plans.
- Assisted with the completion of 7 Ag. Waste Management systems.
- Protection of 2400 feet of streambank and shoreland areas.
- Partnered with neighboring counties with a MPCA funded Watershed Coordinator for the Missouri River Total Maximum Daily Load (TMDL).
- Completed water sampling needed for Missouri River TMDL.
- Completed MPCA Stream Water Assessment Grants related to streams and lakes in Nobles County.
- KLRWD received $350,000 of American Recovery and Reinvestment Act (ARRA) Funds for watershed improvement projects.
- Applied for and received $157,058 in Clean Water Assistance Grant Funds in 2010 for remaining projects that requested KLR ARRA.
- Applied for and received $154,000 in Clean Water Assistance Grant funds in 2011 to restore/protect 1,600 feet of Lake Ocheda Shoreline.
- Applied for and received $165,263 in Clean Water Assistance Grant funds in 2011 to improve a feedlot on a tributary of the Kanaranzi Creek.
- Applied for and received $241,308 in Clean Water Assistance Grant Funds in 2012 to mitigate feedlot pollution problems on a tributary of the Kanaranzi Creek.
- Applied for and received $285,508 in Clean Water Assistance Grant funds in 2013 for erosion control practices such as terraces, waterways, and streambank stabilization practices.
- Applied for and received $176,933 to complete 2 feedlot improvement projects including mitigating one pollution sites adjacent to the City of Lismore's Wellhead Protection Area and one on Lake Ocheda.
- Provided technical assistance to the HLWD in developing the WFDMR and Heron Lake TMDL Implementation Plan which was approved in September of 2009.
- Entered into a Memorandum of Agreement (MOA) with Nobles, Jackson, Murray, Cottonwood, Martin, Pipestone, and Lyon Counties and SWCDs and the HLWD in October 2009 to leverage funds and resources by solidifying our commitment to the WFDMR watershed. This MOA allows those involved to

maximize resources more effectively, provide new opportunities, and establish a diverse, unique commitment. Coordination among local government units is needed to maximize the benefits of the efforts and available resources, while providing the best possible avenues to address the environmental, educational, economic, and agricultural needs of the watershed, its communities, and its residents.

- Offered cost-share for the installation of alternative tile intakes to replace open tile intakes through a CWP grant awarded to the HLWD. The grant ran until June 2013. Fifty-six alternative tile intakes were replaced in Nobles County.
- Partnered with county feedlot officers and SWCD staff in Nobles, Jackson, Murray, and Cottonwood Counties, and HLWD staff to complete an intensive, onsite inventory and inspection (Level III Feedlot inventory) of eighty percent of the feedlots (592) in the WFDMR watershed through inkind contributions. The inventory is instrumental in order to gage the need for funds to address the feedlots and ultimately decrease the bacteria concentrations in the streams and rivers. A staff person dedicated to the project was hired to promote the project and seek additional funding for implementation and education. Project partners will host a one-day manure management workshop for feedlot owners and operators, develop a project brochure and website, and conduct committee meetings.
- Partnership between Pheasants Forever, Department of Natural Resources (DNR), Worthington Public Utilities and OOWD to purchase 8 parcels of marginal agricultural land totaling 320 acres in the Bella wellhead protection area. Permanent prairie habitat and wetland restorations were completed to protect the aquifer from pollution and promote groundwater recharge.
- Provided cost-share to seal 19 unused wells and replace 8 non-compliant septic systems in the OOWD.
- Partnership between Minnesota West Community and Technical College, City of Worthington, Olson Trust and OOWD to enlarge a new regional storm water pond to slow flow and treat runoff from a 70-acre agricultural watershed.

Nobles Loans Water Management Plan

AgBMP Loans -- New and Revolving Funds

	Tillage Equipment		Ag Waste		SSTS Upgrades		Erosion Control	
2005	7	222,900	1	31,500	4	20,800	2	16,900
2006	7	174,700	6	285,545	2	9,500		
2007	15	300,870	2	26,850	1	5,000		
2008	4	139,790	7	210,350	3	22,060		

2009	6	249,300	4	111,150	3	25,661	
2010	5	168,800	5	190,300	1	7,600	
2011	6	176,650	3	71,837	1	11,700	
Source: Nobles SWCD							

A.1.c Plan Update, Adoption and Amendment

Nobles SWCD and Nobles County Environmental Services (ENVS) are responsible for local water management in Nobles County, including facilitation of public input and convening the Local Water Management Task Force. Nobles County Environmental Services and the Nobles SWCD were tasked with the Plan Amendment process.

Task Force membership included:

- Ed Lenz, Nobles Soil & Water Conservation District
- Wayne Smith, Nobles County Environmental Services
- Jane Steffl, Nobles Soil & Water Conservation District
- John Shea, Nobles Soil & Water Conservation District
- Paul Langseth, Nobles Soil & Water Conservation District
- Dawn Madison, NRCS Worthington F.O.
- Dan Livdahl, Okabena-Ocheda Watershed District
- Coleen Gruis, City of Rushmore
- Marvin Zylstra, Nobles County Commissioner
- Gene Metz, Nobles County Commissioner
- Mark Hiles, MN Board of Water & Soil Resources
- Jan Voit, Heron Lake Watershed District
- Bruce Heitkamp, Kanaranzi-Little Rock Watershed District
- Stephanie McLain, Natural Resources Conservation Service
- Jerry Lonneman, Lincoln-Pipestone Rural Water
- Eric Roos, Worthington Public Utilities
- Lynn Darling, Nobles Soil & Water Conservation District
- Ken Wolf, Nobles Soil & Water Conservation District
- James Knips, Nobles Soil & Water Conservation District
- Chessa Frahm, Missouri River Basin

Technical Committee

- Ed Lenz, Nobles Soil & Water Conservation District, Kanaranzi –Little Rock WD
- Wayne Smith, Nobles County Environmental Services
- Al Langseth, Nobles County Environmental Services
- Dan Livdahl, Okabena-Ocheda Watershed District
- Jan Voit, Heron Lake Watershed District
- Chessa Frahm, Missouri River Watershed Coordinator

The following public and internal forums and meetings were held to provide public input into the update process:

12/6/12	Update planning meeting w/SWCD, County ENVS Office, KLR and O-O watershed districts, BWSR (5 att.)
4/2/13	Nobles Board of County Commissioners adopts resolution to update.
7/9/13	Mail/email Notice to Revise and Update to BWSR routing list, adjacent counties, cities & townships.
8/1/13	Local Water Plan Public Update Information Meeting held at Nobles County Public Works Building, Worthington (22 att.)
9/18/13	Local Water Plan Public Update Information Meeting held at Nobles County Public Works Building, Worthington
9/30/13	First Draft of Water Plan Amendment published on SWCD website.
10/2/13	Worthington Daily Globe publishes article notifying public on water plan update and request for public comment.
10/11/13	Public comment period closed.
10/11/13	Second Draft of Water Plan Amendment published on SWCD website.
10/12/13	Notice of Public Hearing Published in *Worthington Daily Globe.*
10/17/13	Technical Committee Meeting Held at Nobles County Public Works Building, Worthington
10/22/13	Public Hearing before Nobles County Board of Commissioners.

Upon approval of this plan amendment by the Board of Water and Soil Resources (BWSR), the County Board has up to 120 days to pass an Adoption and Implementation Resolution. After final adoption, the plan may be amended in a similar process, by petitioning the BWSR Board, scheduling a public hearing, and sending notice to the required parties.

Approximately two years—and no later than 18 months—prior to the end of the five year management schedule, the County Board should consider a new Resolution to update this plan, according to the rules then in place.

A.2 Description of Priority Concerns

The Priority Concerns listed below were selected by the Water Plan Task Force members by consensus, after carefully reviewing submitted concerns and comments, and then refined based on discussion in public meetings. While the assessment of priority concerns utilized the best available information, this plan rests solidly on data and analysis contained in previous editions of the county's local water management plan.

Priority Concern 1. Surface Water Quality.

Minnesota has an abundance of surface waters. A number of these waters in Nobles County and the region are listed as TMDL Impaired by MPCA and the U.S. Environmental Protection Agency (EPA). Impaired waters affect both the local environment and communities' ability to provide for their future. High priority soil erosion problems continue to be present, while management of nutrients, feedlots and sewage treatment systems require ongoing attention.

Priority Concern 2. Drainage Management.

The landscape of Southwest Minnesota has changed greatly since settlement. Management of the resulting drainage system—the modern hydrograph—is often disjointed and uncoordinated, leading to issues with both quantity and quality of water. Flooding and stormwater retention remain concerns across the county. There are also particular issues in the region with wetlands, habitat and critical species.

Priority Concern 3. Public Water Supply.

A long-term, sustainable supply of surface and ground water is essential to growth and development in Nobles County. There is particular concern with wellhead protection, protection of critical lands, and provisions for both urban and rural water supply systems.

A.3 Summary of Goals, Actions, and Projected Costs

Goals and Actions were selected to address priority concerns, with a focus on principles of sound hydrological management.

Priority Concern 1. Improve Surface Water Quality.

This concern will be addressed to prevent further degradation of stream and lake water quality, with a priority for shoreland areas, TMDL-listed waters, and un-sewered communities. Objectives include addressing TMDL impaired waters, preventing soil erosion; promoting agricultural best management practices (AgBMPs), and facilitating compliance of nutrient management, feedlot and septic treatment systems with state and federal requirements.

Implementation actions include promotion and education, administration and review of plans and ordinances, working with state and federal agencies on measures to improve water quality, technical assistance with programs and best

management practices, financial incentives for conservation practices, and development of information systems.

Projected costs over the five years of the management plan to implement all actions would include about $75,000 for TMDL plans and implementation, $4,152,500 to complete projects including TMDL implementation projects, $617,000 for technical assistance and administration, $590,000 for buffer programs, $300,000 for developing a soil loss ordnance, and $51,250 for outreach and education, as well as annual in-kind services. All dollar figures are rough estimates and recognize approximate known costs of identified implementation partners.

Priority Concern 2. Drainage Management.

This concern will be addressed to restore more natural flows in the drainage system, focusing on shoreland areas. Objectives include improving shoreland and impervious surface areas; improving flood control, drainage systems and stormwater retention; encouraging wetland restoration; and addressing habitat and critical species issues.

Implementation actions include providing education and outreach, administration and review of rules and ordinances, maintenance of GIS data, technical assistance with conservation and wetlands projects, and mitigation improvements in flood control.

Projected costs would include about $6,165,000 for the flood control project on County Ditch 12 in Worthington, $2,565,000 for best management practices (BMP's), $1,500,000 for conservation practices and easements for wetland restorations, $300,000 for development of a Comprehensive Drainage Management Plan, $500,000 for Re-determination of benefits, $95,000 for technical assistance and administration, and $62,500 for outreach and education, as well as annual in-kind services.

Priority Concern 3. Public Water Supply.

This concern will be addressed to assure long-term quality and quantity of water supplies, with a priority for drinking water supply management areas and areas not currently served by public/community systems. Objectives include encouraging well head protection, preventing groundwater contamination, facilitating land retirement, and supporting rural water systems and long-term water supplies.

Implementation actions include outreach and education, technical assistance and incentives for landowners and water providers, review of plans and ordinances, maintenance of GIS data, providing assistance to seal unused wells, cooperative efforts for land retirement, and working with cities and water providers for long-term water supplies.

Projected costs would include about $2,600,000 towards land retirement partnerships including RIM, WRP, and other easement programs. $20,000 for

assistance to landowners sealing unused wells, $102,360 for technical assistance and administration, and $12,250 for outreach and education, as well as annual in-kind services.

A.4 Consistency with Local, State and Regional Plans

Nobles County Environmental Services administers the County's comprehensive land use plan and zoning ordinance. This helps to maintain consistency between this plan and the County's other plans and ordinances. The County's *comprehensive plan* identifies goals and policies for the County, which has been reviewed for consistency with this water management plan. Task Force members are also familiar with HLWD management documents and operations procedures for KLRWD, and OOWD. While portions of the KLRWD are located in Rock County, Minnesota, this plan has fully considered (and is based on the format of) the *Rock County Water Plan* (revised and adopted 9/2011). No other formal plans were received for review.

A.5 Summary of Recommended Amendments to Other Plans and Official Controls

No specific amendments are recommended at this time. Action items include consideration of updates to zoning ordinances within this document's management timeline. It would be recommended to incorporate data from this plan into other local plans and controls when they are updated.



Lake Okabena. *Photo by SRDC*

COMMITTEE RECOMMENDATIONS

Public Relations, Oversight, & Strategic Planning Committee

1. One Watershed, One Plan Implementation – Jack Ditmore and Doug Thomas – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: One Watershed, One Plan Implementation

Meeting Date: December 18, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region:

Contact: Doug Thomas

Prepared by: Doug Thomas/Melissa Lewis

Reviewed by: Public Relations, Oversight & Strategic Planning Committee(s)

Presented by: Jack Ditmore/Doug Thomas

☐ **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

Adoption of One Watershed, One Plan Guiding Principles
Adoption of Draft Suggested Boundary Framework and initiate formal review and comment period
Adoption of Plan Types
Authorize One Watershed, One Plan Pilot Program – Request for Interest

LINKS TO ADDITIONAL INFORMATION

One Watershed, One Plan - Guiding Principles (attached)
One Watershed, One Plan – Suggested Boundary Framework memo & map (attached)
One Watershed, One Plan – Plan Types memo (attached)
One Watershed, One Plan – Pilot Watershed Request for Interest (attached)

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

The requested Board actions are the first formal steps in the development and roll out of the One Watershed, One Plan program. The One Watershed, One Plan program was initiated in 2011 by the Local Government Water Roundtable (AMC, MASWCD, MAWD) and followed with authorizing legislative authority to BWSR in 2012. The Board's Public Relations, Oversight, and Strategic Planning Committee (PROSP) was charged with assisting in the development of guiding principles and operating procedures that will guide program implementation. The PROSP Committee has met three times and at this time is recommending Board adoption of guiding principles, plan types, and the initiation of a formal review and comment period for a suggested boundary framework. In addition staff are requesting approval to initiate a pilot watershed request for interest. The PROSP committee will continue to meet in 2014 to continue to develop and make recommendations on additional operating procedures and policies necessary to fully implement the One Watershed, One Plan program.

Minnesota Board of Water & Soil Resources

Board Resolution # 13-

ONE WATERSHED, ONE PLAN IMPLEMENTATION

WHEREAS, the Clean Water Fund (CWF) is established in M.S. 114D.50; and,

WHEREAS, Clean Water Funds have been appropriated to BWSR in Laws of Minnesota 2013, Chapter 137, Article 2, Section 7(j) for assistance and grants to local governments to transition local water management plans to a watershed approach as provided for in Minnesota Statutes, chapters 103B, 103C, 103D, and 114D; and

WHEREAS, One Watershed, One Plan was authorized pursuant to M.S. 103B.101, Subd. 14, and which provides that the board may adopt resolutions, policies, or orders that allow a comprehensive plan, local water management plan, or watershed management plan, developed or amended, approved and adopted, according to chapter 103B, 103C, or 103D to serve as substitutes for one another or be replaced with a comprehensive watershed management plan; and,

WHEREAS, M.S. 103B.101. Subd. 14, provides that the board shall, to the extent practicable, incorporate a watershed approach when adopting the resolutions, policies, or orders, and shall establish a suggested watershed boundary framework for development, approval, adoption, and coordination of plans; and

WHEREAS, the Board on June 26, 2013 concurred that a set of guiding principles and operating procedures were necessary to guide and support the development of the One Watershed, One Plan program, and pilot watershed approach; and

WHEREAS, the Board Chair charged the Public Relations, Oversight, and Strategic Planning Committee (PROSP) working with staff to develop and recommend One Watershed, One Plan guiding principles and select operating procedures; and,

WHEREAS, the BWSR Director charged the BWSR Senior Management Team to develop and recommend a Request for Interest to seek local government nominations for a pilot program; and,

WHEREAS, the PROSP Committee on November 14, 2013 and reached consensus on One Watershed, One Plan guiding principles, a draft suggested watershed boundary framework (including initiation of a 60 day review and comment period), and plan types for pilot watersheds and recommends adoption of each by the Board; and,

WHEREAS, the Senior Management Team on November 12, 2014 concurred with the staff recommendation for the pilot program and to seek nominations through a request for interest and recommends initiation of the pilot watershed request for interest by the Board.

NOW THEREFORE BE IT RESOLVED, the Board hereby:

1) Adopts the One Watershed, One Plan Guiding Principles dated November 14, 2013.

2) Adopts the draft One Watershed, One Plan Suggested Boundary Framework map, dated _____ and authorizes staff to initiate a 60 day formal review and comment period for the purpose of seeking review and comment prior to formal adoption of a final Suggested Boundary Framework map at a later date.

3) Adopts the following One Watershed, One Plan Types for Pilot Watersheds:
   a. Water Quality Implementation Plan
   b. Priority Concerns Watershed Implementation Plan
   c. Comprehensive Watershed Management Plan

4) Authorize staff to finalize, distribute and promote a Request for Interest (RFI) for the One Watershed, One Plan Pilot Program.

_____ Date: _____

Brian Napstad, Chair
Board of Water and Soil Resources

Attachments:

One Watershed, One Plan - Guiding Principles, November 14, 2013
One Watershed, One Plan – Suggested Boundary Framework memo & draft map, November 13, 2014
One Watershed, One Plan – Plan Types memo, November 18, 2014
One Watershed, One Plan – Pilot Watershed Request for Interest, December 2013

One Watershed, One Plan

Guiding Principles – **DRAFT, Not Board Approved**

November 14, 2013

Vision: BWSR's vision for *One Watershed, One Plan* is to align local water planning on major watershed boundaries with state strategies towards prioritized, targeted and measurable implementation plans – the next logical step in the evolution of water planning in Minnesota.

Purpose: The purpose of this document is to further outline the *One Watershed, One Plan* vision through providing the guiding principles that will direct and influence the program's future policies and procedures.

One Watershed, One Plan will result in plans with prioritized, targeted, and measurable implementation actions that meet or exceed current water plan content standards.

One Watershed, One Plan will set standards for plan content that will be consistent with or exceed the plan approval standards currently in place for local water plans. Most existing water management plans contain adequate inventories of resources and assessment of issues. *One Watershed, One Plan* will build from this point, with an expanded focus on prioritized, targeted, and measureable implementation of restoration and protection activities. The intent is for these future water plans to use existing plans, local knowledge and other studies and planning documents—including Watershed Restoration and Protection Strategies developed through the Minnesota Pollution Control Agency—to establish plans with clear implementation timelines, milestones, and cost estimates that will address the largest threats and provide the greatest environmental benefit unique to each watershed.

One Watershed, One Plan is not an effort to change local governance.

Local governments have been at the forefront of water management dating back to 1937 with the formation of the State's first soil and water conservation district. One Watershed, One Plan is intended to utilize the existing structures of counties, soil and water conservation districts, watershed districts and Metropolitan watershed management organizations by increasing collaboration and cooperation across political boundaries.

One Watershed, One Plan will strive for a systematic, watershed-wide, science-based approach to watershed management; driven by the participating local governments.

It is important for all communities to take part in managing their watersheds through goal setting, monitoring, restoring and protecting water resources and local habitats and ensuring a good quality of life for all who live, work, and recreate in those spaces. A decided "bottom up" approach for water management—allowing the key discussions of major water resource issues, concerns, problems, goals and objectives and potential solutions to originate and be first fully vetted at the stakeholder level—is envisioned. Expanding involvement and collaboration at the ground-level creates greater buy-in and support at all levels of government.

One Watershed, One Plan will use the state's delineated major watersheds (8-digit hydrologic unit codes or HUC8) as the starting point for defining the preferred scale for local watershed management planning.

The Local Government Water Roundtable (LGWR), a collaboration between the Association of Minnesota Counties, the Minnesota Association of Watershed Districts, and the Minnesota Association of Soil and Water Conservation Districts, determined it is in the public interest to manage ground and surface water resources from the perspective of watersheds and aquifers and to achieve protection, preservation, enhancement, and restoration of the state's valuable water resources. This determination is consistent with the state's water management policy, furthered through legislation passed in 2012 that provided BWSR with: the authority to develop and implement a

comprehensive watershed management plan approach and to establish a suggested watershed boundary framework for implementing this planning approach. *One Watershed, One Plan* will transform the current system of water plans, largely organized on political boundaries, to one where plans are coordinated and consolidated largely on a watershed basis.

One Watershed, One Plan must involve a broad range of stakeholders to ensure an integrated approach to watershed management.

The underlying principle of watershed management is that people, land, and water are connected. People use land in a variety of ways, and affect ecosystems and ultimately their own communities for better or worse. Managing and protecting the environment while providing a high quality of life for people is a complex process that is most successful when governing bodies, community members, and experts in various fields are true partners in the planning process. *One Watershed, One Plan* envisions an approach that will pull parties together in every aspect of the water arena in a way that goes beyond the interests of any one government agency or stakeholder and in a way that has never been done before.

Plans developed within One Watershed, One Plan should embrace the concept of multiple benefits in the development and prioritization of implementation strategies and actions.

Prioritized, multi-benefit projects provide benefits to more than one group or interest and address more than one environmental resource within a watershed. These types of projects are necessary to build the support of citizens and agencies, achieve water quality and quantity goals, and produce the environmental goods and benefits that a healthy watershed provides. Examples of multiple benefits might include a combination of any of the following: flood control, water quality benefits, ecological benefits, administrative efficiencies, economic benefits, or others. Identification of and action on multi-benefit projects should be a priority in *One Watershed, One Plan* strategies and actions.

One Watershed, One Plan implementation will be accomplished through formal agreements among participating local governments on how to manage and operate the watershed.

Decision-making that spans political boundaries is essential to fully implement watershed management and achieve established goals for the watershed; therefore, formal agreements outlining the means and method for this decision-making are also essential.

One Watershed, One Plan planning and implementation efforts will recognize local commitment and contribution.

History shows us that when local water management programs and projects rely almost entirely on outside funding, they are unable to sustain themselves over time. Locally supported and funded technical, administration, support, and outreach actives that leverage funding from the State will be key to ensuring sustainable local government capabilities and long-term success on both the local level and watershed scale.

One Watershed, One Plan is not intended to be a one size fits all model.

One Watershed, One Plan must recognize that our local governments charged with water management are just as diverse as the water resources and landscapes that we have in the State. As such, the *One Watershed, One Plan* policies and procedures guided by this principle will be designed to provide options for local governments to choose from that can account for these differences while at the same time move forward in achieving the transition to comprehensive watershed management plans that blanket the State.

One Watershed, One Plan

Suggested Boundary Framework

November 13, 2013

Purpose: As per Minnesota Statutes §103B.101 Subd. 14: *"the board shall, to the extent practicable, establish a suggested watershed boundary framework for development, approval, adoption, and coordination of plans."* This document outlines the decision and recommendations of the BWSR Public Relations, Oversight & Strategic Planning Committee along with the proposed process for review, comment, and adoption of the suggested boundary map.

Suggested Boundary Framework:

Suggested vs. Mandatory - The PROSP committee recommends that BWSR adopt a boundary framework including a map suggesting 1W1P planning areas. Actual boundaries will be established through individual review and comment by BWSR staff at the time a 1W1P is initiated and approved by Board concurrent with the plan approval.

Considerations:

- Map is adopted by BWSR as suggested boundaries only, and individual boundaries are established through the plan approval process;
- More in line with the voluntary nature of the program;
- Requires less up front time in developing a map and places emphasis on boundary criteria;
- Some risk for having orphan areas and/or local boundary disagreements later on.

Initial Watershed Area Boundaries – At its October 21st meeting the PROSP committee recommended using a modified version of the "81 major watershed" boundary map.

Next Steps:

October 29-30, 2013 – BWSR Academy, initial role out of suggested boundary map.

November 12-13, 2013 - SMT review and discuss needed and/or interest to have additional internal review and comment on draft map.

November 27, 2013 – Deadline for comments if additional internal review is selected.

December 18, 2013 – Adoption of draft map by BWSR and initiation of a 60 day formal review and comment period.

January 1, 2014 – Memo and map sent to all LGU's soliciting review and comment on the draft map

February 28, 2014 – Deadline for submission of comments on draft map.

March, 11 2014 – SMT review and recommendation.

March, 25 2014 – PROSP Committee review and recommendation.

April 23, 2014 – BWSR adoption of suggested boundary map and operating procedures.

Boundary Framework Procedures & Criteria

Procedures

As per Minnesota Statutes §103B.101 Subd. 14, BWSR shall establish a suggested watershed boundary framework for development, approval, adoption, and coordination of plans. The procedures for determining boundaries will conform to the following:

a. **Boundary Establishment.** BWSR Board adopted the 1W1P Boundary Map on <insert date>. Before commencing planning under Minnesota Statutes §103B.101 Subd. 14, local governments participating in the plan (participants) shall submit a map delineating the boundaries of the watershed to BWSR for review and comment. Participants must provide written documentation of the rationale and justification for the proposed boundary and specifically deviation from the adopted map. BWSR may request additional information needed to make a plan boundary determination. The Board shall have 60 days to comment on the conformance of the boundaries with the requirements of §103B.101 Subd. 14 and will establish the final boundary concurrent with plan approval.

b. **Boundary Amendment or Adjustment**. After a boundary has been established, participants may find adjustments or amendments to the boundary are necessary. Procedures for changing a boundary will follow the boundary establishment procedure above. A plan amendment may be required to address the newly included or excluded area(s).

c. **Appeals.** Participants may appeal a board decision to deny approval of a plan or the establishment of a plan boundary. An appeal of a board decision may be taken to the state Court of Appeals and must be considered an appeal from a contested case decision for purposes of judicial review under Minnesota Statutes §14.63 to 14.69. Participants may request the board's dispute resolution committee or executive director to hear and make recommendations to resolve boundary and plan implementation disputes.

Criteria

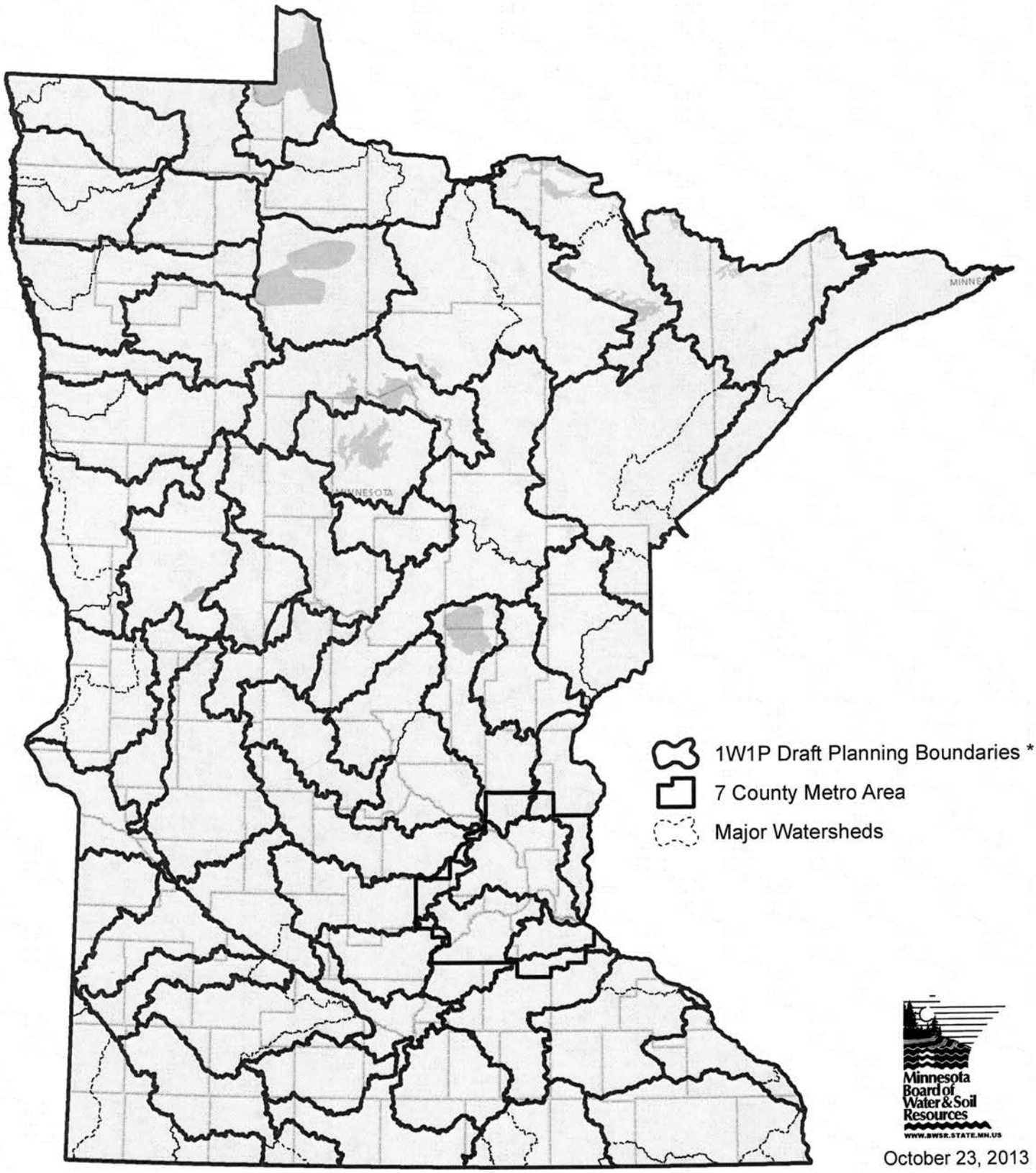
The following criteria will be considered in development and review of the 1W1P boundaries. Boundary establishment and amendment decisions will also consider, but are not limited to these criteria:

- Smaller than/partial HUC8:
  - Smaller area does not conflict with the purposes/intent of 1W1P
  - Significant dissimilarities or complexities in resource issues and solutions within the HUC8 to justify the smaller area
  - HUC8 crosses a major river, e.g. HUC8 is on both sides of the Minnesota River
  - Existing watershed district in the area
  - HUC8 crosses Metro Water Planning area
  - Boundary for the smaller area closely follows a minor watershed, e.g. a 10 or 12 digit hydrologic unit code.
- Larger than HUC8, e.g. one HUC8 plus additional minor or major watershed(s)
  - Inclusion of a partial watershed on a state line
  - Confluence of major basins
  - Efficiencies due to similarity of issues and solutions
  - Existing watershed district that includes larger area
  - HUCs already lumped for PCA 10-year watershed approach/WRAPS
  - Boundary for the larger area closely follows a minor watershed, e.g. a 10 or 12 digit hydrologic unit code.
- When a HUC8 crosses into the seven-county metro:
  - The area within the seven-county metro may or may not be considered for inclusion in the boundary. If included, the area within the seven-county metro is not excluded from Metro Surface Water Management Act.

One Watershed, One Plan

Suggested Boundary Map

DRAFT



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

October 23, 2013

* Not legal boundaries. For one watershed, one plan planning purposes only.

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One Watershed, One Plan

Pilot Program DRAFT – Pending Board Approval

Request for Interest December 2013

About the program

In 2013, the Minnesota Legislature passed Chapter 137-HF 1183 (Clean Water Fund Appropriations) which provided authorization and funding to BWSR for assistance and grants to local governments to transition local water management plans to a watershed approach as provided for in Minnesota Statutes, chapters 103B, 103C, 103D, and 114D.

Based on this legislation, BWSR created the *One Watershed, One Plan* Program and is seeking nominations for the purpose of selecting six to eight pilot watershed areas in fiscal years 2014 and 2015. Watershed areas selected will be expected to establish a formal agreement and undertake and complete the development of a watershed plan within two years.

Priority will be given to watershed areas where a WRAPS has been completed or will be completed before the third quarter of 2015 and can demonstrate a high level of commitment from the involved counties, soil and water conservation districts, watershed districts, and water management organizations. Watershed areas with large scale TMDL's, Phase 1 diagnostic studies, or equivalent local studies will also be considered.

Clean Water Funding Amount

Up to $495,000.

General Requirements

No match will be required of grant recipients. A nomination may be made by one or more of the eligible applicants within a watershed area. A formal agreement between participants establishing the watershed management organization/entity will be required within 3 months after execution of the grant agreement. Grant recipients will be required to document local involvement in the plan development process in order to demonstrate that the grant is supplementing/enhancing water resource restoration and protection activities.

Applicant Eligibility

Eligible applicants include Counties, Soil & Water Conservation Districts, Watershed Districts, and Metropolitan Joint Powers Agreement Watershed Management Organizations (per MN Statutes §103B.211). Applicants must be working under a current state approved and locally adopted water management plan.

Pilot Watershed Nominations

To nominate a watershed area, provide a written response to the following questions. Nominations can be submitted by one or more of the eligible local governments on behalf of others in the watershed area. Written responses are subject to a five-page limit, minimum font size 11pt (watershed maps are not included in the page limit).

1. Provide a general watershed map of the proposed planning boundary.
    a. If the proposed planning boundary deviates significantly from the draft planning boundaries being considered by BWSR, provide a brief narrative of the reasons for the deviation.

   b. Include a list of the local government units (LGUs) within the boundary (it is not required to list cities and townships). List can be incorporated into #2.

2. In consideration of the LGUs within the boundary, provide a narrative or table with:
   a. Existing plan type and expiration date of each LGU;
   b. Whether the LGU has expressed interest in participation, and if so, how (e.g. verbal, letter, resolution, etc.). If not, why (e.g. haven't had opportunity to respond, unwilling to commit until the LGU has more information, not willing to participate at all, may participate on limited basis but area too small to be a required participant, etc.);
   c. Identify, if known, a lead staff person(s) and/or primary contact(s) from each participating LGU.
3. Briefly describe at what point your watershed area is in the MPCA's ten year water approach/WRAPS, and any other TMDLs, diagnostic studies, and/or local studies and plans have been completed that can help inform the development of the *One Watershed, One Plan*.
4. Identify which plan type the participants are most interested in preparing with these funds (Comprehensive Watershed Management Plan, Priority Concerns Implementation Plan, or Water Quality Implementation Plan):
   a. Briefly describe how this plan is anticipated to benefit the participating LGUs;
   b. Briefly describe how the plan is anticipated to benefit resource management within the planning area;
   c. Briefly describe how the One Watershed, One Plan might be used to develop a collaborative approaches to things such as shared services and developing and submitting requests for Clean Water Funds.
5. Describe what the grant funds will be used for along with an estimate of the cost.
6. Describe what the partners need from the state in development of the plan.
7. Provide a generalized outline of the approach the participating organizations will take in 1) the development of the required formal agreements and operating procedures, and 2) development of the plan, including major steps or milestones.

Submittal

All responses must be electronically delivered to: BWSR.Grants@state.mn.us and must be received no later than 4:30 p.m. on April 21, 2014. Late responses will not be considered. The burden of proving timely receipt is upon the responder.

Evaluation and Ranking Criteria

All nominations submitted for consideration will be reviewed by BWSR staff, with assistance from an inter-agency review committee based on the responses to questions #1-5. The review range for the response to each question is indicated below. The maximum score per nomination is 100 points.

The successful watershed areas will be selected by the Board of Water and Soil Resources on recommendation of the selection committee.

Ranking Criteria	Maximum Points Possible
1. Inclusion of general watershed map and list of local governments provided.	5
2. Inclusion of list of plans with expiration dates for each local government, documentation of the level of interest expressed by identified local governments, and identification of lead staff.	15

3. Types of existing information available and their pertinence to developing the watershed-based plan.	15
4. Demonstrated understanding of the multiple benefits of developing a watershed-based plan.	15
5. Demonstration of realistic estimate of needed grant funds, what the funds will be used for, and that the funds will not supplant existing funds for similar activities.	10
6. Recognition of the level and types of assistance that are or will be expected of the participating state agencies.	10
7. Demonstrated understanding of the organizational phase, the planning phase, and ability to complete a plan within the two year timeframe.	30
Total Points Available:	**100**

BWSR Grant Administration

BWSR reserves the right to partially fund any and all nominations based on the number of eligible nominations submitted and the amount of funding available.

Timeline

- February 10, 2014 – Nomination period begins
- April 21, 2014 – Nomination deadline at 4:30 PM
- May 2014 - Review of requests
- June 2014 - BWSR Board approval of pilot watersheds (tentative)
- September 2014 – Work plan submittal deadline
- October 1, 2014 – Grant execution deadline 1*
- December 31, 2014 – Formal agreement in place as required*
- January 2015 – Plan development begins

*Grant agreements will be developed and executed based on available biennial funding; formal agreements must be in place within 3 months of grant execution.

Questions

Question concerning submittal of a watershed area nomination maybe submitted to Doug Thomas, doug.thomas@state.mn.us or 651-215-6338 (office) or 651-655-2082 (cell).

One Watershed, One Plan

Plan Types for Pilot Watersheds

DRAFT, Not Board Approved

November 18, 2013

Purpose: As per Minnesota Statutes §103B.101, Subd. 14: "*the board may adopt resolutions, policies, or orders that allow a comprehensive plan, local water management plan, or watershed management plan, developed or amended, approved and adopted, according to chapter 103B, 103C, or 103D to serve as substitutes for one another or be replaced with a comprehensive watershed management plan.*" This document outlines concepts for three approvable plan types within the *One Watershed - One Plan* framework.

Plan Types

To achieve the guiding principle that "*One Watershed, One Plan is not intended to be a one size fits all model,*" and in recognition of the need for options through the ten year transition; the following three types of plans are proposed to be tested through the pilot watershed program.

Concept Plan Types (additional information on page 2):

- **Water Quality Implementation Plan**: This plan further develops the strategies identified in a Watershed Restoration and Protection Strategies (WRAPS) document or equivalent studies into a consolidated implementation plan. This plan can be used to replace the implementation section of an existing plan(s), or can be used by local government partners on its own to collaboratively apply for state grants.
- **Priority Concerns Watershed Implementation Plan**: This plan leverages the existing process for developing a plan based on priority concerns typically associated with current county water planning; but shifts the scope of the plan to a watershed boundary and elevates requirements for prioritizing, targeting, and measuring implementation actions.
- **Comprehensive Watershed Management Plan**: This all-inclusive plan will likely leverage the existing requirements for watershed district plans and have the highest standards of the three plan options. These plans will address surface and groundwater, water quality and quantity, and land use; and implementation actions in the plan will consider the broad range of tools, including capital improvements, official controls, and other tools and programs necessary to achieve the goals of the plan.

Planning boundaries for all proposed plan types will be locally shaped and consistent with the BWSR Board adopted Suggested Boundary Map. Plan development is recommended to start a few years after intensive monitoring in order to develop and use the WRAPS document and is not recommended to start in the 2-3 years leading up to onset of intensive monitoring. All plans developed through *One Watershed, One Plan* will establish shared goals and vision for local government participants; define the roles and responsibilities of partners/participants; contain implementation actions that are prioritized, targeted, and measureable; and include estimated costs and timeframe for these actions.

Next Steps

Operating procedures and content requirements for each plan type will be developed in the first half of 2014, and the details put to the test through the pilot watersheds. Policies will be presented to the Board as developed.

	Water Quality Implementation Plan	Priority Concerns Implementation Plan	Comprehensive Watershed Management Plan
General Description	**Means to collaborate, leverage WRAPS, & apply for grants without going all in.**	**County Water Planning on a *watershed* boundary.**	**Plan based on assessment all water and land related resources within the watershed.**
Timing	To maintain eligibility for grant applications, revisions occur concurrently with completion or revision of 10-year assessment/WRAPS.	Revisions every 10 years. Plan extensions allowed for existing plans to provide for development through One Watershed, One Plan.	
Proposed Applicability	Won't substitute or replacement the *entirety* of existing plans, but can be used for portions of plans.	May serve as a substitute for county water plans & soil and water conservation district comprehensive plans.	May serve as replacement for watershed district, SWCD, and county water plans.
Organization Requirements	Formal agreement to signal group intentions are sufficiently serious, most likely a memorandum of understanding or agreement.	Requires formal agreement sufficient to demonstrate and sustain commitment; most likely a joint powers agreement.	
Preliminary considerations for who *must* participate...	Majority of SWCDs and/or majority of counties. May include watershed districts and/or joint powers agreement watershed organizations.	Likely a majority of counties and SWCDs within the planning boundary, with a waiver for organizations with minimal land area within the boundary.	Likely a majority of watershed organizations, counties, & SWCDs within the watershed planning boundary; with a waiver for organizations with minimal land area in the boundary.
	Cities and townships may, but will likely not be required to, participate.		
You might choose this plan if...	Participants aren't ready to establish a formal organization. Plans existing in the area are recently adopted and of a high quality.	Not all participants are ready to include the detailed requirements of the Comprehensive Watershed Management Plan.	An existing watershed district is participating and its boundaries cover the majority of the land area. Most existing plans will be expiring soon.

COMMITTEE RECOMMENDATIONS

RIM Reserve Management Planning Committee

1. Resolutions Authorizing RIM-WRP, RIM Buffers, RIM Wetland Protection, RIM ACUB and RIM Wild Rice Programs – Bill Penning – ***DECISION ITEM***

2. Resolution Authorizing the RIM - Grasslands for the Future Pilot Project – Bill Penning – ***DECISION ITEM***

3. Resolution Authorizing RIM Standard Easement Payment Rates – Bill Penning – ***DECISION ITEM***

4. RIM Easement Alteration – Tim Fredbo – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Resolutions Authorizing RIM-WRP, RIM Buffers, RIM Wellhead Protection, RIM ACUB and RIM Wild Rice Programs**

Meeting Date: December 18, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Conservation Easement

Contact: Bill Penning

Prepared by: Bill Penning

Reviewed by: RIM Reserve Management Planning Committee(s)

Presented by: Bill Penning

☐ **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

The Board is requested to approve the recommendation of the RRMPC to authorize the RIM-WRP, RIM Buffers, RIM Wellhead Protection, RIM ACUB and RIM Wild Rice resolutions that provide general authorization for these programs.

Note that the method of determining RIM standard easement payment rates (except for ACUB and Wild Rice) is set under a separate Board Resolution that is also part of this month's packet.

LINKS TO ADDITIONAL INFORMATION

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

Multiple times each year BWSR staff asks the Board for Resolutions that re-authorize existing programs. These programs often do not change substantially from year to year as they are established and working well. For the most part, any changes that do occur are at the implementation level rather than the program authorization level.

The purpose of this request is to authorize standing resolutions for each program that establish and set the broad parameters for each program. These resolutions will remain in effect regardless of the year and/or source of funding until substantial material changes occur in the program that would cause staff to seek an amended resolution. Periodic program updates will be given to the RRMPC and to the full Board.

Board Resolution # 13- _____

Reinvest in Minnesota (RIM) Reserve –Wetlands Reserve Program (RIM-WRP) Partnership Program

WHEREAS the Minnesota State Legislature has appropriated Reinvest In Minnesota (RIM) Reserve funds to the Board of Water and Soil Resources (BWSR) to acquire and restore permanent RIM conservation easements under Minnesota Statutes, Section 103F.515 in partnership with the Wetlands Reserve Program (WRP) as the RIM-WRP Partnership Program; and

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); and

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); and

WHEREAS 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; and

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; and

WHEREAS a Minnesota Wetlands Restoration Evaluation Worksheet will be used to score and rank applications for the RIM-WRP Partnership; and

WHEREAS the RIM-WRP Partnership will establish scoring periods in which eligible applications will be approved for funding by BWSR and NRCS; and

WHEREAS over the last 25 years, the United States Department of Agriculture (USDA) Conservation Reserve Program (CRP) has been the largest and most significant private lands conservation program in Minnesota's history. An entire generation of Minnesotans have benefitted from improved water quality and enhanced wildlife habitat; and

WHEREAS in the five year period - 2013 to 2017, the aforementioned benefits are now in jeopardy as nearly 634,000 acres of Minnesota's conservation lands enrolled in the USDA CRP will expire; and

WHEREAS the RIM Reserve Conservation Easement Program is administered by the BWSR in cooperation with local Soil and Water Conservation Districts (SWCDs); and

WHEREAS SWCDs will be reimbursed for their services using the most current RIM Reserve services rate; and

WHEREAS the Board by separate resolution has established the process for determining RIM standard easement payment rates; and

WHEREAS this resolution is supplemental but controlling to previously approved BWSR Board resolutions and will remain in effect until material changes in the program warrants an amendment; and

WHEREAS the Board of Water and Soil Resources RIM Reserve Management Planning Committee met on December 17, 2013 and unanimously recommends the following provisions.

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources authorizes staff to:

1. Utilize appropriated RIM funds to implement this program; and
2. Target expiring CRP contracts with critical wetland restoration practices for enrollment in to the RIM-WRP Partnership; and
3. Work with MN NRCS to develop RIM-WRP Partnership eligibility and sign-up procedures for the RIM-WRP Partnership.

Dated at Saint Paul, Minnesota this 18th day of December, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____

Brian Napstad, Chair

Board Resolution # 13- _____

Reinvest in Minnesota (RIM) Reserve –Riparian Buffer Conservation Easement Program

WHEREAS the Minnesota State Legislature has appropriated Reinvest In Minnesota (RIM) Reserve funds to the Board of Water and Soil Resources (BWSR) to acquire and restore permanent RIM conservation easements under Minnesota Statutes, Section 103F.515; and

WHEREAS the purpose of the RIM Riparian Buffer Conservation Easement Program is to purchase and restore permanent conservation easements on riparian buffers of at least 50 feet in width to keep water on the land in order to decrease sediment, pollutant and nutrient transport, reduce hydrologic impacts to surface waters and increase infiltration for groundwater recharge; and

WHEREAS these same buffers may be extended to improve habitat for wildlife; and

WHEREAS funds are available to purchase and restore permanent conservation easements on riparian buffers of at least 50 feet on average unless there is a natural impediment, road or other impediment beyond the control of the landowner. Measurements start at top of bank, stream, bluff and ditches or water's edge for lakes; and

WHEREAS a majority of the riparian buffer area enrolled must have a cropping history and a priority will be placed on extending new or existing USDA Conservation Reserve Program (CRP) contracts into a RIM Reserve permanent conservation buffer easement; and

WHEREAS the RIM Reserve Conservation Easement Program is administered by the BWSR in cooperation with local Soil and Water Conservation Districts (SWCDs); and

WHEREAS SWCDs will be reimbursed for their services using the most current RIM Reserve services rate; and

WHEREAS the Board by separate resolution has established the process for determining RIM easement rates; and

WHEREAS this resolution is supplemental but controlling to previously approved BWSR Board resolutions and will remain in effect until material changes in the program warrants an amendment; and

WHEREAS the Board of Water and Soil Resources RIM Reserve Management Planning Committee met on December 17, 2013 and unanimously recommends the following provisions.

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources authorizes staff to:

1. Utilize appropriated funds to implement this program; and

2. Maintain a Requests for Proposals (RFP's) process; and

3. Review and approve RFPs for SWCD participation based on the following criteria:
   a. Local priority and initiative: i.e., ag shoreline, redetermination of benefits
   b. Water plan and water quality improvement priority: Agricultural landscape with a focus on cropland
   c. Resource Assessment: Ecological Ranking Tool – water quality data, land use, inventory, on-site determinations, etc.
   d. Anticipated Outcomes: Clean Water Benefits in Minnesota's agricultural landscape and enhancement for wildlife when suitable conditions exist.
   e. Readiness to Proceed: Marketing, technical approval authority, and easement processing
   f. Expiring CRP & CCRP contracts
   g. Floodplains; and

4. Develop riparian buffer certification process to determine landowner eligibility. The certification shall require SWCD technical approval authority or equivalent to ensure lands being enrolled meet NRCS 393 Technical Standard for filter strip. This includes eligibility of frequently and occasionally flooded soil types in an effort to address riparian floodplain as a buffer area. Buffers of up to 350' will be allowed for sediment and water quality purposes; and

5. Develop and approve a riparian buffer enrollment and allocation process; and

6. Direct SWCDs to establish a pending list to be maintained for future funding.

Dated at Saint Paul, Minnesota this 18th day of December, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____

Brian Napstad, Chair

Board Resolution # 13- _____

Reinvest in Minnesota (RIM) Reserve – Wellhead Protection Initiative

WHEREAS the Minnesota State Legislature has appropriated Reinvest In Minnesota (RIM) Reserve funds to the Board of Water and Soil Resources (BWSR), to purchase and restore permanent RIM Reserve Conservation easements on wellhead protection areas under Minnesota Statutes, section 103F.515, subd.2, paragraph(d); and

WHEREAS priority must be placed on land that is located where the vulnerability of the drinking water supply management area, as defined under Minnesota Rules, part 4720.5100, subpart 13, is designated as high or very high by the Commissioner of the Minnesota Department of Health (MDH); and

WHEREAS a majority of the enrollment into a Permanent RIM Reserve Wellhead Protection Initiative easement will be limited to Wellhead Protection Areas (WHPA) identified by the MDH and mapped as high or very high vulnerability; and

WHEREAS a priority will be placed on extending new or existing USDA Conservation Reserve Program (CRP) contracts within the WPA with priority given to areas with cropping history; and

WHEREAS the MDH, in consultation with the Minnesota Department of Agriculture (MDA), has identified for BWSR the most highly vulnerable WPA's conducive to enrollment in the Permanent RIM Reserve Wellhead Protection Initiative Program; and

WHEREAS the RIM Reserve Conservation Easement Program is administered by the BWSR in cooperation with local Soil and Water Conservation Districts (SWCDs); and

WHEREAS SWCDs will be reimbursed for their services using the most current RIM Reserve services rate; and

WHEREAS the Board by separate resolutions has established the process for determining RIM standard easement payment rates for the Wellhead Protection Initiative; and

WHEREAS this resolution is supplemental but controlling to previously approved BWSR Board resolutions and will remain in effect until material changes in the program warrants an amendment; and

WHEREAS the Board of Water and Soil Resources RIM Reserve Management Planning Committee met on December 17, 2013 and unanimously recommends the following provisions.

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources authorizes staff to:

1. Utilize appropriated funds to implement this program; and
2. To implement the acquisition of RIM Reserve Wellhead Protection Initiative easements in the targeted areas with high or very high vulnerability as provided to the BWSR by the MDH.

Dated at Saint Paul, Minnesota this 18th day of December, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____

Brian Napstad, Chair

Board Resolution # 13- _____

Reinvest in Minnesota (RIM) Reserve – Camp Ripley Army Compatible Use Buffer (ACUB) Program

WHEREAS the Minnesota State Legislature has appropriated Reinvest In Minnesota (RIM) Reserve funds to the Board of Water and Soil Resources (BWSR) to acquire and restore permanent RIM conservation easements under Minnesota Statutes, Section 103F.515; and

WHEREAS the Board of Water and Soil Resources is authorized by Minnesota Statutes 103B.101, subdivision 9, authorizes BWSR to accept gifts, donations, or contributions in money, services, materials, or otherwise from the United States, a state agency, or other sources to achieve an authorized purpose. The Board may receive and expend money to acquire conservation easements, as defined in Chapter 84C, on behalf of the state and federal government consistent with Camp Ripley's Army Compatible Use Buffer (ACUB) Program; and

WHEREAS the Camp Ripley ACUB has identified a three mile zone around Camp Ripley to create and enhance a natural buffer to ensure that the military training mission is not impeded by encroachment; and

WHEREAS the ACUB will greatly benefit the natural resources of central Minnesota by minimizing the fragmentation of surrounding lands and subsequent loss of valuable habitat for sensitive species; and

WHEREAS the Camp Ripley ACUB and the State of Minnesota through its Department of Natural Resources and the Board of Water and Soil Resources has identified riparian properties located on the Mississippi and Crow Wing Rivers located in the Camp Ripley ACUB as its highest priority for enrollment in the ACUB program; and

WHEREAS riparian lands adjacent to the Mississippi River and Crow Wing River in the 3-mile buffer areas have not been successfully enrolled into the Camp Ripley ACUB because existing ACUB payment rate for conservation easement are not sufficient to attract interest by landowners who own high-valued river frontage properties; and

WHEREAS the Camp Ripley ACUB and their staff have been working with BWSR and the local Morrison SWCD to identify an additional payment formula method which would create a more equitable payment rate for these highly valued properties; and

WHEREAS the equitable payment rate for these identified river frontage properties would be 60% of the most recent assessed market value of the land as determined by the county assessor of the county where the land is located; and

WHEREAS the majority of non-high value riparian lands easements are taken on existing agricultural lands and that agricultural activities are still allowed an equitable payment rate of 50% of the RIM cropland rate as established by the Board by separate resolution is warranted; and

WHEREAS the state of Minnesota, acting through BWSR and the National Guard Bureau (NGB) have entered into a five year agreement for implementation of the ACUB Program; and

WHEREAS the RIM Reserve Conservation Easement Program is administered by the BWSR in cooperation with local Soil and Water Conservation Districts (SWCDs); and

WHEREAS SWCDs will be reimbursed for their services using the most current RIM Reserve services rate; and

WHEREAS this resolution is supplemental but controlling to previously approved BWSR Board resolutions and will remain in effect until material changes in the program warrants an amendment; and

WHEREAS the Board of Water and Soil Resources RIM Reserve Management Planning Committee met on December 17, 2013 and unanimously recommends the following provisions.

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources authorizes staff to:

1. Utilize appropriated funds to implement this program; and
2. Implement a high value riparian lands payment rate of 60% of the most recent assessed market value of the land as determined by the county assessor of the county where the land is located; and
3. Implement a non-high value riparian lands rate of 50% of the RIM cropland rate as established by the Board by separate resolution; and
4. Continue to enter into Cooperative Agreements with the Camp Ripley ACUB that continue the successful implementation of this program and that are consistent with the provisions of this resolution; and

Dated at Saint Paul, Minnesota this 18th day of December, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____

Brian Napstad, Chair

Board Resolution # 13-_____

Reinvest in Minnesota (RIM) Reserve –SHORELAND PROTECTION ON WILD RICE LAKES

WHEREAS the Minnesota State Legislature has appropriated Reinvest In Minnesota (RIM) Reserve funds to the Board of Water and Soil Resources (BWSR) to acquire and restore permanent RIM conservation easements under Minnesota Statutes, Section 103F.515; and

WHEREAS Minnesota has more acres of natural wild rice than any other state in the country and wild rice is an important social and cultural component for Native American tribes and rural Minnesota communities; and

WHEREAS The Lessard-Sams Outdoor Heritage Council's top priority action identified for the northern forest section of Minnesota is to "protect shoreland and restore and enhance critical habitat on wild rice lakes and shallow lakes; and

WHEREAS BWSR will work closely with local SWCD's to offer permanent shoreland conservation easements on wild rice lakes through the RIM Reserve Conservation Easement Program; and

WHEREAS the Board has authorized staff to work with the involved SWCDs to successfully develop and implement the *Shoreland Protection on Wild Rice Lakes Project* in eight counties, specifically Aitkin, Carlton, Cass, Crow Wing, Hubbard, Itasca, St. Louis, and Wadena counties in north central Minnesota, consistent with all statute and provisions; and

WHEREAS BWSR and involved SWCDs will target specific tracts identified based on the degree to which they will add to the base of land in permanent protection around the targeted 117 shallow wild rice lakes as identified by the Wild Rice Working Group; and

WHEREAS BWSR and the involved SWCDs have been evaluating payment formula method alternatives which would create an effective and equitable easement payment rate for the high value properties targeted by *Shoreland Protection on Wild Rice Lakes Project* in north central Minnesota; and

WHEREAS BWSR and involved SWCD staff are recommending a payment rate for this project to be 60% of the most recent assessed taxable market value of the land as determined by the county assessor of the county where the land is located; and

WHEREAS the RIM Reserve Conservation Easement Program is administered by the BWSR in cooperation with local Soil and Water Conservation Districts (SWCDs); and

WHEREAS SWCDs will be reimbursed for their services using the most current RIM Reserve services rate; and

WHEREAS this resolution is supplemental but controlling to previously approved BWSR Board resolutions and will remain in effect until material changes in the program warrants an amendment; and

WHEREAS the Board of Water and Soil Resources RIM Reserve Management Planning Committee met on December 17, 2013 and unanimously recommends the following provisions.

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources authorizes staff to:

1. Utilize appropriated funds to implement this program; and

2. Develop eligibility, prioritization, sign-up and selection procedures, and;

3. Establish payment rates for the *Shoreland Protection on Wild Rice Lakes Project* at 60% of the most recently assessed taxable market value of the land as determined by the county assessor of the county where the land is located.

Dated at Saint Paul, Minnesota this 18th day of December, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____

Brian Napstad, Chair

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Resolution Authorizing the RIM – Grasslands for the Future Pilot Project**

Meeting Date: December 18, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Conservation Easement

Contact: Bill Penning

Prepared by: Bill Penning

Reviewed by: RIM Reserve Management Planning Committee(s)

Presented by: Bill Penning

☐ **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

The Board is requested to approve the recommendation of the RRMPC to authorize the RIM-Grasslands for the Future Pilot Project resolution that provides authorization for this program.

Note that the method of determining RIM standard easement payment rates is set under a separate Board Resolution that is also part of this month's packet.

LINKS TO ADDITIONAL INFORMATION

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

The RIM - Grasslands for the Future Pilot Project was approved by the Lessard-Sams Outdoor Heritage Council (LSOHC) and the Legislature, and funding was appropriated to BWSR on July 1, 2013. This pilot project will utilize RIM or Minnesota Land Trust easements to protect priority grasslands and utilize conservation grazing plans to manage the vegetation to optimize wildlife habitat while providing numerous other benefits. This resolution authorizes staff to utilize these funds and develop and implement this program.

BWSR staff will continue to work with our named partners in this project, The Minnesota Land Trust and The Conservation Fund on all aspects of this pilot project. Periodic program updates will be given to the RRMPC and to the full Board.

Board Resolution # 13-_____

Reinvest in Minnesota (RIM) Reserve – Grasslands for the Future Pilot Project

WHEREAS the Minnesota State Legislature has appropriated Reinvest In Minnesota (RIM) Reserve funds to the Board of Water and Soil Resources (BWSR) to acquire and restore permanent RIM conservation easements under Minnesota Statutes, Section 103F.515 in partnership with the Minnesota Land Trust (MLT) and The Conservation Fund (TCF) as the Grasslands for the Future Pilot Project; and

WHEREAS this pilot project will acquire permanent conservation easements on grasslands; and

WHEREAS BWSR, MLT and TCF will work together to utilize alternative easement purchase options to evaluate alternatives; and

WHEREAS BWSR as detailed in the appropriation language may enter into an agreement with MLT to acquire permanent easements; and

WHEREAS if a MLT easement will be pursued, MLT will utilize appraisal standards and process in accordance with MLT easement acquisition procedures; and

WHEREAS BWSR as detailed in the appropriation language may enter into an agreement with TCF for professional services; and

WHEREAS the RIM Reserve Conservation Easement Program is administered by the BWSR in cooperation with local Soil and Water Conservation Districts (SWCDs); and

WHEREAS SWCDs will be reimbursed for their services using the most current RIM Reserve services rate; and

WHEREAS the Board by separate resolution has established the process for determining RIM standard easement payment rates; and

WHEREAS this resolution is supplemental but controlling to previously approved BWSR Board resolutions and will remain in effect until material changes in the program warrants an amendment; and

WHEREAS the Board of Water and Soil Resources RIM Reserve Management Planning Committee met on December 17, 2013 and unanimously recommends the following provisions.

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources authorizes staff to:

1. Utilize appropriated funds to implement this program; and
2. Make payments to MLT when they are acquiring the easement; and

3. Work with MLT and TCF to develop program guidelines and outreach efforts focused on priority grassland landscapes.

Dated at Saint Paul, Minnesota this 18th day of December, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____

Brian Napstad, Chair

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Resolution Authorizing RIM Standard Easement Payment Rates**

Meeting Date: December 18, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Conservation Easement

Contact: Bill Penning

Prepared by: Bill Penning

Reviewed by: RIM Reserve Management Planning Committee(s)

Presented by: Bill Penning

☐ **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

The Board is requested to approve the recommendation of the RRMPC to authorize staff to establish RIM standard easement payment rates. The standard rates will utilize township land values as established by the Department of Revenue and posted on the University of Minnesota Land Economics website as the basis for determining the rates.

LINKS TO ADDITIONAL INFORMATION

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

The BWSR Board has been given the authority to set payment rates for RIM conservation easements in Minnesota Statutes, Section 103F.515. The township land values as established by the Department of Revenue and posted on the University of Minnesota Land Economics website shall be used as the basis for determining RIM easement payment rates. The RIM rates will best approximate 90% of land value for permanent easements on land with cropping history and 60% of land value for permanent easements on lands without cropping history.

This resolution authorizes staff to establish RIM rates using the guidelines above and to utilize this easement rate setting process annually. Annual rate resolutions will no longer be needed. If conditions or processes change a new resolution will be brought forward to the Board to consider changes to the standard RIM easement payment rate process.

Board Resolution # 13- _____

Reinvest in Minnesota (RIM) Reserve – Standard Easement Payment Rates

WHEREAS the Minnesota State Legislature has appropriated Reinvest In Minnesota (RIM) Reserve funds to the Board of Water and Soil Resources (BWSR) to acquire and restore permanent RIM conservation easements under Minnesota Statutes, Section 103F.515; and

WHEREAS the BWSR Board has been given the authority to set payment rates for RIM conservation easements in Minnesota Statutes, Section 103F.515 Subdivision 6; and

WHEREAS the RIM Reserve Conservation Easement Program is administered by the BWSR in cooperation with local Soil and Water Conservation Districts (SWCDs); and

WHEREAS this resolution is supplemental but controlling to previously approved BWSR Board resolutions and will remain in effect until material changes in the program warrants an amendment; and

WHEREAS the Board and BWSR staff, in consultation with the University of Minnesota Applied Economics Department, have determined that the most recent Township Land Values as established by the Department of Revenue and posted on the Minnesota Land Economics Website is the most relevant, consistent and available land value data to use as a basis for easement payment rates; and

WHEREAS the Board of Water and Soil Resources RIM Reserve Management Planning Committee met on December 17, 2013 and unanimously recommends the following provisions.

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources authorizes staff to:

Establish RIM standard easementpayment rates that best approximate 90% of land value for permanent easements on land with cropping history and 60% of land value for permanent easements on lands without cropping history, subject to the following factors:

1. The township land values as established by the Department of Revenue and posted on the University of Minnesota Land Economics website shall be used as the basis for determining payment rates; and

2. The payment rate maximum in Hennepin and Ramsey Counties will not exceed the highest average township rate from any of the other surrounding seven metro counties due to a limited number of tillable land acres, and values that are influenced by development potential; and

3. The payment rate maximum for the other five Twin Cities metro counties (Anoka, Carver, Dakota, Scott and Washington) will not exceed the average Scott County rate to more accurately reflect tillable values.

Dated at Saint Paul, Minnesota this 18th day of December, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____

Brian Napstad, Chair

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **RIM Easement 17-31-01-01, Alteration**

Meeting Date: Dec. 18, 2013

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

Item Type: x Decision ☐ Discussion ☐ Information

Section/Region: Easement Section

Contact: Tim Fredbo

Prepared by: Tim Fredbo

Reviewed by: RIM Reserve Management Planning Committee(s)

Presented by: Tim Fredbo

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

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

Fiscal/Policy Impact

☐ None
☐ Amended Policy Requested
☐ New Policy Requested
x Other:
Approval for easement alteration

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

ACTION REQUESTED

The Board is requested to approve the recommendation of the RRMPC to authorize easement staff to modify easement 17-31-01-01 in Cottonwood County. The alteration was requested by the landowner and is consistent with the requirements of the Easement Alteration Policy (see link below).

LINKS TO ADDITIONAL INFORMATION

http://www.bwsr.state.mn.us/easements/easement_alteration_policy.pdf

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

Background

Mr. Perry Zieske, the landowner of the property covered by easement 17-31-01-01, is requesting the Board to allow an alteration of his RIM easement boundary. This perpetual RIM easement on 16.6 acres originally was enrolled via the MN River Conservation Reserve Enhancement Program (CREP), and was recorded on May 8, 2002. The easement is located in Sec. 1, T 107 N, R 37 W, Cottonwood County. Mr. Zieske is seeking to have 1.5 acres on the very north end of his easement removed, and replace those acres with 4.5 acres of non-cropland on both sides of Dry Creek just to the east and adjacent to the current easement. The 1.5 acres proposed for removal from the easement was non-cropland when it went in to the CREP easement, so not currently in the USDA Conservation Reserve Program contract.

Mr. Zieske is looking into selling some or all of his property in this area of the easement to an adjacent landowner who needs pasture, and they would like to have the ability to run a fence straight east – west

along the new proposed north boundary of the altered easement. This would make fence easier to install and maintain.

Mr. Zieske has submitted all items needed to comply with current RIM rule, and Board Policy for the Board to consider his request, including the $500 processing fee. Please refer to the attachment titled, "Zieske RIM alteration.pdf". The SWCD is in concurrence with this request, as is the DNR Area Wildlife Supervisor. Also included in the attachment is a copy of the original recorded RIM easement, which includes the legal description and Exhibit A map.

Mr. Zieske is a land surveyor and has offered to legally survey the revised easement boundary, if approved, for the new legal description we will need for the revised easement at no cost to the State. He has extensive involvement with numerous conservation type projects in Cottonwood, Murray and Redwood Counties. A list is included on page 2 of his letter.

Proposed Solution

This alteration, as proposed, meets the recommendations of the BWSR Easement Alteration Policy. The release of 1.5 acres will be replaced by 4.5 acres, which exceeds the 2:1 requirement. The replacement acres will buffer more acres along the intermittent Dry Creek, which drains to the Cottonwood River, than the current easement. The revised easement would contain a new total of 19.6 acres, which is a net gain of 3 acres.

Although the Cottonwood SWCD did not send a letter recommending approval of this request, they did consider it at their June 27, 2013 Board meeting, and they were not opposed to the easement change. Additionally, Dave Bucklin, Cottonwood SWCD Technician, sent a follow-up e-mail to further clarify the SWCD Board position as being in support.

Staff recommends that this alteration request be approved.

Attachment: Zieske RIM alteration.pdf packet

Minnesota Board of Water & Soil Resources

Board Resolution #_____

Reinvest in Minnesota (RIM) Reserve – RIM Easement 17-31-01-01 Alteration, Perry Zieske

WHEREAS the BWSR acquired a 16.6 acre RIM easement from Mr. Perry Zieske in Cottonwood County via the MN River CREP program on May 8, 2002; and

WHEREAS Mr. Zieske has now requested the BWSR to release 1.5 acres from within his easement boundary and replace it with 4.5 acres to better accommodate grazing some of the adjacent grassland; and

WHEREAS Section 8400.3610 of RIM rule and the BWSR Easement Alteration Policy allows landowners to request the BWSR to alter or terminate their easements; and

WHEREAS Mr. Zieske has submitted all items required by 8400.3610, has submitted his $500 processing fee, and the proposed alteration meets the terms of the of the alteration policy; and

WHEREAS the 1.5 acres proposed for release were non-cropland when they went into the CREP program, so not in a federal CRP contract, and the 4.5 acres proposed for replacement are also non-cropland; and

WHEREAS both the Cottonwood SWCD and the DNR Area Wildlife Manager are in agreement with Mr. Zieske's proposal; and

WHEREAS the proposed alteration will create a net gain of 3 acres to the current easement and provide more land under easement adjacent to Dry Creek, providing increased permanent buffering and water quality protection benefits ; and

WHEREAS Mr. Zieske is a land surveyor and has offered to legally survey the boundary of the new altered easement, if the Board approves, at no cost to the State; and

WHEREAS the Board of Water and Soil Resources RIM Reserve Management Planning Committee met on December 17, 2013 and recommend approval of this easement alteration proposal;

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources approves the alteration of RIM easement 17-31-01-01 as proposed, and authorizes staff to work with Mr. Zieske, and Cottonwood SWCD staff to officially amend the necessary RIM easement documents.

Dated at Saint Paul, Minnesota this 18th day of December, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____

Brian Napstad, Chair

6/05/2013
Revised: 09/05/13

RE: Conservation Easement
Alteration Request
Sec. 1-107-37, Cottonwood Co., MN

To All Concerned:

My name is Perry L. Zieske and I own property in Sec. 1-107-37 in Storden Township, Cottonwood County, Minnesota and in that Section I I own 36.8 acres of which 3 acres is crop land, 16.6 acres in CREP which turns into RIM in 2017, the remaining acres are pasture with dry creek running through it. Of the 16.6 acres 1.5 is non-cropland outside of CREP area between the dry creek and 15 year CRP area. The 1.5 acres is adjacent to part of the CREP area that is highest elevation in the section meaning there is virtually no chemical runoff from farmland as the CREP area is already a buffer strip. I would like to exchange that 1.5 acres of non cropland area for 4.5 acres (3 times more) farther east where there is more potential of farm runoff toward dry creek and CREP as the contours indicate. I would be giving up non-cropland on both sides of dry creek, which will continue to stay grass and act as a buffer strip on both sides of dry creek where farming does occur. I think having permanent easement (RIM) on both sides of dry creek where farming occurs on both sides is preserving waters & keeping chemicals from reaching dry creek than 1 side as is the present situation. I am including a list of 12 projects that I am currently involved in along with a couple of potential projects regarding wetland restoration and buffer strips along creek. Thank you for reviewing this option and hopefully approval of exchange helping wildlife habitats.

Tim,

I revised above where I had 15.8 acres in CREP to 16.6 as per contract. Sorry about that, I don't know how I got 15.8 but I did. Anyway the property owner adjacent to me may be interested in some or all of the 36.8 acres I own and if he were to buy part of it he would prefer or option to pasture the north part and this exchange will provide for putting a fence up that is straight and a location easy to maintain and would abut the high ridge of existing CREP. And as stated above the 4.5 acres would contain both sides of dry creek which I feel will improve habitat and would provide permanent buffer. If you have any questions my cell number is (507) 822-1658.

Thank You,
Perry L. Zieske

RECEIVED
SEP 09 2013
Bd. of Water & Soil Resources
St. Paul

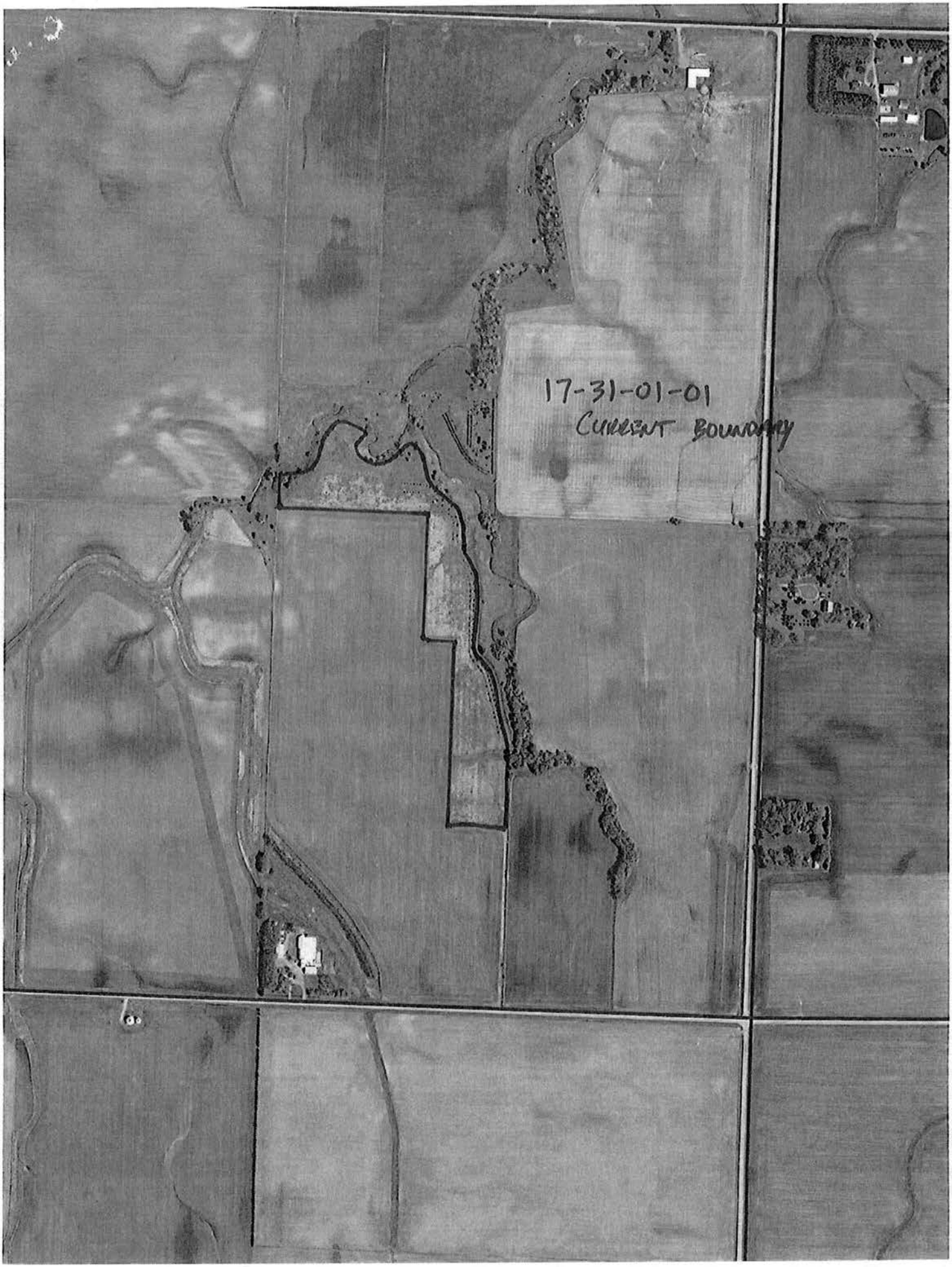
LIST OF RIM, DNR, AND, CONSERVATION PRACTICES ON VARIOUS LANDS

1) CREP & Trees & 1.5 acres ± RIM in W ½ SE ¼ & SW ¼ NE ¼ in Sec. 1-107-37, Storden Township, Cottonwood County (SUBJECT AREA)
2) Tree Planting & 180' Buffer Strip in SE ¼ Sec. 22-106-38, Rosehill Township, Cottonwood County, along shoreline of Long Lake
3) CRP in N ½ NE ¼ Sec. 9-107-37, Storden Township, Cottonwood County
4) 40 Acres SAFE in S ½ Sec. 4-107-37, Storden Township, Cottonwood County (Pheasant Habitat both sides Highwater Creek)
5) Grade Stabilization Project: Area II Minnesota River Basin in Sec. 4-107-37, Storden Township, Cottonwood County (2012) (Farm Drainage to Highwater Creek)
6) CRP in NE ¼ Sec. 10-108-39 in Holly Township, Murray County
7) RIM in NE ¼ Sec. 10-108-39 in Holly Township, Murray County (Both sides Plum Creek)
8) CREP RIM in S ½ SE ¼ Sec. 27-109-36, Charlestown Township, Redwood County (Along Cottonwood River)
9) Sold 61 acres to DNR along Cottonwood River, woods etc. in 2012 to DNR in Sec. 27-109-36 along Cottonwood River
10) Sold 62± acres to DNR by Lake Julia, Sec. 25-107-39, Dovray Township, Murray County
11) Considering Wetland restoration project to Murray County & creek buffer strip in Cottonwood County
12) Potential 53 acre sale to DNR in Redwood County along Cottonwood River.

Perry L. Zieske

Perry L. Zieske

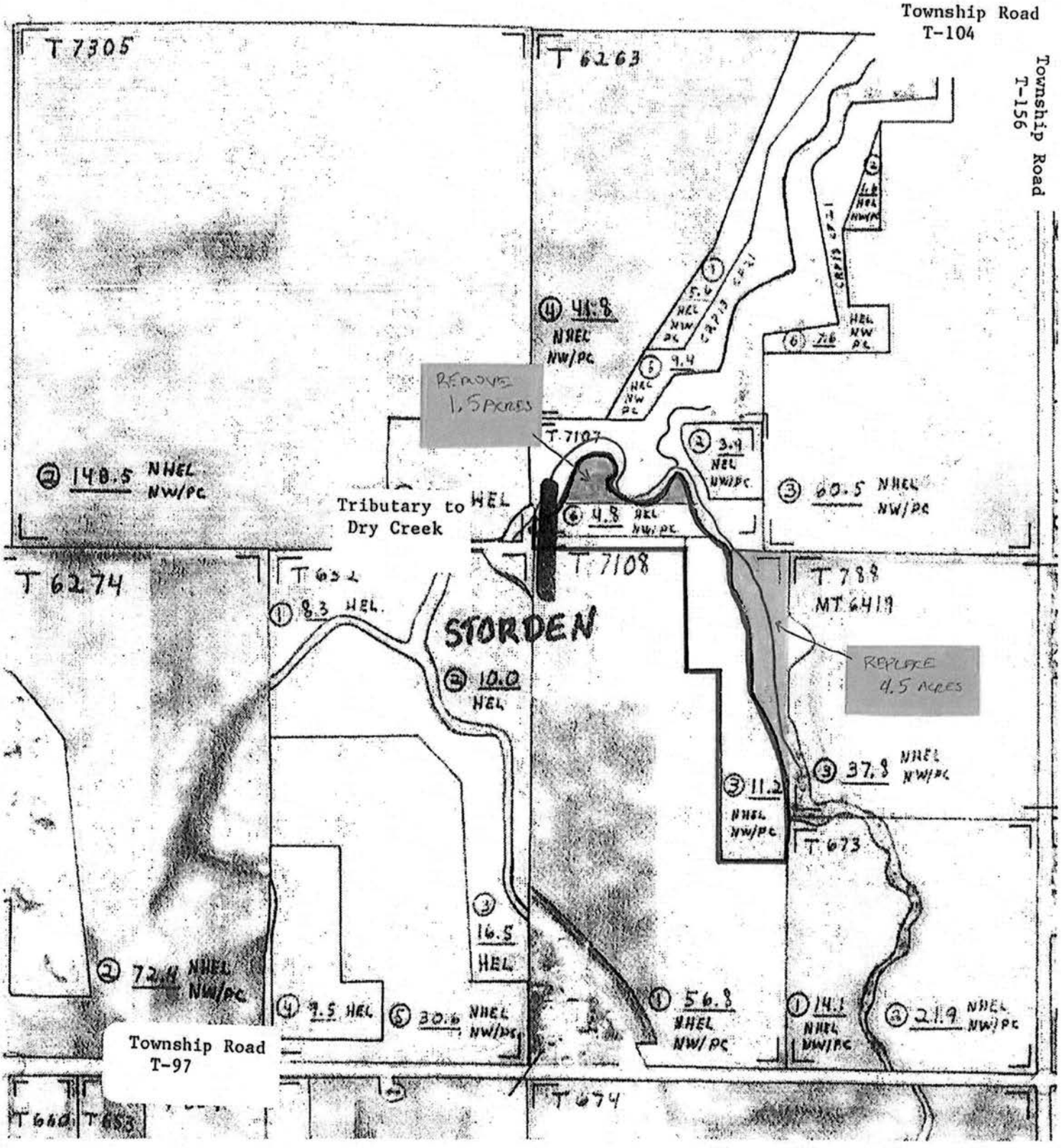
Perry L. Zieske
P.O. Box 473
Westbrook, MN 56183


17-31-01-01
CURRENT BOUNDARY

#17-31-01-01

COTTONWOOD

REPRODUCED May 2000



DNR OBSERVATION WELL AGREEMENT
Motion by Nerem, second by Muller to approve the 2014 DNR Observation Well Agreement.
Affirmative: Lingbeek, Muller and Nerem.
Opposed: None.
Motion carried.

DNR WIA AGREEMENT AMENDMENT
Motion by Muller, second by Nerem to approve the DNR WIA Agreement Amendment.
Affirmative: Lingbeek, Muller and Nerem.
Opposed: None.
Motion carried.

SWCD COMPUTER BACKUP
Motion by Muller, second by Nerem to approve the upgrade of computer backups for the SWCD Office.
Affirmative: Lingbeek, Muller and Nerem.
Opposed: None.
Motion carried.

Office staff will contract the new Cottonwood County IT Specialist and review the quote and work to be done.

LEADERSHIP and GOVERNANCE PARTICIPATION
Motion by Muller, second by Nerem to approve the participation for the MASWCD Leadership Institute for $2,300 for Supervisor Clark Lingbeek and to allow any interested supervisor participate in the SWCD Governance 101 being held in Alexandria, MN.
Affirmative: Lingbeek, Muller and Nerem.
Opposed: None.
Motion carried.

SUPERVISOR MEETINGS
July 3 - RCRCA Meeting – Redwood Falls; July 12 – GBERBA Policy/Technical Meeting – Mankato; July 24 - SWCD Board Meeting and Tour – Office/County; July 31 – SWCS Invasive Species Tour – Cottonwood/Jackson Counties.

SWCD EMPLOYEE MEETINGS
July 9 – Organic Field Day – Lamberton; July 12 – GBERBA Policy/Technical Meeting – Mankato; July 22 - Watonwan SWCD Board Meeting – St. James; July 24 SWCD Board Meeting and Tour – Office/County; July 24 – Cohort Training – Redwood Falls; July 31 – SWCS Invasive Species Tour – Cottonwood/Jackson.

Motion by Nerem, second by Muller to approve the Supervisor and Employee meetings and expenses for the month of July.
Affirmative: Lingbeek, Muller and Nerem.
Opposed: None.
Motion carried.

DISTRICT TECHNICIAN REPORT – David Bucklin – Written Report
CONSERVATION EASEMENT APPLICATION
Norma Grunewald and Debra Van Oosbree Lakeside 18 50.8 acres

Motion by Nerem, second by Muller to approve and submit the Norma Grunewald and Debra Van Oosbree Conservation Easement Application.
Affirmative: Lingbeek, Muller and Nerem.
Opposed: None.
Motion carried.

CONSERVATION EASEMENT CHANGE REQUEST
Board agreed to the landowner submitting an Easement Change to the State of Minnesota BWSR. Easement owned by Perry Zieske #17-31-01-01. The Board did not consider this proposed 'switching of acres' to be environmentally negative to the easement area.

Fredbo, Tim R (BWSR)

From: David Bucklin [david.bucklin@windomnet.com]
Sent: Thursday, September 05, 2013 10:17 AM
To: Fredbo, Tim R (BWSR)
Cc: kay.clark@windomnet.com
Subject: Zieske RIM acre swap request 17 31 01 01

Tim,

I spoke with Perry and asked him to rewrite the letter of request to you. He was not sure where his acres came from either.

As for the SWCD board, they are in support and feel it is a good swap for the environment.

Thank You,

Dave Bucklin.

DAVID BUCKLIN
GBERBA Coordinator
District Technician
Cottonwood Soil and Water Conservation District

507-831-1153 Ext. 3 (w)
david.bucklin@windomnet.com

http://www.cottonwoodswcd.org

Minnesota Department of Natural Resources

DNR - Wildlife, 175 County Road 26, Windom, MN 56101
507-831-2900 Ext 226

7/5/13

Cottonwood Co SWCD
339 9th St
Windom, MN 56101

Re: Perry Zieske RIM Easement Alteration Request

Dear Board:

This letter is in response to Perry Zieske's request to modify a RIM easement, in Section 1, Storden Twp, by removing 1.5 acres from the easement and adding 4.5 acres. I have no concerns with this proceeding as long as the CRP and RIM easement requirements for this are met.

This is based upon the increase in acres protected under the RIM easement, the additional protection to the stream, and similar benefits to wildlife habitat. Since grazing on adjacent land had been mentioned as a reason for this request, it is hoped that the change will facilitate a better fencing alignment, protecting the stream and providing for grazing management that also benefits the natural resources. This will need to be taken into consideration when assessing the benefits of the alteration related to costs.

Thank you for the opportunity to review and comment on this activity. Feel free to contact me with any questions.

Sincerely,

Randy Markl
Area Wildlife Supervisor

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No. 235933

Office of County Recorder
State of Minnesota
County of COTTONWOOD

I hereby certify that the within named instrument was filed in this office for record on the 8th day of May 20 02 at 3:00 o'clock P. M and was duly recorded in File 203 on Card 320

Maryann Anderson
County Recorder

CREP Easement (12/98)

EASEMENT I.D. # 17-31-01-01

PERPETUAL RIM CONSERVATION EASEMENT
STATE OF MINNESOTA, BOARD OF WATER AND SOIL RESOURCES

This conservation easement, hereinafter referred to as "Easement", is made this 2nd day of May 20 02, between Perry L. Zieske and Joan K. Bultman Zieske, husband and wife, hereinafter collectively referred to as "Grantors", and the State of Minnesota, by and through the Board of Water and Soil Resources, hereinafter referred to as the "State".

WITNESSETH

WHEREAS, the REINVEST IN MINNESOTA RESOURCES LAW (RIM) and the Minn. Stat. Sec. 103F.501 et. seq., along with Section 84.95, authorize the State to acquire conservation easements on eligible lands; AND

WHEREAS the State is authorized to establish conservation practices to protect soil and water quality and to enhance fish and wildlife habitat on conservation easements; AND

WHEREAS, the Grantors are the owners of eligible marginal lands, and/or drained wetlands and/or cropland adjacent to these lands, and desire to convey such lands as a perpetual RIM conservation easement to the State of Minnesota.

NOW, THEREFORE, the Grantors, for themselves, their heirs, successors and assigns, in consideration of the sum of Ten Thousand Three Hundred Seventy Two and 51/100 DOLLARS ($ 10,372.51), do hereby grant, convey and warrant to the State, its successors and assigns, forever, a perpetual easement in accordance with the terms and conditions as hereafter set forth in Minn. Stat. Sec. 103F.501 et. seq. and all rules adopted thereto, over and upon the following described land situated in the County of Cottonwood State of Minnesota, to-wit:

THE LEGAL DESCRIPTION IS ATTACHED HERETO AND INCORPORATED HEREIN.

The Easement covers only that portion of the parcel delineated as the "EASEMENT AREA" identified on Exhibit(s), which is attached hereto and incorporated herein. The easement area consists of a total of 16.6 acres, of which 0.0 acres are not monetarily compensated by the State but are subject to the terms of the Easement. The easement area is subject to all prior easements, roadways, and mineral rights of record including the 15-year CRP contract dated 4-30-02.
No rights are granted to the general public for access to or entry upon the lands described herein.

FURTHER, the Grantors represent and warrant that there are no hazardous substances pollutants or contaminants in or on the easement area, and that the Grantors, their heirs, successors or assigns shall not place any toxic or hazardous substances, pollutants or contaminants in or on the easement area.

FURTHER, the Grantors, their heirs, successors and assigns warrant the perpetual right to access and an ingress and egress route to the easement area from a public road to allow authorized agents of the State to enter upon the easement area for the purpose of inspection and enforcement of this Easement. Access route can utilize existing driveways, field roads, etc.

FURTHER, the Grantors, for themselves, their heirs, successors and assigns warrant that they:

1. Shall establish and maintain vegetative cover and structural practices in accordance with the Conservation Plan on file at the local Soil and Water Conservation District (SWCD) or at the State. Conservation Plan maintenance includes any necessary replanting of vegetative cover and repair of structures. Any amendment to the Conservation Plan shall be mutually agreed to by the landowner, the SWCD and the State.

2. Shall perpetually allow for the legal manipulation of existing drainage systems and other land alterations on the easement area that are associated with establishing and managing wetland practices identified in the Conservation Plan. Water levels will be managed and controlled only by the State or its agents, which may include the SWCD or Department of Natural Resources.

3. Shall not appropriate water from any existing or restored wetlands within the easement area unless obtaining the prior written consent of the State and all necessary governmental permits.

4. Shall not produce agricultural crops on the easement area, except as provided in the state approved Conservation Plan for wildlife management purposes. Interim land uses established prior to the recording of this Conservation Easement and in accordance with the Conservation Easement Agreement, may be continued without violating this Easement.

5. Shall not remove or harvest any trees on the easement area, except as provided in the state approved Conservation Plan for forest management and wildlife habitat improvement purposes.

6. Shall not graze livestock on the easement area. Interim grazing land use established in accordance with the agreement for Conservation Easement will not be a violation of this Easement.

7. Shall not place any materials, substances or objects, nor erect or construct any type of structure, temporary or permanent, on the easement area, except as provided in the Conservation Plan.

8. Shall be responsible for weed control by complying with noxious weed control laws and emergency control of pests necessary to protect the public health on the easement area.

9. Shall not alter wildlife habitat, natural features, the vegetative cover, or other conservation practices on the easement area as described in the Conservation Plan, without the prior written approval of the State.

10. Shall restore the easement area to the condition described in the Conservation Plan after any lawful repair or improvement necessary to maintain a public drainage system or public utility system.

11. Shall not use any wetlands restored under the RIM Reserve program to mitigate other wetland losses.

12. Shall notify the State in writing of the names and addresses of the new owners within 30 days after the conveyance of all or part of the title or interest in the land described herein.

13. Shall pay when due all taxes and assessments, if any, that may be levied against the easement area.

14. Shall undertake the protection and management of the easement area in accordance with the conditions set forth in this Easement.

15. Other provisions: The State expressly recognizes the federal CRP 15-year contract # 1011 dated 4-30-02 encumbering some or all of this RIM easement. To the extent that any inconsistencies exist between the CRP contract and the RIM easement, the later is subordinated to the former and the provisions in the CRP contract shall control over the RIM easement for the duration of the 15-year CRP contract.

FURTHER, this Easement shall be enforceable by the State as provided in Minn. Stat. Sec. 103F.515, Subd. 9, and/or by such other relief as may be authorized by law. Any ambiguities in this Easement shall be construed in a manner which best effectuates the purposes of protecting soil, improving water quality, and enhancing fish and wildlife habitat.

FURTHER, THE GRANTORS OF THIS CONSERVATION EASEMENT, FOR THEMSELVES, COVENANT that they shall not convert to agricultural crop production or pasture any other land, owned or leased as part of the same farm operation at the time of application, if said land supports natural vegetation or has not been used in agricultural crop production.

IN WITNESS WHEREOF, the Grantors have caused this Easement to be duly executed.

GRANTOR(S) SIGNATURE(S) AND ACKNOWLEDGMENT

Perry L. Zieske

Perry L. Zieske

Joan K. Bultman Zieske

Joan K. Bultman Zieske

STATE OF Minnesota)
)
COUNTY OF Cottonwood)

The foregoing instrument was acknowledged before me this 2nd day of May, 20 02

by Perry L. Zieske and Joan K. Bultman Zieske, husband and wife.

(Notary Stamp or Seal)

KAY DEE CLARK
NOTARY PUBLIC-MINNESOTA
My Commission Expires Jan. 31, 2005

Notary Signature Kay Dee Clark

Commission expires on 1-31-2005

Instrument Drafted By: Board of Water and Soil Resources
One West Water Street, Suite 200
St. Paul, Minnesota 55107

(Land Title & Abstract Co., Inc.)

Easement Number 17-31-01-01

STATE OF MINNESOTA
BOARD OF WATER AND SOIL RESOURCES
CONSERVATION EASEMENT
LEGAL DESCRIPTION

That part of the south 505 feet of the SW1/4 of the NE1/4 and that part of the W1/2 of the SE1/4 lying north of the south 999.11 feet thereof, all in Section 1, T.107 N., R.37 W., shown as the "Easement Area" on Exhibit "A" attached to and made a part of this Conservation Easement, and located within Tract 1 described below:

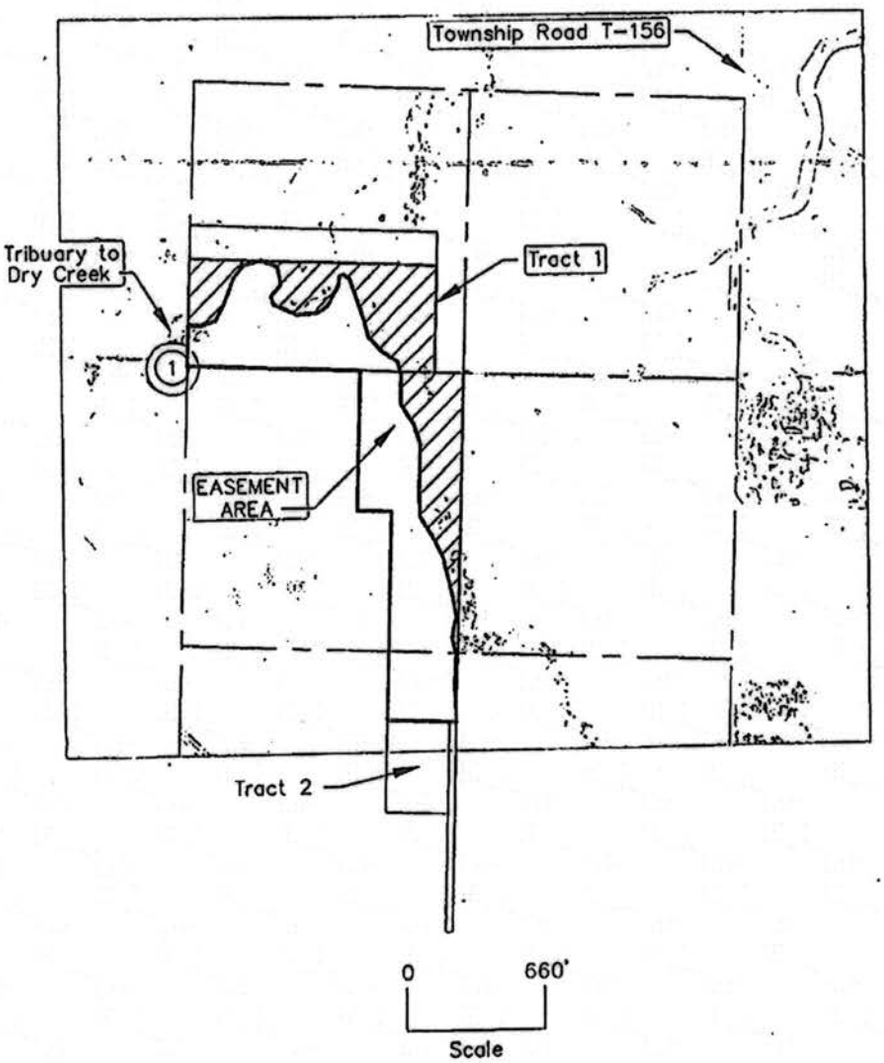
Tract 1.
Commencing at an existing iron monument at the Southwest Corner of said SE1/4;
thence south 88 degrees 39 minutes 55 seconds East, bearing based on Cottonwood County Coordinate System, along the south line of said SE1/4, a distance of 1289.05 feet, this being the point of beginning of said Tract 1;
thence North 00 degrees 37 minutes 40 seconds East, parallel with the east line of said W1/2 of the SE1/4, a distance of 999.11 feet;
thence North 88 degrees 39 minutes 55 seconds West, parallel with the south line of said SE1/4, a distance of 297.00 feet;
thence North 00 degrees 37 minutes 40 seconds East, parallel with the east line of said W1/2 of the SE1/4, a distance of 990 feet;
thence north 88 degrees 56 minutes 38 seconds West, parallel with the north line of said SE1/4, a distance of 165.00 feet;
thence North 00 degrees 37 minutes 40 seconds East, parallel with the east line of said W1/2 of the SE1/2, a distance of 660.00 feet, to a point on the north line of said SE1/4;
thence North 88 degrees 56 minutes 38 seconds West, along the north line of said SE1/4, a distance of 830.28 feet, to the North west Corner of said SE1/4;
thence North 00 degrees 33 minutes 25 seconds East, along the west line of said NE1/4 of Section 1, a distance of 663.00 feet;
thence South 88 degrees 55 minutes 07 seconds East, a distance of 1185.00 feet;
thence South 00 degrees 23 minutes 01 second West, a distance of 662.50 feet, to a point on the north line of said SE1/4 of Section 1;
thence South 88 degrees 56 minutes 38 seconds East, along the north line of said SE1/4, a distance of 138.26 feet, to the Northeast Corner of said W1/2 of the SE1/4;
thence South 00 degrees 37 minutes 40 seconds West, along the east line of said W1/2 of the SE1/4, a distance of 2650.71 feet, to the Southeast Corner of said W1/2 of the SE1/4;
thence North 88 degrees 39 minutes 55 seconds West, along the south line of said SE1/4, a distance of 33.00 feet, to the point of beginning.

Easement I.D. No: 17-31-01-01
Map 1 of 1

STATE OF MINNESOTA
BOARD OF WATER AND SOIL RESOURCES
CONSERVATION EASEMENT
EXHIBIT 'A'

This map delineates the easement area(s) referred to in the attached easement conveyance.

Section 1 T. 107 N., R. 37 W., Cottonwood County



Prepared By:

Board of Water and Soil Resources

Dated:

January 29, 2002

LEGEND

- Center of Section
- Boundary of Described Lands
- Easement Area — Lands Included in Easement
- Lands Not Included in Easement
- Section/Quarter/Sixteenth Line

NEW BUSINESS

1. Clean Water Fund Roadmap Presentation – Sarah Strommen and MPCA Commissioner John Linc Stine - ***INFORMATION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Clean Water Fund Roadmap Presentation

Meeting Date:

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

Item Type: ☐ Decision ☐ Discussion ☒ Information

Section/Region:

Contact: Sarah Strommen

Prepared by: Sarah Strommen

Reviewed by: John Jaschke Committee(s)

Presented by: Sarah Strommen and John Linc Stine

☐ **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

Information Item
MPCA Commissioner John Linc Stine and Sarah Strommen, Assistant Director of the Board of Water and Soil Resources will provide an update on the status of the project.

LINKS TO ADDITIONAL INFORMATION

A summary of the Clean Water Roadmap Stakeholder Meeting on October 21, 2-13, including attendees, major themes, and live polling results, is now available on the **project web page**. The summary also contains next steps coming out of the October stakeholder meeting.

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

At the request of the Clean Water Funded Executive branch agency heads, the Clean Water Fund Interagency Coordination Team launched a project this past June, with the assistance of Environmental Initiative, to establish a Clean Water Fund Roadmap. The idea behind the Roadmap is to develop a few key goals and measures for Clean Water Fund implementing agencies to monitor our pace of progress in achieving those goals over the course of the 25 years of constitutional amendment funding;

FOR YOUR INFORMATION

December 18, 2013

- ☐ BWSR Snapshots, December 2013
- ☐ Celebrating Outstanding Accomplishments in Conservation
- ☐ Expense Reimbursement
  Electronic expense report form:
  http://www.mmb.state.mn.us/doc/sema4/pay/be-expense.pdf
- ☐ IRS Mileage Rate Effective January 1, 2014
- ☐ Steve Woods named to lead Freshwater Society
- ☐ MASWCD Year in Review, FY November 1, 2012 – October 31, 2013
- ☐ MPR News, 'Dental therapy' takes root where dentists are scarce in Minnesota

BeckerKudelka, Angie (BWSR)

BWSR Snapshots

December 2013

As part of an effort to better communicate with our local partners, BWSR will be sending its monthly newsletter, Snapshots, electronically each month as it is published to share conservation stories from around the state. If desired, you can 'unsubscribe' at the bottom of this email.



BWSR and partners restore white cedar in northern Minnesota

Close your eyes and picture northern Minnesota. Do images of pristine lakes, abundant forests, white tailed deer, black bear and bobcats come to mind? It is that very picture that the Board of Water and Soil Resources (BWSR) is working to protect through a recent project spanning Beltrami, Koochiching, Lake, Aitkin, Itasca and St. Louis counties.

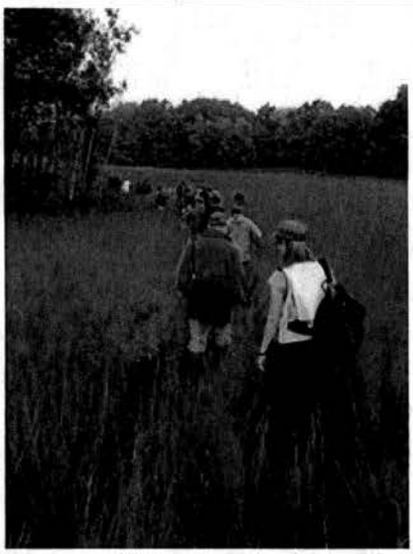
Read the story here.

LGU Staff Migrate to Brainerd for the 2013 BWSR Academy



Over 350 of Minnesota's n atural resource professionals converged on Brainerd, Minnesota during the last week in October with a shared goal: improving their ability to deliver conservation to the citizens of Minnesota.

Read more about the 2013 BWSR Academy here.



Developing "knowledgeable and trained" staff for Minnesota's wetlands

Minnesota is known for being ahead of the curve when it comes to protecting wetlands. So it only makes sense that the program we use to keep wetland professionals up to speed, the Wetland Delineator Certification Program, is also widely esteemed.

Read the story here.

Minnesota Board of Water & Soil Resources

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BWSR and partners restore white cedar in northern Minnesota

December 2013 Snapshots

Close your eyes and picture northern Minnesota. Do images of pristine lakes, abundant forests, white tailed deer, black bear and bobcats come to mind? It is that very picture that the Board of Water and Soil Resources (BWSR) is working to protect through a recent project spanning Beltrami, Koochiching, Lake, Aitkin, Itasca and St. Louis counties.



Society of Wetland Scientists members visit a white cedar demonstration site in St. Louis County.

Northern white cedar, (*Thuja occidentalis)* is one of the icons of northern forests. Unfortunately, the species has been declining in Minnesota for decades. These trees can grow to a height of 25-50 feet, and live for hundreds of years. In addition to being found in wetland communities in northern Minnesota, it is also a native tree to the northeastern United States and southeastern Canada. Cedar is valued throughout its range for its rot-resistant wood and high-quality wildlife habitat.

> *"Northern white cedar is so important for many species, its decline will likely decrease biodiversity and habitat on a landscape scale."*
> Dr. Rodney Chimner

White cedar forests play a vital role in keeping northern wetland communities healthy. These ecosystems help maintain cold groundwater for trout streams and provide important wildlife habitat for black bear, fisher, marten, and numerous song birds such as winter wrens, Swainson's thrush, and Blackburnian warblers. Dr. Rodney Chimner, a project consultant and cedar expert explains "white cedar swamps contain over eighty animal species and provide important habitat for wintering white-tailed deer. The understory in natural northern white-cedar swamps is also noted for its diversity of herbaceous vegetation and bryophytes, including orchids and other rare plants."



The Leaves of a White Cedar

The extensive influence of white cedar swamps on northern forest ecosystems has made these communities a high priority for BWSR and our partners. BWSR, the DNR and the University of Minnesota Natural Resource Research Institute are partnering with several local counties and soil and water conservation districts (SWCDs) to reverse the decline of northern white cedar wetland plant communities in Minnesota.

With funding provided through the Environment and Natural Resources Trust Fund, this group is working on a project to restore northern white cedar through site preparation and vegetation restoration techniques.

Dale Krystosek, BWSR Wetland Special Project Lead, added "We are also evaluating how we can protect the white cedar plant communities from damage due to poorly designed wetland crossings for roads and trails."

Pam Tomevi, Koochiching SWCD District Manager, recognizes the importance of the white cedar community in a county that is nearly three-fourths wetland. "White cedar is obviously conducive to our area – it's a wet grower, struggling to regenerate on its own," Tomevi said. "Koochiching County is very forested, and since forestry and clean water go hand in hand, this project fits into a multitude of goals identified in our water plan." In addition, Tomevi appreciates how the project fosters great partnership and a shared goal between local SWCDs, counties and the state.



White Cedar Community in St. Louis County

Since the project began in 2011, the project team has finalized plans for establishment of seven demonstration sites. These sites are located in Beltrami County, Koochiching County, St. Louis County and Lake County, and cover 485 acres in area. Restoration and site preparation plans or monitoring plans have been implemented for each of the sites. The Minnesota Conservation Corps has already completed restoration work including site preparation, tree planting, white cedar seeding and the installation of tree protectors (to prevent deer browsing damage) on several of the sites.

The way Dale Krystosek sees it, "This project will provide valuable knowledge about how to best restore and protect northern white cedar plant communities, and will result in benefits to wildlife habitat, water quality as well as the restoration and preservation of an important ecosystem".

The Legislative-Citizen Commission on Minnesota's Resources agrees. Earlier this year, BWSR made a second proposal to the LCCMR and the project was selected for a funding recommendation to the 2014 Minnesota Legislature.

LGU Staff Migrate to Brainerd for the 2013 BWSR Academy

December 2013 Snapshots

Over 350 of Minnesota's natural resource professionals converged on Brainerd, Minnesota during the last week in October with a shared goal: improving their ability to deliver conservation to the citizens of Minnesota. The BWSR Academy, which has been offered as a training event for local government (LGU) staff for the past 6 years, was the draw.



Participants engage in small group discussion during one of the Academy sessions.

The attendance numbers at the Academy have increased every year, and 2013 was no exception. In fact, according to Jason Weinerman, BWSR Board Conservationist, *"This was the first year we actually had to turn people away because the sessions, and facility, were full to capacity".*

BWSR staff have adjusted the Academy scope and approach each year to keep up with the growing demands. For example, in the past we offered five concurrent tracks, each filled with 90 minute sessions. This year, we added a "repeat" track, where select sessions were offered a second time. In total, we had 42 different sessions during the 3-day Academy, providing over 60 hours of training opportunities.

One of the more unique aspects of the Academy is the emphasis we place on peer to peer learning. Several sessions are planned or led by LGU staff. Informal time to share experiences is among the most appreciated aspects of the Academy for participants. As one participant put it, *"I think the Academy is a great place to network with other organizations and bounce ideas off of each other. We don't get to see most of these people on a regular basis so getting to talk with them is beneficial."*



Presenters talk with Local Partners during a program session.

The planning effort spans all departments at BWSR. Jenny Gieseke, BWSR Training Coordinator noted; *"The hard work of the Academy planning teams was apparent in how well things went this year. The sessions were well attended, the speakers were great, and the behind the scenes help made everything run smoothly."* It showed in feedback as well. Over 81% of attendees said the BWSR Academy met their personal goals for learning and 98% said they'd recommend the Academy to others.

Academy Purpose:
To provide high quality training for local government staff that maintains and improves the delivery of conservation work and meets the shared expectations of BWSR and local resource management boards

Developing "knowledgeable and trained" staff for Minnesota's wetlands

December 2013 Snapshots

Minnesota is known for being ahead of the curve when it comes to protecting wetlands. So it only makes sense that the program we use to keep wetland professionals up to speed, the Wetland Delineator Certification Program, is also widely esteemed. In 2013, the program's strong reputation for excellence drew participants from neighboring states. For the first time, participants from Iowa and North Dakota were among the 60 individuals completing two intensive five-day training courses.



Participants learn about soil textures.

The Minnesota Wetland Conservation Act (WCA) requires that wetland delineations be performed in accordance with the U.S Army Corp of engineers Wetland Delineation Manual and its regional supplements.

The Wetland Delineators Certification Program (WDCP) is a training and certification program developed to increase the quality and consistency of wetland delineation work in Minnesota, ensuring that the professionals performing wetland delineations are "knowledgeable and trained." The training program is facilitated by the University of Minnesota with coordination between the U.S. Army Corp of Engineers and the Board of Water and Soil Resources.

The WDCP instructors are a major strength of the program. The instructors come from the agencies that review and approve delineations and all have extensive experience performing delineations on their own, often in both private and public work sectors. So, the instructors are the most experienced wetland delineators in the state – who better to train; than the people that review and approve the delineation work?!

> *"The value of this course is that the trainers are also the ones that review and approve the delineations. So you're getting it right from the horse's mouth."*
>
> Dennis Rodacker,
> BWSR Senior
> Wetland Specialist

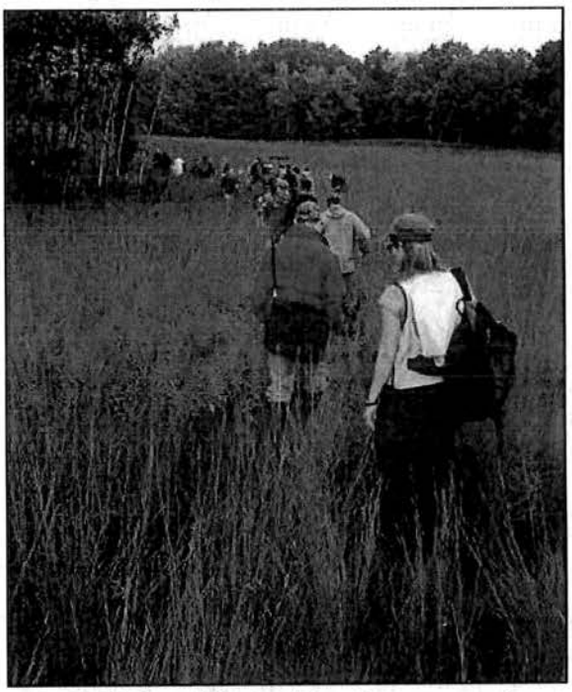
The five day courses offered in 2013 covered topics related to wetland delineations using a mix of lecture, hands-on exercises, and field work. Small exercises are also incorporated into lectures, which helped to keep participants engaged while reinforcing important points of the lecture.

While the field exercise portion of the training was probably the most enjoyable part of the program for the 2013 participants, it is also one of the most essential features of the course. The field exercises provided the participants with an opportunity to work in a "real life" setting, and incorporate what they have learned

during the training. It was common for participants to experience "Aha!" moments, when the information covered during a lecture finally clicked!

At the end of the training session, participants can elect to take one of the two certification exams: "*In Training*" or "*Professional*." In 2013, eighteen participants elected to take the professional exam and 56% passed. Twenty-three participants elected to take the in-training exam with and 57 passed. These numbers are typical of the participant profile at a WDCP training course, which lately has included more students directly out of college, with little applied experience. A passing score means the participant is certified to the level of exam taken.

Throughout the course, instructors stress that the WDCP exam is not the end of their education in the world of wetland delineation, rather it is the beginning; this class gives students the basic tools to perform delineations, but good delineation work takes time and experience.



2013 WDCP training participants wrap up a day of field work.

BeckerKudelka, Angie (BWSR)

Minnesota Board of Water & Soil Resources

News Release

Celebrating Outstanding Accomplishments in Conservation

Dear Partners in Conservation,

December offer us a time to reflect on the past year's activities and accomplishments – including the annual outstanding conservation awards. BWSR is pleased to announce the 2013 winners:

2013 Outstanding SWCD Employee of the Year:
Jared Bach, Blue Earth SWCD

Awarded at the Minnesota Association of Soil and Water Conservation Districts (MASWCD) 2013 annual convention, this award recognizes employee achievements in the field of soil and water conservation. Learn more about this year's winner at the BWSR website.

2013 Outstanding Watershed District Employee of the Year
Cliff Aichinger, Ramsey Washington Metro Watershed District

BWSR honored Anna at the Minnesota Association of Watershed Districts (MAWD) annual convention in December 2012. This award recognizes employee achievements in water resources management. Learn more about this year's winner at the BWSR website.

2012 Association of Minnesota Counties (AMC) County Conservation Award:
Washington County's "LAND AND WATER LEGACY PROGRAM"

The Association of Minnesota Counties, in partnership with the Minnesota Board of Water and Soil Resources, began this award category in 2008 to recognize leadership, innovation, and excellence by counties in protecting or improving their natural resources. The AMC/BWSR Conservation Award was presented at the December 2013 AMC Awards Banquet

Minnesota Board of Water & Soil Resources

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Minnesota Board of Water & Soil Resources

Celebrating Outstanding Contributions in Conservation

2013 Outstanding District Employee of the Year

December 2013

The Minnesota Board of Water and Soil Resources (BWSR) is pleased to announce **Jared Bach**, Blue Earth Soil and Water Conservation District (SWCD) Manager, as the 2013 Outstanding SWCD Employee of the Year.



Jared Bach, Blue Earth SWCD

As the Chief Administrative Officer, Jared's work is diverse. Jared is directly responsible to the Blue Earth SWCD Board of Supervisors for the guidance and direction of the everyday functions of the District. He is responsible for administrative, financial, and technical components – all working together toward the successful implementation of local and state conservation programs.

Jared serves the Blue Earth SWCD by taking on multiple roles in conservation efforts across southern Minnesota. He is the host District Manager of South Central Technical Service Area; is chairman of the Greater Blue Earth River Basin Technical Committee; serves as chairman of South Central Minnesota Association of Conservation District Employees; provides wetland guidance by participating as a Wetland Conservation Act Technical Evaluation Panel member for the city and county; and is an active participant in the Madison Lake Association.

Jared's leadership has guided the Blue Earth SWCD toward innovative ways of getting conservation done. For example, the SWCD set up an Aquatic Habitat Tech position with the Department of Natural Resources (DNR), focusing on joint water quality/habitat projects. The SWCD also set up a Clean Water Fund special nutrient management program to be used by farmers in the Lake Crystal Watershed. In another leading-edge project, the Blue Earth SWCD used Toe-Wood Sod mats to stabilize streambank erosion. And finally, the District has hosted a Conservation Marketplace of Minnesota position to setup water quality credit trading. These inventive projects are just some of the ways Jared, his board, and staff, regularly develop new program concepts and nurture strong partnerships to get common sense conservation on the ground.

BWSR awards the Outstanding District Employee of the Year at the Minnesota Association of Soil and Water Conservation Districts annual convention in December 2013. John Jaschke, BWSR Executive Director, commented, "Jared brings great skills and service to the citizens of Minnesota. We want to acknowledge and celebrate his outstanding contributions to soil and water conservation." Congratulations Jared!

Minnesota Board of Water & Soil Resources

Celebrating Outstanding Contributions in Conservation

2013 Outstanding Watershed District Employee of the Year

December 2013

The Minnesota Board of Water and Soil Resources (BWSR) is pleased to announce **Cliff Aichinger, Ramsey-Washington Metro Watershed District** Administrator, as the 2013 Outstanding Watershed District Employee of the Year.

Cliff was selected for the award because of his exceptional performance as administrator for the Ramsey-Washington Metro Watershed District. His leadership has gained the district national recognition and has enabled the organization to be identified as Minnesota's Watershed District Program of the Year multiple times. Cliff has directed many successful, multi-million dollar projects, and two of them were honored as project of the year (2005 and 2009).



Cliff Aichinger, Ramsey-Washington WD (left) and John Jaschke, BWSR Executive Director

Cliff effectively coordinates and provides leadership in the development of district goals, plans, policies, and budgets, and he excels at administering the district budget and processes. Cliff represents the district by serving on several local and statewide committees where he leads and creates a visible presence to promote the district's interests.

An example of one of the outstanding projects Cliff has worked on in recent years is the Maplewood Mall Stormwater Volume Reduction Retrofit Project. Cliff prepared grant and loan applications which culminated in the District receiving a combined $3.2 million in grants and loans from the Clean Water Fund, Section 319 Funds, SRF Green Project Reserve Program, and the TMDL grant program. In addition to providing overall leadership for the project, Cliff promoted the project's innovative education signage and worked with the district's artist in residence to incorporate public art into the project.

BWSR presented Cliff Aichinger with the award at the Minnesota Association of Watershed Districts annual convention in December 2013. John Jaschke, BWSR Executive Director, commented, "Cliff continues the tradition of honoring exceptional employees working to protect and improve Minnesota's natural resources. His accomplishments represent important contributions to the watershed and the state." Congratulations Cliff!

ASSOCIATION of MINNESOTA COUNTIES
Proudly Serving Counties Since 1909

FOR IMMEDIATE RELEASE
December 12, 2013

FOR MORE INFORMATION CONTACT:
Becky Pizinger, Communications Coordinator
E-mail: pizinger@mncounties.org

WASHINGTON COUNTY'S "LAND AND WATER LEGACY PROGRAM" RECEIVES 2013 COUNTY CONSERVATION AWARD

(St. Paul, MN)— **Washington County's Land and Water Legacy Program** was recognized by Association of Minnesota Counties (AMC) and the Minnesota Board of Water and Soil Resources (BWSR) during AMC's Annual Conference December 10 in Minneapolis The County Conservation Award recognizes leadership, innovation and excellence by counties in protecting or improving their natural resources.

Washington County, through its Land and Water Legacy Program, works with landowners and organizations to purchase land or interests in land to keep them in their natural condition. The program began on a small scale in 2000, but after passage of a $20 million bond referendum November 7, 2006, for the preservation of water quality, woodlands and other natural areas, the program began in earnest. For almost 20 years, residents in the county expressed their desire to protect the natural and rural character of the county, and county leadership has responded with the Land and Water Legacy Program. The county has leveraged partnerships with other governmental entities and non-profit groups to complete 19 projects protecting more than 500 acres of land and acquiring six miles of right-of-way for the Brown's Creek State Trail and 2 miles of right-of-way for an extension of the Gateway State Trail. Completed projects have protected 84 acres of floodplain forest, 142 acres along state-designated trout streams, 36 acres of lake shore, 102 acres of shore land along the Mississippi and St. Croix rivers, 112 acres of restored oak savannah, and 40 acres of farmland. The projects have provided nearly 275 acres of new public park land.

AMC is a voluntary statewide organization that assists the state's 87 counties in providing effective county governance to the people of Minnesota. It is the mission of the Association to assist in the provision of effective county governance for the people of Minnesota. The association works closely with the legislative and administrative branches of government in seeing that legislation and policies favorable to counties are enacted. In addition, the Association provides educational programs, training, research and communications for county officials.

###



Washington County's Land and Water Legacy Program received the 2013 County Conservation Award from the Association of Minnesota Counties and the Minnesota Board of Water and Soil Resources this week in St. Cloud. Representatives of the county are pictured here with BWSR Executive Director John Jaschke (right) and 2013 AMC President Joe Vene, a Beltrami County Commissioner (left).

15 Expense Reimbursement

General. The Appointing Authority may authorize payment of travel and other expenses and reimbursement of special expenses for employees and interns in accord with the provisions of this Chapter, Chapter 8, and Administrative Procedure 4.4 for the effective conduct of the State's business. Such authorization must be granted prior to incurring the actual expenses. Administrative Procedure 4.4 Section E provides an exception which allows an agency to submit a request for approval after special expenses have occurred.

Privately-Owned Vehicles and Aircraft. An employee shall be reimbursed for the use of privately-owned vehicles and aircraft under the situations and at the rates specified below. In all cases, mileage must be on the most direct route according to Department of Transportation records.

Situation	Rate Per Mile
• Use of personal automobile when a State-owned vehicle is not available.	Federal IRS mileage reimbursement rate
• Use of personal automobile when a State-owned vehicle is available and declined by the employee.	Federal IRS mileage reimbursement rate less $0.07
• Use of personal van or van-type vehicle specially equipped with a ramp, lift, or other level-changing device designed to provide wheelchair access.	Federal IRS mileage reimbursement rate plus $0.09
• Use of personal aircraft provided that the employee demonstrates adequate liability coverage under the requirements of M.S. 360.59, subdivision 10, and the Appointing Authority has granted approval for the use of the aircraft.	Federal IRS mileage reimbursement rate

In addition to mileage, actual parking fees and toll charges shall be reimbursed. At the sole discretion of the Appointing Authority, employees who normally are not required to travel on state business may be reimbursed for parking at their work location on an incidental basis when they are required to use their personal or a state vehicle for state business and no free parking is provided.

Employees shall not receive mileage reimbursement for commuting between a permanent work location and their home. For each position, the Appointing Authority may designate no more than two (2) permanent work locations, which must be within thirty-five (35) miles of each other. For purposes of expense reimbursement for trips to temporary work locations, the Appointing Authority shall designate one (1) of the two (2) permanent work locations as the primary location. The Appointing Authority must provide advance written notice of the two (2) locations and the primary location to anyone being appointed to such a position.

When an employee does not report to the permanent work location during the day or makes business calls before or after reporting to the permanent work location, the allowable mileage is: (1) the lesser of the mileage from the employee's residence to the first stop or from his/her permanent work location to the first stop, (2) all mileage between points visited on State business during the day, and (3) the lesser of the mileage from the last stop to the employee's residence or from the last stop to his/her permanent work location.

Employees accepting mobility assignments, as defined in Administrative Procedure 1.1, are not eligible for mileage reimbursement for the trip between their home and the mobility assignment.

Other Travel Expenses. Upon approval of the Appointing Authority, employees in travel status may be reimbursed for expenses described below in the amounts actually incurred not to exceed any maximum amounts specified below.

Where anticipated expenses total at least fifty dollars ($50.00), the Appointing Authority shall advance the employee the amount of the anticipated expenses upon the employee's request made a reasonable period of time prior to the travel date. If the amount advanced exceeds the actual expenses, the employee shall return the excess within two (2) weeks of return from travel. The Appointing Authority may issue the employee a State-owned credit card in lieu of a travel advance.

Reimbursable expenses may include, but are not limited to, the following:

- Commercial transportation (air, taxi, rental car, etc.) provided that no air transportation shall be by first class unless authorized by an Appointing Authority; and that reimbursement for travel which includes more than one destination visited for State purposes and non-State purposes shall be in an amount equal to the cost of the air fare only to those destinations visited for State purposes.

- Meals including tax and a reasonable gratuity. Employees shall be reimbursed for meals under the following conditions:

  1. **Breakfast**. Breakfast reimbursements may be claimed if the employee leaves his/her temporary or permanent work location before 6:00 a.m. or is away from home overnight.

  2. **Lunch**. Lunch reimbursements may be claimed if the employee is in travel status more than thirty-five (35) miles away from his/her temporary or permanent work location or is away from home overnight.

  3. **Dinner**. Dinner reimbursements may be claimed only if the employee is away from his/her temporary or permanent work locationuntil after 7:00 p.m. or is away from home overnight.

  4. **Reimbursement Amount**. Except for the metropolitan areas listed below, the maximum reimbursement for meals including tax and gratuity shall be:

Meal Rates Effective Through December 31, 2013		Meal Rates Effective Beginning January 1, 2014	
Breakfast	$7.00	Breakfast	$9.00
Lunch	$9.00	Lunch	$11.00
Dinner	$15.00	Dinner	$16.00

For the following metropolitan areas and any location outside the forty-eight (48) contiguous United States, the maximum reimbursement shall be:

Meal Rates Effective Through December 31, 2013		Meal Rates Effective Beginning January 1, 2014	
Breakfast	$8.00	Breakfast	$11.00
Lunch	$10.00	Lunch	$13.00
Dinner	$17.00	Dinner	$20.00

The metropolitan areas are:

Atlanta	Baltimore
Boston	Chicago
Cleveland	Dallas/Fort Worth
Denver	Detroit
Hartford	Houston
Kansas City	Los Angeles
Miami	New Orleans
New York City	Philadelphia
Portland, Oregon	St. Louis
San Diego	San Francisco
Seattle	Washington, D.C.

See Appendix H for details related to the boundaries of the above-mentioned metropolitan areas. The higher meal reimbursement rates also include any location outside the forty-eight (48) contiguous United States.

Employees who are in travel status for two (2) or more consecutive meals shall be reimbursed for the actual costs of the meals including tax and a reasonable gratuity, up to the combined maximum amount for the reimbursable meals.

- Hotel and motel accommodations provided that employees exercise good judgment in incurring lodging costs and that charges are reasonable and consistent with the facilities available.

- All work-related long distance telephone calls provided that the employee does not have a State telephone credit card or is unable to bill the call to the office telephone number.

- Actual personal telephone call charges. The maximum reimbursement for each trip shall be the result of multiplying the number of nights away from home up to three dollars ($3.00).

- Reasonable costs of dry cleaning and laundry services, not to exceed sixteen dollars ($16.00), each week after the first week an employee is in continued travel status.

- Reasonable costs and gratuities for baggage handling.

- Parking fees and toll charges.

Receipts. The Appointing Authority may require receipts for any reimbursement requested by an employee under the provisions of this or any other chapter in this Plan.

Uniforms. If an Appointing Authority requires an employee to wear a uniform, the Appointing Authority shall supply the initial uniform and the employee shall be responsible for the maintenance of the uniform.

☐ IN-STATE ☐ OUT-OF-STATE ☐ SHORT TERM ADVANCE ☐ RECURRING ADVANCE

SEMA4 EMPLOYEE EXPENSE REPORT

☐ Check if advance was issued for these expenses
☐ FINAL EXPENSE(S) FOR THIS TRIP?

Employee Name	Home Address (Include City and State)	Permanent Work Station (Include City and State)	Agency	1-Way Commute Miles	Job Title

Employee ID	Rcd #	Trip Start Date	Trip End Date	Reason for Travel/Advance (30 Char. Max) [example: XYZ Conference, Dallas, TX]	Barg. Unit	Expense Group ID (Agency Use)

Chart String(s)

	Accounting Date	Fund	Fin DeptID	ApproplD	SW Cost	Sub Acct	Agncy Cost 1	Agncy Cost 2	PC BU	Project	Activity	Srce Type	Category	Sub-Cat	Distrib %
A															
B															

A. Description: B. Description:

Date	Daily Description	Itinerary Time	Itinerary Location	Trip Miles	Total Trip & Local Miles	Mileage Rate	Meals ✓ B	Meals ✓ L	Meals ✓ D	Total Meals (overnight stay)	Total Meals (no overnight stay) taxable	Lodging	Personal Telephone	Parking	Total
			Depart				☐	☐	☐						
			Arrive												
			Depart				☐	☐	☐						
			Arrive												
			Depart				☐	☐	☐						
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			Depart				☐	☐	☐						
			Arrive												
	VEHICLE CONTROL #				Total Miles					Total MVVI/MVVO	Total MEI/MEO	Total LGI/LGO	Total PHI/PHO	Total PKI/PKO	Subtotal (A)

Figure mileage reimbursement below

MILEAGE REIMBURSEMENT CALCULATION

Enter the rates, miles, and total amounts for the mileage listed above. Get the IRS rate from your agency business expense contact.	Rate	Total Miles	Total Mileage Amt.
1. Enter rate, miles, and amount being claimed at **equal to the IRS rate.**			
2. Enter rate, miles, and amount being claimed at **less than the IRS rate.**			
3. Enter rate, miles, and amount being claimed at **greater than the IRS rate.**			
4. Add the total mileage amounts from lines 1 through 3.			
5. Enter IRS mileage rate in place at the time of travel.			
6. Subtract line 5 from line 3.			
7. Enter total miles from line 3.			
8. Multiply line 6 by line 7. This is **taxable** mileage.			(Copy to Box C) →
9. Subtract line 8 from line 4. If line 8 is zero, enter mileage amount from line 4. This is non-taxable mileage.			(Copy to Box D) →

OTHER EXPENSES – See reverse for list of Earn Codes.

Date	Earn Code	Comments	Total
		Subtotal Other Expenses: (B)	
		Total taxable mileage greater than IRS rate to be reimbursed: (C)	MIT or MOT
		Total nontaxable mileage less than or equal to IRS rate to be reimbursed: (D)	MLI or MLO
		Grand Total (A + B + C + D)	
		Less Advance issued for this trip:	
		Total amount to be reimbursed to the employee:	
		Amount of Advance to be returned by the employee by deduction from paycheck:	

If using private vehicle for out-of-state travel: What is the lowest airfare to the destination? Total Expenses for this trip must not exceed this amount.

I declare, under penalty of perjury, that this claim is just, correct and that no part of it has been paid or reimbursed by the state of Minnesota or by another party except with respect to any advance amount paid for this trip. I AUTHORIZE PAYROLL DEDUCTION OF ANY SUCH ADVANCE. I have not accepted personal travel benefits.

Employee Signature _____ Date _____ Work Phone:

Approved: Based on knowledge of necessity for travel and expense and on compliance with all provisions of applicable travel regulations.

Supervisor Signature _____ Date _____ Work Phone:

Appointing Authority Designee (Needed for Recurring Advance and Special Expenses)

Signature _____ Date _____

Need receipts for highlighted items

EMPLOYEE EXPENSE REPORT (Instructions)

DO NOT PAY RELOCATION EXPENSES ON THIS FORM.
See form FI-00568 Relocation Expense Report. Relocation expenses must be sent to Minnesota Management & Budget, Statewide Payroll Services, for payment.

USE OF FORM: Use the form for the following purposes:
1. To reimburse employees for authorized travel expenses.
2. To request and pay all travel advances.
3. To request reimbursement for small cash purchases paid for by employees.

COMPLETION OF THE FORM: Employee: Complete, in ink, all parts of this form. If claiming reimbursement, enter actual amounts you paid, not to exceed the limits set in your bargaining agreement or compensation plan. If you do not know these limits, contact your agency's business expense contact. Employees must submit an expense report within 60 days of incurring any expense(s) or the reimbursement comes taxable.

All of the data you provide on this form is public information, except for your home address. You are not legally required to provide your home address, but the state of Minnesota cannot process certain mileage payments without it.

Description	Earn Code In State	Earn Code Out of State
Advance	ADI	ADO
Airfare	ARI	ARO
Baggage Handling	BGI	BGO
Car Rental	CRI	CRO
Clothing Allowance	CLA	
Clothing-Non Contract	CLN	
Communications - Other	COM	
Conference/Registration Fee	CFI	CFO
Department Head Expense	DHE	
Fax	FXI	FXO
Freight & Delivery (inbound)	FDS	
Hosting	HST	
Laundry	LDI	LDO
Lodging	LGI	LGO
Meals With Lodging	MWI	MWO
Meals Without Lodging	MEI*	MEO*

Description	Earn Code In State	Earn Code Out of State
Membership	MEM	
Mileage > IRS Rate	MIT*	MOT*
Mileage < or = IRS Rate	MLI	MLO
Network Services	NWK	
Other Expenses	OEI	OEO
Parking	PKI	PKO
Photocopies	CPI	CPO
Postal, Mail & Shipping Svcs.(outbound)	PMS	
Storage of State Property	STO	
Supplies/Materials/Parts	SMP	
Telephone, Business Use	BPI	BPO
Telephone, Personal Use	PHI	PHO
Training/Tuition Fee	TRG	
Taxi/Airport Shuttle	TXI	TXO
Vest Reimbursement	VST	
Note: * = taxable, taxed at supplemental rates		

Supervisor: Approve the correctness and necessity of this request in compliance with existing bargaining agreements or compensation plans and all other applicable rules and policies. Forward to the agency business expense contact person, who will then process the payments. Note: The expense report form must include original signatures.

Final Expense For This Trip?: Check this box if there will be no further expenses submitted for this trip. By doing this, any outstanding advance balance associated with this trip will be deducted from the next paycheck that is issued.

1-Way Commute Miles: Enter the number of miles from your home to your permanent workstation.

Expense Group ID: Entered by accounting or payroll office at the time of entering expenses. The Expense Group ID is a unique number that is system-assigned. It will be used to reference any advance payment or expense reimbursement associated with this trip.

Earn Code: Select an Earn Code from the list that describes the expenses for which you are requesting reimbursement. Be sure to select the code that correctly reflects whether the trip is in state or out-of-state. **Note**: Some expense reimbursements may be taxable.

Travel Advances, Short-Term and Recurring: An employee can only have one outstanding advance at a time. An advance must be settled before another advance can be issued.

Travel Advance Settlement: When the total expenses submitted are less than the advance amount or if the trip is cancelled, the employee will owe money to the state. Except for rare situations, personal checks will not be accepted for settlement of advances; a deduction will be taken from the employee's paycheck.

FMS ChartStrings: Funding source(s) for advance or expense(s)

Mileage: Use the **Mileage Reimbursement Calculation** table to figure your mileage reimbursement. Mileage may be authorized for reimbursement to the employee at one of three rates (referred to as the equal to, less than, or greater than rate). The rates are specified in the applicable bargaining agreement/compensation plan. Note: If the mileage rate you are using is above the IRS rate at the time of travel (this is not common), part of the mileage reimbursement will be taxed.

Vehicle Control #: If your agency assigns vehicle control numbers follow your agency's internal policy and procedure. Contact your agency's business expense contact for more information on the vehicle control number procedure.

Personal Travel Benefits: State employees and other officials cannot accept personal benefits resulting from travel on state business as their own. These benefits include frequent flyer miles/points and other benefits (i.e. discounts issued by lodging facilities.) Employees must certify that they have not accepted personal travel benefits when they apply for travel reimbursement.

Receipts: Attach itemized receipts for all expenses except meals, taxi services, baggage handling, and parking meters, to this reimbursement claim. The Agency Designee may, at its option, require attachment of meal receipts as well. Credit card receipts, bank drafts, or cancelled checks are not allowable receipts.

Copies and Distribution: Submit the original document for payment and retain a copy for your employee records.

MINNESOTA Management & Budget

Office Memorandum

Date: December 13, 2013

To: Agency Payroll, HR and Accounting Staff

From: Mary Muellner, Director
Statewide Payroll Services

Subject: IRS Mileage Rate Effective January 1, 2014

The standard IRS mileage rate for the business use of an employee's personal automobile will decrease on January 1, 2014, to **56 cents per mile**.

The state bargaining agreements and compensation plans base mileage reimbursement rates on the standard IRS mileage rate that's in place at the time of travel. As a reminder, two options are provided for determining the mileage reimbursement rate for any given trip:

- If the employee travels in his or her own vehicle because no state vehicle is available, the reimbursement rate is the current IRS rate (56 cents per mile for miles driven in 2014).
- If a state vehicle is offered but the employee declines and travels in his or her own vehicle, the reimbursement rate is 7¢ less than the current IRS rate (49 cents per mile for miles driven in 2014).

Note: "State vehicle" is defined as any vehicle owned or leased by the state or loaned to the state.

Please refer to the bargaining agreements and compensation plans regarding mileage reimbursement rates for the business use of an employee's specially equipped vehicle, motorcycle or personal aircraft.

SEMA4 users can use the Business Expense Mileage Rates page to view previous and current IRS mileage rates. Select Payroll > Business Expense > Business Expense Mileage Rates.

REMINDER:
During the 2011 special session, there was an item added, which restricts the mileage rate for reimbursements to no more than 51 cents per mile for expenses funded by the law in which the language was included. Included in the Laws of 2011, 1st Special Session, Chapt. 1, Art. 1, Sec. 18 is the following:

> Sec. 18. **CAPPING MILEAGE REIMBURSEMENT.**
> For entities funded by an appropriation in sections 3 to 10 and 16, no official or employee may be reimbursed for mileage expenses at a rate that exceeds 51 cents per mile.

The cap for mileage reimbursements includes Sentencing Guidelines (P9E) and other Judicial agencies, as well as expenditures with funding sources originating in those agencies. Agencies covered by the bill are responsible for monitoring and enforcing the 51 cents per mile maximum within their own agency. (For information on the agencies covered, refer to https://www.revisor.mn.gov/laws/?id=1&doctype=Chapter&year=2011&type=1.)

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Note: There are some departments within the affected agencies that are using self service business expenses. The self service business expense process will default the mileage rate as the current IRS rate of 56 cents per mile. When a different rate is required, the employee must know and enter the correct rate.

Agency Payroll, HR and Accounting staff should contact Erin Gregory in Statewide Payroll Services at 651-201-8077 or erin.gregory@state.mn.us if there are questions.

PLEASE SHARE THIS INFORMATION WITH APPROPRIATE AGENCY STAFF.

FRESHWATER SOCIETY

Educating and inspiring people to value, conserve and protect water resources

Steve Woods named to lead Freshwater Society

Posted October 31, 2013

Steve Woods, an assistant director of the Minnesota Board of Water and Soil Resources, has succeeded Gene Merriam as the Freshwater Society's top leader.



Steve Woods

Woods was chosen by the Freshwater Board of Directors to succeed Merriam, who announced last spring that he planned to retire by the end of this year.

Learn more about Woods by reading a short q-and-a interview.

"We are thrilled to have Steve joining our organization," said Stu Grubb, the Freshwater board chair. "After an extensive search process, we found the right person. Steve's leadership and experience in water resource policy, management, and engineering will be vital to continuing and improving the programs and activities of the Freshwater Society."

Woods, a civil engineer with extensive experience in water conservation and pollution prevention, is Freshwater's new executive director.

Beginning Dec. 2, 2013, Woods assumed Merriam's role in executing Freshwater policy on key water issues, especially those dealing with groundwater sustainability and the pollution of lakes and streams by runoff from farm fields and city streets.

He will be the Society's point person in relations with state and local policy-makers and with other environmental organizations. Merriam was a long-time state Senator and commissioner of the Department of Natural Resources before joining the Freshwater Society.

"The Freshwater Society had a major impact on my professional development in the1980s," Woods said when his appointment was announced in late October. "It is an honor to succeed someone of Gene's stature. Minnesota has realized a number of water management successes in urban and forested areas. The Society's current work on groundwater and agricultural runoff is needed to address areas where we are not meeting expectations."

Woods also will assume some of the duties of Joan Nephew, Freshwater's previous executive director who began a phased retirement.

"Gene Merriam and Joan Nephew joined the Freshwater Society six years ago when the organization was very different," said Grubb, the board chair. "The board challenged them to make the Freshwater Society a convener of people and ideas and an 'organization of consequence.' They guided the Freshwater Society staff in making great strides through programs such as the Moos Lecture Series, Community Clean-Ups for Water Quality, FarmWise, the Road Salt Symposium, the Weatherguide calendar, and now the new Master Water Stewards program. "They leave the organization on a strong footing, prepared to move forward on new challenges and opportunities. They will be missed, but we are grateful for all they have accomplished."

At the Board of Water and Soil Resources, Woods was one of two assistant directors helping run the $60 million a year state conservation agency. He started working at BWSR in 1999, and was assistant director in charge of statewide operations since 2001.

From 1987 to 1999, Woods worked as a consulting engineer and manager in the Minnesota office of MWH, a global environmental consulting company. Before that, he worked two years as a research analyst in the former Division of Waters in the Minnesota Department of Natural Resources.

Merriam praised Woods' experience and qualifications for the leadership post. "He's knowledgeable, conscientious and hard-working," Merriam said. "I know he has a passion for water resource conservation and protection."

Woods, 50, graduated from the University of Minnesota with a bachelor's degree in agricultural engineering. He earned a master's degree in public administration from Hamline University.

He and his family live on Turtle Lake in Shoreview.

MASWCD Year in Review
FY November 1, 2012– October 31, 2013

Minnesota Association of Soil & Water Conservation Districts (MASWCD) is a nonprofit organization which exists to provide leadership and a common voice for Minnesota's soil and water conservation districts and to maintain a positive, results-oriented relationship with rule making agencies, partners and legislators; expanding education opportunities for the districts so they may carry out effective conservation programs. www.maswcd.org

MASWCD & CONSERVATION POLICY

The MASWCD is a leader with policy, program and educational initiatives related to conservation district programs. Here are a few of the Association highlights from this past year....

Water Governance Evaluation Policy Report

Minnesota Pollution Control Agency (MPCA) Commissioner John Linc Stine met with the MASWCD Board of Directors in January to provide an initial overview of the *Water Governance Evaluation Report*.

The report was authorized by the Legislature to evaluate water-related statutes and governing structures to streamline, strengthen, and improve sustainable water management. The MPCA, working with other state agencies, submitted the report to the Legislature on January 15, 2013.

The recommendations outlined in the report influence policy initiatives at all levels of water policy. The report also included support for the *One Watershed - One Plan* policy developed by the MASWCD and our Local Government Water Roundtable partners. The MASWCD continues to deliberate policy recommendations from the report including defining essential watershed management services for watershed outcomes and ensuring that the resources necessary for local governments to provide these services are available.



MPCA Commissioner John Linc Stine met with the MASWCD Board of Directors in January to provide an initial overview of the Water Governance Evaluation Report.

Clean Water Fund

The MASWCD Board of Directors supported the Clean Water Council's recommendations during the 2013 session. The Council provided detailed biennial recommendations totaling $185 million to be appropriated from the Clean Water Fund in FY14-15. These recommendations were for various activities including watershed restoration and protection activities, monitoring and assessment, groundwater protection, non point and point sources implementation, applied research and civic engagement activities.

The Clean Water Council was established by the *Clean Water Legacy Act* in 2006 to advise the legislature and the Governor on the funding and administration of state programs to restore and protect Minnesota's waters. The Clean Water consists of 28 members including Marilyn Bernhardson (Redwood SWCD).

One Watershed: One Plan

The MASWCD Board of Directors adopted the *Comprehensive Water Planning and Management Policy Paper.* The policy paper was developed with our Local Government Water Roundtable partners – the Association of Minnesota Counties and the Minnesota Association of Watershed Districts. In 2012, the Roundtable and BWSR introduced legislation to make changes to allow Comprehensive Local Water Management program to be conducted on a watershed basis instead of a county boundary. The policy recommendations build upon our legislation.

"The '*One Watershed - One Plan approach*' combines both the natural science as well as the social science that is needed for today's water management," said MASWCD Executive Director LeAnn Buck. "The gradual transition for comprehensive water management planning from a political boundary to a watershed boundary builds off of the existing work that is already being implemented by SWCDs and local government."

The policy recommendations were developed in response to information generated by the Roundtable's collective members during the Local Water Management Summit held July, 2010 and also trends in water management programming.

County, Soil and Water Conservation District (SWCD), and Watershed District (WDs) board members and staff from across the state worked together to develop the policy recommendations. BWSR and MPCA leaders assisted with evaluating the changes to also align with Clean Water Legacy Act elements.

> ***"The 'one watershed - one plan' approach combines both the natural science as well as the social science that is needed for today's water management."***
>
> **MASWCD Executive Director LeAnn Buck**

"Staff and the governing boards for SWCDs, Counties, and WDs interface with citizens on a daily basis," said MASWCD President Mark Zabel. "This watershed approach will move Minnesota's resource management strategies into the future and provide increased collaboration with local governments and the public."

2013 MASWCD LEGISLATIVE PLATFORM

The 2013 legislative session got underway on January 8, 2013. The main work of the legislature was to pass the biennial budget for FY 2014-2015, while addressing a budget deficit projected at $627 million. The MASWCD 2013 legislative platform was based on resolutions approved by the membership, as well as other current and emerging funding and policy issues

CLEAN WATER LAND & LEGACY AMENDMENT

Final outcomes for the 2013 session included a biennial budget appropriation of $76.5 Million for BWSR, SWCD and other local government programs. The state budget appropriation includes the SWCD Conservation Delivery Grants, Clean Water and Outdoor Heritage funding for targeted water quality projects and RIM and RIM/WRP funding for grass buffers and wetland restorations. MASWCD provided our members with detailed legislative updates and emphasized support for local water quality programs and projects.

MASWCD DISTRICT FUNDING TASK FORCE

In response to funding resolutions and reduced operational funding for SWCDs, the MASWCD Board of Directors authorized the establishment of a task force to develop a funding strategy for future SWCD operations during the May 30, 2013 board meeting. The MASWCD District Funding conducted three meetings during the fall of 2013.

The Task Force's activities included an assessment of existing resolutions, current district funding levels, review of state statutes and options for funding sources including local, regional and state resources. The recommendations were forwarded to the MASWCD membership during the December 2013 annual business meeting. MASWCD will continue to address in 2014.



Pictured: MASWCD District Funding Task Force Chair Kurt Beckstrom, Mille Lacs SWCD Supervisor, working with SWCD members to develop policy recommendations.

MASWCD LEADERS IN D.C. TO DISCUSS CONSERVATION POLICY

In July, MASWCD President Mark Zabel, Vice President Ian Cunningham and Stearns SWCD Technician Nathan Hylla participated in the National Association of Conservation Districts (NACD) Legislative Conference in Washington, D.C.

"Meeting face to face with other local conservation leaders from around the country allowed MASWCD to be part of the message delivered to policy makers in Washington D.C.," said MASWCD Vice President Ian Cunningham. "Local delivery has been the hallmark of the American conservation movement that started in the dust bowl years. Local leaders need to speak up in Washington DC, St. Paul and at home."

MASWCD and NACD support passage of a comprehensive farm bill while emphasizing the conservation and forestry provisions.



Pictured Left to Right: MASWCD President Mark Zabel, Vice President Ian Cunningham, Rep. Collin Peterson and Stearns SWCD Technician met in Washington DC to discuss conservation policy.

MASWCD DAY AT THE CAPITOL

MASWCD extends a thank you to the district representatives that attended the *MASWCD Legislative Briefing & Day at the Capitol* in February. MASWCD members participated in the Association's legislative briefing and met with legislators and agency partners to discuss SWCD programs. ***Pictured: Scott SWCD Supervisors Doug Schoenecker (left) and Jim Fitzsimmons (right) meeting with Senator Eric Pratt (center) during the MASWCD Day at the Capitol event.***



MASWCD EDUCATIONAL WEBINARS

MASWCD Water Resources Center University of Minnesota Driven to Discover℠ University of Minnesota Extension Driven to Discover℠

The MASWCD is partnering with the University of Minnesota Water Resources Center and the University of Minnesota Extension to bring the latest water quality and land use research to local SWCD staff and supervisors. In 2013, webinars were conducted for our members and partners including:

- **Emerging Minnesota Climate Trends and the Outlook for 2013** *with Dr. Mark Seeley, Extension Climatologist and Professor of Meteorology and Climatology in the Department of Soil, Water, and Climate at the University of Minnesota.*

- **Climate Change Impacts on our Forest Resources** *with Dr. Lee Frelich, University of Minnesota Center for Forest Ecology.*

- **Emerging Conservation Practices and Challenges for Agricultural Drainage** *with Dr. Gary Sands, Professor and Extension Engineer University of Minnesota.*

To view archived webinars visit the Association's website at: www.maswcd.org

MASWCD PROVIDES GRASS ROOTS FORUMS

The MASWCD Board of Directors conducted twenty-two area meetings during the fiscal year. The area meetings provide a forum for members to advocate for grassroots policy, hear the latest updates on district programs and an opportunity to learn from peers on various SWCD activities.



Pictured: University of Minnesota Extension Climatologist Dr. Mark Seeley presents information during the MASWCD West Central Area meeting in April, 2013.

MASWCD ANNUAL MEETNG

Over 500 conservation leaders including SWCD supervisors, staff, agency partners, landowners and conservation industry leaders gather every year for the MASWCD Annual Meeting and Trade Show.



The MASWCD event provides an opportunity for conservation leaders to engage in three days of policy and information sessions—carefully crafted to deepen our collective understanding of the challenges and opportunities facing the local delivery of conservation programs.

"The MASWCD annual meeting highlights SWCD activities and provides a forum for district officials to deliberate conservation policy," said Mark Zabel, MASWCD President. "It also showcases local conservation practices and recognizes private landowners for their conservation efforts."

The annual meeting offers a wide range of informative sessions and networking opportunities, in addition to a trade show showcasing the latest programs, products and technologies in conservation.



SWCD GOVERNANCE 101 TRAINING COURSE

In September, the MASWCD hosted a successful district official training course entitled ***SWCD Governance 101*** in Alexandria, MN. The event provides quality training for elected SWCD supervisors and staff to maintain and improve the governance of local conservation districts.

The conference, held for both new and experienced SWCD supervisors and employees in the state, was designed to provide the district officials with a background on various governance topics.

Session topics included SWCD statutory requirements; opening meeting law; data practices requirements for public boards; board and staff relationships, and the importance of public policy and priority setting.



Pictured: University of Minnesota Extension Educator Lisa Hinz addresses SWCD officials on building good board-staff relationships during the MASWCD Governance 101 Conference on September 4 & 5, 2013.

ADDITIONAL ASSOCIAITON HIGHLIGHTS....

MASWCD processed over half a million dollars in federal contribution agreements for SWCDs
The Association partnered with USDA Natural Resources Conservation Service (NRCS) to provide contribution agreements for SWCD to assist with federal farm bill programs and assistance to landowners. Thank you to NRCS State Conservationist Don Baloun and his staff in Minnesota for the opportunity to enhance conservation delivery.

State Envirothon
MASWCD proceeds from the annual Association's auction support the state Enviorthon, an outdoor learning event for high school students in grades 9-12. Thank you to Felicia Brockoff (Carver SWCD) and Judy Johnston (Stevens SWCD) for coordinating this important environmental education competition.

Impasse in Washington DC and Impacts to Conservation Delivery
2013 proved to be a challenging year for federal conservation policy. For the fist time in history, the US House of Representatives voted to not pass a farm bill. Differences over the federal budget also led to sixteen days of a partial federal government shut down. The shut down impacted NRCS operations which had a ripple effect for SWCD offices that were co-located in USDA Service Centers across the state.

Communications with Districts and Partners
In 2013, the MASWCD continued to provide SWCDs and partners with timely and relevant information. Along with the e-mail newsletter *Bits of Tidbits,* legislative updates, webinars, area meetings, and SWCD participation in Association standing committees, MASWCD is keeping its members throughout the state informed of SWCD activities.

New Officers, New Board Members & New Office Location
2013 was also a year that included operational changes for the Association including: election of new officers, new board members, new committee member appointments and an office move.

THANK YOU
On behalf of the MASWCD Board of Directors (pictured below) and staff, thank you to our members and partners for support of Soil and Water Conservation Districts and private lands conservation.



Minnesota's Soil & Water Conservation Districts & their 450 elected citizen board members work with cooperating landowners of private working lands to help them plan and apply effective conservation practices.

MPRnews

'Dental therapy' takes root where dentists are scarce in Minnesota

Science
Lorna Benson · ST. PAUL, Minn. · Dec 9, 2013



Megan Becker, a second-year dental therapy student, works with Dr. Gail Park at the 3M Foundation Dental Simulation Clinic, Oct. 8, 2013, at the University of Minnesota in Minneapolis. Minnesota is one of a handful of states that license dental therapists. *MPR Photo/Jeffrey Thompson*

LISTEN Minnesota one of two states using dental therapists to reach underserved patients

(http://minnesota.publicradio.org/radio/services/nis/listen/?name=/minnesota/general/features/2013/12/09/dentaltherapy_20131209)

A new, mid-level dental profession is slowly taking root in Minnesota.

Over the past two years universities have trained, and the state has licensed, 28 dental therapists, practitioners who perform many basic dental procedures that previously only a dentist would do. They work in places where dentists won't go, or are unwilling to accept Medicaid coverage.

Minnesota is one of just two states that are using the new profession to reach underserved patients.

Among the field's pioneers is Christy Jo Fogarty, of Farmington, who holds dental therapist license number 2 in Minnesota.

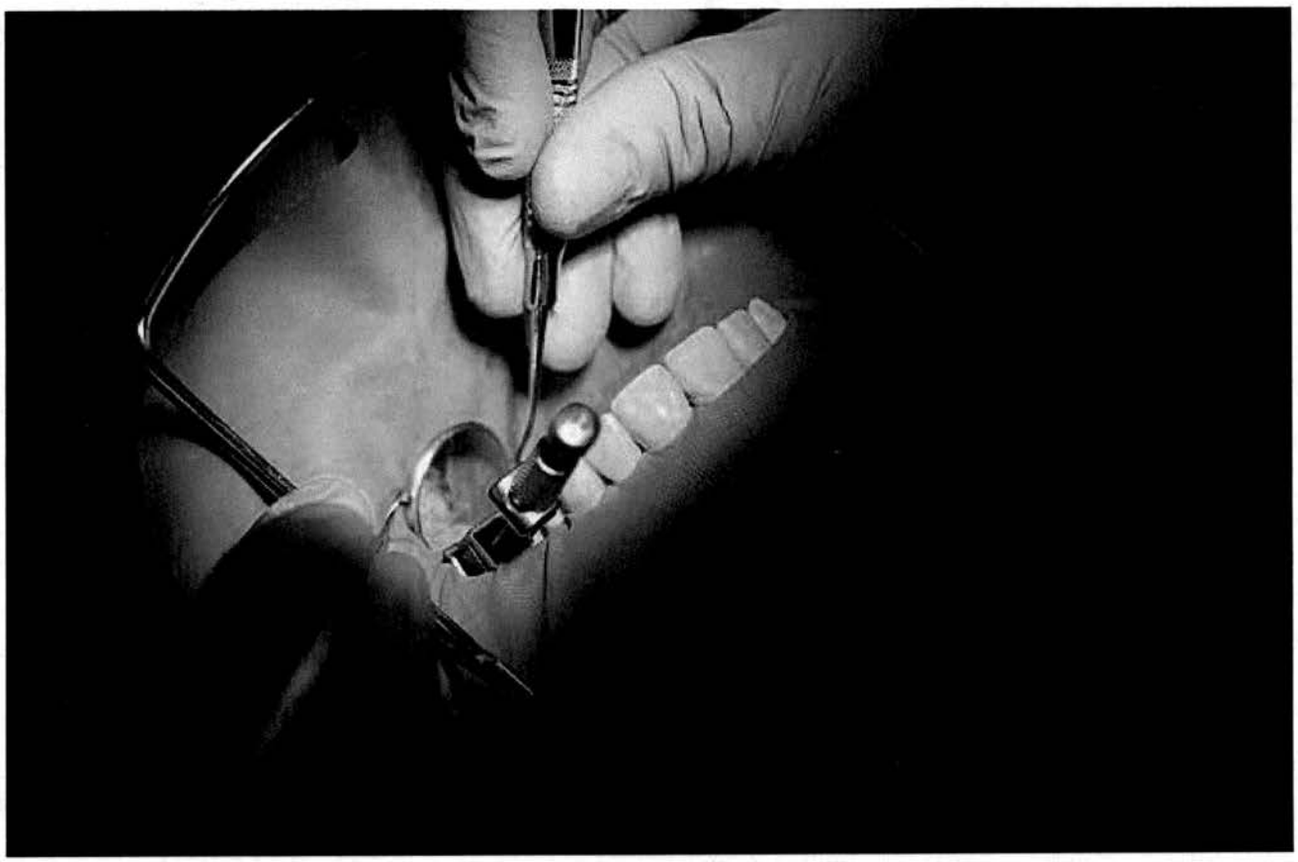
Fogarty, 43, also was the first person in the state to be certified as an advanced dental therapist -- an even higher level of training that gives her the freedom to work independently at mobile dental clinics in schools, Head Start programs and community centers.

"I work under general supervision, which means a dentist does not need to be on site with me," she said. "And I can do anything within my scope of practice."

That means Fogarty can perform a lot of basic dental procedures.

"I can do any kind of fillings -- that's on children and adults; white fillings, silver fillings. I can do stainless steel crowns -- that's both on children and adults. I can do extractions of baby teeth."

Her patients are primarily low-income children and pregnant women. They usually have no dental insurance or their coverage is provided through the government's Medicaid program. That plan includes dental care, but many private dentists won't accept Medicaid's low reimbursement rates.



Working on a mannequin *MPR Photo/Jeffrey Thompson*

Fogarty's nonprofit employer accepts Medicaid, even though the payments don't cover all of its costs. Children's Dental Services in Minneapolis likely would have been forced to cut back on its services by now, if dental therapists hadn't come along, Executive Director Sarah Wovcha said.

"This really has been a lifesaver for us," she said.

Wovcha said the new, lower-paid practitioners have helped her organization stretch its dollars. Wovcha pays dental therapists approximately $45 per hour, compared to an average of $75 per hour for a dentist.

"So that has a huge impact on our ability as a safety net provider to maintain our financial solvency," she said.

Children's Dental Services still employs dentists. Wovcha has not cut any positions and she doesn't plan to because she finds it hard to fill dentists jobs and needs dentists to perform root canals and other complicated procedures. Besides, Wovcha said, dental therapists can't legally work in Minnesota without a dentist's supervision.

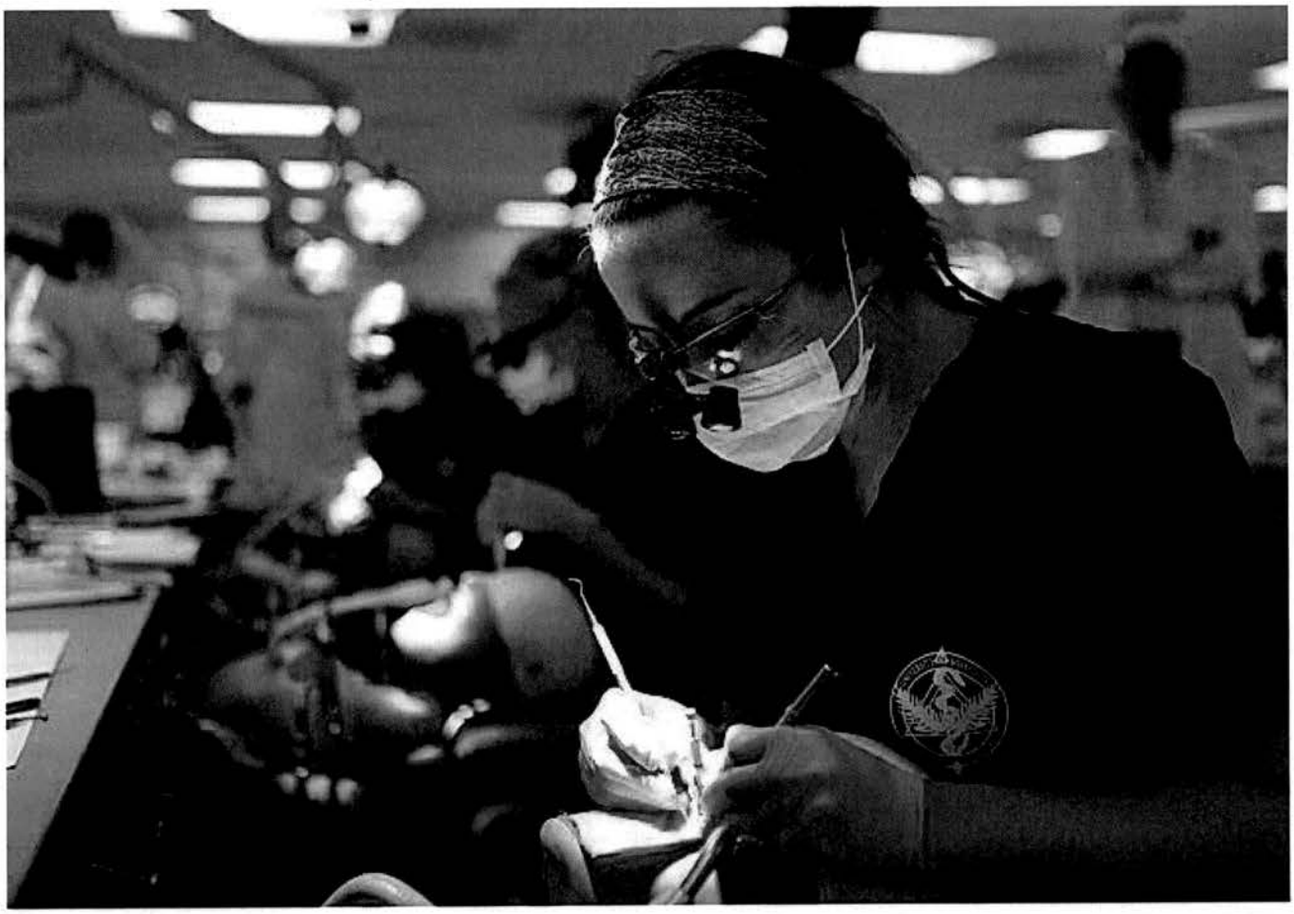
That requirement has made it challenging for some dental therapists to find work. In 2009, many dentists strongly opposed the legislation that created the dental therapy profession, and some of those dentists haven't changed their minds about the need for these mid-level practitioners.

Emily Eggebrecht, a dentist at Children's Dental Services, was in dental school while the debate over dental therapists raged at the Capitol.

"I know there was that kind of fear from the dental world that the care wouldn't be of the same level, but I really do think it is," she said.

While some dentists were convinced that the care would be substandard, Eggebrecht said others were worried that dental therapists could take business away from them.

So far, that isn't much of an issue with only 28 licensed dental therapists in the state compared to 4,200 dentists. But as dental therapists increase in number, many already understand that the success of their careers depends in part, on their relationship with dentists.



Cavity preparation training *MPR Photo/Jeffrey Thompson*

"There's days where it's scary just because there's the unknown," said Kaitlin Gebhart, who will graduate next year from the University of Minnesota's dental therapy program.

Gebhart, a 23-year-old from Elkton, S.D., assumes she'll be able to find a job. But she said it is a little unnerving to follow such an uncharted career path.

"Is it going to be successful? Are people going to be accepting of this? There's times when you run in to people that aren't accepting of it and you have to learn how to handle it," she said. The U of M has graduated 18 dental therapists so far. Fourteen are employed, two have moved out of state and two other graduates have not found work yet.

It will take time to figure out what the demand is for dental therapists, said Karl Self, who directs the university's Division of Dental Therapy. So far, safety-net providers have been some of the profession's biggest supporters. But Self said there's a growing interest from dentists too.

"We do have a dental therapist out in Montevideo in a small, one-dentist, private practice office," he said. "There's dental therapists up north in Deerwood, Minnesota. We've had inquiries from people in the St. Cloud area, Duluth, Rochester."

Some dentists have told the University that they're most interested in hiring practitioners who can cover for them if they're sick or need a vacation.

Dental therapists can't do that. So the U of M is seeking permission from the Minnesota Board of Dentistry to change its training program to allow its dental therapists to be eligible for certification as advanced dental therapists, who can work independently.

Metropolitan State University and Normandale Community College already offer an advanced dental therapy program.

Marshall Shragg, the dentistry board's executive director, said it's not surprising that educators and employers are still figuring out the best way to move the new profession forward. He views the effort as a strong sign that dental therapy has a place in dentistry.

"I would think that within ten to twenty years that this will be a profession that we look back on and say, 'didn't we always have this?' because it will be part of a team that is just exactly what we accept and expect," Shragg said.

Currently dental therapists educated in Minnesota can only practice in Minnesota. There is no comparable profession in any other state, except Alaska. But a number of states are considering creating mid-level providers to expand access to dental care. If that happens in a coordinated way, Minnesota's dental therapists may one day be able to practice anywhere in the country.

Minnesota Board of Water & Soil Resources

DATE: October 14, 2013

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

FROM: John Jaschke, Executive Director

SUBJECT: BWSR Board Meeting Notice – October 23, 2013

The Board of Water and Soil Resources (BWSR) will meet on Wednesday, October 23, 2013, beginning at 9:00 a.m. The meeting will be held in the lower level Board Room at 520 Lafayette Road N., St. Paul. Parking is available in the lot directly in front of the building (see hooded parking area).

The following information pertains to agenda items:

COMMITTEE RECOMMENDATIONS

Metro Region Committee

1. **Boundary Change for Coon Creek Watershed District** - The Coon Creek Watershed District submitted a Petition to change the boundary of the District pursuant to Minn. Stat. § 103B.215. The Petition proposes to transfer 290 acres in the City of Coon Rapids from the Lower Rum River WMO to the Coon Creek WD. The City, WMO and WD concur in the Petition. There is no opposition to the proposed boundary change in the record. The Metro Region Committee met on October 1, 2013 and unanimously recommends approval of the boundary change per the attached draft Order. ***DECISION ITEM***

2. **Ramsey-Washington Metro Watershed District Management Plan Amendment** - The current watershed management plan was approved by the Board on April 25, 2007. In June 2012, by Board Order, the Ramsey-Washington Metro WD (RWMWD) boundaries were enlarged to include the area of the former Grass Lake WMO (GLWMO) and the RWMWD was furthered ordered to amend the watershed management plan to include the new area in the Plan. This Amendment incorporates the former GLWMO area into the RWMWD's Watershed Management Plan and makes minor plan text and map changes to reflect the portion of the Cities of Shoreview and Roseville that are now part of the RWMWD. The Amendment also reflects recent changes in the lakes and creeks listed by the MPCA as impaired acknowledging the planning efforts currently underway or being planned to address these impairments. The Metro Region Committee met on October 1, 2013. After review of the information, the Committee unanimously voted to recommend approval of the Amendment per the attached draft Order. ***DECISION ITEM***

Bemidji: 403 Fourth Street NW, Suite 200, Bemidji, MN 56601, (218) 755-2600
Brainerd: 1601 Minnesota Drive, Brainerd, MN 56401, (218) 828-2383
Duluth: 394 S. Lake Avenue, Suite 403, Duluth, MN 55802, (218) 723-4752
Fergus Falls: 1004 Frontier Drive, Fergus Falls, MN 56537, (218) 736-5445
Mankato: 12 Civic Center Plaza, Suite 3000B, Mankato, MN 56001, (507) 344-2821
Marshall: 1400 East Lyon Street, Marshall, MN 56258, (507) 537-6060
New Ulm: 261 Highway 15 South, New Ulm, MN 56073, (507) 359-6074
Rochester: 3555 9th Street NW, Suite 350, Rochester, MN 55901, (507) 206-2889

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

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Northern Region Committee

1. **Hubbard County Water Plan Extension** Request - Hubbard County submitted a resolution requesting a two-year extension of their County water plan on October 1, 2013. The Hubbard County Local Water Management Plan would expire on January 25, 2014. The North Region Committee met on October 9, 2013, and recommends approval of the Hubbard County water management plan extension. ***DECISION ITEM***

2. **Stearns County Five Year Plan Amendment** - On January 23, 2008, the Board of Water and Soil Resources approved Stearns County's Comprehensive Local Water Management Plan for a ten year period from 2008-2017 with a required amendment by 2013. On April 11, 2012, Stearns County passed a resolution to begin the amendment process. The amended plan was submitted to the BWSR Brainerd office on June 24, 2013. The Northern Region Committee met on October 9, 2013, reviewed the plan amendment and recommends approval of the update through December 2017. ***DECISION ITEM***

3. **Traverse County Water Plan Synchronization** - Traverse County wishes to synchronize their planning and implementation efforts with the three Watershed Restoration and Protection Strategies (WRAPS) and the two Watershed Districts efforts. Traverse County requests BWSR extend their Local Water Plan expiration date. ***DECISION ITEM***

4. **Wilkin County Local Water Plan Synchronization** - Wilkin County requests to synchronize their planning and implementation efforts with the three Watershed Restoration and Protection Strategies (WRAPS) and the two Watershed Districts efforts. Wilkin County requests BWSR to: 1) rescind the BWSR Order which extended the required five-year update of the local water management plan to December 31, 2014; 2) waives the five-year required plan update; and 3) extends the Wilkin County Local Water Plan expiration date. ***DECISION ITEM***

5. **Revised Watershed Management Plan Hearing for the Sauk River Watershed District** – The Northern Region Committee met on October 9, 2013 and recommended that a public hearing be held within 45 days after receiving the Department of Natural Resource's recommendation on the revised plan. The Northern Region Committee will preside over the public hearing and bring recommendations on the draft revised plan to the Board. The Executive Director will set the date, time and location of the public hearing after coordinating with the appropriate parties per the attached draft Order. ***DECISION ITEM***

6. **Public Hearing for Redistribution of Managers of the Middle-Snake-Tamarac Rivers Watershed District** - Public hearing date set for the petition for the redistribution of Managers of Middle-Snake-Tamarac River Watershed District submitted to BWSR by Polk County. Hearing date is Wednesday, November 13, 2013; 6:00 PM – 7:30 PM, at the Bremer Bank Community Room, 202 West Johnson Avenue, Warren, MN 56762. ***INFORMATION ITEM***

Grants Program & Policy Committee

1. **Targeted Watershed Demonstration Program** - Staff are requesting authorization to initiate the Targeted Watershed Demonstration Program as provided for in the 2013 Clean Water Fund appropriations. ***DECISION ITEM***

2. **Soil Erosion and Drainage Law Compliance Program -** The 2013 Minnesota Legislature appropriated Clean Water Funds to the Board of Water and Soil Resources (BWSR) to be

used *for grants to local units of government to ensure compliance with Minnesota Statutes Chapter 103E* (Drainage Law) *and Sections103F.401 to 103F.455* (state Soil Erosion Control provisions), *including enforcement efforts.* In response to this appropriation, BWSR created the Soil Erosion and Drainage Law Compliance Program. The purpose of this program is to restore and protect surface water quality, particularly impaired waters, by supplementing local efforts to apply existing soil erosion reduction and drainage statutes across Minnesota. ***DECISION ITEM***

NEW BUSINESS

1. **2014 Proposed BWSR Board Meeting Schedule** – The Board meets the fourth Wednesday of the month (unless noted). The proposed meeting dates for 2014 will be considered for adoption. ***DECISION ITEM***

2. **Status Report on MN Ag Water Quality Certification Program (MAWQCP)** – Matt Wohlman, Brad Redlin, Josh Stamper, MDA; will overview the status of the various program elements. ***INFORMATION ITEM***

If you have any questions regarding the agenda, please feel free to call me at 651-296-0878. The Board meeting is expected to adjourn about noon. I look forward to seeing you on October 23rd!

BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, OCTOBER 23, 2013

PRELIMINARY AGENDA

9:00 AM CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

ADOPTION OF AGENDA

MINUTES OF SEPTEMBER 25, 2013 BOARD MEETING

PUBLIC ACCESS FORUM (10-minute agenda time, two-minute limit/person)

CONFLICT OF INTEREST DECLARATION

INTRODUCTION OF NEW BWSR EMPLOYEES

- Mike Anderson, Engineering Technician, Willmar *(Al Kean)*
- Adam Beilke, Board Conservationist, New Ulm *(Jeff Nielsen)*
- Tom Gile, Board Conservationist, Rochester *(Jeff Nielsen)*
- Julie Krebs, Grants Compliance Specialist, Mankato *(Jeff Nielsen)*
- John Voz, Easement & Working Lands Specialist, Detroit Lakes *(Bill Penning)*
- Jason Beckler, Farm Bill Partnership Coordinator, Marshall *(Bill Penning)*
- Tara Ostendorf, Board Conservationist, Detroit Lakes *(Ron Shelito)*
- DeAnne Pierzinski, Grants Compliance Specialist, Brainerd *(Ron Shelito)*

REPORTS

- Chair – Brian Napstad
- Administrative Advisory Committee – Brian Napstad
- Executive Director – John Jaschke
- Dispute Resolution Committee – Gerald Van Amburg
- Wetlands Committee – Gerald Van Amburg
- Grants Program & Policy Committee – Paul Langseth
- Public Relations, Oversight & Strategic Planning Committee – Jack Ditmore
- RIM Reserve Management Planning Committee – Gene Tiedemann
- Drainage Work Group – Tom Loveall/Al Kean

COMMITTEE RECOMMENDATIONS

Metro Region Committee

1. Boundary Change for Coon Creek Watershed District – Mary Peterson – ***DECISION ITEM***

2. Ramsey-Washington Metro Watershed District Plan Amendment – Mary Peterson – ***DECISION ITEM***

COMMITTEE RECOMMENDATIONS

Northern Region Committee

1. Hubbard County Water Plan Extension Request – Brian Napstad – ***DECISION ITEM***

2. Stearns County Five Year Plan Amendment – Tom Schulz – ***DECISION ITEM***

3. Traverse County Water Plan Synchronization – Gerald VanAmburg – ***DECISION ITEM***

4. Wilkin County Local Water Plan Synchronization - Gerald VanAmburg – ***DECISION ITEM***

5. Sauk River Watershed District Revised Watershed Management Plan Hearing – Gene Tiedemann and Travis Germundson – ***DECISION ITEM***

6. Public Hearing for Redistribution of Managers of the Middle-Snake-Tamarac Rivers Watershed District – Gene Tiedemann – ***INFORMATION ITEM***

Grants Program & Policy Committee

1. Targeted Watershed Demonstration Program – Paul Langseth, Staff: Marcey Westrick and Dave Weirens – ***DECISION ITEM***

2. Soil Erosion and Drainage Law Compliance Program – Paul Langseth, Staff: Al Kean – ***DECISION ITEM***

NEW BUSINESS

1. 2014 Proposed BWSR Board Meeting Schedule – John Jaschke - ***DECISION ITEM***

2. Status Report on MN Ag Water Quality Certification Program (MAWQCP) – Matt Wohlman, Brad Redlin, Josh Stamper, MDA – ***INFORMATION ITEM***

AGENCY REPORTS

- Minnesota Department of Agriculture – Matthew Wohlman
- Minnesota Department of Health – Chris Elvrum
- Minnesota Department of Natural Resources – Tom Landwehr
- Minnesota Extension Service – Faye Sleeper
- Minnesota Pollution Control Agency – Rebecca Flood

ADVISORY COMMENTS

- Association of Minnesota Counties – Annalee Garletz
- Minnesota Association of Conservation District Employees – Matt Solemsaas
- Minnesota Association of Soil & Water Conservation Districts – LeAnn Buck
- Minnesota Association of Townships – Sandy Hooker
- Minnesota Association of Watershed Districts – Ray Bohn
- Natural Resources Conservation Service – Don Baloun

UPCOMING MEETINGS

- BWSR Academy, October 28–30, 2013, Cragun's, Brainerd
- MASWCD Annual Meeting, December 1-3, 2013, Bloomington
- MAWD Annual Meeting, December 5-7, 2013, Alexandria
- AMC Annual Meeting, December 9-11, 2013, Minneapolis
- BWSR Board Meeting – December 18, 2013, St. Paul

Noon **ADJOURN**

BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
ST. PAUL, MINNESOTA 55155
WEDNESDAY, SEPTEMBER 25, 2013

BOARD MEMBERS PRESENT:
Joe Collins, Jack Ditmore, Chris Elvrum, MDH; Christy Jo Fogarty, Sandy Hooker, Paul Langseth, Tom Landwehr, DNR; Tom Loveall, Brian Napstad, Judy Ohly, Tom Schulz, Steve Sunderland, Gene Tiedemann, Gerald VanAmburg, Doug Wetzstein, MPCA; Matt Wohlman, MDA

BOARD MEMBERS ABSENT:
Faye Sleeper, MES

STAFF PRESENT:
Mary Jo Anderson, Angie Becker Kudelka, Don Buckhout, Matt Fischer, Travis Germundson, Tim Gillette, John Jaschke, Al Kean, Tim Koehler, Jen Maleitzke, Bill Penning, Mary Peterson, Ron Shelito, Dan Steward, Sarah Strommen

OTHERS PRESENT:
Dave Wall, MPCA
Jill Crafton, RPBCWD
Glenn Schafer, FSA

DRAFT

Chair Napstad called the meeting to order at 9:05 a.m.

PLEDGE OF ALLEGIANCE

** 13-70 **ADOPTION OF AGENDA** – Moved by Paul Langseth, seconded by Sandy Hooker, to adopt the amended agenda as presented. ***Motion passed on a voice vote.***

** 13-71 **MINUTES OF AUGUST 29, 2013 BOARD MEETING** – Moved by Judy Ohly, seconded by Christy Jo Fogarty, to approve the minutes of August 29, 2013, as circulated. ***Motion passed on a voice vote.***

CONFLICT OF INTEREST DECLARATION
Chair Napstad explained that the conflict of interest declaration process is being used today on the Area II Minnesota River basins Projects Inc., FY 2014 & 2015 Biennial Work Plan and Grant. The Conflict of Interest Declaration forms need to be submitted.

REPORTS
Chair's Report – Brian Napstad reported that he attended the EQB meeting on September 18, 2013; discussion included the ongoing silica sand issue, and a brief discussion on the Governor's Institute on Community Design (GICD). Chair Napstad reported that Will Seuffert was recently hired as executive director of EQB; Will was formerly staff of Governor Dayton. Bob Patton has been working in a temporary assignment as acting executive director of EQB. Chair Napstad reported that he attended the AMC policy committee meetings in Alexandria on September 6. Doug Thomas attended to present the One Watershed One Plan (1W1P).

Administrative Advisory Committee (AAC) - Brian Napstad reported that the AAC met this morning, recommendations are on the agenda later today. The updated executive director's position description was discussed. New responsibilities and activities have been added to John Jaschke's position, the uniqueness of the position was noted, and the importance of 'Freedom to Act' on behalf of the full BWSR Board. Chair Napstad reported that the AAC approved the updated position description.

Executive Director's Report – John Jaschke reported that the executive director's position description is a public document, if board members would like a copy, contact Mary Jo Anderson. John reported that Sarah Strommen attended the Lessard Sams Outdoor Heritage Council (LSOHC) and LCCMR hearings; Sarah will distribute the summary of BWSR proposals to board members. John attended the House Legacy Committee tour in northeastern Minnesota, and also the Vermillion River tour in the southern metro area. John reported that BWSR, DNR, and PCA are working on the Clean Water Roadmap, and discussing the Clean Water Fund elements related to the fifth anniversary of the constitutional amendment, the effort will present the accomplishments, goals, and look to the future.

John reported that Doug Thomas and Don Buckhout continue to meet with the LGU Roundtable discussing 1W1P and preparing recommendations. John reported that the legislative initiatives process has started. John reviewed information in board members packets.

INTRODUCTION OF NEW BWSR EMPLOYEE – Ron Shelito introduced Matt Fischer, Board Conservationist in Bemidji; Matt started August 28. Matt was the District Manager at the Pope SWCD before coming to BWSR. Tom Schulz wished Matt well in his new position as Board Conservationist. Chair Napstad welcomed Matt to BWSR.

Dispute Resolution Committee (DRC) – Travis Germundson reported that there are presently 15 appeals pending; he provided a status report. Travis reported that a training workshop will be held for the DRC today immediately following adjournment of the Board meeting. The workshop will provide information on the Board and committee's roles in the dispute resolution process; all board members are welcome to attend.

Public Relations, Oversight & Strategic Planning (PROSP) Committee – Jack Ditmore reported that the PROSP Committee met last night; the Committee's recommendation is on the agenda later today. The Committee discussed the 1W1P initiative; the development of the guiding principles will continue and are currently planned to come before the Board for endorsement in December. The PROSP Committee will meet on October 22, 5:30-7:30 PM.

RIM Reserve Management Planning Committee – Gene Tiedemann reported that RIM Reserve Management Planning Committee met yesterday, recommendations are on the agenda later today.

Drainage Work Group (DWG) – Tom Loveall reported that the Drainage Work Group met on September 12; discussion included: nitrogen in Minnesota surface waters study; status of DWG subgroup for drainage system assessments to road authorities; and continued discussion about Section 103E.015 considerations before drainage work is done. The next meeting of the Drainage Work Group is October 10.

COMMITTEE RECOMMENDATIONS

Administrative Advisory Committee

Addition of "Saturated Buffer" to the list of eligible practices for the Targeted Drainage Water Management Grant Program – Tim Gillette reported that the FY2013 Targeted Drainage Water Management Grant Program implements a Clean Water Fund appropriation by the 2012 Legislature to improve water quality of agricultural runoff, particularly from tile drainage. The appropriation language specified coordination with the USDA-NRCS for conservation practice standards. The grant program and allocations were approved by the BWSR Board in June 2012, including a list of eligible practices. At that time, Conservation Practice 739 – Vegetated Subsurface Drain Outlet (aka "Saturated Buffer") was not yet available. The interim conservation practice standard CP-739 was issued by NRCS in August 2012 as an effective drainage water management practice.

Tim reported that the Administrative Advisory Committee met this morning and recommends approval of the addition to the list of eligible practices for the Targeted Drainage Water Management Grant
** Program. Moved by Gerald VanAmburg, seconded by Sandy Hooker, that the Board hereby resolves that: 1) The Vegetated Subsurface Drain Outlet (CP-739) conservation practice be added to the eligible
13-72 practices under the BWSR Targeted Drainage Water Management Grants; and 2) The Executive Director is given authority to adjust the list of eligible conservation practices for the BWSR Targeted Drainage Water Management Grants in coordination with applicable NRCS conservation practice

standards and report any such changes to the Board at its next meeting following such an adjustment. ***Motion passed on a voice vote.***

Order a Public Hearing for the Petition for Redistribution of Managers of the Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) – Travis Germundson reported that Board authorization is needed to schedule and hold a public hearing regarding the petition to redistribute the managers of the Middle-Snake-Tamarac Rivers Watershed District. Travis reported that the Administrative Advisory Committee met this morning and recommends approval of the public hearing for redistribution of manager positions for the MSTRWD. Moved by Jack Ditmore, seconded by Sandy Hooker, to correct typos in the Order, and hereby orders a public hearing be held on the redistribution of manager positions for the Middle-Snake-Tamarac Rivers Watershed District 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.***

** 13-73

CONFLICT OF INTEREST DECLARATION
Chair Napstad read the statement:
"A conflict of interest whether actual, potential, or perceived, occurs when someone in a position of trust has competing professional or personal interests and these competing interests make it difficult to fulfill professional duties impartially. At this time, members are requested to declare conflicts of interest they may have regarding today's business."

Chair Napstad stated that board members have submitted their completed Conflict of Interest Declaration forms. The Conflict of Interest Declaration documents will be filed for the grant decision item. All board members are eligible to vote.

Southern Region Committee
Area II Minnesota River Basins Projects Inc. FY2014 & FY2015 Biennial Work Plan & Grant – Paul Langseth reported that BWSR oversees the administrative funding related to the efforts of the Area II Minnesota River Basins Project Inc. (Area II). The 2013 Minnesota Legislature appropriated administrative funding for Area II Minnesota River Basins Project Inc., resulting in a fiscal year 2014 grant of $120,000. The Southern Region Committee met on September 5, 2013 to review the Area II Work Plan and recommends approval of the plan and execution of the FY 2014 grant. Moved by Paul Langseth, seconded by Steve Sunderland, to approve the Area II FY2014 and 2015 Biennial Work Plan and FY2014 grant of $120,000. ***Motion passed on a voice vote.***

** 13-74

Brown County Local Water Management Plan Amendment – Paul Langseth reported that the Southern Region Committee met on September 5, 2013, reviewed the Brown County Plan Amendment, and recommended conditional approval of the Brown County 2013 - 2018 Local Water Management Plan Amendment based on the Brown County Board holding a public hearing and submitting the hearing documents to BWSR prior to September 25, 2013. The Board received record of the public hearing and copies of all hearing documents on September 23, 2013. Moved by Paul Langseth, seconded by Sandy Hooker, to approve the 2013 amendment of the Brown County Local Water Management Plan for August 2013 – August 2018. Gerald VanAmburg stated that climate change, high precipitation, and drainage needs to be considered in water plans in the future, and LGUs need to be educated. Discussion followed. ***Motion passed on a voice vote.***

** 13-75

Nicollet County Local Water Management Five-Year Plan Amendment – Paul Langseth reported that the Southern Region Committee met on September 5, 2013, reviewed the recommendation of the state review agencies regarding final approval of the Nicollet County Local Water Management Plan 2013 Amendment, and recommends approval. Moved by Paul Langseth, seconded by Joe Collins, to approve the 2013 amendment of the Nicollet County Local Water Management Plan for August 2013 – August 2018. ***Motion passed on a voice vote.***

** 13-76

Upper Minnesota River Watershed District (UMRWD) Watershed Management Plan – Paul Langseth reported that on March 20, 2013, the Board of Managers of the Upper Minnesota River Watershed District filed a proposed Revised Watershed Management Plan with the Board of Water and Soil Resources. The Southern Region Committee met on September 5, 2013, reviewed the revised Plan and recommends approval. Moved Paul Langseth, seconded by Steve Sunderland, to approve the revised Watershed Management Plan for the Upper Minnesota River Watershed District. ***Motion passed on a voice vote.***

** 13-77

Sibley County Local Water Management Plan Update – Paul Langseth reported that the Southern Region Committee met on September 5, 2013, reviewed the Sibley County Local Water Management Plan Update, and recommended approval with the requirement that text is added to the Plan Update explaining why some farmers are returning to moldboard plowing in a corn-on-corn rotation. The required update of the Implementation Section was received by BWSR on September 16, 2013. Moved by Paul Langseth, seconded by Sandy Hooker, to approve the update of the Sibley County Local Water Management Plan 2013-2023. ***Motion passed on a voice vote.***

** 13-78

Public Relations, Oversight, and Strategic Planning Committee

Reauthorization of the PRAP Assistance Grants – Don Buckhout reported that action by the Board is needed to reauthorize the grant program and the delegation of authority to the executive director for the current 2014-15 biennium. The Board made the original authorization and delegation in March 2012, for the 2012-13 biennium. The Public Relations, Oversight and Strategic Planning Committee met last night and recommend approval of the reauthorization of PRAP assistance grants to LGUs for FY14-15. A revised resolution was distributed. Moved by Jack Ditmore, seconded by Matt Wohlman, that the BWSR Board authorizes the Executive Director to expend up to $10,000 per grant or contract for specialized assistance to local government water management entities to address operational or service delivery needs identified through a PRAP assessment during the 2014-2015 biennium, and the BWSR Board requires that all such funds awarded be cost shared by the grantee at a percentage dependent on the size of the grant and determined by the Executive Director, and that the aggregate amount of expenditures for the PRAP program and awards are consistent with any appropriation conditions set by the legislature. ***Motion passed on a voice vote.***

** 13-79

Chair Napstad called for a break in the meeting at 10:36 a.m. The meeting reconvened at 10:55 a.m.

RIM Reserve Management Planning Committee

Disaster Recovery Assistance Program (DRAP) and Reinvest In Minnesota (RIM) Reserve Emergency Haying and Grazing – Bill Penning stated that Board approval is needed to amend the DRAP Policy that was just approved at the August Board Meeting. Due to recent appropriation changes and concerns about emergency haying and grazing it is being proposed to disallow this option with stand-alone

RIM easements. Bill reported that the RIM Reserve Management Planning Committee met last night and recommends approval of the amended DRAP Policy 17.2 Stand Alone RIM Reserve Easements for lands with RIM easements only, emergency haying or livestock grazing is not allowed. Moved by Gene Tiedemann, seconded by Chris Elvrum, to approve the revised DRAP Policy as presented. ***Motion passed on a voice vote.***

** 13-80

ACUB Easement Modification – Bill Penning explained that in 2004, the National Guard Bureau and the State of Minnesota, through BWSR, entered into a cooperative agreement to implement an Army Compatible Use Buffer (ACUB) Program for Camp Ripley. The Program was designed to minimize intensive residential and commercial development within a three-mile radius around Camp Ripley by purchasing the development rights through permanent conservation easements. Since 2004, BWSR has acquired 88 conservation easements through the ACUB Program with a federal investment of $15,795,000 and a state investment of $2,248,000 through the Outdoor Heritage Fund, as recommended by the Lessard Sams Outdoor Heritage Council. Bill provided background information, presented a proposed solution, and reported that the RIM Reserve Management Planning Committee met last night and unanimously recommend approval of the proposal, to address a mutual mistake in the easement documents and incorporate the modified language into all new ACUB easements going forward.

Moved by Gene Tiedemann, seconded by Tom Schulz, to approve the ACUB easement modification, authorizing staff to: 1) Work with the National Guard Bureau, Morrison SWCD, the Minnesota Attorney General's Office, and other affected parties to develop new language that is consistent with achieving the intent and purpose of the ACUB program and the conservation purpose of the easement by limiting development and preserving open space within the Camp Ripley buffer area but not strictly prohibiting subdivision. 2) Modify all existing ACUB easements to reflect the change. 3) Incorporate modified language into all new ACUB easements. Discussion followed. ***Motion passed on a voice vote.***

** 13-81

NEW BUSINESS

2013 Grants Monitoring Report – Tim Dykstal reported that on June 22, 2011, the Board adopted the Grant Monitoring, Reconciliation and Verification Policy, which calls for an annual report to be delivered to the Board on grants monitoring. Tim presented data on the formal monitoring of the 2012 grant activity before the old e-LINK shutdown, on March 14, 2013; data on the grant verification visits and looking ahead to the next steps with BWSR expectations in grants monitoring, reconciliation, and verification. Discussion followed. Chair Napstad thanked Tim for his report.

Nitrogen in Minnesota's Surface Waters - Dave Wall, MPCA Hydrologist, reported that in June 2013, the MPCA conducted a study of nitrogen in surface waters to better understand the nitrogen conditions in Minnesota's surface waters, along with the sources, pathways, trends and potential ways to reduce nitrogen in waters. The study was a collaborative effort led by Minnesota Pollution Control Agency, with assistance from the University of Minnesota and the U.S. Geological Survey. The report team used more than 50,000 water samples collected at 700 stream sites and used 35 years of monitoring data and findings from 300 published studies. Dave stated that MPCA will be presenting this information to the Legislature on October 7. Al Kean reported that he attended the Hypoxia Task Force meeting in Minneapolis yesterday and John Jaschke stated that Rebecca Flood offered to provide an update in the future. Chair Napstad thanked Dave for his presentation.

AGENCY REPORTS

Minnesota Department of Health – Chris Elvrum reported that the application period is open through September 30, 2103 for source water protection competitive grants. The source water protection transient grant application period will be open next month for statewide sources.

Minnesota Department of Natural Resources (DNR) – Tom Landwehr reported that due to the drought, there has been an increase in water permits issued; the Legislature has given DNR authority for groundwater usage. Tom stated that there will be intense media surrounding the five-year anniversary of the legacy amendment. DNR and BWSR need to announce the many accomplishments of the legacy funding, letting the general public know of all the achievements.

Minnesota Pollution Control Agency (MPCA) – Doug Wetzstein reported that the draft Minnesota Nutrient Reduction Strategy is available for public review and comment from October 7 – December 18, 2013; the document is located on MPCA's website. Doug stated that this is his last BWSR meeting serving as MPCA's alternate board member. Doug has been promoted to assistant director of the Industrial Division and Municipal Division. Chair Napstad thanked Doug for his participation at board meetings.

ADVISORY COMMENTS

Minnesota Association of Townships (MAT) – Sandy Hooker reported that the Minnesota Association of Township district meetings were held statewide from August 12 – September 4. Sandy reported that MAT's Annual Conference will be held November 21-23 at Jackpot Junction in Morton.

USDA Farm Service Agency – Glenn Schafer reported that Deb Crusoe was recently hired as the FSA Executive Director. Glenn stated that FSA appreciates BWSR's partnership.

UPCOMING MEETINGS

- DRC Workshop, today - immediately following adjournment
- PROSP Committee Meeting, October 22, 5:30 – 7:30 PM
- Next BWSR Board Meeting, October 23, 2013

** Moved by Christy Jo Fogarty, seconded by Jack Ditmore, to adjourn the meeting at 12:35 p.m.
13-82 ***Motion passed on a voice vote.***

Respectfully submitted,

Mary Jo Anderson
Recorder

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Dispute Resolution Committee Report

Meeting Date:

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: Travis Germundson/Gerald VanAmburg

☐ **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

None.

LINKS TO ADDITIONAL INFORMATION

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
October 11, 2013
By: Travis Germundson

There are presently **15** appeals pending. All of the appeals involve WCA except File 10-10. There have been no new appeals filed since the last report dated September 25, 2013.

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 13-9 (9-23-13) This is an appeal of a restoration order in Stearns County. The appeal regards drainage impacts to wetlands associated with a private drainage ditch project. No decision has been made on the appeal.

File 13-8 (9-5-13) This is an appeal of a restoration order in St. Louis County. The appeal regards the placement of approximately 2,076 square feet of fill in a Type 3 wetland within the shore impact zone of Coon Lake for lake access. *The appeal has been placed in abeyance and the restoration order stayed until there is a final decision on the after-the-fact replacement plan application.*

File 13-7 (8-30-13) This is an appeal of several replacement plan decisions in Le Sueur County. The appeal involves the same project and local unit of government decisions as File 13-6. *The appeal has been combined with File 13-6 and remanded for further technical work and administrative proceedings.*

File 13-6 (8-28-13) This is an appeal of several replacement plan decisions in Le Sueur County. The appeal regards the approval of three wetland replacement plan applications for a silica sand mining operation. At issue is that the decisions allow for substantial wetland impacts to occur without replacement. *The appeal has combined with File 13-7 and remanded for further technical work and administrative proceedings*

File 13-5 (6-11-13) This is an appeal of a replacement plan decision in Stearns County. The appeal regards the approval of a wetland replacement plan application. A pervious appeal (File 12-19) was remanded for further technical work and administrative proceedings, and now that new decision is being appealed. At issue is the adequacy of the TEP's Report to address partial drainage. The appeal has been remanded for further technical work directing the TEP to produce a revised written report adequately addressing partial drainage.

File 13-3 (3-19-13) This is an appeal of a restoration order in Big Stone County. The appeal regards impacts to DNR Public Waters and WCA wetlands on state property associated with an agricultural drainage project. 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 13-1 (1-9-13) This is an appeal of a restoration order in Swift County. The appeal regards drainage impacts to multiple wetlands associated with an agricultural drain tile project. 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 12-16 (11-16-12). This is an appeal of a wetland banking credit deposit request in Stearns County. The appeal regards the approval of a wetland banking plan request to deposit 9.9 acres of credit. A previous appeal (File 12-13) was remanded for the LGU to develop an adequate record, and now that new decision is being appealed. At issue are the eligibility requirements for banking credits. The appeal has been accepted and the briefing and hearing schedule stayed by mutual agreement to allow informal settlement discussions to continue.

File 12-12 (7-16-12) This is an appeal of an exemption determination in Renville County. The appeal regards the denial of an agricultural drainage exemption associated with a 1.5 acre wetland. At issue is the wetland type determination. A previous appeal (File 12-5) was remanded for further technical evaluation and administrative proceedings, and now the current approval is being appealed. A verbal settlement agreement has since been reached that includes submittal of a replacement plan application. The appeal has been placed in abeyance by mutual agreement to determine the viability of a wetland replacement plan application.

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 and confirmation of required mitigation.

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 proceed 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. A mediated settlement agreement was reached with the condition that if the watershed district fails to carry out Option D the appeal shall go forward. The appeal has been placed in abeyance.

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. A portion of the site has been restored and it appears the landowner is committed to restoring the remaining areas.

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 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 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.

Summary Table

Type of Decision	Total for Calendar Year 2012	Total for Calendar Year 2013
Order in favor of appellant	1	
Order not in favor of appellant	5	1
Order Modified		
Order Remanded	4	4
Order Place Appeal in Abeyance	1	2
Negotiated Settlement		
Withdrawn/Dismissed	4	

COMMITTEE RECOMMENDATIONS

Metro Region Committee

1. Boundary Change for Coon Creek Watershed District – Mary Peterson – ***DECISION ITEM***

2. Ramsey-Washington Metro Watershed District Plan Amendment – Mary Peterson – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Boundary Change for Coon Creek Watershed District**

Meeting Date: 10/23/13

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

Item Type: X Decision ☐ Discussion ☐ Information

Section/Region: Metro

Contact: Mary Peterson

Prepared by: Jim Haertel

Reviewed by: Metro Region Committee(s)

Presented by: Mary Peterson

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

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

Fiscal/Policy Impact

X 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 Boundary Change for Coon Creek Watershed District

LINKS TO ADDITIONAL INFORMATION

http://www.bwsr.state.mn.us/boardpackets/water_plans_for_bd_packet/DRAFT_Petition_Coon_Rapids_Boundary_Request.pdf

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

The Coon Creek Watershed District submitted a Petition to change the boundary of the District pursuant to Minn. Stat. § 103B.215. The proposed boundary change would expand the District into an approximate 290 acre area of the City of Coon Rapids. The subject area is currently in the Lower Rum River Watershed Management Organization. The remaining part of Coon Rapids is currently in the Coon Creek Watershed District. Approval of the Petition would result in the entire City of Coon Rapids being within the Coon Creek Watershed District. The City of Coon Rapids requested the District initiate the boundary change.

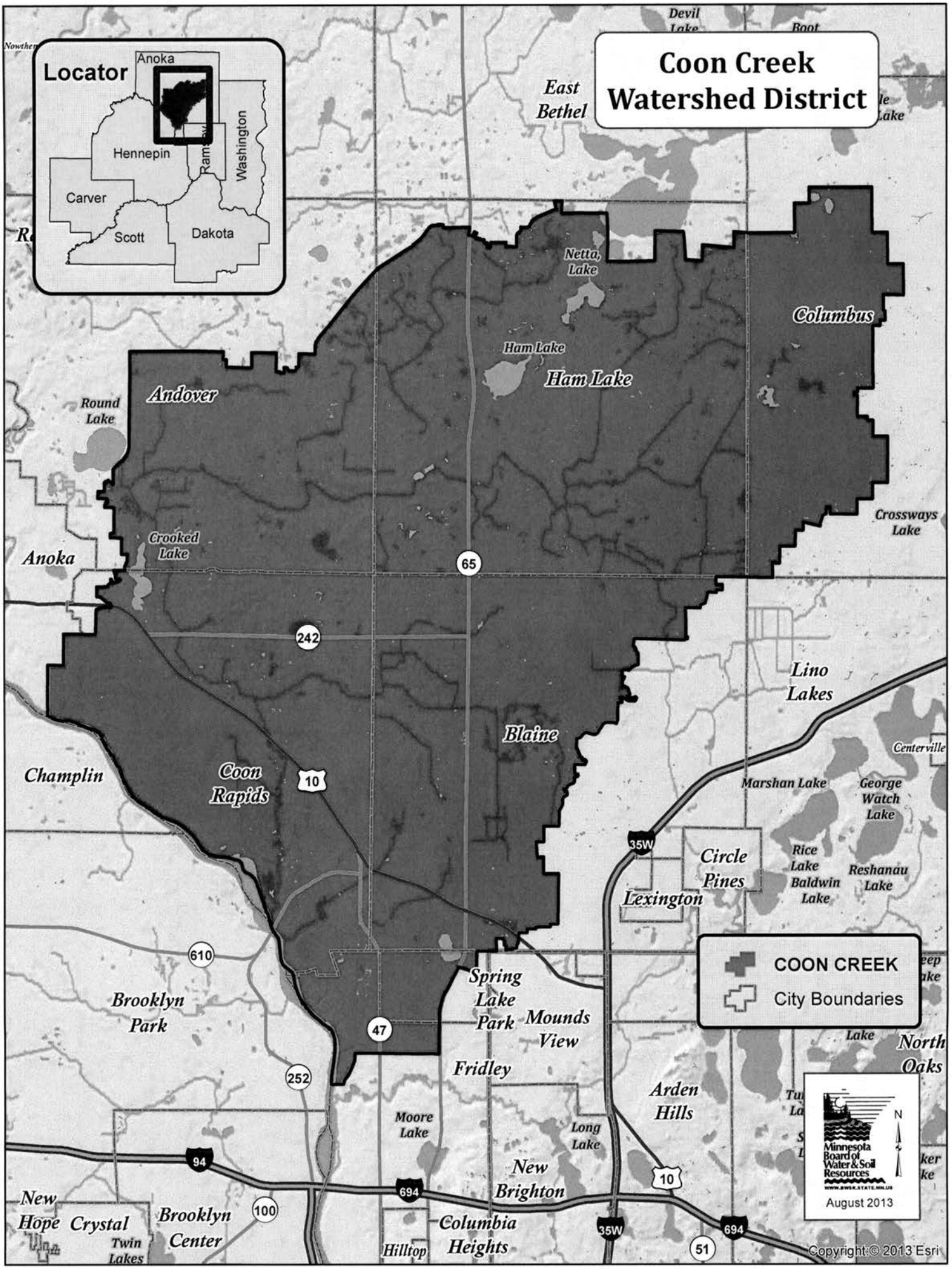
The Petition was accompanied by resolutions of concurrence from the City of Coon Rapids and the Lower Rum River Watershed Management Organization, as required by Minn. Stat. § 103B.215, Subd. 2c. A Legal Notice of Filing of the Petition was published once per week for two consecutive weeks in local newspapers, as required by Minn. Stat. § 103B.215, Subd. 3. Additionally, the legal notice was sent by mail to several

addressees including Anoka County, Anoka SWCD and affected local units of government. A public hearing was not requested in response to the legal notice of filing and no comments were received.

As stated in the Petition, approval of the Petition "…would allow for more efficient use of management resources and minimize the costs of public capital expenditures". The Petition states the proposed boundary change can be accomplished in conformance with Minn. Stat. § 103B.225 regarding benefits and damages.

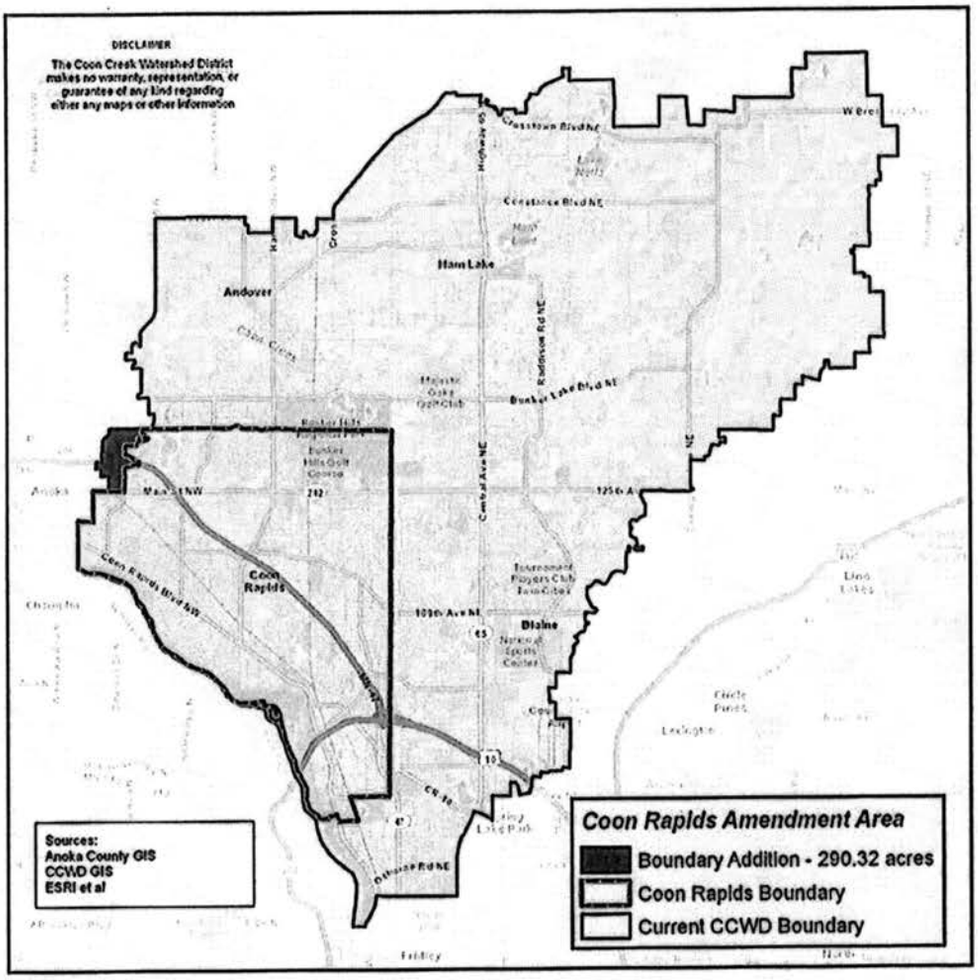
If the Petition is approved, the subject area would have to be released from the Lower Rum River Watershed Management Organization before the boundary change became effective.

The Metro Region Committee met on October 1, 2013, and found all the affected local units of government concur in the Petition, the proposed boundary change would be substantially consistent with the purposes and requirements of Minn. Stat. §§ 103B.205 to 103B.255, the proposed boundary change can be accomplished in conformance with Minn. Stat. § 103B.225 regarding benefits and damages, and approval of the proposed boundary change must be contingent on the release of the Petitioned Area from the Lower Rum River Watershed Management Organization. The Committee decided with a unanimous vote to recommend to the full Board that the boundary change be approved as proposed in the Petition per the attached draft Order and the District's watershed management plan be amended to include the boundary change within one year of the date of the release of the Petitioned Area from the Lower Rum River Watershed Management Organization.

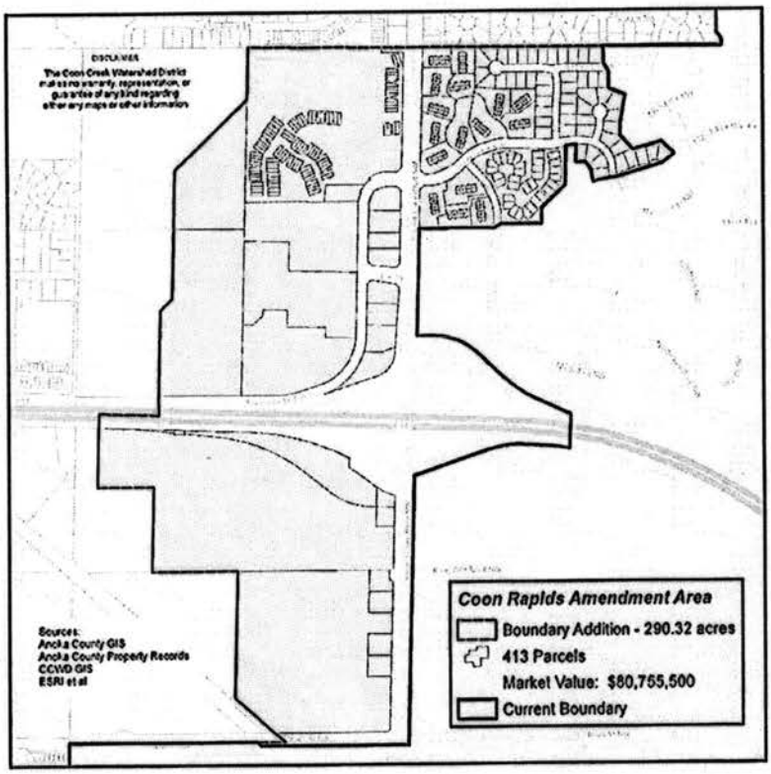

Coon Creek
Watershed District
Locator
Anoka
Hennepin
Ramsey
Washington
Carver
Scott
Dakota
East
Bethel
Devil
Lake
Boot
Lake
Netta,
Lake
Columbus
Ham Lake
Ham Lake
Andover
Round
Lake
Crooked
Lake
Anoka
Crossways
Lake
65
242
Lino
Lakes
Blaine
Centerville
Champlin
Coon
Rapids
10
Marshan Lake
George
Watch
Lake
35W
Circle
Pines
Rice
Lake
Baldwin
Lake
Reshanau
Lake
Lexington
610
COON CREEK
City Boundaries
Spring
Lake
Park
Mounds
View
Brooklyn
Park
47
Fridley
North
Oaks
252
Arden
Hills
Moore
Lake
Long
Lake
94
New
Brighton
694
10
New
Hope
Crystal
Brooklyn
Center
100
Twin
Lakes
Columbia
Heights
Hilltop
35W
694
51
Minnesota
Board of
Water & Soil
Resources
WWW.BWSR.STATE.MN.US
N
August 2013
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Location

Figure 1: Coon Creek Watershed District and Lower Rum River Watershed Management Organization Location Map



Properties/ Parcels Involved



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

In the Matter of the Boundary Change of the Coon Creek Watershed District in Anoka County pursuant to Minnesota Statutes § 103B.215

ORDER
WATERSHED DISTRICT
BOUNDARY CHANGE

DRAFT

Whereas, a petition (Petition) for a boundary change of the Coon Creek Watershed District (District) was filed by the District with the Board of Water and Soil Resources (Board) on May 23, 2013, 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 Coon Creek Watershed District (District) was filed by the District on May 23, 2013.

2. **Property Description.** The territory included in the boundary change, the Petitioned Area, totals approximately 290.3 acres of land in the City of Coon Rapids, Anoka County, entirely within the seven county Twin Cities metropolitan area. The proposed boundary change seeks to transfer the Petitioned Area from the Lower Rum River Watershed Management Organization to the District.

3. **Reasons for Boundary Change.** The Petition states the proposed boundary change "would allow for more efficient use of management resources, and minimize the costs of public capital expenditures. All water management activities for the City of Coon Rapids would be contained within a single watershed; simplifying the planning and reporting

requirements, and creating a more uniform set of policies and controls. It would consolidate the official controls with regard to protection of groundwater, and its beneficial use."

4. **Statements of Concurrence.** Statements of concurrence from the City of Coon Rapids and the Lower Rum River Watershed Management Organization were submitted with the Petition, as required by Minn. Stat. § 103B.215, Subd. 2c .

5. **Effect on Benefits and Damages.** The Petition states there are no capital improvements or financial obligations for the Petitioned Area, as required by Minn. Stat. § 103B.225.

6. **Notice of Filing.** A Legal Notice of Filing of the proposed boundary change, pursuant to Minn. Stat. § 103B.215, Subd. 3, was published in the Anoka County Union on August 23 and 30, 2013, in the Blaine Spring Lake Park Life on August 23 and 30, 2013, in the Coon Rapids Herald on August 23 and 30, 2013, and in the Fridley Sun Focus on August 29 and September 5, 2013. Further, a copy of the Notice of Filing was mailed to several addressees including the Anoka County Board of Commissioners, the Anoka County Auditor, the Anoka Conservation District, the Lower Rum River Watershed Management Organization, the District, several cities affected by the proposed boundary change, and the Department of Natural Resources.

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 were received during the specified time period and no hearing was held.

8. **Metro Region Committee Meeting.** On October 1, 2013, the Board's Metro Region Committee and staff met to review and discuss the Petition. Board staff in attendance were Board Conservationist Mary Peterson and Barbara Hogan, Office Administrative Assistant. Board staff recommended approval of the boundary change per the Petition. Board staff noted there was no opposition to the proposed boundary change, the affected city and watershed management organizations concur in the Petition, approval of the boundary change would not affect the benefits or damages for any improvement previously constructed, and approval of the boundary change would be substantially consistent with the purposes and requirements of Minn. Stat. §§ 103B.205 to 103B.255. After discussion, the Committee found all the affected local units of government concur in the Petition, the proposed boundary change would be substantially consistent with the

purposes and requirements of Minn. Stat. §§ 103B.205 to 103B.255, the proposed boundary change can be accomplished in conformance with Minn. Stat. § 103B.225 regarding benefits and damages, and approval of the proposed boundary change must be contingent on the release of the Petitioned Area from the Lower Rum River Watershed Management Organization. The Committee decided with a unanimous vote to recommend to the full Board that the boundary change be approved as proposed in the Petition.

CONCLUSIONS

1. The Petition for a boundary change of the Coon Creek Watershed District is valid in accordance with Minn. Stat. § 103D.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 governing bodies of the City of Coon Rapids, the Lower Rum River Watershed Management Organization, and the Coon Creek Watershed District concur in the proposed boundary change.

6. No opposition to the Petition is contained in the record.

7. The proposed boundary change is substantially consistent with the purposes and requirements of Minn. Stat. §§ 103B.205 to 103B.255.

8. The proposed boundary change can be accomplished in conformance with Minn. Stat. § 103B.225 regarding benefits and damages.

9. The proposed boundary change should be approved per the Petition contingent on the release of the Petitioned Area from the Lower Rum River Watershed Management

DRAFT

Organization and the watershed management plan for the Coon Creek Watershed District should be amended to include the Petitioned Area within one year of the date of the release of the Petitioned Area from the Lower Rum River Watershed Management Organization.

ORDER

The Board hereby orders that the boundary of the Coon Creek Watershed District is changed per the Petition and as depicted on the two maps contained in the Petition on pages 4 and 8, attached hereto and made a part of this Order hereof, including the data sets the maps were created from, contingent upon the release of the Petitioned Area from the Lower Rum River Watershed Management Organization. The Board further orders that the Coon Creek Watershed District amend its watershed management plan to include the Petitioned Area within one year of the date of the release of the Petitioned Area from the Lower Rum River Watershed Management Organization.

Dated at Saint Paul, Minnesota this 23rd day of October, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brian Napstad, Chair

DRAFT

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Ramsey-Washington Metro Watershed District Plan Amendment**

Meeting Date: October 23, 2013

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

Item Type: X Decision ☐ Discussion ☐ Information

Section/Region: Metro

Contact: Mary Peterson

Prepared by: Mary Peterson

Reviewed by: Metro Region Committee(s)

Presented by: Mary Peterson

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

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

Fiscal/Policy Impact

X 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 Amendment to the Ramsey-Washington Metro Watershed District Watershed Management Plan

LINKS TO ADDITIONAL INFORMATION

http://www.bwsr.state.mn.us/boardpackets/water_plans_for_bd_packet/2013_Final_Amendment_markup.pdf

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

The Ramsey-Washington Metro Watershed District (RWMWD) was established on February 24, 1975, by the Minnesota Water Resources Board, now the Minnesota Board of Water and Soil Resources (BWSR) pursuant to the Minnesota Watershed Act, to effect the protection and provident use of water resources. The RWMWD is located in eastern Ramsey County and western Washington County. The RWMWD spans a 65-square-mile area and includes all or part of 12 communities, including White Bear Lake, Vadnais Heights, Gem Lake, Little Canada, Maplewood, Landfall, North St. Paul, St. Paul, Shoreview, Roseville, Oakdale, and Woodbury. Approximately 53.4 square miles of the area lie within Ramsey County; the remaining 11.6 are within Washington County

The current watershed management plan was approved by the Board on April 25, 2007. In June 2012, by Board Order, the RWMWD boundaries were enlarged to include the area of the former Grass Lake WMO (GLWMO) and the RWMWD was furthered ordered to amend this watershed management plan to include the new area in the Plan.

This Amendment incorporates the former GLWMO into the RWMWD's Watershed Management Plan and makes minor plan text and map changes to reflect the portion of the Cities of Shoreview and Roseville that are now part of the RWMWD. The lakes and drainage areas in the former GLWMO are currently being studied and a new subwatershed section that addresses the land use, drainage patterns and water resources within this area will be included in the planned 2015 Watershed Management Plan revision officially underway. The Amendment also reflects recent changes in the lakes and creeks listed by the MPCA as impaired acknowledging the planning efforts currently underway or being planned to address these impairments.

The Metro Region Committee met on October 1, 2013. After review of the information, the Committee unanimously voted to recommend approval of the Amendment per the attached draft Order.

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

In the Matter of the review of the Watershed Management Plan for the **Ramsey-Washington Metro Watershed District** pursuant to Minnesota Statues Section 103B.231, Subdivision 11

ORDER APPROVING AMENDMENT TO WATERSHED MANAGEMENT PLAN

Whereas, the Board of Managers of the Ramsey-Washington Metro Watershed District (RWMWD) submitted a Watershed Management Plan Amendment dated August, 2013 (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. **RWMWD Establishment.** The Ramsey-Washington Metro Watershed District (RWMWD) was established on February 24, 1975, by the Minnesota Water Resources Board, now the Minnesota Board of Water and Soil Resources (Board) pursuant to the Minnesota Watershed Act, to effect the protection and provident use of water resources. The following Board actions have previously been made regarding the RWMWD Plan.

   1977 – Overall Plan – Ramsey-Washington Metro Watershed District
   1986 – Stormwater Runoff and Water Quality Management Plan
   1997 – Ramsey-Washington Metro Watershed District Watershed Management Plan
   2007 – Ramsey-Washington Metro Watershed District Watershed Management Plan
   2012 - Ramsey-Washington Metro WD Enlargement (former Grass Lake WMO)

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. The current watershed management plan was approved by the Board on April

DRAFT

25, 2007. In June 2012, by Board Order, the RWMWD boundaries were enlarged to include the area of the former Grass Lake WMO and the RWMWD was further ordered to amend the watershed management plan to include the new area in the Plan.

3. **Nature of the Watershed.** The RWMWD is located in eastern Ramsey County and western Washington County. The RWMWD spans a 65-square-mile area and includes all or part of 12 communities, including White Bear Lake, Vadnais Heights, Gem Lake, Little Canada, Maplewood, Landfall, North St. Paul, St. Paul, Shoreview, Roseville, Oakdale, and Woodbury. Approximately 53.4 square miles of the area lie within Ramsey County; the remaining 11.6 are within Washington County.

4. **Amendment Development and Local Review.** The RWMWD circulated a copy of the draft Amendment to the Board, other state agencies, the Metropolitan Council, and local governments for their review pursuant to Minnesota Statutes Section 103B.231, Subd. 7. The Board received a table of all comments received and responded to by the RWMWD on July 18, 2013. A public hearing on the final Amendment was held on August 7, 2013. No comments were received. The final draft of the Amendment was received by the Board on August 12, 2013.

5. **Metropolitan Council Review.** The Council commented that the plan amendment is consistent with Council policies and the Council's Water Resources Management Policy Plan and commends the RWMWD for its willingness to accept these additional areas, and its promptness in amending the plan to reflect the changes.

6. **Department of Agriculture Review.**
MDA did not provide comments on the RWMWD Amendment.

7. **Department of Health Review.**
MDH did not provide comments on the RWWD Amendment.

8. **Department of Natural Resources Review.**
MDNR did not provide comments on the RWWD Amendment.

9. **Pollution Control Agency Review.**
MPCA did not provide comments on the RWWD Amendment.

10. **Department of Transportation Review.**
MDOT did not provide comments on the RWWD Amendment.

11. **Board of Water and Soil Resources Review.** Board staff completed the 60-day review and the 90 day final review of the Amendment and found the Amendment to be consistent with Minnesota Statutes and Rule.

DRAFT

12. **Amendment Summary.** In 2012 the boundaries of the RWMWD were expanded to include the land area of the former Grass Lake Water Management Organization (GLWMO). The Amendment incorporates the former GLWMO into the RWMWD's current Watershed Management Plan. The lakes and drainage areas in the former GLWMO are currently being studied and a new subwatershed section that addresses the land use, drainage patterns and water resources within this area will be included in the planned 2015 Watershed Management Plan revision officially underway.
The effects of the Amendment are:
    - To officially incorporate the new 8 square mile land area into the RWMWD.
    - To apply the District's programs to land development activities in the new area.
    - To apply the District's rules and permit program to the new area.
    - Provide for administration of the Minnesota Wetland Conservation Act and District buffer requirements.
    - To allow the District to apply grant programs to the new land area for habitat management and runoff volume reduction.

    The Amendment also corrected or updated some background information related to water resources.

13. **Metro Region Committee Meeting.** On October 1, 2013, the Board's Metro Region Committee and staff met to review and discuss the Amendment. Those in attendance from the Board's Committee were Rebecca Flood, Jack Ditmore, Faye Sleeper, Christy Jo Fogarty, and Joe Collins, chair. Board staff in attendance were Metro Region Board Conservationist Mary Peterson and Office Administrative Assistant Barbie Hogan. Board staff recommended approval of the Amendment. After discussion, the committee unanimously voted to recommend approval of the RWMWD 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 Ramsey-Washington Metro Watershed District pursuant to Minnesota Statutes Sections 103B.231, Subd. 11.

3. The Ramsey-Washington Metro Watershed District's Amendment attached to this Order incorporates the former Grass Lake Watershed Management Organization areas into the District's Watershed Management Plan.

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

DRAFT

ORDER

The Board hereby approves the attached Amendment dated August 2013 to the Watershed Management Plan for the Ramsey-Washington Metro Watershed District.

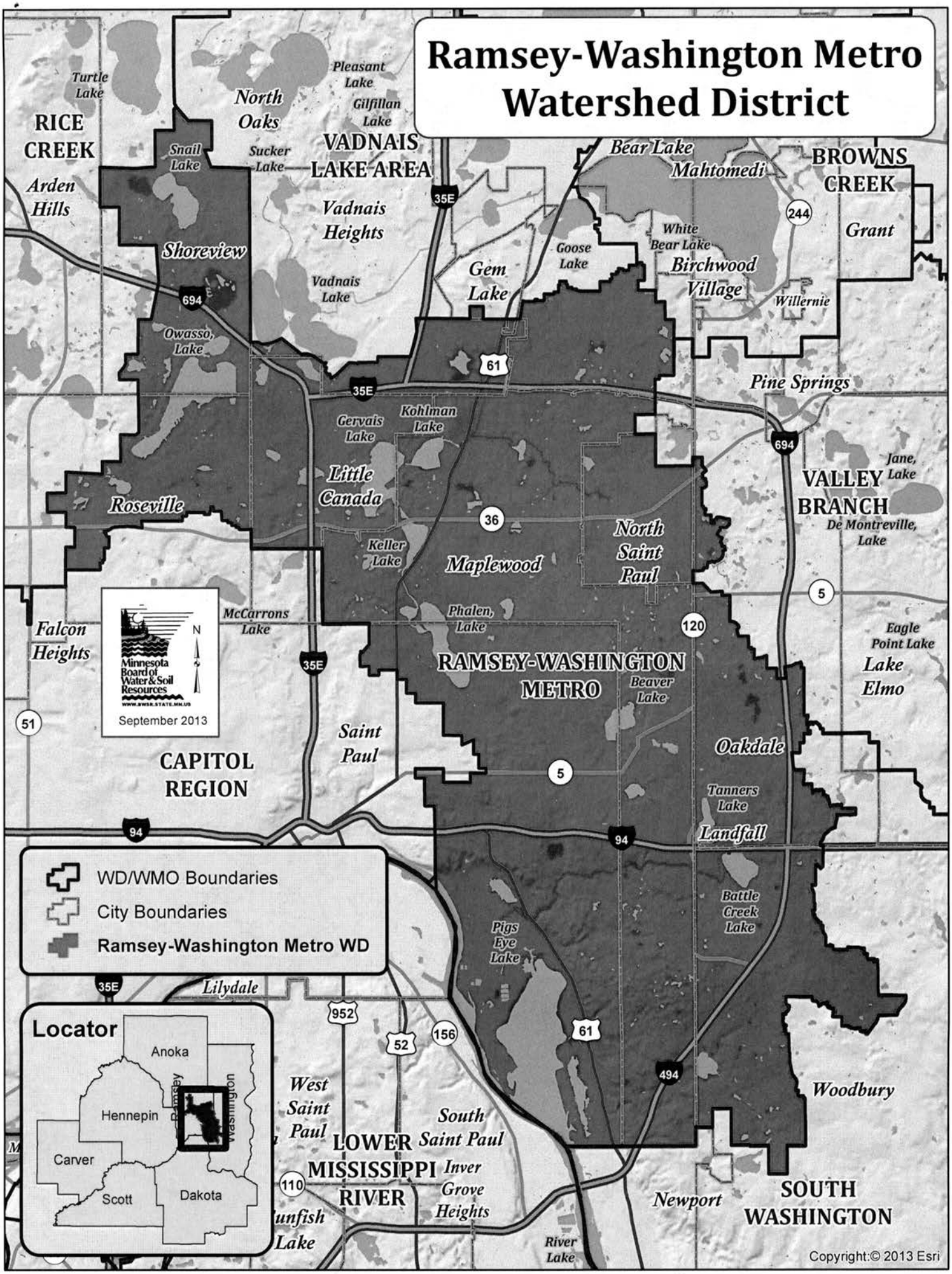
Dated at Saint Paul, Minnesota this 23rd Day of October 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

_____

BY: Brian Napstad, Chair

DRAFT


Ramsey-Washington Metro Watershed District
RICE CREEK
Arden Hills
Shoreview
Turtle Lake
North Oaks
Pleasant Lake
Gilfillan Lake
Snail Lake
Sucker Lake
VADNAIS LAKE AREA
Vadnais Heights
Vadnais Lake
Gem Lake
Bear Lake
Mahtomedi
BROWNS CREEK
Grant
White Bear Lake
Goose Lake
Birchwood Village
Willernie
Owasso, Lake
Pine Springs
Gervais Lake
Kohlman Lake
Little Canada
Roseville
Keller Lake
Maplewood
North Saint Paul
VALLEY BRANCH
Jane, Lake
De Montreville, Lake
Falcon Heights
McCarrons Lake
Phalen, Lake
RAMSEY-WASHINGTON METRO
Beaver Lake
Eagle Point Lake
Lake Elmo
Saint Paul
CAPITOL REGION
Oakdale
Tanners Lake
Landfall
Battle Creek Lake
Pigs Eye Lake
Lilydale
West Saint Paul
South Saint Paul
LOWER MISSISSIPPI RIVER
Inver Grove Heights
Newport
SOUTH WASHINGTON
Woodbury
River Lake
Minnesota Board of Water & Soil Resources
WWW.BWSR.STATE.MN.US
September 2013
WD/WMO Boundaries
City Boundaries
Ramsey-Washington Metro WD
Locator
Anoka
Hennepin
Carver
Scott
Dakota
Ramsey
Washington
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COMMITTEE RECOMMENDATIONS

Northern Region Committee

1. Hubbard County Water Plan Extension Request – Brian Napstad – ***DECISION ITEM***

2. Stearns County Five Year Plan Amendment – Tom Schulz – ***DECISION ITEM***

3. Traverse County Water Plan Synchronization – Gerald VanAmburg – ***DECISION ITEM***

4. Wilkin County Local Water Plan Synchronization - Gerald VanAmburg – ***DECISION ITEM***

5. Sauk River Watershed District Revised Watershed Management Plan Hearing – Gene Tiedemann and Travis Germundson – ***DECISION ITEM***

6. Public Hearing for Redistribution of Managers of the Middle-Snake-Tamarac Rivers Watershed District – Gene Tiedemann – ***INFORMATION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Hubbard County Water Plan Extension Request**

Meeting Date: October 23, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: North Region

Contact: Dan Steward

Prepared by: Dan Steward

Reviewed by: North Region Committee Committee(s)

Presented by: Brian Napstad

☐ **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

LINKS TO ADDITIONAL INFORMATION

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

On January 25, 2012, the Board of Water and Soil Resources (Board) approved an extension of the Hubbard County Comprehensive Local Water Management Plan (Plan). The extension expires on January 25, 2014. The County wishes to take advantage of the opportunity to strengthen their plan with the inclusion of new watershed data and methodology consistent with other plans in the Upper Mississippi River Basin.

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 **Hubbard County** pursuant to M.S. 103B.311, Subdivision 4, Authorizing BWSR to Grant Extensions

ORDER EXTENDING LOCAL WATER PLAN

Whereas, Hubbard County has a state approved Local Water Plan that is effective until January 25, 2014, pursuant to M.S. 1990, Section 103B.301, and

Whereas, the Board has authorization to grant extensions pursuant to M.S. 103B.311, Subdivision 4.

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

FINDINGS OF FACT

1. On October 8, 2013, the Board received a resolution from Hubbard County requesting a two-year extension of their Comprehensive Local Water Plan to October 23, 2015.

2. On October 8, 2013, Board staff reviewed and recommended approval of the extension request by Hubbard County.

3. On October 9, 2013, the North Region Committee met and reviewed the Hubbard County request for an Extension. The Committee recommended approval of the request.

CONCLUSIONS

All relevant requirements of law and rule have been fulfilled. The Board has proper jurisdiction in the matter of extending the Comprehensive Local Water Plan of Hubbard County pursuant to Minnesota Statute 103B.311, Subdivision 4.

ORDER

The Board hereby approves the two-year extension of the Hubbard County Comprehensive Water Plan until October 23, 2015.

Dated at St. Paul, Minnesota, this 23rd day of October 2013.

By:_____
Brian Napstad, Chairperson

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Stearns County CLWMP 5 Year Amendment**

Meeting Date: October 23, 2013

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 Plan Review Committee(s)

Presented by: Tom Schulz

☐ **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 the Five Year Amendment of the Stearns County Comprehensive Local Water Management Plan

LINKS TO ADDITIONAL INFORMATION

http://www.co.stearns.mn.us/Portals/0/docs/Department%20Files/EnvironmentalSvs/CLWP2013DraftAmend.pdf

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

On January 23, 2008, the Board of Water and Soil Resources approved the Stearns County Comprehensive Local Water Management Plan with a date range from 2008 to 2017. The Board required a five year update of the plan by 2013.

The County passed a resolution to amend the plan on April 11, 2012 and submitted the updated plan to the Brainerd field office on June 24, 2013. Additions to the amendment include an addition of a water clarity trend analysis, enhanced clarification of the areas of focus that should lead to improved targeting and prioritization, reference to municipal storm water plans, and language revisions that move toward a more activist plan. As part of the submission, the Stearns County Water Planner included documentation of the required public hearing. Agency comments and recommendations for approval were received from the Department of Health, Pollution Control Agency, Department of Natural Resources, and the Department of Agriculture.

The five year plan update was presented to the northern water planning committee on October 9, 2013. As the plan update met state statutes, was recommended for approval by state agency partners, and is non-controversial, the committee recommended forwarding the plan to the full board for approval.

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 **Stearns County** (Minnesota Statutes , Section 103B.311, Subdivision 4 and Section 103B.315, Subdivision 5.)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN AMENDMENT

Whereas, the **Stearns** County Board of Commissioners submitted a Local Water Management Plan Amendment (Plan Amendment) to the Board on **June 24, 2013** pursuant to M.S. Section 103B.315, Subd. 5, and

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

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

FINDINGS OF FACT

1) On **January 23, 2008**, the Board of Water and Soil Resources approved the Stearns County Comprehensive Local Water Management Plan from 2008 to 2017 with a requirement for an update by 2013.

2) On **April 11, 2012,** the Stearns County Commissioners passed a resolution to begin the five year amendment of their Comprehensive Local Water Management Plan.

3) The priority concerns of the local water management plan remained the same and include:

   A. Source Water Protection
   B. Development Impacts
   C. Impaired Waters

4) On **June 24, 2013,** the BWSR received the **Stearns** County Plan Amendment, 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 **October 9, 2013,** the North Region Committee of the Board reviewed the recommendations of the state review agencies regarding the five year update of the **Stearns** County Plan Amendment. The North Region Committee forwarded the plan to Board with a recommendation for approval with the following recommendations for additional action items:

   - The MDA would like to see a discussion of wetland drainage with the following inclusion on page 46:
     Page 46 discusses wetland drainage with the following statement being made.

"It appears that there are numerous factors in the environment that may be having significant changes on hydrology, e.g. increased agricultural drainage, increased impervious surfaces, increased irrigation, wetland drainage and climate change."

The MDA recommends a discussion about existing wetland laws and a discussion about why farmers install pattern tile or commence drainage activities.

http://www.eorinc.com/documents/AG-BMPHandbookforMN_09_2012.pdf

- The DNR would like to be included as a partner on Goal 3, Objective B, Concerns, 4, 8, 9, 14, 20, 21, 222, 23, 24 and to evaluate the creation of a Sanitary Service District for Pearl Lake as part of Concern 23.

6) This update will be in effect until **December 31, 2017.**

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 **Stearns** County Local Water Management Plan pursuant to Minnesota Statutes , 103B.315, Subd. 5.

2. The **Stearns** County Plan Amendment 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 Amendment is in conformance with the requirements of M.S. Section 103B.301.

ORDER

The Board hereby approves the attached five year amendment of the **Stearns County** Local Water Management Plan **January 23, 2008 to December 31, 2017.**

Dated at **St. Paul,** Minnesota, this **twenty-third day of October, 2013.**

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

_____

BY: Brian Napstad, Chair

Executive Summary

Background

The *Stearns County Local Water Management Plan 2008-2017* is the fourth Local Water Management Plan to be developed and adopted in Stearns County. The current *Plan* was updated in accordance with Minnesota Statutes 103B and will be in effect until December 31, 2017. The *Plan* was developed through involvement with the Water Management Advisory Committee, local citizens, representatives from local organizations and agency staff.

After a Local Water Management Plan has been in effect for five years, the Minnesota Board of Water and Soil Resources requires the local government to review and amend its Plan. The development of this amended plan was guided by three Task Forces, one for each of the Priority Concerns. The Task Forces reviewed and amended the Objectives and Action Items to reflect current issues and concerns. The Priority Concerns remain the same as in the current Plan. The Stearns County Planning Commission reviewed and approved this Amendment.

The amended *Stearns County Local Water Management Plan 2008-2017* will remain in effect until it is updated in 2018. The Task Forces will be reconvened on an annual basis to review progress in achieving Plan objectives and to identify emerging issues that should be incorporated into the Plan through the amendment process.

Purpose of Local Water Management Planning

The goal of Local Water Management Planning is to guide natural resource protection and restoration on the local level. The Plan seeks to identify and address existing and potential problems and opportunities for the protection and management of water and land resources within the County. An essential part of local water management planning is the identification of goals, objectives and action items to protect, improve and manage the natural resources of the County.

Watersheds in Stearns County

All the drainage in Stearns County ultimately flows to the Mississippi River. There are five major watersheds in Stearns County. The descriptions and a map of the watersheds are as follows:

Chippewa River watershed covers approximately 88 acres in the western part of Crow Lake Township. Approximately twelve acres of unnamed PWI lake 61-1P is located within Stearns County. The rest of the watershed is in cultivated agriculture.

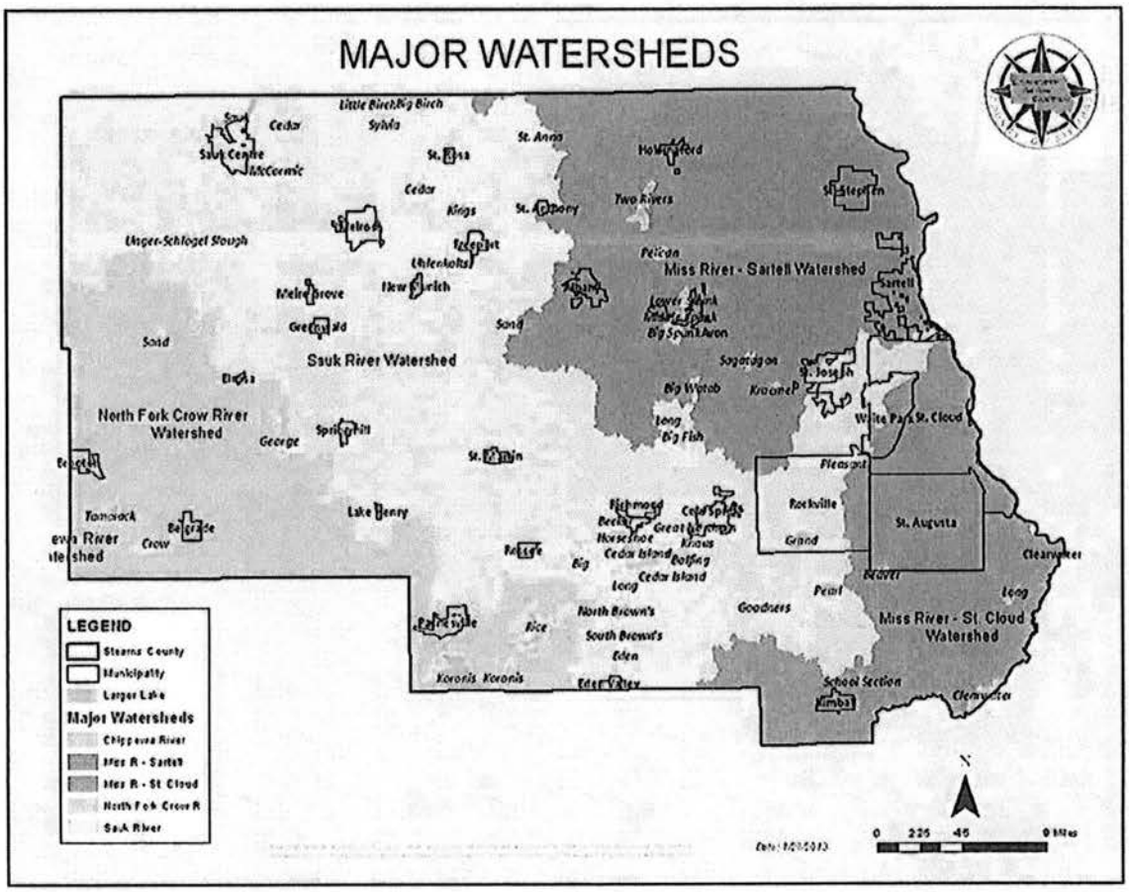
Mississippi River - St. Cloud watershed is in southeast Stearns County and covers approximately 160 square miles within Stearns County. Approximately 72 percent is agricultural land (including pasture and open areas) and 16 percent is forest. Major water bodies are Beaver Lake and the Clearwater Chain of Lakes. Kimball, St. Augusta and parts of Waite Park, Rockville and St. Cloud are located in this watershed.

Mississippi River –Sartell watershed covers approximately 280 square miles in Stearns County. The watershed is located in northeastern Stearns County and contains the major water bodies of Pelican Lake, Two Rivers Lake, Big Watab Lake and Big, Middle and Lower Spunk Lakes. Land cover in the watershed is

comprised of approximately 75 percent agricultural land (including pasture and open areas) and 18 percent forest. Municipal areas of Avon, Albany, Holdingford, Sartell and some of St. Cloud are located in this watershed.

North Fork Crow River watershed is located in the southwestern portion of the County, with 254 square miles in Stearns County. Land cover is approximately 88 percent agricultural land (including pasture and open areas) and 5 percent forests. Municipal areas include Paynesville, Brooten and Belgrade. Major water bodies are Rice Lake and Koronis Lake.

The Sauk River watershed is the largest watershed in Stearns County, covering approximately 640 square miles of the County. The Sauk River enters the County at Sauk Lake and flows southeast to the Sauk River Chain of Lakes, then flows northeast to its confluence with the Mississippi River between Sartell and St. Cloud. The land use is primarily agricultural, although the Cities of Sauk Centre, Melrose, Richmond, Cold Spring, St. Joseph and part of St. Cloud are in the watershed. Major water bodies in the watershed include Sauk Lake, Big Birch Lake, the Sauk Chain of Lakes, Grand Lake, Pearl Lake and Big Fish Lake.



Description of Priority Concerns

The identification of the Priority Concerns in the *Stearns County Local Water Management Plan 2008-2017* reflects input from public surveys and public meetings. The Priority Concerns are intended to encompass the natural resource issues that local citizenry and local agencies regard as the most critical for the health of our environment and are subject to local control.

Source Water Protection: Description from *Plan 2008-2017*

Providing safe drinking water to its citizens is a primary responsibility of government. A number of public water suppliers in Stearns County are providing drinking water to the residents from vulnerable aquifers.

The City of St. Cloud obtains its drinking water from the Mississippi River. The St. Cloud Source Water Protection – Priority Area A (determined by an eight hour time-of-travel for water to reach the surface intake) comprises about 89 square miles within Stearns County. Management in this area is designed to address potential sources of contamination that present an acute health concern to water users. The St. Cloud Source Water Protection – Priority Area B comprises an area of approximately 2,432 square miles. Management of this area is designed to protect water users from chronic health effects related to low levels of chemical contamination. There are many challenges to the inventory and management of potential contaminant sources in Area B due to the large geographic area and the numerous governing agencies.

The goal is to cooperate with and assist public water suppliers who are developing and implementing Source Water Protection Plans. "Public wells" include wells that serve water to municipalities, manufactured housing developments, businesses, schools and other facilities that serve water to more than 25 people on a regular basis. The following is a partial list of the identified Action Items taken from the original *Plan 2008-2017*:

- Promote and participate in the education of the community about the importance of drinking water protection.
- Focus inspection and enforcement of feedlot and land application rules within shoreland and Drinking Water Supply Management Areas (DWSMA's).
- Explore development of planning and zoning tools, such as an overlay district, which promote proactive land use planning to protect drinking water supplies.
- Explore development of additional protective measures for aggregate mining in wellhead protection areas overlying geologically sensitive aquifers.
- Cooperate with cities to inventory Subsurface Sewage Treatment Systems (SSTS) located within vulnerable areas of the DWSMA and support innovative approaches towards inspection programs.
- Explore the possibility of supplemental incentive funding to existing programs for vegetative buffers, set aside programs and Best Management Practices (BMP's).

Previous Estimated Cost	$1,400,000
Amended Estimated Cost	$1,242,500

Development Impacts: Description from *Plan 2008-2017*

Stearns County is experiencing strong residential and commercial development pressures. The construction of buildings, roads and parking lots increases the amount of impervious cover. The resulting increased stormwater runoff and erosion can cause a number of negative changes to stream flow, aquatic habitat and water quality.

The goal is to minimize the impact of new development and redevelopment on surface and ground water resources. The following is a partial list of the identified Action Items taken from the original *Plan 2008-2017*:

- Encourage low impact development and better design strategies on all new and redevelopment projects.
- Promote land and water best management practices in shoreland, such as vegetative buffers and routing rainwater off roofs away from surface water.
- Seek to have a detailed Natural Resource Inventory completed for the purpose of identifying sensitive natural areas.
- Seek to require that any proposed project in shoreland that will increase the total suspended solids or total phosphorus loading will be required to establish a Best Management Practice to mitigate the increased loading
- Improve quality of stormwater runoff and manage flow, volume and direction.
- Improve coordination of the Water Management Plan with the National Pollutant Discharge Elimination System (NPDES) permit requirements of Stearns County and the Municipal Separate Storm Sewer System (MS4) communities within the county.

Previous Estimated Cost	$1,390,000
Amended Estimated Cost	$1,927,200

Impaired Waters; Description from *Plan 2008-2017*

Stearns County has a number of water resources that have been listed by the Minnesota Pollution Control Agency (MPCA) as impaired, which means that the water resource does not meet its designated use. Prior to the writing of the *Stearns County Local Water Management Plan 2008-2017* much of the water resources in the County had not been monitored to MPCA standards to determine whether impairments exist.

The goal was to determine the water quality status of at least the larger, more publicly used water resources in the County, protect those water resources that currently support their designated uses and, where needed, improve those that do not. The following is a partial list of the identified Action Items taken from the original *Plan 2008-2017*:

- Annually review the sampling data and determine continuing monitoring needs.
- Coordinate and implement monitoring and analysis.
- Provide assistance to County landowners implementing agricultural Best Management Practices on working lands to reduce soil erosion, protect stream banks and improve water resources.

- Educate landowners about proper land application of nutrients and pesticides.
- Develop/support workshops for volunteer monitors
- Establish and maintain vegetative buffers in the shore and bluff impact zones.

Previous Estimated Cost	$9, 365, 000
Amended Estimated Cost	$10,501,000

Accomplishments toward Original Implementation Plan (2008-2012)

The *Stearns County Local Water Management Plan 2008-2017,* containing the original Goals, Objectives and Action Items, is located in the Appendix. A detailed summary of the some of the progress made in the period 2008 to 2012 towards meeting the *Plan 2008-2017* goals can also be found in the Appendix. The following is a brief summary of the accomplishments made towards the original goals.

Source Water Protection, Accomplishments 2008-2012

The ability of public water supplies to provide clean, healthy drinking water continues to be of the highest importance. There were twelve Stearns County public water suppliers with approved Wellhead Protection Plans in 2008. Since that time six more public water suppliers have developed Wellhead Protection Plans (Holdingford, St. Martin, Rockville, Kimball, Roscoe and St. Joseph) and six are in the process of developing Wellhead Protection Plans (Albany, Avon, Freeport, Belgrade, Brooten and Wildwood Manor (St. Joseph apartment building)).

To be effective, the Wellhead Protection Plans must be implemented and many of the public water suppliers with Wellhead Protection Plans have struggled with implementation. The ability of the Stearns County Soil and Water Conservation District to better respond to the needs of public water suppliers in the development and implementation of their Wellhead Protection Plans was increased tremendously by the addition to staff of an Urban Conservationist in 2007. The Urban Conservationist has been able to assist with implementation of the Wellhead Protection Plans by securing grants for the public water suppliers for initiatives such as well sealing, assisting with well inventories, developing and overseeing numerous programs for agricultural producers, and organizing nitrate clinics.

The Central Minnesota Water Education Alliance is a coalition of central Minnesota cities, Stearns County and other organizations formed to provide educational outreach to promote water quality stewardship. It was formed in 2006 to assist NPDES permit holders meet the civic engagement requirements of their permits in a cost-effective and efficient manner. The coalition was expanded to include public water suppliers implementing Wellhead Protection and assist them with the civic engagement requirements of their Wellhead Protection Plans. The educational campaign has resulted in many high-quality products and activities, including a rain barrel and compost bin sale, a video contest for high school students, representation at six to seven community events each year, digital outdoor advertising, and radio and newspaper ads. The best measurement of the success of the campaign is its website traffic. The number of "unique hits" to the website continues to increase, with 159,833 in 2012.

The most frequently visited page on the website is the blog, which is written by the CMWEA members. The website is http://www.mnwaterconnection.com/

The Stearns County SWCD spearheaded a successful initiative to secure funding for conservation easements in DWSMA's from the Clean Water Fund. Perennial crops and/or native vegetation can reduce nitrate leaching losses by a factor of 30 to 50 times less than conventional row crop systems. This conservation easement program will leverage local, state and federal resources (similar to CREP) to protect drinking water supplies. The conservation easement program will target public water suppliers with elevated nitrate concentrations, especially suppliers approaching or exceeding health standards.

The Stearns County Land Use and Zoning Ordinance has been modified to provide better protection for drinking water with stricter requirements for wet detention basins in areas of high groundwater vulnerability. The Ordinance was amended to include consideration of DWSMA's when processing land use or structure permit applications.

Non-compliant Subsurface Sewage Treatment Systems can potentially negatively impact the quality of drinking water. Stearns County, the North Fork of the Crow Watershed District, the Sauk River Watershed District and several lake associations have partnered in inspection initiatives of SSTS in shoreland areas and throughout the NFCR watershed district. Approximately 3,000 systems were surveyed and those that were not compliant either have been upgraded or are in the process. Stearns County secured funding from Clean Water Fund to upgrade 98 systems in low-income households.

Household hazardous waste (HHW) that is improperly disposed of can negatively impact drinking water. Stearns County continues to conduct a comprehensive HHW collection program at communities and in 2009 constructed a state-of-the-art facility to receive, process, and ship household hazardous waste. Stearns County also established three pharmaceutical drop boxes for citizens to dispose of unused and unwanted medications, thus keeping them out of water supplies.

Development Impacts, Accomplishments 2008-2012

One of the priorities of the *Plan 2008-2017* was to place in ordinance incentives and/or requirements that land use changes are done in such a way that natural resources are impacted to the least extent possible. The Stearns County Land Use and Zoning Ordinance was amended to contain provisions for Natural Resources Conservation Overlay Design. This allows townships to identify overlay areas with specific natural resource value, within which development is allowed only by carefully siting houses in clusters and preserving large portions of the development site that have conservation value. The allowance of additional lots is the incentive. The Land Use and Zoning Ordinance was also modified to include provisions for a density bonus if residential open space developments in shoreland are done following low-impact design principles.

The Land Use and Zoning Ordinance was modified to include protection of the native plant communities identified in the DNR's Native Plant Communities and Rare Species map by placing restrictions on development if native plant communities are present.

The Land Use and Zoning Ordinance was amended to require mitigation with the approval of after-the-fact shoreland alteration permits. The Governor's Alternative Shoreland Standards as pertains to resorts were adopted in ordinance.

Numerous lakescaping projects and rain gardens have been installed in already-developed areas. The SWCD was awarded a Clean Water Assistance grant for a watershed-based stormwater infiltration project near Middle Spunk Lake. There should be installation of approximately 30 infiltration practices (rain gardens, infiltration swales and infiltration basins). A Clean Water Assistance grant and two Clean Water Partnership grants enabled the SRWD to address stormwater runoff concerns in the cities of Cold Spring, St. Cloud, St. Joseph and Rockville. In 2011-2012 the SRWD's projects in Stearns County included 55 rain gardens, 24 shoreland/riparian projects, and 13 stormwater projects. The SWCD instituted the requirement for a permanent Shoreland Preservation Agreement on property which has received financial and/or technical assistance from the SWCD for shoreland projects.

CMWEA has run an effective educational campaign on the negative effects of stormwater runoff and uncontrolled erosion. The MS4 communities have benefited by belonging to CMWEA and thus meeting educational requirements contained in their NPDES permits. The success of the campaign is discussed further in the section on Source Water Accomplishments.

Permanent stormwater practices can be required as part of the platting process, a variance, conditional use or construction site permit request. The long-term operation and maintenance of these practices can be an issue. Stearns County inventoried all the industrial and residential storm water ponds that have been approved by the County since 2000 and now does regularly scheduled inspections.

Impaired Waters, Accomplishments 2008-2012

Objective A of Impaired Waters Priority Concern was primarily focused on reviewing the monitoring results from STORET, determining from the monitoring results which lakes, rivers and streams of the County needed further monitoring to allow a determination of impaired status, and developing and carrying out a monitoring plan such that the major water bodies could be assessed as either impaired or unimpaired. "Major" lakes were defined as those of greater than 200 acres and having significant population density. Monitoring was completed through funding from the County's Water Management Plan fund, a Surface Water Assessment Grant, and monitoring by the watershed districts. As a result of the monitoring conducted by the County and the watershed districts in 2008-2010, all the major lakes in the County had enough monitoring data by 2010 to be assessed for impairment status.

SSTS were inspected within the riparian area along the segments of the Sauk River that are impaired for *E.coli* and those that did not meet State standards were upgraded.

The *Plan 2008-2017* put a priority on offering environmental education to all the students in the County. Through a number of partners, including the Sauk River watershed District, Paynesville and ROCORI Wellhead Protection communities and the City of St. Cloud, the water festival program was expanded so that all fourth graders in the County have an opportunity to attend a water fest.

The SWCD has hosted a number of civic engagement events promoting agricultural BMP's, new technology and better land stewardship, e.g. a Methane Digester Field Day, a Field Day on Woodchip Bio-filters for the Treatment of Runoff , a Wildlife Habitat Management on Working Agricultural Lands Field Day and Certified Crop Advisor training events.

SWCD, Pheasants Forever, the Rice Lake Association, Koronis Lake Association, North Fork Crow River Watershed District and USDA partnered to promote CRP and shoreline restoration on the lakes.

Stearns County is the sponsor and fiscal agent for the Pelican Lake of St. Anna Clean Water Partnership Project. After the sampling results are compiled, modeling of the nutrient inputs will identify the amounts of nutrient loading that the subwatersheds are contributing and a plan will be developed, with the assistance of the Stearns County SWCD, to get the optimum benefit from installation of BMP's.

The SWCD continues to partner to establish the Conservation Marketplace Midwest. One of the reasons that this is significant is the continuing conversion of marginal agricultural land from programs such as CRP into production. An active Conservation Marketplace can potentially supplement the current incentive levels so that they more adequately compete with high crop prices.

The following table shows some of the conservation structures and practices implemented by the SWCD and NRCS since the *Plan* was adopted.

Conservation Structures and Practices Implemented by Stearns Soil and Water Conservation District and Natural Resources Conservation Service

Practices	2008	2009	2010	2011	2012
Nutrient Management Planning (# of acres)	26307	16767	17992	20,698	18192
Waste Management Systems	23	15	25	15	23
Lakescaping Projects (# of projects)	7	7	8	15	8
Unpermitted Manure Basin Investigations	34	13	14	13	8
Environmental Quality Assurance Assessments	23	18	10	9	3
Continuous Conservation Reserve Program (# of CCRP contracts)	113	120	52	17	11
CCRP (# of acres)	1885	2020	647	151	187
Conservation Reserve Program (General) (# of CRP contracts)		59	49	24	59
CRP General (# of acres)		2337	1689	461	1449
Total Active Contracts (# of CRP & CCRP acres)	29971	27928	28442	28866	28440

Environmental Quality Incentives Program Contracts (# of EQIP contracts)	53	54	70	72	73
Total Active EQIP Contracts (of contracts)	128	139	137	108	94
Conservation Security Program (# of contracts)	110	58	47	135	169
Conservation Security Program (# of acres)	30600	15846	23011	51998	65069
Sealing of unused wells		9	6	5	3
Raingardens				49	6

Unfulfilled Action Items

Source Water Protection, Unfulfilled Action Items 2008-2012

Action Item 1. B.3 calls for inspection of areas within DWSMA's and shoreland for proper application of nutrients and review of land application records. This has not been accomplished for a number of reasons. Feedlots with less than 100 Animal Units are not required to keep manure land application records and most don't have written records. The Environmental Services Department reviews whether or not manure land application records are kept during compliance or construction inspections at feedlots with 100 AU or more. However, a determination of correct application from a review of records and inspections of manure application to crop land have not been a feedlot work plan goal due to constraints on staff time. It has been determined that one-on-one education is often the most effective means of achieving compliance.

Action Item1. B.4 calls for inspection of NPDES II Construction Permits in the area of St. Cloud Priority Area A DWSMA. This was accomplished when there was an agreement between the ESD, SWCD and the MPCA to have an employee of Stearns County doing the inspections. This agreement expired in June 2009 and since that time inspections outside the municipal boundary of St. Cloud are conducted by an MPCA inspector on a complaint basis. The City of St. Cloud stormwater technician continues to inspect within the municipal boundaries and the County enforces the erosion control provisions of its Land Use and Zoning Ordinance.

Some of the public water suppliers with Wellhead Protection Plans have wanted inspections done of the SSTS in the vulnerable areas of their Drinking Water Supply Management Areas. Conducting SSTS inspections in the non-municipal areas of DWSMA's is an unresolved issue. The households which would be subject to an otherwise unrequired inspection are not necessarily the same households that will directly benefit from the protection of the public drinking water supply, and the municipality has no jurisdiction beyond its boundaries.

Development Impacts, Unfulfilled Action Items 2008-2012

The Natural Resources Conservation Design Overlay (Action Item 2.A.1) was put into Ordinance and has been utilized but its adoption has only been in a somewhat limited area. At this point only areas within the Avon Hills, which includes parts of four townships, have chosen the Natural Resources Conservation Design Overlay option.

A goal of the original Plan was the adoption of the Governor's Alternative Shoreland Standards (Action Item 2.A.9). The Standards were partially adopted at the County level, and the plan was to wait until it was adopted at the State level before proceeding further. This initiative is stalled at the State level and hasn't proceeded further at the local level.

Stearns County and SWCD had participated with the MPCA in a pilot program to have an employee at the local level ensure compliance with NPDES stormwater and erosion regulations construction permits. This program was terminated in June 2009. Since then the NPDES construction permits are inspected by MPCA on a complaint basis. A goal of the original *Plan (*Action Item 2.C.5) was to carry on the local NPDES inspections if the pilot program ceased, but there is not funding for this.

Impaired Waters, Unfulfilled Action Items 2008-2012

Objective A is concerned primarily with assessment of the waters of the County. In 2007 the MPCA initiated Intensive Watershed Monitoring, an approach that includes a 10-year rotation for assessing waters of the state on the level of Minnesota's major watersheds. The assessment of the North Fork Crow River was initiated in 2007, Sauk River watershed in 2008, Mississippi-St. Cloud watershed in 2009, and Mississippi-Sartell watershed will be in 2016. The monitoring objectives of the County have been largely suspended since the MPCA initiative will effectively replace much of the County's intended monitoring initiative.

Action Item 3.B.11 calls for inspection of areas within watersheds of impaired waters for proper application of nutrients and review of records of land application. This has not been accomplished for the reason stated above under Source Water Protection.

The establishment and maintenance of 50-foot permanently vegetated buffers in areas of agricultural use along public waters' shores was a goal of the *Plan 2008-2017* (Action Item 3.B.13). A grant from Clean Water Assistance Funds was requested to finance this initiative but was not funded. This initiative will continue to be part of the Implementation Plan.

Amended Implementation Plan

Stearns County is blessed with 201 Public Waters Basins and 326 Public Waters Wetlands. All the Waters of the State that are located within Stearns County merit restoration, if impaired, or protection, if not impaired. The County will implement appropriate initiatives to attain the goal of every water body and water course meeting the State's water quality standards.

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Traverse County LWP Synchronization**

Meeting Date: October 23, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: North Region

Contact: Pete Waller

Prepared by: Pete Waller

Reviewed by: North Region Committee(s)

Presented by: Gerald Van Amburg

☐ **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

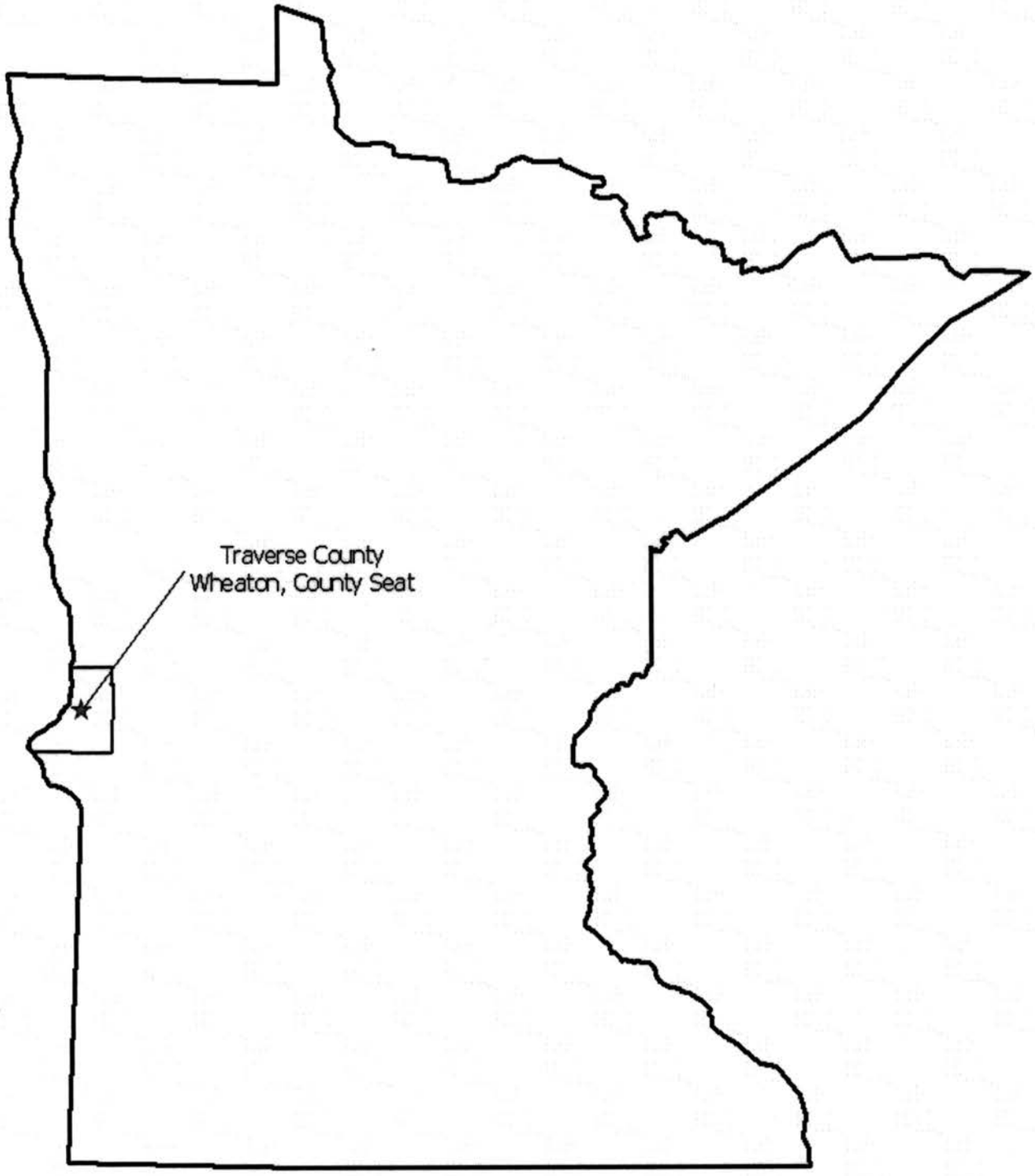
1. Traverse County requests BWSR extend the required ten-year amendment of the Traverse County Local Water Management Plan until the end of the calendar year following the Bois de Sioux Watershed District Plan amendment or December 31, 2017, as per BWSR Resolution #12-85 dated September 26, 2012.

LINKS TO ADDITIONAL INFORMATION

N/A

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

2. The request is based on the following:
   - The 2012 Legislative changes, 103B.101 Subd. 14, approving BWSR's local water management authorities under 103B, 103C and 103D creating the One Watershed One Plan campaign.
   - Also recognizes the value of WRAPS.
   - Along with synchronizing local water management planning and implementation with WRAPS is to ensure active participation by Counties, SWCDs and Watershed Districts in all efforts. Managing the current water planning update and revision requirements and deadlines in relationship to the recognizing this necessary commitment of time and resources by our local government partners is needed to accomplish a successful transition to the One Watershed One Plan along with using WRAPS to inform local water management plans and implementation.


Traverse County
Wheaton, County Seat

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

In the Matter of Extending the Comprehensive Local Water Management Plan for **Traverse County** (pursuant to Minnesota Statutes, 103B.3367, authorizing BWSR to grant extensions)	ORDER SYNCHRONIZING LOCAL WATER MANAGEMENT PLAN

Whereas, Traverse County has a State approved Comprehensive Local Water Plan (CLWP) pursuant to Minnesota Statute, Section 103B.301, that is effective until December 31, 2014.

Whereas, the Board has authorization to grant extensions pursuant to Minnesota Statute 103B.3367;

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

FINDINGS OF FACT

1. On October 1, 2013, pursuant to Minnesota Statute, Section 103B.3367, the Board of Water and Soil Resources received a resolution from Traverse County requesting BWSR extend the required ten-year amendment of the Traverse County Local Water Management Plan until the end of the calendar year following the Bois de Sioux Watershed District Plan amendment or December 31, 2017, as per BWSR Resolution #12-85 dated September 26, 2012.

2. The following are resource planning efforts currently underway within Traverse County:
   - Watershed Restoration and Protection Strategy (WRAPS) in progress:
     i. Mustinka River, anticipated completion 2015;
     ii. Bois de Sioux River, anticipated completion 2016,
     iii. Minnesota River – Headwaters Watershed, anticipated completion 2017.
   - Watershed District Overall Plans via 103D status:
     i. Bois de Sioux Watershed District Overall Plan, anticipated completion 2017; and
     ii. Upper Minnesota River Watershed District approved for 2013 to 2023.

3. The extension of the Plan expiration date until the end of the calendar year following the Bois de Sioux Watershed District Plan amendment or December 31, 2017, as per BWSR Resolution #12-85 dated September 26, 2012, is based on the following:
   - The 2012 Legislative changes, 103B.101 Subd. 14, approving BWSR's local water management authorities under 103B, 103C and 103D creating the One Watershed One Plan campaign.
   - Also recognizes the value of WRAPS.

- Along with synchronizing local water management planning and implementation with WRAPS is to ensure active participation by Counties, SWCDs and Watershed Districts in all efforts. Managing the current water planning update and revision requirements and deadlines in relationship to the recognizing this necessary commitment of time and resources by our local government partners is needed to accomplish a successful transition to the One Watershed One Plan along with using WRAPS to inform local water management plans and implementation.

CONCLUSIONS

1. All relevant requirements of law and rule have been fulfilled. The Board has proper jurisdiction in the matter of extending the Comprehensive Local Water Plan of Traverse County pursuant to Minnesota Statute 103B.3367.

ORDER

The Board hereby extends the Plan expiration date until the end of the calendar year following the Bois de Sioux Watershed District Plan amendment or December 31, 2017, as per BWSR Resolution #12-85 dated September 26, 2012.

Date at St. Paul, Minnesota, this 23rd day of October 2013.

By:_____
Brian Napstad, Chairperson

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Wilkin County LWP Synchronization**

Meeting Date: October 23, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: North Region

Contact: Pete Waller

Prepared by: Pete Waller

Reviewed by: North Region Committee(s)

Presented by: Gerald Van Amburg

☐ **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

Wilkin County requests BWSR:

- Rescind its prior order dated September 26, 2012, which extended the required five-year update of the local water management plan to December 31, 2014;
- Waive the five-year required plan update; and
- Extend the Plan expiration date until one year following the last Watershed District Plan Amendment or December 31, 2018, as per BWSR Resolution #12-85 dates September 26, 2012.

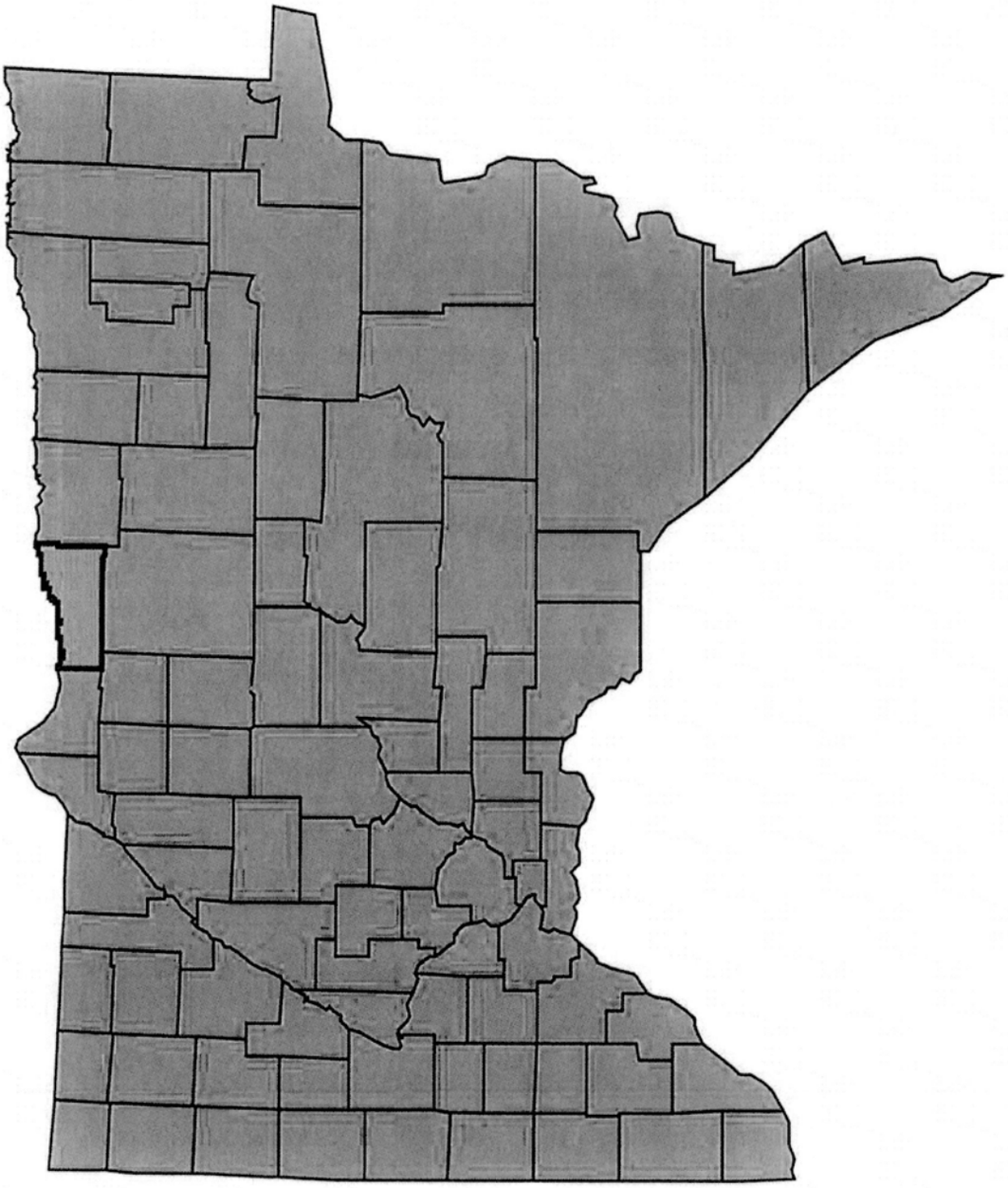
LINKS TO ADDITIONAL INFORMATION

N/A

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

1. The request is based on the following:
   - The 2012 Legislative changes, 103B.101 Subd. 14, approving BWSR's local water management authorities under 103B, 103C and 103D creating the One Watershed One Plan campaign.
   - Also recognizes the value of WRAPS.
   - Along with synchronizing local water management planning and implementation with WRAPS is to ensure active participation by Counties, SWCDs and Watershed Districts in all efforts. Managing the current water planning update and revision requirements and deadlines in relationship to the recognizing this necessary commitment of time and resources by our local government partners is needed to accomplish a successful transition to the One Watershed One Plan along with using WRAPS to inform local water management plans and implementation.

WILKIN COUNTY LOCATION MAP



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

In the Matter of Extending the Comprehensive Local Water Management Plan For **Wilkin County** (pursuant to Minnesota Statutes, 103B.3367, authorizing BWSR to grant extensions)	ORDER SYNCHRONIZING LOCAL WATER MANAGEMENT PLAN

Whereas, Wilkin County has a State approved Comprehensive Local Water Plan (CLWP) pursuant to Minnesota Statute, Section 103B.301, that is effective until December 31, 2017, with the Implementation Section to be updated by December 31, 2014, as per the BWSR order dated September 26, 2012, and

Whereas, the Board has authorization to grant extensions pursuant to Minnesota Statute 103B.3367.

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

FINDINGS OF FACT

1. On September 10, 2013, pursuant to Minnesota Statute, Section 103B.3367, the Board of Water and Soil Resources received a resolution from Wilkin County requesting BWSR:
    - Rescind its prior order dated September 26, 2012, which extended the required five-year update of the local water management plan to December 31, 2014;
    - Waive the five-year required plan update; and
    - Extend the Plan expiration date until one year following the last Watershed District Plan Amendment or December 31, 2018, as per BWSR Resolution #12-85 dated September 26, 2012.

2. The following are resource planning efforts currently underway within Wilkin County:
    - Total Maximum Daily Load (TMDL) for the Lower Otter Tail River was completed in 2007.
    - Watershed Restoration and Protection Strategy (WRAPS) in progress:
        i. Bois de Sioux River, anticipated completion 2016,
        ii. Upper Red River, anticipated completion 2014,
        iii. Buffalo River, anticipated completion 2014.
    - WRAPS yet to begin:
        i. Otter Tail River anticipated start in 2017 and completion in 2022.
    - Watershed District Overall Plans via 103D in progress:
        i. Bois de Sioux Watershed District Overall Plan, anticipated completion 2017; and
        ii. Buffalo Red River Watershed District Overall Plan, anticipated completion 2014.

3. The request rescinding of the Order which extended the required five-year update of the local water management plan to December 31, 2014, waiving the five-year required plan update, and extending the Plan expiration date until one year following the last Watershed District Plan Amendment or December 31, 2018, as per BWSR Resolution #12-85 dated September 26, 2012 is based on the following:
    - The 2012 Legislative changes, 103B.101 Subd. 14, approving BWSR's local water management authorities under 103B, 103C and 103D creating the One Watershed One Plan campaign.
    - Also recognizes the value of WRAPS.
    - Along with synchronizing local water management planning and implementation with WRAPS is to ensure active participation by Counties, SWCDs and Watershed Districts in all efforts. Managing the current water planning update and revision requirements and deadlines in relationship to the recognizing this necessary commitment of time and resources by our local government partners is needed to accomplish a successful transition to the One Watershed One Plan along with using WRAPS to inform local water management plans and implementation.

CONCLUSIONS

1. 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 Comprehensive Local Water Plan of Wilkin County pursuant to Minnesota Statute 103B.3367.

ORDER

The Board hereby rescinds its September 26, 2012, Order which extended the required five-year update of the Local Water Management Plan to December 31, 2014, waives the five-year required Plan update, and extends the Plan expiration date until one year following the last Watershed District Plan Amendment or December 31, 2018, as per BWSR Resolution #12-85 dated September 26, 2012 .

Date at St. Paul, Minnesota, this 23rd day of October 2013.

By:_____
Brian Napstad, Chairperson

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Revised Watershed Management Plan Hearing**
Sauk River Watershed District

Meeting Date: October 23, 2013

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

Item Type: X Decision ☐ Discussion ☐ Information

Section/Region: North Region

Contact: Travis Germundson/ Jason Weinerman

Prepared by: Travis Germundson

Reviewed by: Northern Region Committee Committee(s)

Presented by: Gene Tiedemann or Travis Germundson

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

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

Fiscal/Policy Impact

X None
☐ Amended Policy Requested
☐ New Policy Requested
☐ Other:

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

ACTION REQUESTED

Board authorization is needed to schedule and hold a public hearing on the revised watershed management plan for the Sauk River Watershed District (SRWD).

LINKS TO ADDITIONAL INFORMATION

Link to Map of Watershed http://srwdmn.org/pdf/maps/saukriverbasemap.pdf

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

The SRWD filed a draft revised watershed management plan dated July 2013 with the Board of Water and Soil Resources on July 18, 2013 in accordance with Minn. Stat. § 103D.405. The plan was sent out for review to multiple local, state, and federal agencies. The Board must give notice and hold a hearing on the revised plan within 45 days after receiving the Department of Natural Resource's recommendations on the revised plan unless the Board finds the plan noncontroversial (103D.105 Subd 2.). The Plan proposes to establish a water management district pursuant to Minn. Stat. 103D.729 for the purpose of collecting revenues and paying cost for projects. BWSR staff has recommended that a public hearing be held.

A watershed district is required to revise their watershed management plan at least once every ten years. The latest water management plan for the SRWD was prescribed by the Board on August 28, 2002.

The Northern Region Committee met on October 9, 2013 and recommended that a public hearing be held within 45 days after receiving the Department of Natural Resource's recommendation on the revised plan. The Northern Region Committee will preside over the public hearing and bring recommendations on the draft revised plan to the Board. The Executive Director will set the date, time and location of the public hearing after coordinating with the appropriate parties per the attached draft Order.

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 Sauk River Watershed District pursuant to Minnesota Statutes 103D.405

ORDER REVISED WATERSHED MANAGEMENT PLAN HEARING

Whereas, the Sauk River Watershed District (SRWD) filed a proposed Revised Watershed Management (Plan) dated July 2013 with the Board of Water and Soil Resources (Board) on July 18, 2013, 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 July 22, 1986 by Order of the Water Resource Board. The District is located in central Minnesota and includes parts of Stearns, Todd, Pope, Douglas, and Meeker Counties. The mission of the District is to apply unique abilities and authorities in ways that protect and enhance our watershed's resources for today and tomorrow.

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, Sudd. 1 (a). The latest Water Management Plan of the District was prescribed by the Board on August 28, 2002. This is the third generation Plan of the District. 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. The plan also establishes a water management district pursuant to Minn. Stat. § 103D.729 for the purpose of collecting 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 SRWD is approximately 1,042 square miles in size and is located in central Minnesota. Lands within the District are distributed in Stearns (64.4%), Todd (20.6%), Douglas (8.8%), Pope (4.8%), and Meeker (1.4%). Majority of the land cover falls within cultivated crop and pasture or grassland. Drainage is primarily south east from Lake Osakis to the Mississippi River by way of the main stem of the Sauk River. There are several cities at least partially within the watershed district's boundaries including Osakis, Sauk Centre, Waite Park, and St. Cloud. Six major streams and their tributaries flow through the watershed district for a total length of approximately 1,682 miles. Several of these streams are identified as impaired and are listed on the state's 303(d) list of impaired waters. There are 28 public drainage systems with about 179 miles of ditches. The Watershed District is the drainage authority for about 92 miles of ditches in Stearns and Pope Counties.

4. **Highlight of the Plan**. The Sauk River Watershed District management plan identifies core district activities which include: monitoring, education, outreach and public relations, programs and capital projects, and regulatory. The plan divides the watershed into ten Water Management Districts. Each management district has activities that will be led by the watershed district and recommends activities for partner organizations. The management plan indicates that there is a watershed management district charge that will be levied on landowners within the management unit to accomplish the identified management activity. This levy authority is based upon Minn. Stat. § 103D.729. The plan identifies a calendar of predicted timeframes within which the management district charges will be initiated and then an estimated time frame for the suspension of the charges. In addition, the plan calls for specific pollution reductions within each management unit to bring these units into compliance with state water quality standards. The plan strikes a balance between serving as an overarching strategic framework for the next ten years and providing specific actionable recommendations that will allow for annual measurement of plan accomplishment.

5. **Filing.** The SRWD sent a copy of the draft Plan to local units of government for their review pursuant to Minnesota Statutes Section 103D.405.

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 Regional 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 public hearing should be held at the Sauk Centre City Hall in Stearns. 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 SRWD should be presided over by the Northern Regional 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 Sauk Centre City Hall in Stearns 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 SRWD to be presided over by the Northern Regional Committee at a date and location to be determined by the Executive Director.

Dated at Saint Paul, Minnesota this 23th day of October, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brian Napstad, Chair

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Public Hearing for Redistribution of Managers of the Middle-Snake-Tamarac Rivers Watershed District**

Meeting Date: November 13, 2013

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

Item Type: ☐ Decision ☐ Discussion ☒ Information

Section/Region: North

Contact: Brian Dwight

Prepared by: Brian Dwight

Reviewed by: Northern Region Committee Committee(s)

Presented by: Gene Tiedemann

☐ **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

Information only

LINKS TO ADDITIONAL INFORMATION

N/A

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

At the September 25, 2013 BWSR Board Meeting the Board approved an order to hold a public hearing in accordance with Minnesota Statue 103D.301 regarding a petition from Polk County requesting the redistribution of Managers for the Middle-Snake-Tamarac Rivers Watershed District. In the conclusions of this order the Board stated the BWSR Executive Director shall decide on the date and suitable location if scheduling conflicts arise at the Warren City Offices Building. The Northern Region Committee (based on availability to attend) determined November 13, 2013 at 6:00 pm to 7:30 pm is the date and time to hold the hearing. Due to the anticipated attendance the location is changed from the Warren City Offices Building, to the Bremer Bank Community Room, Warren MN.

Grants Program & Policy Committee

1. Targeted Watershed Demonstration Program – Paul Langseth, Staff: Marcey Westrick and Dave Weirens – ***DECISION ITEM***

2. Soil Erosion and Drainage Law Compliance Program – Paul Langseth, Staff: Al Kean – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Targeted Watershed Demonstration Program

Meeting Date: 10-23-2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Land and Water Section

Contact: Marcey Westrick

Prepared by: Marcey Westrick

Reviewed by: Grants Program and Policy Committee(s)

Presented by: Marcey Westrick and 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

The Board is requested to authorize the FY2014 CWF Targeted Watershed Demonstration Program.

LINKS TO ADDITIONAL INFORMATION

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

The Targeted Watershed Demonstration Program is proposed to have a solicitation period from October 28 to December 13 and will operate under the FY2014 Clean Water Fund Policy that was adopted by the Board on August 29, 2013. The scoring process will include staff from the DNR, MDA, MDH, PCA, and BWSR. The Grants Program and Policy Committee will be meeting on October 22, 2013 to review the draft Request for Interest and generate a recommendation for Board consideration.

Minnesota Board of Water & Soil Resources

Board Resolution # 13-

TARGETED WATERSHED DEMONSTRATION PROGRAM AUTHORIZATION

WHEREAS, the Clean Water Fund (CWF) is established in M.S. 114D.50; and,

WHEREAS, Clean Water Funds have been appropriated to BWSR in Laws of Minnesota 2013, Chapter 137, Article 2, Section 7; 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, practice 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 or practices funded by the CWF, and

WHEREAS, the Board has previously adopted the FY 2014 Clean Water Fund Policy on August 29, 2013, and,

WHEREAS, the Targeted Watershed Demonstration Program will operate under the FY 2014 Clean Water Fund Policy with the exception of match , 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, applications for funds appropriated in Laws of Minnesota 2013, Chapter 137, Section 7(a) will be evaluated and watersheds will be selected according to the following process:

1) All nominated watersheds submitted for consideration will first be screened by BWSR staff based on the following criteria:
    A. Suitability of the watershed for this program (20 points);
    B. Extent of water quality and quantity monitoring (20 points);

DRAFT

C. Knowledge of the applicant organization regarding pollution sources and pathways (20 points);

D. The level of landowner/occupier interest and willingness to participate in water quality implementation actions (20 points); and

E. The availability of financial and technical resources available to the proposed watershed (20 points).

2) The highest screened applicants will be invited for an interview with an interagency Selection Committee. The Selection Committee will consist of representatives of the Board of Water and Soil Resources, Pollution Control Agency, Department of Natural Resources, Minnesota Department of Agriculture, and the Minnesota Department of Health. The criteria that will be used during the interview process are:

A. The amount of existing local effort occurring within the watershed;

B. The significance of the water resource;

C. Efforts of the applicant to address the long-term sustainability of soil and water resources within their jurisdiction;

D. The applicant has a systematic way to address non-point water quality issues; and

E. Commitment of other agencies, non-profits, and private interests.

3) 3-6 watersheds will be selected by the Board of Water and Soil Resources based on recommendations of the Selection Committee.

WHEREAS, the Grants Program and Policy Committee reviewed the Targeted Watershed Demonstration Program as proposed by staff on October 22, 2013.

NOW THEREFORE BE IT RESOLVED, the Board hereby:

Authorizes staff to finalize, distribute and promote a Request for Information (RFI) for the Targeted Watershed Demonstration Program consistent with the provisions of appropriations enacted in 2013, Minn. Stat. 103B.3369 and this Board resolution.

_____ Date: _____

Brian Napstad, Chair
Board of Water and Soil Resources

DRAFT

Targeted Watershed Demonstration Program

Request for Interest

October 28, 2013

DRAFT – Pending Committee Approval

About the program

In 2013, legislation was passed that requires the Minnesota Board of Water and Soil Resources (BWSR) *to award grants to local government units organized for the management of water in a watershed or subwatershed that have multiyear plans that will result in a significant reduction in water pollution in a selected subwatershed. Priority in making grants must be given to the three to six best designed plans each year.*

Based on this legislation, BWSR created the ***Targeted Watershed Demonstration Program*** and is seeking nominations for three to six project watersheds to participate. Eligible watersheds are those where the change required achieve a water quality improvement is known, the types of actions required to achieve those results have been identified, and a significant number of those actions can be implemented within a four-year timeframe.

Priority will be given to watersheds where there are current water quality impairments or priority water resources near the tipping point of becoming impaired. Proposed watersheds should have the threat to the water resource clearly identified, a thorough understanding of the pollution sources and pathways within the watershed, and baseline water quality data against which change can be assessed. Preference will be given to watersheds that are 10 or 12-digit Hydrologic Unit Codes. While protection of high quality resources is important and a critical part of the Clean Water effort, this program focuses on demonstrating water quality improvements, not on sustaining high quality systems.

Clean Water Funding Amount

Up to $12,000,000

General Requirements

25% cash match: Match includes cash from landowners, non-profits, non-state units of government, or private entities. In-kind landowner services are not considered match for this program.

Applicant Eligibility

Eligible applicants include Watershed Districts, Watershed Management Organizations, and Watershed-based Joint Power Organizations. Counties, Soil and Water Conservation Districts and formal partnerships of these organizations with a hydrologic watershed contained wholly within the partnership boundary are also eligible to apply. Applicants must be working under a current state approved and locally adopted water management plan.

This is a demonstration program, and as a result, watersheds that are participating in the Minnesota Department of Agriculture's Water Quality Certification Program are not eligible for this initial FY2014 funding request.

Targeted Watershed Nominations

To nominate a watershed in your area, provide a written response to the following questions. Written responses are subject to a five-page limit (watershed maps are not included in the page limit).

1) Why would the proposed watershed and its associated water resource be a good candidate for this demonstration program?
    a. Define the water quality concern to be addressed.
    b. Describe land use/land cover, hydrologic connections, soils, topography and ownership patterns within the watershed, and,
    c. Provide a map that outlines the proposed watershed and all jurisdictional boundaries.
2) Describe the extent to which water quality and quantity monitoring has occurred to date in the proposed watershed.
    a. Include a table that details the monitoring location(s) along with the year(s), month(s) and parameters monitored.
    b. Describe any plans to monitor this watershed in the future.
3) Describe the breadth of knowledge your organization has about the pollution sources and pathways within this watershed.
    a. Describe the methods, results of inventory and source targeting done to date, or that are in progress, to identify the most critical pollution sources or risks within the watershed that are responsible for causing impairments or threats to the surface water quality.
4) Describe the level of landowner/occupier interest and willingness to participate in implementing known actions.
    a. What evidence supports the conclusion?
5) Describe the expected financial and technical resources available to the proposed watershed (local, state, and federal) and your organization's experience within the watershed area to successfully demonstrate a significant reduction in water pollution.
    a. Describe what additional technical resources would be needed locally to implement this project.

Submittal

All responses must be electronically delivered to: BWSR.Grants@state.mn.us and must be received no later than 4:30 p.m. on December 13, 2013. Late responses will not be considered. The burden of proving timely receipt is upon the applicant.

Evaluation

1) All nominated watersheds submitted for consideration will first be screened by BWSR staff based on responses to questions #1-5. The screening range for the response to each question will be 0 -20 points. The maximum score per request is 100 points.
2) Applicants that submit a watershed that are deemed candidates for final selection (as recommended by BWSR staff) will then be invited for an interview with the Selection Committee to answer additional questions (to be provided to applicants ahead of time). The criteria that will be used during the interview process includes 1) the amount of existing local effort occurring within the watershed, 2) the significance of the water resource, 3) efforts of the applicant to address the long-term sustainability of soil and water resources within their jurisdiction, 4) the applicant has a systematic way to address non-point water quality issues and 5) commitment of other agencies, non-profits, and private interests.

3) 3-6 watersheds will be selected by the Board of Water and Soil Resources based on recommendations of the Selection Committee.

*The Selection Committee will be made up of representatives of the Minnesota Board of Water and Soil Resources, Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, Minnesota Department of Agriculture, and the Minnesota Department of Health.

Timeline

- October 28, 2013 - Nomination period begins
- December 13, 2013 - Nomination deadline at 4:30 PM
- March 27, 2014 - BWSR Board selects watersheds
- May 23, 2014 - Work plan submittal deadline
- June 1, 2014 - Grant execution deadline

Questions

Questions concerning submittal of a watershed will be taken via a webinar on November 5, 2013 from 10:00 a.m. to 11:00 a.m. Additional questions may also be submitted by email to cwfquestions@state.mn.us. Responses will be posted on the BWSR website weekly.

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Soil Erosion and Drainage Law Compliance Program**

Meeting Date: October 23, 2103

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

Item Type: X Decision ☐ Discussion ☐ Information

Section/Region:

Contact: Al Kean

Prepared by: Tim Gillette

Reviewed by: Grants Program and Policy Committee(s)

Presented by: Al Kean

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

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

Fiscal/Policy Impact

☐ None
☐ Amended Policy Requested
☐ New Policy Requested
☐ Other:

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

ACTION REQUESTED

Approve the **Soil Erosion and Drainage Law Compliance Program** and associated RFP for distribution and use.

LINKS TO ADDITIONAL INFORMATION

Attached: RFP

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

The 2013 Minnesota Legislature appropriated Clean Water funds to the Board of Water and Soil Resources (BWSR) to be used *for grants to local units of government to ensure compliance with Minnesota Statutes Chapter 103E* (Drainage Law) *and Sections103F.401 to 103F.455* (state Soil Erosion Control provisions), *including enforcement efforts.*

In response to this appropriation, BWSR created the ***Soil Erosion and Drainage Law Compliance Program***. The purpose of this program is to restore and protect surface water quality, particularly impaired waters, by supplementing local efforts to apply existing soil erosion reduction and drainage statutes across Minnesota.

The appropriation language follows:

Session Laws of 2013, Chapter 137, HF-1183, Article 2, Section 7(e)
(e) $1,700,000 the first year and $1,700,000 the second year are for grants to local units of government to ensure compliance with Minnesota Statutes, chapter 103E, and sections 103F.401 to 103F.455, including enforcement efforts. Of this amount, $235,000 the first year is to update the Minnesota Public Drainage Manual and the Minnesota Public Drainage Law Overview for Decision Makers and to provide outreach to users.

The appropriation language has three key elements:

1. The appropriation is for grants to local government units.
2. Compliance and enforcement are to be the focus of the grants.
3. The basis of compliance and enforcement will be the entirety of *Chapter 103E Drainage* along with Sections 103F.401 to 103F.455 of *Chapter 103F Protection of Water Resources;* the latter dealing with Soil Erosion and soil loss ordinances.

The **Soil Erosion and Drainage Law Compliance Program (SEDLCP)** was defined and encapsulated in the attached RFP. To address compatibility issues with eLINK related to local match, the SEDLCP was divided into three subprograms in the RFP.

Subprogram 1 – Soil Erosion

Eligible Activity		Description	Match Required
1a.	Compliance spot checks and enforcement of an existing County soil loss ordinance.	Check for average annual cropland soil loss less than the maximum allowed by County ordinance.	25%
1b.	Compliance spot checks of USDA Highly Erodible Land (HEL) Plans and identification of corrective actions needed.	Compliance spot checks for existing USDA Highly Erodible Land (HEL) plans. A proposal to conduct compliance spot checks for HEL plans will require clear definition of partnering with NRCS and FSA.	
1c.	Development and adoption of County soil loss ordinance.	Planning and technical assistance for adoption of a county soil loss ordinance or augmented implementation of a county soil loss ordinance. This activity must result in the adoption of a county soil loss ordinance within the grant period.	

Subprogram 2 – Drainage Ditch Inventory and Inspection

Eligible Activity		Description	Match Required
2a.	Inventory Chapter 103E drainage ditches that are public waters.	Determine the status of compliance with the Section 103E.021 buffer strip requirement and the 50-ft. Shoreland Buffer Rule 6120.3300, Subpart 7 requirement for all drainage ditches in the drainage authority's jurisdiction that are public waters. Develop a plan to enforce the applicable requirements.	25%
2b.	Inventory Chapter 103E drainage ditches where erosion and sediment contribute substantially to impaired waters and/or excess sediment accumulation and prioritize the sites for implementation.	Identify priority side inlet control and buffer strip needs for which the following authorities apply (grant funding for inventory(ies) only, not for practice establishment): a. Section 103E.021, Subd. 6 Incremental Implementation of Vegetated Ditch Buffer Strips and Side Inlet Controls; and b. Section 103E.011, Subd. 5 Use of External Sources of Funding.	
2c.	Inventory Chapter 103E drainage systems where sediment and/or nutrients contribute substantially to impaired waters, and identify opportunities for wetland restoration, drainage water storage and treatment.	Inventory drainage systems and identify wetland restoration or other drainage water storage and treatment opportunities within the watershed of the drainage system for which either of the following provisions apply: a. Section103E.701 Repairs, Subd. 6. Wetland Restoration and Mitigation; and b. Section 103E.011, Subd. 5 Use of External Sources of Funding.	
2d.	Develop an inspection plan and database for all Chapter 103E drainage ditch systems under the drainage authority's jurisdiction to enhance drainage ditch inspection. (Does not include funding for drainage records scanning or data creation, nor for a drainage inspector.)	Facilitate compliance with the following provisions: a. Section 103E.705 Repair Procedure, Subd. 1 Inspection, which requires inspection at a minimum every 5 years, and annually if there is a violation of Section 103E.021 until the violation is resolved. b. Section 103E.705 Repair Procedure, Subd. 2 Permanent Strip of Perennial Vegetation Inspection and Compliance Notice, which requires the drainage authority to inspect applicable drainage ditches for violations of Section 103E.021. c. Section 103E.067 Ditch Buffer Strip Annual Reporting, which is due from drainage authorities to BWSR by February 1 for data from the previous calendar year.	

Subprogram 3 – Redetermination of Benefits and Drainage Ditch Buffer Strips

Eligible Activity		Description	Match Required
3a.	Redetermine benefits and damages on Chapter 103E drainage ditch(es) and establish buffer strips for ditch systems with more than 80% of the drainage area within the current benefited lands of the ditch system and where there are impaired waters and/or excess sediment accumulations. (Does not include funding for buffer strip right-of-way and establishment.)	Redetermination of benefits and damages for Chapter 103E drainage ditch(es) not already having Section 103E.021 buffer strips, and associated establishment of ditch buffer strips in accordance with the following provisions: a. Section 103E.351 Redetermination of Benefits and Damages; b. Section 103E.021 Ditches Must Be Planted with Perennial Vegetation. This activity must result in the redetermination being accomplished within the grant period.	50%

Minnesota Board of Water & Soil Resources

Board Resolution # 13-

FY 2014 CLEAN WATER FUND COMPETITIVE SOIL EROSION AND DRAINAGE LAW COMPLIANCE GRANT PROGRAM - REQUEST FOR PROPOSALS

WHEREAS, the Clean Water Fund (CWF) is established in M.S. 114D.50; and,

WHEREAS, Clean Water Funds have been appropriated to BWSR in Laws of Minnesota 2013, Chapter 137, Article 2, Section 7(e) for grants to local government units to ensure compliance with *Chapter 103E Drainage,* and *Chapter 103F Protection of Water Resource; Sections 103F.401 to 103F.455* (state soil erosion provisions); 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, practice 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 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, applications for a Soil Erosion and Drainage Law Compliance Program established with funds appropriated in Laws of Minnesota 2013, Chapter 137, Section 7(e) will be evaluated based on the following criteria:

Ranking Criteria

Subprogram 1 - Soil Erosion	
Ranking Criteria	**Maximum Points Possible**
Anticipated water quality benefits relative to cost.	30
Relationship to a Plan: The proposal is clearly based on priority protection or restoration actions listed in or derived from an eligible water management plan.	15
% of LGU lands impacted by the eligible activity based on an accepted definition of high priority areas (e.g. map of highly erodible lands, definition of erosion problem areas via a	20

TMDL, WRAPS, or other study) (i.e. definition of critical erosion areas and % to be addressed by the activity)	
Staffing plan sufficient to accomplish the activities applied for	10
Connection to program purposes.	25
Total Points Available	**100**

Subprogram 2 – Drainage Ditch Inventory and Inspection	
Ranking Criteria	**Maximum Points Possible**
Anticipated water quality benefits relative to cost.	30
Relationship to a Plan: The proposal is clearly based on priority protection or restoration actions listed in or derived from an eligible water management plan.	15
Miles of Chapter 103E ditches to be inventoried compared to total Chapter 103E ditch miles in the jurisdiction (2b., 2c.), or total miles of Chapter 103E drainage ditches under the drainage authority's jurisdiction (2a., 2d.).	15
Staffing plan sufficient to accomplish the activities applied for	10
Connection to program purposes.	30
Total Points Available	**100**

Subprogram 3 – Redetermination of Benefits and Drainage Ditch Buffer Strips	
Ranking Criteria	**Maximum Points Possible**
Anticipated water quality benefits relative to cost.	40
Relationship to a Plan: The proposal is clearly based on priority protection or restoration actions listed in or derived from an eligible water management plan.	20
Total miles of Chapter 103E buffer strips to be established.	20
Connection to program purposes.	20
Total Points Available	**100**

WHEREAS, the Grants Program and Policy Committee reviewed the Soil Erosion and Drainage Law Compliance Program Request for Proposals developed by staff, on October 22, 2013.

NOW THEREFORE BE IT RESOLVED, the Board hereby:

Authorizes staff to finalize, distribute and promote a Request For Proposals (RFP) for the FY2014 Clean Water Fund Competitive Soil Erosion and Drainage Law Compliance Grants Program consistent with the provisions of appropriations enacted in 2013, Minn. Stat. 103B.3369, and this Board resolution.

_____ Date: _____

Brian Napstad, Chair
Board of Water and Soil Resources

Attachment: FY2014 Clean Water Fund Soil Erosion and Drainage Law Compliance Competitive Grants Request for Proposals

Soil Erosion and Drainage Law Compliance Program

Request for Proposal

October 28, 2013

About the program

The 2013 Minnesota Legislature appropriated Clean Water Funds to the Board of Water and Soil Resources (BWSR) to be used *for grants to local units of government to ensure compliance with Minnesota Statutes Chapter 103E* (Drainage Law) *and Sections103F.401 to 103F.455* (state Soil Erosion Control provisions), *including enforcement efforts.* In response to this appropriation, BWSR created the ***Soil Erosion and Drainage Law Compliance Program***. The purpose of these grants is to restore and protect surface water quality, particularly impaired waters, and to supplement local efforts to sustain clean water in Minnesota, by applying existing soil erosion reduction and drainage ditch statutes.

Type of Program

Competitive

Clean Water Funding Available

$1,355,000

General Requirements

- The proposal should demonstrate significant, measurable project outputs that will help achieve water quality objectives. Proposals should include outputs such as location of riparian buffers needed or required along Chapter 103E drainage ditches that are public waters, prioritized inventories of Chapter 103E drainage ditch incremental buffer strip and side inlet control needs, spot checks for soil loss ordinance and/or highly erodible land plan compliance, soil loss ordinance written and adopted, and /or drainage system inspection plan and database developed.
- The primary purpose of activities funded with grants associated with the Clean Water Fund is to restore, protect, and enhance water quality. Eligible activities must be consistent with a watershed management plan that has been state approved and locally adopted or an approved total maximum daily load study (TMDL), Watershed Restoration and Protection Strategy document, surface water intake plan, or well head protection plan. Local governments may use a connection derived from an eligible plan of another local government. BWSR may request documentation outlining the cooperation between the local government submitting the grant application and the local government that has adopted the plan.
- Depending on the Subprogram of eligible activities proposed, either a 25% or 50% non-state match is required. NOTE: Subprogram applications must be submitted separately.

Applicant Eligibility

Eligible applicants include Chapter 103E County and Watershed District Drainage Authorities, Counties, and Soil and Water Conservation Districts working in partnership with one or more eligible Counties or Watershed Districts.

Eligible Activities and Local Match Requirements

Subprogram 1 – Soil Erosion

Eligible Activity		Description	Match Required
1a.	Compliance spot checks and enforcement of an existing County soil loss ordinance.	Check for average annual cropland soil loss less than the maximum allowed by County ordinance.	25%
1b.	Compliance spot checks of USDA Highly Erodible Land (HEL) Plans and identification of corrective actions needed.	Compliance spot checks for existing USDA Highly Erodible Land (HEL) plans. A proposal to conduct compliance spot checks for HEL plans will require clear definition of partnering with NRCS and FSA.	
1c.	Development and adoption of County soil loss ordinance.	Planning and technical assistance for adoption of a county soil loss ordinance or augmented implementation of a county soil loss ordinance. This activity must result in the adoption of a county soil loss ordinance within the grant period.	

Subprogram 2 – Drainage Ditch Inventory and Inspection

Eligible Activity		Description	Match Required
2a.	Inventory Chapter 103E drainage ditches that are public waters.	Determine the status of compliance with the Section 103E.021 buffer strip requirement and the 50-ft. Shoreland Buffer Rule 6120.3300, Subpart 7 requirement for all drainage ditches in the drainage authority's jurisdiction that are public waters. Develop a plan to enforce the applicable requirements.	25%
2b.	Inventory Chapter 103E drainage ditches where erosion and sediment contribute substantially to impaired waters and/or excess sediment accumulation and prioritize the sites for implementation.	Identify priority side inlet control and buffer strip needs for which the following authorities apply (grant funding for inventory(ies) only, not for practice establishment): a. Section 103E.021, Subd. 6 Incremental Implementation of Vegetated Ditch Buffer Strips and Side Inlet Controls; and b. Section 103E.011, Subd. 5 Use of External Sources of Funding.	
2c.	Inventory Chapter 103E drainage systems where sediment and/or nutrients contribute substantially to impaired waters, and identify opportunities for wetland restoration, drainage water storage and treatment.	Inventory drainage systems and identify wetland restoration or other drainage water storage and treatment opportunities within the watershed of the drainage system for which either of the following provisions apply: a. Section103E.701 Repairs, Subd. 6. Wetland Restoration and Mitigation; and b. Section 103E.011, Subd. 5 Use of External Sources of Funding.	

2d.	Develop an inspection plan and database for all Chapter 103E drainage ditch systems under the drainage authority's jurisdiction to enhance drainage ditch inspection. (Does not include funding for drainage records scanning or data creation, nor for a drainage inspector.)	Facilitate compliance with the following provisions: a. Section 103E.705 Repair Procedure, Subd. 1 Inspection, which requires inspection at a minimum every 5 years, and annually if there is a violation of Section 103E.021 until the violation is resolved. b. Section 103E.705 Repair Procedure, Subd. 2 Permanent Strip of Perennial Vegetation Inspection and Compliance Notice, which requires the drainage authority to inspect applicable drainage ditches for violations of Section 103E.021. c. Section 103E.067 Ditch Buffer Strip Annual Reporting, which is due from drainage authorities to BWSR by February 1 for data from the previous calendar year.	

Subprogram 3 – Redetermination of Benefits and Drainage Ditch Buffer Strips

Eligible Activity		Description	Match Required
3a.	Redetermine benefits and damages on Chapter 103E drainage ditch(es) and establish buffer strips for ditch systems with more than 80% of the drainage area within the current benefited lands of the ditch system and where there are impaired waters and/or excess sediment accumulations. (Does not include funding for buffer strip right-of-way and establishment.)	Redetermination of benefits and damages for Chapter 103E drainage ditch(es) not already having Section 103E.021 buffer strips, and associated establishment of ditch buffer strips in accordance with the following provisions: a. Section 103E.351 Redetermination of Benefits and Damages; b. Section 103E.021 Ditches Must Be Planted with Perennial Vegetation. This activity must result in the redetermination being accomplished within the grant period.	50%

Ranking Criteria

Subprogram 1 - Soil Erosion	
Ranking Criteria	**Maximum Points Possible**
Anticipated water quality benefits relative to cost.	30
Relationship to a Plan: The proposal is clearly based on priority protection or restoration actions listed in or derived from an eligible water management plan.	15
% of LGU lands impacted by the eligible activity based on an accepted definition of high priority areas (e.g. map of highly erodible lands, definition of erosion problem areas via a TMDL, WRAPS, or other study) (i.e. definition of critical erosion areas and % to be addressed by the activity)	20
Staffing plan sufficient to accomplish the activities applied for	10
Connection to program purposes.	25
Total Points Available	**100**

Subprogram 2 – Drainage Ditch Inventory and Inspection	
Ranking Criteria	**Maximum Points Possible**
Anticipated water quality benefits relative to cost.	30
Relationship to a Plan: The proposal is clearly based on priority protection or restoration actions listed in or derived from an eligible water management plan.	15
Miles of Chapter 103E ditches to be inventoried compared to total Chapter 103E ditch miles in the jurisdiction (2b., 2c.), or total miles of Chapter 103E drainage ditches under the drainage authority's jurisdiction (2a., 2d.).	15
Staffing plan sufficient to accomplish the activities applied for	10
Connection to program purposes.	30
Total Points Available	**100**

Subprogram 3 – Redetermination of Benefits and Drainage Ditch Buffer Strips	
Ranking Criteria	**Maximum Points Possible**
Anticipated water quality benefits relative to cost.	40
Relationship to a Plan: The proposal is clearly based on priority protection or restoration actions listed in or derived from an eligible water management plan.	20
Total miles of Chapter 103E buffer strips to be established.	20
Connection to program purposes.	20
Total Points Available	**100**

Initial ranking will be accomplished by BWSR Board Conservationists and Clean Water Specialists to screen the proposals to be ranked by BWSR drainage and soils staff. Final award decisions will be made by the BWSR Board.

BWSR Grant Administration

The BWSR reserves the right to partially fund any and all grant proposals based on the number of eligible proposals submitted and the amount of funding available.

Application Deadline and Timeline

Late submissions or incomplete applications will not be considered for funding.

- October 28, 2013 — Application period begins
- December 13, 2013 — Application deadline at 4:30 PM*
- January 22, 2014 — BWSR Board authorizes grant awards (proposed)
- February 2014 — BWSR grant agreements sent to recipients
- March 17, 2014 — Work plan submittal deadline
- April 1, 2014 — Grant execution deadline

*The application must be submitted by 4:30 PM.

Project Period

The project period starts when the grant agreement is executed, meaning all required signatures have 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, 2016.

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 and work plan approval provided the grant applicant is in compliance with all BWSR website and eLINK reporting requirements for previously awarded BWSR grants. The second payment of 40% of the grant amount will be paid once the grantee has provided BWSR with notification and BWSR has reconciled expenditures of the initial payment. The last 10% will be paid after all final reporting requirements are met, the grantee has provided BWSR with a final financial report, and BWSR has reconciled these expenditures.

Incomplete Applications and Partial Funding

Applications that do not comply with all application requirements will not be considered for funding, as provided below.

- Components of the application are incomplete or missing;
- Any required documentation is missing; and
- The match amount does not meet grant requirements

Applications may receive partial funding for the following reasons:

- An absence of clear definition of specific use of grant funds;
- Activities that were not discussed in the application or have no connection to the central purpose of the application were included by an applicant; and
- Concerns about unreasonable requests for technical assistance and administration funding.

CWF Project Reporting Requirements

- All grant recipients are required to report on the outcomes, activities, and accomplishments of Clean Water Fund grants. 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 go to http://www.bwsr.state.mn.us/outreach/eLINK/index.html.
- BWSR Clean Water 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.
- When practicable, grant recipients shall prominently display on their website the legacy logo. Grant recipients must display on their website either a link to their project from the Legislative Coordinating Commission Legacy Site (http://legacy.leg.mn) or a clean water project summary that includes a description of the grant activities, including expenditure of grant funds and measurable outcomes according to the format specified by the BWSR.

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.

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 Browser Requirements for eLINK

The applicant must use Microsoft (MS) Internet Explorer 9 or Mozilla Firefox to enter elink data for applications and works plans.

Proposal Questions

This RFP and the 2014 Clean Water Fund Competitive Grants Policy adopted by the BWSR provide the framework for funding and administration of the 2014 Clean Water Fund Competitive Grant Programs can be found on the BWSR website (www.bwsr.state.mn.us/grants/apply/index.html).

Questions regarding grant applications should be directed to your area Board Conservationist or Clean Water Specialist; a map of work areas and contact information is available at (www.bwsr.state.mn.us/contact/BC_areas.pdf).

NEW BUSINESS

1. 2014 Proposed BWSR Board Meeting Schedule – John Jaschke - ***DECISION ITEM***

2. Status Report on MN Ag Water Quality Certification Program (MAWQCP) – Matt Wohlman, Brad Redlin, Josh Stamper, MDA – ***INFORMATION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **2014 Proposed BWSR Board Meeting Schedule**

Meeting Date: October 23, 2013

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

Item Type: X Decision ☐ Discussion ☐ Information

Section/Region:

Contact:

Prepared by: Mary Jo Anderson

Reviewed by: John Jaschke Committee(s)

Presented by: John Jaschke

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

Attachments: X 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 the proposed 2014 BWSR Board Meeting dates.

LINKS TO ADDITIONAL INFORMATION

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

The BWSR Board meets the fourth Wednesday of each month unless noted on the attached 2014 BWSR Board Meeting Schedule.

Minnesota Board of Water & Soil Resources

Board Resolution # _____

2014 Proposed BWSR Board Meeting Schedule

(Fourth Wednesday of the month unless noted)

January 22

February – no meeting

March 26

April 23

May 28

June 25

July – no meeting

August 27 - 28 Tour and Meeting

September 24

October 22

November – no meeting

December 17

_____ Date _____

Brian Napstad, Chair
Minnesota Board of Water and Soil Resources

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Status Report on MN Ag Water Quality Certification Program (MAWQCP)**

Meeting Date: October 23, 2013

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

Item Type: ☐ Decision ☐ Discussion X Information

Section/Region:

Contact:

Prepared by: John Jaschke

Reviewed by: John Jaschke Committee(s)

Presented by: Matt Wohlman, Brad Redlin, and Josh Stamper, MDA

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

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

Fiscal/Policy Impact

X None
☐ Amended Policy Requested
☐ New Policy Requested
☐ Other:

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

ACTION REQUESTED

Status Report on MN Ag Water Quality Certification Program (MAWQCP)

LINKS TO ADDITIONAL INFORMATION

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

The Minnesota Agricultural Water Quality Certification Program (MAWQCP) is a voluntary program designed to accelerate adoption of on-farm conservation practices that protect Minnesota's lakes and rivers. Producers who implement and maintain approved farm management practices will be certified and in turn assured that their operation meets the state's water quality goals and standards for a period of 10 years.

Through this program, certified producers receive:

- Regulatory certainty: certified producers will not be subject to new water quality regulations during the period of certification
- Priority for technical assistance and cost share dollars for practices that protect water quality

Through this program, the public receives:

- Assurance that certified producers are accelerating conservation practices to protect Minnesota's lakes, rivers and streams
- Greater duration for water quality project and practices as the adopted projects and practices are sustained without additional public investment to retain them when the certification is renewed

The 4 pilot areas have been selected, an evaluation tool is nearing completion and the logistics of local government program support and a certainty contract are underway via an MDA team with support from BWSR, MPCA, DNR and NRCS. The MDA team members Matt Wohlman, Brad Redlin and Josh Stamper will overview the status of the various program elements.

Minnesota Board of Water & Soil Resources

DATE: September 19, 2013

TO: BWSR Board Members

FROM: John Jaschke, Executive Director

SUBJECT: Additional Board Meeting Agenda Item – ACUB Easement Modification

Attached is an updated preliminary agenda for the BWSR Board Meeting on September 25th. An additional agenda item is attached – ACUB Easement Modification. The Board is requested to approve, contingent on a recommendation of the RIM Reserve Management Planning Committee (RRMPC) at its September 24, 2013 meeting, to authorize staff to modify the 88 ACUB easements to correct a mutual mistake in the easement documents and incorporate the modified language into all new ACUB easements going forward.

Please contact me if you have any questions.

Bemidji	Brainerd	Duluth	Fergus Falls	Mankato	Marshall	New Ulm	*Rochester*
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BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, SEPTEMBER 25, 2013

PRELIMINARY AGENDA

9:00 AM CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

ADOPTION OF AGENDA

MINUTES OF AUGUST 29, 2013 BOARD MEETING

PUBLIC ACCESS FORUM (10-minute agenda time, two-minute limit/person)

CONFLICT OF INTEREST DECLARATION

INTRODUCTION OF NEW BWSR EMPLOYEES

- Mike Anderson, Engineering Technician, Willmar
- Matt Fischer, Board Conservationist, Bemidji
- John Voz, Easement & Working Lands Specialist, Detroit Lakes

REPORTS

- Chair – Brian Napstad
- Administrative Advisory Committee – Brian Napstad
- Executive Director – John Jaschke
- Dispute Resolution Committee – Gerald Van Amburg
- Wetlands Committee – Gerald Van Amburg
- Grants Program & Policy Committee – Paul Langseth
- Public Relations, Outreach & Strategic Planning Committee – Jack Ditmore
- RIM Reserve Management Planning Committee – Gene Tiedemann
- Drainage Work Group – Tom Loveall/Al Kean

COMMITTEE RECOMMENDATIONS

Administrative Advisory Committee

1. Addition of "Saturated Buffer" to the list of eligible practices for the Targeted Drainage Water Management Grant Program - Tim Gillette – ***DECISION ITEM***

2. Order a Public Hearing for the Petition for Redistribution of Managers of the Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) – Travis Germundson – ***DECISION ITEM***

Southern Region Committee

1. Area II Minnesota River Basins Projects Inc. FY 2014 & FY2015 Biennial Work Plan and Grant – Paul Langseth – ***DECISION ITEM***

2. Brown County Local Water Management Plan Amendment - Paul Langseth – ***DECISION ITEM***

3. Nicollet County Local Water Management Five-Year Plan Amendment – Paul Langseth - ***DECISION ITEM***

4. Upper Minnesota River Watershed District (UMRWD) Watershed Management Plan – Paul Langseth - ***DECISION ITEM***

5. Sibley County Local Water Management Plan Update - Paul Langseth - ***DECISION ITEM***

Public Relations, Oversight, and Strategic Planning Committee

1. Reauthorization of the PRAP Assistance Grants – Don Buckhout – ***DECISION ITEM***

RIM Reserve Management Planning Committee

1. Disaster Recovery Assistance Program (D-RAP) and Reinvest In Minnesota (RIM) Reserve Emergency Haying and Grazing - Bill Penning – ***DECISION ITEM***

2. ACUB Easement Modification – Bill Penning – ***DECISION ITEM***

NEW BUSINESS

1. 2013 Grants Monitoring Report – Tim Dykstal – ***INFORMATION ITEM***

2. Nutrient Study Results - Dave Wall, MPCA – ***INFORMATION ITEM***

AGENCY REPORTS

- Minnesota Department of Agriculture – Matthew Wohlman
- Minnesota Department of Health – Chris Elvrum
- Minnesota Department of Natural Resources – Tom Landwehr
- Minnesota Extension Service – Faye Sleeper
- Minnesota Pollution Control Agency – Doug Wetzstein

ADVISORY COMMENTS

- Association of Minnesota Counties – Annalee Garletz
- Minnesota Association of Conservation District Employees – Matt Solemsaas
- Minnesota Association of Soil & Water Conservation Districts – LeAnn Buck
- Minnesota Association of Townships – Sandy Hooker
- Minnesota Association of Watershed Districts – Ray Bohn
- Natural Resources Conservation Service – Don Baloun

UPCOMING MEETINGS

- BWSR Board Meeting – October 23, 2013

Noon **ADJOURN**

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **ACUB Easement Modification**

Meeting Date: September 25, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Easement Section

Contact: Bill Penning

Prepared by: Bill Penning

Reviewed by: RIM Reserve Management Planning Committee(s)

Presented by: Bill Penning

☐ **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:
Approval for easement modification

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

ACTION REQUESTED

The Board is requested to approve, contingent on a recommendation of the RRMPC at its September 24, 2013 meeting, to authorize staff to modify the 88 ACUB easements to correct a mutual mistake in the easement documents and incorporate the modified language into all new ACUB easements going forward.

LINKS TO ADDITIONAL INFORMATION

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

Background

In 2004 the National Guard Bureau and the State of Minnesota, acting through the Board of Soil and Water Resources (BWSR), entered in to a cooperative agreement to implement an Army Compatible Use Buffer (ACUB) program for Camp Ripley. The program is designed to minimize intensive residential and commercial development within a 3-mile radius around Camp Ripley by purchasing the development rights through permanent conservation easements.

Since 2004 BWSR has acquired 88 conservation easements through the ACUB program with a federal investment of $15,795,000 and a state investment of $2,248,000 (through the Outdoor Heritage Fund, as recommended by the Lessard Sams Outdoor Heritage Council).

ACUB Easement Terms

BWSR currently holds nearly 6,000 conservation easements across Minnesota. The 88 ACUB easement documents are similar to BWSR's other RIM easements but differ in three key easement terms that are not part of other RIM easements:

1. "Shall not subdivide, either legally or physically, lands under Easement …"
2. "Shall not be allowed to transfer any development rights associated with the lands under easement to any location outside the easement area, whether pursuant to a cluster development plan or any other agreement or plan for transferable development rights.
3. "Shall not use any portion of the Easement area acreage to satisfy land area requirements for other property not subject to this Easement for purposes of calculating building density, lot coverage, or open space under otherwise applicable laws, regulation, or ordinances controlling land use."

While it is not entirely clear why or how this additional language was used, based on a review of BWSR files, it appears that these terms were not requested by BWSR staff or other ACUB partners, and in fact, conversations with the partners involved in establishment of the program have made it clear that the intent of the program was only to limit subdivision of parcels covered by the easements and not to prohibit it entirely.

Current Issue

One of the ACUB easement landowners recently approached Morrison SWCD and BWSR about subdividing property covered by an easement. During the course of reviewing the request, it was discovered that there is a significant conflict between the terms of the easement and the way in which easement projects were planned. In all of the 88 ACUB easements, development was limited by excluding small "building sites" from the easement area. In most cases (+/-63 of the 88), these buildings sites are of a size less than the minimum lot size required by the local zoning authority. This approach was encouraged by ACUB partners because any exclusion meeting the minimum lot size could be platted into multiple lots and undermines the purpose of the ACUB program. Partners and landowners had intended to rely on subdivision of the easement to use a portion of the larger easement parcel to meet zoning minimums for building. Unfortunately, the terms of the easement prohibit this, leaving landowners with "building sites" that are unbuildable.

Thus, there is a significant conflict between the written terms of the easement and the manner in which the easement boundary was planned and drawn. Given the conflict, it is unlikely that landowners understood the full effect of the easement they signed. This assumption is further supported by the fact that the Easement Agreement, signed by both BWSR and the landowner, does not spell out the prohibition on subdivision and density transfer.

Proposed Solution

ACUB partners, including BWSR as the easement holder, propose to amend the 88 ACUB easements, based on a mutual mistake in the drafting of the easements that resulted in a conflict between the way the easement area was planned and the actual drafting of the easement document.

This solution is consistent with achieving the intent and purpose of the ACUB program and the conservation purpose of the easement itself by limiting development and preserving open space within the Camp Ripley buffer area. It does not compromise the intent of either the ACUB program or natural resource protection. At the same time, it resolves a serious conflict in the way the ACUB easements were envisioned by partners and discussed with landowners versus how documents were drafted.

Board Resolution #_____

Modification of Camp Ripley Army Compatible Use Buffer (ACUB) Program Easements.

WHEREAS the state of Minnesota, acting through its Minnesota Board of Water and Soil Resources (BWSR) has authorized BWSRstaff to work with the National Guard Bureau, Camp Ripley staff, and the involved local Soil and Water Conservation District staff to acquire conservation easements within the designated 3-mile ACUB buffer of Camp Ripley;

WHEREAS BWSR has acquired 88 conservation easements through the ACUB program with a federal investment of $15,795,000 and a state investment of $2,248,000;

WHEREAS the Camp Ripley staff in working with BWSR and the Morrison SWCD have identified a "mutual mistake" in the drafting of the easement language of all 88 easements which unintentionally prevents subdivision of easement parcels;

WHEREAS BWSR currently holds nearly 6,000 conservation easements across Minnesota, none of which prohibit subdivision;

WHEREAS it is the intention of the ACUB program to limit development within the ACUB buffer through means other than a strict prohibition on subdivision;

WHEREAS it was not the intent of BWSR, the National Guard Bureau, or Morrison Soil and Water Conservation District staff to prohibit subdivision, and that by strictly prohibiting subdivision the ability to acquire future ACUB easements will be significantly compromised;

WHEREAS the BWSR RIM Reserve Management Planning Committee met on Wednesday, September 24th, 2013 and unanimously recommends the following to successfully continue the Camp Ripley ACUB Program;

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources authorizes staff to:

1) Work with the National Guard Bureau, Morrison Soil and Water Conservation District, the Minnesota Attorney General's Office, and other affected parties to develop new language that is consistent with achieving the intent and purpose of the ACUB program and the conservation purpose of the easement by limiting development and preserving open space within the Camp Ripley buffer area but not strictly prohibiting subdivision.

2) Modify all existing ACUB easements to reflect the change.

3) Incorporate modified language into all new ACUB easements.

DRAFT

Dated at Saint Paul, Minnesota this 25th day of September, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____

Brian Napstad, Chair

Board of Water and Soil Resources

DRAFT

FOR YOUR INFORMATION

October 23, 2013

- ☐ Board Member Listing
- ☐ Board Member Location Map
- ☐ Updated BWSR Staff Roster
- ☐ BWSR 'Snapshots' November 2013
- ☐ BWSR 'Grants Quarterly' October 2013
- ☐ Board Members' Handbook of Legal Issues, June 2013 Edition
- ☐ Upcoming Annual Meetings
  - MASWCD Annual Meeting, December 1-3, Bloomington
  - MAWD Annual Meeting, December 5-7, Alexandria
  - AMC Annual Meeting, December 9-11, Minneapolis

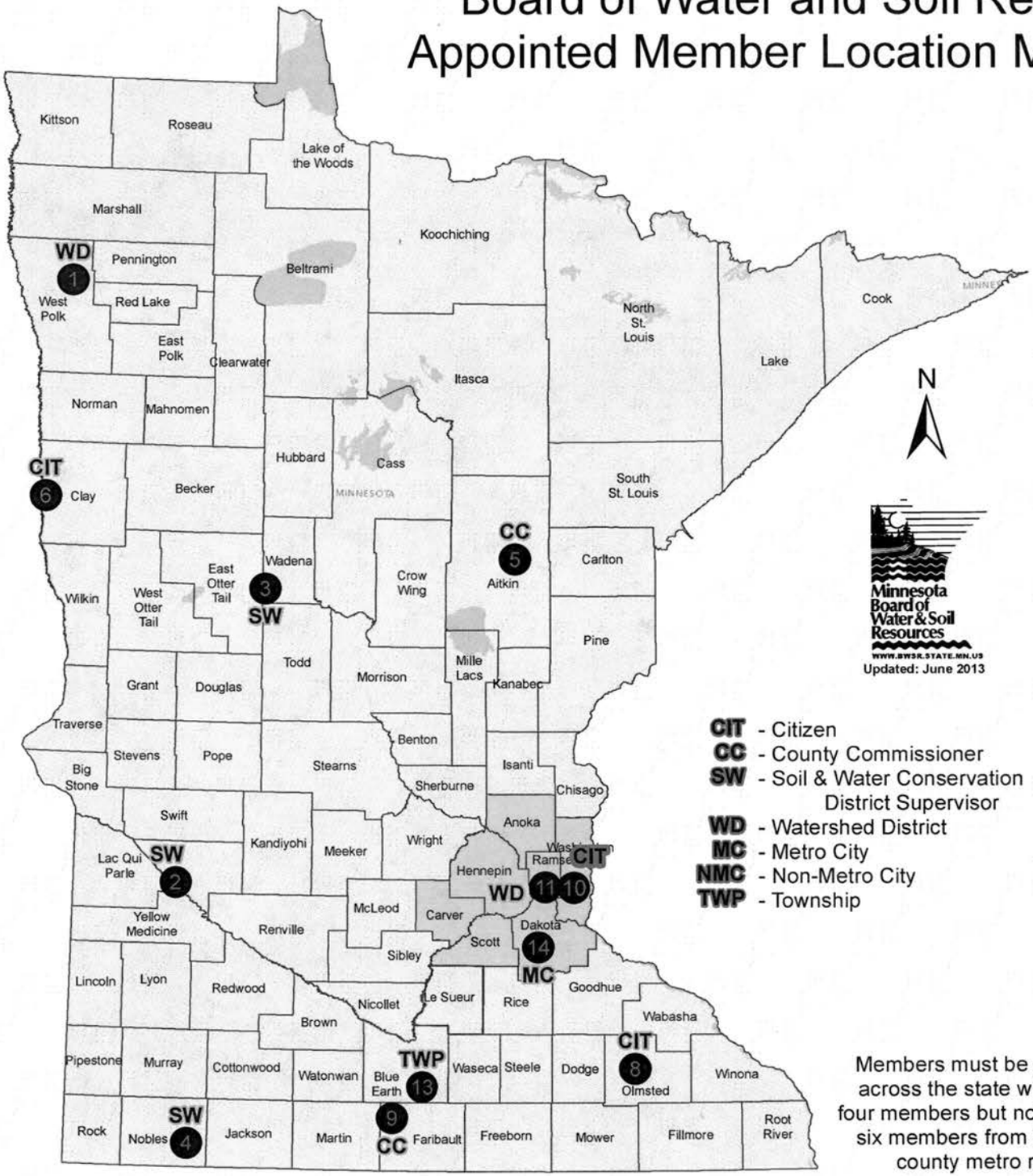
MINNESOTA BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD NORTH
ST. PAUL, MINNESOTA 55155
Phone: 651-296-3767 Fax: 651-297-5615

Appointed Members	*Appointment Designation*	*Term*	*Telephone/Fax/Cell*
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Tom Loveall 39290 200th St., Winnebago, MN 56098	**Co. Commissioner** tomcat56098@yahoo.com	**5/11/09 - 1/02/17**	507-854-3572 *Home*
Vacant	**Co. Commissioner**	**1/05/15**	
Jack Ditmore 61 Flandrau Place, St. Paul, MN 55106	**Citizen** ditjc9999@msn.com	**3/29/12 – 1/04/16**	651-774-7239 *Home*
Judy Ohly 5823 River Ridge Court NE, Rochester, MN 55906	**Citizen** johly@charter.net	**5/23/13 – 1/02/17**	507-261-2223 *Home*
Gerald Van Amburg 4518 5th Street S., Moorhead, MN 56560	**Citizen** vanambur@cord.edu	**6/30/11 - 1/05/15**	218-236-7659 *Home* 218-790-2502 *Cell*
Thomas Schulz 27027 County Road 23, Sebeka, MN 56477	**SWCD** tschulz@wcta.net	**5/23/13 – 1/02/17**	218-837-5728 *Home*
Paul Langseth 35505 280th St., Worthington, MN 56187	**SWCD** paul.langseth@gmail.com	**2/03/10 - 1/06/14**	507-360-5844 *Cell*
Steve Sunderland 2030 20th Ave., SE, Montevideo, MN 56265	**SWCD** sunderland@mvtvwireless.com	**3/29/12 – 1/04/16**	320-226-3550 *Home*
Gene Tiedemann 13099 310th Ave., SW, Euclid, MN 56722	**Watershed District** gtiedemann@rrv.net	**2/03/10 - 1/06/14**	218-281-6723 *Home*
Joseph Collins 534 West Orange Ave., St. Paul, MN 55117	**Watershed District** jpcollins534@msn.com	**3/29/12 – 1/04/16**	651-488-5108 *Home*
Vacant	**Watershed District**	**1/05/15**	
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Rebecca Flood 520 Lafayette Road, St. Paul, MN 55155 Rebecca.Flood@state.mn.us	**Pollution Control Agency**	651-757-2022 *Office* 651-296-7923 *Fax*
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Board of Water and Soil Resources
Appointed Member Location Map (2013)



Minnesota Board of Water & Soil Resources
WWW.BWSR.STATE.MN.US
Updated: June 2013

CIT - Citizen
CC - County Commissioner
SW - Soil & Water Conservation District Supervisor
WD - Watershed District
MC - Metro City
NMC - Non-Metro City
TWP - Township

Board Members

ID, Member, Yr. Appt. Ends

- 1, Gene Tiedmann, 2014
- 2, Steve Sunderland, 2016
- 3, Tom Schulz, 2017
- 4, Paul Langseth, 2014
- 5, Brian Napstad, Chair, 2014
- 6, Gerald Van Amburg, Vice Chair, 2015
- 7, Vacant, 2015
- 8, Judy Ohly, 2017
- 9, Tom Loveall, 2013
- 10, Jack Ditmore, 2016
- 11, Joseph Collins, 2016
- 12, Vacant, 2015
- 13, Sandra Hooker, 2016
- 14, Christy Jo Fogarty, 2017
- 15, Vacant, 2015
- Seven County Metro Area

Members must be distributed across the state with at least four members but not more than six members from the seven county metro region.

Agency Seats

16, Matthew Wohlman, MDA
17, Chris Elvrum, MDH
18, Tom Landwehr, DNR
19, Faye Sleeper, UME
20, Rebecca Flood, MPCA

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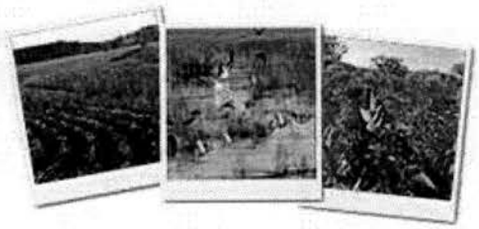
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Revised 10/17/13

Maleitzke, Jen (BWSR)

From: Minnesota Board of Water and Soil Resources <mnbwsr@public.govdelivery.com>
Sent: Monday, October 21, 2013 3:35 PM
To: Maleitzke, Jen (BWSR)
Subject: BWSR Snapshots: November 2013: TEST



BWSR Snapshots

November 2013

As part of an effort to better communicate with our local partners, BWSR will be sending its monthly newsletter, Snapshots, electronically each month as it is published to share conservation stories from around the state. If desired, you can 'unsubscribe' at the bottom of this email.



Local landowner gets assistance to develop rotational grazing system

New Jersey native Tom Scarpoccini always knew he wanted to be a farmer. Learn how BWSR and local units

of government helped him to achieve his goals.

Read the story here.

Synergy in Milaca: City, SWCD and BWSR partner to restore Rum River



A recent project in Milaca's Recreation Park (Rec Park) captured the concept of synergy in that the efforts of the City of Milaca, the Mille Lacs Soil and Water Conservation District, and the Minnesota Board of Water and Soil Resources (BWSR) came together to restore the Rum River.

Read the story here.



Wetland monitoring staff wraps up another successful season

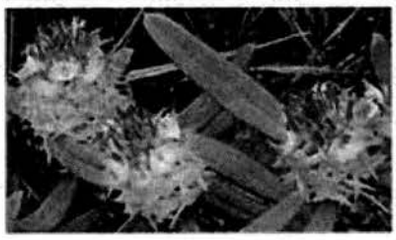
As the 2013 wetland monitoring season comes to a close, Karli Tyma, Carol Strojny and Eric Mohring reflect proudly on the nearly 100 wetland sites they spent an abundance of time and energy visiting this summer.

Read the story here.

PRAP assistance grants moves organizational work forward

When the Root River Soil and Water Conservation District (SWCD) faced an impending retirement from a long-tenured district manager in 2011, it left the district board and staff looking for direction.

Read the story here.



The Blaine Preserve - a diverse wetland in the metro

There is a protected space that replicates how the metro would have looked during pre-European settlement ... and it's all within earshot of 35W.

Read the story here.

Local landowner gets assistance to develop rotational grazing system

November 2013 Snapshots

Tom Scarponcini always knew he wanted to be a farmer – even when he was a boy, growing up in Livingston, New Jersey.

Realizing that dream, Scarponcini farmed on the east coast for years. After attending a cattle sale in Iowa, he drove through southeastern Minnesota. "I was struck by the beauty and possibility here," he said.

A twist of fate moved Scarponcini to Minnesota, and for the last 20 years, he's been farming near Rushford.

Today, Scarponcini has 860 acres, with a mixture of row crops and cattle. He has worked with various governments (Fillmore and Winona Soil and Water Conservation Districts [SWCD], Natural Resources Conservation District [NRCS] and the Southeast Technical Services Area Joint Powers Board) on projects to improve his operation and the environment, including installation of a feedlot with controlled runoff and nutrient retention and a water pipeline system.



On a hot summer day in August, Tom Scarponcini looked out at his pasture land, near Rushford, Minn. Scarponcini uses a rotational grazing system to manage his 300 cattle, helping to protect groundwater and providing habitat for birds and animals. Smiling contentedly, Scarponcini said, "This is a way of life – I get to observe nature, grasses, wildlife. It becomes a pastime."

Recently, Scarponcini worked with the Fillmore Soil and Water Conservation District (SWCD) to carry out installation of a rotational grazing system, which was developed through the NRCS EQIP program.

"I used to do rotational grazing in Maine, and had an idea in mind for a project. Working with the NRCS and the Fillmore SWCD, I was pleased to learn they had resources to help me develop and install the system," Scarponcini said.

Dean Thomas, Fillmore SWCD Grazing Specialist, provides technical assistance to landowners through a Board of Water and Soil Resources' (BWSR) Clean Water Fund accelerated implementation grant. He develops prescribed grazing plans and implements grazing practices through EQIP and other programs throughout the Root River, Whitewater and adjacent watersheds. Having worked with Scarponcini in years past, Thomas understood his operation and goals.

Together, they implemented the rotational grazing system designed for Scarponcini's operation. Four-hundred acres of pasture land was divided into six grazing "cells." Each cell contains six paddocks and houses six breeding groups. The groups rotate approximately every six to ten days, so each paddock can re-establish vegetation before the cows return.

Thomas said developing grazing systems is important to water quality in southeastern Minnesota because pasture and hay lands have been shown to significantly reduce soil erosion, nutrient and bacteria runoff. "Rotational grazing pretty much covers every basis for clean water and habitat," Thomas said.

Steve Lawler, BWSR Board Conservationist, said that the improvements Scarponcini has installed on his farm have made significant environmental impacts. "Mr. Scarponcini has taken initiative to tackle issues like grassland management, sediment loss, nutrient and runoff retention," Lawler said. "Through amazing partnerships with local units of government, Mr. Scarponcini is doing a great job to protect and improve the water quality in the Root River."

Synergy in Milaca: City, SWCD and BWSR partner to restore Rum River

November 2013 Snapshots

Synergy is defined as an interaction that produces a greater total effect than the sum of the individual actions.

A recent project in Milaca's Recreation Park (Rec Park) captured the concept of synergy in that the efforts of the City of Milaca, the Mille Lacs Soil and Water Conservation District, and the Minnesota Board of Water and Soil Resources (BWSR) came together to enhance the environment, resulting in more change than any one organization could have done through their own efforts.



Prairie Restorations' staff plant native vegetation along the Rum River.

Rec Park is a community resource through which the Rum River flows. The park provides many uses for the local residents including fishing, canoeing, mountain bike trails, ball fields, and walking paths where locals can meet and enjoy the natural environment. There was an old walking bridge that connected two sides of Rec Park and, unfortunately, the age of this walking bridge resulted in some safety concerns. The opportunity to replace the bridge led to further discussions about restoring the banks of the Rum River at the same time.

The City of Milaca approached Rep. Gail Kulick about the project and she, in turn, worked with members of the Minnesota Legislature to have the cost of the bridge replacement included in the state's bonding bill. The Mille Lacs Soil and Water Conservation District worked with the City to dedicate a portion of the District's annual State Cost Share funding to help offset the cost of the restoration of the native vegetation along the banks of the river.

Kurt Beckstrom, chair of the Mille Lacs SWCD board, said, "The district board was very supportive of this project. We were glad to see that our staff was providing assistance on the restoration of this very visible segment of the Rum River. Our district prides itself on local partnerships and we were happy to work with another local government on a resource that is used by so many of our county residents."

Following the installation of the new bridge across the Rum River, the Mille Lacs SWCD worked with Prairie Restorations to replant 900 feet of bank adjacent to the river with native grasses and plants. Lynn Gallice, District Technician, said, "The city did a great job of preparing the planting site beforehand. We also had a little help from the weather, getting just the right amount of rain to give the new plants the perfect conditions to get a great start."

This native planting is the third project where the City of Milaca has worked with the Mille Lacs Conservation District to install native plants within the community. While both the city and the conservation district do great work to protect water quality within Milaca, the synergy that occurs when the two government units work together ensures that the residents are getting more than if the organizations were to work independently of each other.

Wetland monitoring staff wraps up another successful season

November 2013 Snapshots

As the 2013 wetland monitoring season comes to a close, Karli Tyma, Carol Strojny and Eric Mohring reflect proudly on the nearly 100 wetland sites they spent an abundance of time and energy visiting this summer. Now, they get to analyze and evaluate the information they found during those site visits.

Mohring, Board of Water and Soil Resources (BWSR) hydrologist, said that the end of the monitoring season is an exciting time of the year. "I love to go and collect up the data that have been accumulating throughout the growing season," he said. "It's like opening Christmas presents."

At most sites, water levels are recorded and stored by a data logger every few hours throughout the monitoring season. Mohring said water level data from the logger are then downloaded into a computer program, plotted, analyzed and used to make reports. "You can see the water levels fluctuate in response to climate and other factors such as the plants' drinking habits over time," Mohring said.

Once the information is graphed and reported, the BWSR monitoring team analyzes the information to determine how the wetland responded to restoration efforts. From this information, staff can evaluate if the desired results were produced and if changes are necessary for future management.





Pictures: (Top) Shorebirds enjoying a restored wetland in Renville. (Bottom) Mohring checks the logger at one site, which has measured water levels throughout the growing season every few hours.

"We learn something new every year," Mohring said. "Sometimes the sites do what we think they are going to do, and sometimes they surprise us."

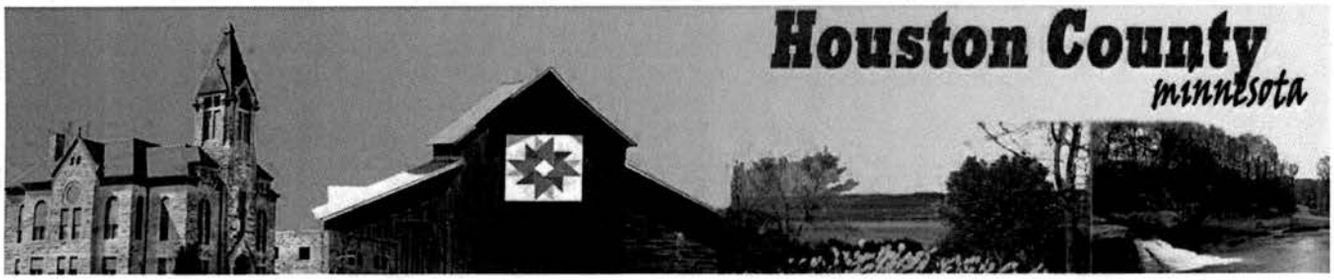
Although it was a short season due to the late summer, the crew wrapped up final delineations for three sites: two in Renville County and one in Chisago County. "We've been monitoring these sites for 5 to 6 years. In the beginning, there was no wetland, and now we can claim a fully restored, functioning wetland," Mohring said. "Having the opportunity to see the process of these collaborative projects, with so many parts coming out the other end as a success is extremely gratifying."

Looking forward to next summer, there are new projects already in the works. "Just like the Renville locations, there are agricultural areas where there is absolutely no wetland, which will be restored to their former state," Mohring said. "I'm already looking forward to next season."

Minnesota Board of Water & Soil Resources

PRAP assistance grants moves organizational work forward

November 2013 Snapshots



When the Root River Soil and Water Conservation District (SWCD) faced an impending retirement from a long-tenured district manager in 2011, it left the district board and staff looking for direction.

Ron Meiners, district technician, said the board and staff met regularly to discuss programs, workloads, goals, along with strengths and weaknesses within the operations and employee base. "It became apparent that input and recommendations from an independent professional with conservation management experience was critical," Meiners said.

Following a similar recommendation from the Board of Water and Soil and Resources (BWSR) Performance Review and Assistance Program (PRAP) evaluation, the Root River SWCD applied for and received an assistance grant to hire an organizational effectiveness consultant.

Don Buckhout, BWSR PRAP coordinator, said assistance grants provide funding to local units of government (LGUs) that want to improve their performance by addressing personnel issues like revising position descriptions, refining work load and identifying training needs.

"Often times, a PRAP LGU review will yield recommendations on effectiveness issues," Buckhout said. "This grant allows the LGU to receive some help to move their organization in the right direction."

The Root River SWCD was the first PRAP grant ever given by BWSR. "Without that financial assistance, the costs of such a service was more than the district's current operating budget could handle," Meiners said.

Meiners said the consultant took an in depth look at the district's operations, skills, workload and opportunities. "He provided recommendations for staffing plans, job descriptions, wage scales, work plans, training and much more," Meiners said. "The current staff was very comfortable with the direction given and it also helped relieve a lot of the stress that our board faced when considering changes within our office."

The assistance grant was so successful that Meiners said he'd recommend the program to other districts.

"To have someone from the outside that has professional knowledge of Soil and Water Conservation District operations look in and make unbiased recommendations is invaluable," Meiners said. "The results included a sense of confidence, improved staff relations, and it set clear direction and optimism for our district.

BWSR is now accepting applications for the PRAP Assistance Grants. Information can be found on the BWSR website at: http://www.bwsr.state.mn.us/PRAP/index.html.

The Blaine Preserve – a diverse wetland in the metro

November 2013 Snapshots

There is a protected space that replicates how the metro would have looked during pre-European settlement ... and it's all within earshot of 35W.

The Blaine Preserve (Preserve) is an impressive site that is covered in a rich diversity of native plants and sprinkled with Minnesota's most rare plants and endangered species.

The Preserve started as a Minnesota Board of Water and Soil Resources (BWSR) wetland bank site. Lynda Peterson, BWSR Wetland Specialist, said landowner Brad Moen approached the agency in 2007, wanted the land to be preserved, and cited an existing threatened and endangered plant species population.

"The 130-acre site was comprised of farmed uplands, wetlands and woodlands of various ecological quality before we started restoring it," Peterson said. "Over five years, the site was restored through prescribed burns and management of invasive species. They didn't even have to plant any rare species – they just came up on their own."

During the five years of restoration, wetland credits were deposited into the bank for the landowner to sell in the open market. The Rice Creek Watershed District was the local unit of government that oversaw bank development, in partnership with BWSR.





Pictures: (Top) Blaine SNA has highest known population of Cross-leaved milkwort (Polygala cruciate) in Minnesota. (Bottom) Blaine Preserve has second largest population of Twisted yellow-eyed grass (Xyris torta).

Additionally, Peterson said the Department of Natural Resources (DNR) had been involved throughout the entire process of the wetland bank establishment and that BWSR encouraged DNR staff to purchase the site for a Scientific and Natural Area due to the long-term management needed to require the rare natural community. DNR purchased the site in 2012 and established a 63-acre perpetual conservation easement – the Blaine Preserve.

According to the DNR, the goals of the Preserve are to maintain the high quality fen and protect the endangered species. There is also a need to remove invasive species such as buckthorn, spotted knapweed, and canary grass. This will be achieved through controlled burns and removal by cutting and pulling.

Today at the site, visitors will witness 300 different types of plants and 13 rare species. The preserve is open to the public for activities with minimal impact on the environment such as hiking, bird-watching, photography, snow-shoeing or simply enjoying the plant-life.

Want to know more? Check out the DNR's website: http://www.dnr.state.mn.us/snas/detail.html?id=sna02036.

Grants Quarterly

October 2013

Minnesota Board of Water & Soil Resources • www.bwsr.state.mn.us • gwen.steel@state.mn.us • 651-296-2428

Disaster Recovery Assistance Program

Disasters and emergency legislative funding occur frequently and usually unpredictably. To mitigate these circumstances, the Board of Water and Soil Resources (BWSR) approved the new Disaster Recovery Assistance Program at its August meeting.

The program establishes a standard operating procedure for BWSR staff and local government units (LGUs) to optimize efficiencies, responsiveness and legislative appropriations. In the event of a disaster, the new program policy (and guidance) will provide BWSR staff and LGUs the needed implementation information and related processes, of BWSR and other state and federal assistance providers.

The Disaster Recovery Assistance Program provides designated appropriated funds and other BWSR designated funds to LGUs to install, repair, or rehabilitate water quality and watershed protection projects in the disaster area. This Program will utilize appropriations for Erosion and Sediment Control, and Water Quality and Watershed Protection Projects; and, acquisition of Reinvest in Minnesota (RIM) Reserve Conservation easements. The purpose of this policy is to provide clear expectations for the implementation of funds and programs, appropriated to or implemented by BWSR, that are associated with the Disaster Recovery Assistance Program.



Inside this issue

- Disaster Recovery Assistance Program
- Important Upcoming Dates
- Updates to the Grants Administration Manual
- Targeted Watershed Demonstration Program
- Next Steps in Clean Water Fund Application Process
- Cooperative Weed Management Area Program RFP
- Soil Erosion and Drainage Law Compliance RFP
- Changes to the State Cost Share Program

BWSR may activate the Disaster Recovery Assistance Program in the event of a natural disaster or extreme environmental impact. The Program is authorized by Minnesota Statutes §12A.05 to address critical conservation problems resulting from a natural disaster. This Policy is activated by BWSR resolution or by authority delegated to the Executive Director.

In addition to Policy, a Disaster Recovery Assistance Program Guidance document will also be provided. This Guidance will provide clear step by step instructions for BWSR and LGU staff, from the moment the disaster begins, through recovery, with standardized forms and templates.

Important Upcoming Dates

October 28 – December 13: RFP period for Cooperative Weed Management Area and Soil Erosion and Drainage Law Compliance programs; Request for Information for Targeted Watershed Demonstration Program (pending Board approval)

October 28 - 30: BWSR Academy – Cragun's Conference Center near Brainerd, MN

☐ Watch for more details about the **Biennial Budget Request** and revised **reporting deadlines** in December.

Updates to the Grants Administration Manual

Important changes have recently been made to the **Grants Administration Manual**, particularly those portions of the manual which address financial record keeping, amendments to grant agreements, and work plan revisions. An overview of these changes is provided below.

Grant agreement amendments and work plan revisions

This section of the manual has been revised with important beneficial changes for BWSR and LGUs. LGUs now have more needed flexibility in overseeing grant funds, to adapt to grant implementation needs. This has been accomplished without sacrificing BWSR administrative oversight. These changes will result in a reduction in the number of amendments needed.

In most cases, the thresholds for work plan approval and amendments by Board Conservationists have been raised. Work plan expenditures will be documented according to the Financial Record Keeping section in the Manual. Additionally, the language has been revised for clarity, and new examples have been added to illustrate when amendments and work plan revisions are needed.

Financial Record Keeping

As BWSR's Grants Monitoring, Reconciliation and Verification Policy (GMRVP), instituted in 2011, has gained traction, it became apparent that our LGU partners could benefit from some written guidance that would help them not only to prepare for a grant verification visit, but also to maintain their financial records in a form required by the grant agreement. That guidance is now live on the BWSR website, supplementing and in some cases adding entirely new sections to the online **Grant Administration Manual**. The guidance includes sections on *Financial Record Keeping* and *What to Expect During a Verification Site Visit*, but it is more than that. It also includes best practice examples for how to determine a billing rate, how to track the time that a grant recipient charges to BWSR grants, and how to account for time and expenditures on program and project grants. It has information about allowable (and unallowable) costs to be charged to BWSR grants, about protecting the private data that you may be collecting from your own local partners in the course of providing them financial assistance, and answers to frequently asked questions. We will provide training on the guidance at the BWSR Academy, and regionally based grants compliance specialists will take the guidance, and the standard that it sets, into the field. For more information, contact Tim Dykstal, BWSR's Fiscal Compliance Coordinator, at 651-296-1287, or tim.dykstal@state.mn.us.

Revised pages within the Grants Administration Manual
Grant terminology
Revised definitions of Administrative Cost, Executed Date, Reconciliation, and Verification. New definitions of Advance Payment, Allowable Cost, Contractor, Direct Cost, Effective Date, Grant Agreement, and Indirect Cost.
Processing a grant
Reflects changes in processing method within eLINK.
Grant agreement amendments and work plan revision
See *Grant Agreement Amendments & Work Plan Revisions* in main article.
Program and project files, financial record keeping, and records management and retention
Revises and expands on the *Program and Project Files* section. Focuses on what the grant recipient needs to keep to reconcile and verify revenue and expenditures.
Grant monitoring, reconciliation and verification
Adds a rationale for BWSR's Grants Monitoring, Reconciliation and Verification Policy.
Allowable and unallowable costs
Formerly titled *Eligible and Ineligible Costs,* this revises and expands on the *Allowable Costs* section. Breaks allowable costs down into four categories—Staff Time, Contractors, Direct Costs, and Administrative Costs—and gives examples. Slightly expands the list of unallowable costs.
Financial management and accounting
Deletes some redundant material about documenting costs that is now covered elsewhere.
Private and nonpublic data
A new section with advice about data practices.
Frequently asked questions
Retitles *Grant Q &A*.
Clean Water Fund: Indirect costs
Adds reference to MMB guidance on paying for administrative costs with Legacy funds. Gives best-practice guidance about developing one billing rate per LGU and all BWSR grants.



Targeted Watershed Demonstration Program

In 2013, the Minnesota Legislature passed a law requiring the BWSR to:

> *...award grants to local government units organized for the management of water in a watershed or subwatershed that have multiyear plans that will result in a significant reduction in water pollution in a selected subwatershed. Priority in making grants must be given to the three to six best designed plans each year.*

In response to this legislation, BWSR is in the process of creating the Targeted Watershed Demonstration Program. The purpose of this program will be to focus on demonstrating water quality improvements. Eligible watersheds will be those where the amount of change to achieve a water quality improvement is known, the types of actions required to achieve those results have been identified, and a significant amount of those actions can be implemented within a four-year timeframe.

Priority will be given to watersheds where there are current water quality impairments or priority water resources near the tipping point of becoming impaired. Proposed watersheds should have the threat to the water resource clearly identified, a thorough understanding of the pollution sources and pathways within the watershed, and baseline water quality data against which change can be assessed. Preference will be given to watersheds that are 10 or 12-digit HUCs.

The solicitation period is tentatively scheduled to take place between Oct. 28, 2013 and Dec. 13, 2013, pending Board approval. More details will be posted on BWSR's website soon.

FY2014 Clean Water Fund competitive grant applications now in review

More than $51 million were requested as part of the recent Clean Water Fund competitive grant application period that closed October 4.

CLEAN WATER LAND & LEGACY AMENDMENT

The applications are currently being reviewed for eligibility before going to an interagency scoring team. The scoring team will include staff from Minnesota's Pollution Control Agency (PCA), Department of Natural Resources (DNR), Department of Agriculture (MDA), Department of Health (MDH) and the Board of Water and Soil Resources (BWSR).

FY2014 Clean Water Fund Allocations	Total $ Amount Available	# Apps Submitted	Total Requested
Shared Services	$2M	9	$2,416,372
Accelerated Implementation Grant	$2.15M	46	$4,549,181
Well Sealing	$250K	10	$363,600
Projects and Practices	$8.545M	163	$42,298,783
Community Partners	$1.4M	163	$1,510,151
Totals:	$14.345M	244	$51,138,047

Next steps in the process:

- **January 22, 2014**: BWSR Board authorizes grant awards (proposed)
- **February 2014**: BWSR grant agreements sent to recipients
- **March 17, 2014**: Work plan submittal deadline
- **April 1, 2014**: Grant execution deadline

Cooperative Weed Management Area Grant Program

The Cooperative Weed Managements Area (CWMA) grant program is intended to develop and sustain partnerships between federal, state, and local government agencies, tribes, individual landowners, and other interested parties in managing terrestrial noxious weeds and invasive species across geographic boundaries. The program is designed to facilitate the removal of invasive plant species through an integrated pest management approach, and the restoration/reconstruction of native plant communities through an ecosystem approach.

BWSR will hold a competitive grant application period for the CWMA grant program between Oct. 28, 2013 and Dec. 13, 2013, pending Board approval.

Watch for the forthcoming RFP and Frequently Asked Questions (FAQ) documents on the CWMA page of **BWSR's website.**

Soil Erosion and Drainage Law Compliance

The 2013 Minnesota Legislature appropriated Clean Water Funds to BWSR to be used for grants to local units of government to ensure compliance with Minnesota Statutes Chapter 103E (Drainage Law) and Sections 103F.401 to 103F.455 (state Soil Erosion Control provisions), including enforcement efforts.

In response to this appropriation, BWSR created the Soil Erosion and Drainage Law Compliance Program. The purpose of this program is to restore and protect surface water quality, particularly impaired waters, by supplementing local efforts to apply existing soil erosion reduction and drainage statutes across Minnesota.

There are three sub-programs, each requiring a separate application:

- Soil Erosion
- Drainage Ditch Inventory
- Drainage Ditch Inspections and Buffer Strips

Applicants are encouraged to apply for all three subprograms. A non-state match of 25-50 percent is required, depending on the subprogram. Eligible applicants include Chapter 103E County and Watershed District Drainage Authorities, Counties, and Soil and Water Conservation Districts working in partnership with one or more eligible Counties or Watershed Districts.

The application period is planned for Oct. 28, 2013-Dec. 13, 2013, pending Board approval.

FY2016-17 Biennial Budget Request

While the FY2014-15 biennium has just begun, it is also time to start planning for the FY2016-17 biennium. That is where the Biennial Budget Request (BBR) comes into play.

The first ever BBR was conducted in May-June 2012 and generated a tremendous reception from local governments throughout Minnesota. The data provided by local governments has been summarized and is available on the **BWSR website.** The data also provided essential information on local government water management activities that made a difference during development and enactment of the FY2014-15 appropriations.

The FY2016-17 BBR will serve the following purposes:

1. Replaces the Allocation and Contribution Statement for the Natural Resources Block Grant
2. Replaces the SWCD annual plan requirement
3. Provides budget data to inform the Clean Water Council, the Governor's Budget development and Legislative deliberations
4. Serves as a local project planning tool
5. Will be incorporated into the FY2016 application process

The submittal period for the FY2016-17 BBR is planned for **Feb. 1, 2014** through **Mar. 31, 2014**. Start planning now and watch for additional details in the coming months.

eLINK

Whether you are just getting started or want to learn more about the features within the eLINK system, be sure to check out the training and guidance materials on the **eLINK page** of BWSR's website.

Popular tools include the **Frequently Asked Questions** document and the **Developing Grant Applications in eLINK** video.

Changes to the State Cost Share Program

Recent changes have been made to the Erosion Control and Water Management Program—commonly referred to as the State Cost Share Program—to ensure consistency between Statute, rule and policy. This effort resulted in an amended rule, BWSR Board adopted policies, and an updated program manual. The result provides program flexibility through BWSR Board adopted policy and should increase administrative consistency between this and other grant programs for both BWSR and Soil and Water Conservation Districts (SWCDs).

The amended rules, policy and updated program manual will be effective for FY2014 (FY14) Erosion Control and Water Management Program grants. An overview of changes can be found on the **Erosion Control and Water Management Program fact sheet.**

BOARD MEMBERS' HANDBOOK
OF
LEGAL ISSUES

LORI SWANSON
Attorney General
State of Minnesota

June, 2013 Edition

TABLE OF CONTENTS

Page

INTRODUCTION 1

I. Role of Administrative Agencies In Government 1

A. What Is An Administrative Agency 1

B. Administrative Agencies And The Due Process Clause 2

II. Role of the Attorney General In Government 1

A. Authority Of The Attorney General 1

B. Structure Of The Attorney General's Office 2

C. Legal Representation Of State Boards 2

III. Licensing Board Responsibilities 1

A. Licensure And Certification 1

B. Complaint Resolution 2

1. Initial Handling of Complaints 2
2. Investigation of Complaints 3
3. Conferences 5
4. Disciplinary Action 7
5. Temporary Suspensions 8

a. Record to be considered by the board on temporary suspension 8
b. Notice 9
c. Evidence 9
d. Board order of temporary suspension 9

6. Complaint Resolution Procedures of the Peace Officer Standards and Training Board 10

IV. Contested Cases 1

A. Adjudicatory Functions of the Board 1

B. Steps In The Contested Case Process 2

1. Initiation of a Hearing 2

2. Agreement to Arbitrate 2
3. The Hearing 2
4. Board Decision 3
5. Administrative Law Judge Decision Could Become Final 5
6. Board Order 6
7. Judicial Review 6

C. Prosecuting And Advising Attorneys 7

D. Disqualification Of Board Members 8

V. The Role of Board Members in Hearings 1

A. Judicial Demeanor 1

B. Consistency 1

C. Objectivity 2

D. Judicial Review Of An Agency Or Board Decision Following A Hearing 2

1. Decisions Based on the Official Record Before the Board 2
2. Judicial Deference to the Board's Interpretation of Statutes and Rules 3

VI. Rulemaking 1

A. Introduction 1

B. What Is Rulemaking 1

C. Statutory Authority 2

D. Basic Rulemaking Procedures 2

E. Major Rulemaking Responsibilities Of Board Members 3

VII. Special Statutes That Affect Licensing Boards 1

A. Open Meeting Law 1

1. What is the Open Meeting Law? 1
2. What Constitutes a Meeting? 1
3. Electronic Meetings 3
4. Notice to Public of Meetings 4

a. Regular meetings 4
b. Special meetings 4
c. Emergency meetings 4

d. Recessed meetings 5
e. Committee meetings 5

5. Relationship of the Open Meeting Law to Other Laws 5
6. Closed Meetings 5
7. Penalties for Violation of the Law 7
8. Advisory Opinions on Open Meeting Law Issues 8

B. Public Meetings Prohibited On Certain Days 9

C. Government Data Practices Act 9

1. Introduction 9
2. Duties of Responsible Authority and Compliance Official 11
3. Rights of the Subject of Data 13

a. Rights before collection: Tennessen Warning 13
b. Rights after collection 13

i) Access by subject of data 13
ii) Inaccurate data 14

4. Rights of Third Persons to Discover Data 14
5. Dissemination 16
6. Licensing Data 16
7. Investigative Data 17
8. Personal Contact and Online Account Information 18
9. Penalties for Violating the Act 18

a. Board liability 18
b. Individual liability 19

10. Opinions by the Commissioner of Administration 19

11. Administrative Remedies for Certain Violations of the Minnesota Government Data Practices Act 20

D. Ethics in Government 25

1. Conflicts of Interest 25
2. Statements of Economic Interest 28
3. Gifts 29
4. Lobbyist Registration 29
5. Use of State Time, Resources and Information 30

a. *Confidential Information* 30
b. *Property, Time and Supplies* 30

6. Political Activity 30
7. Gubernatorial Appointees 31

E. The Equal Access To Justice Act 31

F. Tort Claims 32

1. Liability Under Minnesota Statutes and Common Law 33

a. Statutory exclusions from liability 33

i. Good faith immunity 33
ii. Statutory discretionary immunity 33
iii. Licensing immunity 35

b. Common law exclusions from liability 35

i) Official immunity 36
ii) Vicarious official immunity 36
iii) Quasi-Judicial immunity 37

c. Punitive damages 37
d. Liability limits 38
e. Indemnification 38

G. Violations Of Federally Protected Rights (Section 1983 Actions) 40

1. What is a Section 1983 Action? 40
2. Defense, Indemnification, and Scope of Liability 40
3. Board Member Immunity 41
4. Insurance Against Section 1983 Liability 42

VIII. Other Potential Bases For Board Liability 1

A. Antitrust Actions 1

B. Defamation 1

1. Elements of a Defamation Claim 1
2. Defenses to a Defamation Claim 1
3. Immunities 2
4. Opinions 2
5. Qualified Privilege 2
6. Absolute Privileges 3

a. Publications required by law 3
b. Judicial and quasi-judicial proceedings 3
c. Legislative proceedings 4

C. Violations of the Minnesota Government Data Practices Act 4

IX. CONTRACTING 1

A. WHO IS RESPONSIBLE FOR WHAT 1

1. Agency Head 1
2. Commissioner of Administration 2
3. Attorney General 2

B. TYPES OF CONTRACTS 2

1. Contracts For Professional or Technical Services 2
2. Contracts for Goods or Non-Professional or Technical Services Contracts. 5
3. Grants or Loans 5
4. Interagency Agreements/Joint Powers Agreements 5

C. Basic Elements Of A State Contract 6

1. Authority 7
2. Solicitation Process 7
3. Encumbrance of Funds 7
4. Non-Appropriations Clause 7
5. Advance Payment 8
6. Audit Clause 8
7. Data Practices Act 8
8. Term 8
9. Intellectual Property Rights 9
10. Affirmative Action 9
11. Execution 9
12. Amendments 10

D. Data Practices Act 10

X. COMPENSATION OF BOARD MEMBERS AND ADVISORY COUNCILS AND COMMITTEES 1

INTRODUCTION

This Manual is designed to be a guide for state boards, their members, and staff. It generally describes the role of boards in state government and the role of the Attorney General's Office in representing them. It also discusses several important laws that apply to the operations and activities of state boards. Although it is intended to be educational and informative about potential legal questions which may arise, it should not be viewed as a substitute for boards actually seeking advice from their assigned attorneys when specific situations raise questions of a legal nature.

Our Office hopes that the Manual will serve both as a handbook for new board members and staff as well as a review of relevant laws for the more experienced. We suggest that you use a loose-leaf notebook format in maintaining the Manual. The pages are numbered and dated in a manner which will allow us to send updated substitute pages when applicable statutes change or when a new court decision may affect the operation of state boards.

I. ROLE OF ADMINISTRATIVE AGENCIES IN GOVERNMENT

A. What Is An Administrative Agency

A fundamental principle of the United States Constitution requires that the executive, legislative, and judicial powers be exercised by separate branches of government, each of which may check or balance the actions of the others. Administrative agencies occupy a unique place in government because they have the statutory authority to exercise all three types of powers in the course of performing their official business. An administrative agency is an entity within the executive branch of government. It exercises its authority to enforce the statutes enacted by the Legislature. It also exercises "quasi-legislative" authority granted to it by the Legislature by adopting rules to further implement applicable statutes. Finally, it also has powers similar to courts to resolve particular kinds of disputes and to require individuals to give testimony as witnesses.

Because administrative agencies combine the powers of all three branches of government, the very existence of early administrative agencies troubled the courts. Courts finally resolved this issue by recognizing that the danger to citizens' liberty is not in blended power itself, but in unchecked power. Two checks on agency powers have been established. First, only the Legislature may create agencies. The Legislature must declare a legislative policy and establish primary standards for agency actions. Agencies are permitted the authority to fill in details, through rules or adjudication, but such agency action must be consistent with legislatively-determined policy. Second, the judiciary operates as a check by retaining residual authority to prevent and rectify errors or abuses.

Judicial review of agency decisions is important. The role of the courts is twofold: 1) to make sure that the Legislature does not unlawfully vest powers in an administrative agency and 2) to ensure that administrative agencies exercise their powers within the limits set by the Legislature and without violation of the legal rights of any persons. If a court finds that an agency has exercised powers beyond the limits set by the Legislature or that it has violated a person's rights, the administrative agency's decision or action may be overturned.

State boards are a type of administrative agency. In the case of licensing boards, the Legislature has reposed in such boards the power to regulate specialized professions for which licenses or certificates are required. The boards are mainly composed of persons in those professions who, thus, are best prepared to undertake regulation. These specialists are often complemented by public members, bringing other backgrounds, knowledge and experience to board activities.

B. Administrative Agencies And The Due Process Clause

The due process clause is found in the Fourteenth Amendment to the U.S. Constitution and states that "No State shall . . . deprive any person of life, liberty, or property without due process of law. . . ." The courts have held that a professional license is a property right to which the Fourteenth Amendment applies. In reviewing procedures used by boards in dealing with the property rights of applicants or licensees courts recognize two types of due process: substantive and procedural. Substantive due process requires that agency actions relate to the purpose for which the agency exists. Procedural due process requires an agency to use methods which deal fairly with those it regulates.

Due process primarily affects the adjudicatory functions of a board. A board acts in its adjudicatory capacity whenever it reviews the activities of a particular individual or party, makes determinations of fact based upon such a review, and issues an order affecting that specific individual or party. A party is entitled to notice of a proposed board action and, in some instances, to a "contested case hearing" before a board makes findings of fact or issues an order affecting the party's activities. For further discussion of contested case hearings, especially in the context of licensing board activities, see section IV of this Manual.

Boards must take great care in implementing their responsibilities. The requirements of procedural due process are contained in court interpretations of the United States and Minnesota Constitutions, the Minnesota Administrative Procedures Act, Rules of the Office of

Administrative Hearings and in other statutes and rules. Although some of the requirements may seem technical, their underlying purpose is to ensure fundamental fairness.

The law also requires that boards be bound by certain requirements in establishing jurisdiction, interpreting legislative standards, and imposing remedies. Courts may review actions of all boards to determine whether or not the boards complied with due process requirements, acted within their jurisdiction, and interpreted the governing law reasonably.

II. ROLE OF THE ATTORNEY GENERAL IN GOVERNMENT

A. Authority Of The Attorney General

The power of the Attorney General stems from three sources: the Minnesota Constitution, Minnesota Statutes, and the common law derived from court decisions. The constitution establishes the Office of Attorney General as a separate entity within the executive branch. The Attorney General is chosen by the state's voters. Minnesota Statutes, particularly chapter 8, set forth some of the Attorney General's responsibilities. Chapter 8 requires the Attorney General to "appear for the state in all causes . . . wherein the state is directly interested; also . . . whenever, in the attorney general's opinion, the interests of the state require it." Minn. Stat. § 8.01. In addition, chapter 8 directs the Attorney General to act as the attorney for all state officers, boards, or commissions in all matters pertaining to their official duties. Minn. Stat. § 8.06. Chapter 214, which prescribes some of the duties of boards, is another statute that describes the role of the Attorney General. Minnesota Statutes sections 214.10 and 214.103 specifically define the role of the Attorney General with regard to investigating complaints against licensees.

But the common law (decisions by Minnesota courts) is the most extensive source of the Attorney General's authority. The Minnesota Supreme Court has described the expansive powers of the Attorney General:

> The attorney general is the chief law officer of the state. His powers are not limited to those granted by statute but include extensive common law powers inherent in his office. He may institute, conduct, and maintain all such actions and proceedings as he deems necessary for the enforcement of the laws of the state, the preservation of order, and the protection of public rights. He is the legal adviser to the executive officers of the state, and the courts will not control the discretionary power of the attorney general in conducting litigation for the state. He has the authority to institute in a district court a civil suit in the name of the state whenever the interests of the state so require.

Slezak v. Ousdigian, 260 Minn. 303, 308, 110 N.W.2d 1, 5 (1961).

As an elected constitutional officer, the Attorney General has authority to make independent legal decisions, based on the public interest, regarding the representation of client agencies and boards. This authority distinguishes the relationship between the Attorney General

and his clients from the attorney-client relationship found in the private sector. Although it is rare for the Attorney General and a given client to disagree on what course of legal action it is best to take, when that happens the Attorney General exercises the final judgment.

B. Structure Of The Attorney General's Office

The Attorney General has divided the office into five sections, each of which holds several divisions. The Solicitor General and four deputies head up the five sections; division managers and deputies are responsible for the day-to-day operations of the divisions.

Many of the divisions have been created to serve the needs of the various departments and agencies within state government. The State Highway Division, for example, represents the Department of Transportation. Other divisions, on the other hand, exist to carry out special Attorney General responsibilities. The Antitrust and Utilities Division, for example, devotes its energies to protecting the interests of residents and small businesses with respect to utility issues. In these matters, the Attorney General, not a state agency, is the party.

C. Legal Representation Of State Boards

Legal advice is regularly sought by state boards and board staff on a variety of issues. These range from questions about jurisdiction to data practices to due process. The Attorney General's Office tries to offer advice that includes alternative courses of action, when appropriate, as well as ramifications of any board action being considered.

Representation of non-health-related boards is largely consolidated in the Office's Administrative Law Division. The Licensing Board and Licensing Board Legal Division represents health-related boards. The purpose of this consolidation is to ensure efficient service to board clients and consistency of legal advice. It will also develop a nucleus of highly accessible attorneys with legal expertise regarding issues commonly facing boards. These attorneys work to ensure that legal advice is consistent from one client to another. Memoranda of advice on crucial issues are shared with the appropriate attorneys. Occasionally, however, board staff may discover instances of inconsistent advice being offered by different attorneys on

the same issue. We encourage clients to bring such inconsistencies to the attention of the board's general counsel.

Representing state boards generally includes four functions: representation in adversarial proceedings; assisting in investigations; client advice; and rulemaking. Investigations and rulemaking are discussed later in this Manual in section VI. Adversarial proceedings, discussed further in section III.B, include representation of the board's disciplinary committee at conferences, board meetings, contested cases and in court proceedings which may occur from time to time. Court proceedings may be appropriate when a board wishes to prevent an unauthorized person from engaging in a profession for which a license or certificate is required. Occasionally, a licensee will try to prevent a board from moving forward with disciplinary action by suing the board in district court. Finally, a board's decision following a contested case may be appealed, resulting in a case being filed in the Court of Appeals.

When a matter proceeds to a contested case or a suspension proceeding, more than one attorney from the Attorney General's Office will become involved in the case. The first attorney will be the prosecuting attorney for the committee while the second attorney will be the advising attorney for the board. The prosecuting and advising attorney roles are discussed further in section IV-5 of the Manual.

III. LICENSING BOARD RESPONSIBILITIES

As administrative agencies, licensing boards have only those powers given to them by the Legislature, as set forth in the statutes. Minnesota Statutes chapter 214 and the boards' individual practice acts are the principal statutes that define and limit a licensing board's powers and responsibilities. Licensing board duties fall into two major categories: 1) granting and denying licensure and certification, and 2) complaint resolution, including discipline. The goal of board actions must always be to preserve the health, safety, and welfare of Minnesotans.

A. Licensure And Certification

A board is given authority to ensure that only qualified persons engage in a profession. The Legislature has predetermined which individuals are "qualified" for licensure through the legislative prescription of requirements for licensure found in every board's practice act.

As opposed to the disciplinary function of a board, which is often discretionary, the licensing or certifying function of a board is primarily "ministerial" in nature. A "ministerial" act is one that involves executing fairly specific standards which allow for little interpretation by a board. The Legislature determines the qualifications needed for a profession by setting out specific education and experience requirements. If those requirements are met, a board may not deny licensure or certification, except as set out below. In this way, the Legislature mandates that boards license or certify particular persons while withholding approval from others.

Even though licensing or certification is largely ministerial, a board can and does exercise a certain degree of discretion. First, while a board's practice act sets out mandatory requirements for licensure or certification, the act also allows the board to adopt rules to implement the legislative standards. For example, even if a practice act has a mandatory examination requirement, the board has discretion to define in its rules the nature and scope of the examination or a passing score.

Second, many practice acts require that applicants be "of good moral character" or that they have not "engaged in conduct warranting disciplinary action." Such requirements also afford boards some discretion. A board must decide how a statutory criterion applies to each

applicant. If information is received about an applicant which demonstrates that the applicant should not hold an unlimited license or certificate to engage in a profession, a board may attach conditions or restrictions to the license. For those cases a board's discretion, as warranted by the evidence could range from restricting the scope of practice or requiring monitoring or supervision of a licensee or certificate holder, to less stringent conditions such as requiring additional educational courses.

B. Complaint Resolution

The second major type of licensing board function, the complaint resolution process, is outlined in parts B.1 - B.5 below. The Peace Officer Standards and Training Board (POST Board) has unique statutory procedures governing complaint resolution, which are outlined in section B.6 below.

1. Initial Handling of Complaints

A licensing board's receipt of a complaint begins the complaint resolution process. Most complaints consist of a statement of grievances or accusations against a licensee or certificate holder and a request or demand for board intervention. A complaint may be submitted orally or in writing. Minn. Stat. § 214.10, subd. 1. Before an oral complaint is resolved, the complaint must be put in writing or transcribed. Complaints may be submitted by anyone, including a board member or board staff.

A licensing board generally has the authority to act on any complaint that is jurisdictional. A complaint is jurisdictional if it "alleges a violation of a statute or rule which the board is empowered to enforce." Minn. Stat. § 214.10, subd. 1. Thus, jurisdictional determinations relate exclusively to whether a board has legal authority to act based on the facts presented by the particular complaint. Whether a complaint is true or can be proven is not germane to the determination of jurisdiction.

Complaints that are determined to be non-jurisdictional are dismissed by the board and, when possible, referred to other agencies that may have jurisdiction. Examples of non-

jurisdictional complaints may include those that allege a licensee's commission of a crime not related to the licensee's practice or a licensee's offensive personality.

Many of the licensing boards have established a complaint panel or committee. The panels normally consist of one or more board members. The complaint panel may make recommendations on how best to pursue a complaint. Options may include requesting the licensee's written response to the complaint; asking the complainant for additional information; referring the matter to the Attorney General for investigation; referring the matter to an outside consultant for expert advice; scheduling a disciplinary conference or educational meeting; or dismissing the complaint. A board member who has had a financial or professional relationship with the subject of a complaint may be prohibited from participating in complaint panel activities involving that person. A detailed discussion of conflicts of interest issues appears in section VII.C of this Manual. Members of health-related licensing boards should also be aware of the prohibition regarding conflicts of interest in Minn. Stat. § 214.10, subd. 8(b).

2. Investigation of Complaints

Each licensing board has developed procedures for investigating complaints. Minnesota Statutes section 214.10, subdivision 2 allows a non-health licensing board's complaint committee to decide whether it wishes to obtain additional information regarding the complaint with the assistance of board staff and to consult with the Attorney General's Office if legal issues arise, or whether to have the Attorney General's Office conduct further investigation. Health licensing boards are required to refer any matter requiring investigation to the Attorney General's Office. Minn. Stat. § 214.103, subd. 5. Sometimes boards will need to hire an outside consultant to assist on the investigation of a particular complaint or on the investigation of the complaint. If this is done, a nondisclosure agreement should be signed by the consultant to ensure the privacy of data related to the active investigation of the complaint.

The collection, storage and dissemination of data during a board's investigation of a complaint must be consistent with the requirements of the Minnesota Government Data Practices

Act, Minnesota Statutes chapter 13. This Act is discussed in detail in section VII of this manual. This section presents a brief overview of how the Government Data Practices Act affects the investigation of complaints.

The Government Data Practices Act classifies a complainant's identity as private data unless the complainant consents to disclosure. Therefore, a complainant's identity should not be revealed to third parties without first obtaining the complainant's written permission. If this permission is not given, then the identity cannot be disclosed. Minn. Stat. § 13.41, subd. 2. Also, before an investigator interviews people or asks them to provide information related to the complaint, a warning as to the use of the data commonly known as the Tennessen Warning,[1] should be given. In conjunction with this warning, it is a good idea to briefly describe the complaint resolution process to the person from whom information is being sought. Further, data collected and maintained as part of a complaint against a licensee are classified as confidential under Minn. Stat. § 13.41, subd. 4. A board should take appropriate measures to protect the confidentiality of this data.

The Tennessen Warning, found in Minn. Stat. § 13.04, subd. 2, should be given to all witnesses and to other third persons from whom information is sought. This statute requires that whenever a governmental agency asks an individual to provide private or confidential information about himself or herself, the individual must be informed of:

a. The purpose and intended use of the information within the collecting agency;

b. Whether or not the individual is legally required to supply the requested data;

c. Any known consequences of giving or refusing to give the information; and

d. The identity of other persons or agencies authorized by state or federal law to receive the information.

At the investigation stage, third parties do not have to provide the information requested unless they are subpoenaed by the board or the board's statutes and rules require the third party

[1] The commonly used reference to the "Tennessen Warning" is derived from Robert Tennessen who was the chief author of the original Government Data Practices Act.

to make the disclosure. Some boards' statutes specifically require third parties to provide information requested by a board complaint committee without the necessity of issuing a subpoena. All licensing boards can ultimately rely on the subpoena power found in Minn. Stat. § 214.10, subd. 3 to obtain information relevant to a complaint. Board subpoenas may be enforced in district court if the subpoenas are not honored by the recipient.

After witnesses are interviewed and acquired documents are reviewed, an interview with the subject of the investigation may be required. That person may be contacted by telephone, in person or by letter, and advised of the complaint. As with all persons interviewed, the licensee should be given the Tennessen Warning and information concerning the complaint resolution process. The licensee should also be informed that he or she may have an attorney present during the interview.

Members of health-related licensing boards, except the Board of Veterinary Medicine, should also be familiar with the special requirements for investigations, information exchanges, and handling of complaints which are found in Minn. Stat. § 214.10, subd. 8.

3. Conferences

The conference is the complaint panel's chief vehicle for resolving complaints. A conference may be held for the purposes of investigation, negotiation, education, or conciliation. The licensee is notified of the conference by service of a notice of conference which sets forth the conduct alleged to violate the board's practice or certification act and gives the licensee information about the process. Generally, a licensee receives the notice about thirty days before the conference, although this is not a statutory requirement. In emergency cases, the licensee may receive only a few days' notice.

Thorough conference preparation by the complaint panel members and board counsel is essential to accomplishing the purpose of the conference. This includes review of the notice of conference, any investigative data, any licensee's letter of response to the allegations, and all

other written material relevant to the complaint. A licensee may be represented by an attorney at a disciplinary conference.

The panel chair or board attorney generally opens the conference with a brief statement about procedural matters. A Tennessen Warning should be given before anyone asks questions of the licensee. The panel then questions the licensee about the allegations found in the notice of conference. In addition to the panel members, board staff and board counsel sometimes ask questions. Questioning should be relevant to the complaint's subject matter and help panel members develop a full understanding of the licensee's position with respect to the allegations. This discussion should also allow the panel to assess the licensee's credibility and candor regarding the allegations, as well as the licensee's understanding of the appropriate statutes and rules. This gathering of information permits the panel to decide how it will proceed with the case. Sometimes, when highly technical issues are involved, the panel will hire an outside consultant to participate in the conference.

When the questioning is complete, the licensee is excused while the panel deliberates. The panel has a variety of options, including dismissal of the complaint, a continuance to gather additional information, or negotiation of disciplinary action pursuant to a consent stipulation and order. If the panel and the licensee cannot agree on a stipulation for disciplinary action, the panel may decide to recommend to the board that certain disciplinary action be taken, and that a contested case hearing be held to determine whether that disciplinary action is appropriate and proper.

Health-related licensing boards have the additional option of "corrective action." Minn. Stat. § 214.103, subd. 6. Corrective action is intended to be used when the panel identifies practice problems but the deficiency does not warrant disciplinary action or the evidence is insufficient to sustain disciplinary action. Corrective action is memorialized in a written agreement, reviewed and approved by the Attorney General, between the panel and the licensee. Once the licensee completes the corrective action, the complaint is dismissed.

4. Disciplinary Action

As discussed above, disciplinary action, such as reprimands, imposition of civil penalties or suspensions or revocations of licenses, may be accomplished through a consent order or through a contested case. A consent order is issued after the full board reviews and approves a written stipulation setting forth facts and discipline to which both complaint committee and the licensee have agreed. Generally, the complaint panel does not resort to a contested case unless the licensee has refused to sign a stipulation for disciplinary action. Contested cases are discussed more fully below.

Licensing boards also have the option of seeking an injunction from the district court. Minnesota Statutes section 214.11 empowers boards to seek injunctive relief for two purposes: to restrain any unauthorized practice or activities or to prevent a threatened violation or violation of any statute or rule which the board has the authority to enforce. If an injunction is granted, the board can still proceed with its own disciplinary action in respect to the person's license or application for license or renewal. Obtaining an injunction also does not preclude an appropriate criminal prosecution of the person who has been enjoined.

The legislature has also given many boards specific authority to issue cease and desist orders. This type of board order requires that certain conduct in violation of a board's rules or statutes stop. A cease and desist order must be served on the person(s) whose conduct is the subject of the order. The order must also contain language providing an opportunity to request a hearing before an administrative law judge ("ALJ") concerning the allegations in the order. If a hearing is not requested within thirty days, the cease and desist order becomes final. A final cease and desist order is a public document under the Data Practices Act. A violation of a properly served, final cease and desist order may form the basis for a board to seek injunctive relief in district court.

The Legislature also requires boards to initiate contested case proceedings to suspend or revoke a license, or to refuse to renew a license, of a person convicted of certain criminal offenses. Minn. Stat. § 214.10, subd. 2(a).

5. Temporary Suspensions

Some boards have at their disposal the extraordinary remedy of temporary suspension. It is reserved for emergency cases in which the threat to the public of a licensee's continued practice is immediate. Although each board with authority to temporarily suspend licenses may have slightly different procedures, the following is a general description of how the process works. A board with such authority may temporarily suspend the license of a licensee without a full trial-type hearing if it has probable cause to believe that the licensee has violated a rule or statute which the board is empowered to enforce and continued practice by the licensee would create a serious or imminent risk of harm to the public. The suspension is effective upon written notice to the licensee, specifying the rule or statute violated. The suspension remains in effect until the board issues a final order in the matter. When the board issues the suspension notice, it must commence a disciplinary hearing within a specified period, often thirty days.

a. Record to be considered by the board on temporary suspension

When the complaint committee decides that a case warrants temporary suspension, the full board must be asked to take this action, usually by filing a petition for temporary suspension. The prosecuting attorney from the Attorney General's office is responsible for working with board staff in compiling the record provided to the board by the complaint committee. The prosecuting attorney provides a copy of the materials to the board's advising attorney, simultaneously serving a complete copy of the materials on the licensee, and filing them with the board for distribution to the deliberating board members. The materials filed by the prosecuting attorney become part of the record before the board, along with any other materials submitted by the licensee.

b. Notice

Because of the nature of temporary suspension cases, the board generally acts quickly to consider the committee's petition. Efforts are made to provide reasonable notice to the licensee regarding the time, date and place of the board meeting at which temporary suspension will be considered. The licensee is served with a copy of the materials to be submitted to the board by the prosecuting attorney, and is informed that the licensee has the opportunity to present argument and information to the board regarding the proposed temporary suspension. The licensee or the licensee's attorney is also informed that any questions regarding procedures to be followed should be raised with the board's advising attorney. The advising attorney also receives a copy of this notice.

c. Evidence

Evidence presented by the prosecuting attorney or the licensee is in affidavit form only. The board does not hear testimony at the hearing on the temporary suspension.

d. Board order of temporary suspension

The prosecuting attorney submits a proposed order of temporary suspension to the board in advance of the meeting. A copy is simultaneously provided to the licensee. After the meeting, the board must issue an order, either suspending or not suspending the licensee. If suspension is ordered, the board will schedule a contested case hearing within a specified period after issuance of the suspension order. If a contested case hearing is held, the ALJ typically will issue a report within thirty days after closing of the contested case hearing record. Some practice acts require that the board issue a final order within thirty days after receiving the ALJ's report and any exceptions to it.

The emergency nature of temporary suspension proceedings may require that one or more of the above procedures be dispensed with in an unusual case. In exceptional cases, an *ex parte* proceeding (one in which the licensee does not participate) could be held involving the temporary suspension of the licensee's license.

6. Complaint Resolution Procedures of the Peace Officer Standards and Training Board

Under Minn. Stat. § 214.10, subds. 10, 11, 12, and 13, when the executive director or a board member of the POST Board receives a complaint that alleges a violation of the board's statutes or rules, the executive director and the chair of a three member committee (discussed below) must select a law enforcement agency to investigate the complaint. The law enforcement agency has 30 days to investigate the complaint and submit a written report to the executive director.

Following the investigation, the executive director must schedule a meeting between the licensee, who is the subject of the complaint, and a three-member committee of the board to determine whether there are reasonable grounds to believe the licensee has violated the board's statutes or rules. The three-member board committee must include at least two board members who are peace officers.

At least 30 days before the meeting, the executive director must give the licensee and the complainant written notice of the meeting and give the licensee a copy of the complaint. At the meeting, the committee must give both the licensee and the complainant a reasonable opportunity to be heard.

After considering the investigative report and the information provided by the licensee and the complainant, the committee, by majority vote, must take one of the following actions:

a. Find that there are reasonable grounds to believe that the licensee has violated the board's rules and order an administrative hearing; or

b. Decide that no further action is warranted; or

c. Continue the matter.

The executive director is required to promptly give notice of the committee's action to the complainant and the licensee.

If an administrative hearing is ordered, the ALJ makes a recommendation on the matter and the full board makes the final decision on the complaint. Before the board meets to consider

the matter, however, the executive director must notify the licensee and the complainant of the meeting. After the board has made its decision, the executive director must notify the licensee, the complainant, and the chief law enforcement officer of the employer of the licensee of the decision of the board.

IV. CONTESTED CASES

A. Adjudicatory Functions of the Board

Whenever a board reviews the activities of a particular individual or party, makes determinations of fact based upon this review, or issues an order with regard to that specific individual or party, it is acting in an adjudicatory capacity, like a court. For example, when a licensee and a board complaint panel cannot agree on the facts or the disciplinary action to be taken concerning a licensee, a contested case becomes the method of resolving the disputes.

The term "contested case" is defined in Minn. Stat. § 14.02, subd. 3 as a "proceeding before an agency in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after an agency hearing." Put another way, a contested case is a type of proceeding in which the board makes a specific factual, legal or factual and legal determination regarding a specific party. Thus, it differs from a rulemaking proceeding, in which the board is establishing general standards for future conduct by all licensees and future determinations by the board. Rulemaking involves the making of laws by the board, pursuant to the board's legislative authority. Contested cases involve a resolution of particular cases pursuant to the board's "adjudicative" or quasi-judicial authority.

A contested case hearing is necessary only if there are adjudicative facts which are in dispute. Generally, for licensing boards, contested cases will involve one of two situations:

a. The board denies licensure to an applicant because of a failure to meet qualification requirements or because of some past activity of the applicant. For example, an applicant's ethical standards might be called into question because of some past activity; or

b. The board initiates a disciplinary hearing because of past or current activities engaged in by an individual already licensed or registered by the board.

A non-licensing board may be required to use a contested case if the board statute requires such a process or if a constitutionally protected interest is involved. The determination of whether a contested case hearing is necessary should be made after consultation with the

Attorney General's Office. The following is a description of the contested case hearing process in the context of a licensing board.

B. Steps In The Contested Case Process

A contested case proceeding involves a number of steps, beginning with a decision of the board's complaint panel or discipline committee and its executive director to initiate a contested case hearing and ending, potentially, with review by an appellate court. The various steps will be briefly reviewed below.

1. Initiation of a Hearing

Minnesota Statutes section 214.10, subdivision 2 states that if, after investigation, certain board representatives believe that a licensee has engaged in illegal or unauthorized activities warranting board action, a disciplinary hearing may be initiated. A hearing is initiated when a notice of and order for hearing or prehearing conference is issued by the executive director of the board. This document is drafted for the board by the attorney who will be "prosecuting" the case for the complaint committee.

Upon initiation of a contested case proceeding, an agency may, by order, provide that the report or order of the ALJ constitutes the final decision in the case. Minn. Stat. § 14.57(a).

2. Agreement to Arbitrate

As an alternative to initiating or continuing with a contested case proceeding, the parties, subsequent to agency approval, may enter into a written agreement to submit the issues to arbitration by an ALJ according to Minn. Stat. §§ 572.08 to 572.30. Minn. Stat. § 14.57(b).

3. The Hearing

A contested case hearing is a formal proceeding similar to a trial by a judge, without a jury. The hearing is presided over by an ALJ appointed by the Office of Administrative Hearings. Each ALJ is an attorney, independent from any state agency other than the Office of Administrative Hearings. In the hearing process, one party is the board's complaint or

disciplinary panel, represented by the Attorney General's Office. The licensee or a license applicant is the other party. Each party has a right to present witnesses and documentary evidence, and to cross-examine any witnesses presented by the other party. The investigative report which is used by the board's complaint panel in determining whether the hearing should be initiated does not become a part of the hearing record unless it is introduced as evidence. After completion of the hearing, the ALJ issues a report to the board consisting of findings of fact, conclusions and a recommendation. This report, a transcript of the testimony, all documentary evidence, and the written arguments of the parties are submitted to the board following the completion of the hearing. The ALJ's report is a recommendation to the board. The board is not bound by the report and is, in fact, obliged to make its own determination. However, any modification or rejection of the report must be based on evidence contained in the hearing record.

4. Board Decision

Upon receipt of the ALJ report, the board must review the report as well as the hearing record. In some cases where the record is voluminous questions are often raised whether board members have to review the entire record but instead abbreviate the scope of their review. Such exceptions should be rare and only upon the advice of counsel. Failure to do an adequate review of the record can led to reversal on appeal. In *Morgan v. United States,* 298 U.S. 468 (1936), the court held that the decision-making process was defective where the Secretary of Agriculture did not read any of the evidence or briefs, did not hear the oral arguments, and relied solely on what he derived from consultation with department employees. The court ruled that the official who decides the matter must consider the evidence and argument.

In *Urban Council on Mobility v. Minnesota Dep't of Natural Resources,* 289 N.W.2d 729 (Minn. 1980), the issue before the court was whether the agency head had adequately reviewed the record. The court upheld the agency's decision, stating:

> [T]he commissioner made an informed decision, after adequate consideration of the voluminous evidence submitted at the hearing. He spent about ten hours

> personally studying the record. The commissioner reviewed the entire transcript 'reading verbatim those areas of testimony which (he) felt were of substance or were in dispute,' and examined every exhibit submitted at the hearing. In addition, he received a four-or-five-hour briefing from his staff, which consisted of a review of the evidence and the arguments made by the parties.

289 N.W.2d at 736 (parentheses in original).

In most cases an entire review of the record should be made by board members. A review of the record also includes review of any "exceptions" made by the aggrieved party.

Parties must have an opportunity to file "exceptions" or objections to the ALJ report. A minimum of ten days is provided to the aggrieved party to file exceptions. Minn. Stat. § 14.61, subd. 1. While not required, non-aggrieved parties also may be allowed to file exceptions. *In re Residential Bldg. Contractor License of LeMaster Restoration, Inc.,* 2011 WL 2437463 (Minn. Ct. App. June 20, 2011) (unpublished op.). Each licensing board generally schedules a specific time following review of the record for the attorneys representing each party to present oral argument on the case.

Except as provided below, the report of the ALJ does not bind the board to a particular outcome, and the board must review the ALJ report as well as the hearing record. Once the board determines the facts of the case and whether those facts constitute a violation of the board's statute or rules, it must decide what action, if any, should be ordered. The board's decision and order must be in writing, be based on the record, and include the findings of fact and conclusions on all material issues. Minn. Stat. § 14.62, subd. 1.

The board decision should be reached at a meeting following discussion by all board members eligible to vote on the matter. The decision should not be reached through meetings or telephone calls involving only two or three board members at a time. The advising attorney responsible should be present to give advice on legal issues that arise during the deliberations and to ascertain the board's wishes so that the attorney can draft a decision accurately reflecting

the board's findings and conclusions. These board deliberations are typically conducted in a closed portion of an official board meeting.

The contested case record must be closed upon the filing of any exceptions to the report and presentation of argument or upon the expiration of the time allowed for exceptions and arguments. The agency shall notify the parties and the presiding ALJ of the date when the hearing record is closed. Minn. Stat. § 14.61, subd. 2. If a decision or order rejects or modifies a finding of fact, conclusion or recommendation contained in the report of the ALJ, it must include the reasons for each rejection or modification. Minn. Stat. § 14.62, subd. 1.

5. Administrative Law Judge Decision Could Become Final

The report or order of the ALJ constitutes the final decision in the case unless the agency modifies or rejects it under Minn. Stat. § 14.62, subd. 1 within 90 days after the record of the proceedings closes. Some boards may have a shorter statutory time limit in which to make a decision. When an agency fails to act within 90 days in a licensing case, the agency must return the record of the disciplinary proceeding to the ALJ for consideration of disciplinary action. Minn. Stat. § 14.62, subd. 2a.

The board must issue its decision 90 days after the record of the proceedings closes. If the board does not set a specific date for the closing of the record, the record closes when the parties file the final memorandum for the board's consideration. *In Re Cich,* 2008 WL 4909757 (Minn. Ct. App. Nov. 18, 2008) (unpublished op.).

Request for a certificate of variance grant when requesting a contested case hearing is considered a "written request" under Minn. Stat. § 15.99, and the deadline for filing exceptions and arguments to the ALJ report is the "last process required". The commissioner must affirm or deny the request within 60 days of closing the ALJ filing record. *In re Hubbard ex rel. City of*

Lakeland, 2008 WL 5136099 (Minn. Ct. App. Dec. 9, 2008) (unpublished op.). Affirmed on other grounds, 778 N.W.2d 313 (Minn. 2010).

6. Board Order

The board order is public under the Data Practices Act whether or not disciplinary action is taken by the board. Minn. Stat. § 13.41, subd. 5.

Even if the board published a temporary suspension order which contained data classified as confidential under Minn. Stat. § 13.39, subd. 1, 2(a) on its website, the board was permitted to publish the data so as to promote publish health and safety. *Uckun v. Minnesota State Bd. of Med. Prac.,* 733 N.W.2d 778 (Minn. Ct. App. 2007).

7. Judicial Review

Under Minn. Stat. §§ 14.63 - 14.69 any person who is aggrieved by a board's final decision in a contested case may seek review of that decision in the Minnesota Court of Appeals. The attorney who prosecuted the case before the board will represent the board during any appeal. The standard which the Court of Appeals must apply in reviewing the board decision is set forth in Minn. Stat. § 14.69. Under that statute, the court may reverse or modify the board's decision if it is:

(a) in violation of constitutional provisions; or

(b) in excess of the statutory authority or jurisdiction of the board; or

(c) made upon unlawful procedure; or

(d) affected by other error of law; or

(e) unsupported by substantial evidence in view of the entire record; or

(f) arbitrary or capricious.

A reviewing court should overturn the board's factual findings only if they are unsupported by substantial evidence contained in the record. The court can substitute its own legal determinations for those of the board. Generally, however, the court will show some

deference to the board's interpretation of statutes and rules which it enforces because of the agency's expertise in the field. The court should reverse or modify the board's discretionary decisions only if it concludes that the board decision is arbitrary or capricious or on the basis of one of the other grounds in Minn. Stat. § 14.69. Courts often characterize the "arbitrary and capricious" standard as the agency exercising its will rather than its judgment.

C. Prosecuting And Advising Attorneys

Whenever the board's complaint panel or disciplinary committee decides to initiate a contested case or temporary suspension proceeding, the attorney assigned to the case assumes a role very similar to a prosecutor. It is that attorney's responsibility to present and advocate a case supporting the complaint panel's or disciplinary committee's position on disciplinary action against the licensee. As an advocate, that attorney may not advise the full board when it assumes its quasi-judicial role as the final decision-maker in a contested case; however, the full board needs the services of an attorney to advise it on any legal issues that arise. Case law holds that the attorney advising the board at the decision stage of the contested case process must not have been involved in prosecuting the case before the ALJ. The Attorney General's Office has, therefore, created separate roles for "advising" and "prosecuting" attorneys in contested cases.

As soon as the attorney for the complaint or disciplinary committee determines that there is a good probability that the matter he or she is working on will proceed to a contested case hearing, an advising attorney is appointed for the full board unless a permanent advisor has already been assigned. (Some boards have permanent advising attorneys because of the large volume of cases for those boards.) The advising attorney is someone who has not been involved in the handling of the case or any discussions relating to it. Upon designating an advising attorney, all other division attorneys, as well as board staff, are informed of the appointment. The advising attorney is then isolated from the prosecution of the case.

Until the case goes to the board for a decision, the advising attorney does not review any of the case files and avoids discussion about the matter with the attorney prosecuting the case or

any individuals with knowledge of the case. Once the case is referred to the board, the advising attorney reviews the record. At that point, while the advising attorney may meet with the deliberating board members and discuss the case with them, the advising attorney continues to refrain from discussing any issue of law or fact raised by the case with any person who has been involved in the hearing or investigation. The advising attorney may, however, discuss administrative and procedural matters with board staff. The advising attorney assists the board in drafting the decision and will provide the board with advice about any legal issues or other matters involved in the case. Once the board issues its decision, the advising attorney also advises the board in connection with any request for reconsideration, for a stay of the decision pending appeal, or for a waiver of bond. The prosecuting attorney, however, handles any appeal.

D. Disqualification Of Board Members

Some board members may be prohibited from participating in a decision in a contested case or in a temporary suspension of licensure under certain circumstances. For example, Minn. Stat. § 214.10, subd. 2 states that any board member who was consulted during the course of the investigation may not vote on any matter pertaining to the case once it goes before the board following a formal contested case proceeding. This prohibition is followed with respect to temporary suspensions as well. (Note, the statute does not prohibit complaint panel members from discussing a contested case in board deliberations or from participating in a board final decision to adopt an agreed-upon stipulation. The prohibition only applies to voting on a contested case proceeding.)

Finally, a board member's personal familiarity with the person subject to the contested case should be taken into account when deciding whether to disqualify oneself. Familiarity with the person who is the subject of the proceedings does not in itself disqualify a board member. As a general rule, a board member should disqualify himself or herself if the board member's familiarity with the person will affect the board member's ability to render a fair and impartial decision. With regard to health licensing boards, Minn. Stat. § 214.10, subd. 8(b) states that "a

board member who has a direct, current or former financial connection or professional relationship to a person who is the subject of board disciplinary activities must not participate in board activities relating to that case." Note that this prohibition prevents participation in any board activities relating to a case in which the conflict is presented. Thus, the board member may not participate either on a complaint committee or as a board member in issuing a final decision. *See also* section VII.C of this Manual dealing with conflicts of interest.

V. THE ROLE OF BOARD MEMBERS IN HEARINGS

A. Judicial Demeanor

A member of a state board acts in a quasi-judicial role when serving as the "finder of facts" and the decision-maker over a particular set of facts. In this quasi-judicial role, the board members want and expect to be treated with respect. It is therefore important that the board members act in ways that will generate respect from those who appear in front of them.

It is the responsibility of a judge to be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and staff (Code of Judicial Conduct). Members of a state board acting in a quasi-judicial capacity should demonstrate the same patience, dignity and courtesy that a judge would.

At times there may be understandable temptation to be disrespectful to people who appear before the board as advocates for particular points of view. Remember it is the advocate's job to make the best and most persuasive argument he or she can for the position desired. Although the board member may not agree with the position advocated, he or she should not try to discourage it through discourtesy, belittling statements or by being excessively argumentative.

B. Consistency

A board member in a quasi-judicial role should give, and be perceived as giving, consistent and fair treatment to all those who appear in front of the board. Consistency is important. It helps regulated individuals and the general public to predict how the board will view a certain situation. Yet a board should also not blindly follow its previous decisions on a particular topic. If the facts of a contested case differ significantly from a previous case, the board does not always have to follow its prior decision. In addition, consistency does not mean that a board cannot change its position or interpretation of a law. A change in the board's interpretation of its statutes may have to be implemented through rulemaking if the board's new position will be generally applicable to the public in the future.

C. Objectivity

The role as a board member acting in a quasi-judicial capacity is as decision-maker, not advocate. The question of fairness involves many competing factors, but the board member must be sure that he or she does not act as a promoter of either side. It is very important that oral arguments are carefully listened to and all the exhibits in the record, including any written exceptions and the report of the ALJ are reviewed before the board votes on its decision. This will ensure that the board makes decisions in an impartial manner.

Objectivity or, at a minimum, the perception of objectivity, is threatened by *ex parte* communications and contact. *Ex parte* contact is contact by a decision-maker with only one party, without the knowledge or consent of the other party. For instance, if one party to a hearing before the board saw a board member having lunch with a witness for the other side during a break from the adjudicatory hearing (even if discussing unrelated matters), that party might feel that he or she would likely not be treated fairly. If information is received outside of the administrative hearing process pertaining to a contested case, no one has the ability to challenge or disprove that information. Ideally, although the Open Meeting Law does not apply to board deliberations in a contested case proceeding, it can preserve the integrity of the decision-making process and maximize the perception of objectivity and open-mindedness by not discussing the matter currently before the board with anyone, even other members of the board, outside the forum for adjudication.

D. Judicial Review Of An Agency Or Board Decision Following A Hearing

1. Decisions Based on the Official Record Before the Board

A board or agency's decision can be challenged in an appeal to the Minnesota Court of Appeals on the grounds that it is arbitrary and capricious. "An agency's decision is arbitrary and capricious if it represents the agency's will and not its judgment." *Petition of N. States Power Gas Util.,* 519 N.W.2d 921, 924 (Minn. Ct. App. 1994) (citing *Markwardt v. Water Resources Bd.,* 254 N.W.2d 371 (Minn. 1977)). "Will" is when there is a desire to achieve a certain result

but without factual support. "Judgment" is when there is a desire to achieve a certain result and have the facts to support the conclusions.

The Minnesota Court of Appeals has also stated that

> An agency ruling will be determined by the courts to be arbitrary and capricious if: '(a) an agency relied on factors not intended by the legislature; (b) it entirely failed to consider an important part of the problem; (c) it offered an explanation that is contrary to the evidence; or (d) the decision is so implausible that it cannot be explained as a difference in view or a result of the agency's expertise.'

Petition of N. States Power Gas Util., 519 N.W.2d 921, 925 (Minn. Ct. App. 1994) (citing *Space Ctr. Transp.*, 444 N.W.2d at 581).

Therefore, board members should always base their decisions on the facts in the official record of the matter before them.

2. Judicial Deference to the Board's Interpretation of Statutes and Rules

A reviewing court will consider and will usually give some weight to a board decision on technical issues within its area of expertise. For example, a board's decision that a machine does not meet the technical parameters set forth in board rules will usually be given much deference. However, a board's decision that a licensee did not properly deliver a document to the board will probably not. A court will probably feel freer to closely scrutinize an issue which either falls outside an area of board expertise or is a legal question of procedure or statutory interpretation. Nevertheless, sometimes a reviewing court gives great weight to a board's long-standing interpretation of a statute or rule, especially if the legislature has not acted to overturn that long-standing administrative interpretation.

VI. RULEMAKING

A. Introduction

The authority of a state agency or board to adopt, amend and repeal rules is one of its most important tools for refining and implementing the public policy set by the Legislature for the state. This portion of the Manual is designed to familiarize board members with the concept of rulemaking, and provide them with practical information relating to rulemaking and their role in it. The sections that follow explain what rulemaking is, the authority to establish rules, basic rulemaking procedures, and the major responsibilities of board members during rulemaking.

B. What Is Rulemaking

Rulemaking by an agency or board is often described as a quasi-legislative function. It is the part of the administrative process that resembles a legislature's enactment of a statute. The term "rule"[2] is defined in the Administrative Procedure Act, Minn. Stat. § 14.02, subd. 4 (2010), as: "[E]very agency statement of *general applicability and future effect*, including amendments, suspensions, and repeals of rules, adopted to implement or make specific the law enforced or administered by it or to govern its organization or procedure." (Emphasis added.)

Rulemaking is designed to relieve the Legislature from the burdensome task of enacting detailed and specialized laws in numerous complex areas for which the Legislature has no expertise. Administrative rules are legally binding; they have the force and effect of law within the state. Typically, rules are directed to a particular group of people. This is the case with the boards, whose rules regulate only those persons subject to the jurisdiction of the board.

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[2] Minnesota Statutes section 14.03 excludes several items from the definition of a rule, including standards concerning only the internal management of the agency or other agencies that do not directly affect the rights of or procedures available to the public.

C. Statutory Authority

The adoption of rules by a state agency or board constitutes the exercise of legislative power which has been delegated to it by the Legislature. Under Minnesota's Constitution, the Legislature has the power to establish the state's policy but may delegate its lawmaking authority to agencies and boards to make more specific and implement that policy, so long as the Legislature gives the agencies and boards reasonably clear standards to guide their actions.

Legislative power is delegated to agencies and boards by statute. In order for a board to adopt rules, there must be a statute in effect granting rulemaking authority to the board on a given subject matter. Any rules adopted by a board must be authorized by statute and must not exceed the scope of, or conflict with, the authority granted by the Legislature.

D. Basic Rulemaking Procedures

Rulemaking is a lengthy and involved process. It is more than simply drafting rules. In fact, rule drafting is only the first of many steps which must be followed in sequence before rules go into effect. This section does not attempt to explain the intricate procedures involved. Instead, it provides board members with an overview.

The Administrative Procedure Act ("APA") establishes two different procedures for adopting rules: (1) procedures applicable to *controversial* rules (Minn. Stat. §§ 14.131 - 14.20); and (2) procedures applicable to *non-controversial* rules (Minn. Stat. §§ 14.22 - 14.28). There are also some general requirements applicable to all rules (Minn. Stat. §§ 14.05 - 14.128); a procedure for adopting rules under an exemption from rulemaking requirements for good cause, such as an immediate threat to public health or welfare (Minn. Stat. § 14.388); an expedited procedure to repeal obsolete rules (Minn. Stat. § 14.3895); and an expedited procedure that applies only if the law requiring or authorizing adoption of rules states that the expedited procedure may be used (Minn. Stat. § 14.389).

The main difference between controversial and non-controversial rules is that a public hearing before an ALJ is required for controversial rules. A proposed rule is considered controversial if twenty-five or more people request a hearing on it. Interested persons may

appear and testify at the hearing and submit written comments. The ALJ recommends whether the board may adopt the rules or should modify or withdraw them. After considering the ALJ's recommendation, the board may adopt the rules. If the board makes any modification to the rules, it must return the adopted rules to the Chief ALJ for a review of the legality of the modifications, including the issue of whether the rule as modified is substantially different from the rule as originally proposed. Minn. Stat. § 14.16, subd. 1. Non-controversial rules may be adopted after a period for written comment by the public, and, after adoption, must be approved by an ALJ. Minn. Stat. § 14.26.

Whichever procedures apply, rulemaking proceeds slowly. Excluding the time for drafting the rules, which in itself may be many months, the series of steps involved in rulemaking[3] require a minimum of six to nine months, depending upon whether the rules are non-controversial or controversial. It is realistic to expect non-controversial rule procedures to take about nine months, and for controversial rule procedures to take twelve months or longer, because of the public hearing and additional review requirements involved.

E. Major Rulemaking Responsibilities Of Board Members

The first major responsibility of board members is to decide what needs to be accomplished by rulemaking and then to draft the rule language. This can be a difficult and time-consuming task. Rules must be drafted in a way to accomplish the board's intent as well as being clear enough to be understood by those being regulated and those administering the rules.

The next major responsibility is to draft the "statement of need and reasonableness" (also referred to as the "SONAR") for the rules. The APA precludes the adoption of rules unless a

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[3] These steps include soliciting outside comment from affected persons before beginning the process; drafting rules and a statement of need and reasonableness; publishing and mailing various notices; receiving outside comment on the rules as drafted, including a public hearing in some cases; submitting the rules for review and approval by the Revisor of Statutes, the Governor's Office and an ALJ at various stages and, in certain cases, the Chief ALJ and legislative bodies.

board or agency can make, during the formal rulemaking process, an affirmative presentation of facts establishing that each rule is both needed and reasonable.

Establishing that a rule is needed and reasonable requires evidence that 1) there is a problem which needs to be addressed by rulemaking; and 2) the specific rule being proposed by the board is an appropriate response to the problem. To support its conclusion that a rule is needed, a board must explain the facts and circumstances creating the need for the proposed rule, citing specific evidence relied upon by the board. This evidence may be in the form of public testimony, scientific data, studies, statutory requirements, or board experience. To show that the specific requirements of a proposed rule are reasonable, the board must explain why the proposed rule is an appropriate means of addressing the problem. This should include an explanation of the expected benefits of the rule, as well as the impact the rule will have on those who must comply with it. The probable costs of complying with the proposed rule must also be addressed.

Drafting the rules and the SONAR are the key responsibilities of board members during the rulemaking process. The remaining steps of the rulemaking process are accomplished mainly by board staff, with the assistance of board counsel.

The governor may veto all or a severable portion of a rule of an agency by submitting notice of the veto to the State Register within 14 days of receiving a copy of the rule from the Secretary of State or agency. The veto is effective when the veto notice is submitted to the State Register. *See* Minn. Stat. § 14.05, subd. 6.

If standing committees of the House of Representatives and the Senate, with jurisdiction over the subject matter of a proposed rule, both vote to advise an agency that a proposed rule should not be adopted as proposed, the agency may not adopt the rule until the legislature adjourns the annual legislative session that began after the vote of the committees. *See* Minn. Stat. § 14.126, subd. 1. In addition, if the cost of compliance with a rule exceeds a certain threshold, it will not take effect with respect to certain small businesses and small cities until the rules are approved by a law enacted after adoption of the rules. *See* Minn. Stat. § 14.127. With

certain exceptions, if a local government will be required to adopt or amend an ordinance or other regulation to comply with an agency rule, the rule may not become effective until the next July 1 or January 1 after notice of adoption of the rule is published. *See* Minn. Stat. § 14.128.

Even if a rule is exempt from the "formal" rulemaking provisions of the APA, it must follow certain procedures to have the force and effect of law. *See* Minn. Stat. §§ 14.386 (rules excluded from rulemaking requirements or excluded from the definition of "rule"); 13.388 ("good cause" exemption). With certain important exceptions, exempt rules are only effective for two years.

The elected governing body of any statutory or home-rule city, county or sanitary district may petition an agency to amend or repeal a rule or a specified portion of a rule. The petition must demonstrate that since the adoption of the rule, either 1) significant new evidence relating to the need for or reasonableness of the rule has become available; or 2) less costly or intrusive methods of achieving the purpose of the rule have become available. Within 30 days of receiving a petition, an agency shall reply to the petitioner in writing stating that the agency will either a) give notice of its intent to adopt the amendment or repeal requested; or b) give notice that it does not intend to amend or repeal the rule and that it has requested the Office of Administrative Hearings to review the petition. *See* Minn. Stat. § 14.091. Any other person may request adoption, amendment or repeal of a rule, and the agency must respond within 60 days regarding its intentions. Minn. Stat. § 14.09.

A person or entity may petition an agency for a variance from a rule adopted by the agency, as it applies to the circumstances of the petitioner. General terms that apply to variances include: 1) the agency may attach conditions to the granting of a variance that the agency determines are needed to protect public health, safety, or the environment; 2) a variance has prospective effect only; 3) the conditions are an enforceable part of the rule; and 4) the agency may not grant a variance from a statute or court order. Minn. Stat. § 14.055, subd. 2.

An agency is required to grant a variance if it finds that the application of the rule, as applied to the circumstances of the petitioner, would not serve any of the purposes of the rule.

An agency may grant a variance if the agency finds: 1) the application of the rule to the petitioner would result in hardship or injustice; 2) the variance would be consistent with the public interest; and 3) the variance would not prejudice the substantial legal or economic rights of any person or entity. An agency must issue a written order granting or denying a variance within 60 days of receipt of the completed petition, unless the petitioner agrees to a later date. Failure of the agency to act on a petition within 60 days constitutes approval of the petition. *See* Minn. Stat. § 14.056, subd. 5. The agency may adopt rules establishing general standards for granting mandatory or discretionary variances from its rules. *See* Minn. Stat. § 14.055, subd. 5. If an agency is authorized by another state or federal law or rule to grant variances, sections 14.055 and 14.056 do not apply. *See* Minn. Stat. § 14.055, subd. 6.

A person may petition the Office of Administrative Hearings seeking an order of an ALJ determining that an agency is engaging in improper rulemaking by enforcing or attempting to enforce a policy, guideline, bulletin, criterion, manual standard, or similar pronouncement as though it were a duly adopted rule. *See* Minn. Stat. § 14.381. In addition, the legislature has provided agencies with a process for repealing obsolete rules. *See* Minn. Stat. § 14.3895.

State agencies may not impose new fees or increase existing fees through rulemaking. Instead, they are required to have new fees or increased fees approved by the legislature and governor. *See* Minn. Stat. § 16A.1283. Some types of fees are exempt from this prohibition.

VII. SPECIAL STATUTES THAT AFFECT LICENSING BOARDS

A. Open Meeting Law

1. What is the Open Meeting Law?

The Minnesota Open Meeting Law, Minnesota Statutes chapter 13D, requires that, except as otherwise expressly provided by statute, all meetings, including executive sessions, of any state board, and of any committee or subcommittee of the board, shall be open to the public. It also requires that the votes of the members of a board, committee, or subcommittee on any action taken in such a meeting be recorded in a journal kept for that purpose. The journal is to be open to the public during all normal business hours.

The Minnesota Supreme Court has articulated three purposes of the Open Meeting Law. First, the law prevents "actions being taken at a secret meeting where it is impossible for the interested public to become fully informed concerning board decisions or to detect improper influences." *Lindahl v. Independent School Dist. No. 306,* 270 Minn. 164, 167, 133 N.W.2d 23, 26 (1965). Second, the law assures the "public's right to be informed." *Channel 10, Inc. v. Independent School Dist. No. 709,* 298 Minn. 306, 313, 215 N.W.2d 814, 821 (1974). Finally, it gives the public an "opportunity to present its views to the board." *Sullivan v. Credit River Township,* 299 Minn. 170, 175, 217 N.W.2d 502, 506 (1974).

Meetings at which a state board exercises quasi-judicial functions involving disciplinary proceedings, including complaint committee meetings, are not subject to the Open Meeting Law. Minn. Stat. § 13D.01, subd. 2.

2. What Constitutes a Meeting?

The Open Meeting Law has been broadly construed in favor of the public. In *Moberg v. Independent School Dist. No. 281,* 336 N.W.2d 510 (Minn. 1983), the Minnesota Supreme Court held all gatherings of at least a quorum of a board or of a committee or subcommittee at which members discuss, decide or receive information as a group on issues relating to official business of the board are "meetings" subject to the act. Although non-business occasions such as purely social gatherings are not subject to the requirements of the law, a quorum may not as a group

discuss or receive information on official business in any setting including a social gathering without complying with the open meeting requirements. In *Thuma v. Kroschel,* 506 N.W.2d 14 (Minn. Ct. App. 1993), when the mayor and enough council members to constitute a quorum of the Afton Planning Commission left a Planning Commission meeting for eight minutes and were seen talking at an anteroom counter regarding a contract matter and the mayor later stated at the commission meeting, "what 'we' had decided to do" with respect to the contract, the mayor and council members were found to have violated the Open Meeting Law. Even though the court viewed the council members' action as a "misstep--a stumble--", it remained a violation and the members were subject to the monetary sanctions. In addition, in *Kroschel v. City of Afton,* 524 N.W.2d 719 (Minn. 1994), the court found that neither the City nor its insurer were required to reimburse the mayor and council members for the fees and costs incurred in defending an action alleging a violation of the Open Meeting Law.

The statute has been held not to apply generally to communications among fewer than a quorum. However, discussion and persuasion among small groups of members may be improper under the Open Meeting Law when designed to avoid public discussions, to forge a majority in advance of public hearings on an issue, or to hide improper influences such as the personal or pecuniary interest of a public official.

The Minnesota Supreme Court has held that informational seminars that include discussions about board business, attended by the whole board, must be publicized and open. It makes no difference if board members took no official action to resolve specific problems and no decisions or pre-decisions were made on any issue. If information was received and discussions held at such meetings could foreseeably influence later decisions of the board. *St. Cloud Newspapers, Inc. v. District 742 Community School,* 332 N.W.2d 1, 6 (Minn. 1983).

The statute's application is not strictly limited to face-to-face communications. In a 2009 Opinion, the Commissioner of Administration concluded that a quorum of members of a joint-powers board were in violation when they participated in an exchange of e-mails approving an official response to a forthcoming newspaper editorial. MN Dept. of Admin. Adv. Op. 09-020,

September 8, 2009. The Commissioner noted that one-way communication between the board chair or staff and members would be permissible so long as no discussion or decision-making ensues. However, in the case addressed by the Opinion, the members had expressed their opinions on the proposed response to each other and the originating staff member by shared e-mail replies. Therefore, board members should avoid engaging in e-mail exchanges involving a quorum of board members; e.g., "reply to all" responses.

In any open meeting, at least one copy of any printed materials relating to the agenda items of the meeting, that are prepared, distributed, or available to board members, must be available in the meeting room for inspection by the public while the board considers the subject matter of the materials. This requirement does not apply to materials classified by law as not public under the Data Practices Act or to materials relating to the agenda items of a meeting permitted to be closed.

3. Electronic Meetings

Meetings subject to the Open Meeting Law may be conducted by interactive television if specific statutory requirements are satisfied. State agencies, boards, departments and commissions, and their subordinate units may conduct meetings by telephone or other electronic means if specific conditions are met. *See* Minn. Stat. § 13D.015;[4] *see also* discussion of Admin. Adv. Op. 09-020, *supra*, concerning risk of violating the law through exchange of electronic communications.

[4] Minnesota Statutes section 13D.021, which also authorizes state boards and local governing bodies to conduct telephonic meetings with similar conditions, only applies in circumstances involving a health pandemic or state of emergency declared under Chapter 12.

4. Notice to Public of Meetings

a. Regular meetings

The Open Meeting Law requires a board to keep on file at its offices a schedule of all regular meetings. If a regular meeting is held at a time or place different from the time or place stated in the schedule of regular meetings, the board must provide the same notice of the meeting that the board is required to provide for special meetings. In *Merz v. Leitch,* 342 N.W.2d 141, 146 (Minn. 1984), the court held that conducting business about one-half hour before the time the public was told the meeting was to start was a violation.

b. Special meetings

For special meetings, except emergency meetings or special meetings for which there is a separate statutory procedure for notice, the board must post a written notice containing the date, time, place and purpose of the meeting on the board's bulletin board or on the door of its usual meeting room. A bulletin board for this purpose must be located in a place reasonably accessible to the public. *Rupp v. Mayasich,* 533 N.W.2d 893, 895 (Minn. Ct. App. 1995). The notice shall also be mailed or otherwise delivered to each person who has filed a written request for notice of special meetings. Notices of special meetings must be posted, mailed, or delivered, as appropriate, at least three days in advance of the date of the meeting. In lieu of mailing or personal delivery to persons who have filed written requests for notice of special meetings, a board may publish notice in the State Register at least three days before the meeting. Presently the State Register is published each Monday, and generally requires that notices for publication be submitted by the Tuesday before the publication date.

c. Emergency meetings

An "emergency" meeting is a special meeting called under circumstances that, in the judgment of the board, require immediate consideration by the board. For emergency meetings, boards must make good-faith efforts to provide notice, which may be by telephone, to each news medium filing a written request for such notice. Notice shall include the subject of the meeting. Posted or published notice is not required. In the event the board discusses or acts upon matters

not directly related to the emergency, the minutes of the emergency meeting must include a specific description of those matters.

d. Recessed meetings

For recessed or continued meetings, Minn. Stat. § 13D.04, subd. 4 provides that no further published or mailed notice is necessary, provided that the time and place of reconvening the recessed or continued meeting was established during the previous meeting and recorded in the minutes of that meeting.

e. Committee meetings

Care should be taken that a properly-noticed committee meeting not evolve into an unannounced meeting of the full board. The Attorney General has held that board members who are not members of a committee may attend public committee meetings. However, if they participate in the committee's discussion they could be counted toward a quorum of the entire board, and the meeting could be considered an unannounced meeting of the full board.

5. Relationship of the Open Meeting Law to Other Laws

The Open Meeting Law must sometimes be construed with other legislation such as the Minnesota Government Data Practices Act. Occasionally, a board needs to discuss data classified as not public at a meeting. In most circumstances, the board may not close the meeting to discuss the data. Such data may be discussed without liability or penalty if the disclosure relates to a matter within the board's authority, is reasonably necessary to address the item before the board at a required public meeting, and is disclosed without malice. The board must make reasonable efforts to protect such data from disclosure, however.

6. Closed Meetings

Closed meetings are subject to the same notice requirements as other meetings. The law does specify certain instances in which meetings must be closed to discuss nonpublic information. Minn. Stat. § 13D.05, subd. 2(a). Instances in which meetings must be closed include discussions of:

1. Data that would identify alleged victims or reporters of criminal sexual conduct, domestic abuse or mistreatment of minors or vulnerable adults;

2. Active investigative data or internal affairs data relating to allegations of law enforcement personnel misconduct collected or created by a state agency, statewide system, or political subdivision;

3. Educational data, health data, medical data, welfare data, or mental health data that are not public data under certain sections of the data practices law; or

4. An individual's medical records governed by sections 144.291 to 144.298.

In addition, a board must close one or more meetings for preliminary consideration of allegations or charges against an individual subject to its authority. However, such meetings must be open at the request of the individual who is the subject of the meeting. If the members conclude that discipline of any nature may be warranted as a result of those specific charges or allegations, further meetings or hearings relating to those specific charges or allegations held after that conclusion is reached must also be open. As noted above, however, the Open Meeting Law, including this provision, does not apply to meetings at which a board exercises quasi-judicial disciplinary functions.

A public body may close a meeting to evaluate the performance of an individual who is subject to its authority. The public body shall identify the individual to be evaluated prior to closing a meeting. At its next open meeting, the public body shall summarize its conclusions regarding the evaluation. A meeting must be open at the request of the individual who is the subject of the meeting.

A body may also close a meeting to review not-public property appraisals or other information related to pricing, offers or counter-offers for purchase or sale of property. Before closing the meeting the body must identify on the record the particular property at issue. The meeting must be recorded. Any final purchase or sale agreement must be approved at an open meeting.

The application of the statutory attorney-client privilege exception to the Open Meeting Law, which is much narrower than the privilege recognized in the private sector, has evolved over time. Currently, the courts require a balancing test before the need for absolute

confidentiality will be recognized. *Prior Lake American v. Mader,* 642 N.W.2d 729, 737-38 (Minn. 2002); *Brainerd Daily Dispatch v. Dehen,* 693 N.W.2d 435 (Minn. Ct. App. 2005). The "public's right to be informed of all actions and deliberations made in connection with activities geared to ultimately affect the public interest" must be balanced with the policies served by the attorney-client privilege in order to determine whether there is a need for absolute confidentiality. *Mader*, 642 N.W.2d at 738-39, 742.

The privilege does not normally apply to ordinary legal advice, or to evaluating the potential for litigation in connection with a proposed action of the body. *Mader*. However, in appropriate circumstances the privilege may be invoked where specific litigation has been threatened, but not actually commenced. *Dehen*.

Minn. Stat. § 13D.01, subd. 3 requires that before closing a meeting, the body must state on the record the specific grounds permitting closure and describe the subject to be discussed. In *Free Press v. County of Blue Earth,* 677 N.W.2d 471 (Minn. Ct. App. 2004), the court held that a mere statement that the meeting would be closed "under the attorney-client privilege to discuss pending litigation" was insufficient. Rather, a more detailed description of the matter was required.

7. Penalties for Violation of the Law

Any person who intentionally violates the requirements of the Open Meeting Law, including the recording of votes, is subject to personal liability in the form of a civil penalty of up to $300 for a single occurrence, which may not be paid by the public body. Minn. Stat. § 13D.06. In *Brown v. Cannon Falls Township,* 723 N.W.2d 31 (Minn. Ct. App. 2006), the Minnesota Court of Appeals held that town board members could not avoid a finding of intentional violation by claiming reliance on advice from the town's attorney, where the specific facts of the case showed that such reliance was clearly unreasonable. The *Brown* court also found that a town board member had committed an intentional violation, where he had agreed to the holding of a noncomplying meeting, even though he did not himself attend. The court also found it significant that the member's absence was for personal reasons, and was not motivated

by a desire to avoid violating the Open Meeting Law. If a person is found to have intentionally violated the law in three or more separate actions connected with the same board, such person shall forfeit any further right to serve on the board, or in any other capacity with the board, for a period of time equal to the term of office the person was then serving. The court, upon finding the occurrence of a third violation, unrelated to the previous violations, is directed to issue its order declaring the position vacant and notify the appointing authority or clerk of the board. As soon as practical thereafter, the appointing authority shall fill the position. Minn. Stat. § 13D.06.

8. Advisory Opinions on Open Meeting Law Issues

A government entity such as a state board may ask the Commissioner of Administration for a written opinion on any question relating to the entity's duties under the Open Meeting Law. An opinion may also be requested by a person who disagrees with how members of a governing body perform their duties under the Open Meeting Law. The government entity or person requesting this type of opinion must pay a fee of $200 to the Commissioner of Administration. Minn. Stat. 13.072, subd. 1.

Opinions issued by the Commissioner on Open Meeting Law questions are not binding on the government entity or members of a body subject to Minn. Stat. ch. 13D, but a court must give deference to an opinion. A government entity or members of a body subject to the Open Meeting Law acting in conformity with a written opinion of the Commissioner is not liable for fines, awards of attorney fees, or any other penalty under chapter 13D. A member of a body subject to chapter 13D and who acts in reliance on an opinion of the Commissioner is not subject to forfeiture of office. *Id.*, subd. 2. Conversely the court shall award attorney fees if a public body defendant failed to act in conformity with a previous Commissioner's opinion directly related to the subject matter of the litigation.

B. Public Meetings Prohibited On Certain Days

No state agency, board, commission, department, or committee shall conduct a public meeting on the day of the state primary or general election (Minn. Stat. § 204C.03, subd. 4), or after 6:00 p.m. on the day of a major political party precinct caucus. Except in cases of necessity, public meetings may not be held on official state holidays listed in Minn. Stat. § 645.44, subd. 5.

C. Government Data Practices Act

1. Introduction

The Minnesota Government Data Practices Act, which is found in Minnesota Statutes chapter 13, is a complex piece of legislation which has been frequently amended over the years. The correct legal analysis of issues concerning application of this Act depends on the specific facts presented.

The thrust of the Act is that all government data collected, created, received, maintained, or disseminated by any state agency or board are public unless classified otherwise by federal law, state statute, or temporary classification by the Commissioner of Administration. Minn. Stat. § 13.01, subd. 3. The major exceptions are data on employees, applicants, and contractors (Minn. Stat. § 13.43) and data on students (Minn. Stat. § 13.32), which are presumed private unless specifically classified as public. A chart summarizing the classification of some types of board data under the Act is found at the end of this section. Because issues concerning disclosure of government data are complicated and fact-specific, the assistant attorney general representing a board should be consulted when a particular question arises. Consultation is also important in order to avoid statutory penalties for violating the Act.

Basic definitions employed throughout the statute include the following:

"Data on individuals" means all government data in which any individual is or can be identified as the subject of that data. Minn. Stat. § 13.02, subd. 5.

"Confidential data on individuals" means data that are made not public by statute or federal law and are inaccessible even to the individual subject of that data. Minn. Stat. § 13.02, subd. 3.

"Private data on individuals" means data that is not accessible to the public but is accessible to the individual subject of that data. Minn. Stat. § 13.02, subd. 12.

"Protected nonpublic data" means data not on individuals which is made by statute or federal law applicable to the data (a) not public and (b) not accessible to the subject of the data. Minn. Stat. § 13.02, subd. 13.

"Nonpublic data" means data not on individuals that is made by statute or federal law applicable to the data: (a) not accessible to the public; and (b) accessible to the subject, if any, of the data. Minn. Stat. § 13.02, subd. 9.

"Summary data" means statistical records and reports derived from data on individuals but in which individuals are not, and cannot be, identified. Minn. Stat. § 13.02, subd. 19.

The "responsible authority" in a state agency means the state official designated by law as the person responsible for the collection, use, and dissemination of any data on individuals, government data or summary data. Minn. Stat. § 13.02, subd. 16. The responsible authority must establish procedures to ensure that requests for government data are received and complied with in an appropriate and prompt manner. Minn. Stat. § 13.03, subd. 2. The responsible authority is required to prepare a written data access policy and update it as necessary no later than August 1 of each year to reflect changes in personnel or circumstances that might affect public access to government data. The responsible authority is also required to prepare a written policy of the rights of data subjects and specific procedures for access by the data subject to public or private data on individuals, and to update it as necessary no later than August 1 of each year. Minn. Stat. § 13.025, subd. 2. The responsible authority must make copies of the written policy easily available to the public by distributing free copies of the procedures to the public or posting a copy of the policy in a conspicuous place within the government entity that is easily accessible to the public, or posting them on the government entity's website. *Id.*

"State agency" includes any state board. Minn. Stat. § 13.02, subd. 17.

2. Duties of Responsible Authority and Compliance Official

Each agency's responsible authority must prepare an annual inventory, a public document containing the agency's name, title and address, and a description of each category of record, file or process the agency maintains containing private or confidential data on individuals. Minn. Stat. § 13.025, subd. 1. The collection, storage, use, and dissemination of private and confidential data on individuals is limited to that necessary for administering specifically authorized programs. Individuals must be informed at the time of collection of the purposes for collecting, storing, using, or disseminating data. Data cannot be used for any other purpose.

The responsible authority must establish procedures to assure that all data on individuals is accurate, complete and current for the purposes for which it was collected. The responsible authority must also establish appropriate security safeguards for all records containing data on individuals. When a board enters into a contract that requires board-collected data to be made available to the contracting party, the contracting party is bound to maintain the data according to its chapter 13 classification. Minn. Stat. § 13.05, subd. 6.

A state agency that collects, creates, receives, maintains or disseminates private or confidential data on individuals is required to disclose any breach of the security of the data following discovery or notification of the breach. Notification must be made to the individual subject of the data whose private or confidential data was, or is reasonably believed to have been, acquired by an unauthorized person. Notification must be within the most expedient time possible, consistent with the legitimate needs of a law enforcement agency as well as with any measures necessary to determine the scope of the breach and restore the reasonable security of the data. If a law enforcement agency determines that the notification will impede an active criminal investigation, the notification may be delayed. Alternate methods of notification include first class mail, electronic notice, and "substitute notice." Electronic notice must be consistent with the provisions regarding electronic records and signatures as set forth in 15 U.S.C. § 7001. Nationwide consumer reporting agencies must also be notified, without

unreasonable delay, if the state agency discovers circumstances requiring notification of more than 1,000 individuals at one time of a breach of the security of private or confidential data. *See* Minn. Stat. § 13.055.

The use of summary data derived from private or confidential data on individuals is permitted. Any person may request an agency to prepare summary data. The cost of preparing the summary data is borne by the requesting person. Minn. Stat. § 13.05, subd. 7.

The responsible authority must also prepare a public document setting forth in writing the rights of the data subject and the specific procedures for access by the data subject to public or private data on individuals. Minn. Stat. § 13.05, subd. 8. A responsible authority shall allow another responsible authority access to data classified as not public only when the access is authorized or required by statute or federal law. An agency that supplies government data under this provision may require the requesting agency to pay the actual cost of supplying the data. Minn. Stat. § 13.05, subd. 9.

Contracts by a government entity with a private person to perform any of its functions, must include contract terms making it clear that all data created, collected, received, stored and used, maintained, or disseminated by the private person in performing those functions is subject to the requirements of Minn. Stat. ch. 13 and that the private person must comply with those requirements as if it were a government entity. Minn. Stat. § 13.05, subd. 11(a). This does not create a duty, however, on the part of the contractor to provide access to public data if the public data are available from the government entity unless the terms of the contract create such a duty. Minn. Stat. § 13.05, subd. 11(b).

Minnesota Statutes section 13.05, subdivision 13 requires appointment or designation of an employee of a government entity to act as its data practices compliance official. People may direct questions or concerns regarding problems in obtaining access to data or other data practices problems to the data practices compliance official. The responsible authority may also be the data practices compliance official.

3. Rights of the Subject of Data

a. Rights before collection: Tennessen Warning

Individual subjects of data are given specific rights by the Data Practices Act. Perhaps the most well-known of these is the so-called "Tennessen Warning" contained in Minn. Stat. § 13.04, subd. 2. An individual asked to supply private or confidential information concerning the individual must be informed of: a) the purpose and intended use of the requested data; b) whether the individual may refuse or is legally required to supply the requested data; c) any known consequence arising from providing or refusing to provide private or confidential data; and d) the identity of other persons or entities authorized by state or federal law to receive the data. The Tennessen Warning is not required to be given in writing, but if given orally, it should be documented in the appropriate board file.

If an investigation is an attempt to gather factual information about an incident, and identification of a particular individual is only incidental to the focus of the inquiry, it is possible that a Tennessen Warning may not be required. However, legal counsel should be consulted before deciding not to give the warning.

b. Rights after collection

i) Access by subject of data

Upon request to a responsible authority, an individual must be informed whether he or she is the subject of stored data and whether the data is classified as public, private or confidential. Upon request, an individual who is the subject of public or private data must be shown the data without any charge and if requested, shall be informed of the data's meaning if the data is unclear. After the individual has been shown the data, it need not be disclosed to that individual for six months thereafter unless an action or dispute is pending or additional data have been collected or created. If possible, the responsible authority must comply immediately with any request, or within ten working days of the date of the request if immediate compliance is not possible. The responsible authority may require the requesting person to pay the actual cost of making and certifying copies. Minn. Stat. § 13.04, subd. 3.

ii) Inaccurate data

An individual subject of data may contest its accuracy or completeness. To exercise this right the individual must notify the responsible authority in writing, describing the nature of the disagreement. In most cases, the responsible authority must then either correct any data found to be inaccurate or incomplete and notify past recipients of inaccurate or incomplete data, or notify the individual that the authority believes the data to be correct. Minn. Stat. § 13.04, subd. 4. Data in dispute shall be disclosed only if the individual's statement of disagreement is included with the disclosed data. The determination of the responsible authority may be appealed pursuant to the provisions of the Administrative Procedure Act relating to contested cases. Data on individuals that have been successfully challenged by an individual must be completed, corrected, or destroyed by the board, depending on the nature of the inaccuracy.

4. Rights of Third Persons to Discover Data

Upon request to a responsible authority or designee, a person must be permitted to inspect and copy public government data at reasonable times and places, and, upon request, shall be informed of the data's meaning. Minn. Stat. § 13.03, subd. 3. Unless authorized by statute, an agency or board cannot require a person to identify himself, state a reason for, or justify a request to gain access to public government data. Minn. Stat. § 13.05, subd. 12.

No fee is to be charged to inspect such data. Minn. Stat. § 13.03, subd. 3(a). Inspection includes, but is not limited to, the visual inspection of paper and similar types of government data. It does not include printing copies unless printing a copy is the only method to provide for inspection of the data. If data is stored by the government entity in electronic form and made available to the public on a remote access basis, inspection includes remote access to the data by the public and the ability to print copies of or download the data on the public's own computer equipment. If the government entity has a specific grant of statutory authority, it may charge a reasonable fee for remote access to data. A government entity may charge a fee for remote access to data where either the data or the access is enhanced at the request of the person seeking access. Minn. Stat. § 13.03, subd. 3(b). If a person requests copies or electronic transmittal of

the data to the person, the responsible authority must provide copies, but may require the requesting person to pay the actual costs of searching for and retrieving the government data, including the cost of employee time, and for making, certifying, compiling and transmitting the copies. If 100 or fewer pages of black and white, letter or legal size paper are requested, however, actual costs cannot be charged. Instead, the responsible authority may charge no more than 25 cents for each page copied. The authority may not charge for separating public from not public data. If copies are not able to be provided at the time a request is made, the responsible authority shall provide them as soon as reasonably possible. Minn. Stat. § 13.03, subd. 3(c).

If the responsible authority maintains public government data in a computer storage medium, the agency must provide, upon request, a copy of public data contained in that medium, in electronic form, if a copy can reasonably be made. However, data only has to be provided in the same electronic format or program used by the agency. Minn. Stat. § 13.03, subd. 3(e).

If the responsible authority determines that the requested data is classified so as to deny the requesting person access, the responsible authority must inform the requesting person of the determination either orally at the time of the request, or in writing as soon after that time as possible, and must cite the specific statutory section, temporary classification, or specific provision of federal law on which the determination is based. Upon the request of any person denied access, the responsible authority is required to certify in writing that the request has been denied and state on what legal basis the denial is made. Minn. Stat. § 13.03, subd. 3(f).

Data disseminated by the judicial branch to government entities have the same level of accessibility in the hands of the agency receiving it as it has in the hands of the judicial branch entity providing it. Minn. Stat. § 13.03, subd. 4(c).

If a state agency opposes discovery of government data on the grounds that the data are classified as not public, a party seeking access to the data may bring an action to compel discovery before the appropriate presiding judicial officer or ALJ. The judge must first decide whether the data are discoverable or releasable pursuant to the rules of evidence and of criminal, civil, or administrative procedure appropriate to the action. If the data are discoverable, the

judge must then decide "whether the benefit to the party seeking access to the data outweighs any harm to the confidentiality interests of the agency maintaining the data, or of any person who has provided the data or who is the subject of the data, or to the privacy of an individual identified in the data." *Montgomery Ward and Co., Inc. v. County of Hennepin,* 450 N.W.2d 299, 306 (Minn. 1990). In making this decision the judge is required to consider whether notice to the subject of the data is warranted, and may fashion and issue any protective orders necessary to assure proper handling of the data by the parties. Minn. Stat. § 13.03, subd. 6. The Minnesota Supreme Court has held that failure by the judge to use this two-prong analysis is an abuse of discretion.

5. Dissemination

Private data may be used and disseminated to any person or agency if the individual subject of the data has given informed consent. Informed consent may be given by signing a consent statement. Whether a data subject has given informed consent shall be determined by rules of the Commissioner of Administration. Minn. Stat. § 13.05, subd. 4(d). Private data may also be disseminated as authorized by law and to individuals within the agency whose job duties reasonably require access to it.

The Legislature allows government entities, in consultation with appropriate law enforcement, emergency management, or other officials to share security information to "aid public health, promote public safety, or assist law enforcement".

6. Licensing Data

The licensing data section of the Data Practices Act is frequently encountered by state boards. "Licensing Agency" means any board, department or agency which is given statutory authority to issue professional or other types of licenses, except those administered by the Commissioner of Human Services. Minn. Stat. § 13.41. Under that section, data collected by a licensing agency during an active investigation of complaints against a licensee are confidential. The identity of complainants who have made reports concerning licensees is private data and can only be released if the complainant consents. When a licensing agency has completed its work

on a case, the data becomes inactive investigative data, which are private. Minn. Stat. § 13.39, subd. 3. Orders for hearing, findings of fact, conclusions of law and the final disciplinary action contained in the record of the disciplinary action generally are considered public. If the licensee and the licensing agency settle the dispute in writing, the agreement is public data.

A board must include in its final order only those findings of fact that form the basis for disciplinary action. In *Doe v. Minnesota State Bd. of Med. Exam'rs,* 435 N.W.2d 45 (Minn. 1989), the Board of Medical Examiners found Dr. Doe guilty of misconduct on one charge of malprescribing and dismissed the remaining charges of sexual improprieties with former patients. The board released portions of the decision relating to the dismissed charges of sexual improprieties. Dr. Doe sought an injunction to prevent board disclosure of the dismissed charges. The Supreme Court held that a "final decision" of the board following a contested case disciplinary action includes its "finding of fact, conclusions of law and order," and that that document is a public document. However, the Court also held it was improper for the board to incorporate in its final decision the discussion of the dismissed charges because the board's rule limits the scope of the data which can be made public in a final decision. Dr. Doe was awarded attorney fees pursuant to Minn. Stat. § 13.08, subd. 4(a).

7. Investigative Data

Data collected by state boards as part of an active investigation undertaken to commence or defend a pending civil legal action, or which are retained in anticipation of a pending civil legal action, are protected nonpublic data (data not on individuals) or confidential (data on individuals). A "pending civil legal action" includes but is not limited to judicial, administrative or arbitration proceedings. Whether a civil legal action is pending should be determined by the board's general counsel. State boards may, however, make any such data classified as confidential or protected nonpublic accessible to any person, agency or the public if a board determines that access will aid law enforcement, promote public health or safety, or dispel widespread rumor which poses a threat. Release of such data is highly sensitive. If a state board

is considering providing access to such confidential or protected nonpublic data, it should consult its assistant attorney general. Minn. Stat. § 13.39.

8. Personal Contact and Online Account Information

The following data on an individual collected, maintained, or received by a government entity for notification purposes or as part of a subscription list for an entity's electronic periodic publications as requested by the individual are private data on individuals: (1) telephone number; (2) e-mail address; and (3) Internet user name, password, Internet protocol address, and any other similar data related to the individual's online account or access procedures. Minn. Stat. § 13.356. There are exceptions to this provision under section 13.356, subdivision 2(b) and (c).

9. Penalties for Violating the Act

a. Board liability

Violation of the Data Practices Act may subject the state agency and individual state officers or employees to a variety of civil sanctions. A board that violates any provision of the act is liable to a person or representative of a decedent who suffers any damages as a result of the violation. An action may be brought to recover any damages sustained, plus costs and reasonable attorney's fees. Minn. Stat. § 13.08, subd. 1. In the case of a willful violation the board shall, in addition, be liable for exemplary damages of not less than $1,000 nor more than $15,000 for each violation. The state is deemed to have waived any immunity to a cause of action brought under the Act. The responsible authority may also be enjoined by the district court to stop further violations of the Act. In addition, any aggrieved person may bring an action in district court to compel compliance with the Act and may recover costs and disbursements, including reasonable attorney fees or seek administrative remedies under Minn. Stat. § 13.085 (*see* Par. 10 of this section). If the court determines the action brought is frivolous, it may award reasonable costs and attorneys' fees to the responsible authority. Courts can also impose a civil penalty of up to $1,000 against the government entity if an order to compel compliance is issued. Minn. Stat. § 13.08, subd. 4.

In any action involving a request for government data under sections 13.03 or 13.04, the court may inspect *in camera* the government data in dispute but must conduct its hearing in public and in a manner which protects the security of data classified as not public. An agency that releases data pursuant to the order of the presiding officer under section 13.03, subdivision 6 is immune from civil and criminal liability for the data's release. Minn. Stat. § 13.08, subd. 5.

b. Individual liability

Any person who willfully violates the provisions of the Data Practices Act or any rules adopted under it is guilty of a misdemeanor. Willful violation of the Data Practices Act by any public employee constitutes just cause for suspension without pay or dismissal of the public employee. Minn. Stat. § 13.09.

10. Opinions by the Commissioner of Administration

A government entity such as a state board may request an opinion from the Commissioner of Administration on any question relating to public access to government data, rights of subjects of data, or classification of data under Minn. Stat. ch. 13 or other Minnesota Statutes governing government data practices. An opinion of the Commissioner of Administration may also be requested by any individual who disagrees with a determination regarding data practices made by a government entity regarding the individual's rights as a subject of government data or right to access to government data.

Opinions issued by the Commissioner under Minn. Stat. § 13.072 are not binding on the government entity whose data is the subject of the opinion, but must be given deference by a court in a proceeding involving the data. This law does not preclude a person from bringing any other action or law in addition to or instead of requesting a written opinion. In determining whether to assess a penalty, the court will consider whether the government entity acted in conformity with a written opinion of the Commissioner issued under section 13.072 that was sought by a government entity or another person. Minn. Stat. § 13.08, subd. 4(b). A court or other tribunal shall award reasonable attorney fees to a prevailing plaintiff who has brought an action in district court under Minn. Stat. § 13.08, subd. 4, or as an administrative remedy under

Minn. Stat. § 13.085, if the government entity that is the defendant was the subject of a written opinion of the Commissioner and the court or ALJ finds that the opinion is directly related to the cause of action being litigated and that the government entity did not act in conformity with the opinion. Minn. Stat. §§ 13.08, subd. 4(c) and 13.085, subd. 6(b).

11. Administrative Remedies for Certain Violations of the Minnesota Government Data Practices Act

The Minnesota legislature has created administrative remedies for certain violations of the Minnesota Government Data Practices Act. 2010 Minn. Laws ch. 297. Complaints are heard by the Office of Administrative Hearings. This process does not apply to challenges to the accuracy or completeness of data under Minn. Stat. § 13.04 subd. 4 or 4a. A person may file a complaint with the Office of Administrative Hearings alleging a violation of Minn. Stat. ch. 13 for which an order to compel compliance is requested. Minn. Stat. § 13.085, subd. 2. The complaint must be filed with the Office of Administrative Hearings within two years after the occurrence of the act, or failure to act, that is the subject of the complaint. There is an exception to the two years if the act or failure to act involves concealment or misrepresentation that could not be discovered during the two year period. In those instances, the complaint may be filed within one year after the concealment or misrepresentation is discovered. The complaint must be accompanied by a filing fee of $1,000 or a bond to guarantee payment of the fee.

Upon receipt of the complaint, the Office of Administrative Hearings must immediately notify the respondent by certified mail, and expeditiously provide the respondent with a copy of the complaint. The Office of Administrative Hearings must also notify the Commissioner of Administration.

Proceedings must be dismissed if a request for an opinion from the Commissioner of Administration was accepted on the matter under Minn. Stat. § 13.072 before the complaint was filed, and the complainant's filing fee must be returned or must be refunded.

The respondent must file a response within 15 business days of receipt of the notice of the complaint.

Minnesota Statutes section 13.085, subdivision 3, requires that an ALJ review the complaint and make a preliminary determination for its disposition as follows:

1. If the complaint and response do not present sufficient facts to believe that the violation has occurred, the ALJ must dismiss the complaint; or

2. If the facts do support a belief that a violation has occurred, the ALJ must schedule a hearing within 30 days.

If a complaint is dismissed, a petition for reconsideration may be filed within five business days after the dismissal. The Chief ALJ must review the petition and make a decision within ten business days after receipt of the petition.

Minnesota Statutes section 13.085, subdivision 4 requires that a hearing be held within thirty days after the parties are notified that a hearing will be held. As an exception, for good cause, the ALJ may delay the date of the hearing for no more than ten additional business days. Within ten business days after the hearing record closes, the ALJ must determine whether the violation alleged in the complaint occurred and must make at least one of five possible dispositions.

Under Minn. Stat. § 13.085, subd. 5, the ALJ may 1) dismiss the complaint; 2) find that the act or failure constituted a violation; 3) impose a civil penalty of up to $300; 4) issue an order compelling compliance; and 5) refer the complaint to the appropriate prosecuting authority for consideration of criminal charges.

Minn. Stat. § 13.085, subd. 4 establishes the hearing procedures and provides that the hearings are open to the public, with the exception that in a matter involving a request for "nonpublic" government data, the ALJ may conduct a closed hearing and take other measures to maintain the record in a manner that protects the securities of the not public data.

A party aggrieved by the final decision is entitled to judicial review under Minn. Stat. §§ 14.63-.69. However, the proceedings are not considered contested cases within the meaning of Minn. Stat. ch. 14, and are not otherwise governed by Minn. Stat. ch. 14. An order issued by an ALJ is enforceable through the district court in the judicial district where the respondent is located.

The outcome of the administrative proceedings is not controlling in any subsequent action for damages brought in district court on the same matter. A government entity that releases not public data pursuant to an order is not liable for compensatory or exemplary damaged awards or awards of attorney fees in district court actions brought under Minn. Stat. § 13.08 or Minn. Stat. § 13.09.

There is a rebuttable presumption that a complainant who substantially prevails on the merits is entitled to an award of reasonable attorney fees, not to exceed $5,000. An award of attorney fees would be denied if the violation is found to be merely technical in nature or there is genuine uncertainty about the meaning of the governing law.

Reasonable attorney fees shall be awarded to a substantially prevailing plaintiff who has brought an action if the government entity that is the respondent in this action was also subject of a written opinion issued under Minn. Stat. § 13.072, and the ALJ finds the opinion is directly related to the matter in dispute, and the government entity did not act in conformity with the opinion.

The Office of Administrative Hearings must refund the filing fee of a prevailing complainant, less $50. Costs of the Office of Administrative Hearings are billed to the respondent, not to exceed $1,000. A complainant that does not substantially prevail on the merits shall be entitled to a refund of the filing fee, less any costs incurred by the Office of Administrative Hearings in conducting the matter. If the ALJ finds that the complaint was frivolous, without merit, and lacking a basis in fact; the ALJ must order that the complainant pay the respondent's reasonable attorney fees, not to exceed $5,000; and the complainant is not entitled to a refund of their filing fees.

DATA PRACTICES ACT

Public	Private	Confidential
All data that is not made private or confidential by state or federal law	*Accessible to data subject but not the public*	*Not accessible to data subject or public*
Applicant name and address		
Application data submitted by *licensees*	Data submitted by licensure *applicants*, except for names and addresses	
Orders for Hearing, unless specifically exempt by statute	*Inactive* investigative data	*Active* investigative data
Findings of Fact, Conclusions of Law and Order, Stipulation Agreement		
Disciplinary Orders and the Record of disciplinary hearing if hearing was public	Name of complainant when it appears in inactive investigative data	
Board staff and consultants: name; salary or contract fees; pension and benefits information; expense and other reimbursement paid; job title and description; education, training and work experience; dates of employment; existence and status of any complaints and final disciplinary action, including reasons therefor; payroll records, work phone number and designated address	Information relating to unsubstantiated complaints Patient names and patient records Record of disciplinary proceeding except for items classified as public All other data on staff and consultants is private, including unsubstantiated complaints, record of disciplinary proceeding, and non-designated address	
Job applicants: Vet status; test scores; eligibility ranking; job history; education and training; names of job finalists	Names of job applicants, except for finalists	
"Data not on individuals" is public under Minn. Stat. § 13.03. MN Dept. of Admin. Adv. Op. 02-038 and 03-004.	"Data on individuals" listed in Minn. Stat. § 13.41, subd. 2 are private. MN Dept. of Admin. Adv. Op. 02-038 and 03-004.	

D. Ethics in Government

There are many state statutes that deal with ethics in government, some of which apply to members and employees of state boards. The two statutes that primarily affect state boards are Minn. Stat. ch.10A (Ethics in Government Act) and Minn. Stat. § 43A.38 (Code of Ethics for Employees in Executive Branch). If a conflict occurs between section 43A.38 and chapter 10A, the provisions of chapter 10A take precedence. The provisions in chapter 10A are enforced by the Campaign Finance and Public Disclosure Board ("CFPDB"), which regulates lobbying, conflicts of interests, political committees, and campaign funding practices. The CFPDB is authorized to investigate any alleged violations of the chapter and to make findings of whether there is probable cause to believe a violation has occurred.

1. Conflicts of Interest

Minnesota Statutes section 10A.07 governs conflicts of interest. It provides that any public official who, in the discharge of official duties, would be required to take an action or make a decision which would substantially affect the official's financial interests or those of an associated business must follow specified procedures. Minnesota Statutes section 10A.01, subdivision 35 defines "public official" to include any member, chief administrative officer or deputy chief administrative officer of a state board that either has the power to adopt, amend or repeal rules, or has the power to adjudicate contested cases or appeals, manager of a watershed district, member of a watershed management or supervision of a soil and water conservation district.[5] The procedures are not required when the effect on the official is no greater than on other members of the public official's business classification, profession, or occupation.

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[5] Certain state boards such as the Council on Asian-Pacific Minnesotans, the Council on Black Minnesotans, the State Council on Disabilities, the Law Examiner's Board, the Ombudsperson for Corrections, the Ombudsperson for Families, the Ombudsperson for Mental Health and Retardation, the Council on Chicano-Latino People, and the Strategic and Long Range Planning Office do not have the power to adopt, amend or repeal rules or the power to adjudicate contested cases or appeals. Therefore, members or administrative officers of those boards are not subject to the requirements of chapter 10A that apply to "public officials." However, all employees of the executive branch are subject to the requirements of Minn. Stat. § 43A.38. Questions regarding whether an individual is an employee in the executive branch can be directed to your board's general counsel.

When faced with a potential conflict of interest, the public official must give notice and not participate in the action giving rise to the potential conflict of interest. Minn. Stat. §§ 10A.07 and 43A.38, subd. 7. Notice is given by completing a conflict of interest form and delivering copies of the notice to the CFPDB and to the chair of the board on which the official serves. If the potential conflict of interest presents itself where there is insufficient time to file in advance, then the public official must orally inform the board chair or appointing authority and file the required written notice within one week.

A public official who has a potential conflict of interest should remove himself from the conflict. In the case of a decision made by a state board, a member cannot "chair a meeting, participate in any vote, or offer any motion or discussion on the matter giving rise to the potential conflict of interest." Minn. R. 4515.0500.

The question arises whether abstention is sufficient without complying with the notice provision. The notice and filing requirements of section 10A.07 apply only if the public official "would be required to take an action or make a decision" in the course of his or her official duties. That phrase is ambiguous. It can be argued that it does not apply if a board member excuses himself or abstains from the decision so that he or she is not "required to make the decision." The counterargument is to reject that interpretation because of the use of the subjunctive "would be required" and because of the apparent legislative purpose of the conflict of interest provisions of section 10A.07 of promoting disclosure and openness. In 1987, the Minnesota Supreme Court appeared to believe that both steps were required of a Public Utilities Commissioner faced with a conflict of interest. *Petition of N. States Power Co.,* 414 N.W.2d 383, 386 (Minn. 1987) (noting that both steps must be taken when a potential conflict arises). The Court's comments were dicta, however, so some ambiguity remains.

Upon request of an individual, the CFPDB is authorized to publish advisory opinions on any of the requirements of chapter 10A based upon real or hypothetical situations. An individual may, in good faith, rely on an advisory opinion response. A written advisory opinion issued by the CFPDB is binding on the CFPDB in any subsequent CFPDB or judicial proceeding brought

against the person who made the request or was covered in the request, unless the opinion has been amended or revoked, or the requester has omitted or misstated material facts. If the CFPDB intends to apply new principles of law or policy from the opinion more broadly, the CFPDB must adopt rules. Nevertheless, the CFPDB advisory opinions are useful guides to boards with questions regarding chapter 10A. The opinions are available on the CFPDB's website: *http://www.cfboard.state.mn.us/.*

Substantially similar conflict of interest provisions apply to all employees in the executive branch under Minn. Stat. § 43A.38.[6] If an executive branch employee is faced with the potential for a conflict of interest, it is the employee's duty to avoid the situation. If the employee or the appointing authority determines that a conflict does exist, the matter must be assigned to another employee if possible. If reassignment is not possible, interested persons must be notified of the conflict. The statute enumerates several situations that are deemed to be conflicts of interest.

Two boards have additional, board-specific conflict of interest rules. The Agricultural Chemical Response Compensation Board's rule mandates that if a member of the board has a direct or indirect financial or employment interest relating to a matter before the board that is likely to affect the member's impartiality, that member must make the interest known and refrain from participating in or voting upon the matter. The abstention of a board member or members does not prevent the remaining members from conducting a legal vote. Minn. R. 1512.0500. The Harmful Substance Compensation Board has a similar rule, except that its rule discusses what to do if a quorum is lost as a result of members abstaining. The rule states that in the case of loss of a quorum, the entire board shall select from among themselves a majority of members whose interests are least likely to affect their impartiality or judgment, and these members must vote upon the matter before the board. Minn. R. 7190.0004.

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[6] The Minnesota Historical Society is not considered part of the executive branch for purposes of section 43A.38. Minn. Stat. § 43A.02, subd. 22.

2. Statements of Economic Interest

Under Minn. Stat. § 10A.09, public officials are required to file statements of economic interest. A public official must file a statement of economic interest with the CFPDB within 60 days of the effective date of appointment to the state board. The statement is made on a form prescribed by the CFPDB which calls for the following information: name, address, occupation, and principal place of business; the name of each associated business[7] and the nature of that association; a listing of all real property within the state, excluding homestead property, in which the individual holds an interest valued in excess of $2,500 or an option to buy property worth $50,000 or more; a listing of all securities in which the official's share has a market value of $2,500 or more; a listing of all real property in the state in which a partnership of which the individual is a member holds a value in excess of $2,500 or an option to purchase property worth $50,000 or more; and a listing of any investments and property interests held by the official or an immediate family member in the United States or Canada connected with pari-mutuel horse racing. Although Minn. Stat. § 10A.09 is not as clear as might be desirable as to whether reporting of investments is limited to pari-mutual horse racing, the CFPDB has interpreted this statute to require reporting of all investments, including shares of stock and mutual funds.

Each individual required to file a statement of economic interest must file a supplementary statement on April 15 of each year that he or she remains in office, if information on the most recently filed statement has changed. If a supplementary statement is required, it shall include the amount of each honorarium in excess of $50 received since the previous statement, together with the name and address of the source of the honorarium.

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[7] "Associated Business" means any association in connection with which the individual is compensated in excess of $50 except for actual and reasonable expenses in any month as a director, officer, owner, member, partner, employer or employee, or is a holder of securities worth $2,500 or more at fair market value. Minn. Stat. § 10A.01, subd. 5.

3. Gifts

Minnesota Statutes section 10A.071, subdivision 2 prohibits public officials from accepting any gifts whatsoever from lobbyists or their employers, with very minor exceptions. Most professional associations are lobbyists, or employers of lobbyists, for these purposes.

A gift is defined as "money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, that is given and received without the giver receiving consideration of equal or greater value in return." This broad rule includes entertainment, loans of personal property for less than payment of fair market value, preferential treatment for purchases or honoraria, and food or beverages provided at a meeting, unless the public official is appearing to make a speech or answer questions as part of a program.[8]

Again, Minn. Stat. § 43A.38 has substantially similar provisions prohibiting all executive branch employees from accepting any payment of expense, compensation, gift, reward, gratuity, favor, service or promise of future employment or other future benefit from *any source,* except the state, for any activity related to the duties of the employee unless otherwise provided by law. Specific exceptions to the prohibition are enumerated in the statute. There is also a prohibition on gifts related to state contracts. *See* Minn. Stat. § 15.43, subd. 1.

4. Lobbyist Registration

Minnesota Statutes section 10A.03 requires lobbyists to register with the CFPDB. A lobbyist is defined by Minn. Stat. § 10A.01, subd. 21, and does not include state employees or "public officials." Therefore, in general, members and employees of state boards appearing before the Legislature in connection with board business are not considered lobbyists under the statute and need not register with the CFPDB. However, if a state board member appears before

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[8] Some exceptions to the gift prohibition include:

a. services to assist an official in the performance of official duties,
b. services of insignificant monetary value,
c. a plaque or similar memento recognizing individual services in a field of specialty or to a charitable cause,
d. a trinket or memento of insignificant value, or
e. informational material of unexceptional value.

the Legislature under other circumstances, registration as a lobbyist may be required by section 10A.03.

5. Use of State Time, Resources and Information

a. *Confidential Information*

Minnesota Statutes section 43A.38, subdivision 3 prohibits an executive branch employee from using confidential information to further the employee's private interest and from accepting outside employment or involvement in a business or activity that will require the employee to disclose or use confidential information.

b. *Property, Time and Supplies*

Section 43A.38, subdivision 4 prohibits a state employee from using or allowing the use of state time, supplies, property or equipment to be used for the employee's private interests or any other use not in the interest of the state, except as provided by law. This includes the use of state stationery, postage, telephones, WATTS lines, electronic mail, fax machines, and photocopying equipment. The fact that the non-state use does not increase the cost to the state is not an exception to the rule, nor is prompt reimbursement of any costs that may be inadvertently incurred.

One small exception to this general rule has been carved out regarding use of electronic communication (i.e., electronic mail). Executive branch employees may use state time, property or equipment to communicate electronically with other persons provided the use, including the value of the time spent, results in no incremental cost to the state or results in an incremental cost that is so small as to make accounting for it unreasonable or administratively impracticable.

6. Political Activity

The Fair Campaign Practices Act, Minn. Stat. § 211B.09, provides that an employee or official of the state may not use official authority or influence to compel a person to apply for membership in or become a member of a political organization, to pay or promise to pay a

political contribution, or to take part in political activity. Using an official position to influence political activity is also prohibited in Minn. Stat. § 43A.32, subd. 1.

7. Gubernatorial Appointees

Past governors have issued executive orders that establish a code of ethics for appointees of the governor. The past orders have strongly paralleled the code of ethics for executive branch employees in the areas of conflicts of interest, gifts, use of state time, resources and information, and political activity. In the past, some executive orders have contained stricter provisions.

The provisions discussed above establish ethical principles to preserve public confidence in the integrity of government officials. The intent is to eliminate any potential conflicts of interest, the appearance of impropriety, or influence in government. All board members are encouraged to be cognizant of these prohibitions. Questions about the Act's implications may be addressed to the board's general counsel.

E. The Equal Access To Justice Act

The Equal Access to Justice Act, Minn. Stat. § 15.471 *et seq.,* was enacted by the Legislature in 1986. The key provision of the Act is found at Minn. Stat. § 15.472(a), which states:

> If a prevailing party other than the state, in a civil action or contested case proceeding other than a tort action, brought by or against the state, shows that the position of the state was not substantially justified, the court or administrative law judge shall award fees and other expenses to the party unless special circumstances make an award unjust.

The term "party" in the above section is defined by statute to mean a person named or admitted as a party in a court action or contested case proceeding, who is a small business, including a partner, officer, shareholder member or owner. Minn. Stat. § 15.471, subd. 6. The term "state" is defined as "the State of Minnesota or an agency or official of the state acting in an official capacity." Minn. Stat. § 15.471, subd. 7. The term "fees" includes attorney fees not to exceed $125 per hour. Minn. Stat. § 15.471, subd. 5(c). The term "substantially justified" is defined as "the state's position had a reasonable basis in law and fact, based on the totality of the

circumstances before and during the litigation or contested case proceeding." Minn. Stat. § 15.471, subd. 8. The fact that a party prevailed on the merits in an action against the state does not automatically mean that the state's position was not "substantially justified." *Donovan Contracting v. Minnesota Dep't of Transportation,* 469 N.W.2d 718, 720-21 (Minn. Ct. App. 1991) (citing Minn. R. 1400.8401, subp. 3(A)(2)(c) (1989)).

There is some question whether this statute applies in licensing proceedings, since the law focuses on small businesses and a license is typically held in a person's individual capacity. However, licensees could argue that it does apply to them. Thus, if a complaint committee brings a disciplinary case and does not prevail, the licensee may bring an action under the Equal Access to Justice Act for costs and attorney fees. However, to succeed, the licensee must demonstrate that the complaint committee's position had no reasonable basis in law and fact and that the licensee is a "party" as defined in the Act.

The term "expenses" includes filing fees, subpoena fees and mileage, transcript costs and court reporter fees, expert witness fees, photocopying and printing costs, postage and delivery costs, and service of process fees. It also includes the reasonable cost of any "study, analysis, engineering report, test or project" incurred by a party in the litigation. Minn. Stat. § 15.471, subd. 4.

F. Tort Claims

A "tort" is a non-contractual civil wrong that is generally defined as the violation of a duty of care owed to a party which results in damage to property, personal injury, or death. The liability of board members for tortuous acts is controlled by Minn. Stat. § 3.732 *et seq.* Section 3.736, subdivision 1, provides as follows:

> The state will pay compensation for injury to or loss of property or personal injury or death caused by an act or omission of an employee of the state while acting within the scope of office or employment . . . and who is acting in good faith . . . under circumstances where the state, if a private person, would be liable to the claimant, whether arising out of a governmental or proprietary function. Nothing in this section waives the defense of judicial, quasi-judicial or legislative immunity except to the extent provided in subdivision 8.

For purposes of section 3.736, "state" is defined to include each of the departments, boards, agencies, commissions, courts, and officers in the executive, legislative, and judicial branches of the State of Minnesota. Minn. Stat. § 3.732, subd. 1(1). An "employee of the state" includes all present or former officers, members, directors, or employees of the state. Minn. Stat. § 3.732, subd. 1(2). However, rulings of personal liability against board members are rare.

Under the above definitions, state boards are the "state" and their members and employees are "employees of the state" for purposes of the Tort Claims Act.

1. Liability Under Minnesota Statutes and Common Law

a. Statutory exclusions from liability

The Tort Claims Act contains several exclusions so that boards and board members are immune from tort liability for several kinds of conduct. The following exclusions apply to the activities of state boards: good faith immunity; discretionary immunity; and (when applicable) licensing immunity. Minn. Stat. § 3.736, subd. 3.

i. Good faith immunity

Good faith immunity provides immunity for "a loss caused by an act or omission of a state employee exercising due care in the execution of a valid or invalid statute or rule." Minn. Stat. § 3.736, subd. 3(a). Good faith immunity applies when, as a matter of law, an employee of the state has a duty to act and does so exercising due care in the execution of that duty. *Johnson v. Dirkswager,* 315 N.W.2d 215, 223 (Minn. 1982).

ii. Statutory discretionary immunity

Statutory discretionary immunity provides immunity for "a loss caused by the performance or failure to perform a discretionary duty, whether or not the discretion is abused." Minn. Stat. § 3.736, subd. 3(b). The doctrine of statutory discretionary immunity recognizes that the courts, through the vehicle of a negligence action, are not an appropriate forum to review and second guess the acts of government which involve the exercise of judgment or discretion. *Cairl v. State,* 323 N.W.2d 20, 24 (Minn. 1982). In determining whether statutory discretionary

immunity will shield the state and its employees, the Minnesota Supreme Court has distinguished between "planning" and "operational" decisions. *Holmquist v. State,* 425 N.W.2d 230, 232 (Minn. 1988); *Hansen v. City of St. Paul,* 214 N.W.2d 346, 350 (Minn. 1974). "Decisions intended to be protected by discretionary immunity are those made upon the planning level of conduct." *Larson v. Ind. School Dist. No. 314, Braham,* 289 N.W.2d 112, 120 (Minn. 1979).

"Planning level decisions are those involving questions of public policy, that is, the evaluation of factors such as the financial, political, economic, and social effects of a given plan or policy.... Sometimes the implementation of a policy itself requires policy-making." *Holmquist v. State,* 425 N.W.2d 230, 232, 234 (Minn. 1988). In contrast, "operational level" decisions include scientific or professional decisions that do not involve balancing of policy with political, economic and social considerations. *Nusbaum v. Blue Earth County,* 422 N.W.2d 713, 720 (Minn. 1988).

In response to misconduct allegations, the Minnesota Court of Appeals stated:

> Determinations ... [of] ... appropriate action to take under these circumstances were necessarily beset with policy-making considerations. For example, management needed to consider the importance of maintaining a workplace free of sexual harassment and the importance of deterring future misconduct. But while considering these policies, management may also have weighed competing policies, such as avoiding unnecessary disruption of the workplace and imposing discipline for alleged harassment only upon the establishment of substantial cause, both for the sake of staff and for protection from expense associated with proceedings premised on a claim of wrongful discipline.
>
> ... [I]vestigation and disciplinary decisions involved the type of legislative or executive policy decisions that we believe must be protected by discretionary immunity. The center's decisions did not simply require the application of professional judgment to a given set of facts, but were necessarily entwined in a layer of policy-making that exceeded the mere application of rules to facts.

See Oslin v. State, 543 N.W.2d 408, 416 (Minn. Ct. App. 1996).

Statutory discretionary immunity does not apply to whistleblower claims against boards. *See Janklow v. Minn. Bd. of Exam'rs,* 552 N.W.2d 711, 716-718 (Minn. 1996) (holding that the Whistleblower Act operates as an implied waiver of the statutory immunity provision of Minn. Stat. § 3.736); *Carter v. Peace Officers Standards and Training Bd.,* 558 N.W.2d 267, 269

(Minn. Ct. App. 1997) (concluding that statutory immunity is not available to the Board as a defense to the Whistleblower Act).

iii. Licensing immunity

Licensing immunity provides immunity for "a loss based on the failure of a person to meet the standards needed for a license, permit, or other authorization issued by the state or its agents." Minn. Stat. § 3.736, subd. 3(k). The application of licensing immunity is not limited to actions taken with respect to the issuance of a license.

Minnesota Statutes section 3.736, subdivision 3(k) also immunizes the State and its employees against allegations arising from its licensing activities, including inspections, evaluations, supervision and related functions. *See Andrade v. Ellefson,* 391 N.W.2d 836, 837 (Minn. 1986) (county immune from liability for claims of negligent licensing, inspection and supervision) and *Gertken v. State,* 493 N.W.2d 290, 292-93 (Minn. Ct. App. 1992) (state immune from liability for claims of negligent advice related to licensing standards during licensing inspection). In short, immunity applies if the actions in question were directly related to the scope of the subject matter considered or involved in the issuance of the license. *Id.* at 292.

In addition to those immunities provided by the Tort Claims Act, a second source of statutory immunity provided by the Legislature to protect boards and their members is found in the individual practice acts of the boards. For example, Minn. Stat. § 147.121, subd. 2 provides immunity from civil liability and criminal prosecution for members of the Board of Medical Practice and employees and consultants retained by the board for actions taken relating to their duties under the practice act.

b. Common law exclusions from liability

In addition to statutorily afforded immunity for tort actions, board members are entitled to the application of certain common law immunities as a protection against claims of allegedly tortuous conduct. The most applicable of these immunities are discussed below.

i) Official immunity

The doctrine of official immunity protects from personal liability a public official charged by law with duties that call for the exercise of judgment or discretion unless the official is guilty of a willful or malicious wrong. *Elwood v. County of Rice,* 423 N.W.2d 671, 677 (Minn. 1988); *Rico v. State,* 472 N.W.2d 100, 106-07 (Minn. 1991). Although the discretionary immunity afforded under the Tort Claims Act and the common law doctrine of official immunity both protect discretionary acts, "discretion" has a broader meaning in the context of official immunity. "Official immunity involves the kind of discretion which is exercised on an operational rather than a policymaking level, and it requires something more than the performance of 'ministerial duties.'" *Pletan v. Gaines,* 494 N.W.2d 38, 40 (Minn. 1992).

Official immunity is not granted for ministerial duties. *Ireland v. Crow's Nest Yachts, Inc.,* 552 N.W.2d 269, 272 (Minn. Ct. App. 1996). Ministerial duties have been defined as duties "in which nothing is left to discretion . . . a simple, definite duty arising under and because of stated conditions and imposed by law." *Cook v. Trovatten,* 200 Minn. 221, 223, 274 N.W. 165, 167 (1937).

The discretionary immunity provided by the Tort Claims Act is designed primarily to protect the separation of powers by insulating executive and legislative policy decisions from judicial review through tort actions. Official immunity, however, is "intended to insure that the threat of potential personal liability does not unduly inhibit the exercise of discretion required by public officials in the discharge of their duties." *Holmquist v. State,* 425 N.W.2d 230, 233 n. 1 (Minn. 1988); *Rico,* 472 N.W.2d at 107. While official immunity ordinarily applies to the decisions of individuals, it was extended by the Minnesota Supreme Court to a policy adopted by a committee. *Anderson v. Anoka Hennepin Indep. School Dist.,* 678 N.W.2d 651 (Minn. 2004) (policy adopted by committee of shop leaders on use of table saws).

ii) Vicarious official immunity

The doctrine of official immunity can be extended to protect the government employer from liability for the acts of its employees. In this regard, the Minnesota Supreme Court has

recognized the doctrine of vicarious official immunity in order to avoid defeating the purpose of official immunity in cases where a claimant brings suit against the governmental employer based upon the alleged negligence of the government employee. *Pletan* 494 N.W.2d at 42. The decision of whether to extend official immunity to the government employer is a policy question. *Ireland,* 552 N.W.2d at 272. In determining whether official immunity should be extended to the government employer, "[t]he relevant inquiry is whether, if no immunity were granted, the public employee would think that his performance was being evaluated so as to 'chill' the exercise of his independent judgment." *Id.* (citing *Leonzal v. Grogan,* 516 N.W.2d 210, 214 (Minn. Ct. App. 1994)).

iii) Quasi-Judicial immunity

"[J]udicial immunity is an immunity from suit, not just from ultimate assessment of damages." *Mireles v. Waco,* 502 U.S. 9, 11, 112 S. Ct. 286, 288 (1991). The only two circumstances in which judicial immunity is unavailable are: (1) when a judge's action is not taken in the judge's judicial capacity; and (2) when a judge's action is taken in the complete absence of all jurisdiction. *Id.* But for these two narrow exceptions, judicial immunity completely protects a judge from suit based on judicial decision making.

Licensing boards act in a quasi-judicial capacity when making decisions involving the imposition of remedial sanctions against a licensee. When performing this function, there is a strong argument licensing boards and their members are entitled to quasi-judicial immunity. This immunity is the functional equivalent of judicial immunity and it would provide complete protection for a board and its members.

c. Punitive damages

As a general rule, punitive damages may not be assessed against a governmental entity in the absence of statutory authority. *See generally,* 1 American Law Reports 4th 448, 453. Under the Minnesota Tort Claims Act the state is immune from payment of punitive damages. Minnesota Statutes section 3.736, subdivision 3 specifically states: "The state will not pay punitive damages." The Attorney General's Office has argued in certain court cases that because

punitive damages are normally awarded to punish a guilty party for the benefit of society, recovery of punitive damages against the government would contravene public policy in that payment of said damages would be forced upon innocent taxpayers.

While it is clear that the state cannot be forced to pay punitive damages for tort claims, since there have been no court decisions on the point, it is less clear whether this prohibition applies to punitive damages awarded against individual employees. Arguably, the statutory prohibition of punitive damages against the state must also apply to state employees acting within the scope of their authority.

d. Liability limits

Minnesota Statutes section 3.736, subdivision 4 establishes that the total liability dollar cap of the state and its employees acting within the scope of their employment on any tort claim shall not exceed $500,000 per individual and $1,500,000 for any number of claims arising out of a single occurrence.

Although municipalities, counties, and school boards often purchase liability insurance to cover tort claims, the state generally does not. Pursuant to Minn. Stat. § 3.736, subd. 8, the purchase of insurance waives the state's liability limits under the Tort Claims Act "to the extent that valid and collectible insurance . . . exceeds those limits and covers the claim." *Id.*; *see also Pirkov-Middaugh v. Gillette Children's Hosp.*, 495 N.W.2d 608, 611 (Minn. 1993).

In 2003, the Legislature amended Minn. Stat. § 604.02, subd. 1 to eliminate joint and several liability for defendants found to be less than 50 percent at fault.

e. Indemnification

The Tort Claims Act requires the State of Minnesota to defend, save harmless, and indemnify any employee of the state against expenses, attorney's fees, judgments, fines, and amounts paid in settlement in connection with any tort, civil, or equitable claim or demand. Minn. Stat. § 3.736, subd. 9. Pursuant to this general rule, the State of Minnesota has agreed to indemnify state officials and employees provided that certain criteria are met. In summary, those conditions require that the officer or employee: (1) meet the definition of "employee of the

state," which includes board members; (2) has been acting within the scope of his or her employment; and (3) provide complete disclosure and cooperation in the defense of the claim or demand. Minn. Stat. § 3.736, subd. 9.

"'Scope of office or employment' means that the employee was acting on behalf of the state in the performance of duties or tasks lawfully assigned by competent authority. Minn. Stat. § 3.732, subd. 1(3). The definition of "scope of office or employment," however, limits the application of the statute to those acts of board members which constitute the lawful duties or tasks of the boards as set out in the boards' practice acts, chapter 214, the Administrative Procedure Act, and other statutes which give boards their authority.

The Tort Claims Act does not require the state to indemnify employees or officers in cases of malfeasance, willful or wanton actions, neglect of duty, nor for expenses, attorneys' fees, judgments, fines, and amounts paid in settlement of claims for proceedings brought by or before responsibility or ethics boards or committees.

Except for elected officials, an employee of the state is conclusively presumed to have been acting within the scope of employment if the employee's appointing authority issues a certificate to that effect. This determination may be overturned by the Attorney General. The final determination, however, of whether an employee of the state was acting within the scope of employment is a question of fact to be determined by the trier of fact, based on the circumstances of each case. Minn. Stat. § 3.736, subd. 9. If a state board is considering denying certification, the board should contact its Assistant Attorney General before taking any action for advice on whether denying certification is appropriate and what steps are required to provide sufficient due process.

Minnesota Statutes section 8.06 provides that the Attorney General is to be the attorney for all state boards. The Attorney General's Office generally provides the legal defense in most claims against state officials. Exceptions would be those claims not covered by the Tort Claims Act, such as claims for willful and wanton acts or malfeasance. In addition, the Attorney General also has broad discretionary powers to represent the interests of the state and state

officials. *See Slezak v. Ousdigian,* 260 Minn. 303, 110 N.W.2d 1, 5 (1961). The Attorney General has discretion to decide whether to represent state officials or employees. Occasionally, in instances of conflicts or when special expertise is needed, outside counsel is appointed. Minn. Stat. § 8.06.

If a party brings an action under section 3.736 against an employee of the state and obtains a judgment, the party is barred from bringing any action against that employee for the same conduct in any other proceeding. Minn. Stat. § 3.736, subd. 10.

G. Violations Of Federally Protected Rights (Section 1983 Actions)

1. What is a Section 1983 Action?

A federal statute, 42 U.S.C. § 1983, creates a right to sue for the deprivation of rights established by the United States Constitution or by federal statutes. Section 1983 establishes no substantive rights but merely creates the right to sue for a violation of rights established elsewhere. Potential defendants in a section 1983 suit are those persons who act "under color of any statute, ordinance, regulation, custom, or usage, of any State. . . ." Since board members act under color of state law, board members are potential defendants in section 1983 actions.

2. Defense, Indemnification, and Scope of Liability

The state has applied the indemnification and defense provisions of the Tort Claims Act to section 1983 actions. Accordingly, for the state to provide defense and indemnification, the act complained of must have been within the course of the defendant's employment. Further, as in an action based on a tort claim, the law is unclear as to whether the state indemnifies defendants in section 1983 actions for punitive damages. Accordingly, a board member sued for punitive damages should get legal advice about defense and indemnification. Unlike tort claims, there is no cap on money damages in a section 1983 lawsuit because the liability limits in the Tort Claims Act are preempted by federal law. In addition, pursuant to 42 U.S.C. § 1988, a prevailing plaintiff in a section 1983 action is entitled to reimbursement of reasonable costs and

attorneys' fees. An attorneys' fees award is also not subject to the liability limits of the Tort Claims Act.

3. Board Member Immunity

Both judicial and legislative immunity are available defenses to a section 1983 suit. A disciplinary proceeding is a quasi-judicial process. Quasi-judicial immunity applies to those who exercise quasi-judicial authority and to persons integral to the judicial process who must perform their functions without the chilling effect of potential lawsuits. Actions that are legislative in nature, such as rulemaking, are considered quasi-legislative. When state employees are performing quasi-judicial or quasi-legislative functions they are entitled to absolute immunity.

Qualified immunity is a more limited kind of immunity granted for administrative and investigative acts. Qualified immunity is available in a section 1983 action if the state official did not violate any clearly established statutory or constitutional right which a reasonable person should have known. *Johnson v. Morris,* 453 N.W.2d 31, 38-39 (Minn. 1990).

The question of law in section 1983 suits against board members is whether they are analogous to judges and prosecutors and thus possess absolute immunity. If board members are viewed as analogous to administrators or investigators, they will only have qualified immunity. The difference between these two types of immunities is that absolute immunity defeats a lawsuit at the outset without the necessity of arguing the substance of the claims. Qualified immunity, on the other hand, does not avoid a review of the merits of a particular claim, but may ultimately be a defense to the imposition of liability on an official.

Even if a board member is entitled to absolute immunity, that immunity extends only to money damages. A party who believes that a federally-protected right is being, or is about to be, violated may sue for prospective injunctive relief. An example of such relief would be a lawsuit in which the plaintiff asks that the court declare a rule of the board invalid because it violates the U.S. Constitution.

The United States Supreme Court has held that when a plaintiff prevails in a section 1983 suit for prospective declaratory relief, judicial immunity does not bar an award of attorney's fees

under 42 U.S.C. § 1988 against a judicial officer. *Pulliam v. Allen,* 466 U.S. 522, 104 S. Ct. 1970, 1981-82 (1984).[9] Therefore, if a plaintiff obtains injunctive or declaratory relief against a board or a board member, the board or board member could be liable for an award of costs and reasonable attorney's fees. However, Minn. Stat. § 3.736, subd. 9 provides for indemnification of a board member or employee from any personal liability for the award for any act within the scope of the board member's or employee's duties.

4. Insurance Against Section 1983 Liability

Some local government entities, such as municipalities, counties, and school boards, purchase special insurance policies to cover liability for section 1983 actions. The state, however, has remained either uninsured or self-insured. The Department of Administration, Risk Management Division, is a resource for state boards to contact about insurance questions. The Risk Management Division can make recommendations to a state board about appropriate insurance coverage based on the board's specific needs and obtain insurance quotes for a board before insurance is purchased.

[9] On October 19, 1996 Congress enacted the Federal Courts Improvement Act of 1996 ("FCIA"), Pub. L. No. 104-317, which purported to legislatively reverse the *Pulliam* decision. Section 309 of the FCIA appears to bar awards of costs or attorney's fees against judges in cases based on their judicial acts. It also appears to bar actions for injunctive relief against a judicial officer.

VIII. OTHER POTENTIAL BASES FOR BOARD LIABILITY

A. Antitrust Actions

Antitrust actions against state boards generally arise in one of two ways. First, a government enforcement agency (Department of Justice, Federal Trade Commission or state Attorney General) may bring a complaint against a board if the statutes or rules under which the board acts constitute an unreasonable restraint on competition. Second, an individual injured by board action may bring an action against the board claiming a rule as applied to him or her violates the state or federal antitrust laws.

B. Defamation

1. Elements of a Defamation Claim

For a statement to be considered defamatory "it must be communicated to someone other than the plaintiff, it must be false, and it must tend to harm the plaintiff's reputation and to lower him in the estimation of the community." *Stuempges v. Parke Davis & Co.*, 297 N.W.2d 252, 255 (Minn. 1980); Restatement (Second) of Torts §§ 558-559.

Based on this definition of a defamatory communication, the following are the common law elements of a defamation claim:

1. The statement must be defamatory.
2. The statement must be false.
3. The statement must refer to the plaintiff.
4. The statement must be published.

2. Defenses to a Defamation Claim

The two defenses to a claim of defamation are truth and privilege. Truth is an absolute defense to a defamation claim. A defense based on privilege may be applicable when a state board is the defendant in a defamation action. If an absolute privilege applies, immunity is given even for intentionally false statements made with malice. *Matthis v. Kennedy,* 243 Minn. 219, 67 N.W.2d 413, 416 (1954).

3. Immunities

Not all immunities apply to defamation claims. In *Johnson v. Dirkswager,* 315 N.W.2d 215, 223 (Minn. 1982), the Minnesota Supreme Court held that Minn. Stat. § 3.736, subd. 3(a) (good faith immunity) immunized the State and its employees from defamation claims. In *Bird v. Dep't of Pub. Safety,* 375 N.W.2d 36, 41 (Minn. Ct. App. 1985), the Minnesota Court of Appeals held that Minn. Stat. § 3.736, subd. 3(b) (discretionary immunity) does not apply to defamation cases. In *Bauer v. State,* 511 N.W.2d 447, 448 (Minn. 1994), the Minnesota Supreme Court held that official immunity does not apply to a defamation action against public officials.

4. Opinions

The Supreme Court has made clear that not all opinions are protected under the First Amendment. *Milkovich v. Lorain Journal Co.,* 497 U.S. 1, 18-21, 110 S. Ct. 2695, 2705-07 (1990). Only statements about matters of public concern not capable of being proven true or false and statements that cannot be interpreted reasonably as stating facts are protected from defamation actions under the First Amendment. *Id.; see also Geraci v. Eckankar,* 526 N.W.2d 391, 397 (Minn. Ct. App. 1995).

5. Qualified Privilege

Qualified privilege protects the state and its employees from liability for allegedly defamatory statements on matters that are related to their duties as public officials. *See Bird,* 375 N.W.2d at 41. Qualified privilege also exists for all defendants if the defendant establishes that the allegedly defamatory statement was made on a proper occasion, for a proper purpose, and upon reasonable grounds for believing the truth of the statement. *Stuempges,* 297 N.W.2d at 256-57.

6. Absolute Privileges

a. Publications required by law

Public officials and public bodies, such as state boards, have an absolute privilege to publish defamatory matter when required by law to do so. This rule is set forth in the Restatement (Second) of Torts § 592A as follows: "One who is required by law to publish defamatory matter is absolutely privileged to publish it." Because some boards' practice acts require publication of all disciplinary measures taken by the board, those boards and their members have an absolute privilege against a defamation claim based on the contents of the published disciplinary action. *See, e.g.,* Minn. Stat. § 147.02, subd. 6; *LeBaron v. Minn. Bd. of Pub. Def.,* 499 N.W.2d 39 (Minn. Ct. App. 1993) (statement in letter by district public defender to Board of Public Defense regarding the reasons for termination of an employee were absolutely privileged because Minn. Stat. §§ 611.26 and 611.215 require the district public defenders to report to the State Board of Public Defense regarding the standards of competency of public defenders). In addition, Minn. Stat. § 13.41, subd. 4, classifies a licensing board's final disciplinary action as public data, thereby requiring a board to disclose its final decision as public data. The absolute privilege extends to a board and its members for disclosing public data.

b. Judicial and quasi-judicial proceedings

There is an absolute privilege for communications made in a judicial or quasi-judicial proceeding. *See Matthis v. Kennedy,* 243 Minn. 219, 224, 67 N.W.2d 413, 417 (1954). In *Freier v. Ind. Sch. Dist. No. 197,* 356 N.W.2d 724 (Minn. Ct. App. 1984), a school board and its members were not liable for defaming a teacher when they published a termination decision which was subsequently reversed on appeal. The court reasoned that teacher discharge proceedings were quasi-judicial proceedings and communications incidental to judicial proceedings are absolutely privileged, whether or not they are defamatory. *Freier,* 356 N.W.2d at 728-29. From this case it appears to follow that a state board will not be held liable for

defamation for disclosing the results of a disciplinary action. However, as discussed earlier, the Data Practices Act or the board's practice act may prohibit disclosure of certain information.

c. Legislative proceedings

There is an absolute privilege for all statements made during the course of legislative proceedings stemming from the speech and debate clause of the Minnesota Constitution, Article IV, section 10. *See Carradine v. State,* 511 N.W.2d 733, 734-35 (Minn. 1994).

C. Violations of the Minnesota Governmental Data Practices Act

The Minnesota Governmental Data Practices Act ("MGDPA"), Minn. Stat. ch. 13, has become an increasing source of litigation in recent years. The Act governs nearly every aspect of a government entity's collection, creation, storage, maintenance, or dissemination of information and provides for the recovery of civil damages, punitive damages, and attorneys' fees for violations. Minn. Stat. § 13.08, subd. 1. The MGDPA specifically waives the state's immunity from liability and government entities have been held liable for releasing or refusing to release information. *See, e.g., Navarre v. S. Washington County Schs.,* 652 N.W.2d 9 (Minn. 2002) ($520,000 jury award for loss of reputation and emotional distress after information released about complaints concerning teacher's competency); *Wiegel v. City of St. Paul,* 639 N.W.2d 378 (Minn. 2002) (city liable for attorneys' fees for failing to disclose interviewers' notes about applicants who failed civil service exams).

A government entity may request an advisory opinion from the Commissioner of the Department of Administration concerning the application of the MGDPA. Minn. Stat. § 13.072, subd. 1. A court may award attorneys' fees to a prevailing party if the government entity failed to act in conformance with an opinion issued by the Commissioner. Minn. Stat. § 13.08, subd. 4(c).

With some exceptions, the MGDPA classifies most data held by the government as public data. *See* Minn. Stat. § 13.03, subd. 1. The MGDPA provides that, upon request, a government entity must provide access to public data at a reasonable time and place. Minn. Stat. § 13.03, subd. 3(a). A request by a person who is the subject of the information must be honored immediately, or within ten days of the date of the request if immediate compliance is not possible. Minn. Stat. § 13.04, subd. 3.

Particular attention should be paid to the treatment of personnel data. Certain types of personnel data are public -- e.g., name, salary, job title, education, etc. Minn. Stat. § 13.43, subds. 1 and 2, although this data is private with respect to employees of contractors or subcontractors as the result of a contractual relationship between a government entity and a contractor or subcontractor entered into on or after August 1, 2012. Minn. Stat. § 13.43, subd. 19. Most other types of personnel data are private, including the specific reasons and data documenting the basis for a complaint or charge about an employee (or applicant) until there has been a "final disposition of any disciplinary action." Minn. Stat. §§ 13.43, subd. 2(a)(5); subd. 4, 13.601, subd. 3. During such an investigation, the MGDPA "only authorizes the disclosure of the existence and status of complaints *and nothing more*. The type of complaint is separate and distinct from its existence and status." *Navarre,* 652 N.W.2d at 22 (emphasis added).

IX. CONTRACTING

Although most state contracting laws are contained in Minn. Stat. ch. 16C, there are numerous other statutorily required contract clauses scattered throughout the statutes that must be included in specific contracts. Every state agency must contract in accordance with the state procurement statutes. For purposes of chapter 16C, an agency means any state officer, employee, board, commission, authority, department, entity, or organization of the executive branch of state government. While there are a few specific state organizations such as public corporations that are exempt from the requirements of chapter 16C, most state boards are subject to the requirements.

A. WHO IS RESPONSIBLE FOR WHAT

Minnesota Statutes divide the responsibility for contracting for services primarily with the agency head requesting the contract and the Commissioner of Administration.

1. Agency Head

Unless altered by statute, the agency head has the responsibility to:

1. Identify the need and specifications for a contract and determine who the contractor will be;

2. Draft the contract;

3. Encumber the funds in the Statewide Integrated Financial Tools (SWIFT) before the contract can be valid. Minn. Stat. §§ 16C.05, subd. 2(a)(3) and 16C.08, subd. 2(b)(5); and

4. Ensure that the terms and conditions of the contract and state law are met, that all funds expended under the contract are expended in accordance with the contract and state law, and that the results of the contract (the product delivered or the service provided) meet all the requirements of the contract.

If the contract is for professional or technical services valued in excess of $5,000, the agency head must provide information and certify to the Commissioner of Administration that a specific set of circumstances exist or have been met before the contract will be valid. Minn. Stat.

§ 16C.08, subd. 2. These certifications are listed below in section B.1 "Contracts for Professional or Technical Services."

2. Commissioner of Administration

The Commissioner of Administration approves or disapproves the decision of a state agency to contract for goods or services and its selection of a contractor. Minn. Stat. §§ 15.061, 16C.05, subd. 2(a)(2), and 16C.08, subd. 3. The Department of Administration must sign all certifications for contracts valued over $5,000 (calculated over the entire life of the contract, including any potential extensions).

3. Attorney General

The Attorney General's Office is not required to review state contracts for form and execution. Minn. Stat. § 16C.05, subd. 2(2). Even though the Attorney General's Office is not legally required to execute contracts for form and execution, the Attorney General's Office will provide legal advice to agencies when requested on contract issues. Upon request, the Attorney General's Office will review revisions to State form contracts and review vendor prepared contracts such as software license agreements and rental agreements in order that those contracts be consistent with State laws.

B. TYPES OF CONTRACTS

1. Contracts For Professional or Technical Services

"Professional or technical services" means services that are intellectual in character, including consultation, analysis, evaluation, prediction, planning, programming, or recommendation, and result in the production of a report or the completion of a task. Professional or technical contracts do not include the provision of supplies or materials except by the approval of the Commissioner of Administration or except as incidental to the provision of professional or technical services. Minn. Stat. § 16C.08.

For all professional or technical services contracts, the Commissioner of Administration must be able to determine that, among other things:

1. The contract will not establish an employment relationship between the state or the agency and any persons performing under the contract;

2. The contractor and agents are not employees of the state;

3. The contracting agency has specified a satisfactory method of evaluating and using the results of the work to be performed; and

4. The term of the contract does not exceed two years. No state contract can have a term longer than two years unless the Commissioner of Administration determines that a longer duration is in the best interest of the state, but in no event may the term of the contract, including any potential amendments, exceed five years unless otherwise provided for by law.

Two statutorily required provisions that must be included in all contracts for professional or technical services are:

1. A professional or technical services contract must by its terms permit the Commissioner of Administration to unilaterally terminate the contract prior to completion with or without cause, upon payment of just compensation. The statute does not specify the length of notice required to invoke the cancellation clause and does not prohibit the agency/board from also having the power to unilaterally terminate the contract prior to completion with or without cause, upon payment of just compensation. It is in the agency/board's discretion whether to allow the contractor to terminate the contract prior to completion of the contract.

2. The terms of a professional or technical services contract must provide that 10% of the amount due under the contract be retained by the state agency/board until it certifies to the Commissioner of Administration that the contractor has satisfactorily fulfilled the terms of the contract, unless specifically excluded in writing by the Commissioner of Administration.[10]

For professional or technical services contracts with a value under $5,000, no advertised solicitation is required. The state agency may choose a contractor, draft the contract, and encumber funds. When the agency is satisfied with the contract language, the contractor and the

[10] Minnesota Statutes section 16C.08, subdivision 5(b) also provides that the 10% retainage requirement does not apply to contracts for professional services as defined in Minn. Stat. §§ 326.02 to 326.15, regarding the regulation of architects, engineers, surveyors, landscape architects, geoscientists, and interior designers.

agency head or a designee sign the agreement and send it to the Department of Administration for external review.

For professional or technical services contracts with a value over $5,000, the agency must complete a Contract Certification Form and obtain the Commissioner of Administration's approval before sending out a Request for Proposals, either informal ($5,000 - $50,000) or formal (over $50,000). Informal Requests for Proposals for technical professional services from $5,001 to $50,000 may be published in the State Register or posted on the Department of Administration Material Management Web page, but the responses are not required to be sealed like responses to formal Requests for Proposals. *See* Minn. Stat. § 16C.06, subd. 1.

When submitting this certification form, the agency is making, among other things, the following assurances in addition to the determinations listed above:

1. No current state employee is able and available to perform the services called for by the contract;

2. The normal competitive bidding mechanisms (best value) will not provide for adequate performance of the services;

3. Reasonable efforts were made to publicize the availability of the contract to the public;

4. The agency will develop, and fully intends to implement a written plan for the assignment of specific agency personnel to manage the contract, including a monitoring and providing liaison, periodically reviewing interim reports or other performance indicators, and reviewing ultimate use of the final product of the services; and

5. The agency will not allow the contractor to begin work before the contract is fully executed unless an exception under Minn. Stat. § 16C.05, subd. 29, has been granted by the Commissioner of Administration and funds are fully encumbered and the contract is fully executed.

6. The contract will not establish an employment relationship between the state or the agency and any persons performing under the contract.

7. In the event the results of the contract work will be carried out or continued by state employees upon completion of the contract, the contractor is required to include state employees in development and training, to the extent necessary to

ensure that after completion of the contract, state employees can perform any ongoing work related to the same function; and

8. The agency will not contract out its previously eliminated jobs for four years without first considered the same former employees who are on the seniority unit layoff list who meet the minimum qualifications determined by the agency.

Minn. Stat. § 16C.08, subd. 2(b)(1)-(8).

2. Contracts for Goods or Non-Professional or Technical Services Contracts

The Materials Management Division of the Department of Administration offers procurement training programs during the year to state personnel. The training covers purchasing policies and procedures. If you are interested in any of the classes, please go to the Materials Management Division's website at *http://www.mmd.admin.state.mn.us/.*

3. Grants or Loans

Grants and loans are a class of contracts which provide funding to an outside entity to provide services or support to a third party who is not employed by the state. State agencies do not have general or automatic grant or loan making authority. The authority for grants and loans must be specifically stated in the statutes and is generally directly related to the appropriations that fund them. The Office of Grants Management, a division of the Department of Administration, provides guidance to state agencies and boards regarding the administration and management of state grants. The Office of Grants Management's website is *www.admin.state.mn.us/ogm.html.*

4. Interagency Agreements/Joint Powers Agreements

Agreements with other governmental units are contracts. They may be for services, grants, or loans, but they should be treated like contracts. The authority of state agencies to enter into agreements with other state agencies is, in most cases, not clearly defined. In fact, most state agencies do not have specific authority, instead their authority is defined in the Joint Powers Act which gives governmental units broad authority to enter into agreements with each other. Minn. Stat. § 471.59. "Governmental unit" is defined as "every city, county, town, school

district, independent nonprofit firefighting corporation, other political subdivision of this or another state, another state, and any agency of the state of Minnesota or the United States, University of Minnesota, nonprofit hospitals licensed under Minn. Stat. §§ 144.50 to 144.56, rehabilitation facilities and extended employment providers that are certified by the commissioner of employment and economic development, day training and habilitation services licensed under Minn. Stat. §§ 245B.01 to 245B.08, and includes any instrumentality of a governmental unit." Interagency agreements are between two or more state agencies, while joint powers agreements are between two or more governmental units. Under the Joint Powers Act, the governing body of any governmental unit may enter into agreements with any other governmental unit to perform on behalf of that unit any service or function which the governmental unit providing the service or function is authorized to provide for itself. A governmental unit participating in a joint enterprise or cooperative activity with another governmental unit will not be liable for the acts or omissions of the other governmental unit unless it has agreed in writing to be responsible for them. Minn. Stat. § 471.59, subd. 1a.

C. Basic Elements Of A State Contract

State agencies are encouraged to use state approved contract forms when possible. The forms contain required statutory language and other contract terms which are generally in the state's best interests. The Department of Administration's publication *Contracts Manual, Including Professional/Technical Services Contracts* is a helpful resource. For sample contract forms, refer generally to the Department of Administration's website at *http/www.mmd.admin.state.mn.us/mn05000.htm*. Since these forms are generic, there are situations where additional clauses may be necessary. The *Contracts Manual* is helpful for identifying these special situations. Some specific contracting considerations follow.

1. Authority

The state agency must have the statutory authority to enter into the particular contract. The contractor is presumed to have authority to enter into the contract unless it is another public agency.

2. Solicitation Process

Minnesota Statutes sections 16C.06, 16C.08, 16C.09, 16C.095, and 16C.10 govern the requirements for competitive solicitation. Refer to the Department of Administration's publication *Contracts Manual, Including Professional/Technical Services Contracts* for further assistance on requirements for advertising, consideration, and award.

3. Encumbrance of Funds

The state cannot agree to an expense unless the money has been encumbered. "Encumbered" means that the source of the funds to pay the expense have been identified and that the funds will be available when the payment is due. Generally, this also means that the state cannot agree to pay reasonable court costs, attorney's fees, penalties, economic harm caused to contractor, etc., or indemnify. *See* Minn. Const. art. XI, § 1.

4. Non-Appropriations Clause

Contracts that extend beyond the appropriations period should contain language addressing the possibility of non-appropriations. The following statement is recommended: "Continuation of this Agreement beyond June 30 of any year is contingent upon continued legislative appropriation of funds for the purpose of this Agreement. If these funds are not appropriated, the State will immediately notify Contractor in writing and the Agreement will terminate on June 30 of that year. State shall not be assessed any penalty if the agreement is terminated because of the decision of the legislature not to appropriate funds." An agency may only agree to pay a penalty under specified circumstances if the agency first encumbers the money to pay the potential penalty.

5. Advance Payment

Minnesota Statutes section 16A.41, subdivision 1 prohibits a state agency from obligating the state to pay in advance for goods or services. Pursuant to Minn. Stat. § 16A.065, the only advance payments that can be made are for software or software maintenance services, for state-owned or leased computer equipment, sole source maintenance agreements, exhibit booth space or boat slip rental, subscription fees for newspapers and magazines. Prepayments can also be made to the Library of Congress and the Federal Supervisor of Documents.

6. Audit Clause

Minnesota Statutes section 16C.05, subdivision 5 requires the state audit clause to be in all state contracts even when the state is not receiving money. The only exception is when the state is selling, leasing or licensing its own software or data to a purchaser.

7. Data Practices Act

If the contractor will have access to the agency's private and confidential data, the contract must address the contractor's responsibility for handling such data in accordance with the agency's responsibilities under the Minnesota Data Practices Act. The agency cannot agree to keep the contractor's data confidential except in accordance with the Data Practices Act. *See* Minn. Stat. ch. 13.

8. Term

No contract of any type shall exceed two years unless the Commissioner of Administration determines that a longer duration is in the best interests of the state. No contract and any amendments to the contract shall have a combined term longer than five years without specific approval of the Commissioner of Administration pursuant to written standards or unless otherwise provided by law. The term of a contract may be extended for a time longer than the time specified in Minn. Stat. ch. 16C, up to a total term of ten years, if the Commissioner of Administration, in consultation with the Commissioner of Minnesota Management Budget, determines that the contractor will incur upfront costs under the contract that cannot be recovered

within a two-year period and that will provide cost savings to the state and that these costs will be amortized over the life of the contract. Minn. Stat. §§ 16C.03, subd. 17, 16C.05, subd. 5, and 16C.09.

9. Intellectual Property Rights

If the contract is for services that will produce intellectual property, the contract should contain language protecting the intellectual property rights. Pursuant to Minn. Stat. § 16B.483, before executing a contractor or license agreement involving intellectual property developed or acquired by the state, a state agency shall seek comment from the Attorney General on the terms and conditions of the contract or agreement.

10. Affirmative Action

For all contracts for goods and services in excess of $100,000 it may be necessary for the contractor to have a certificate of compliance with Minnesota human rights laws or to certify its compliance with federal affirmative actions laws. The agency cannot accept a bid or proposal in excess of $100,000 if the contractor has more than 40 employees in Minnesota and the Commissioner of Human Rights is not in receipt of the contractor's business affirmative action plan. *See* Minn. Stat. § 363A.36, subd. 2.

11. Execution

The state has developed the following routing procedure for examination and execution of contracts: 1) Other party (e.g., contractor, consultant, etc.); 2) State agency (entering into the contract and also encumbering the funds for the contract); and 3) Department of Administration (comprehensive scope, substance and fiscal review - not grants or interagency agreements). Minn. Stat. § 16C.05, subd. 2.

If a subordinate member or agency employee signs the contract, he or she must be lawfully delegated the authority to do so. *See* Minn. Stat. §§ 15.06, subd. 6 and 16C.05, subd. 2(a)(1). The Secretary of State maintains a complete list of state personnel legally

authorized to enter into certain agreements for their respective state agencies.[11] For contractors that are corporations, at least one corporate officer must sign the contract. Two corporate officer signatures are preferable. If persons other than corporate officers have signed, you must obtain a corporate board resolution authorizing the subject signatures must be obtained.

12. Amendments

An amendment to a prior agreement must be in writing and it must clearly reference the prior agreement. The amendment is subject to the same signature process as the original contract.

D. Data Practices Act

Minnesota Statutes section 13.05, subdivision 11 provides that when a government entity enters into contracts with private persons to perform any of the entity's functions, the contract must include terms that make clear that data created, collected, received, stored, used, maintained, or disseminated by the private persons in performing those functions is subject to the requirements in chapter 13 and that the private persons must comply with those requirements as if they were a government entity. However, the private persons do not have a duty to provide access to public data to the public if the public data are available from the government entity, except as required by the terms of the contract. *See* Minn. Stat. § 13.05, subd. 11.

Minnesota Statutes section 13.591, subdivision 3 governs the classification of data submitted by a business to a government entity in response for bids or requests for proposals. The classification of such data may change at various points during the procurement process.

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[11] The statutes for certain boards require contracts to be approved by a majority of the members of the board and executed by the chair and the executive director. *See, e.g.,* Minn. Stat. § 3.922, subd. 5 (Indian Affairs Council); Minn. Stat. § 3.9223, subd. 5 (Council on Affairs of Chicano/Latino People); Minn. Stat. § 3.9225, subd. 5 (Council on Black Minnesotans); and Minn. Stat. § 3.9226, subd. 5(a) (Council on Asian-Pacific Minnesotans).

X. COMPENSATION OF BOARD MEMBERS AND ADVISORY COUNCILS AND COMMITTEES

In general, board members and members of advisory councils and committees are compensated by a per diem set at the rate of $55 for each day spent on board activities, when authorized by the board, plus expenses in the manner and amount as authorized by the Commissioner's Plan. Minn. Stat. §§ 15.0575, subd 3; 15.059, subd. 3; and 214.09, subd. 3.

Key language in the above sections indicates that expenses and per diems can only be paid when authorized by a board, council or committee. However, the board, council or committee may authorize per diems and expenses in various ways so that the work can be accomplished without having to authorize every single request for a per diem or expense. For example, a board may delegate to the executive director and/or the president of the board the authority to approve per diems for board members engaged in disciplinary work or rulemaking. Such a delegation may include establishing a minimum number of hours, such as five or six, which must be accumulated before a per diem can be claimed. The executive director and/or president may also be authorized to set the maximum number of per diems that can be claimed for a single project, such as the review of a contested case record prior to a hearing before the board. Most boards, councils and committees, however, reserve the authority to approve per diems and expenses for members traveling to and from conferences and conventions.

In general, a board, council or commission member who is also an employee of the state or a political subdivision of the state may not be compensated by both the board and the employer for time spent on board activities. The statutes discussed below are intended to prevent "double dipping." The statutes are very clear, however, that a state or political subdivision employee shall suffer no loss in compensation or benefits as a result of service on a board, council or commission and shall receive expenses unless the expenses are reimbursed from another source. Generally, child care expenses may only be reimbursed for state and political subdivision employees for time spent on board activities that are outside normal working hours.

Minnesota Statutes Section 15.0575, 15.059 or 214.09

A state or political subdivision employee who is also a member of an administrative board, agency, committee, council, or commission governed by Minn. Stat. §§ 15.0575, subds. 3, 15.059 or 214.09, may not receive the daily payment for activities that occur during working hours for which the person is compensated by the state or political subdivision. However, a state or political subdivision employee may receive a daily payment if the employee uses vacation time for board, agency, committee, council, or commission activities. Each board, agency, committee, council, or commission must adopt internal standards prescribing what constitutes a day spent on official activities for purposes of paying per diem. Those standards may be incorporated in a delegation of authority to the executive director or president to approve daily payments.

Minnesota Statutes Section 129D.02

Specific language independent from the above statutes applies to the State Arts Board. Pursuant to Minn. Stat. § 129D.02, subd. 3, members of the Arts Board are compensated at the rate of $35 per day spent on board activities and are reimbursed for expenses in the same manner and amount as state employees. Members who are also employees of the state or its political subdivisions are not entitled to a per diem.

It is important that state and political subdivision employees understand the specific statute that applies to their board, council or commission when determining whether they are entitled to receive a per diem from the board, council or committee.

It is not always clear whether someone is a full-time state *employee* or *employee* of a political subdivision. For instance, it is sometimes difficult to categorize elected officials. There have been no cases under the four statutes as to whether there is a difference between employees and officers, but a difference between public officials and employees has been recognized in other contexts. It has been held that a public officer or official is distinguished from a public employee in the greater "importance, dignity and independence" of the official's position. *Tillquist v. Dept. of Labor and Indus.,* 216 Minn. 202, 12 N.W.2d 512, 514 (1943). In *Cahill v.*

Beltrami County, 224 Minn. 564, 29 N.W.2d 444 (1947), the court concluded that an elected sheriff was a public officer and as such, rules governing contractual relations in ordinary cases were inapplicable. Certain statutes contain references to employees and to officers or public officials. *See, e.g.,* Minn. Stat. § 15.054. On the other hand, it can sometimes be argued that an elected official is paid about the equivalent amount of money as a full-time salary for some employee positions. Thus, it could be argued that the spirit of the law would preclude payment to a public official. *See, e.g., Jerome v. Burns,* 202 Minn. 485, 279 N.W. 237 (1938) (city clerk not entitled to additional compensation for services rendered as city commissioner of registration). Anyone with questions regarding whether a member is a state or political subdivision employee, should contact the assistant attorney general assigned to the board.

At times an executive director must contact a board member with a question about a request for a per diem or expense reimbursement. When that happens, two things should be kept in mind. First, the executive director is in the uncomfortable position of asking his or her "boss" to explain himself or herself. Second, board member compensation is thoroughly scrutinized by the legislative auditors. The executive director's questions protect the board and its members from embarrassment by clearing up these matters in advance of an audit.

Upcoming Annual Meetings

- MASWCD Annual Meeting, December 1-3, 2013, Bloomington
- MAWD Annual Meeting, December 5-7, 2013, Alexandria
- AMC Annual Meeting, December 9-11, 2013, Minneapolis

MASWCD
Minnesota Association of Soil and Water Conservation Districts

MASWCD 77th ANNUAL MEETING & 23rd ANNUAL TRADE SHOW

DECEMBER 1-3, 2013
DoubleTree Hotel Bloomington - Minneapolis South - Bloomington, MN

------ MASWCD Annual Convention at a Glance ------

SUNDAY, DECEMBER 1, 2013

2:30 - 4:30 pm	SWCD Governance 101 Workshop (*topic to be determined*)
5:00 - 7:00 pm	Registration Open
7:30 - 9:30 pm	Convention Kickoff Social

MONDAY, DECEMBER 2, 2013

7:00 - 8:15 am	Continental Breakfast (*see registration form - there is a fee for this item*)
7:00 am	Registration Opens
8:30 am - 4:30 pm	Trade Show Open
8:30 - 9:00 am	Business Meeting
9:00 - 10:00 am	Keynote: Tom Christianson, USDA NRCS - Conservation Effectiveness Assessments
10:00 - 10:30 am	Refreshment Break in the Trade Show
10:30 - 11:30 am	Panel Discussion - The MPCA Nitrate Report, What it Means for SWCDs, and Next Steps
11:45 am - 1:45 pm	Awards Luncheon (*see registration form - there is a fee for this item*)
1:45 - 2:30 pm	Refreshment Break in the Trade Show
2:30 - 3:30 pm	Concurrent Sessions o Responding to Elevated Nitrates in Groundwater- the Nitrogen Fertilizer Management Plan o Positive outcomes from SWCDs and partners managing water on a watershed basis - case studies of current efforts, and SWCD role forward with "one watershed - one plan" initiative o Status of the Ag Water Quality Certification Program (pilot watersheds), and next steps o Creating a Culture of Civility
3:30 - 4:00 pm	Refreshment Break in the Trade Show
4:00 - 5:00 pm	Concurrent Sessions o The Watershed Nitrogen Reduction Planning Tool o SWCD role in MPCA's Watershed Restoration and Protection Strategies (WRAPS) o Soil Health Campaign and the role of Cover Crops o Importance of an SWCD's Data Practices Policy
5:30 - 7:00 pm	Dinner and Entertainment (*see registration form - there is a fee for this item*)
7:00 - 8:30 pm	Silent Auction for Conservation
7:30 - ??? pm	Live Auction for Conservation

TUESDAY, DECEMBER 3, 2013

7:30 - 8:15 am	Continental Breakfast (*see registration form - there is a fee for this item*)
7:30 am	Registration Opens
8:30 - 10:00 am	Outstanding Conservationist Program: National Eagle Center out of Wabasha MN
8:30 - 10:00 am	Business Meeting
8:30 - 10:00 am	Employee Sessions ▪ Root River Field to Stream Partnership ▪ Minimal Impact Design Standards - information and tools for SWCD technicians ▪ MNsure and implications for SWCD health care options
10:00 - 10:30 am	Refreshment Break
10:00 - 11:45 am	Outstanding Conservationists Photos
10:30 - noon	Business Meeting (*continued*)
10:30 - noon	Employee Sessions ▪ Joint Powers Agreements: Tool for SWCD / MDA water quality project partnerships ▪ Tree Planting Guidelines for the Prairie Region ▪ SWCD Audits and Pay Equity
12:15 - 2:15 pm	Outstanding Conservationist Luncheon and Awards, Closing Comments (*see registration form - there is a fee for this item*)

Minnesota Association of Soil and Water Conservation Districts
255 Kellogg Boulevard East, Suite 101, St. Paul, MN 55101 | Phone (651) 690-9028 | Fax (651) 690-9065 | www.maswcd.org

DoubleTree by Hilton Bloomington – Minneapolis

Minneapolis, Minnesota
November 30, 2013 - December 3, 2013

1. Select Room 2. Guest Details 3. Payment Details 4. Review

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Check-In: 12/01/2013
mm/dd/yyyy

Check-Out: 12/03/2013
mm/dd/yyyy

Rooms: 01
Multiple Rooms Search

Guests: 01
Max guests per room

☑ Show available rooms only

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1 King Bed Non-Smoking with 37" HDTV Flat Screen

USD 89.00
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Tax is not Included.

Select

Description Policies



Two Double Beds
Max guests:

2 Double Beds Non-Smoking with 37" HDTV Flat Screen

USD 89.00
Average nightly rate
Tax is not Included.

Select

Description Policies

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Minnesota Association of Soil & Water Conservation Districts

77th Annual Convention & 23rd Annual Trade Show

December 1, 2, 3, 2013

Doubletree Hotel Bloomington - Minneapolis South - Bloomington, Minnesota

REGISTRATION FORM

Please use a separate form for each person or couple.
Registrations must include full payment and must be received in the MASWCD office by ***November 20****.*
Cancellations received by November 22 will be refunded less a $75 cancellation fee. No refunds for cancellations after November 22.

NAME _____

☐ SWCD Supervisor
☐ SWCD Employee

SWCD _____

MASWCD Area _____

☐ Outstanding Conservationist
☐ Other Award Recipient

(Outstanding Conservationists and other award recipients *do not pay registration fee*)

SWCD _____

☐ BWSR ☐ NACD
☐ NRCS ☐ DNR
☐ MPCA ☐ MDA

Other _____

REGISTRATION FEE	**Quantity**			**Amount**
Complete Convention Registration	_____	@ $200.00	=	$ _____
Monday Only Registration	_____	@ $140.00	=	$ _____
Tuesday Only Registration	_____	@ $140.00	=	$ _____
MEALS				
Monday Continental Breakfast (*light breakfast and beverages provided by hotel*)	_____	@ $15.00	=	$ _____
Monday Awards Luncheon	_____	@ $25.00	=	$ _____
Monday Dinner	_____	@ $30.00	=	$ _____
Tuesday Continental Breakfast (*light breakfast and beverages provided by hotel*)	_____	@ $15.00	=	$ _____
Tuesday Outstanding Conservationist's Luncheon**	_____	@ $25.00	=	$ _____
OTHER				
Sunday SWCD Governance 101 Workshop, 2:30 pm	_____	@ no charge		
Sunday Convention Kickoff Social/Cash Bar, 7:30 pm	_____	@ no charge		

** ***note*** – There is reserved seating for Tuesday's luncheon; reservations can be made at the registration desk.

While there is no fee for the Sunday events, we ask you to please indicate here if you plan to participate so we can plan accordingly.

TOTAL REGISTRATION AND MEAL FEES ..... $ _____

Please enclose check for the *full* amount payable to MASWCD.
Mail to: MASWCD, 255 Kellogg Boulevard East, Suite 101, St. Paul, MN 55101.

Hotel Information: **Individuals are responsible for booking their own hotel rooms.**

Location:	Doubletree Hotel Bloomington - Minneapolis South, 7800 Normandale Boulevard, Minneapolis, MN 55439 Phone: 952-835-7800
Group Rate:	$89 for single or double occupancy, plus tax.
Cut-off Date:	Reservations must be received by the hotel on or before **November 12, 2013**. After this, any rooms in the block that have not been reserved get released and made available for general public sale.
Reservations:	By phone: 1-800-222-8733 or direct to hotel at 952-835-7800. Group code: "Minnesota Association of Soil and Water" or On-line - visit www.maswcd.org and follow the link for convention lodging reservations.

Donations: **MASWCD is a 501(c)(3) non-profit organization and welcomes your tax deductible donations.**

Please indicate whether you are enclosing a donation in the amount of: ☐ $50 ☐ $100 ☐ $150 ☐ other amount: _____

MAWD 2013 Annual Meeting & Trade Show

MINNESOTA ASSOCIATION OF WATERSHED DISTRICTS, INC

Land and Water Shall be Preserved

December 5-7, 2013

Arrowwood Conference Center

Alexandria, MN

MINNESOTA ASSOCIATION OF WATERSHED DISTRICTS, INC

Land and Water Shall be Preserved

October 2013

Dear Friends,

On behalf of the Minnesota Association of Watershed Districts Board of Directors I would like to encourage you to join with us in celebration of our 42nd Annual Meeting and Trade Show December 5-7, 2013.

Since the inception of MAWD in the early 70's water management in Minnesota has changed considerably. Watershed districts have become leaders and innovators in water management in Minnesota. Our willingness to partner with the federal, state and other local governments to move our programming forward is unparalleled.

And, with the additional sources of revenue provided by the Legacy Amendment, we now enjoy the full support of citizens across the state in our water management activities.

We again offer a strong training and educational program. Please take a moment to review the enclosed information on our programming for the Annual Meeting complemented by our educational Trade Show I am sure you will agree that it should not be missed!

In addition, this is a great opportunity to visit with managers and staff to compare notes on the activities and projects of your respective watershed districts. See you at our 42nd Annual Meeting celebration!

Sincerely,

Jerome Deal

Jerome Deal

President

MAWD

Your Invitation!

Minnesota Association of Watershed Districts

2013 Annual Meeting & Trade Show

December 5-7, 2013

Introduction

The MAWD 2013 Annual Meeting & Trade Show offers a strong seminar program to meet the needs of watershed district officials, staff and key watershed district partners.

MAWD program includes:

- **Four general concurrent sessions**
- **Two technical seminars**
- **Total of fifteen different seminars**
- **Trade Show with over 40 exhibitors**
- **Thursday evening Welcome Reception**
- **Door prizes!**
- **Three pre-conference workshops Thursday, December 5th**

MAWD 2013
Annual Meeting
& Trade Show

Event	Page #
Welcome Reception - Thursday at 8:00 pm	7
Annual Meeting Programming	6 - 13
Spouses - Chef Kurt	9
Two Technical Seminars	8 - 9
Three Pre-Conference Workshops	15-17
Pre-Conference Workshops Registration Form	14
MAWD Annual Meeting Registration Form	18
Arrowwood Conference Center Reservation	19

Minnesota Association of Watershed Districts

2013 Annual Meeting & Trade Show

December 5 - 7, 2013

Arrowwood Conference Center, Alexandria, MN

Registration

MAWD Annual Meeting Registration form on page 18 - due November 20

Registration fee - $185.00 per person includes all conference meals for registrant.

There is no registration fee for spouses/guests.

Meal package or banquet tickets for spouse/guest are available on the registration form - page 17.

Late registration (postmarked after November 20) fees are **$200.00** per person. No refunds after November 27, 2013

Arrowwood Conference Center

2100 Arrowwood Lane

Alexandria, MN 56308

Arrowwood Reservation Form

Page 19

Reservation deadline

November 15

NOTICE:

The MAWD Board wishes to remind members that watershed districts are not permitted to cover expenses for spouses and guests. This is in accordance with recent State Auditor findings and the Minnesota Constitution which states "taxes shall be uniform . . . and shall be levied and collected for public purposes."

MAWD 2013 Annual Meeting & Trade Show

ProgramSchedule

Thursday, December 5, 2013

3:00 p.m. Director's Meeting — Executive Board Room II

6:00 - 9:00 p.m. Registration, Trade Show Floor

7:00 - 9:30 p.m. MAWD Trade Show - Tennis Center

7:00 - 8:00 p.m. Concurrent General Session I

Seminar A: **Community Stormwater Response to a Changing Landscape and Climate: A Framework for Adoption Planning & Implementation**

The extreme rainfall event on June 20th, 2012 in Duluth, MN – and the significant amount of damage it caused – is a good reminder that our existing stormwater infrastructure can only handle so much water. Most of our infrastructure is designed to manage flow based on a "design storm", which is related to the probability that a storm of a given magnitude will occur. But what if that probability is significantly changing? Climate research indicates we are experiencing extreme rain events more frequently than in the past, putting communities at increased risk for overwhelmed stormwater management systems and flooding-related issues. The Minnehaha Creek Watershed Stormwater Adaptation Study is designed to investigate local infrastructure vulnerability to changing precipitation patterns, and how both growing and fully developed communities can reduce future risk of localized flooding by adapting stormwater management systems. We will report on the results of this ongoing study, including technical modeling as well as a stakeholder engagement process.

Presenter: Leslie Yetka, Education Manager, Minnehaha Creek Watershed District

Seminar B: **Part I: Rainfall Atlas 14 and Replacement Of Technical Paper 40: Case Studies and Implications**

Hydrologists and engineers use precipitation frequency estimates to design stormwater conveyance systems, flood protection, and water quality treatment infrastructure and make recommendations to policy decision makers. Design storms, such as the 10-year or 100-year frequency events, have typically been defined using rainfall estimates from Technical Paper 40 (TP-40), published by the U.S. Weather Bureau in 1961, and supplemental revisions. NOAA re-evaluated these rainfall estimates to reflect an additional 50 years of rainfall data and in 2013 released final precipitation frequency estimates and rainfall distributions for the Midwestern states (NOAA Atlas 14, Volume 8). This presentation will summarize the new precipitation estimates for the region, with a focus on Minnesota and will present different methods of modeling rainfall distributions for different duration storm events The session will also provide case studies using hydrologic and hydraulic models that are currently used by Minnesota watershed organizations, comparing model results for different rainfall distributions for Atlas 14 and TP-40, discuss the implications of Atlas 14 for designers, planners and regulators, and discuss policy and legal issues for watershed district's regulatory programs.

Presenters: Karen Chandler, P.E. – Senior Water Resources Engineer, Barr
Nathan Campeau, PE, CFM – Water Resources Engineer, Barr
Michael Welch, Smith Partners, P.L.L.P.

Seminar B: **Part II: Using GIS and 3D animation for Planning and Outreach Education**

A trend became apparent of decreasing recharge of the surficial aquifer during our recent 10-year Comprehensive Plan update. In fact, it is our number three issue. Situated on the Anoka Sand Plain, water tables are close to the surface throughout most of our District. As professionals, we are noticing changes such as declines in lake levels and disappearing wetlands. To most people this is not apparent, at least not yet. If this trend of decreasing recharge of surficial aquifers continues, the impacts on local wetlands & lakes, private wells, and long-term water supplies could increase to "White Bear Lake" proportions.

So, how do we effectively plan and get the word out about an out-of-sight issue? We found that using a simple 3D animation via GIS caught the attention of lake association members who still remember, over 3 years later, the impact of predicted lake level changes. We will demonstrate how 3D Analyst in GIS can be a useful tool for planning, education, and community engagement about surficial aquifer- surface water interaction.

Presenters: Tim Kelly, District Administrator
Dawn Doering, Information & Education Coordinator,
Flatrock Geographics, GIS consultant

Seminar C: **Progress to Goals: Successful Projects Track Performance**

As we celebrate our 5th Year Anniversary of the Clean Water Legacy Act, it is a good time to take stock and examine how we are performing. We, who manage land and water conservation programs, have collectively made a 'contract' with Minnesota, to improve and protect our lands and waters by wise expenditure of public dollars. The flip side of this 'contract' is the public's demand that we provide 'proof' of measurable progress. As if that isn't already a difficult enough job, we have the confounding effects of climate (dry and wet alternating states, increasingly intense storms and more). In this case, the use of long-term sentinel sites can help define climate induced variability to adjust performance indicators. Are you asking the right questions, collecting the right data? Typical types of monitoring, varying from the simple to state-of-the-art, will be reviewed including common pit-falls that can be avoided, beginning with establishing good goals (detecting trends, calibrating a model, or gauging BMP performance etc.) Looking back at 35 years of watershed work, it is my observation that every successful project has been based on solid information collected by carefully defined monitoring effort. There have always been surprises. Is your monitoring program providing answers to your management questions or collecting numbers for an annual report?

Presenter: Bruce Wilson, Senior Scientist, EOR, Inc.

8:00 p.m.

Welcome Reception

Trade Show Floor

Exhibitors, food and prizes

Friday, December 6, 2013

7:00 - 9:00 a.m. Breakfast Buffet - Tennis Center

7:30 a.m. Resolutions Committee Meeting

8:00 a.m Registration - Trade Show Floor

8:00 a.m. MAWD Trade Show - Tennis Center

8:00 a.m. Plenary Session – Panel Discussion

Connecting Local Water Management and
State Water Quality Programs Through Watersheds

Moderator: Ray Bohn, MAWD

Panel Members: Julie Westerlund, DNR, MN Water Quality Famework
Dave Wetzstein, MPCA, WRAPS
Doug Thomas, BWSR, One-Waterwhed-One Plan

9:00 a.m. **MAWD Business Meeting**

Presiding - President Jerome Deal

* President's Report, Jerome Deal
* Secretary's Report , Lee Coe
* Treasurer's Report, Craig Leiser
* Presentation of 2014 Recommended Budget, Craig Leiser
* Presentation: **Koontzv. v. St. James WM District - Implications for managing water in Minnesota**
Chuck Holtman, Smith Partners

9:00 - 10 a.m. **Concurrent Association of District Administrators Technical Session**

Tech Session I - All I need is a Model that can do Everything

A partnership of government and landowners along the southeast shores of Lake Huron (Healthy Lake Huron Initiative) initiated the creation of a Rural Stormwater Management Model (RWMM) for 5 pilot areas totaling 500 Km^2. The model required the ability to predict hydrology, model hydraulics and assess water quality loads reductions (TSS, P and N) due to agricultural and urban BMP implementation. No current model can fully meet these stated goals. Therefore, a custom-made model needed to be developed requiring a strong knowledge of the effectiveness of agricultural practices and a great dose of creativity and innovation.

PCSWMM (EPA SWMM engine) was used as a base model and additional water quality routines and code were added to improve its water quality functionality in rural areas. Specifically, MUSLE algorithms of the SWAT model and in-stream components of the SPARROW model were incorporated into the existing runoff and hydraulics modes in PCSWMM. Physically-based and non physically-based agricultural BMPs were also incorporated into PCSWMM. Seasonality in parameterization, so important to accurately represent agricultural settings in cold-climate areas (i.e. variable soil infiltration, erosion or nutrient application depending on the time of the year), was also integrated into the PCSWMM code. Physical, chemical and biological processes associated to P and N in streams, were also simulated.

Overall, the software created through this project provides a unique, state-of-the-science tool to examine both hydrology and water quality in agricultural and urban areas.

Presenters: Cecilio Olivier, PE, MS, COO; Emmons & Olivier Resources, Inc.
Ryan Fleming, PE; Emmons & Olivier Resources, Inc.

Tech Session II

Nitrate, Phosphorus, and Pesticide Load Reduction in Woodchip Anaerobic Bioreactors under Rainfall, Snowmelt, and Controlled Flow Conditions.

Two woodchip bioreactors were instrumented in southern Minnesota to monitor flow, nitrate, phosphorus, and herbicide. Dimensions are 240 ft x 4.0 ft x 6.0 ft and 90 ft x 3.5 ft x 6.0 ft for length, width, and depth, respectively. The first bioreactor captured both snowmelt and rainfall events for 3 years (2008-2011). The second bioreactor was monitored during the same period and, during the second semester of 2010 it was retrofit to handle an herbicide experiment.

At the first bioreactor, snowmelt events were recorded in 2010 and 2011. These events have given nitrate load reduction of 26% (2010) and 10% (2011) with total flow of 1.59 in. and 2.88 in., respectively. Rainfall events were recorded through the growing season with a total of 30.4 in. (2009) and 41.7 in. (2010). These rainfall amounts have resulted in nitrate load reduction of 48% and 21% in 2009 and 2010, with bioreactor flow depths of 9.92 in. and 15.8 in., respectively.

At the second bioreactor, two fields were monitored, one with controlled drainage and the other with a free drainage system. The bioreactor was located in the controlled drainage area. The herbicide experiment was launched during the second semester of 2010 by retrofitting of the site to achieve a 24-hour residence time. Two herbicides were tested for dissipation through the bioreactor: acetochlor and atrazine. Load reduction of acetochlor and atrazine were 70% and 53%, respectively. Concurrently, nitrate load reduction reached 47% and total phosphorus load was lowered by 79%.

Presenter: Andry Ranaivoson, Research Associate.
University of Minnesota, Department of Soil, Water, and Climate.

9:30 a.m. **Spouses Event**

Retraining 10,000 Taste Buds - Chef Curt

Join me as I will share with you my plight to retrain 10,000 taste buds with the goal of improving heart health and reducing sugar intake. We will taste a homemade stew that I grew up on, it will be made the old fashioned way and a newer heart healthy way. I will also share a change in my pepper steak beef, sauerkraut balls and a cheesecake recipe just in time for the holidays. The other twist - all will be made gluten free. Join me, for a tasting of the old and new to see if you can taste a difference!

10:00 a.m. Break - MAWD Trade Show Floor - Tennis Center

10:30 a.m. 2013 Resolutions Committee Report

11:30 a.m. Regional Caucuses
Region I
Region II
Region III

12:15 p.m. Buffet Luncheon - Tennis Center

Special Guest Speaker – Tamara Cameron, Chief
Regulatory Branch, U.S. Army Corps of Engineers
"Clean Water Act Section 404 Permit Program Update"

DNR Watershed District of the Year Award
BWSR Watershed District Employee of the Year

1:30 p.m. Break - MAWD Trade Show Floor

2:00 **Concurrent General Session II**

Seminar A-Part I:

Comprehensive Natural Resource Planning in The Red River Basin – Simplifying a complex process to essential objectives and strategies needed for healthier watersheds.

Natural resource professionals have spent millions of dollars developing natural resource and water quality plans at the state, regional, watershed, and local scale. These plans often provide duplicative information to describe the landscape and identify problems, priority concerns, goals, and objectives and they rarely prescribe specific actions at the appropriate spatial scale needed to achieve "healthy watersheds". LiDAR-derived data, hydrologic and water quality models, and innovative geospatial tools are now available and being used to build on past plans and streamline the natural resource planning process in Red River basin watersheds. This natural resource planning process results in rapid development of strategic goals and objectives and prioritized, targeted, and measurable actions for landowners and local government implementers to improve watershed conditions.

Presenter: Henry Van Offelen, Red River Basin Coordinator,
MN Dept. of Natural Resources.

Part II: Watershed Planning Tool –

Applying Light Detection and Ranging data, emerging GIS Web technologies, and established practices to strategically plan flood damage reduction projects

The International Water Institute in collaboration with the Red River Water Management Board and Minnesota Department of Natural Resource has developed an online decision support tool to help watersheds plan flood damage reduction projects within the Red River Basin in Minnesota. The application guides the user through a planning process from problem identification to alternative evaluation. A suite of LiDAR-derived data is integrating into the system through mapping applications for problem identification, watershed delineation, estimating existing hydrologic conditions, and identifying, selecting, and evaluating effectiveness of projects. The application also provides an assessment of the permit complexity of a project and provides the user with the ability to print a series of reports that document the planning process to facilitate completion of any needed permit applications.

Presenter: Charles Fritz, International Water Institute Director

Seminar B: Stormwater ponds friends or foe?

Stormwater ponds were added to our landscape as a means to remove pollutants and mitigate down-stream water quantity impacts. They are part of our stormwater network that flows into our creeks and lakes. Typical Total Phosphorus concentration in the water leaving the stormwater ponds ranges between 0.10 mg/L to 0.25 mg/L.

In 2010, the Riley-Purgatory-Bluff Creek Watershed District began exploring if stormwater ponds were possible sources of pollution to its waters. Eight lakes are currently listed as impaired in the District for Phosphorus and thus knowing if these ponds are sources of pollution become relevant for water management.

Presenters: Claire Bleser, Administrator, Riley Purgatory Bluff Creek Watershed District
Lindsey Albright, Water Quality Assistant, Riley Purgatory Bluff Creek WD
Jeff Anderson, Water Quality Assistant, Riley Purgatory Bluff Creek WD

Seminar C. Exploring Constraints to Community Engagement in an Urban Watershed Restoration Project

Strategies to engage citizens and promote water resource stewardship must be tailored to specific audiences and respond to the unique assets and needs of a community. Prior to engaging people in watershed planning initiatives, community planners and water resource professionals must consider the question: What is the capacity of the community to engage in sustainable water resource management? The University of Minnesota and the Minnehaha Creek Watershed District completed a pilot assessment of a community's capacity to engage in restoration initiatives along Reach 20, a highly urbanized portion of Minnehaha Creek. The specific research objectives were to explore local stakeholders' perspectives on
(1) community assets and vulnerabilities,
(2) constraints to community engagement in water resource issues, and
(3) opportunities to engage the community in water resource management.
Study findings suggest ways to build capacity, with a focus on addressing cultural constraints and increasing minority group engagement in watershed planning initiatives inthis urban area.

Presenters: Mae Davenport, PhD - U of M Department of Forest Resources
Leslie Yetka - Minnehaha Creek Watershed District

3:00 Break - MAWD Trade Show Floor

3:30 **Concurrent General Session III**

Seminar A: Colby Lake: Locally Driven Restoration of an Impaired Water

Colby Lake is a 70 acre lake within SWWD's Northern Watershed (NWS) Chain of Lakes. Surrounded by suburban development, Colby Lake has become hypereutrophic and is currently listed on the State's impaired waters list for excess nutrients. In 2011, SWWD completed a comprehensive Lake Management Plan for Colby Lake. Following lengthy and ultimately unsuccessful efforts to have that plan recognized as a TMDL alternative by the MPCA, SWWD is leading local efforts to restore Colby Lake outside of existing State regulatory mechanisms. To date, the watershed phosphorus load reduction necessary to restore Colby Lake has been achieved (> 100 lbs/yr) and additional efforts are underway to reduce tributary and in-lake loading and to restore the remaining lakes in the NWS chain. This presentation will summarize the planning efforts that are driving the local restoration efforts, discuss the partnerships and mechanisms that have resulted in successful implementation, and describe the projects that have been implemented.

Presenter: John Loomis, Water Resource Specialist, South Washington Watershed District

Seminar B: The Challenges of Dredging and Dewatering Sediment in a Fully Developed Watershed: Villa Park Wetland Restoration Project

In 2009, the District completed the Villa Park Wetland Management Plan that identified multiple projects/solutions to dealing with the elevated phosphorus loads that were entering the lake. This study was a comprehensive analysis of the system and reviewed and analyzed a large amount of monitoring data that was collected from 2005-2007. The solutions identified in the study were determined to be implemented in a sequential order. The first step in the suite of solutions was to increase the dead storage in the wetland cells of the Villa Park system. This called for the removal of approximately 20,000 cubic yards within a fully developed neighborhood park in Roseville, MN.

The goal of the project is to increase phosphorus removal efficiency of the Villa Park Wetland System and to protect the excellent water quality of Lake McCarron's. The project was completed during the summer of 2013 through hydraulic dredging methods and dewatering through geotextile tubes at a construction cost of $1.2 million. The sediment removed had high levels of polycyclic aromatic hydrocarbons (PAHs) and arsenic which required disposal in a landfill.

Presenters: Mark Doneux, Administrator, Capitol Region WD
Bob Fossum, Capitol Region WD

Seminar C: Neighbors by Way of Water: Using a Landscape-based Game as a Platform for Community Engagement in a Watershed

Games have a long history of engaging people and building social networks to problem-solve collaboratively (golf anyone?), and can have transformative effects on personal perspectives and relationships (game of Telephone, anyone?). What if playing a game could be used as a novel civic engagement strategy to connect people with the land and water, and enhance watershed stewardship? As a platform for civic engagement, could a location-based game using the features of the landscape as the game board inspire people to think creatively about watershed-wide issues and build capacity for addressing watershed issues collectively?

To explore this idea, Northern Lights.mn, the Minnesota Pollution Control Agency and the Minnehaha Creek Watershed District have partnered on development of a location-based game designed to highlight that we are all neighbors by way of water, and connect people with the landscape of the Minnehaha Creek watershed. A participatory design process was used to develop game concepts, which have been play tested and evaluated for effectiveness at reaching our goal of enhancing community connections with water. Come and hear about using games as a civic engagement tool, the game design that was developed, and play a virtual game mission on Minnehaha Creek. Full deployment of the game is expected in 2014. So come play!

Presenters: Leslie Yetka , Minnehaha Creek Watershed District
Steve Dietz - Northern Lights.mn
Cindy Hilmar – Minnesota Pollution Control Agency, Watershed Division

4:45 – 5:15 Concurrent General Session IV

Session A: Watershed Planning for Effective Implementation

The Prior Lake – Spring Lake Watershed District previously focused on building and maintaining an artificial outlet for Prior Lake. Throughout the 2000s the District gradually changed from an infrastructure maintenance organization to a full-fledged water management organization. To meet the new challenges this entails the District has adopted a management approach rooted in the MPCA "watershed approach", but modified to work on a local scale. The heart of this approach is a continuous cycle of data collection, assessment, strategizing, and implementation, on a subwatershed scale.

Core datasets of stream flow and stream/lake pollutant concentration, collected at the outlet of each watershed, provide nutrient loading rates by acre. Secondary datasets extracted from field observations, GIS data such as LiDAR, wetland assessments, and others provide a finer-grained understanding of the subwatershed than monitoring data can provide. Assessment of these data, particularly pollutant loading calculations but also derived analysis such as stream power indices, are essential for extracting all the useful information from the data collected.

Each subwatershed can be evaluated separately for their potential relative to the organization's goals. Subwatersheds with high potential benefits, such as pollutant loading or wetland restoration, are given higher priority for implementation.

As a continuous cycle, each element happens simultaneously, and builds upon the others. 2012 data is analyzed while collecting 2013 data, and while implementation is occurring based on 2011 analyses & strategies.

The presentation will discuss how the modified watershed approach is already influencing PLSLWD project implementation, using an example subwatershed and an example project.

Presenters: Nat Kale, Prior Lake-Spring Lake Watershed District
Mike Kinney, Prior Lake-Spring Lake Watershed District

Seminar B: Fountain Lake Restoration Project
This presentation describes the extensive process and tasks performed to design the dredging plan for restoring Fountain Lake in Albert Lea. The major tasks that have been completed include preparing a TMDL, TMDL implementation plan, grant securement process, sediment cores, development of dredge prisms, hydrodynamic modeling, regulatory involvement, special obstacles, development of the dredging plan, dredge spoil management and dewatering .
Presenters: Jamie Bankston, Barr Engineering Co.
Senior Environmental Engineer

Session C: Boldly go where other Engineers Fear to Tread!
Especially in the metropolitan areas, watershed districts have taken on major capital improvement projects on properties where prior development may have left behind contamination. This means watershed district staff and engineers need to address contamination concerns before or as part of re-meandering creeks, constructing substantial infiltration facilities, recreating wetlands and the like. The associated nomenclature, processes and – most terrifyingly – liability concerns can be daunting, but the reward is taking a property that presented a risk to and a blight on the community and turning it into a tremendous asset. This session will explain the basics of the state's contaminated property law and the voluntary programs that have been established to facilitate redevelopment of such property despite their blemishes – real or perceived. The overview will be supplemented with practical experiences and guidance from watershed district staff who have managed projects on less than pristine properties.
Presenters: Kevin Bigalke, Administrator, Nine Mile Creek Watershed District
Michael Hayman, Minnehaha Creek Watershed District
Michael Welch, Smith Partners PLLP

6:00 p.m. Social Hour (Cash Bar)

7:00 p.m. Association Banquet, MAWD Awards & Entertainment

Saturday, December 7, 2013

7:00- 9:00 a.m. Breakfast Buffet

9:00 a.m. Plenary Session: Ground Water Panel
Watershed District Involvement in Ground Water Management

Moderator, Craig Leiser, MAWD Board
Panelist: Jason Moeckel, Inventory, Monitoring, and Analysis Section Manager, DNR
Claire Bleser, Riley Purgatory WD – Wateshed District Ground Water Rulemaking,
Brett Emmons, Emmons & Olivier Resources, Inc, Re-examination of Water Reuse and Harvesting,
Dennis Hanna, South Washington WD, Watershed District/County Ground Water Planning.
Ali Elhassan, Metro Council Water Planning Supply, Metro Ground Water Management Update

10:15 a.m. **MAWD Business Meeting (Continued)**
Presiding – President Jerome Deal

* BWSR Report
* MAWD Administrative Report
* Region Reports
* Watershed District Administrators Report
* Final Report on Attendance
* Audit Committee Report
* 2014 Budget Adoption
* 2014 Annual Meeting
* Introduction of new MAWD Board Members

11:30 a.m. Meeting Adjourned

BOARD OF DIRECTORS MEET FOR REORGANIZATION AT 12:00 NOON
or Fifteen Minutes after adjournment - BOARD ROOM II

2013 MAWD PRE-CONFERENCE SESSIONS
THURSDAY, DECEMBER 5, 2013

Pre-Conference Seminar Registration - Please return this form before November 20.

Name/Title: _____

Organization: _____

Address: _____

City: _____ Zip Code: _____

Phone: _____ Email: _____

Please select one seminar

Includes workshop, registration packet, coffee breaks and lunch.

☐	**Minnesota Drainage Workshop**	**$85**
☐	**Basic Water Management Workshop**	**$85**
☐	**Effective Communications for Watershed Districts** *For Managers, Administrators and Staff*	**$100**

Total Due $_____

Credit card registration at mnwatershed.org

Advanced Registration is recommended - on-site registration subject to availability.

Lodging: Rooms reserved (one night $89.78 with tax) for Wednesday, December 4, 2013 at Arrowwood Phone: 320-762-1124 for reservations. Please reference the MAWD Pre-Conference Sessions.

Cancellations: Refund only if cancellation received by November 27, 2013. Substitutes may be sent.

Registration questions please call 651-452-8506 or email: pegbohn@gmail.com.

2013 MAWD Pre-Conference Session

Thursday, December 5, 2013

Basic Watershed Managers Workshop

"for new & experienced managers and staff"

Watershed Districts are an interesting blend of missions and authorities. Understanding how they fit into the big picture is critical to new managers. Your organization has broad powers to tackle issues the citizenry has determined other governments either cannot, or will not, address.
It's a big deal...and as a new manager, it is now your responsibility.

9:15 **Welcome and Introductions**

Watershed Districts, BWSR, and the World
Your WD is just one organization in a world full of state, federal, non-profit, citizen, and municipal interests with their own mandate to work for the public good.

Government Basics
The public and private sectors operate differently. (Hold secret strategy meetings if you want to learn the hard way...) Ethics, open meeting laws, and other board responsibilities will be explored.

10:30 Break

10:45 **Your Role as Leader**
Your county appointed you to the Board and expects you to make sure the organization is effective. There are a few skills that will help you make your organization excel.

Powers, Duties, and Responsibilities of Managers from the Statutes
Managers have their own compact chapter of law - MN
Statutes Chp 103D. This overview of the structure and content will demystify the nuances it contains. Whether or not your WD regulates, you'll hear some specifics about your powers to compel individuals or other government to do things.

12:00 - 1:15 Lunch

1:15 **Signaling Your Intentions Through Planning**
Every organization on the planet from the Cub Scouts to the US Army has some sort of strategic plan to guide them. WD plans set priorities, outline tactics, and explain where the tax money will come from.

2:30 Break

2:45 **Getting Projects Authorized, Permitted, Funded and Built**
Managers set direction for their staff or consultants. This session will cover the statutes staff utilize to get projects airborne in a format as close as possible to the desires of the Board.

Open Q&A time
Presenters: Louis Smith, Smith Partners
Watershed District Staff
BWSR Staff

Register on Page 14

Minnesota Association of Watershed District

2013 MAWD Pre-Conference Session

Thursday, December 5, 2013

Effective Communications for Watershed Districts

For Managers, Administrators and Staff

8:00 am Registration

Presenter: Matt Kucharski, PadillaCRT

9:00 am **The WHY - Level/Setting**

- role of effective communications
- key elements to building a reputation
- communications models

10:30 am **The HOW – 3M's method**

- objectives
- audiences
- key messages
- measurements

11:30 am **Practical application**

- choosing the right tools for the right situation
- guidance on making those tools successful

Noon Lunch included

1-3:00 pm **Roundtable discussion**

- Choosing the right tools for your watershed district

Register on Page 14

2013 MAWD Pre-Conference Session

Thursday, December 5

Minnesota Drainage Workshop

8:00 a.m. Registration

9:00 a.m. Recent Drainage Project Legal Considerations – Case Studies
Presenter: Kurt Deter, Rinke-Noonan Law Firm
Kurt changes up his presentation to look at recent drainage project case studies and trends that are pertinent to drainage authorities and others involved in drainage in Minnesota.

10:00 a.m. Drainage Work Group Update
Presenter: Al Kean, BWSR
Another batch of DWG consensus recommendations to revise MN Drainage Law were adopted by the Legislature in 2013. – A summary of those revisions and current topics of discussion at the DWG.

10:15 a.m. Break

10:30 a.m. Drainage and Sub-irrigation – Converging Perspectives and Considerations
Moderator: Mark Dittrich, MDA; with perspectives by a producer, WD, engineer and industry
Some producers in MN and ND are integrating sub-irrigation with controlled subsurface drainage or pumped tile systems to enhance productivity and predictability. Water source is a key consideration.

11:15 a.m. Producers, Industry, Conservation Professionals and Drainage Authorities
Presenter: Rob Sip, MDA
All of the above can play key roles in managing soil erosion, nutrients, crop production and the water that leaves fields. Examples will be shared.

12 Noon Lunch provided with registration

1:00 p.m. Nitrogen in Minnesota Surface Waters Study
Presenter: Dave Wall, MPCA
An overview of a comprehensive study published in June 2013 by MPCA in collaboration with the University of Minnesota and U.S. Geological Survey.

1:45 p.m. Minnesota Nutrient Reduction Strategy
Presenter: Wayne Anderson, MPCA
A number of federal, regional and state water quality initiatives drive the need for a state-wide nutrient reduction strategy for Minnesota.

2:30 p.m. Break

2:45 p.m. Facts and Fiction about the "Sponge Effect" of Pattern Tile Drainage
Presenter: Al Kean, BWSR

3:30 p.m. Clay County Drainage Research Site – Status Report
Presenters: Luke Stuewe and Stefan Bischof, MDA
This highly instrumented drainage research and demonstration site has some early data to share.

4:00 p.m. Conclusion

Register on Page 14

MINNESOTA ASSOCIATION OF WATERSHED DISTRICTS, INC

Land and Water Shall be Preserved

540 Diffley Road
St. Paul, MN 55123-1601

Minnesota Association of Watershed Districts

2013 Annual Meeting & Trade Show
December 5 - 7, 2013

2013 MAWD Pre-Conference Sessions - December 5, 2013

- **Minnesota Drainage Workshop**
- **Basic Water Management Workshop**
- **Effective Communications for Watershed Districts**

Minnesota Association of Watershed Districts

2013 Annual Meeting & Trade Show

Registration & Meal Form

DUE: NOVEMBER 20, 2013 Please use one form per party:
Copy as needed. Names of all attendees must be submitted.

- **Skip the mailman and register on-line at www.mnwatershed.org**

December 5 - 7, 2013 **Arrowwood Conference Center**

2100 Arrowwood Lane, Alexandria, MN 56308

Name: _____

Title (manager, commissioner, etc.):_____

Organization: _____

Address: _____

City: _____Zip _____

Phone: (Day)_____(Evening)_____ Email_____

Name of spouse/guest (no registration fee) _____

2013

All meals are included in registration fee!

Spouse meal package for purchase

- **Registration $185.00 per person - this includes all meals for the registrant**
- **Spouse meal package - all conference meals = $ 85.00** **$** _____
- **Banquet only = $ 35.00** **$** _____
- (Late registrations postmarked after Nov. 20, 2013 = $200.00 per person)
- No refunds after November 27, 2013

Registration and spouse meal total $ _____

- **Register on-line at www.mnwatershed.org**

Please make check payable to Minnesota Association of Watershed Districts
and return with this form by November 20 to:
Minnesota Association of Watershed Districts
540 Diffley Road
St. Paul, MN 55123 Questions: phone: 651-452-8506 or email pegbohn@gmail.com

Hotel Reservation Form

December 5-7, 2013 - Arrowwood Conference Center

Please note: Please register for the MAWD Annual Meeting on the Registration Form.
This form does not register you for the MAWD Annual Meeting.

Name: _____

Address: _____

City: _____ Zip _____

Phone: (Day)_____ (Evening)_____ Email_____

Please send completed form to Arrowwood by November 15, 2013. (Phone reservations not accepted - fax or mail only.)
Send to: 2100 Arrowwood Lane, Alexandria, MN 56308 Fax: 320-762-0133 Phone: 866-386-5263

Lodging - deadline November 15, 2013 • One form per party please - copy as needed.

- Please select **one room plan** per party.
- The room rates are for 1-4 persons
- All guestrooms are now non-smoking
- Big Splash Indoor Water Park discount tickets at $10 per person per day are available for MAWD.

☐ **Lodging I**	Thursday and Friday - December 5 - 6	$179.56
☐ **Lodging II**	One night only	$89.78

☐ **Townhouse units:** $89.78 per bedroom/night plus tax

Select Unit Type desired: ☐ 3 bedroom/3bath ☐ 4 bedroom/3bath
(No elevators. Specify a first floor unit)

Guaranteed Payment: ____Visa/MasterCard ____ American Express _____ Other

Card Number: _____ Exp. Date: _____

Signature: _____

All rooms must be guaranteed. Individual reservations cancelled within 72 hours of the scheduled arrival date will be charged one night lodging on the date of cancellation. Check-in time is 4:00 p.m. Checkout time is 12:00 noon.

Tentative Agenda

SUNDAY, DECEMBER 8

2:00 - 5:00 P.M.	AMC BOARD OF DIRECTORS MEETING
6:00 - 9:00 P.M.	MINNESOTA RURAL COUNTIES CAUCUS (MRCC) BOARD MEETING

MONDAY, DECEMBER 9

7:00 A.M. - 5:00 P.M.	REGISTRATION OPEN
7:30 – 8:30 A.M.	2013 CONFERENCE PLANNING COMMITTEE BREAKFAST
7:30 - 9:30 A.M.	AMC COMMITTEES & ADVISORY BOARDS • U of M Extension • Agriculture & Rural Development • Indian Affairs
8:30 - 9:30 A.M.	CONCURRENT WORKSHOPS I

Repeat Domestic Violence Offenders and Government Change: What We've Learned

Stearns County's Repeat Felony Domestic Violence Court continues to gain knowledge about offenders and victims - and change government responses to adjust. Added this year based on knowledge that immediate intervention works much better: Lethality Assessments, community advocates responding to law enforcement calls in real time, and additional data and insight on repeat offenders who initially went to prison for their offenses - and are now coming back out. Government innovation continues to adjust! All criminal justice systems must respond to domestic violence. How can we do it best?

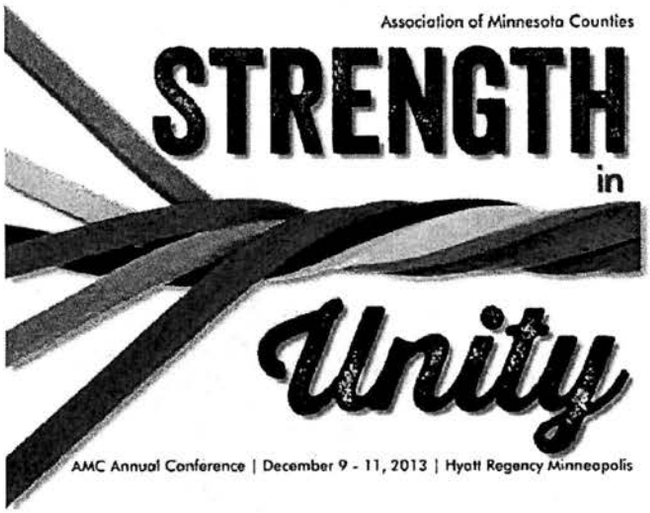
Mobility for Child Protection Social Workers

Winona County is implementing an Electronic Document Management System (EDMS) for Child Protection Social Workers. The new system allows workers to use an IPad to electronically access client case records and to complete forms in the field. The system automatically syncs with the state's case management system, SSIS, improving accuracy and freeing up more time for Social Workers to spend with their clients. Learn how this technology is allowing county workers to be more effective in their work and more efficient with their time while working outside the office.

Proving GIS is More than a Map

This session will examine how to use GIS to its fullest potential so you can budget future costs, know your bottom-line, and get the biggest return on your investment. Different methods to accomplish uses like public access, parcel mapping, signs, roads, bridge inventories, agricultural land assessments, and more, will be demonstrated. This is a great opportunity to ask questions about budgeting and future costs, as well as future GIS personnel decisions.

This session provides an opportunity to help the commissioners speak to a GIS expert and learn to increase productivity, reduce redundancy, and improve communication within local government GIS. Knowing how to utilize your current GIS is essential to get your return on investment and know how to budget for the future.



Collaboration - Times Two

The Dakota County Criminal Justice Information Integration Network (CJIIN) and the St. Louis County NEMISIS Collaborative will discuss innovative approaches to integrating criminal justice information and their success in linking their diverse and successful collaborative efforts. Both counties have now strengthened their respective collaborations by joining together to increase information sharing and integration of information. Together, the two collaboratives include over 10 counties, 75 law enforcement agencies, courts, county attorneys, and corrections personnel.

Integrating criminal justice systems is the key to the successful redesign of often manual and repetitive processes that exist in the criminal justice system. Both Dakota and St. Louis Counties have successfully used broad and expanding collaborations to meet criminal justice integration needs through the implementation of advanced information systems.

Organization Direction: Strategic Planning vs. "Theory U"

Organizations often become immobilized when they are unsure which direction to go when confronted by the need for fundamental change. Change can be difficult. Change can be scary. Therefore, it is necessary to provide a safe environment for charting new waters. Getting unstuck and charting a new course for an organization need not be scary. In this workshop, we will explore how to effectively change through strategic planning tools.

Counties are constantly being confronted with the need to thrive in a complex and dynamic environment. This makes leadership and problem-solving more difficult than ever. Understanding the tools that can facilitate a clear a path for change is critical, and these tools include strategic planning and "Theory U."

9:00 - 10:00 A.M.	MCIT BOARD MEETING
9:00 - 11:15 A.M.	MINNESOTA ASSOCIATION OF COUNTY PLANNING & ZONING ADMINISTRATORS (MACPZA)
9:00 A.M. - 4:00 P.M.	VENDOR FAIR OPEN
9:30 A.M. - 2:30 P.M.	ASSOCIATION OF MINNESOTA EMERGENCY MANAGERS (AMEM)
9:30 – 10:00 A.M.	BREAK

10:00-11:30 A.M. **OPENING SESSION**

- Pledge of Allegiance
- President's Welcome
- Host County Welcome

Keynote Speaker: Matt Chase, Executive Director, National Association of Counties



Matthew D. Chase is the Executive Director of the National Association of Counties (NACo), the only national organization serving America's 3,068 county governments.

Matt believes that county leaders and an active NACo membership are essential in preparing America for a better future. Since becoming executive director, he has partnered with the Executive Committee, Board of Directors and committee leadership to bring an infusion of enthusiasm, new ideas and emphasis on collaboration with affiliates and state associations.

11:30 A.M. – 1:00 P.M. **LUNCH**

- Served inside the exhibit hall.

11:30 A.M. - 1:00 P.M. **GROUP/AFFILIATE MEETINGS**

- **MAGIC Fund Annual Meeting**
- **Minnesota Association of County Administrators (MACA) Business Meeting**
- **Minnesota Association of Community Corrections Act Counties (MACCAC) Board Meeting**
- **Minnesota Association of County Surveyors (MACS)**
- **Minnesota County Engineers Association (MCEA)**
- **Minnesota Solid Waste Administrators Association (SWAA)**
- **Northern Land Use Coordinating Board and Consolidated Conservation/Natural Resources Board Joint Meeting**

11:30 A.M. - 1:00 P.M. **AMC OFFICER CANDIDATE SCREENING**

1:15 -2:15 P.M. **CONCURRENT WORKSHOPS II**

What's All the Fuss about Private Data? The Individual's Rights and the Public Entity's Obligations

There has been much media attention given to unauthorized access of private data by public employees. This session provides an overview of a government entity's obligation relative to nonpublic data and includes a discussion of potential legal and financial ramifications of breaches in that data and provides risk management suggestions for entities to implement relative to protecting data.

Invasion of privacy claims can be extremely costly to counties. The best way to limit claims is to understand data practice laws and how to train employees about it and enforce good policies and procedures relative to data security.

Results of LEAN in Minnesota Counties

What is different in Minnesota county government because they have implemented LEAN efficiency work? This workshop will feature representatives from Minnesota counties who have implemented LEAN Kaizen and 5S events. In a panel and facilitated discussion, the group will discuss improvements counties have made including whether they achieved savings in time or money. If you would like to learn more about implementing LEAN cultures in Minnesota counties this is the workshop for you!

Our People are Our Future: Forecasting and Addressing the Link between Changing Demographics and Increasing Disparities

As Minnesota's most diverse county, Ramsey County faces challenges and opportunities that other communities are projected to experience in coming years. Ramsey County recently developed goals to monitor and address increasing disparities that are becoming more pronounced as demographic projections become reality. Ultimately, the success of a community's people determines the future success of that community, and this workshop will share Ramsey County's initial insights into identifying and addressing challenging disparities issues.

It has been widely documented that Minnesota has some of the worst disparity statistics (i.e. education achievement gap, workforce readiness gap) in the entire country. As counties throughout Minnesota become more racially and ethnically diverse, ongoing disparities threaten to significantly stunt the growth and competitiveness in counties throughout the state.

Response to the Cook County Courthouse Shooting

This presentation will recount the shooting at the Cook County Courthouse on December 15, 2011. The presentation will include a brief synopsis of the suspect and criminal case that lead to the shooting, but will mainly focus on the county's response and what has been done to enhance courthouse security in order to provide a secure and safe environment for our county staff, visitors, litigants, witnesses, and defendants who use the courthouse on a daily basis.

"In's and Out's" of the Affordable Care Act and Health Care Exchanges

Learn the "In's and Out's" of the Affordable Care Act and Health Care Exchanges from Lockridge Grindal Nauen's employment law attorneys. They will discuss and answer questions on the impact it will have on your counties in many ways, including as employers.

2:30 – 3:30 P.M. **CONCURRENT WORKSHOPS III**

The People's Report - A Fresh Take on County Communications

How do you communicate the changing face of county government and show we are more than facts, figures and property taxes? Crow Wing County has collaborated to produce a multi-media report featuring stories told from the point of view of the people we serve. By distributing the report electronically through a network of community partnerships, the county reached a larger audience effectively and in a fiscally responsible way. Counties across Minnesota are in a place where they need to tell their story to educate and prove value to their constituents. Someone in all of our communities is telling our story – but are they telling the story we want told?

Defending Against the Fine (Healthcare Reform)

This workshop is in-depth discussion of Healthcare Reform requirements, penalties and strategies to avoid adverse financial impact to the County. Suggestions on dealing with your collective bargaining units and non-bargained employees will also be included. Gallagher Benefits has been a leader in communicating legislation and providing strategy and toolkits to public entities on many subjects including the Affordable Care Act (ACA). If not prepared, counties could incur significant penalties and/or adverse financial impact to their bottom line.

Better Service and Lower Cost in Three Easy Steps

Winona County's efforts to improve three key components of county government, organizational structure, systems, and personnel/leadership resulted in the largest property tax decrease of all counties from 2009-2013. Winona County expanded service options including prevention programs, developed key partnerships with neighboring entities, increased technology investments, improved its bond rating, all without layoffs, wage cuts or forced furloughs. Consolidations improved coordination of services, LEAN philosophy was adopted, and leadership and staff development have strengthened the organization.

This workshop will demonstrate how a comprehensive approach to organizational improvement can pay dividends in a short period of time. The presentation will include how to develop a strong vision from the County Board, unique partnerships, and opportunities and options for internal improvement of staff, systems and structure.

On-Line Permitting

Crow Wing County has developed an on-line permitting system for land use permits, designed by RtVision out of Little Falls. The permitting system will allow customers to submit applications and be able to pay required fees either with a check or credit card. Future enhancements to the permitting system include a digital site plan. The permit system will also be expanded to the Sheriff's Office, Auditor/Treasurer and Highway Department. Counties need to use new technology to enhance program services at a lower cost. This new software will make it easier for the public to apply for permits. Staff will use this in the field and save trips and money as multiple permits can be reviewed at the same time.

Hot Topic Discussion: TBD

3:30 - 5:00 P.M. MCIT ANNUAL MEETING

- Registration begins at 3:30 p.m./ Meeting begins at 4:00 p.m.

5:00 – 6:00 P.M. SOCIAL HOUR INSIDE EXHIBIT HALL

6:00 – 8:00 P.M. BUFFET DINNER / NETWORKING

TUESDAY, DECEMBER 10

7:30-9:00 A.M. WOMEN IN LEADERSHIP FORUM

7:45 – 8:45 A.M. BREAKFAST SERVED

9:00 A.M. - 2:30 P.M. VENDOR FAIR OPEN

9:00 – 11:30 A.M. AMC POLICY COMMITTEES

- Environment & Natural Resources
- General Government
- Health & Human Services
- Public Safety & Corrections
- Transportation & Infrastructure

11:30 A.M. - 3:30 P.M. MINNESOTA ASSOCIATION OF PROFESSIONAL COUNTY ECONOMIC DEVELOPERS (MAPCED)

11:45 A.M. – 12:45 P.M. LUNCH



Outgoing AMC President's Address

Joe Vene, Beltrami County Commissioner, 2013 AMC President



Keynote Presentation: How Is North Dakota's Oil Rush Impacting Minnesota?

Presenter: North Dakota State Senator Lonnie Laffen

This presentation will provide an analysis of the far-reaching impact of North Dakota's oil rush on Minnesota's economy.

1:00 – 2:00 P.M. CONCURRENT WORKSHOPS IV

BYOD (Bring Your Own Device): Employee-owned Technology in the Workplace

Employees accustomed to using the latest technology often want to use their personal computing devices for work purposes. Although this may seem an optimal solution for public entities already struggling to do more with less, the practice has some significant risks. This presentation discusses the risks and potential liability associated with "bringing your own device" to work including security and privacy risks. Recommendations for managing this evolving risk are also discussed. As technology employees' use of technology evolves, employers' policies and procedures must keep pace to successfully address the potential risks of that technology.

Legislative Advocacy 101

County business is largely determined by the actions of the state legislature. County commissioners and staff need to develop effective methods of communicating with state legislators before, during, and after the legislative session. AMC staff will provide a brief presentation on the legislative process, followed by a panel of seasoned county lobbyists and legislators/former legislators who will provide information about how to best deliver your legislative message quickly and effectively.

Improve Your Facilities Without Grant Funds!

Deferred maintenance avoids immediate capital expenditures but eventually results in building systems becoming inoperable and extremely inefficient. Learn how other counties have leveraged special financing options and savings to fund their much needed facility improvement projects with little or no impact on budgets and without grant funds. These projects not only upgrade buildings with healthy and comfortable work environments, but also drastically reduce ongoing energy and operational expenses, and strengthen the local economy by utilizing local contractors and suppliers.

Greater Minnesota Public Transit - Transit for Our Future

The Transit For Our Future (TFF) initiative began in 2011 as an effort to refine MnDOT's process for evaluating applications for public transit funding under preservation or contraction scenarios. Realizing TFF provided a path to improve transit under any funding scenario. The goal is provide a robust Greater Minnesota public transit system network in the most service and cost effective way that fully meets all local, state and federal program requirements.

TFF aims to improve customer access and service by establishing consistent state program policies that balance accessibility with efficiency in providing public transit service. Transit systems can choose from three strategies, intended to improve service access, more efficient management, and a higher level of compliance with state and federal regulations.

The ABC's of County Economic Development

Economic development is defined as "growing quality jobs & tax base." But what role does a county have in economic development? Counties can play an important role in economic development. Some Minnesota counties are not yet active participants in economic development while others are searching for new ways to enhance job growth and business development. Counties seek to offset revenue losses/decrease tax burdens on residence. Participation in economic development can lead to business growth/job creation – which is one avenue to offset revenue loss/taxes. This session will explain ways to supplement and enhance city development efforts to make counties more attractive for business growth, while highlighting how counties can get involved, organizational models, and available resources.

2:00 – 3:00 P.M. CONCURRENT WORKSHOPS V

What the Frac? Defining the Line of Permissible Regulatory Authority Involving Silica Sand Mining

Silica sand mining has been a very contentious topic in Minnesota in the last few years. Counties have struggled to put ordinances in place that adequately balance the interests of all parties involved. The state legislature has adopted legislation that attempts to move us forward in studying silica sand mining. This presentation will discuss counties' regulatory authority, common concerns that have arisen in this area, and the legislative response to the issue. It is highly contentious and is "high stakes" in that it involves large amounts of money. Silica sand mining issues are extremely political as well.

Public Health Saves Lives and Saves Money: A Sound Return on County Investment

Public health is critical to any county's mission to enhance wellbeing for residents, but represents an upstream investment for which ROI isn't always immediate or readily evident. Presenters from the Local Public Health Association (LPHA) will first describe and provide local examples of proven "return" with various public health strategies (e.g., home visiting and immunizations) and how these investments pay dividends both financially and physically. This session will also explore the challenges counties face on the "investment" side and discuss how to overcome those challenges. Attendees will gain better understanding of public health investment, and how to leverage prevention to improve counties' quality of life and bottom line.

Workforce Development: Strengthening Your Local Economy

To be successful, economic development efforts must incorporate workforce supply and demand. The locally-driven workforce system has resulted in a measurable return on investment. Minnesota has been ahead of the national curve in this mind-set, where service providers interact with economic developers and the business community on a regular basis. Workforce development efforts are the key to strengthening local economies. Minnesota's workforce system is based on workforce service areas determined by local elected officials. This session will cover the basics of Minnesota's workforce system and help participants understand how employment and training strengthens development efforts and the local tax base.

SPOUSE/GUEST INFORMATION

There are no specific guest events planned during the conference, but spouses and guests are invited to any or all conference meals/events. Individual tickets for conference meals and evening events will be sold at the Registration Booth during the conference.

Joint Powers: Tackling Thorny Politics

County boards must come to unanimous or strong majority agreement when two or more counties pursue joint powers agreements. How can commissioners deal with negative reactions such as "we've never done it this way" or "our county will disappear when "X" county assumes leadership" or "without major cost savings this thing is dead." The art of creating new business models depends on effective communications to deal with negative thinking. Multi-county entities and successful collaborative efforts work well and demonstrate efficiencies only if leaders are open to discussion, compromise and acceptance of new roles. Failure to find common ground at the governance level will undercut the success of any new business model and jeopardize optimal delivery of services.

Hot Topic Discussion: TBD

2:00 - 2:30 P.M. BREAK – VENDOR FAIR FINALE!

2:30 - 4:30 P.M. AMC BUSINESS MEETING

- Secretary/Treasurer Report
- Screening Committee Report
- AMC Officer Candidate Presentations
- AMC Platform Amendments
- Executive Director's Report

ELECTION OF 2014 AMC OFFICERS

- Secretary/Treasurer
- Second Vice President
- First Vice President
- President

2014 AMC PRESIDENT'S ADDRESS

4:30 - 5:30 P.M. RECEPTION /SOCIAL HOUR

5:30 – 7:30 P.M. DINNER & AWARDS BANQUET

- Presentation of AMC and MCIT Annual Awards

WEDNESDAY, DECEMBER 11

7:30 A.M. BREAKFAST

- Performance by AMC's County Choir

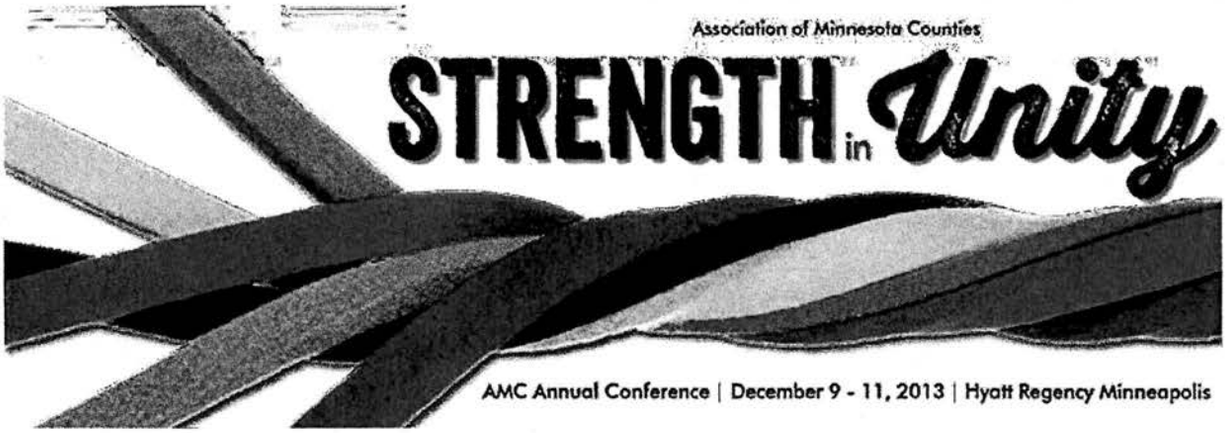
8:30 A.M. GENERAL SESSION: CYBERSECURITY

Protecting Yourself from Computer Crime
Michael Bazzell, FBI Computer Crime Detective

Center for Internet Security Presentation on Cybersecurity
Andrew Dolan, Director of Government Affairs

11:00 A.M. GRAND PRIZE DRAWINGS & ADJOURN

- You must be present to win!



You are responsible for making your own hotel reservations, but be sure to mention the Association of Minnesota Counties (or AMC) room block to receive the group rate.

Hyatt Regency Minneapolis

1300 Nicollet Mall

ROOM RATE: Single/Double $121 + tax
ROOM CUT-OFF DATE: November 16, 2013

Reservations: 612-370-1234
www.minneapolis.hyatt.com

A guest room block has also been reserved at the

Millennium Hotel Minneapolis

1313 Nicollet Mall
Conveniently located directly across the street (connected by skyway) from the Hyatt.

ROOM RATE: Single/Double $112 + tax
ROOM CUT-OFF DATE: November 25, 2013
Reservations: 612-332-6000
www.millenniumhotels.com/minneapolis



Parking in the Hyatt Ramp – For Hyatt Room Guests Only!

If you are staying overnight at the Hyatt, DO NOT INSERT YOUR CREDIT CARD WHEN ENTERING THE RAMP! Simply press the button to receive a ticket and the arm will rise. Your parking fee is included in your room cost. If you insert your credit card, your card will be charged and you will not be reimbursed because the ramp is owned by an outside company and the Hyatt is not responsible or able to reimburse you.

ADDITIONAL PARKING NEAR THE HYATT: The Hyatt's ramp for hotel guest and visitors can fill during the day. This map shows additional parking options in the area if the Hyatt ramp is full.

AMC Annual Conference Registration 2013

Monday, December 9 - Wednesday, December 11
Hyatt Regency Minneapolis

- **Total**$0.00
- County/Organization: *
- Number of Attendees: *
  Please select an amount:
- **Attendee Information**

Please enter your information below. Your county/organization will be billed for your online registration.

'Early Bird' Registration Ends November 1, 2013.
'Early Bird' Rate: $350 per attendee on or before 11/1/13
Regular Registration Rate: $375 per attendee on or after 11/2/13

*Refunds will be granted less a $100 cancellation fee if notice is received November 25 - December 4, 2013. No refunds granted after that date.

- Name #1: First Last
- Name #2: First Last
- Name #3: First Last

FOR YOUR INFORMATION

September 25, 2013

- ☐ Updated BWSR Staff Roster, September 2013
- ☐ BWSR Snapshots

PHONE NUMBERS FOR BWSR STAFF

Main Line: 651-296-3767 - Fax: 651-297-5615 - BWSR Conference Room: 651-297-8025

Metro Office

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Peterson, Mary	296-0874
Rodacker, Dennis	296-6736
Westrick, Marcey	284-4153
Cell (651) 276-5976	
Wozney Brad	296-6068
Cell (651) 233-6673	

Central Office

Anderson, Mary Jo	297-4290
Bonde, Karen	297-3998
Engineering Cell (651) 485-8466	
Buckhout, Don	296-0768
Cabak, Mitchell	296-1243
DeVoe, Natasha	205-4664
Donnelly, Conor	282-3815
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Dykstal, Tim	296-1287
Eisele, Bill	282-2929
Fredbo, Tim	296-0880
Germundson, Travis	297-4958
Gillette, Tim	297-8287
Hogan, Barbie	297-3767
Jaschke, John	296-0878
Cell (612) 202-3815	
Johnson, Sherri	215-6347
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Cell (651) 245-6531	
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Koehler, Tim	296-6745
Larson, Greg	297-7029
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Lemm, Les	296-6057
Cell (651) 341-4208	
Lennon, Megan	296-1285
Lewis, Melissa	297-4735
Luniewski, Jim	297-2622
Mack, Kristie	215-9420
Maleitzke, Jen	215-9008
Cell (651) 315-5082	
Mohring, Eric	297-7360
Cell (612) 309-1173	
Ogg, Tim	297-8024
Cell (651) 295-5737	
Penning, Bill	297-1894
Cell (651) 262-6403	
Powell, Ken	215-1703
Cell (763) 291-9078	
Preston, Jesse	215-6339
Cell (507) 273-4678	
Ragan, Terry	215-6337
Cell (507) 450-3644	
Remick, Polly	297-4365
Rickert, Dave	296-0884
Schmitz, Jared	215-6346
Shaw, Dan	296-0644
Cell (6112) 236-6291	
Sokatch, Char	297-4016
Spence, Aaron	296-0660
Steel, Gwen	296-2428
Straumanis, Sarma	297-7965
Strojny, Carol	297-1893
Cell (612) 518-5545	
Strommen, Sarah	297-5617
Cell (651) 308-8647	
Thomas, Doug	215-6338
Cell (612) 655-2082	
Tyma, Karli	Cell (612) 807-0445
Weeks, Seth	296-1466
Weirens, Dave	297-3432
Cell (763) 229-4308	
Wenzel, Tom	296-0883
Cell (612) 720-1412	
Woods, Steve	297-7748
Cell (651) 402-6997	
Zellmer, Wayne	297-7361
Zuehlke, Elizabeth	296-0873

Willmar Office

Anderson, Mike	Cell (320) 292-5466

Northern Regional Offices

Bemidji

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Dwight, Brian	(218) 755-2679
Cell (218) 820-2335	
Fischer, Matt	(218) 755-2683
Cell (218) 766-6496	
Heinen, Ryan	Cell (218) 239-0222
Krystosek, Dale	(218) 755-2603
Cell (218) 820-9381	
Moore, Kathy	(218) 755-2600
Severts, Chad	(218) 755-2671
Cell (218) 766-7657	
Stensing, Jerry	Cell (218) 647-9476

Brainerd

Fax Number	(218) 828-6036
Conference Room	(218) 833-8607
Caughey, Donna	(218) 828-2383
Grow, Keith	(218) 828-6035
Hrubes, Jeff	(218) 833-8608
Cell (218) 368-7683	
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Shelito, Ron	(218) 828-2604
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Steward, Dan	(218) 828-2598
Cell (218) 820-1679	
Weinerman, Jason	(218) 828-6045
Cell (218) 330-2527	

Duluth

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Flemming, Mary Jo	(218) 723-4752
Hughes, Ryan	(218) 723-4923
Cell (218) 525-4939	
Weyandt, Joan	(218) 723-4607
Cell (218) 349-1834	

Detroit Lakes

Wilken, Bruce	(218) 329-0774
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Voz, John	(218) 847-9392 x116
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Ostendorf, Tara	

Fergus Falls

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Waller, Pete	(218) 736-5445 x104
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Southern Regional Offices

Mankato

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Becker Kudelka, Angie	(507) 344-2820
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Marshall

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Beckler, Jason	(507) 537-6615
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Radel, Kane	(507) 537-7069
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Santjer, Scott	(507) 537-6097
Cell (612) 723-0298	
Serreyn, Roxie	(507) 537-6060
Sill, Dave	(507) 537-6374

New Ulm

Fax Number	(507) 359-6018
Beilke, Adam	(507) 359-6091
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Drewitz, Matt	(507) 359-6076
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Hiles, Mark	(507) 359-6077
Cell (507) 766-9818	
Maul, Jeremy	(507) 359-6090
Cell (507) 766-9819	
Nielsen, Jeff	(507) 359-6075
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Erickson, Dorothy	(507) 206-2889
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Lawler, Steve	(507) 206-2891
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Revised 09/16/13

Maleitzke, Jen (BWSR)

From: Minnesota Board of Water and Soil Resources <mnbwsr@public.govdelivery.com>
Sent: Tuesday, September 24, 2013 8:39 AM
To: Maleitzke, Jen (BWSR)
Subject: BWSR Snapshots: October 2013: TEST



BWSR Snapshots

October 2013

As part of an effort to better communicate with our local partners, BWSR will be sending its monthly newsletter, Snapshots, electronically each month as it is published to share conservation stories from around the state. If desired, you can 'unsubscribe' at the bottom of this email.



Golf course owners in Stillwater clean up Brown's Creek

Golfers who played Oak Glen Golf Course in Stillwater this summer may have noticed the course looked different than in 2012 – more than 1,300 linear feet of native buffer was added to the greens, restoring water quality to Brown's Creek.

Read the story here.

Agassiz Valley project offers more than just flood reduction



Three years after the Agassiz Valley Water Resources Management project (Agassiz Valley project) became operational, the benefits have far surpassed what the project team could ever have imagined.

Constructed after three debilitating floods struck the city of Warren, Minnesota (1996-1997), the $10.7 million project spans four square miles and services a drainage area of 32 square miles.

Read the story here.



Ground broken on Manston Slough project

For more than 140 years, excessive water has been a problem for a plot of land in Wilkin County. Thanks to the hard work and dedication of many partners, that problem is finally going to be solved.

Read the story here.

Local farmer installs conservation drainage, calls on agencies for support



Yellow Medicine County farmer Doug Albin sent a strong message to attendees at the Ag Drainage Seminar and Field Day in early September.

Read the story here.



Wetland trainings offer a chance to sharpen skills

Because implementing the Wetland Conservation Act (WCA) at the local level can sometimes be a challenge, Justin Hanson appreciates having a little refresher now and then.

Hanson, a nine-year veteran at the Mower Soil and Water Conservation District (SWCD), recently attended the Board of Water and Soil Resources' (BWSR) WCA trainings in southern Minnesota.

Read the story here.

Golf course owners in Stillwater clean up Brown's Creek

October 2013 Snapshots



A golfer chips to the green on one of the 'signature' holes on the course in July 2013. Restoration of the stream created major aesthetic improvements.

Golfers who played Oak Glen Golf Course in Stillwater this summer may have noticed the course looked different than in 2012 – more than 1,300 linear feet of native buffer was added to the greens, restoring water quality to Brown's Creek.

Made possible through a $220,000 Clean Water Fund grant *(from the Clean Water, Land and Legacy Amendment)*, the owners of Oak Glen partnered with the Brown's Creek Watershed District in 2012 to convert 2.5 acres of irrigated turf grass to native buffers, restoring one of the last trout streams in the metro area.

Caleb Turbett, Oak Glen's general manager said the selling point was to improve the look of the golf course through a grant that restores water quality. "There was no reason for us to say no to the project – aesthetically, it's a big improvement," Turbett said.

Karen Kill, Brown's Creek Watershed District administrator said fixing the water quality in the creek has been a goal of the District's for some time, adding, "It didn't take a rocket scientist to look at Brown's Creek and know it was not conducive for a trout stream anymore, or an amenity for the course. In order to keep the maintained look, course owners had to mow right to the water's edge and the stream widened, became shallower and warmer, and filled with sediment – it wasn't pretty anymore and certainly not a place that trout would want to live."

Kill worked with owners of the course, the Wilson Golf Group, to scope out the project, and said they spent a lot of time figuring out how to carry out construction without disturbing course play.

"The course owners didn't want to lose out on valuable green fees, so we came up with a plan to do the majority of the 'earth-moving' construction during the winter," Kill said. "While the vegetation was being planted in spring 2012, golfers received information with their score cards about the improvements being made to the course."

More than 11,500 native perennials, 400 native shrubs and 43 native trees were planted along the newly-constructed buffer to Brown's Creek and rock veins were installed to redirect flows back to center of stream.

"We saw an awesome response only 10 months after the project was completed," Kill said. "Now, a year later, when you look down in the stream, it's already cleaning itself out and narrowing to create pools of habitat for trout and other aquatic species. There's been more habitat created than we ever expected in such a short time."

Kill said the project also cools the creek by six degrees Farenheit, bringing the water temperature from lethal to tolerable for trout reproduction. The improvements to the creek will address the impairments, cleaning it up.

Each year, there are more than 22,000 rounds of golf that are played at Oak Glen – and all of those golfers will have the opportunity to be educated through interpretative signage throughout the course.

"The end result has been great – our golfers have noticed an improvement. Hole 16 is such a beautiful hole now – the rock wall in front of Brown's Creek has improved the visual, looking out from the tee box to the green," Turbett said.

Minnesota Board of Water & Soil Resources

Agassiz Valley project offers more than just flood reduction

October 2013 Snapshots

Three years after the Agassiz Valley Water Resources Management project (Agassiz Valley project) became operational, the benefits have far surpassed what the project team could ever have imagined.

Constructed after three debilitating floods struck the city of Warren, Minnesota (1996-1997), the $10.7 million project spans four square miles and services a drainage area of 32 square miles.

The project team started work on Agassiz Valley more than 10 years ago. The team was comprised of representatives from the Middle-Snake-Tamarac Rivers Watershed District, Board of Water and Soil Resources, Department of Natural Resources, the Minnesota Pollution Control Agency, Natural Resources Conservation Service, Army Corps of Engineers, Polk Soil and Water Conservation District, Marshall County, Agassiz Audubon Society and landowners.

"It took a long time, but we achieved our goals," said Danny Omdahl, the Middle-Snake-Tamarac Rivers Watershed District co-administrator. "There's been a significant decrease in water, and downstream landowners, township officials and city employees say flood damage to farmland, roads and infrastructure has been significantly reduced."

While flood control has always been first and foremost, the project work team had other goals too: low flow augmentation, wetland prairie restoration, education and recreation, field research and maintaining the tax base.

The impoundment has stored water every year since it's been operational. "We've captured spring snowmelt and released it over time," Omdahl said. "The low flow augmentation keeps the Snake River from drying up in the later parts of the summer."

The Watershed District has also restored wet prairies, supported bird research and hosted more than 1,000 visitors each year. "They're coming for birding, canoeing and kayaking, photography, school visits and hunting," Omdahl said. "Nearly 400 people - from all over the United States - applied for permits to hunt at Agassiz Valley in 2011 and 2012."

And in 2012, an Associated Press news story about wildlife viewing opportunities at the impoundment put Agassiz Valley "on the map" as a nature destination in Minnesota.



Picture: University of North Dakota students conduct a bird survey at Agassiz Valley in 2012.

Since the project was operational in 2010, numerous public use activities have been encouraged, including:

Outdoor recreation activities

- birding and wildlife viewing *(In the summer of 2012, Agassiz Valley became a new site on the International Pine to Prairie Birding Trail)*
- Canoeing, kayaking, boating (electric motors only)
- Hiking and photography
- Hunting, fishing and horseback riding

On-going field science studies

- Bufflehead duck breeding survey
- Community Nest Watch Project: Kestrels, Martins and Bluebirds

Education programs and tours

- Guided tours for a variety of groups, including professional organizations, colleges, boy and girl scouts, schools, community groups and camps

Ground broken on Manston Slough project

October 2013 Snapshots

For more than 140 years, excessive water has been a problem for a plot of land in Wilkin County. Thanks to the hard work and dedication of many partners, that problem is finally going to be solved.

On Sept. 5, 2013, a groundbreaking ceremony was held for the Manston Slough restoration project, which will restore approximately 1,300 acres of wetlands and provide for 5,446 acre-feet of flood water storage.

Gerald VanAmburg, Chairman of the Buffalo-Red River Watershed District (BRRWD) and a Board of Water and Soil Resources Board (BWSR) member, said, "Today is an auspicious, joyful day. This project has really been in the making since the 1800s. Drainage was never really a success here, so this has been a long day coming."



Partners from BWSR, DNR, NRCS, BRRWD and USFWS gathered for the groundbreaking ceremony at the Manston Waterfowl Production Area in early September.

The first attempt to drain the area in Mitchell, Manston and Meadows Townships in Wilkin County was in 1897 by the State of Minnesota with the construction of State Ditch No. 15. In 2005, the BRRWD began working with local partners to explore a larger flood damage reduction and natural resource enhancement project.

VanAmburg said the concept of the project wasn't 'love at first sight.'

"The project is kind of like an arranged marriage – people had to be acquainted with it and the benefits before they came around," VanAmburg said.

The project, estimated to cost $5.6 million, includes a number of funding partners. The BRRWD has secured 75 percent state funding through the Department of Natural Resources, the Lessard-Sams Outdoor Heritage Council and BWSR (Reinvest in Minnesota Reserve funds). The local share of the project costs will be funded by the BRRWD and assessments to benefitted landowners. The Natural Resources Conservation Service helped secure the necessary easements on private lands, using the Wetlands Reserve Program.

The primary project benefits will increase the quantity and quality of waterfowl and wildlife habitat within the project area and provide recreational opportunities for the public; enhance the quality of water flowing from the project area; provide for groundwater recharge to the south lob of the Buffalo aquifer; and provide for reduced flood damages adjacent to and downstream of the project area.

Bruce Albright, BRRWD Administrator, said this project was the result of a lot of good work and voluntary efforts of landowners. "One person asked me why I should sign up. I said simple, because it is the right thing to do," Albright said.

Project completion is expected in the summer of 2014.

Wetland trainings offer a chance to sharpen skills

October 2013 Snapshots

Because implementing the Wetland Conservation Act (WCA) at the local level can sometimes be a challenge, Justin Hanson appreciates having a little refresher now and then.

Hanson, a nine-year veteran at the Mower Soil and Water Conservation District (SWCD), recently attended the Board of Water and Soil Resources' (BWSR) WCA trainings in southern Minnesota.

"I like that there's specific trainings about administration of program, as well as technical training to ensure we understand the science behind wetland work – that information is always good to be refreshed on. If you don't practice, you can't keep up," Hanson said.

Every year, BWSR provides wetland training sessions on soils, hydrology and vegetation/plant identification across southern Minnesota. In 2013, hydrology training was conducted in Olmsted County in May; vegetation/plant identification was held in St. Peter in August and soils training completed the series in Lamberton in September.

In his role as a Resource Specialist, Hanson said his WCA activities run the gamut – he does everything from reviewing no-loss applications, to writing delineation reports, talking with landowners about compliance and working with producers on agricultural development projects.

"The WCA trainings are really essential for me to stay on top of the latest wetland information available," Hanson said. "They allow me to sharpen my skills and gain a different perspective on the ways other local units of government handle WCA situations."

Jeremy Maul, BWSR senior wetland specialist, said because staff members at the local level implement WCA, it's critical to have knowledgeable and trained people in those roles. "Budget pressures have led more local government units to shy away from sending staff to training events that have a significant cost – either for travel or registration," Maul said. "So at BWSR, we try to provide regional, cost-effective trainings that work well for our local partners."

More than 50 people attended the WCA trainings in 2013, with each session having 12-19 attendees, including local WCA staff, Technical Evaluation Panel members, BWSR and Natural Resource Conservation Service staff.

"The networking at the trainings is great – districts talk amongst each other and discuss how to handle different issues," Hanson said. "Staff members should take advantage of these trainings – I always go away with a new perspective."







Pictures 1 and 2: Local government staff attends vegetation/plant ID class in St. Peter, Minn., Aug. 2013; Picture 3: Staff get down and dirty at soils training in Lamberton, Minn., Sept. 2013.

Local farmer installs conservation drainage, calls on agencies for support

October 2013 Snapshots

Yellow Medicine County farmer Doug Albin sent a strong message to attendees at the Ag Drainage Seminar and Field Day in early September:

"We need to make an effort, because we know our ground better than anyone else. We need assistance, because we can't do this ourselves," Albin said.

More than 100 people attended the event in Luverne, Minn., which was part of a Clean Water Fund Conservation Drainage grant to the Rock Land Management Office to provide outreach and training in southwestern Minnesota. Participants included producers, local government and state agency staff, local soybean and corn grower organizations, the Iowa Soybean Association, the University of Minnesota, South Dakota State University and Natural Resources Conservation Service staff.



MDA staffer Mark Dittrich (L) with Yellow Medicine County farmer Doug Albin (R).

BWSR Conservation Engineer, Tim Gillette, said Albin is a great example of a willing producer who is persistent in looking for ways to enhance the workability, sustainability and profitability of his family farm while at the same time managing the farm's resources and adjacent water resources for the benefit of future generations.

"He knows the places that flood easily, the problems with the drain outlets, the soil's potential for being washed away, and the frustration of having his costly nutrients leached away," Gillette said. "He has become acutely aware that he cannot do sustainable farming on his land without help – and, he knows what it takes to bring change to the landscape."

Albin has been seen in a number of venues around the state talking about how he has been helped by the Minnesota Department of Agriculture (MDA), the Natural Resources Conservation Service (NRCS) and the Yellow Medicine Soil and Water Conservation District, as they guided him in the use of several drainage water management practices, from planning through implementation. While he has put a sizeable amount of his own money into implementation, Albin calls attention to the technical and financial assistance he has received from state and federal programs.

Those programs include resources and information from MDA, NRCS, BWSR and the University of Minnesota Extension to help get conservation drainage practices onto farms and fields. Conservation drainage practices like Albin has installed on his farm are eligible under the BWSR Clean Water Fund, open now until Oct. 4, 2013.

Albin is so passionate about sustainable farming, he even has a YouTube channel with information about the practices he's installed, including saturated buffers and denitrifying bioreactors.

"For the agencies involved in conservation drainage practices with Doug, he is a great conservation cooperator. He is always challenging his fellow producers and the agencies to do more to create a sustainable future for agriculture, as well as for water resources. He is always learning more about what he can do. But most of all, he is persistent in working toward his goal," Gillette said.

Minnesota Board of Water & Soil Resources

DATE: September 16, 2013

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

FROM: John Jaschke, Executive Director

SUBJECT: BWSR Board Meeting Notice – September 25, 2013

The Board of Water and Soil Resources (BWSR) will meet on Wednesday, September 25, 2013, beginning at 9:00 a.m. The meeting will be held in the lower level Board Room at 520 Lafayette Road N., St. Paul. Parking is available in the lot directly in front of the building (see hooded parking area).

The following information pertains to agenda items:

COMMITTEE RECOMMENDATIONS

Administrative Advisory Committee

1. **Addition of "Saturated Buffer" to the list of eligible practices for the Targeted Drainage Water Management Grant Program** -The FY 2013 Targeted Drainage Water Management Grant Program implements a Clean Water Fund appropriation by the 2012 Legislature to improve water quality of agricultural runoff, particularly from tile drainage. The appropriation language specified coordination with the USDA-NRCS for conservation practice standards. The grant program and allocations were approved by the BWSR Board in June 2012, including a list of eligible practices. At that time, Conservation Practice 739 – Vegetated Subsurface Drain Outlet (aka "Saturated Buffer") was not yet available. The interim conservation practice standard CP-739 was issued by NRCS in August 2012 and is generating interest as an effective drainage water management practice. The purpose of this agenda item is to add CP-739 to the list of eligible practices for the Targeted Drainage Water Management Grants to enhance water quality outcomes and to provide BWSR staff the authority to add other applicable NRCS conservation practices when practice standards are available. ***DECISION ITEM***

2. **Order a Public Hearing for the Petition for Redistribution of Managers of the Middle-Snake-Tamarac Rivers Watershed District (MSTRWD)**. Board authorization is needed to schedule and hold a public hearing regarding the petition to redistribute the managers of the Middle-Snake-Tamarac Rivers Watershed District. ***DECISION ITEM***

Southern Region Committee

1. **Area II Minnesota River Basins Projects Inc. FY2014 & FY2015 Biennial Work Plan & Grant –** BWSR oversees the administrative funding related to the efforts of the Area II Minnesota River Basins Project Inc. (Area II). The 2013 Minnesota Legislature appropriated administrative funding for Area II Minnesota River Basins Project Inc., resulting in a fiscal year 2014 grant of $120,000. The overall budget objectives are included in the plan. Staff recommends approval of this plan and

execution of the administrative grant agreement for FY 2014. The Southern Region Committee met on September 5, 2013 to review the Area II Work Plan and recommends approval of the plan and execution of the FY 2014 grant. ***DECISION ITEM***

2. **Brown County Local Water Management Plan Amendment -** By Board Order, the Board of Water and Soil Resources (Board) approved the Brown County 2008 - 2018 Local Water Management Plan (Plan) on August 28, 2008. This Plan contains an implementation section with goals, objectives and actions to address the county's priority concerns. The Board Order required Brown County to update the Plan's implementation section by August 28, 2013. Brown County followed the amendment process guidelines established by the Board and submitted their 2013 - 2018 Local Water Management Plan Amendment on August 8, 2013. The Southern Region Committee (Committee) met on September 5, 2013 to review the Brown County Plan Amendment. The Committee recommends conditional approval of the Brown County 2013 - 2018 Local Water Management Plan Amendment based on the Brown County Board holding a public hearing and submitting the hearing documents to BWSR prior to September 25, 2013. ***DECISION ITEM***

3. **Nicollet County Local Water Management Five-Year Plan Amendment -** On August 19, 2013, Nicollet County submitted their Local Water Management Plan Amendment, a written transcript record of the public hearing, and all written comments received as part of the plan amendment process. On September 5, 2013, the Southern Region Committee (Committee) reviewed the recommendation of the state review agencies regarding final approval of the Nicollet County Local Water Management Plan 2013 Amendment. The Committee recommends approval. The Findings of Fact, Conclusions and Order are drafted for full Board review and action. ***DECISION ITEM***

4. **Upper Minnesota River Watershed District (UMRWD) Watershed Management Plan -** On March 20, 2013, the Board of Managers of the Upper Minnesota River Watershed District filed a proposed Revised Watershed Management Plan with the Board of Water and Soil Resources. The attached draft Order contains a summary of the plan, planning process, and the reviewing agencies comments. The Southern Region Committee (Committee) met on September 5, 2013, and was presented a history of the District, the planning process, and highlights of the implementation section of the revised Plan. After review of the information, the Committee voted to recommend approval of the Plan. ***DECISION ITEM***

5. **Sibley County Local Water Management Plan Update** – Sibley County submitted their Local Water Management Plan Update, a written transcript record of the public hearing, and attendance sheet from the public hearing on June 25, 2013. No written comments were received as part of the public hearing process. On September 5, 2013, the Southern Region Committee (Committee) reviewed the recommendation of the state review agencies regarding final approval of the Sibley County Local Water Management Plan Update. The Committee recommends approval with the requirement that text is added to the Plan Update explaining why some farmers are returning to moldboard plowing in a corn-on-corn rotation. This revision will have to be received by BWSR prior to September 25, 2013. The Findings of Fact, Conclusions and Order are drafted for the full Board review and action. ***DECISION ITEM***

Public Relations, Oversight, and Strategic Planning Committee

1. **Reauthorization of the PRAP Assistance Grants** - Action by the Board is needed to re-authorize the grant program and the delegation of authority to the executive director for the current (2014-15) biennium. The Board made the original authorization and delegation in March 2012 for the 2012-13 biennium. This item will be reviewed by the Public Relations, Oversight and Strategic Planning Committee at their meeting on September 24th. The resolution will come to the Board as a recommendation from the Committee. ***DECISION ITEM***

NEW BUSINESS

1. **Disaster Recovery Assistance Program (D-RAP) and Reinvest In Minnesota (RIM) Reserve Emergency Haying and Grazing -** Board approval is needed to amend the D-RAP Policy that was just approved at the August Board Meeting. Due to recent appropriation changes and concerns about emergency haying and grazing it is being proposed to disallow this option with stand-alone RIM easements. ***DECISION ITEM***

2. **2013 Grants Monitoring Report –** On June 22, 2011, the Board adopted the Grant Monitoring, Reconciliation and Verification Policy, which calls for an annual report to be delivered to the Board on grants monitoring. This report includes data on the formal monitoring of 2012 grant activity that occurred before the old eLINK shutdown, on March 14, 2013. The report will also broaden the scope of the report to include data on the grant verification visits that are an important part of the overall policy, and look ahead to the "Next Steps" in grants monitoring, reconciliation, and verification in BWSR. ***INFORMATION ITEM***

3. **Nutrient Study Results -** Dave Wall, MPCA – In June 2013, the MPCA conducted a study of nitrogen in surface waters to better understand the nitrogen conditions in Minnesota's surface waters, along with the sources, pathways, trends and potential ways to reduce nitrogen in waters. The study was a collaborative effort led by Minnesota Pollution Control Agency, with assistance from the University of Minnesota and the U.S. Geological Survey. The report team used more than 50,000 water samples collected at 700 stream sites and used 35 years of monitoring data and findings from 300 published studies. More at: http://www.pca.state.mn.us/index.php/water/water-types-and-programs/surface-water/nutrient-reduction/report-on-nitrogen-in-surface-water.html.
   INFORMATION ITEM

If you have any questions regarding the agenda, please feel free to give me a call at 651-296-0878. The Board meeting is expected to adjourn about noon. I look forward to seeing you on September 25th!

BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, SEPTEMBER 25, 2013

PRELIMINARY AGENDA

9:00 AM CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

ADOPTION OF AGENDA

MINUTES OF AUGUST 29, 2013 BOARD MEETING

PUBLIC ACCESS FORUM (10-minute agenda time, two-minute limit/person)

CONFLICT OF INTEREST DECLARATION

INTRODUCTION OF NEW BWSR EMPLOYEES

- Mike Anderson, Engineering Technician, Willmar
- Matt Fischer, Board Conservationist, Bemidji
- John Voz, Easement & Working Lands Specialist, Detroit Lakes

REPORTS

- Chair – Brian Napstad
- Administrative Advisory Committee – Brian Napstad
- Executive Director – John Jaschke
- Dispute Resolution Committee – Gerald Van Amburg
- Wetlands Committee – Gerald Van Amburg
- Grants Program & Policy Committee – Paul Langseth
- Public Relations, Outreach & Strategic Planning Committee – Jack Ditmore
- RIM Reserve Management Planning Committee – Gene Tiedemann
- Drainage Work Group – Tom Loveall/Al Kean

COMMITTEE RECOMMENDATIONS

Administrative Advisory Committee

1. Addition of "Saturated Buffer" to the list of eligible practices for the Targeted Drainage Water Management Grant Program - Tim Gillette – ***DECISION ITEM***

2. Order a Public Hearing for the Petition for Redistribution of Managers of the Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) – Travis Germundson – ***DECISION ITEM***

Southern Region Committee

1. Area II Minnesota River Basins Projects Inc. FY 2014 & FY2015 Biennial Work Plan and Grant – Paul Langseth – ***DECISION ITEM***

2. Brown County Local Water Management Plan Amendment - Paul Langseth – ***DECISION ITEM***

3. Nicollet County Local Water Management Five-Year Plan Amendment – Paul Langseth - ***DECISION ITEM***

4. Upper Minnesota River Watershed District (UMRWD) Watershed Management Plan – Paul Langseth - ***DECISION ITEM***

5. Sibley County Local Water Management Plan Update - Paul Langseth - ***DECISION ITEM***

Public Relations, Oversight, and Strategic Planning Committee

1. Reauthorization of the PRAP Assistance Grants – Don Buckhout – ***DECISION ITEM***

NEW BUSINESS

1. Disaster Recovery Assistance Program (D-RAP) and Reinvest In Minnesota (RIM) Reserve Emergency Haying and Grazing - Bill Penning – ***DECISION ITEM***

2. 2013 Grants Monitoring Report – Tim Dykstal – ***INFORMATION ITEM***

3. Nutrient Study Results - Dave Wall, MPCA – ***INFORMATION ITEM***

AGENCY REPORTS

- Minnesota Department of Agriculture – Matthew Wohlman
- Minnesota Department of Health – Chris Elvrum
- Minnesota Department of Natural Resources – Tom Landwehr
- Minnesota Extension Service – Faye Sleeper
- Minnesota Pollution Control Agency – Rebecca Flood

ADVISORY COMMENTS

- Association of Minnesota Counties – Annalee Garletz
- Minnesota Association of Conservation District Employees – Matt Solemsaas
- Minnesota Association of Soil & Water Conservation Districts – LeAnn Buck
- Minnesota Association of Townships – Sandy Hooker
- Minnesota Association of Watershed Districts – Ray Bohn
- Natural Resources Conservation Service – Don Baloun

UPCOMING MEETINGS

- BWSR Board Meeting – October 23, 2013, St. Paul

Noon **ADJOURN**

BOARD OF WATER AND SOIL RESOURCES
SUPERIOR SHORES RESORT & CONFERENCE CENTER
1521 SUPERIOR SHORES DRIVE
TWO HARBORS, MN 55616
THURSDAY, AUGUST 29, 2013

BOARD MEMBERS PRESENT:
Joe Collins, Jack Ditmore, Chris Elvrum, MDH; Rebecca Flood, MPCA; Christy Jo Fogarty, Paul Langseth, Tom Landwehr, DNR; Tom Loveall, Brian Napstad, Judy Ohly, Tom Schulz, Rob Sip, MDA; Steve Sunderland, Gene Tiedemann, Gerald VanAmburg

BOARD MEMBERS ABSENT:
Sandy Hooker
Faye Sleeper, MES

STAFF PRESENT:
Mary Jo Anderson, Mary Jo Flemming, Ryan Hughes, John Jaschke, Al Kean, Jen Maleitzke, Bill Penning, Mary Peterson, Ken Powell, Ron Shelito, Dave Weirens, Wayne Zellmer

OTHERS:
LeAnn Buck, MASWCD
Wayne Seidel, Lake County SWCD
Dan Schutte, Lake County SWCD
Jennifer Thiemann, Lake County SWCD
Ann Thompson, Lake County SWCD
Karen Tucker, Lake County SWCD
Phillip Goutermont, Lake County SWCD
Derrick Passe, Lake County SWCD

DRAFT

CALL MEETING TO ORDER - Chair Napstad called the meeting to order at 8:30 a.m.

PLEDGE OF ALLEGIANCE

** 13-52 **ADOPTION OF AGENDA** – Moved by Rebecca Flood, seconded by Christy Jo Fogarty, to adopt the agenda as presented. ***Motion passed on a voice.***

** 13-53 **MINUTES OF JUNE 26, 2013 BOARD MEETING** – Moved by Judy Ohly, seconded by Jack Ditmore, to approve the minutes of June 26, 2013, as circulated. ***Motion passed on a voice vote.***

CONFLICT OF INTEREST DECLARATION – Chair Napstad explained that the conflict of interest declaration process is being used today on the Feedlot Water Quality Cost Share Grants Program Authorization. The Conflict of Interest Declaration forms need to be submitted.

RECOGNITION OF WAYNE SEIDEL, LAKE COUNTY SWCD – John Jaschke acknowledged Wayne Seidel, Lake County SWCD; recognizing his great career efforts in northeastern Minnesota for implementation of detention basin and erosion control projects, forest management, stream bank stabilization, storm water planning, rain gardens, and mentoring.

Phillip Goutermont, on behalf of Lake County SWCD, presented Wayne with an engraved rock for his dedication to Lake County. Chair Napstad thanked Lake County SWCD staff for the great tour yesterday.

REPORTS

Chair's Report – Brian Napstad reported that the EQB meeting in July was cancelled. Chair Napstad announced that Will Seuffert was recently hired as executive director of EQB.

Chair Napstad stated that Aitkin County is in the process of establishing a Lake Improvement District (LID). He affirmed the complicated rules in statute for the LID establishment process. He noted a referendum, a public hearing for the special taxing district, and the need for guidance as the process moves forward.

Administrative Advisory Committee (AAC) – Chair Napstad reported that the AAC did not meet this morning, no report.

Executive Director's Report – John Jaschke thanked BWSR staff and Lake County SWCD for their efforts in planning the tour yesterday. John reviewed information in board members packets.

John stated that BWSR is working with the Department of Agriculture and a pilot group regarding the agricultural water certification program. John reported that the One Watershed One Plan (1W1P) meetings are being held statewide. John stated that the Public Relations, Oversight, and Strategic Planning Committee will be developing guiding principles for the 1W1P.

LAKE COUNTY SWCD TO ADDRESS THE BOARD – Dan Schutte, Lake County SWCD Outreach Coordinator, thanked the BWSR Board for coming to Lake County and expressed

gratitude to BWSR for providing funding allocations to Lake County SWCD. Dan stated that the accomplishments and achievements in Lake County are due to collaborative efforts. He encouraged getting the word out and educating the public on the effective use of Clean Water Funds and how legacy dollars has provided implementation of many projects, as observed on the tour yesterday. Tom Landwehr stated that next year will be five years since the legacy funds were allocated, good accomplishments and much work done. Tom recommends agencies work together to send a message to local units of government regarding funding opportunities.

Dispute Resolution Committee – Gerald VanAmburg reported that the DRC will attend a training workshop on September 25, immediately following the Board Meeting, regarding the statutory mandated dispute resolution process. All board members are invited to attend the workshop.

Wetlands Committee – Gerald VanAmburg reported that the Wetlands Committee met this morning and discussed two items: 1) A recommendation for approval of staff to look at the selection process of road wetland replacement; on the agenda later today. And, 2) federal approval exemption for utilities. WCA exemption process turned over to the U.S. Army Corps of Engineers regarding a pipeline issue. Gerald stated that this issue will be brought before the Board in October. Gerald asked Tom Landwehr that DNR staff be involved. Tom appointed Doug Norris to represent DNR on this topic. Chair Napstad stated that the Wetlands Committee is addressing the issue and will seek an agreement with agencies for this program.

Public Relations, Oversight & Strategic Planning Committee (PROSP) – Jack Ditmore reported that the RPOSP Committee will meet on September 24, the evening prior to the Board meeting. Jack stated that the PROSP Committee will be responsible for developing guiding principles for the 1W1P; this is expected to come before the Board for endorsement in December.

Grants Program & Policy Committee – Paul Langseth reported that the Grants Program & Policy Committee met and has recommendations on the agenda later today.

RIM Reserve Management Planning Committee – Gene Tiedemann reported that RIM Reserve Management Planning Committee met and has recommendations on the agenda later today.

Drainage Work Group – Tom Loveall reported that the Drainage Work Group met on August 8, 2013. Al Kean summarized the topics of discussion at the meeting and the significant challenges of the drainage law. Discussion followed on public information/data privacy issues of drainage authority. The next meeting of the Drainage Work Group is September 12.

COMMITTEE RECOMMENDATIONS

Metro Planning Committee

Bassett Creek WMO Plan Amendment – Mary Peterson reported that a final draft amendment to the Bassett Creek WMO Watershed Management Plan was filed with the Board on June 27, 2013. The draft Order contains a summary of the changes and the reviewing agencies' comments. All comments received during the review process and public hearing were

addressed and resulted in no revisions to the draft amendment. The Metro Region Committee met on August 12, 2013, and after review of the information recommends approval of the Plan
** Amendment. Moved by Paul Langseth, seconded by Joe Collins, to approve the Bassett Creek
13-54 WMO Watershed Management Plan amendment. ***Motion passed on a voice vote***.

Scott WMO 2013 Plan Amendment – Mary Peterson reported that a final draft amendment to the Scott WMO Watershed Management Plan was filed with the Board on July 5, 2013. No comments were received during the public hearing. The Metro Region Committee met on August 12, 2013, and after review of the information recommends approval of the Plan
** Amendment. Moved by Joe Collins, seconded by Paul Langseth, to approve the Scott WMO
13-55 Watershed Management Plan amendment. ***Motion passed on a voice vote***.

Prior Lake-Spring Lake WD Plan Amendment – Mary Peterson reported that a final draft amendment to the Prior Lake-Spring Lake WD Watershed Management Plan was filed with the Board on June 18, 2013. Numerous comments were received during the review process and at the public hearings which were addressed and resulted in revisions to the draft amendment. The Metro Region Committee met on August 12, 2013, and after review of the information
** recommends approval of the Plan Amendment. Moved by Joe Collins, seconded by Tom
13-56 Loveall, to approve the Prior Lake-Spring Lake WD Plan Amendment. ***Motion passed on a voice vote.***

North Cannon River WMO Watershed Management Plan 2013 – 2023 – Mary Peterson reported that the North Cannon River WMO is a government unit formed through a joint powers agreement signed by eight townships and three small cities in southern Dakota County. The WMO was established in 1983. The Plan Revision (2013-2023) is the 3rd Generation Watershed Management Plan for the WMO. The Plan includes a profile of the watershed's existing environmental conditions, discusses water resource management issues, identifies strategies and policies for each goal, and defines the course of action the organization will follow to address them. The Metro Region Committee met with BWSR staff and local representatives on August 12, 2013, to review and discuss the Plan. The Committee
** unanimously voted to recommend approval of the Plan. Moved by Joe Collins, seconded by
13-57 Judy Ohly, to approve the North Cannon River WMO Watershed Management Plan. ***Motion passed on a voice vote.***

Chisago County Local Water Management Plan Update – Mary Peterson reported that Chisago County has updated their Local Water Management Plan as authorized under Minnesota Statutes, section 103B.301. The Priority Concerns Scoping Document (PCSD) was completed and no changes were recommended. The Plan Update focuses on the priority concerns identified in the PCSD; assesses the priority concerns and sets forth appropriate goals and objectives; and provides an implementation program with targeted and measurable actions, timeline and budget. The Metro Region Committee met on August 12, 2013, and after review of
** the information recommends approval of the Chisago County Plan Update. Moved by Joe
13-58 Collins, seconded by Rebecca Flood, to approve the Chisago County Local Water Management Plan Update. ***Motion passed on a voice vote***.

Coon Creek WD Watershed Management Plan – Mary Peterson reported that the Coon Creek Watershed District (CCWD) was established in 1959 and is located exclusively in Anoka County in the north-central portion of the Minneapolis – St. Paul seven county metropolitan areas. The Plan is the third generation plan required by the Metropolitan Surface Water Management Act (M.S. 103B) and the fourth required under the Watershed Act (M.S. 103D). The Metro Region Committee met with BWSR staff and local representatives on August 12, 2013 to review and discuss the Plan. The Committee unanimously voted to recommend
** approval of the Plan. Moved by Joe Collins, seconded by Gerald VanAmburg, to approve the
13-59 Coon Creek WD Watershed Management Plan. Gerald stated that adaptation to flooding is important; Board needs to send the message. Discussion followed. Rob Sip stated that agencies should be in agreement, BWSR's regional planning committees are a good start. ***Motion passed on a voice vote***.

Chair Napstad called for a break in the meeting at 10:20 AM. The meeting reconvened at 10:43 a.m.

Grants Program & Policy Committee
Erosion Control and Water Management Program Policy Amendments – Dave Weirens reported that following several rounds of discussion by staff and the Grants Program and Policy Committee; amendments to the Erosion Control and Water Management Program Policy were presented for Board consideration. The proposed changes are the result of Board discussion when the Policy was originally adopted on October 24, 2012, and to reflect appropriation and
** statutory changes enacted following the 2013 legislative session. Moved by Paul Langseth, seconded by Christy Jo Fogarty, to approve the Erosion Control and Water Management Program Policy Amendments as presented.

Jack Ditmore recommended a change under 1.0 Purpose: page 2, the last sentence – eliminate 'The limitation on; and remove and'. The sentence reads; *The use of cost-sharing funds for technical and administrative expenses is governed as provided in 3.1 of this policy.*' Dave recommends a change under 3.1 Technical and Administrative (TA) Expense. The first sentence now reads: "*The BWSR Board establishes the amount allowed for TA expenses to be twenty percent (20%) of the total grant.*"

** Moved Paul Langseth, seconded by Christy Jo Fogarty, to approve the amendments to 1.0 and
13-60 3.1 as presented above. ***Motion passed on a voice vote***.

13-61 Chair Napstad called for the vote on the original policy amendments. ***Motion passed on a voice vote.***

FY2014 Clean Water Fund and Competitive Grants Program Policy and Request for Proposals – Dave reported that BWSR has been appropriated Clean Water Funds to make grants to local governments to address water quality needs. The FY 2014 Clean Water Fund Competitive Grants Request for Proposal (RFP) was distributed. The Minnesota Departments of Agriculture and Health are contributing funds to this grant program. BWSR staff are proposing to package these funds into a single request for proposals that will allow local governments to apply for funds to address water quality priorities that are identified in their local water

management plan. Tom Loveall asked that clarification of drainage authorities be included in the process. Rob Sip asked that and/or infiltration be included in 3.0 Eligible Activities. Dave reviewed the RFP general information and the resolution for policy and RFPs.

** Moved by Paul Langseth, seconded by Christy Jo Fogarty, to 1) authorize staff to finalize, distribute and promote an RFP for the FY2014 Clean Water Fund Competitive Grants Program consistent with the provisions of appropriations enacted in 2013, Minn Stat. 103B.3369 and this Board resolution; and 2) adopts the attached FY2014 Clean Water Fund Competitive Grants Policy. Discussion followed. John Jaschke explained a proposed amendment to 3.0 Eligible Activities, and recommends the first sentence read, "*The primary purpose of activities funded with grants associated with the Clean Water Fund is to restore, protect and enhance water quality.*" Also, under 3.3 Project Support, the first sentence on page 5, include *'Eligible activities include* at the beginning of the sentence.

** Moved by Chris Elvrum, seconded by Rob Sip to approve the amendment as presented above.
13-62 ***Motion passed on a voice vote***. Discussion followed.

13-63 Chair Napstad called for the vote on the original motion for approval of the Resolution***. Motion passed on the voice vote.***

Cooperative Weed Management Area Program Authorization – Wayne Zellmer reported that approval of the FY2014 and FY2015 Cooperative Weed Management Area (CWMA) Program is requested. The Board was appropriated $100,000 in each year of the biennium of cost share grant funds for cooperative weed management grants and to restore native plants in selected invasive management sites by providing local native seeds to landowners for implementation. Staff have developed a proposal to make these funds available to qualified cooperative weed management groups. Wayne reported that the Grants Program & Policy Committee

** recommends approval. Moved by Paul Langseth, seconded by Christy Jo Fogarty, to authorize
13-64 staff to finalize, distribute and promote a Request for Proposal (RFP) for the Cooperative Weed Management Area Grant Program consistent with the appropriations enacted in 2013. ***Motion passed on a voice vote.***

CONFLICT OF INTEREST DECLARATION

Chair Napstad read the statement:

"A conflict of interest whether actual, potential, or perceived, occurs when someone in a position of trust has competing professional or personal interests and these competing interests make it difficult to fulfill professional duties impartially. At this time, members are requested to declare conflicts of interest they may have regarding today's business."

Chair Napstad stated that board members have submitted their completed Conflict of Interest Declaration forms. The Conflict of Interest Declaration documents will be filed for the grant decision item. All board members are eligible to vote.

Feedlot Water Quality Cost Share Grants Program Authorization – Dave Weirens reported that BWSR was appropriated $260,000 in each year of the FY2014-15 biennium for "feedlot water quality grants for feedlots under 300 animal units in areas where there are impaired waters". Staff have developed a proposal to make these funds available for projects proposed

during the FY2013 Clean Water Fund Competitive Grants application period. It was noted that the third WHEREAS be deleted as it was inadvertently added to this resolution and does not
** pertain to the subject matter. Moved by Paul Langseth, seconded by Rebecca Flood, to delete
13-65 the third WHEREAS, and authorize staff to award Feedlot Water Quality Cost Share funds to projects consistent with the appropriations enacted in 2013. Discussion followed. ***Motion passed on a voice vote.***

Disaster Recovery Assistance Program Policy (DRAP) – Wayne Zellmer reported that disasters and emergency legislative funding occur frequently and usually unpredictably. Policy (and guidance) will provide BWSR staff and LGUs the needed implementation information and related recovery processes, of BWSR and other state and federal assistance providers. Wayne summarized the policy of the Disaster Recovery Assistance Program. The Grants Program and Policy Committee recommends approval of the Disaster Recovery Assistance Program
** Policy. Moved by Paul Langseth, seconded by Joe Collins, to approve the Disaster Recovery
13-66 Assistant Program Policy and authorizes the executive director to activate the DRAP Policy in the event of a disaster. Discussion followed. ***Motion passed on a voice vote.***

Wetland Committee
2013 Local Road Wetland Replacement Program Project Selection Process – Ken Powell reported that the Wetland Committee met this morning. BWSR staff and the BWSR Wetland Committee recommend approval to pursue projects selected and identified through the 2013
** easement sign-up and request for proposal solicitation process. Moved by Gerald VanAmburg,
13-67 seconded by Jack Ditmore, to approve the Local Road Wetland Replacement Program Project Selection Process authorizing staff to pursue and procure contracts and agreements with landowners, project proposers, and local partners for the projects resulting from the easement sign-up and RFP process conducted in 2013. ***Motion passed on a voice vote.***

RIM Reserve Management Planning Committee
RIM/WRP Payment Rate Adjustment 2010-2012 – Bill Penning reported that the RIM Reserve Management and Planning Committee met on August 27, 2013, and recommends approval to apply RIM-WRP Partnership payment rates authorized via Resolution 13-36 to currently funded 2010-2012 RIM-WRP applications that have not closed, subject to the following factors: 1) Staff will develop and implement ineligibility criteria for applications where the delayed easement closing has not been primarily caused by NRCS or BWSR; and 2) The payment rates set in this
** resolution are supplemental to Resolutions 10-27, 11-19 and 11-79. Moved by Gene
13-68 Tiedemann, seconded by Paul Langseth, to authorize as presented, the 2013 RIM-WRP partnership easement payment rates be applied to RIM-WRP projects from 2010-2012 that have not closed. Discussion followed. ***Motion passed on a voice vote.***

Easement Tax Valuation Fact Sheet – Bill Penning presented the RIM easements and property tax valuation fact sheet for information, as defined by the state tax assessor. Bill explained that he and Sarah Strommen will be meeting with the Department of Revenue on August 30, 2013 to review the statute language for clarification and will be working with expertise on research of assessment and valuation of property, information will be received before the upcoming legislative session. Discussion followed. John Jaschke stated that BWSR staff are in the exploration phase, this may be brought to the Board for action in the future.

AGENCY REPORTS

Minnesota Department of Agriculture (MDA) – Rob Sip invited board members to attend the "Preparing Minnesota for Climate Change: A Conference on Climate Adaptation". Rob reported that MDA's Ag Drainage Field Days are coming up; Jen Maleitzke will send information to board members. Rob requested that Matt Wohlman provide the Board with an update in the near future on the agricultural water certification program.

Minnesota Department of Natural Resources (DNR) – Tom Landwehr reported that DNR is working with BWSR and PCA on a Clean Water Roadmap - implementation of Clean Water Funds; with a goal having an initial document by November. Tom reported that he and John Jaschke will testify before the Lessard Sams Outdoor Heritage Council (LSOHC) on September 4, to provide an overview of the coordinated approach to the prairie plan, RIM easements and acquisition of prairies. Tom reported that new legislation, statutory permit process for silica sand is in place, ready to deliver, no applications received to date.

Minnesota Pollution Control Agency (MPCA) – Rebecca Flood reported that MPCA is host to the EPA Hypoxia Task Force meetings on September 23-25.

UPCOMING MEETINGS

Next BWSR Board Meeting – September 25, St. Paul

** 13-69 Moved by Judy Ohly, seconded by Paul Langseth, to adjourn the meeting at 1:00 PM. ***Motion passed on a voice vote.***

Respectfully submitted,

Mary Jo Anderson
Recorder

DRAFT

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Dispute Resolution Committee Report[1]

Meeting Date: September 25, 2013

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: Gerald Van Amburg

☐ **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
September 13, 2013
By: Travis Germundson

There are presently **14** appeals pending. All of the appeals involve WCA except File 10-10. There have been 3 new appeals filed since the last report dated August 29, 2013.

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 13-8 This is an appeal of a Restoration Order in St. Louis County. The appeal regards the placement of approximately 2,076 square feet of fill in a Type 3 wetland within the shore impact zone of Coon Lake for lake access. No decision has been made on the appeal.

File 13-7 This is an appeal of several replacement plan decisions in Le Sueur County. The appeal involves the same project and local unit of government decisions as File 13-6. No decision has been made on the appeal.

File 13-6 This is an appeal of several replacement plan decisions in Le Sueur County. The appeal regards the approval of three wetland replacement plan applications for a silica sand mining operation. At issue is that the decisions allow for substantial wetland impacts to occur without replacement. No decision has been made on the appeal.

File 13-5 (6-11-13) This is an appeal of a replacement plan decision in Stearns County. The appeal regards the approval of a wetland replacement plan application. A pervious appeal (File 12-19) was remanded for further technical work and administrative proceedings, and now that new decision is being appealed. At issue is the adequacy of the TEP's Report to address partial drainage. The appeal has been remanded for further technical work directing the TEP to produce a revised written report adequately addressing partial drainage.

File 13-3 (3-19-13) This is an appeal of a restoration order in Big Stone County. The appeal regards impacts to DNR Public Waters and WCA wetlands on state property associated with an agricultural drainage project. 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 13-1 (1-9-13) This is an appeal of a restoration order in Swift County. The appeal regards drainage impacts to multiple wetlands associated with an agricultural drain tile project. 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 12-16 (11-16-12). This is an appeal of a wetland banking credit deposit request in Stearns County. The appeal regards the approval of a wetland banking plan request to deposit 9.9 acres of credit. A previous appeal (File 12-13) was remanded for the LGU to develop an adequate record, and now that new decision is being appealed. At issue are the eligibility requirements for banking credits. The appeal has been accepted and the briefing and hearing schedule stayed by mutual agreement to allow informal settlement discussions to continue.

File 12-12 (7-16-12) This is an appeal of an exemption determination in Renville County. The appeal regards the denial of an agricultural drainage exemption associated with a 1.5 acre wetland. At issue is the wetland type determination. A previous appeal (File 12-5) was remanded for further technical evaluation and administrative proceedings, and now the current approval is being appealed. A verbal settlement agreement has since been reached that includes submittal of a replacement plan application. The appeal has been placed in abeyance by mutual agreement to determine the viability of a wetland replacement plan application.

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 and confirmation of required mitigation.

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 proceed 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. A mediated settlement agreement was reached with the condition that if the watershed district fails to carry out Option D the appeal shall go forward. The appeal has been placed in abeyance.

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. A portion of the site has been restored and it appears the landowner is committed to restoring the remaining areas.

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 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 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.

Summary Table

Type of Decision	Total for Calendar Year 2012	Total for Calendar Year 2013
Order in favor of appellant	1	
Order not in favor of appellant	5	1
Order Modified		
Order Remanded	4	2
Order Place Appeal in Abeyance	1	1
Negotiated Settlement		
Withdrawn/Dismissed	4	

COMMITTEE RECOMMENDATIONS

Administrative Advisory Committee

1. Addition of "Saturated Buffer" to the list of eligible practices for the Targeted Drainage Water Management Grant Program - Tim Gillette – ***DECISION ITEM***

2. Order a Public Hearing for the Petition for Redistribution of Managers of the Middle-Snake-Tamarac Rivers Watershed District (MSTRWD) – Travis Germundson – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Addition of *"Saturated Buffer"* to the list of eligible practices for the Targeted Drainage Water Management Grant Program**

Meeting Date: 9/25/2013

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

Item Type: ☐ Decision ☐ Discussion ☐ Information

Section/Region:

Contact: Tim Gillette / Al Kean

Prepared by: Tim Gillette

Reviewed by: Al Kean — Committee(s) ***Administrative Advisory Committee***

Presented by: Tim Gillette

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

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

Fiscal/Policy Impact

X None
☐ Amended Policy Requested
☐ New Policy Requested
☐ Other:

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

ACTION REQUESTED

Amend a June 2012 Board Resolution authorizing the Targeted Drainage Water Management Grant Program list of eligible practices.

LINKS TO ADDITIONAL INFORMATION

Targeted Drainage Water Management Program Description, June 2012 (attached)

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

The FY 2013 Targeted Drainage Water Management Grant Program implements an appropriation by the 2012 Legislature to improve water quality of agricultural runoff, particularly from tile drainage. The appropriation language specified coordination with the USDA-NRCS for practice standards. The grant program and allocations were approved by the BWSR Board in June 2012, including a list of eligible practices. At that time, **Conservation Practice *739 – Vegetated Subsurface Drain Outlet (aka "Saturated Buffer")*** was not yet available. The interim conservation practice standard CP-739 was issued by NRCS in August 2012 and is generating interest as an effective drainage water management practice. The purpose of this agenda item is to add CP-739 to the list of eligible practices for the Targeted Drainage Water Management Grant Program.

Minnesota Board of Water & Soil Resources

Board Resolution #_____

BWSR Targeted Drainage Water Management Grants

WHEREAS, the BWSR Board passed Resolution 12-55 on June 27, 2012 approving the BWSR Targeted Drainage Water Management (DWM) Grants Program, including the attached Program Description; and

WHEREAS, the Targeted DWM Grants Program Description includes a list of eligible and ineligible practices; and

WHEREAS, in accordance with the appropriation language, the BWSR Targeted DWM Grants Program is coordinated with the applicable conservation practice standards of the USDA Natural Resources Conservation Service (NRCS); and

WHEREAS, the NRCS in August 2012 added an interim conservation practice standard for Vegetated Subsurface Drain Outlet (CP-739) (aka "Saturated Buffer") that is another drainage water management practice to help denitrify tile drainage water; and

WHEREAS, the Vegetated Subsurface Drain Outlet (CP-739) conservation practice will enhance the outcomes of the BWSR Targeted DWM Grants, and

WHEREAS, other NRCS conservation practice standards might be added that would enhance the BWSR Targeted DWM Grants.

NOW THEREFORE, the Board hereby resolves that:

1. The Vegetated Subsurface Drain Outlet (CP-739) conservation practice be added to the eligible practices under the BWSR Targeted Drainage Water Management Grants, and
2. BWSR staff is given authority to adjust the list of eligible conservation practices for the BWSR Targeted Drainage Water Management Grants in coordination with applicable NRCS conservation practice standards.

_____ Date:_____

Brian Napstad, Chair
Board of Water and Soil Resources

Attachment:

A) BWSR Targeted Drainage Water Management Grants, Program Description, June 2012

FY 2013 Clean Water Fund
Targeted Drainage Water Management Grants
Program Description

Overview

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. These funds must supplement traditional sources of funding and may not be used as a substitute to fund activities or programs. The appropriation language governing the use of these funds for FY 2013 is in Laws of Minnesota 2012, Chapter 264.

The 2012 Legislature provided an additional $700,000 for FY 2013 to the Board of Water and Soil Resources in Chapter 264, Section 7 (d) for the Conservation Drainage Program, with a legislative intent to be used for drainage water management in coordination with the USDA Natural Resources Conservation Service practice standards and federal funds. The appropriation language defines a purpose for conservation practices on drainage systems that will result in water quality improvements. The appropriation language also removed a previous provision limiting use of Conservation Drainage Program funding to retrofits of existing drainage systems (i.e. funding can be used for both existing and new drainage systems). Drainage water management (DWM) includes controlled subsurface drainage, denitrifying bioreactors, nutrient management on associated acres, design and operation planning, and implementation incentives on existing and new tile drainage systems to improve water quality. BWSR Conservation Drainage Program and NRCS Environmental Quality Incentive Program funds will not be used for new pattern tile. A rapid response is necessary due to the amount of pattern drain tile being installed in agricultural areas of Minnesota.

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 must be consistent with a watershed management plan, county comprehensive local water management plan, soil and water conservation district comprehensive plan, metropolitan local water plan or metropolitan groundwater plan, that has been state approved and locally adopted or an approved total maximum daily load study (TMDL), surface water intake plan, or well head protection plan. Local governments may include projects that are derived from an eligible plan of another local government. BWSR may request documentation outlining the cooperation between the local government grantee and the local government that has adopted the plan.

Eligible activities can consist of structural practices and projects, non-structural practices and measures, project support activities, and grant management 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.

Proposed activities may be for existing drainage systems (i.e., retrofits) or new pattern tile systems. Eligible activities may include:

- NRCS Conservation Activity Plan (CAP) 130 Drainage Water Management Plan (including controlled subsurface drainage, denitrifying bioreactor, and nutrient management components). Plan must be developed by a Technical Service Provider (TSP) certified in NRCS TechReg for CAP 130 Drainage Water Management Plan.
- NRCS Practice 587 Structure for Water Control – to enable controlled subsurface drainage, including stop log type structures and/or AgriDrain Water Gate structures or equivalent.
- NRCS Practice 554 Drainage Water Management, Implementation/Operation – A CAP 130 is required. Where controlled subsurface drainage structures have been installed, $7.58 per acre per year for the first three (3) years of implementation/operation, up to a maximum of 300 acres per cooperator.
- NRCS Practice 747 Denitrifying Bioreactor – on existing or new tile drainage systems.
- NRCS Conservation Activity Plan (CAP) 104 Nutrient Management Plan – on fields for which controlled subsurface drainage and/or a denitrifying bioreactor is planned. Plan must be developed by a Technical Service Provider (TSP) certified in NRCS TechReg for Practice 590 Nutrient Management.
- NRCS Practice 590 Nutrient Management – on fields where controlled subsurface drainage, denitrifying bioreactor and/or existing open tile inlet(s) are replaced by dense pattern tile. A CAP 104 is required. Nutrient management plan implementation for the first three (3) years of implementation at $5.44 per acre per year for CAP 104 acres without manure and $10.78 per acre per year for CAP 104 acres with manure, up to a maximum of 300 acres per cooperator.
- Replacement of existing open tile inlet(s) with water quality improvement inlet(s) (e.g. perforated riser or dense pattern tile) in accordance with NRCS Practice 606 Subsurface Drain, as applicable.

Ineligible Activities

- Tile, except for dense pattern tile to replace existing open tile inlet(s),
- Ditching
- Ambient water quality monitoring.

Required Project Components and Policies –

Proposed projects must contain the following components:

- Outcomes: Projects must be conducted on a field scale or another suitable scale such that project outcomes can be evaluated and must include a project evaluation plan.
- Outreach: The project must include an outreach component. Examples include: 1) developing project fact sheets that are distributed to landowners/operators; 2) hosting public meeting(s)/workshop(s) to discuss project objectives, benefits and results; 3) hosting field day(s) to show and discuss project objectives and outcomes on-site; and
- Practice Implementation: Projects must focus on on-the-ground implementation. Projects only conducting planning are not eligible.

Timeline for FY 2013 Clean Water Fund Targeted Drainage Water Management Grants

- June 27, 2012 BWSR Board authorizes grant awards (proposed)
- June 29, 2012 Award notices sent out to grantees (proposed)
- July 13, 2012 BWSR grant agreements sent out to grantees
- August 10, 2012 Work Plan submittal deadline
- August 31, 2012 Grant execution deadline

Project Period

The project period starts when the grant agreement is "executed," meaning all required signatures have 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, 2015.

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.

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 payments will not be released 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 awarded 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.

Permitting

If applicable, grantees 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. Grantees 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.

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 management 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.
- Grant recipients must prominently display on their Web site home page the legacy logo accompanied by the phrase "Click here for more information." When a person clicks on the legacy logo image, the Web site must direct the person to a Web page that includes both the contact information that a person may use to obtain additional information, as well as a link to the Legislative Coordinating Commission Web site.

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

The FY 2013 Clean Water Fund Policy adopted by the BWSR (http://www.bwsr.state.mn.us/grants/apply/index.html) provides the framework for funding and administration of the FY 2013 Clean Water Fund Grant Programs. Questions regarding grants should be directed to your area Board Conservationist or Clean Water Specialist (http://www.bwsr.state.mn.us/contact/index.html). Questions regarding eligible practices can be directed to Kyle Skov, Conservation Drainage Engineer, at 507-206-2894 or kyle.skov@state.mn.us.

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Redistribution of Managers Positions Hearing Middle Snake Tamarac Rivers WD**

Meeting Date: September 25, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: North Region

Contact: Travis Germundson or Brian Dwight

Prepared by: Travis Germundson

Reviewed by: Administrative Advisory Committe Committee(s)

Presented by: Travis Germundson or Brian Napstad

☐ **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 petition to redistibute the managers of the Middle-Snake-Tamarac Rivers Watershed District (MSTRWD).

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

A peitition for the redistribution of manager posisitons was filed by Polk County Board of Commissioners with the Board of Water and Soil Resources (Board) on June 7, 2013. The petition proposes that the MSTRWD managers posisitons be redistributed. Presently six of the seven district manager posisitons are appointed by Marshall County and the remanining posistion is appointed by Polk County. The petition states that the appointments by Kittson, Roseau, and Pennington Counties will assist in addressing issues that exist between residents and the Watershed District Board.

After 10 years from the establishment of the watershed district the county board of commissioners of a county affected by the watershed district may petition the board to redistribute the managers pusuant to Minn. Stat. 103D.301, Subd. 3.

On July 23, 2013 Polk County Board of Commissioners voted to table the Petition in support of investigating an alternative approach on manager appointments with the other affected counties. Do to apparent lack of interest among some of the member counties Polk County Board of Commissioners on August 29, 2013 requested that the Board move forward with the hearing on the Petition.

The Administrative Advisory Committee met on September 25, 2013 and recommends a public hearing be held after proper notice has been given, that Northern 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.

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

In the Matter of petition for Redistribution of Manager Positions for the Middle-Snake-Tamarac Rivers Watershed District pursuant to Minnesota Statutes § 103D.301	**ORDER REDISTRIBUTION OF MANAGER POSITIONS HEARING**

Whereas, a Petition was filed with the Board of Water and Soil Resources (Board) on June 7, 2013 by Polk County Board of Commissioners to redistribute the managers of the Middle-Snake-Tamarac Rivers Watershed District (MSTRWD), pursuant to Minn. Stat. § 103D.301, Subd. 3., 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 redistribution of manager positions Petition dated June 6, 2013 was filed with the Board on June 7, 2013 by Polk County Board of Commissioners in accordance with Minn. Stat. § 103D.301, Subd. 3. On July 23, 2013 Polk County Board of Commissioners voted to table the Petition in support of investigating an alternative approach on manager appointments with the other affected counties. Do to the apparent lack of interest among some of member counties Polk County Board of Commissioners on August 29, 2013 requested that the Board move forward with the hearing on the Petition.

2. **Redistribution of Manager Positions.** After 10 years from the establishment of the watershed district the county board of commissioners of a county affected by the watershed district may petition the board to redistribute the managers pursuant to Minn. Stat. § 103D.301, Subd. 3.

3. **Reason for the Redistribution.** The Petition states that appointments by Kittson, Roseau, and Pennington Counties will assist in addressing issues that exist between residents and the Watershed Board. Presently six of the seven district manager positions are appointed by Marshall County and one manager is appointed by Polk County.

4. **Filing.** The Petition was filed with the Board by the Polk County Board of Commissioners on June 7, 2013.

5. **Staff Recommendation.** Staff has determined that the Petition is valid pursuant to Minn. Stat. § 103D.301.

6. **Hearing Panel.** Board members of the Northern Water Planning Committee should preside over the hearing and bring a recommendation to the Board.

7. **Hearing Time.** The Executive Director should determine the date of the hearing after coordinating with the appropriate parties.

8. **Hearing Location.** The public hearing should be held at the Warren City Offices Building in Marshall County. If scheduling conflicts arise the Executive Director should choose another suitable location.

CONCLUSIONS

1. The Petition for the redistribution of manager positions of the Middle-Snake-Tamarac Rivers Watershed District is valid in accordance with Minn. Stat. § 103D.301.

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 redistribution of manager positions hearing.

4. The hearing on the Petition for the redistribution of manager positions of the Middle-Snake-Tamarac Rivers 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.

6. The public hearing shall be held at the Warren City Offices Building in Marshall County.

7. If scheduling conflicts arise the Executive Director shall choose another suitable location.

ORDER

The Board hereby orders a public hearing be held on the redistribution of manager positions Petition for the Middle-Snake-Tamarac Rivers of 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 25th day of September, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brian Napstad, Chair

Germundson, Travis (BWSR)

From: Dwight, Brian (BWSR)
Sent: Thursday, August 29, 2013 6:11 AM
To: Germundson, Travis (BWSR)
Subject: FW: Polk MSTR WD manager redistribution petition

FYI

From: Craig Buness [mailto:craigbuness@gra.midco.net]
Sent: Thursday, August 29, 2013 12:01 AM
To: Dwight, Brian (BWSR)
Cc: Chuck Whiting; don diedrich; Warren Strandell
Subject: Re: Polk MSTR WD manager redistribution petition

Brian:

The Polk County Board met yesterday and we took no new action on the Redistribution of Managers Petition because that was the original intent to proceed to a hearing when it was filed. The Board was disappointed that there was not sufficient support by other counties to at least look at the option on trying to put together an advisory committee made up of the five affected counties with land in the Watershed.

Because of the apparent lack of interest by the other counties to set up an advisory committee, the Polk County Board would like to proceed to a Public Hearing for the Redistribution of Managers for the Middle/ Snake/ Tamarac Rivers Watershed District. We request that the hearing be held in Crookston.

Please contact me with any questions, concerns or updates regarding the Public Hearing for the Redistribution of Managers for the MSTR WD.

Craig Buness
Polk County Commissioner
218-281-3992

From: Dwight, Brian (BWSR)
Sent: Thursday, August 15, 2013 10:13 AM
To: echristensen@co.kittson.mn ; martie@co.roseau.mn.us ; scott.peters@co.marshall.mn.us ; ktolson@co.pennington.mn.us ; chuck.whiting@co.polk.mn.us
Cc: craigbuness@gra.midco.net ; Germundson, Travis (BWSR) ; gtiedemann@rrv.net
Subject: RE: Polk MSTR WD manager redistribution petition

All

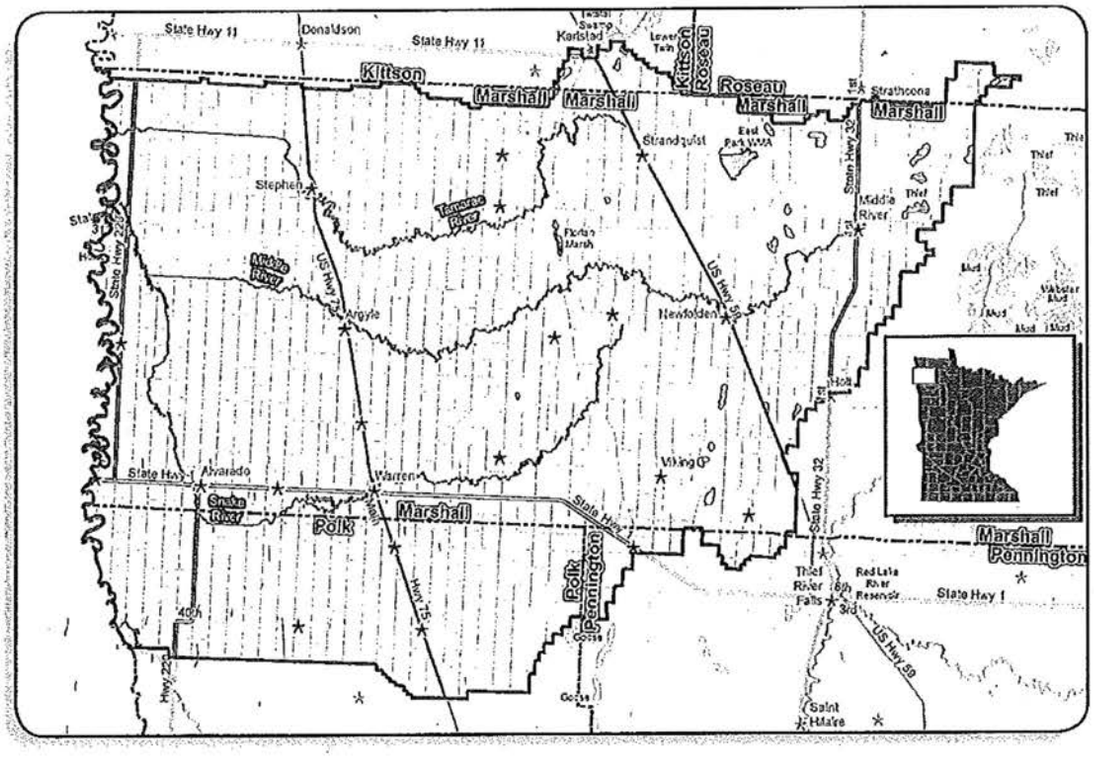
I have provided you with a revised meeting announcement letter. The only change was the date of the letter. At times dates on communications can be important thus the need to rectify the date on the letter.

Thanks

Brian Dwight

Middle-Snake-Tamarac Rivers

WATERSHED DISTRICT



GENERAL INFORMATION

Established: August 28, 1970 by citizen petition

Included Counties: Marshall, Kittson, Polk, Pennington, Roseau

District Size: 1,476 square miles

Major Lakes: Tamarac, Middle and Snake Rivers, 252 combined miles; water flows to Red River

Legal drains: 310 miles

Number of Staff: 5

2008 Taxable Market Value: $916,409,000

BOARD OF MANAGERS

Name	Position	County	Address	Phone
Doug Sorenson	President	Marshall	639 4th St N, Warren, MN 56762	(218) 745-4576
John W Nelson	Vice President	Marshall	23796 495th Ave NW, Oslo, MN 56744	(218) 695-3406
Ben Kleinwachter	Secretary	Marshall	22160 420th St NW, Strandquist, MN 56758	(218) 597-2985
Alvin Nybladh	Treasurer	Marshall	41950 400th St NW, Stephen, MN 56757	(218) 478-3345
Arlyn Stroble	Asst. Sec/Treas	Polk	13825 320th Ave NW, Angus, MN 56712	(218) 745-4473
Loren Zutz	Manager	Marshall	443 S McKinley, Warren, MN 56762	(218) 745-4055
Elden Elseth	Manager	Marshall	23862 Great Eastern, Warren, MN 56762	(218) 745-6515

Polk County

Board of Commissioners

Polk County Government Center
612 N Broadway – Room 211
Crookston, MN 56716-1452
Phone: (218) 281-5408
Fax: (218) 281-3808
www.co.polk.mn.us

COMMISSIONERS
CRAIG BUNESS, Crookston
WARREN STRANDELL, East Grand Forks
NICK NICHOLAS, Crookston
WARREN AFFELDT, Fosston
DON DIEDRICH, Warren

COUNTY ADMINISTRATOR
CHARLES S. WHITING

July 23, 2013

Brian Dwight
BWSR
4 West Office Building
403 4th Street NW, Room 200
Bemidji, MN 56601

Dear Mr. Dwight:

The Polk County Board of Commissioners reviewed the meeting discussion held in Warren on July 18, 2013 regarding the County's petition for redistribution of managers on the Middle-Snake-Tamarac Rivers Watershed. Chair Buness reviewed the discussion that BWSR consider a pilot option establishing an advisory panel composed of representatives from the five counties that reside within the MST Watershed. It is the Polk County Commissioners understanding that this advisory panel would forward names to the respective county boards for membership on this panel. The five county boards would act to confirm the advisory panel's proposed membership. The BWSR would establish this process and implement with the member counties. If this is the true understanding of the pilot option, the Polk County Board of Commissioners voted to table its petition request in order to support the facilitation of this advisory panel option. The Board wishes to reserve its right to remove its petition from the table should it feel the need to do so.

If this is a true understanding of the option arrived at in the July 18 meeting, we request BWSR to take all necessary steps to establish and implement the advisory panel option. Please contact me at your earliest convenience with further clarification as this process is developed.

Sincerely,

Craig Buness, Chair
Polk County Board of Commissioners

Let13:bdwight

RECEIVED
JUL 30 2013
BD OF WATER & SOIL
RESOURCES-BEMIDJI

Polk County

Board of Commissioners

Polk County Government Center
612 N Broadway – Room 211
Crookston, MN 56716-1452
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DON DIEDRICH, Warren

COUNTY ADMINISTRATOR
CHARLES S. WHITING

June 6, 2013

Mr. John Jaschke
Executive Director
Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, MN 55155

Re: Middle-Snake-Tamarac Rivers Watershed – Petition for Redistribution of Managers

Dear Mr. Jaschke:

The Polk County Board of Commissioners requests the Board to redistribute the managers of the Middle-Snake-Tamarac Rivers Watershed. At our meeting of June 4, the Board discussed this action and acted to make this request in accordance with MN St. 103D.301 Subdivisions 1 and 3. Currently Polk County appoints one representative on the Watershed, while Marshall County has six. Kittson, Roseau and Pennington Counties have no appointments, which to us appears to be in conflict with 103D.301 Subd. 1.

In the past few months, the Polk County Board has been approached by County/District residents in the Watershed expressing frustration and concerns with their interactions with the Watershed board. Our Board and I have also met with staff, the Watershed Board Chair and our single appointee to better understand the concerns our district residents have with the Watershed. Their issues range from questionable accounting, inability to get adequate information and data, inability to get their concerns expressed before the Watershed Board, fear of reprisals and litigations. We have been unable to effectuate a satisfactory resolution of issues between these two groups.

It is the opinion of the Polk County Board of Commissioners that proper adherence to 103D.301 with appointees by Kittson, Roseau and Pennington Counties will assist in addressing issues that exist between our residents and the Watershed Board, and therefore we are making this request to the Board of Water and Soil Resources.

Sincerely,

Craig Buness

Craig Buness
Polk County Board Chair

An Equal Opportunity Employer

COMMITTEE RECOMMENDATIONS

Southern Region Committee

1. Area II Minnesota River Basins Projects Inc. FY 2014 & FY2015 Biennial Work Plan and Grant – Paul Langseth – ***DECISION ITEM***

2. Brown County Local Water Management Plan Amendment - Paul Langseth – ***DECISION ITEM***

3. Nicollet County Local Water Management Five-Year Plan Amendment – Paul Langseth - ***DECISION ITEM***

4. Upper Minnesota River Watershed District (UMRWD) Watershed Management Plan – Paul Langseth - ***DECISION ITEM***

5. Sibley County Local Water Management Plan Update - Paul Langseth - ***DECISION ITEM***

Conflict of Interest Disclosure Form
for Board Members

Grant Program: **Area II Minnesota River Basins Project Inc. 2014 Grant**

Name of Review Group: **Southern Region Committee**

Before any review of grant applications, the chair of the meeting shall make this statement about conflict of interest:

Chair Statement: *"A conflict of interest, whether actual, potential, or perceived, occurs when someone in a position of trust has competing professional or personal interests and these competing interests make it difficult to fulfill professional duties impartially. At this time, members are requested to declare conflicts of interest they may have regarding today's business."*

This form gives grant application reviewers an opportunity to disclose any actual, potential or perceived conflicts of interest that may exist during a grant review process. It is the grant reviewer's obligation to be familiar with the Office of Grants Management (OGM) Policy 08-01, Conflict of Interest Policy for State Grant-Making, and to disclose any conflicts of interest accordingly. All grant reviewers *must* complete and sign a conflict of interest disclosure form. On the form, the grant reviewer must identify any grant applicant with which they have an actual, potential or perceived conflict, although they do not need to provide the reason for the conflict on the disclosure form.

A disclosure does not automatically result in the grant application reviewer being removed from the review process.

Please read the definitions of conflict of interest below and mark the appropriate boxes that pertain to you and your status as a reviewer of applications for this grant program.

Conflicts of interest may be actual, potential, or perceived:

ACTUAL CONFLICT OF INTEREST:
An actual conflict of interest occurs when a decision or action would compromise a duty to a party without taking immediate appropriate action to eliminate the conflict.

POTENTIAL CONFLICT OF INTEREST:
A potential conflict of interest may exist if a grant reviewer has a relationship, affiliation, or other interest that could create an inappropriate influence if the person is called on to make a decision or recommendation that would affect one or more of those relationships, affiliations, or interests.

PERCEIVED CONFLICT OF INTEREST:
A perceived conflict of interest is any situation in which a reasonable third party would conclude that conflicting duties or loyalties exist.

At a minimum, all internal parties who are involved in the grant review or grant management process must be made aware that an actual, potential, or perceived conflict has been disclosed and evaluated, even if it is not serious enough to remove or reassign the employee or grant reviewer. After reviewers have signed the conflict of interest form, therefore, the conflicts--if any--that have been disclosed shall be announced to the reviewing body as a whole. Disclosed conflicts and their resolution will also be noted in the meeting minutes, and the forms will be kept as documentation of the grant review.

As a grant reviewer, I certify that I have read and understand the descriptions of conflict of interest explained above and in OGM Policy 08-01. Check either box 1a or 1b **and** either box 2a or 2b.

☐ 1a. I have reviewed the list of applicants, and I do not have any conflicts of interest relating to this program's grant applicants or proposed projects.

☐ 1b. I have an ACTUAL, POTENTIAL, or PERCEIVED conflict of interest with the applicant(s) listed below. (Note: If you disclose a conflict, you must identify the applicant on this form, but a description is discretionary. Under Minnesota Statute 13.599, this form is considered public data.)

Applicant	Type of Conflict (ACTUAL, POTENTIAL, or PERCEIVED)	Description of Conflict (optional)

☐ 2a. After reviewing this form and OGM Policy 08-01, I CHOOSE to participate in this review process.

☐ 2b. After reviewing this form and OGM Policy 08-01, I CHOOSE NOT to participate in this review process. I will avoid discussing the applicant and/or applications from organizations with which I have disclosed a conflict of interest with other reviewers.

Reviewer's printed name: _____

Reviewer's signature: _____

Date: _____

Reviewer's Organization/Agency: _____

Revised, 5/13

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Area II Minnesota River Basins Project Inc. Work Plan and Grant**

Meeting Date: September 25, 2013

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

Item Type: X Decision ☐ Discussion ☐ Information

Section/Region: Southern Region

Contact: Jeff Nielsen

Prepared by: David Sill

Reviewed by: Southern Region Committee(s)

Presented by: Paul Langseth

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

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

Fiscal/Policy Impact

☐ None
☐ Amended Policy Requested
☐ New Policy Requested
☐ Other:

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

ACTION REQUESTED

Approval of work plan and execution of fiscal year 2014 grant agreement

LINKS TO ADDITIONAL INFORMATION

Area II Minnesota River Basin Projects, Inc. Biennial Plan – FY 2014 & 2015:

http://www.area2.org/images/fy14_15biennial_plan.pdf

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

Legislative appropriation to Area II Minnesota River Basins Project Inc. to assist its nine member counties flood control projects in southwestern Minnesota. Area II receives a cost share rate of 75% state funding and 25% local funding for office administration and project implementation; oversight is provided by BWSR.

Minnesota Board of Water & Soil Resources

Board Resolution # _____

Area II Minnesota River Basins Project Inc. Biennial Work Plan and Grant

WHEREAS, the Area II Minnesota River Basins Inc. (Area II) is eligible to receive a $120,000 FY 2014 grant from the Minnesota Board of Water and Soil Resources (BWSR). This grant is available for administrative and implementation efforts of Area II within their nine county project area. This grant is available with a 25% local match requirement; and

WHEREAS, Area II has developed a Biennial Work Plan to cover activities for FY 2014 and 2015; and

WHEREAS, Area II has secured their 25 percent match requirement.

THEREFORE BE IT RESOLVED, the BWSR hereby approves the Area II FY 2014 and 2015 Biennial Work Plan; and

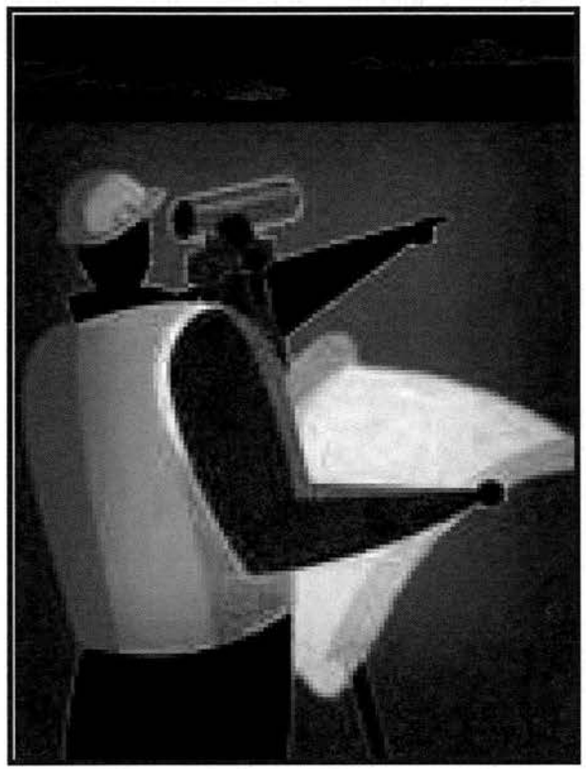
BE IT FURTHER RESOLVED, the Board of Water and Soil Resources enter into a grant agreement with the Area II Minnesota River Basins Project Inc. for these funds.

_____ Date: _____

Brian Napstad, Chair
Minnesota Board of Water and Soil Resources

BIENNIAL PLAN – FY 2014 & 2015

JULY 1, 2013 – JUNE 30, 2015





Member Counties

Brown • Cottonwood • Lac qui Parle
Lincoln • Lyon • Murray • Pipestone
Redwood • Yellow Medicine

AREA II MINNESOTA RIVER BASIN PROJECTS, INC.

1400 EAST LYON STREET MARSHALL, MN 56258

WWW.AREA2.ORG



CONTENTS

BIENNIAL PLAN – FY 2014 & 2015

2013 BOARD OF DIRECTORS - PAGE 2

WORK PLAN NARRATIVE- PAGES 3 & 4

OTHER PROJECT ENDEAVORS - PAGE 5

POTENTIAL PROJECTS - PAGE 6

FY 2014 TECHNICAL OFFICE BUDGET - PAGE 7

ATTACHMENTS:

A – ***SUMMARY OF 2012 BONDING PROJECTS AND FY2013 COMPLETED PROJECTS***

B – ***FY 2013 ADMINISTRATIVE SERVICES GRANT REPORT***

AREA II MINNESOTA RIVER BASIN PROJECTS, INC.



2013 BOARD OF DIRECTORS

BIENNIAL PLAN – FY 2014 & 2015

BROWN COUNTY
DENNIS POTTER
ANDREW LOCHNER (ALTERNATE)

COTTONWOOD COUNTY
NORMAN HOLMEN
JIM SCHMIDT (ALTERNATE)

LAC QUI PARLE COUNTY
ROY MARIHART
TODD PATZER (ALTERNATE)

LINCOLN COUNTY
*CURT BLUMEYER - **SECRETARY/TREASURER***
DON EVERS (ALTERNATE)

LYON COUNTY
RODNEY STENSRUD
RICK ANDERSON (ALTERNATE)

MURRAY COUNTY
*ROBERT MOLINE – **CHAIR***
JOHN GIESE (ALTERNATE)

PIPESTONE COUNTY
LUKE JOHNSON
BRUCE KOOIMAN (ALTERNATE)

REDWOOD COUNTY
*JOHN SCHUELLER – **VICE CHAIR***
AL KOKESCH (ALTERNATE)

YELLOW MEDICINE COUNTY
LOUIS SHERLIN
RON ANTONY (ALTERNATE)

AREA II MINNESOTA RIVER BASIN PROJECTS, INC.



WORK PLAN NARRATIVE

BIENNIAL PLAN – FY 2014 & 2015

Area II, formed in 1978 as a non-profit organization, works to alleviate the recurrent flood problems which plague this area of southwestern Minnesota. This organization is recognized as a leader in flood damage reduction by the installation of dams, reservoirs, grade stabilizations and road retentions. Area II assists it's member counties with the engineering design, hydrologic and hydraulic modeling, construction and inspection, and finance of flood damage reduction projects. Due the unique landforms of this region, particularly the Coteau de Prairies (the Buffalo Ridge), Area II receives a 75/25 cost-share rate for office administration and project implementation. Oversight of this grant-in-aid program is provided by the Minnesota Board of Water & Soil Resources.

This Biennial Plan provides direction for a 2-year period while the Technical Office Budget is for one fiscal year. By May 30, 2014, updates to the Biennial Plan as well as to the Technical Office Budget for FY2015 will be provided for BWSR staff review.

1) Initiative: FY 2014 – ADMINISTRATIVE SERVICES

Description: Provide administrative and coordination oversight for the AREA II Minnesota River Basin Projects, Inc. Board of Directors. Provide financial reports and records that meet State accounting and auditing standards, prepare budgets, provide supervision and management of staff, evaluate employee job performance, draft agenda and minutes of monthly board meetings. Conduct local government and citizen outreach and education.

Actions:

- Maintain a complete Board of Directors of 9 delegates and 9 alternates.
- Maintain adequate staffing to address the goals of AREA II. Evaluate job performance of all employees yearly.
- Conduct 10 monthly board meetings, 2 Executive Board teleconferences and 1 Annual Legislative Gathering.
- Utilize engineering consultant services to assist with engineering, hydrologic and planning/prioritization issues.
- Maintain policies and procedures. Review Operating Policies, Joint Powers Agreement and Articles of Incorporation annually.
- Maintain a public outreach and information program. Accomplish by maintaining the AREA II web site; conduct tours as necessary to highlight projects completed; prepare an annual report. Complete website reporting requirements by March 15 of each year.
- Strive for fiscal accountability. Accomplish by preparing and adopting an annual budget; reviewing monthly financial reports, conducting an annual audit of the financial records.
- Actively pursue new funding sources with local partners through Clean Water Fund and federal programs (EQIP, MRBI, WHIP).
- Continue administrative/operational efficiency discussions with RCRCA. Schedule board meetings for the same day and same location to lessen per diems and expenses paid to board members. Future discussions may include sharing technical resources.
- Meet and communicate with member county commissioners, engineers, water planners, watershed districts, SWCD/NRCS, watershed project staff regarding technical services and potential projects.
- Serve on technical committees (as requested) for watershed projects, TMDL project assessment and implementation efforts. Provide input to USDA Environmental Quality Incentive Program (EQIP) local work group committees.

2) Initiative: FY 2014 – ENGINEERING SERVICES
Description: Employ senior engineering technician and consultant registered engineer to provide design services which include planning, hydrologic and hydraulic design, construction and inspection of flood damage reduction projects to the member counties of AREA II. Provide engineering services for projects funded through outside sources involving USDA Environmental Quality Incentive Program (EQIP), Clean Water Funds acquired by SWCDs, RCRCA and counties.

Actions:

- Continue contracting professional engineering services through Bolton & Menk, Inc.
- Schedule and complete annual inspections and reports for 9 reservoirs.
- Ensure annual inspection of road retention projects by owners and keep inspection reports on file. Follow up on noted concerns.
- Provide wetland monitoring and annual reporting for mitigation sites associated with constructed project.
- Provide project management and coordination with local/state/federal permitting authorities.
- Process payment requests in a timely manner and provide as-built plans and construction documentation.
- Assist in securing the local matching funds for projects which may include: owner(s), township(s), counties, watershed district, or special interest groups (Ducks Unlimited, Minnesota Waterfowl Association, Wild Turkey Federation and others).

3) Initiative: FY 2014 – OPERATIONAL & SUPPORT EXPENSES
Description: Use funding for operational and support expenses of AREA II Minnesota River Basin Projects Inc., for such things as: payroll, consultant engineering fees, field and office supplies, telephone / internet and computer services, training and certification, vehicle and equipment expenses, liability / business / auto insurance, and general business expenses.

4) Initiative: FY 2014 – PROJECT IMPLEMENTATION VIA ADMINISTRATIVE GRANT
Description: See Potential Project List for FY2014 & FY2015 – Page 6.

5) Initiative: FY2012 BONDING APPROPRIATION
Description: Provide project management and engineering services to construct flood damage reduction structures to meet the 3:1 match requirement and provide the most floodwater storage as practicable. Highest priority will be given to Road Retention structures which lack other funding resources which dams and grade stabilizations can secure.
Actions:

- Administer the $1,000,000 appropriation and report project outcomes annually to BWSR Board.
- Complete fiscal expenditure report due at end of grant period listing total costs and cost-sharing by all partners.
- Facilitate wetland mitigation/creation if required for proposed projects.
- Provide project management and coordination with local/state/federal permitting authorities.
- Process payment requests in a timely manner and provide as-built Plans and construction documentation.
- Assist in securing the local matching funds for projects which may include: owner(s), township(s), counties, watershed district, or special interest groups (Ducks Unlimited, Minnesota Waterfowl Association, Wild Turkey Federation and others).



OTHER PROJECT ENDEAVORS

BIENNIAL PLAN – FY 2014 & 2015

• LAKE YANKTON FLOODWATER RETENTION PROJECTS (*Des Moines River Watershed)*

ISSUE: This 400-acre lake located in southern Lyon County is a recreational and aesthetic asset, offering great fishing and boating opportunities. Fluctuating water levels are problematic and solutions to stabilize the fluctuations have been sought for many years. After a significant rainfall event in September 2010, the lake level rose over 2' above the ordinary high water level causing shore erosion and flooding of buildings in the City of Balaton. This high water level persisted through the winter and for several months into 2011. Significant flows from the southern watershed in Murray County causes water to flow backwards into Lake Yankton and creates an impediment for the lake to discharge after significant events. Water levels have continued to be problematic annually since 2010.

ACTION: A coalition of Lyon County, Murray County, and the City of Balaton funded a study of the hydraulic connections between these watershed systems and to determine if floodwater storage could effectively reduce backflows into Lake Yankton and aid in discharge.

RECOMMENDATION: The engineering analysis found positive impacts of upstream retention in terms of downstream flow reductions and water quality improvements. Installation of a pump would be cost prohibitive to construct as well as maintain and operate.

PLAN: Two landowners have voluntarily offered their lands for two of the seven retention structures identified. The 2013 Minnesota Legislature considered a request for $425,000 in bonding, to be matched 25% by the local funds. This legislation would allow Area II to provide the engineering design services and construction inspection. The request was heard in the Senate, but not in the House. No funding was included in the 2013 Bonding Bill.

• EARLY WETLAND COORDINATION FOR PROJECTS

ISSUE: Permits and approvals are needed on most projects to comply with regulations of the Wetland Conservation Act (WCA) and Section 404 of the Clean Water Act overseen by the U.S. Army Corps of Engineers. These rules are inconsistent and are causing lengthy permitting delays, increased design and construction costs, resulting in frustration from the landowners and Area II staff.

ACTION: Discussion has been held between BWSR and Area II to identify methods to address wetland issues early in planning stages.

PLAN: Area II staff will meeting jointly with representatives from BWSR/WCA staff and U.S. Army Corps of Engineers on project sites to discuss potential issues that may arise in the permitting process. It is hoped that early coordination will lead to better communications, early decisions and possible alternatives if regulations require different outcomes. Early project review and agency comment will be sought before technical assistance and/or funding are committed to a project.



POTENTIAL PROJECTS

BIENNIAL PLAN – FY 2014 & 2015

COTTONWOOD COUNTY

- ☐ Ann 22 Grade Stabilization
- ☐ Storden 10 Grade Stabilization Repairs (3)
- Germantown 17 Streambank Stabilization

LINCOLN COUNTY

- ☐ Royal 10 Road Retention
- ☐ Limestone 11 Grade Stabilization Repair

LYON COUNTY

- ☐ Amiret 27 Grade Stabilization Repair
- ☐ Coon Creek 11 Grade Stabilization Repair
- ☐ Lynd 33 Grade Stabilization Repair
- ☐ Custer 10 SE Grade Stabilization
- ☐ Monroe 17 Grade Stabilization Repair
- ☐ Nordland 15 Grade Stabilization
- ☐ Monroe 2 Grade Stabilization Repair
- ☐ Sodus 21 Grade Stabilization Repair
- ☐ Sodus 22 Grade Stabilization
- ☐ Lynd 17 Grade Stabilization
- ☐ Custer 10 NE Grade Stabilization
- ☐ Monroe 17 Road Retention
- ☐ Nordland 6 Road Retention
- ☐ Sodus 24 Grade Stabilization

MURRAY COUNTY

- ☐ Holly 22 Road Retention
- ☐ Lowville 36 Dam Repair

REDWOOD COUNTY

- ☐ Charlestown 28 Grade Stabilization
- ☐ Charlestown 29 Grade Stabilization
- ☐ Lamberton 19 Grade Stabilization Repair
- ☐ Honner 32 Grade Stabilization
- ☐ North Hero 25 Grade Stabilization Repair
- ☐ Redwood Falls 18 Grade Stabilization Repair
- ☐ Sherman 9 Grade Stabilization
- ☐ Springdale 28 Grade Stabilization
- ☐ Charlestown 30 Grade Stabilization
- ☐ Lamberton 16SW Grade Stabilization Repair
- ☐ Springdale 21 Road Retention
- ☐ North Hero 34 Road Retention
- ☐ Redwood Falls 10 Grade Stabilization
- ☐ Redwood Falls 7 Grade Stabilization Repair
- ☐ Springdale 24 Grade Stabilization
- ☐ Swede's Forest 28 Grade Stabilization

YELLOW MEDICINE COUNTY

- ☐ Norman 10 Grade Stabilization
- ☐ Sioux Agency 3 Grade Stabilization Repair



FY 2014 TECHNICAL OFFICE BUDGET

BIENNIAL PLAN – FY 2014 & 2015

OFFICE OPERATIONS

PERSONAL SERVICES:

*Directors' Compensation	$ *2,250.00**
*Directors' FICA	*172.12**
Employees' Salaries	100,132.50
Employees' FICA	7,660.14
Employees' Medical Insurance	20,000.00
Employees' Retirement	7,259.61
Employee' FlexPlan	420.00
Total Personal Services	**$ 137,894.37**

SUPPLIES:

Office	$ 2,000.00
Field	500.00
Capital Outlay	0.00
Total Supplies	**$ 2,500.00**

OTHER SERVICES AND COSTS:

*Directors' Expenses	$ *1,000.00**
Employees' Expenses	1,750.00
Continuing Education	0.00
Professional Services	30,000.00
Maintenance & Repairs	2,200.00
Telephone	950.00
Postage	2,100.00
Vehicle Expense	3,548.95
*Director's Insurance	*2,005.00**
Other Insurance	10,540.00
Rent	9,511.68
Utility Expenses	1,000.00
Miscellaneous Expenses	2,000.00
Total Other Services and Costs	**$ 66,605.63**

TOTAL OFFICE OPERATIONS	$ 207,000.00
Total Ineligible for Cost-Share by the State	*5,427.13**
Total Eligible for Cost-Share by the State	$ 201,572.87

** These items not cost-shared by the State*

STATE SHARE OF ELIGIBLE OFFICE COSTS	**$ 120,000.00**
Local Share of Eligible Office Costs	$ 81,572.87

AREA II MINNESOTA RIVER BASIN PROJECTS, INC.

ATTACHMENTS

BIENNIAL PLAN – FY 2014 & 2015

ATTACHMENT A – SUMMARY OF FY2012 BONDING & FY2013 COMPLETED PROJECTS

ATTACHMENT B – FY2013 ADMINISTRATIVE GRANT SUMMARY

AREA II MINNESOTA RIVER BASIN PROJECTS, INC.

ATTACHMENT A

SUMMARY OF FY2012 BONDING PROJECTS

AMIRET 18/19 ROAD RETENTION – Lyon	$ 94,490.81
AMIRET 32/33 ROAD RETENTION – Lyon	$ 71,605.55
LYND 17 GRADE STABILIZATION – Lyon County	$ 22,995.07
HOLLY 4 DAM REPAIR -- Murray County	$ 4,547.38
LAKE MARSHALL 31 DAM REPAIR – Lyon County	$ 6,790.51
LYND 8 GRADE STABILIZATION – Lyon County	$ 24,390.29
NORDLAND 15 GRADE STABILIZATION – Lyon County	$ 20,015.84
COON CREEK 11 DAM REPAIR – Lyon County	$ 30,558.83
ISLAND LAKE 4 DAM -- Lyon County	$ 994.24
LIMESTONE 1 ROAD RETENTION – Lincoln County	$117,118.93
SPRINGDALE 29 DAM REPAIR – Redwood County	$ 25,815.08
LAMBERTON 18 DAM REPAIR – Redwood County	$ 1,421.25
GERMANTOWN 1 DAM REPAIR – Cottonwood County	$ 690.00
STORDEN 4 GRADE STABILIZATION – Cottonwood Co.	$ 1,981.88
AMIRET 27 DAM REPAIR – Lyon County	$ 15,837.42
NOTE: $1,000,000 grant expires 6/30/14 **TOTAL**	$ 439,253.08

GRANT SUMMARY

Total Project Costs = $822,579.26

Local Match Provided = $ 190,017.74

Federal Funds Provided = $193,309.44

State/Local Cost-Share Ratio = 2.31 : 1

Acre-Feet of storage created= 302.8

Total Acre-Feet of storage = 403.4

FY2013 COMPLETED PROJECTS

Storden 4 Dam - Cottonwood	**$ 52,410.20**
2012 Bonding Funds	$ 1,981.88
Landowner	$ 1,137.49
EQIP Federal Funds	$ 48,630.20
Area II Counties	$ 660.63

Lamberton 18 Dam Repair - Redwood	**$ 42,058.80**
2012 Bonding Funds	$ 1,421.25
Landowner	$ 10,040.95
Clean Water Funds	$ 30,122.85
Area II Counties	$ 473.75

Lynd 8 Dam Repair - Lyon	**$ 98,933.39**
2012 Bonding Funds	$ 24,390.29
Landowner	$ 8,771.10
Area II Counties	$ 1,214.00
EQIP Federal Funds	$ 64,558.00

Lake Marshall 31 Dam Repair – Lyon	**$ 44,577.56**
2012 Bonding Funds	$ 6,790.51
Landowner	$ 18,313.55
EQIP Federal Funds	$ 17,210.00
Area II Counties	$ 2,263.50

Germantown 1 Repair – CW	**$ 22,384.70**
2012 Bonding Funds	$ 690.00
Landowner	$ 5,366.17
EQIP Federal Funds	$ 13,066.00
RCRCA	$ 3,032.53
Area II Counties	$ 230.00

Coon Creek 11 Dam Repair – Lyon	**$ 40,745.11**
2012 Bonding Funds	$ 30,558.83
Landowner	$ 9,948.15
Area II Counties	$ 238.13

Limestone 1 Road Retention – Lincoln	**$ 156,158.57**
2012 Bonding Funds	$ 117,118.93
Lincoln & Lyon Counties	$ 19,090.38
Alta Vista & Eidsvold Townships	$ 12,726.92
Yellow Medicine River Watershed District	$ 7,222.33

Amiret 27 Dam Repair - Lyon	**$ 21,116.56**
2012 Bonding Funds	$ 15,837.42
Landowner	$ 5,009.14
Area II Counties	$ 270.00

SUMMARY OF FY2013 COMPLETED PROJECTS

2012 Bonding Funds	$ 198,789.11
EQIP Federal Funds	$ 143,464.20
Clean Water Funds	$ 30,122.85
RCRCA Cost-Share	$ 3,032.53
Counties	$ 19,090.38
Townships	$ 12,726.92
Watershed District	$ 7,222.33
Area II Counties	$ 5,350.01
Landowners	$ 58,586.55
TOTAL	**$ 478,384.89**

ATTACHMENT B

AREA II MINNESOTA RIVER BASIN PROJECTS, INC.

AREA II MINNESOTA RIVER BASIN PROJECTS, INC.

GRANT PERIOD:
(incl. extensions)
From: July 1, 2012
To: June 30, 2013

AREA II STATUTORY AUTHORITY:
MN Statutes, Sections 103F.171-103F.187

Administrative Services Grant Expenditures

NOTE: Totals from Treasurer's Report for Fiscal Year Ended June 30, 2013 (subject to audit)

Personal Services	$137,184.03
Other Services	$86,822.04
Supplies	$3,112.00
Investigation & Testing	$ 4,685.00
Capitol Outlay	$ 8,148.23
TOTAL EXPENDITURE ***year to date***	**$237,951.30**

PROJECT CONTACT:
Kerry Netzke, Executive Director
(507) 537-6369
area2@starpoint.net

Project Title: FY'13 ADMINISTRATIVE SERVICES GRANT CONTRACT NO. 50159 $120,000.00



Member Counties:
Brown
Cottonwood
Lac qui Parle
Lincoln
Lyon
Murray
Pipestone
Redwood
Yellow Medicine

Area II Minnesota River Basin Watershed Boundary

Overall Project Description

Minnesota Statutes establish a grant-in-aid program administered by BWSR for providing financial and technical assistance to local government units (counties, SWCDS, and watershed districts) located in Area II for project and construction costs of floodwater retarding and retention structures within a general plan for floodplain management.

Nine counties within Area II have entered into a Joint Powers Agreement since 1978 to coordinate the implementation of such floodwater retarding and retention projects, and for this purpose, established Area II Minnesota River Basin Projects, Inc.

Statute authorizes BWSR to supervise the program and provide individual project grants not to exceed 75% of total project costs where federal funds are not utilized, or 50% of the nonfederal costs where federal funds are utilized.

Area II has an established office which houses Area II personnel and equipment to provide the engineering and other technical services of projects cost-shared through this program.

Costs eligible for cost-sharing under this Grant Agreement include technical office costs and associated costs, but do not include Area II Directors' compensation, expenses, insurance and bonding costs. The combination of the nine member counties provide $87,000.00 to the Administrative Services Grant of $120,000. This is well beyond the required 25% local match.

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Brown County Water Management Plan Five-Year Amendment**

Meeting Date: September 25, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Southern Region

Contact: Jeff Nielsen

Prepared by: Carla Swanson-Cullen

Reviewed by: Southern Region 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

LINKS TO ADDITIONAL INFORMATION

Brown County Local Water Management Five-Year Amendment

http://www.co.brown.mn.us/images/stories/Departments/PZ/Water/FINAL_DRAFT_WATER_PLAN_Aug_2013.pdf

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

On August 28, 2008, the Board of Water and Soil Resources (BWSR), by board order, approved the Brown County 2008 – 2018 ten-year Local Water Management Plan Update. The Plan contained an implementation section with goals, objectives, and action steps covering a five-year period of 2008 - 2013. The Board Order stipulated that Brown County was required to revise / update this implementation section by August 28, 2013.

On June 19, 2012 the Brown County Board of Commissioners resolved to amend its five-year implementation section as directed by BWSR. Brown County intends to have a public hearing on the plan in September 2013. The County followed the process for amending as described within the Local Water Management guidance document developed by BWSR.

On August 8, 2013 the BWSR regional staff received the 2013 Amendment to the Brown County Local Water Management Plan. The 2013 Amendment contains an Executive Summary and a new 2013 - 2018 implementation section. The amendment has prioritized action items in the implementation section of the plan. The implementation section addresses the following priority concerns:

- Soil Erosion Concerns
- Groundwater
- Drainage
- Wetlands/Water Retention
- Human Wastewater

Approval of the Brown County 2013-2018 Implementation Program Amendment is contingent on Brown County Board holding a public hearing and submitting the hearing documents to BWSR prior to September 25, 2013.

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 **Brown County** (Minnesota Statutes, Section 103B.314, Subdivision 6)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN AMENDMENT

Whereas, on August 28, 2008, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Brown County 2008 – 2018 Local Water Management Plan Update (Plan), which contained a 2008 – 2013 five-year Implementation section; and

Whereas, this Board Order stipulated that Brown County was required to update the implementation section by August 28, 2013; and

Whereas, the Brown County Board of Commissioners submitted the Brown County Plan 2013 Amendment to the Board on August 8, 2013; and

Whereas, this 2013 Amendment contains the updated five-year implementation section as ordered by the Board; and

Whereas, the Board has completed its review of the 2013 Amendment.

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

FINDINGS OF FACT

1. On June 19, 2012, Brown County passed and submitted a resolution 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 July 2, 2012, Board staff sent information on the amendment process to Brown County.

3. On September 28, 2012, Brown County convened its water plan task force to develop the five-year update through meetings held in September 2012, November 2012, and May 2013.

4. On November 26, 2012, Brown County conducted an open house to initiate the five-year implementation section update.

5. On December 19, 2012, Brown 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.

6. Brown County received written comments from the Minnesota Department of Agriculture, the Minnesota Pollution Control Agency, and the Minnesota Board of Water and Soil Resources. The Minnesota Board of Water and Soil Resources attended the water plan task force meeting(s) and provided comments.

7. No other state agency or local government unit provided written comments to Brown County.

8. The final document developed by Brown County, which includes the revised five-year implementation section August 2013 – August 2018 is entitled the Brown County Comprehensive Local Water Management Plan, 2008-2018, (Amended August 2013).

9. On August 27, 2013, the BWSR received the Brown County 2013 Amendment.

10. On September 5, 2013, the Board's Southern Region Committee (Committee) reviewed the Brown County 2013 Amendment, pursuant to 103B.301 and guidelines established by the Board.

11. Board regional staff provided its recommendation of conditional approval to the Committee based on the Brown County Board holding a public hearing and submitting the hearing documents to BWSR prior to September 25, 2013.

12. The Committee voted to recommend approval to the full Board at its next scheduled meeting on the condition that Brown County holding a public hearing and the hearing documents being submitted to BWSR prior to September 25, 2013.

13. On September 17, 2013, after providing for proper public notice, Brown County conducted a public hearing on the proposed 2013 Amendment. No additional comments were submitted at the hearing.

14. On September ??, 2013 the BWSR received a record of the public hearing, and copies of all written comments supplied at the hearing pertaining to the 2013 Amendment, pursuant to M.S. Section 103B.314, Subd. 6.

15. This 2013 Amendment will be in effect until **August 28, 2018.**

CONCLUSIONS

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

2. The Brown County 2013 Amendment attached to this Order states goals, objectives and actions the County will address in the five-year implementation section August 2013 – August 2018. The 2013 Amendment, as well as the previously approved Brown County 2008 – 2018 Local Water Management Plan Update, is in conformance with the requirements of M.S. Section 103B.301.

ORDER

The Board hereby approves the attached 2013 Amendment of the Brown County Water Management Plan for August 2013 – August 2018. Brown County will be required to provide for a complete update of its Water Management Plan prior to August 28, 2018.

Dated at St. Paul, Minnesota, this **25th day of September 2013**.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

_____

BY: Brian Napstad, Chair

Brown County Comprehensive Local Water Management Plan 2008-2018 (Amended August 2013)



Executive Summary

Executive Summary 2013-2018

Profile

Brown County is located in South Central Minnesota at the confluence of the Cottonwood and Minnesota Rivers. The Minnesota River makes up the northern border of the county while the Cottonwood River nearly splits the county in two running west to east. The total land area of Brown County is approximately 610 square miles. There are seven (7) incorporated cities and sixteen (16) townships, with the county seat being the City of New Ulm.

The dominant land use in Brown County is cultivated land (75%), followed by uncultivated lands or wood lands/ravine (17%), urban areas/impervious are 7%, and open water makes up 1% of the total land area in Brown County. Cultivated land dominants the landscape from the far west to the eastern boundary of the county. Corn and soybeans are the primary crops being produced. Swine are the primary livestock in the County, but there are significant beef cattle and dairy herds that are also being raised. A majority of the residents of Brown County do live in urban areas, which make up 72% of the population. Within the urban settings there are industrial activities present in each of the three largest cities; New Ulm, Sleepy Eye, and Springfield.

Brown County is located in the fertile tall grass prairie Eco region of Minnesota. Making up the northern border of the county and winding their way from west to east throughout the county, streams and rivers have created wooded valleys and floodplain areas. Streams and rivers throughout the county typically flow from the higher elevations in the west to the east, ending up ultimately in the Minnesota River. The largest river in the county is the Minnesota River, with the Cottonwood River and Little Cottonwood River also being sizeable rivers on the landscape. There are a number of other perennial streams and unnamed tributaries that feed our larger rivers throughout the county. Of the rivers and streams in Brown County; two (2) of them have been designated as trout streams by the MN DNR. (Wetland Drainage)

Within Brown County lie 12 shallow prairie lakes, with Lake Hanska being the largest, most developed and widely used for recreation. Largely the shallow lakes are very eutrophic, or high in nutrients giving these water bodies incredible amounts of aquatic and terrestrial life. It is when we have excess nutrients that our water bodies suffer.

Plan Purpose:

The goal of this amended Local Water Management Plan is to serve as a guide to protect and preserve our water resources of Brown County as well as well as improve water quality for generations to come. This plan sets up objectives for water planning to strive towards in cooperation with our local, regional and state partners. Details of the plan are based on the four priority concerns outlined in the Priority Concerns Scoping Document.

The first Brown County Water Management Plan was adopted by the Brown County Board of Commissioners in 1990. Subsequently a 1996 Water Plan Update was submitted for the 10 year plan update. In 2008 the Brown County Board of Commissioners approved an updated Local Water Management Plan, set to expire in August of 2018. In 2013 we are providing an amendment to the current water plan to incorporate new and delete irrelevant information.

The creation of the Local Water Management Plan was in effort by the Brown County Water Plan Task Force, Brown County Board of Commissioners and the residents of Brown County. It is the responsibility of the Brown County Water Planner to administer the water plan on a day to day basis with the help of local, regional and state officials.

2008 through 2013 Brown County Water Planning Accomplishments

2008 Accomplishments

- Inspected 13 new and 66 upgraded septic systems
- Completed 22 on-site feedlot inspections
- Provided technical assistance to 30 landowners regarding WCA; reviewed 14 Joint Wetlands/Water Applications and completed 3 site visits
- Provided homeowner information regarding rain water and water storage at the Brown County Farm Show
- Presented water resources information to area grade school students at the Children's Water Festival in North Mankato
- SWCD completed two (2) sediment basins, two (2) grassed waterway, and one (1) grade stabilization structure projects during the season.

2009 Accomplishments

- Inspected 14 new and 36 upgraded septic systems
- Completed 39 on-site feedlot inspections
- Provided technical assistance to 92 landowners; reviewed 23 Joint Wetlands/Water Applications and completed 12 site visits
- Provided homeowner information regarding rain water and water storage at the Brown County Farm Show and New Ulm Home Show
- Started surface water quality testing for two (2) lake sites and five (5) stream stretches in Brown County (2009-2010)
- SWCD assisted with three (3) terrace projects, two (2) grassed waterway projects, two (2) rock tile inlets, two (2) windbreak plantings, one (1) bio-retention basin, one (1) feedlot runoff diversion, and one (1) grade stabilization structure

2010 Accomplishments

- Inspected 17 new and 41 upgraded septic systems
- Completed 62 on-site feedlot inspections
- Provided technical assistance to 100 + landowners regarding WCA; reviewed 31 Joint Wetlands/Water Applications and completed 12 site visits
- Provided water retention, hazardous waste, yard chemical alternatives at New Ulm Home Show and Brown County Farm Show
- Started surface water quality testing for four (4) stream stretches in Brown County (2010-2011)
- SWCD assisted with four (4) terrace projects, four (4) windbreak plantings, three (3) grassed waterway projects, two (2) rock tile inlets, one (1) grade stabilization structure, and one (1) livestock waste management project.

- Mapped out all highly erodible lands on GIS maps for entire County

2011 Accomplishments

- Inspected 18 new and 41 upgraded septic systems
- Completed 48 on-site feedlot inspections
- Provided technical assistance to 250 + landowners regarding WCA, reviewed 26 Joint Wetlands/Water Applications and completed 10 site visits
- Attended water planning technical education trainings at the BWSR Academy
- Printed information regarding hazardous waste disposal in local papers
- Taught southern MN Girl Scouts about water quality and then practiced water quality sampling techniques
- Developed and distributed public education pamphlets on alternative lawn chemicals that are more environmentally friendly and biodegradable
- Completed the University of Minnesota Well Survey for Brown County. Soon we will have a much better idea of Brown County's groundwater resources
- Started surface water quality testing for four (4) stream stretches and three (3) lakes in Brown County (2011-2012)
- Completed mapping out on GIS all County ditches and tile
- SWCD assisted with three (3) grassed waterway projects, three (3) rock inlets, three (3) streambank rip rap projects, three (3) windbreak plantings, two (2) terrace projects and two (2) wildlife plantings
- SWCD enrolled seven (7) landowners in the RIM/WRP Program
- SWCD hired an employee to work on implementing and promoting BMP's in the Little Cottonwood River Watershed for two (2) years.

2012 Accomplishments

- Inspected 11 new and 46 upgraded septic systems
- Completed 41 on-site feedlot inspections
- Provided technical assistance to 320 landowners regarding WCA, reviewed 20 Joint Wetlands/Water Applications and completed 6 site visits
- Started a Brown County Rain Barrel program to promote water storage on urban lots and to reduce storm water pollution to the Minnesota River, Sleepy Eye Lake and the Cottonwood River
- Held a free nitrate testing clinic for Brown County residents at the Brown County Fair
- Received $321,000 grant to improve fish habitat and angler access on Spring Creek
- Held essay contest for area high school juniors on the importance of surface water storage
- SWCD assisted with five (5) terrace projects, two (2) grassed waterway projects, one (1) wildlife planting, one (1) wetland restoration, one (1) agricultural pond installation and eleven (11) rock tile inlets

DESCRIPTION OF PRIORITY CONCERNS

The Priority Concerns to be addressed by the County are as follows. Concerns are not listed in order of importance and concerns were selected to be broad enough to address most concerns submitted. The Priority Concerns were selected by the Task Force after examining citizen and State comments for review.

1. **Soil Erosion Concerns –** including addressing of TMDL issues by watershed. Prevention of soil erosion and sedimentation from runoff and streambank erosion. Promotion of programs to improve residue management and conservation tillage. Incorporate urban aspects of stormwater management and runoff of impervious surfaces.

2. **Groundwater –** including addressing concerns with pesticide and fertilizer use in agricultural and urban areas. Wellhead protection and well sealing opportunities. Address potential water quantity issues involved with industrial and rural development and city water use needs.

3. **Drainage –** including possible inventory of existing system and need for improvements with the possibility for water storage. Buffer initiatives with emphasis on problem areas and erodible soils. Management focusing on public drainage system that provides agricultural production with benefits to water quality and quantity concerns.

4. **Wetlands/Water Retention –** including protection and enhancement of existing wetland resources. Inventory of existing wetlands and potential areas for restoration and water retention projects. Wetland education to contractors involved with development projects.

5. **Human Wastewater –** including the inventory of septic and municipal systems for compliance and needs. Cooperate with municipal systems to find improvements for systems and possible funding options. Upgrade of failing and non compliant individual septic systems. TMDL concerns addressed for fecal limits.

SUMMARY OF GOALS AND ACTIONS

PRIORITY CONCERN 1: SOIL EROSION

GOAL 1: Address impaired surface waters and their TMDL's

Objective A: Develop understanding of water quality issues. $64,000.00
Objective B: Reduce the impairments in surface waters. $134,000
Objective C: Delisting of existing impaired waters. $60,000.00

GOAL 2: Reduce soil erosion and sedimentation on agricultural lands.

Objective A: Identify areas that show potential for high erosion $313,000
Objective B: Cooperate and promote and market conservation programs and practices. $251,000.00

GOAL 3: Reduce stream bank and ditch bank erosion.

Objective A: Identify problems areas within the County. $10,000.00
Objective B: Provide education and options to control stream and ditch bank erosion. $187,000.00

GOAL 4: Reduce urban runoff and storm water impacts to surface waters.

Objective A: Assess urban non point source pollution in Brown County. $39,000.00
Objective B: Education to cities and citizens on runoff and storm water management. $90,000.00
Objective C: Implement Storm water and Runoff practices with cooperating Cities. $31,000.00

PRIORITY CONCERN 2: GROUNDWATER

GOAL 1: Protect ground water sources from pesticide and fertilizer contamination from agricultural and urban contamination.

Objective A: Obtain Groundwater information relating to potential impacts. $9,200.00
Objective B: Provide education on proper agricultural and residential application rates. $39,000.00

GOAL 2: Protect drinking water sources

Objective A: Recognize and support needs of public water supply wellhead protection $11,000.00
Objective B: Encourage private well protection from contamination sources. $5,000.00
Objective C: Encourage proper sealing of unused or abandoned wells. $96,000.00
Objective D: Address groundwater adequacy and sustainability of Brown County Aquifers. $3,000.00

GOAL 3: Minimize impacts to groundwater sources from industrial and rural development.

Objective A: Reduce impacts of rural and industrial development on groundwater resources. $8,000.00

PRIORITY CONCERN 3: DRAINAGE

GOAL 1: Improve drainage management system based on water quality goals.

Objective A: Cooperate with Drainage Authorities to inventory current drainage system.-$67,000.00
Objective B: Determine and map problem areas$6,000.00

Objective C: Reduce water inputs and provide water storage to the system. $1,045,000.00
Objective D: Develop education and incentive programs to increase conservation practices. $467,000.00

PRIORITY CONCERN 4: WETANDS/WATER RETENTION

GOAL 1: Protect existing wetlands and increase wetland resources

Objective A: Identify current wetlands and potential wetland restoration sites $5,000.00
Objective B: Educate citizens and officials on wetland functions and importance. $18,000.00
Objective C: Encourage wetland restoration and management.$157,000.00

PRIORITY CONCERN 5: HUMAN WASTEWATER

GOAL 1: Eliminate Subsurface Sewage Treatment System (SSTS) contamination to surface and groundwater.

Objective A: Maintain onsite sewage treatment inspection program.$22,000.00
Objective B: Provide education and seek funding for septic program. $1,570,000.00

GOAL 2: Assist with improvements and upgrades to municipal and industrial wastewater treatment systems.

Objective A: Inventory of existing processes in waste water treatment facilities $9,000.00
Objective B: Inventory of needs and funding opportunities for improved technologies. $2,044,000.00

10 YEAR PLAN TOTAL $6,760,200.00

CONSISTENCY WITH OTHER PLANS

Brown County Water Planning is based out to the Planning and Zoning Office. The Water Plan, County Zoning Ordinance, Feedlot Ordinance, Wetland Conservation Act and all other aspects of the Natural Resources Block Grant are administered out of this office. In addition there is communication and cooperation with all other Courthouse offices and the Brown County SWCD office for planning processes. This helps to provide some consistency between plans and ordinances. In addition the County has access to several local, regional and State plans for use in plan development.

SUMMARY OF RECOMMENDATIONS TO OTHER PLANS

The priority concerns and action items established in the Water Plan should allow for cooperation between the County and local governments in the development and amendments of local controls and ordinances. Reference to water quality and quantity issues developed in the plan should be considered on a voluntary basis by each organization in its planning process. The Water Plan office should act as a resource for those considering planning updates.

BROWN COUNTY LOCAL WATER MANAGEMENT PLAN
10 YEAR IMPLEMENTATION SCHEDULE FOR PRIORITY CONCERNS

PRIORITY CONCERN 1: SOIL EROSION	Timeline	Cooperators	Costs
GOAL 1: Address impaired surface waters and their TMDL's			
Objective A: ***Develop understanding of water quality issues.***			
1. Continue and expand water testing through Surface Water Assessments (SWAG) and submit data to the MPCA.	Continuous	CWP's, WP, Co	$20,000.00
2. Recruit volunteers for the MPCA's Citizen Stream Monitoring Program (CSMP) for impaired reaches.	Continuous	WP, SWCD, CWP's	$2,000.00
3. Recruit CSMP volunteers residing near the testing sites in the rural community for water bodies that have no previous sampling record.	Continuous	WP, SWCD	$2,000.00
4. Develop baseline data information through coordination with MPCA, MDA, MDH staff that will meet listing and delisting requirements.	Continuous	CWP's, WP, MPCA, MDA, MDH	$30,000.00
5. Follow approved sampling techniques and submit water quality data for analysis and review.	Continuous	CWP's, WP	$10,000.00
		TOTAL	$64,000.00
Objective B: ***Reduce the impairments in surface waters***			
1. Cooperate with SWCD and NRCS to market available conservation programs annually to landowners at Brown County Farm Show, publication of one (1) newspaper article in the Comfrey, Sleepy Eye, Springfield and New Ulm papers.	Continuous	WP, SWCD, NRCS, CWP's	$10,000.00
2. Develop strategies with the county drainage authority to address water quantity issues that explore alternatives to existing drainage management.	2008-2010	WP, Co, DA	$15,000.00
3. Utilize Counties Geographic Information Systems (GIS) data to inventory and target areas for best management practices	2008-2010	WP, Co, SWCD	$5,000.00
4. Provide educational opportunities on the TMDL process to the public through articles, meetings and personal contacts.	Continuous	WP, SWCD, MPCA	$2,000.00

5. Partner with Cities and Industries to define their role in the TMDL process and the practices they can utilize to reduce impacts.	Continuous	WP, Cities, MPCA	$2,000.00
6. Cooperate with the SWCD to install fifty (50) alternative tile intakes annually.	2013-2018	SWCD	$100,000
7. Cooperate with Brown County Emergency Management to include the buying out of homes in the floodplain, homes that are in danger of washing into the river, or are flooded on a regular basis.	2013-2018	WP, P & Z, FEMA	0
		TOTAL	$134,000.00

Objective C: ***Delisting of existing impaired waters.***

1. Work with CWP's and MPCA in the development and implementation of Total Maximum Daily Load (TMDL) plans for impaired waters	Continuous	WP, MPCA, CWP's	$40,000.00
2. Provide County level assistance throughout study and implementation phases to coordinating agencies and organizations.	Continuous	WP	$10,000.00
3. Work with individuals and businesses to help develop erosion control, chemical use, and rainwater storage plans that will reduce their impacts to the developed implementation plan on impaired reaches.	Continuous	WP	$5,000.00
4. Use developed priority areas as guide on progress and update implementation strategy based on successes and continued sampling.	Continuous	WP	$5,000.00
		TOTAL	$60,000.00

GOAL 2: Reduce soil erosion and sedimentation on agricultural lands.

Objective A: ***Identify areas that show potential for high erosion***

2. Identify and map areas to be targeted for implementation projects.	Continuous	WP, SWCD, Co	$10,000.00
3. Prioritize implementation projects based on impaired waters.	Continuous	WP, SWCD, CWP's	$1,000.00
4. Install 10,000 feet of terrace and two (2) grade stabilization structures annually.	2013-2018	SWCD, NRCS	$300,000
		TOTAL	$313,000.00

Objective B: ***Cooperate with SWCD to promote and market conservation programs and practices.***

1. Provide education to landowners in targeted areas on BMP's and conservation programs available through County, State and Federal programs	Continuous	WP, SWCD, NRCS	$10,000.00

2. Work with the Brown County SWCD to pursue additional cost-share and incentive funding for BMP's.	Continuous	WP, SWCD, NRCS	$1,000.00
3. Work with County Board as the Ditch Authority to establish a long term or permanent buffer program.	2010-2012	WP, DA, Co	$200,000.00
5. Demonstrate conservation tillage, alternative drainage practices and BMP's through field days sponsored by the County, U of M, State Agencies and farm groups and businesses.	2010-2014	WP, SWCD, UofM, MDA	$40,000.00
		TOTAL	$251,000.00

GOAL 3: Reduce stream bank and ditch bank erosion.

Objective A: *Identify problems areas within the County.*

1. Utilize GIS data and ditch records to identify high priority areas prone to stream and ditch bank erosion.	2008-2010	WP, Co	$2,000.00
2. Conduct air photo reviews of priority areas.	2008-2010	WP, SWCD	$2,000.00
3. Conduct site visits and document erosion impacts.	2008-2014	WP, SWCD, CWP's	$5,000.00
4. Inventory and prioritize sites based on implementation potential.	2008-2014	WP, SWCD's, CWP's	$1,000.00
5. Utilize the DNR GIS information of locations of where erosion and bank stabilization projects have been permitted on pubic waters.	2013-2018	DNR, WP	0
6. Work with area DNR staff to calculate erosion rates, shear stress, and total sediment loads for stretches impaired with high sediment loads.	Continuous	DNR, SWCD, MPCA	0
		TOTAL	$10,000.00

Objective B: *Provide education and options to control stream and ditch bank erosion.*

1. Target sites on the inventory list to educate and provide assistance to landowners on erosion control measures.	2008-2014	WP, SWCD,CWP's	$10,000.00
2. Pursue funding for the implementation of buffer strips, stream bank stabilization practices, alternative upland treatments, and enforce 50' buffer from public waters.	Continuous	WP, SWCD,CWP's	$2,000.00
3. Develop and provide information on upland management practices including wetland restorations, water storage, and infiltration practices that help to store and meter water. Sites will be prioritized based on areas of the County that are most heavily drained and have the highest potential of water storage.	Continuous	WP, SWCD,CWP's	$2,000.00
4. Provide education and information on grazing management practices that reduce bank erosion.	Continuous	WP, SWCD,CWP's	$2,000.00

5. Seek and provide funding for demonstration projects for fencing or buffers that show benefits of bank stabilization	2008-2014	WP, SWCD,CWP's	$4,000.00
6. Work with County Drainage Authority to develop a plan that protects and enhances public waters wetlands and ditches that run through them and considers water retention and storage as part of ditch repair and improvements.		WP, DA, Co	$10,000.00
7. Work with Ditch Authority on possible funding of buffer incentives through the County.	2008-2014	WP, DA, Co	$20,000.00
8. Promote and complete one RIM/WRP Project annually in a high priority watershed that is identified as heavily drained.	2013-2018	SWCD, NRCS, WP	$100,000
9. Research and provide information on cost effective conservation practices that provide ditch and stream bank stabilization and report to County Board.	2008-2014	WP, DA, Co	$1,000.00
10. Work with SWCD and NRCS to encourage the re-enrollment of expiring CRP contracts that promote stream and ditch buffers.	Continuous	WP, SWCD, CWP's, NRCS	$4,000.00
11. Consider the requirement of a 50' permanent vegetated buffer along public waters in agricultural areas as part of the agricultural land use standard included in the local shoreland management ordinance.	Continuous	WP, P & Z, DNR	$1,000
12. Educate the property owners of riparian areas on implementing BMP's and/or erosion and bank stabilization projects.	Continuous	WP, P & Z, DNR	$1,000
13. Implement riparian BMP's on Brown County owned properties adjacent to riparian areas	2013-2018	WP, P & Z, RCRCA	$30,000
		TOTAL	$187,000.00

GOAL 4: Reduce urban runoff and storm water impacts to surface waters.

Objective A: *Assess urban non point source pollution in Brown County.*

1 Request opportunity to review Sleepy Eye, New Ulm, and Springfield's storm water system designs and current outlet systems.	2008-2010	WP, Cities	$2,000.00
2. Implement DNR recommended use of natural ponding areas and artificial stilling basins when feasible and require their use when necessary for storm water management.	Continuous	WP, DNR, MPCA	0
3. Consult with cities to determine flows at different storm event levels. Once flows are recorded, determine how to slow flows and retain more water on the landscape.	Continuous	WP, Cities, MPCA	$5,000.00

4. Consult with industries to determine discharges to storm sewer systems and permitted discharges.	2008-2010	WP, Cities, Industry	$6,000.00
5. Sample to determine types and quantities of pollutants seen in the storm water system and make recommendations to community officials on how to reduce the pollutants from being discharged.	2008-2014	WP, Cities, MPCA	$5,000.00
6. Work with State agencies to determine acceptable levels of pollutants and flow for storm water management.	2008-2010	WP, Cities, MPCA	$1,000.00
7. Assess the nature, cause, and effect of urban runoff and storm water pollution on surface waters from residential areas in New Ulm, Sleepy Eye, and Springfield through surveys of residents and water sampling.	2008-2014	WP, Cities, MPCA	$20,000.00
		TOTAL	$39,000.00

Objective B: ***Provide education to cities and citizens on runoff and storm water management.***

1. Provide information and education opportunities through Board Updates to local officials on non point source pollution, runoff and storm waster issues.	Continuous	WP	$5,000.00
2. Provide information to communities on the use of BMP's that reduce the effects of storm water runoff through newspaper articles, workshops, public events and newsletters.	Continuous	WP	$5,000.00
3. Provide education and training opportunities for implementation of storm water best management practices to city utility employees.	Continuous	WP	$20,000.00
4. Assist in providing WRAP workshops for local officials, contractors, and community members.	Continuous	WP	$3,000.00
5. Provide education opportunities to developers, and contractors on low impact development through direct mailings or contact when building permits are sought.	Continuous	WP	$5,000.00
6. Provide education opportunities through media releases like the SWCD newsletter and public events such as the New Ulm Home Show that highlight the role citizens play in non point source pollution through press releases and community events.	Continuous	WP	$2,000.00
7. Continue to sell and promote the rain barrel and composter pre-order sales to Brown County residents. The program shall reach out to area businesses to provide education on different design options for larger surface areas.	2013-2018	WP, Cities	$2,000.00
8. Educate ~~homeowners~~ County residents on the proper handling and disposal of household hazardous waste at the New Ulm Home Show, Brown County Ag. Show, Brown County Free Fair, the VSQG Program and at the collections themselves annually. Articles are also published in area newspapers 3 times per year on the proper handling and disposal of household hazardous waste.	Continuous	WP, Recycling	$3,000.00

8. Offer incentives, such as rebates provided through city municipalities to residents to encourage redirecting runoff to pervious surfaces for on-lot infiltration through the rain barrel program.	2010-2014	WP, Cities	$45,000.00
		TOTAL	$90,000.00

Objective C: ***Implement Storm water and Runoff practices with cooperating Cities.***

1. Assist communities of Sleepy Eye, Springfield, and New Ulm to utilize existing and pursue additional Federal and State funding, as they become available for the implementation of urban best management practices	Continuous	WP, Cities	$10,000.00
2. Provide technical and financial assistance to communities to assist officials, developers, and contractors in fulfilling Phase II Storm water Program requirements.	Continuous	WP, Cities	$10,000.00
3. Encourage and provide information on the utilization of storm water management practices including retention, infiltration and storm water wetlands to the cities of Springfield, Sleepy Eye, New Ulm, Evan and Comfrey.	Continuous	WP, Cities	$4,000.00
4. Provide assistance on projects to follow erosion and sediment control regulations and techniques available from the MPCA and Minnesota Erosion Control Association (MECA).	Continuous	WP, Cities	$2,000.00
5. Encourage the development of Storm water Management Plans for the cities of Sleepy Eye, Springfield and New Ulm that consider practices that improve water quality including street sweeping, catch basin cleaning, leaf litter management, salt application, snow removal storage, ponds, filter strips, infiltration and plans for future improvements.	2008-2010	WP, Cities	$5,000.00
		TOTAL	$31,000.00

PRIORITY CONCERN 2: GROUNDWATER	**Timeline**	**Cooperators**	**Costs**

GOAL 1: Protect ground water sources from pesticide and fertilizer contamination from agricultural and urban contamination.

Objective A: ***Obtain Groundwater information relating to potential impacts.***

1. Compile and review monitoring data from MDA on pesticide application and	2008-2010	WP, MDA	$1,000.00

groundwater contamination.			
2. Review Brown County Groundwater Vulnerability Project information.	2008-2010	WP	$200.00
3. Continue to hold Nitrate testing clinics bi-annually at the Brown County Free Fair	Continuous	WP, MDH, BNC	$5,000.00
4. Review MN Geologic Survey information and focus on addressing unsealed wells in areas of high risk of groundwater contamination.	2013-2018	WP, MDH	$1,000.00
		TOTAL	$9,200.00

Objective B: ***Provide education and information on proper agricultural and residential application rates.***

1. Use MDA guidelines to promote pesticide water quality Bump's	Continuous	WP, MDA	$1,000.00
2. Concentrate education activities through township meetings on priority areas that show greatest potential for groundwater impacts.	Continuous	WP, SWCD	$2,000.00
3. Work with and provide information to applicators and producers on following the University of Minnesota recommended application rates of farm chemicals through administering applicator tests.	Continuous	WP, SWCD, CWP's, Co	$5,000.00
4. Provide field day education opportunities bi-annually for ag suppliers, applicators and property owners on proper application practices of farm and yard chemicals .	Continuous	WP, SWCD	$5,000.00
5. Encourage soil sampling to gain a better understanding of soil needs before application.	Continuous	WP, SWCD, Co	$2,000.00
6. Provide technical and financial assistance to assist producers in adopting BMP's to reduce the impacts of manure runoff, soil erosion, runoff from fields through the Ag. BMP Loan Program.	Continuous	WP, SWCD, Co	$20,000.00
7. Develop residential educational resources on chemical and fertilizer application and alternatives to these chemicals. Education will take place through bi-annual tour of residents utilizing these practices in urban areas.	Continuous	WP, SWCD, MDA	$2,000.00
8. Provide educational resources and technical assistance to community groups, schools and at community events on utilizing BMP's.	Continuous	WP, SWCD	$2,000.00
		TOTAL	$39,000.00

GOAL 2: Protect drinking water sources

Objective A: ***Recognize and support needs of public water supply wellhead protection.***

1. Encourage community and non-community public water suppliers to develop and implement wellhead protection plans	Continuous	WP, Cities, MDH	$2,000.00
2. Work with public water suppliers to reduce potential impacts to drinking water sources.	Continuous	WP, Cities, MDH	$5,000.00
3. Assist public water suppliers with the development of maps outlining the location of wells and radius of concern	2008-2012	WP, Cities, MDH	$1,000.00
4. Consider wellhead protection areas when making land use decisions.	Continuous	WP, Cities, MDH	$2,000.00
5. Utilize information provided by Minnesota Department of Health in source water assessments	Continuous	WP, Cities, MDH	$1,000.00
		TOTAL	$11,000.00

Objective B: ***Encourage private well protection from contamination sources.***

1. Educate homeowners, realtors, and contractors on the importance of maintaining proper setbacks from private wells to potential contamination sources through mailings to realtors and information sheets to landowners during septic upgrades or building permit application	Continuous	WP, Cities, MDH	$2,000.00
2. Educate homeowners and realtors on the importance of well disclosure.	Continuous	WP, Cities, MDH	$2,000.00
3. Encourage homeowners to get private wells tested on a regular basis through a radio press release.	Continuous	WP, Cities, MDH	$1,000.00
		TOTAL	$5,000.00

Objective C: ***Encourage proper sealing of unused or abandoned wells.***

1. Inventory locations of abandoned or unused wells.	2008-2012	WP, MDH	$50,000.00
2. Prioritize the sealing of unused or abandoned wells based on potential for contamination.	2008-2012	WP, MDH	$2,000.00
3. Use existing and develop new cost-share programs to assist with well sealing costs.	Continuous	WP, MDH, Co	$40,000.00
4. Develop and distribute educational materials for homeowners, realtors, bankers and attorneys on the importance of disclosing and sealing wells.	Continuous	WP, MDH	$4,000.00
		TOTAL	$96,000.00

Objective D: Address groundwater adequacy and sustainability of Brown County groundwater aquifers.

1. Utilize the updated Minnesota Geologic Survey atlas of Brown County	2013-2015	WP, U of M	$1,000.00

groundwater resources in addressing concerns of our groundwater resources.

2. Partner with the MN DNR in their groundwater monitoring program.	Continuous	WP, SWCD	$1,000.00
3. Promote groundwater conservation efforts with urban and rural residents through educational resources, review of project proposals	Continuous	WP, SWCD	$1,000.00
			$3,000.00

GOAL 3: Minimize impacts to groundwater sources from industrial and rural development.

Objective A: *Reduce impacts of rural and industrial development on groundwater resources.*

1. Define and map areas that may have low availability of groundwater resources and high potential for contamination through the use of the MN Geological Survey data.	2008-2009	WP, MDH, DNR, MGS	$2,000.00
2. Obtain up to date information on water use practices involving rural development including feedlot needs and ethanol production.	2008-2009	WP, MDH, Industry	$1,000.00
3. Inform Planning and Zoning office on industrial uses that have high water use potential and develop plans that consider high water use impacts.	Continuous	WP, P&Z	$1,000.00
4. Work with DNR to consider planning for significant water use developments and review permit applications such as irrigation wells.	Continuous	WP, DNR	$4,000.00
		TOTAL	$8,000.00

PRIORITY CONCERN 3: DRAINAGE

	Timeline	Cooperators	Costs

GOAL 1: Improve drainage management system based on water quality goals.

Objective A: *Cooperate with Drainage Authorities to inventory current drainage system.*

1. Utilize mapping and data management process from current GIS ditch layer for public drainage systems.	Continuous	WP, DA	$5,000.00
2. Field verify ditch systems to determine as built conditions.	2010-2016	WP, DA	$50,000.00
3. Compile ditch information relating to previous repair and improvements.	2008-2010	WP, DA	$10,000.00
4. Inventory conservation projects currently active on ditch network	2008-2010	WP, SWCD	$2,000.00

		TOTAL	$67,000.00

Objective B: ***Determine and map problem areas***

1. Identify areas with high potential for bank failure or erosion concerns failure due to the amount of inputs to the system	2008-2010	WP, SWCD	$2,000.00
2. Identify areas with high maintenance costs and develop solutions that provide water storage, reduced erosion and reduced maintenance	2008-2010	WP, DA, SWCD	$2,000.00
3. Prioritize drainage systems that currently impact an impaired water body.	2008-2010	WP	$2,000.00
		TOTAL	$6,000.00

Objective C: ***Reduce water inputs and provide water storage to the system.***

1. Utilize GIS data to create potential water retention sites based on drainage basins map.	2008-2010	WP	$4,000.00
2. Identify upstream practices that slow or reduce flow to receiving waters in problem areas.	Continuous	WP, SWCD	$1,000.00
3. Pursue funding opportunities for water storage or wetland restorations in high priority areas.	Continuous	WP, SWCD, Co	$500,000.00
4. Explore funding mechanisms through the Ditch Authority that rewards landowners for their water retention efforts through incentives or reduced taxing.	2010-2016	WP, DA, Co	$500,000.00
5. Develop controlled drainage demonstration site.	2010-2012	WP, DA, Co	$40,000.00
6. Provide education to landowners considering drainage tile in regards to how drainage tile can affect the timing, duration, magnitude of channel flow, flooding, infiltration throughout the growing season and non-growing season.	Continuous	WP	0
		TOTAL	$1,045,000.00

Objective D: ***Develop education and incentive programs to increase conservation practices.***

1. Continue to encourage the County Ditch Authority to work on requiring ditch buffers to newly re-assessed ditches.	Continuous	WP, DA, SWCD, Co	$300,000.00
2. Pursue funding for alternatives to surface tile inlets through cost-share programs for rock tile inlets.	Continuous	WP, DA, SWCD, Co	$50,000.00
3. Provide information and educational resources on water retention and wetland restoration efforts to officials and landowners through tile project reviews and WCA applications.	Continuous	WP, SWCD	$10,000.00
4. Provide information and educational resources on controlled drainage to officials and landowners during proposed tile projects and at the Brown County Ag. Show.	Continuous	WP, SWCD	$2,000.00

5. Develop economic worksheet considering water storage benefits to the system in reduced maintenance costs.	2010-2012	WP, SWCD	$5,000.00
6. Encourage the County Drainage Authority to partner with other agencies for project support and funding	2010-2012	WP	$100,000.00
		TOTAL	$467,000.00

PRIORITY CONCERN 4: WETANDS/WATER RETENTION	**Timeline**	**Cooperators**	**Costs**

GOAL 1: Protect existing wetlands and increase wetland resources

Objective A: ***Identify current wetlands and potential wetland restoration sites.***

1. Create GIS map of wetlands currently managed through an easement or conservation program through the NRCS, SWCD, and FWS.	2008-2012	WP, SWCD, BWSR	$5,000.00
2. Utilize agency GIS information and restorable wetland areas throughout Brown County	Continuous	WP, FWS	
		TOTAL	$5,000.00

Objective B: ***Educate citizens and officials on wetland functions and importance.***

1. Collaborate with agency and conservation group partners to share information gathered through the inventory process.	2008-2012	WP	$2,000.00
2. Develop information to distribute to contractors, developers and realtors on wetland identification through direct mailings bi-annually.	Continuous	WP, BWSR	$5,000.00
3. Provide wetland training opportunities to local officials who make planning, development and permitting decisions.	Continuous	WP, BWSR, COE	$5,000.00
4. Work with DNR and Planning and Zoning on lakeshore development wetland impact issues.	Continuous	WP, DNR, P&Z	$2,000.00
5. Provide lakeshore owners information on needed permits for vegetation removal and beach development by the DNR.	Continuous	WP, DNR, P&Z	$2,000.00

6. Utilize and encourage educational resources available from other agencies who work directly with wetland areas and their function.	Continuous	WP,DNR, BWSR, SWCD	$2,000.00
		TOTAL	$18,000.00

Objective C: ***Encourage wetland restoration and management.***

1. Identify through the building permit process potential wetland impacts that may need consideration.	Continuous	WP, P&Z	$10,000.00
2. Protect existing wetland areas for their value to flood reduction, infiltration, sediment reduction, erosion control and nutrient reduction.	Continuous	WP, DNR, BWSR	$5,000.00
3. Administer the Wetland Conservation Act	Continuous	WP, Co	$100,000.00
4. Work with DNR and USFWS to maintain existing wildlife and wetland areas.	Continuous	WP, DNR, USFWS	$2,000.00
5. Educate landowners to the benefits of converting drained wetlands in the WRP and CRP programs when WCA applications are submitted throughout the year.	Continuous	WP, SWCD	$10,000.00
6. Work with SWCD and other agencies to enroll individuals in wetland restoration programs	Continuous	WP, SWCD, NRCS	$30,000.00
		TOTAL	$157,000.00

PRIORITY CONCERN 5: HUMAN WASTEWATER	**Timeline**	**Cooperators**	**Costs**

GOAL 1: Eliminate Subsurface Sewage Treatment System (SSTS) contamination to surface and groundwater.

Objective A: ***Maintain onsite sewage treatment inspection program.***

1. Provide site and soils investigations with contractors to verify design criteria.	Continuous	WP, Co	$5,000.00
2. Provide assistance, review and approval of system designs.	Continuous	WP, Co	$5,000.00
3. Complete site inspections at time of installation.	Continuous	WP, Co	$10,000.00
4. Maintain computer and GIS file system of compliant systems and design and installation records.	Continuous	WP, Co	$2,000.00
		TOTAL	$22,000.00

Objective B: ***Provide education and seek funding for septic program.***

1. Provide educational materials on system design and maintenance to new septic system owners.	Continuous	WP, Co	$2,000.00
2. Provide pumping notice to homeowners for maintenance to systems.	Continuous	WP, Co	$5,000.00
3. Develop information to be used at meetings, events and shows on the importance of ISTS upgrade and maintenance.	Continuous	WP, Co	$2,000.00
4. Provide financial and technical status reports to County Officials.	Continuous	WP, Co	$1,000.00
5. Inventory of systems considered Imminent Threat to Public Health or Safety.	2010-2014	WP, Co	$60,000.00
6. Continue seeking funds for low interest loan programs sponsored by Clean Water Partnerships and County Septic fund.	Continuous	WP, Co	$1,500,000.00
		TOTAL	$1,570,000.00

GOAL 2: Assist with improvements and upgrades to municipal and industrial wastewater treatment systems.

Objective A: ***Inventory of existing processes in waste water treatment facilities***

1. Work with waste water operators and municipal officials to gain understanding of current systems.	2008-2010	WP, Cities	$5,000.00
2. Develop inventory of current treatment plant operations.	2008-2010	WP, Cities	$2,000.00
3. Obtain permit information pertaining to facility discharges and their potential impacts to impaired waters.	2008-2010	WP, Cities, MPCA	$2,000.00
		TOTAL	$9,000.00

Objective B: ***Inventory of needs and funding opportunities for improved technologies.***

1. Provide technical assistance and support to communities with inadequate sewage collection and treatment	Continuous	WP, Cities	$10,000.00
2. Work with operators to determine needs to upgrade and improve treatment facilities.	Continuous	WP, Cities	$30,000.00
3. Research technologies to update and improve water treatment facilities.	Continuous	WP, Cities	$4,000.00

4. Seek funding to upgrade processes and facilities as requested.	Continuous	WP, Cities	$2,000,000.00
		TOTAL	$2,044,000.00
		10 YEAR PLAN TOTAL	$6,760,200.00

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Nicollet County Local Water Management Plan Amendment**

Meeting Date: September 25, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Southern Region

Contact: Jeff Nielsen, Regional Supervisor

Prepared by: Chris Hughes, Board Conservationist

Reviewed by: Southern Region 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

LINKS TO ADDITIONAL INFORMATION

Nicollet County Local Water Management Plan 2013 Amendment

http://www.bwsr.state.mn.us/boardpackets/water_plans_for_bd_packet/Nicollet_Amendment_2013.pdf

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

On August 28, 2008 the Board of Water and Soil Resources (Board) approved the Nicollet County Water Management Plan and required a 5-Year amendment to the goals, objectives and implementation schedule by August 28, 2013.

On August 19, 2013, the Board received the Nicollet County Local Water Management Plan Amendment (Plan Amendment), a record of the public hearing, and all written comments pertaining to the Plan Amendment.

On September 5, 2013, the Southern Committee (Committee) of the Board met via conference call with representatives of Nicollet County to review state agencies recommendations and comments. The Committee recommends approval of the Nicollet County Plan Update.

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 **Nicollet County** (Minnesota Statutes, Section 103B.314, Subdivision 6)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN AMENDMENT

Whereas, on August 28, 2008, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Nicollet County 2008 – 2018 Local Water Management Plan Update (Plan), which contained a 2008 – 2013 five-year Implementation section; and

Whereas, this Board Order stipulated that Nicollet County was required to update the implementation section by August 28, 2013; and

Whereas, the Nicollet County Board of Commissioners submitted the Nicollet County Plan 2013 Amendment to the Board on August 19, 2013; and

Whereas, this 2013 Amendment contains the updated five-year implementation section as ordered by the Board; and

Whereas, the Board has completed its review of the 2013 Amendment.

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

FINDINGS OF FACT

1. On December 22, 2011 Board staff provided information on the amendment process to Nicollet County.

2. On January 24, 2012, Nicollet County passed and submitted a resolution 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 March 9, 2012, Nicollet 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 May 16, 2012 and July 31, 2012 Nicollet County conducted local water planning task force meetings to develop the five-year implementation section update.

5. Nicollet County received written comments from the Minnesota Department of Agriculture, the Minnesota Pollution Control Agency, the Minnesota Department of Health and the Minnesota Board of Water and Soil Resources. The Minnesota Board of Water and Soil Resources, Minnesota Department of Natural Resources, and Minnesota Pollution Control Agency attended the water plan task force meeting(s) and provided comments.

6. Brown County, Brown Nicollet Environmental Health, City of Mankato and Courtland Township also provided written comments to Nicollet County.

7. The final document developed by Nicollet County, which includes the revised five-year implementation section 2013 – 2018 is entitled the Nicollet County Local Water Management Plan 2013 Amendment.

8. On August 13, 2013, after providing for proper public notice, Nicollet County conducted a public hearing on the proposed 2013 Amendment.

9. On August 19, 2013, the BWSR received the Nicollet County 2013 Amendment, a record of the public hearing, and copies of all written comments pertaining to the 2012 Amendment, pursuant to M.S. Section 103B.314, Subd. 6.

10. On September 5, 2013, the Board's Southern Region Committee (Committee) reviewed the Nicollet County 2013 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 September 25, 2013

13. This 2013 Amendment will be in effect until August 28, 2018.

CONCLUSIONS

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

2. The Nicollet County 2013 Amendment attached to this Order states goals, objectives and actions the County will address in the five-year implementation section August 2013 – August 2018. The 2013 Amendment, as well as the previously approved Nicollet County 2008 – 2018 Local Water Management Plan Update, is in conformance with the requirements of M.S. Section 103B.301.

ORDER

The Board hereby approves the attached 2013 Amendment of the Nicollet County Local Water Management Plan for August 2013 – August 2018. Nicollet County will be required to provide for a complete update of its Water Management Plan prior to August 28, 2018.

Dated at St. Paul, Minnesota, this 25th day of September 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

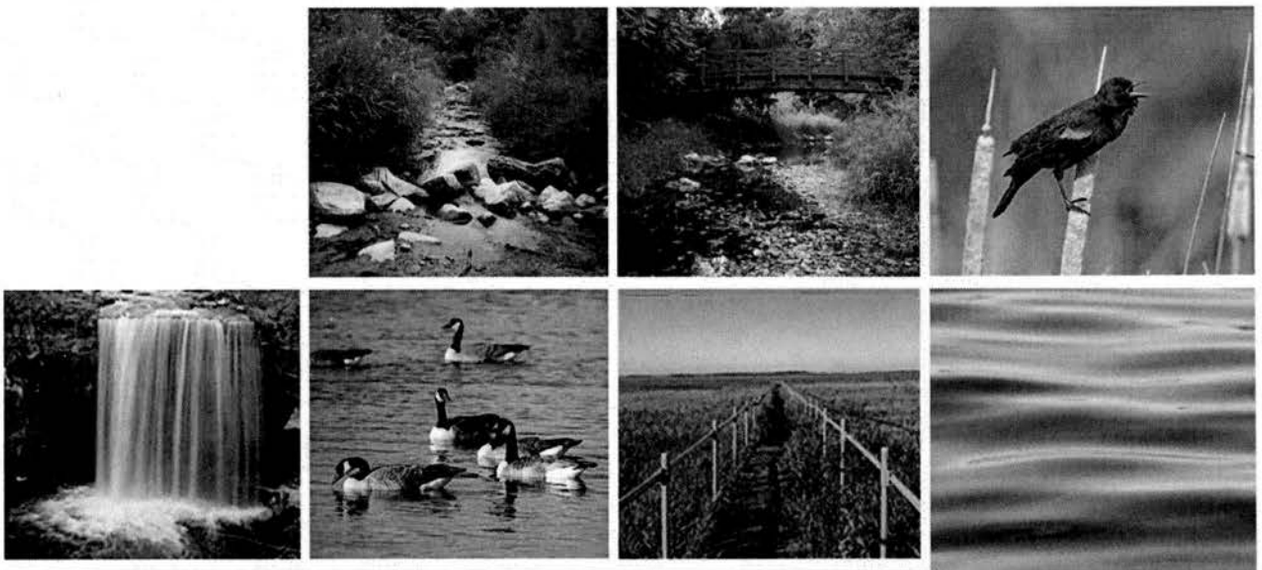
_____

BY: Brian Napstad, Chair

Nicollet County

LOCAL WATER MANAGEMENT PLAN

2013 Amendment



10-Year Plan
5-Year Implementation Schedule
2008 - 2018

Prepared by Nicollet County Environmental Services Department with assistance from the Nicollet County Water Plan Task Force and the Minnesota Board of Soil and Water Resources

NICOLLET COUNTY
LOCAL WATER MANAGEMENT PLAN
A 10-year Plan with a 5-Year Implementation Schedule 2008-2018

TABLE OF CONTENTS

ACRONYMS 4
ACKNOWLEDGEMENTS 5
EXECUTIVE SUMMARY 6
THE PURPOSE OF THE LOCAL WATER MANAGEMENT PLAN 6
Requirements of a Local Water Management Plan 6
Overview of the Nicollet County Comprehensive Water Management Plan Process 6
Plan Adoption and Amendment 7
Past Accomplishments 7
Ongoing Programs 7
DESCRIPTION OF PRIORITY CONCERNS TO BE ADDRESSED BY THE LWM PLAN 8
CONSISTENCY WITH LOCAL, STATE, AND REGIONAL PLANS 9
SUMMARY OF RECOMMENDED AMENDMENTS TO OTHER PLANS AND OFFICIAL CONTROLS 9
PRIORITY CONCERNS 10
IDENTIFICATION OF THE PRIORITY CONCERNS 10
ASSESSMENT OF THE PRIORITY CONCERNS 10
GOALS AND OBJECTIVES TO ADDRESS PRIORITY CONCERNS 15
ONGOING ACTIVITIES 18
IMPLEMENTATION TO ADDRESS PRIORITY CONCERNS 20

APPENDIX A PRIORITY CONCERNS SCOPING DOCUMENT

EXECUTIVE SUMMARY

THE PURPOSE OF THE LOCAL WATER MANAGEMENT PLAN

The purpose of the Nicollet County Local Water Management (LWM) Plan is to protect water resources in the County from point and nonpoint sources of pollution. Coordination of these protection efforts between various local, state, and federal agencies and organizations reduces duplication and eliminates gaps in implementation strategies aimed at a common goal of water protection.

Requirements of a Local Water Management Plan
The LWM Plan meets the requirements set forth in current state statutes (Minnesota Statute 103B.311, Subd 4) as follows:

- Its coverage includes the entire County
- It addresses problems in the context of watershed units and ground water systems
- It is based upon principles of sound hydrologic management of water, effective environmental protection, and efficient management
- It is consistent with local water management plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or ground water system
- Its duration is for ten years with review and amendment to the LWM Plan as necessary in five years

Overview of the Nicollet County Comprehensive Water Management Plan Process
The Nicollet County Board of Commissioners authorized the development of the first Nicollet County Comprehensive Water Resources Management Plan in the spring of 1987. It addressed surface water, groundwater, and related land uses and resources on a watershed basis.

Beginning that fall with an informational meeting, development and implementation of the original 1990 Local Water Plan achieved extensive citizen and intergovernmental involvement. Numerous Nicollet County residents, county organizations, local units of government, adjacent counties, state agencies, federal agencies, private companies, and institutions of higher learning assisted county staff and officials. Regular communication and cooperation with neighboring counties was essential and remained a key ingredient in the process in developing the first Water Plan.

Currently referred to as the Nicollet County Water Management Task Force, the original Water Planning and Implementation Task Force, has continued to be a part of the process. In 1994, 1999 and November 2005, the Task Force provided a review of the Goals, Objectives and Actions for the second, third and fourth revisions, respectively.

This is the fourth edition of a local water management plan for Nicollet County. The current version was approved by the Board of Water and Soil Resources (BWSR) Board on August 29, 2008 and is in effect until August 31, 2018. The Nicollet County Commissioners adopted the plan on September 10, 2008.

A resolution to update the Nicollet County Comprehensive Water Management Plan was passed by the Nicollet County Commissioners on January 24, 2012. The resolution was then submitted to BWSR February 10, 2012. Notice of intent to amend the plan was provided to neighboring Local Government Units, agencies, and other interested parties on March 9, 2012. A Task Force was convened to review the current plan and discuss current and future issues, concerns, and needs on May 16, 2012. A subset of the Task Force met on July 31, 2012 for further, in-depth discussion.

This Plan amendment will be in effect from August 31, 2013 through August 31, 2018. When appropriate, Nicollet County will provide for total Plan revision process with the goal of having the next generation plan in effect September 2018.

Plan Adoption and Amendment

Upon approval of this Plan amendment by the BWSR Board, the County Board has up to 120 days to pass an Adoption and Implementation Resolution. After final adoption, the Plan may be amended in a similar process, by petitioning the BWSR Board, scheduling a public hearing, and sending notice to the required parties.

Approximately two years, no later than 18 months, prior to the end of the five year management schedule, the County Board should consider a new Resolution to update this Plan, according to the rules then in place.

Past Accomplishments

Nicollet County and other partners have worked on a significant number of the objectives contained in the 2008 LWM Plan. Many existing and ongoing programs were built or enhanced as a result of implementing the LWM Plan. Following are a few of the accomplishments from Nicollet County Environmental Services Department (ESD), Nicollet Soil and Water Conservation District (SWCD), Natural Resources Conservation District (NRCS), Rush River Clean Water Partnership (CWP), Seven Mile Creek CWP, and Middle Minnesota CWP:

- 94 rock tile/alternative inlets installed, 224 acres of cover crop planted, 42.65 acres of CRP enrolled, 25.9 acres put into rotation al grazing, provided $140,447 on 17 septic low interest loans, 34 acres of filter strip installed, 4 rain barrels distributed, 1 rain garden constructed, and 1 terrace constructed in Rush River Watershed
- 2 terrace structures
- 6 water and sediment control basins installed
- 4 grade stabilization projects completed
- 3 grassed waterways installed
- 6 wells sealed
- Utilized State cost-share dollars to install 15.0 acres of farmstead windbreaks
- In partnership with Environmental Quality Incentives Programs (EQIP), installed multiple conservation practices, such as nutrient management, waste impoundment closures, and manure transfer systems, totaling $1,775,427
- 675.8 acres enrolled in Reinvest in Minnesota (RIM)/Wetlands Reserve Program (WRP)
- 92.3 acres enrolled in Conservation Reserve Program (CRP)
- 169 acres enrolled in conservation tillage
- Conducted research on conservation drainage projects
- Water quality and quantity monitoring in Seven Mile Creek watershed
- Minnesota Pollution Control Agency's (MPCA) E. coli fingerprinting study conducted
- Monitoring near stream sediment and phosphorus reduction
- Annual Career Day presentations
- Annual Children's Water Festival presentations
- Annual tree donation to elementary school students
- Developed, updated, and maintained loan/grant application and progress information on website
- Administered the Wetland Conservation Act (WCA)
- Promoted the replacement of non-compliant septic systems and upgraded 238 systems since 2008
- Worked with MPCA as a delegated County for the Feedlot Program and maintained feedlot data base
- Worked with livestock producers to register their feedlots and completed their Manure Management Plans

Ongoing Programs

Nicollet County continues to administer several programs that are vital to achieving the goals set forth in the LWM Plan including those related to feedlots, floodplain and shoreland management, subsurface sewage treatment

systems, septic loan programs, water plan administration, solid waste, WCA, and zoning. These programs are locally administered through the County ESD, SWCD, and Public Works Department (PW_. Understandably, the continued funding of these programs has been identified as a high priority in this Plan Amendment.

The current LWM Plan and the updated Five-Year Focus Plan will serve to guide Nicollet County in water planning through the year 2018. During this time, opportunities will exist to amend goals, objectives, and the work plan itself. Nicollet County will continue to build on past accomplishments and encourage new programs and opportunities for the effective management and protection of its water and land resources.

DESCRIPTION OF PRIORITY CONCERNS TO BE ADDRESSED BY THE LWM PLAN

The Priority Concerns listed below were selected by the Water Plan Task Force members, after carefully reviewing submitted concerns and comments and refined after discussions. While the assessment of priority concerns utilized the best available information, this LWM Plan rests on data and analyses contained in previous editions of the LWM Plan.

Priority Concern 1 Storm Water Control
As storm water travels across the landscape and enters lakes, streams, and wetlands, it brings with it concentrations of pollutants. These pollutants, including sediment, nutrients, and heavy metals, can degrade the water quality of the receiving water body significantly. This priority focuses on management of storm water in both urban and rural settings.

Priority Concern 2 Urban and Rural Resource Management
There is a need to maintain current programs that manage Nicollet County's water resources. Nutrient management plans and controlling feedlot runoff are important in preventing water quality issues. Many rural residences in the County have outdated septic systems that need to be upgraded. Wetlands provide water storage capacity and act as filters and so play an important roll across a landscape. Providing appropriate disposal options for county residents reduces the risk of ground and surface water contamination from solid waste, including household hazardous waste. Maintain a water management plan that directs resources to practices that will improve water quality and quantity.

Priority Concern 3 Watershed Restoration and Protection
Stream banks, bluffs, ravines, and uplands are sources of sediment in the Minnesota River. One of the initial steps toward improving water quality within the Minnesota River Watershed is protecting the soil from erosion. However, when water bodies fail to meet one or more water quality standards, they are considered impaired and are subject for inclusion on Minnesota's Impaired Waters list. This concern emphasizes assistance with the TMDL allocation and implementation processes. This concern also promotes best management practices and other land use practices that reduce the amount of sediment and nutrients entering a water body.

Priority Concern 4 Groundwater
Nicollet County is 100% dependent on groundwater for its drinking water, either through individual wells, municipal supply or rural water systems. The groundwater concern will be addressed to assure long-term quality and quantity of groundwater supplies, with a priority for wellhead protection areas and areas not currently served by public/community systems.

Priority Concern 5 Drainage
Water movement across the landscape has changed greatly over time through development of the public drainage system. Unfortunately, the lack of official procedures in place to regulate the outlet of private tile lines into public ditch systems has led to issues in both water quality and quantity. This concern will work toward a coordinated effort to manage the drainage system and promote water quality programs.

SUMMARY OF GOALS, OBJECTIVES, AND PROJECTED COSTS

Below is a table of the projected costs per year for implementation of each Goal.

GOAL: Stormwater Control	**Projected Cost per Year: $34,500**
Objective 1. Urban Storm Water Control	
Objective 2. Erosion Control and Best Management Practices	
Objective 3. Protect Sensitive Land Along Streams	
Objective 4. Education	
GOAL: Urban and Rural Resource Management	**Projected Cost per Year: $388,000**
Objective 1. Establish Buffers	
Objective 2. Administer SSTS Program	
Objective 3. Protect Wetlands Resources	
Objective 4. Manage Parks and Scenic Areas	
Objective 5. Administer Feedlot Program	
Objective 6. Promote Responsible Manure Management	
Objective 7. Administer Solid Waste Program	
Objective 8. Administer Water Management Plan	
Objective 9. Education	
GOAL: Watershed Restoration and Protection	**Projected Cost per Year: $94,500**
Objective 1. Middle Minnesota Watershed Restoration and Protection	
Objective 2. Seven Mile Creek Restoration and Protection	
Objective 3. Roger's Creek Restoration and Protection	
Objective 4. Lower Minnesota Watershed Restoration and Protection	
Objective 5. Education	
GOAL: Groundwater	**Projected Cost per Year: $14,000**
Objective 1. Well Water Testing	
Objective 2. Encourage Wellhead (Ground and Surface Water) Protection From Contamination	
Objective 3. Encourage Proper Sealing of Unused or Abandoned Wells	
Objective 4. Education	
GOAL: Drainage	**Projected Cost per Year: $96,500**
Objective 1. Improve Drainage Management	
Objective 2. Education	
PROJECTED COST OF IMPLEMENTATION PER YEAR: $622,000	

CONSISTENCY WITH LOCAL, STATE, AND REGIONAL PLANS

Nicollet County ESD staff administer the County's comprehensive land use planning and zoning ordinances. The LWM Plan, County Zoning Ordinance, WCA, Solid Waste Ordinance, Shoreland Ordinance, and all aspects of the Natural Resources Block Grant are administered out of one office. In addition, there is communication and cooperation with all other courthouse and County offices and the Nicollet County SWCD office for planning processes. This helps to maintain consistency between this plan and other plans and ordinances. In addition, the County has access to other local, regional, and state plans for use in LWM Plan development.

SUMMARY OF RECOMMENDED AMENDMENTS TO OTHER PLANS AND OFFICIAL CONTROLS

There are no specific recommended amendments at this time. The priority concerns and action items established in the LWM Plan should allow for cooperation between the County and other local governments in the development and amendments of local controls and ordinances. Reference to water quality and quantity issues developed in the LWM Plan should be considered on a voluntary basis by each organization in its planning process.

mitigating increases in flow volume. A concerted effort by local decision makers, local and state agencies and landowners will be necessary to ensure sufficient drainage for crop production while maintaining or improving water quality. High priority areas will include impaired water bodies and reaches of impaired water bodies on the Clean Water Act 303(d) list of impaired waters, though any area with high resource value waters should be considered.

GOAL – Encourage efforts to maintain the public drainage system while improving water quality and managing water quantity.

Objective 1 Improve Drainage Management
Objective 2 Education

ONGOING ACTIVITIES

Nicollet County is dedicated to preserving our resources while providing a sound economy and educational opportunities for its citizens. Nicollet County strives to maintain and enhance the beauty of the Minnesota River Valley. The Nicollet County staffs in all departments are known for their willingness to work with all citizens of the County.

While the County staff cannot regulate the cities, there is a congenial working relationship and will continue to work with the city staffs as opportunities arise. Cities continue to educate and enforce best management practices in storm water control, erosion control during construction and offer incentives to their citizens to practice enhancement and preservation of their natural resources.

Staff will continue to work with all the public water suppliers in the county to further efforts to protect water quality and reduce potential impacts to drinking water sources that may be attributable to land uses.

Nicollet County's youth are important. County staff will continue to join the staffs of the surrounding counties, cities, agencies, and organizations to present and participate in educational opportunities throughout the county on a yearly basis.

SWCD and ESD staffs continue to administer the Minnesota Wetland Conservation Act Rules and Regulations. Staff and other partners may also assist landowners to preserve and restore wetlands through education and/or grants, such as Clean Water Partnership and Clean Water Legacy grants.

ESD staff will continue to provide administration of zoning, SSTS, feedlot, and solid waste ordinances. Staff answers questions and enforces the regulations in zoning and shoreland areas, storm water and erosion control methods, and solid waste.

Rural landowners are provided with education and low-interest loan opportunities, as available, for replacement of non-compliant septic systems. The County Board of Commissioners has authorized County money, in the form of low interest loans, to be used to assist people in upgrading their non-compliant septic systems. In addition, the Rush River CWP and Middle Minnesota CWP also provides assistance with low interest loans.

Staff provide opportunities for the citizens to access County, State and Federal funds to assist in farming practices through such programs as RIM, Conservation Reserve Enhancement Program (CREP) and grants from CWP, Clean Water Legacy (CWL) funds, foundations and other groups. These programs help achieve the goals within set rules and regulations while at the same time provides information that preserves and improves the natural resources.

There are also many other public and private efforts at the regional, State, and Federal levels which serve to promote the regulatory and informational goals of sound water management. These particular ongoing activities typically encompass all watersheds in the County, reaching a broad cross-section of local residents and businesses.

IMPLEMENTATION TO ADDRESS PRIORITY CONCERNS

Nicollet County has established an implementation schedule that prioritizes and outlines a timeframe and appropriate funding necessary for completing the goals, objectives, and actions identified throughout this document. This schedule also recognizes the agencies responsible for overseeing the implementation activities. The Implementation Schedule on the following pages correlates with the goals, objectives, and actions identified in the LWM Plan. The year in which the activity is expected to occur is provided, with most action items occurring throughout the five-year period.

PRIORITY CONCERN 1: STORMWATER CONTROL						
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Responsible Agencies**	**Cost Estimate Per Year**
Urban Storm Water Control	1	Provide technical and financial assistance (as available) to communities to assist officials, developers, and contractors in the implementation of water quality related BMPs that will increase the infiltration of storm water and fulfilling MS4 program requirements. Example BMPs include rain barrels, rain gardens, retention basins, and pervious surfaces. Approximately 12 projects/sites per year	2013-2018	Developed Areas	Municipalities, Nicollet County ESD, MPCA	$2,000
	2	Assist communities and townships in researching grants and loans for stormwater projects, including control of erosion during construction and general erosion control along township roads	2013-2018	Countywide	Municipalities, Townships, Nicollet County ESD, MPCA	$500
Erosion Control & Best Management Practices	1	Continue research into various erosion control practices, including ravine erosion. Attend one workshop or conference dealing with erosion control each year.	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, Rush River, SMC, NRCS, MPCA, DNR	$1,000
	2	Implement erosion control practices at 5 locations per year that incorporate site specific fluvial geomorphology – toe wood sod mats and j hooks so fish can access the floodplain	2013-2018	Countywide	Nicollet SWCD, Rush River, SMC, NRCS, MPCA, DNR	$6,000
	3	Assist with stabilization of ravine off of Lake Street between North Mankato and Mankato through funding from 319 grant dollars, MnDOT, or Clean Water Funds	2013-2018	Ravine	Nicollet County ESD, City of Mankato, City of North Mankato	$500
	4	Hold one demonstration of new practices each year	2013-2018	Countywide	Nicollet SWCD, SMC, Rush River, Nicollet ESD, MDA, MPCA	$2,000
	5	Hold one demonstration on current practices each year	2013-2018	Countywide	Nicollet SWCD, SMC, Rush River,	$5,000

PRIORITY CONCERN 1: STORMWATER CONTROL						
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Responsible Agencies**	**Cost Estimate Per Year**
					Nicollet ESD, MDA, MPCA	
	6	Re-enroll 10 CRP contracts per year	2013-2018	Countywide	Nicollet SWCD, NRCS, Rush River, SMC	$1,000
Protect Sensitive Land along Streams	1	Provide technical and financial assistance (as available) to landowners and communities for implementation of water quality related BMPs such as conservation tillage, vegetative buffer strips, sediment basins, grade stabilization structures, bank stabilization structures, shore land restoration, and rock intakes. Approximately 16 project/sites per year	2013-2018	Countywide	Nicollet SWCD, Rush River, Nicollet ESD, NRCS, SMC, MDA, MPCA	$2,000
	2	Send 20 buffer strip proposals to landowners per year to promote structural practices in ravine	2013-2018	Countywide	Nicollet SWCD, Rush River, Nicollet County ESD, NRCS, SMC, MDA, MPCA	$2,500
	3	Assist with the stabilization of the bank along the Minnesota River, specifically within the Seven Mile Creek Park boundary. Assistance can include installation of erosion control measures or identification of funding sources.	2014-2018	Seven Mile Creek Park	SMC, Nicollet SWCD, Nicollet County ESD, NRCS, MDA, MPCA	$10,000
Education	1	Provide educational opportunities to increase awareness of the effect of stormwater on slope stabilization and water quality (ex. Master Gardner meetings, partners' newsletters (St. Peter, North Mankato, Extension, Rush River/HIC), DNR's Moist Soil Management Unit). Approximately 3 events/projects per year	2013-2018	Countywide	Nicollet County ESD, Rush River, SMC, Master Gardener, MDA, DNR, MPCA	$2,000
					ESTIMATED ANNUAL TOTAL	$34,500

PRIORITY CONCERN 2: URBAN AND RURAL RESOURCE MANAGEMENT						
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Responsible Agencies**	**Cost Estimate Per Year**
Establish Buffers	1	Evaluate and annually update land use data including GIS layers and LiDAR to identify and inventory high priority natural corridors to be enhanced. Evaluate in 2016-2018.	2016-2018	Countywide	Nicollet County ESD, Nicollet SWCD DNR	$20,000
	2	Develop and maintain a protection system for restored	2016-2018	Countywide	Nicollet County ESD,	$500

PRIORITY CONCERN 2:		URBAN AND RURAL RESOURCE MANAGEMENT				
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Responsible Agencies**	**Cost Estimate Per Year**
		or enhanced areas previously identified. Initiate in 2016.			Nicollet SWCD, DNR, BWSR, MPCA	
	3	Establish buffer strips around 2 existing wetlands per year throughout the duration of the Plan	2013-2018	Countywide	Nicollet SWCD, Rush River, NRCS, SMC, DNR	$1,000
	4	Hold 2 demonstrations on important aspects of native grass plantings in rural and urban areas where applicable	2013-2018	Countywide	Nicollet SWCD, Rush River, SMC, Nicollet County ESD, NRCS, Master Gardner, MDA, DNR	$1,500
SSTS	1	One County staff member will continue to provide oversight and assistance of State and County regulations and inspection services as part of the County's SSTS program.	2013-2018	Countywide	Nicollet County ESD, BWSR, MPCA	$45,000
	2	Provide information and assistance to homeowners on proper SSTS design, installation, operation, and maintenance through the ESD application procedure, annual newsletters, mailings, and website resources.	2013-2018	Countywide	Nicollet County ESD, MPCA	$20,000
	3	Provide educational and technical assistance to homeowners who are upgrading noncompliant SSTSs. Investigate and initiate corrective measures for improperly discharging SSTSs. Upgrade 65 non-compliant systems per year	2013-2018	Countywide	Nicollet County ESD, MPCA	$55,000
	4	Secure and administer financial assistance programs to provide assistance for homeowners to upgrade noncompliant SSTSs. Promote cost-share incentive payments available through the County to encourage voluntary septic system upgrades. Work with 50 homeowners each year.	2013-2018	Countywide	Nicollet County ESD Rush River	$20,000
	5	Seek out additional funding for noncompliant SSTSs for Low Income homeowners and for SSTSs classified as Imminent Threat to Public Health & Safety. Work with 10 homeowners each year.	2013-2018	Countywide	Nicollet County ESD Rush River	$5,000
Protect Wetland Resources	1	One Nicollet County employee and one Nicollet SWCD employee will continue to jointly administer the Minnesota Wetland Conservation Act.	2013-2018	Countywide	Nicollet County ESD Nicollet SWCD BWSR, DNR	$30,000
	2	Work with other agencies to re-establish 25 acres of	2013-2018	Countywide	Nicollet SWCD,	$1,000

PRIORITY CONCERN 2:		URBAN AND RURAL RESOURCE MANAGEMENT				
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Responsible Agencies**	**Cost Estimate Per Year**
		wetlands; continue establishing wetland acreage to total 100 acres by 2018			SMC, Rush River, MPCA,NRCS, Nicollet County ESD, DNR	
	3	Utilize college interns to continue mapping historic wetlands (started under Seven Mile Creek CWP Project) through an inventory of drained wetland sites using ARC GIS, LiDAR, hydric soils layers, other GIS data layers, and other tools available. Begin inventory in 2014.	2014-2018	Countywide	Nicollet County ESD, SMC, MPCA	$2,000
	4	Assess restoration and preservation priorities based on functions and values of wetlands mapped in the wetland inventory once inventory of drained wetland sites is completed. Anticipated start in 2016.	2016-2018	Countywide	Nicollet SWCD, SMC, Rush River, MPCA,NRCS, Nicollet County ESD, DNR	$1,000
	5	Examine potential wetlands impacts that may result from growth of St. Peter by 2015	2013-2015	East-Central Nicollet County	Nicollet County ESD, Nicollet SWCD, SMC, MPCA	$500
	6	Research the need for Local Comprehensive Wetland Protection Plan development by 2018	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, Rush River, SMC, DNR, BWSR, MPCA	$500
	7	Pursue grants or other initiatives to assist landowners in enrolling in agricultural wetland mitigation banking. Establish 200 acres by 2018.	2013-2018	Countywide	Nicollet SWCD Nicollet County ESD BWSR, NRCS, MDA	$1,000
Manage Parks & Scenic Areas	1	Initiate Park Plan that identifies goals and objectives specific to Nicollet County Parks & Scenic Areas operations	2013-2018	Countywide	Nicollet County PW Nicollet County ESD	$500
	2	Continue efforts to purchase additional land for established parks and scenic areas, with a priority on lands that would benefit from stream stabilization	2013-2018	County Parks	Nicollet County PW, Nicollet County PB	$1,000
	3	Identify grants and other avenues of funding to continue to furnish state-of-the-art playground equipment for existing County parks	2013-2018	Countywide	Nicollet County PW, Nicollet County ESD, Nicollet County PB, Nicollet SWCD	$1,000
	4	Continue to enhance the County park and scenic areas with landscaping (including costs)	2013-2018	County Parks	Nicollet County PW, Nicollet County PB	$7,000

PRIORITY CONCERN 2:		URBAN AND RURAL RESOURCE MANAGEMENT				
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Responsible Agencies**	**Cost Estimate Per Year**
	5	Provide educational, technical, or financial assistance to landowners, cities, townships and agencies in preserving and enhancing scenic areas such as lakes and the scenic roadways as requested	2013-2018	Countywide	Nicollet County ESD, Municipalities, Extension, Rush River, SMC, DNR	$1,000
	6	Work with DNR and landowners in the Swan Lake Watershed to plant 25 acres of native plants and restore 25 acres of wetlands in addition to what has already been established since the 2008 LWM Plan	2013-2018	Swan Lake	DNR, Nicollet SWCD, Nicollet County ESD	$1,000
Administer Feedlot Program	1	One staff member will locally administer the County Feedlot Program to assist feedlot operators in obtaining and maintaining compliance with State and County regulations. Inspect at least 20 sites annually.	On-going	Countywide	Nicollet County ESD, MPCA	$45,000
	2	Provide educational, technical, and financial assistance (as available) to livestock producers to upgrade noncompliant feedlots. Work with approximately 5 noncompliant livestock producers each year.	On-going	Countywide	Nicollet County ESD, Extension, SMC, Rush River, MPCA, Nicollet SWCD, NRCS	$15,000
Promote Responsible Manure Management	1	Advocate manure and soils testing with 10 area producers and continue directing, according to State rules, any producer with stored manure from 100+ au and those with 300+ au to complete manure and soils testing, respectively	2013-2018	Countywide	Nicollet County ESD, Extension, SMC, Rush River, MPCA, Nicollet SWCD, NRCS	$1,000
	2	According to State rules, producers with 300 au or more who do not have commercial applicators need to prepare a Manure Management Plan (MMP). Assist producers in developing a MMP utilizing U of M guidelines that match application rates with needs of crops and discuss with area producers. This has occurred for at least 5 producers in the County and continues with each new application.	2013-2018	Countywide	Nicollet County ESD, Extension, SMC, Rush River, MPCA, Nicollet SWCD, NRCS	$10,000
	3	Provide educational and technical assistance to 5 agricultural and/or livestock producers each year on the effects of over-application of commercial fertilizer and manure	2013-2018	Countywide	Nicollet County ESD, Extension, SMC, Rush River, MPCA, Nicollet SWCD, NRCS	$1,000
	4	Continue to provide educational, technical and financial assistance (as available) to livestock producers for the implementation of water quality-related BMPs that will	2013-2018	Countywide	Nicollet County ESD Rush River, MDA, NRCS, MPCA,	$5,000

PRIORITY CONCERN 2: URBAN AND RURAL RESOURCE MANAGEMENT						
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Responsible Agencies**	**Cost Estimate Per Year**
		reduce impacts from feedlots and manure management issues. Point source pollutants can be addressed by installing agricultural waste storage facilities, filter strips, roof structures, and animal mortality compost structures. Non-point source pollutants could be addressed through exclusion fencing and by installing animal watering facilities outside naturally occurring waterways. Provide assistance on approximately 3 projects/sites per year.			Nicollet SWCD, Extension	
	5	Seek 2 landowners who will install educational signs that show benefits of using manure as fertilizer, e.g. 10 hogs fertilize 1 acre	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, Extension, Rush River, MPCA, NRCS	$1,000
Administer Solid Waste Program	1	Continue to provide disposal options to discourage the illegal burning and burying of solid waste and investigate and remediate illegal dumping activities. Close 5 solid waste violation files each year.	2013-2018	Countywide	Nicollet County ESD, Tri-County SW, DNR	$30,000
	2	Promote proper solid waste disposal by annually educating residents, students, and businesses on waste reduction, recycling, and composting through school visits, newsletters, brochures, and events. Participate in 2 educational events per year.	2013-2018	Countywide	Nicollet County ESD, Tri-County SW, Nicollet SWCD, MPCA, DNR	$3,000
	3	Continue Open Burning/Burn Barrel education campaign through exhibits at County Fair or 1 other demonstration each year and distribute educational information packets to 50 residents per year	2013-2018	Countywide	Nicollet County ESD, Tri-County SW, Nicollet SWCD, MPCA	$1,500
	4	Explore alternative waste disposal practices that would benefit all or particular townships and cities within Nicollet County	2013-2018	Countywide	Nicollet County ESD, Tri-County SW, Townships, Municipalities	$3,000
	5	Seek additional funding for solid waste education programs to assist with the clean-up of problem areas	2013-2018	Countywide	Nicollet County ESD, Tri-County SW, MPCA	$500
Administer Water Management Plan	1	Continue to fund the LWM Plan Coordinator position to oversee implementation of the LWM Plan	2013-2018	Countywide	Nicollet County ESD, BWSR	$30,000

PRIORITY CONCERN 2:		URBAN AND RURAL RESOURCE MANAGEMENT				
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Responsible Agencies**	**Cost Estimate Per Year**
	2	Hold semi-annual task force meetings to review funding requests, review progress in achieving LWM Plan initiatives, and identify emerging issues that should be incorporated into the LWM Plan through the amendment process prior to its expiration in August 2018.	2013-2018	Countywide	Nicollet County ESD, Task Force	$10,000
	3	Comply with agency reporting requirements by announced deadlines and manage grant funds once obtained from funding sources.	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD	$500
	4	Actively pursue additional funding sources and grants to fund the implementation of LWM Plan initiatives. Seek partnerships and cooperative agreements to finance initiatives, when appropriate.	2013-2018	Countywide	Nicollet County ESD, BWSR	$1,000
	5	Invest in the acquisition, development, and maintenance of GIS datasets, including LiDAR, digital soil survey, land use layers, USFWS restorable wetland inventory layers, USFWS National Wetland Inventory, GIS generated storm maps, local inventory, and DNR data deli layers. Utilize these datasets to make informed decisions to prioritize implementation of conservation practices, land use planning, and water resource management.	2013-2018	Countywide	Nicollet County ESD	$10,000
Education	1	Continue to hold the Annual Children's Water Festival for 4th Graders as an opportunity to introduce youth to water quality and conservation topics.	2013-2018	Countywide	BNEH, Nicollet County ESD, BWSR, MPCA, DNR, GAC, MDA, Nicollet SWCD, Brown County ESD	$2,000
	2	Continue to attend Career Day and present occupational information in the environmental services to Nicollet County high school age students.	2013-2018	Countywide	Nicollet SWCD, NRCS, DNR	$500
	3	Educate elementary students on the importance of planting trees by donating tree seedlings to Nicollet County schools.	2013-2018	Countywide	Nicollet SWCD	$500
	4	Continue to participate in the DNR's Fort Ridgely Education Days for nearby Nicollet County area 5th and 6th graders. This activity provides an opportunity to relate wetlands and conservation topics to youth.	2013-2018	Countywide	Nicollet County ESD, DNR	$1,000

PRIORITY CONCERN 2:		URBAN AND RURAL RESOURCE MANAGEMENT				
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Responsible Agencies**	**Cost Estimate Per Year**
	5	Hold one event each year that provides education on wetland functions and importance and promotes wetland preservation and restoration programs	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, Rush River, SMC, NRCS	$1,000
					ESTIMATED ANNUAL TOTAL	$388,000

PRIORITY CONCERN 3:		WATERSHED RESTORATION AND PROTECTION				
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Responsible Agencies**	**Cost Estimate**
Middle Minnesota Watershed Restoration & Protection	1	Continue the initiatives as set forth in the CWP Work Plan	2013-2018	Seven Mile Creek Watershed	Nicollet SWCD, Nicollet County ESD, MPCA, DNR, BWSR, MDA, NRCS	$2,000
	2	Participate in the development of TMDL pollutant allocations for impaired waters through MPCA's WRAP process	2013-2015	Countywide	MPCA Nicollet County ESD Nicollet SWCD	$3,000
	3	Nicollet County to assist in the development of strategies to address TMDL allocations through: • Assessment of streams • Identification of stressors • Development of stream protection strategies • Development of stream restoration strategies • Engaging the public in education and awareness of goals and strategies	2013-2018	Countywide	MPCA Nicollet County ESD Nicollet SWCD	$5,000
	4	Form partnerships with adjacent counties and other stakeholders within the Middle Minnesota River Watershed to implement the Turbidity TMDL Study through the WRAP process	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, MPCA, Renville, Brown, Blue Earth, Le Sueur, and Sibley Counties	$1,500
	5	Continue to assist the MPCA with implementation of the Fecal coliform TMDL, through WRAP, as needed	2013-2018	Countywide	MPCA, Nicollet County ESD, Nicollet SWCD, SMC	$2,500
	6	Develop and implement 2 innovative ways of accomplishing the objectives of the Fecal Coliform TMDL Implementation	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, SMC, MPCA, DNR,	$3,000

PRIORITY CONCERN 3: WATERSHED RESTORATION AND PROTECTION						
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Responsible Agencies**	**Cost Estimate**
					BWSR, MDA, NRCS	
	7	Contact 5 landowners each year along ditch systems to implement CRP	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, SMC, MPCA, DNR, BWSR, MDA, NRCS	$1,000
	8	Contact 5 landowners each year for wetland restorations under CRP	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, SMC, MPCA, DNR, BWSR, MDA, NRCS	$1,000
	9	Install 2 structural practices through EQIP & State Cost-Share Program each year	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, SMC, MPCA, DNR, BWSR, MDA, NRCS	$3,000
	10	Seek funding from Clean Water Land & Legacy Amendment to install Water Quality BMPs in Nicollet County	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, SMC, MPCA, DNR, BWSR, MDA, NRCS	$2,000
	11	Install 10 Erosion Control and/or Sedimentation Reduction BMPs in the Middle Minnesota Watershed using funding from 319, Clean Water and Legacy Amendment	2013-2018	Middle Minnesota Watershed	Nicollet County ESD, Nicollet SWCD, SMC, MPCA, DNR, BWSR, MDA, NRCS	$10,000
Seven Mile Creek Restoration & Protection	1	Investigate Impairment Listings on Seven Mile Creek	2013-2018	Seven Mile Creek Watershed	MPCA, SMC, Nicollet County ESD, Nicollet SWCD, DNR, BWSR	$2,500
	2	Pursue writing a TMDL Study for impairments on Seven Mile Creek, if applicable	2013-2018	Seven Mile Creek Watershed	MPCA, SMC, Nicollet County ESD, Nicollet SWCD, DNR, BWSR	$4,000
	3	Pursue removal of Seven Mile Creek from the TMDL List	2013-2018	Seven Mile Creek Watershed	MPCA, SMC, Nicollet County ESD, Nicollet SWCD, DNR, BWSR	$10,000
Roger's Creek Restoration & Protection	1	Assist the MPCA in investigating the Fish Biota (IBI) Impairment Listing on Roger's Creek, through the Middle Minnesota Watershed	2013-2018	Roger's Creek Watershed	MPCA, Nicollet County ESD Nicollet SWCD, DNR, BWSR	$1,500

PRIORITY CONCERN 3: WATERSHED RESTORATION AND PROTECTION						
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Responsible Agencies**	**Cost Estimate**
	2	Pursue writing a TMDL Study for impairments on Roger's Creek, if applicable	2013-2018	Roger's Creek Watershed	MPCA Nicollet County ESD, Nicollet SWCD, DNR, BWSR	$4,000
	3	Pursue removal of Roger's Creek from the TMDL List if appropriate	2013-2018	Roger's Creek Watershed	MPCA, Nicollet County ESD, Nicollet SWCD, DNR, BWSR	$10,000
Lower Minnesota Watershed (former listed as Rush River Watershed) Restoration & Protection	1	Complete the Implementation Plan under WRAP for Fecal coliform Bacteria Impairment and continue assistance during the implementation of MPCA's Plan	2013-2018	Lower Minnesota Watershed	Nicollet County ESD, Nicollet SWCD, Rush River, MPCA, DNR, BWSR, MDA, NRCS	$2,500
	2	Assist the MPCA with the implementation of the Fecal Coliform TMDL Study through WRAP, within the Lower Minnesota Watershed	2013-2018	Lower Minnesota Watershed	Nicollet County ESD, Nicollet SWCD, Rush River, MPCA, DNR, BWSR, MDA, NRCS	$5,000
	3	Assist with the implementation of the Turbidity TMDL Study through WRAP, within the Lower Minnesota Watershed	2013-2018	Lower Minnesota Watershed	Nicollet County ESD, Nicollet SWCD, Rush River, MPCA, DNR, BWSR, MDA, NRCS	$5,000
	4	Seek innovative ways of accomplishing the objectives of the Fecal coliform Implementation Plan	2013-2018	Lower Minnesota Watershed	Nicollet County ESD, Nicollet SWCD, Rush River, MPCA, DNR, BWSR, MDA, NRCS	$1,500
	5	Contact 5 landowners per year along ditch systems to implement CRP	2013-2018	Lower Minnesota Watershed	Nicollet County ESD, Nicollet SWCD, Rush River, MPCA, DNR, BWSR, MDA, NRCS	$1,000
	6	Contact 5 landowners per year for wetland restorations under CRP	2013-2018	Lower Minnesota Watershed	Nicollet County ESD, Nicollet SWCD, Rush River, MPCA, DNR, BWSR, MDA, NRCS	$1,000
	7	Install 2 structural practices each year through EQIP &	2013-2018	Lower Minnesota	Nicollet County ESD,	$3,000

PRIORITY CONCERN 3:		WATERSHED RESTORATION AND PROTECTION				
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Responsible Agencies**	**Cost Estimate**
		State Cost-Share Program		Watershed	Nicollet SWCD, MPCA, DNR, BWSR, MDA, NRCS	
	8	Install 5 rock tile inlets per year	2013-2018	Lower Minnesota Watershed	Nicollet County ESD, Nicollet SWCD, Rush River, MPCA, DNR, BWSR, MDA, NRCS	$5,000
Education	1	Promote education on the improvement of the Minnesota River and the importance of its tributaries through website, brochures, advertisements, and educational events; Target 6 events per year	2013-2018	Countywide	Nicollet County ESD, Rush River, SMC, MPCA, CURE, DNR, BWSR, Extension	$1,500
	2	Engage the public through events that create awareness and a culture of working together toward a common goal of a cleaner Minnesota River; Target 2 events per year	2013-2018	Countywide	Nicollet County ESD, Rush River, SMC, MPCA, CURE, DNR, BWSR, Extension	$3,000
					ESTIMATED ANNUAL TOTAL	$94,500

PRIORITY CONCERN 4:		GROUNDWATER				
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Lead Agency Supporting Agency**	**Cost Estimate**
Well Water Testing	1	Continue Township Well Water Testing program if applicable, every three years, through Nicollet County's nitrate clinic, MDA, or DNR's geologic atlas	2013-2018	Countywide	Nicollet County ESD MDA, DNR, MDH	$1,500
	2	Continue to support GIS water quality data base that records the results of the Township Well Water Testing program	2013-2018	Countywide	DNR, MDH, Nicollet County ESD	$500
Encourage Wellhead (Ground & Surface Water) Protection from Contamination	1	Assist the MDH and the 5 municipalities within Nicollet County with the preparation and implementation of wellhead protection plans for public water suppliers.	2013-2018	Municipalities	MDH, Cities of Lafayette, Courtland, Nicollet, St. Peter, and North Mankato Nicollet County ESD	$1,500
	2	Provide technical assistance to 5 property owners per year that have MDH designated transient and non-transient wells	2013-2018	Countywide	Nicollet County ESD Nicollet SWCD BN CHS	$500

PRIORITY CONCERN 4: GROUNDWATER						
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Lead Agency Supporting Agency**	**Cost Estimate**
	3	Educate 5 property owners per year about wellhead protection areas around their private wells	2013-2018	Countywide	Nicollet County ESD Nicollet SWCD BN CHS	$500
	4	Assist in seeking wellhead protection implementation funding	2013-2018	Countywide	Nicollet County ESD Cities of Lafayette, Courtland, Nicollet, St. Peter, and North Mankato, BN CHS, MDH	$500
	5	Identify the status of well vulnerability mapping and research the need for Conditional Use Permitting	2013-2018	Countywide	Nicollet County ESD BN CHS, MPCA	$500
	6	Promote irrigation BMPs (e.g., irrigation scheduling, monitoring soil moisture, etc.) to preserve water quality and quantity	2013-2018	Countywide	Nicollet County ESD MDA	$500
Encourage Proper Sealing of Unused or Abandoned Wells	1	Continue to provide information to the public on how to identify, locate and properly seal abandoned wells	2013-2018	Countywide	Nicollet SWCD DNR Nicollet County ESD BC CHS	$500
	2	Provide cost share (when available) to seal approximately 10 abandoned wells each year	2013-2018	Countywide	Nicollet SWCD Nicollet County ESD, SMC, Rush River, BWSR	$500
	3	Develop a Countywide inventory feasibility study of abandoned wells, initiating in 2015	2015-2018	Countywide	Nicollet County ESD, Nicollet SWCD MDH, BN CHS	$1,000
	4	Assist cities in obtaining funding for sealing and relocation of municipal wells	2013-2018	Municipalities	Nicollet County ESD, Municipalities, DNR	$500
Education	1	Assist Extension in one educational event (e.g., brochure, presentation, poster, etc.) per year on protection of rural wells	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, SMC, Rush River, Extension	$1,000
	2	Annually promote groundwater protection and water conservation of noncommunity public water supply systems and inter-well management zones through newsletters, mailings, website resources, and presentations	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, SMC, Rush River, MDH	$1,500

PRIORITY CONCERN 4:		GROUNDWATER				
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Lead Agency Supporting Agency**	**Cost Estimate**
	3	Research what impact accelerated runoff across the landscape has on groundwater recharge by attending conferences, one per year	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, SMC, Rush River	$1,000
	4	Review of geologic atlas to see what geology contributes to groundwater movement within the County	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, SMC, Rush River	$500
	5	Identify impacts, amount and duration, to groundwater resources from anticipated industrial & rural development within the County	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, MDH, BN CHS, Municipalities	$500
	6	Conduct one training/workshop per year on nutrient management for agricultural producer who farms within a WHP area	2013-2018	Countywide	Nicollet County ESD, Nicollet SWCD, SMC, Rush River, MDA,	$1,000
					ESTIMATED ANNUAL TOTAL	$14,000

PRIORITY CONCERN 5:		DRAINAGE				
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Responsible Agencies**	**Cost Estimate**
Improve Drainage Management	1	Pursue the development of a comprehensive drainage management plan for Nicollet County that promotes water storage on landscape. Initiate the plan by 2015.	2015-2018	Countywide	Nicollet County PW Nicollet County ESD, Nicollet SWCD, MDA	$30,000
	2	Have County Drainage Authority consult the Drainage Management Plan as part of petition review process	2015-2018	Countywide	Nicollet County PW, Nicollet County ESD	$1,500
	3	Use flood water reduction and water quality improvement technologies based on current science and BMPs (ex. buffers, conservation drainage) when designing and implementing drainage repair	2013-2018	Countywide	Nicollet County PW, Nicollet County ESD, Nicollet SWCD, SMC, Rush River	$500
	4	Coordinate & cooperate with other county drainage authorities regarding management of the drainage system	2013-2018	Countywide	Nicollet County PW, Nicollet County ESD, Nicollet SWCD	$500
	5	Establish a GIS-based Public Drainage System Inventory by 2016.	2013-2016	Countywide	Nicollet County PW, Nicollet County ESD, Nicollet SWCD	$20,000
	6	Utilize the Public Drainage System Inventory to identify	2016-2018	Countywide	Nicollet County PW,	$25,000

PRIORITY CONCERN 5:		DRAINAGE				
Objective	**No.**	**Action Item Description**	**Timeframe**	**Focus Area**	**Responsible Agencies**	**Cost Estimate**
		streams that are overloaded, areas needing filter strips, potential wetland restorations, and potential sites for controlled drainage			Nicollet County ESD, Nicollet SWCD, SMC, Rush River	
	7	Promote and market State and Federal conservation programs that target drainage areas	2013-2018	Countywide	Nicollet County PW, Nicollet County ESD, Nicollet SWCD, SMC, Rush River	$1,000
	8	Provide assistance to private drainage system operators, including incentive programs, to implement BMPs	2013-2018	Countywide	Nicollet County PW, Nicollet County ESD, SMC, Rush River	$3,500
	9	Redetermination of ditch benefits conducted in a proactive manner	2013-2018	Countywide	Nicollet County PW, Nicollet County ESD	$500
	10	Incorporate approaches outlined in BWSR's Multipurpose Drainage Synopsis as well as standards described in NRCS Drainage Water Management	2013-2018	Countywide	Nicollet County PW, Nicollet County ESD, Nicollet SWCD, SMC, Rush River	$1,500
	11	Identify 10 properties each year that could utilize tile to augment long term water levels in wetlands	2013-2018	Countywide	Nicollet County PW, Nicollet County ESD, Nicollet SWCD, SMC, Rush River	$10,000
Education	1	Conduct one education outreach event per year that describes and promotes incentive programs for conservation practices that retain water on landscape (ex. side inlet controls, bioreactors, control structures on tile systems, etc.)	2013-2018	Countywide	Nicollet County PW, Nicollet County ESD, Nicollet SWCD, SMC, Rush River, MDA	$500
	2	Conduct a yearly drainage work group that invites area producers and other interested parties to a discussion on conservation drainage strategies	2013-2018	Countywide	Nicollet County PW, Nicollet County ESD, Nicollet SWCD, DNR, BWSR	$2,000
					ESTIMATED ANNUAL TOTAL:	$96,500

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Upper Minnesota River WD Watershed Management Plan**

Meeting Date: September 25, 2013

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

Item Type: X Decision ☐ Discussion ☐ Information

Section/Region: Southern Region

Contact: Jeff Nielsen

Prepared by: David Sill

Reviewed by: Southern Region Committee(s)

Presented by: Paul Langseth

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

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

Fiscal/Policy Impact

X 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 Upper Minnesota River Watershed District Watershed Management Plan

LINKS TO ADDITIONAL INFORMATION

Upper Minnesota River Watershed District Plan Update 2013:

http://www.umrwd.org/UMRWD-Overall-Plan---2013-DRAFT.html

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

The Upper Minnesota River Watershed District (UMRWD) was established on September 7, 1967 and encompasses a total of approximately 505 square miles. Lands within the District are distributed in the following counties: Big Stone, Traverse, Swift, Lac qui Parle, and Stevens. The 2013–2023 Plan emphasizes eight main areas through the identification of the following goals:

- Water quantity
- Water quality
- Erosion and sedimentation
- Biotic diversity
- Recreational Resources
- Intergovernmental Relationships
- Public Information / Education
- Implementation of Goals and Objectives

The UMRWD 2013–2023 Watershed Management Plan includes an updated inventory of the District's physical features and water resources, describes water related problems and possible solutions, describes past activities and projects the District has completed, and states objectives for current and future water resource management within the District.

The Southern Region Committee met on September 5, 2013. After review of the information, the Southern Region Committee recommends approval of the Revised Plan per the attached draft Order.

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 **Upper Minnesota River Watershed District** pursuant to Minnesota Statutes Sections 103D.405	**ORDER PRESCRIBING WATERSHED MANAGEMENT PLAN**

Whereas, the Board of Managers of the Upper Minnesota River Watershed District (UMRWD) filed a proposed Revised Watershed Management (Plan) dated March 2013 with the Board of Water and Soil Resources (Board) on March 20, 2013 and subsequent revisions, and Final Draft Revision received on July 17, 2013, 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 September 7, 1967 by Order of the Minnesota Water Resource Board. The District is located in the headwaters of the Minnesota River and includes parts of Big Stone, Traverse, Swift, Lac Qui Parle, and Stevens counties. The mission of the District is to serve the residents of the District by managing water that sustains and enhances the social, economic and natural resources of the District. The goals of the district include water quality and quantity, erosion and sedimentation, biodiversity, recreation resources, intergovernmental relationships and public information and education.

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 August of 2001. 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 District is located in west-central Minnesota with Big Stone Lake and the South Dakota border forming the western boundary of the District. Big Stone Lake and many other surface water resources are significant features of the District. Maintaining and improving the water quality of Big Stone Lake has historically been the

priority focus. The District has completed a number of activities oriented toward improving the lake's water quality. Flood control is another focused priority. A third priority is drainage water management focusing on drainage systems, wetlands and natural waterways.

4. **Territory.** The UMRWD is approximately 505 square miles in size and is located in west central Minnesota at the headwaters of the Minnesota River. Lands within the District are distributed in the following counties: Big Stone (81%), Traverse (8%), Swift (7%), Lac Qui Parle (3%), and Stevens (1%).

5. **Local Review.** The UMRWD 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.** In a letter dated May 20, 2013 the DNR commented that overall the Plan update is extensive, thorough, resource-conscious and well prepared. In addition to some reference updates and editorial comments the letter focuses on restoration and protection of existing resources within the District. DNR supports the UMRWD alternatives to traditional agricultural drainage in Subsection 8.3.6 and recommends utilizing a natural channel design principles to mimic more natural stream conditions. Alternative methods to sediment removal and bank erosion and stabilization are recommended over traditional measures. DNR supports the establishment of buffers along drainage systems and natural waterways and suggest that an inventory of all existing buffers in the district be conducted (Subsection 7.1.2 and 11.3.2 Objective B). Recommendation to update the plan to include projects identified through the TMDL process development of Watershed Restoration and Protection Strategies for eligibility for Clean Water funding assistance (Subsection 4.8.5). Suggestion that the District expand that Big Stone Lake no net increase in nutrients policy to include other water bodies within the district (Section 7).

7. **Department of Agriculture Review.** The MDA encouraged continued and enhanced outreach to the agricultural sector; recommended the development of local project teams for flood impoundment projects similar to what watershed districts utilize in the Red River Valley; and enhanced use of LIDAR. MDA also provided numerous comments regarding drainage practices and procedures, suggested several irrigation information resources, and provided recommendations for the District's no-net increase in nutrient loads to Big Stone Lake.

8. **Pollution Control Agency Review**. In a letter dated May 17, 2013 MPCA commented on the many excellent goals and strategies of the Watershed District. They encouraged a watershed based approach and sustainable actions throughout the plan, encouraged clearer understanding of stakeholder concerns as they related to plan goals. It was stated that major TMDL work will begin in 2015 but encouragement was given for targeting impaired waters and spatial targeting of all implementation strategies. Finally the District was encouraged to be direct in the discussion of the downstream impacts of drainage and its mitigation efforts.

9. **Other review comments.** In addition to the state agency review comments UMRWD received comments from the **Lac qui Parle Yellow Bank Watershed District** which encouraged cooperation with South Dakota on any water quality concerns affecting the District, encouraged including a summary report of the recent 2 year monitoring effort with East Dakota Development District and encouraged specific targeting efforts. **Citizens for Big Stone Lake** encouraged the District to make the restoration project of the Whetstone River a higher priority, appreciated the inclusion of aquatic invasive species education and offered their support, and also encouraged cooperative efforts with South Dakota. **Lac qui Parle SWCD** provided several editing comments.

10. **Highlights of the Plan**. The Upper Minnesota River Watershed District continues to place priority on efforts to improve the water quality of Big Stone Lake – several water quality goals have been established. The headwaters of the Minnesota River are within the Upper Minnesota River Watershed thus implementation priorities can have significant downstream impacts. Though local monitoring has been ongoing – intensive monitoring and assessment working with MPCA will begin in 2015 for the watershed. Emerging issues within the District are related to potential conflicts between natural resource and water management issues associated with natural, modified and created watercourses. The District will take into account emerging research on agricultural drainage and consider emerging issues for mitigating downstream impacts. This includes consideration of research and pilot projects for multipurpose drainage including best management practices such as drainage coefficients and drainage water management techniques.

11. **Hearing Notice.** The Legal Notice of Filing on the Plan, pursuant to Minn. Stat. § 103D.105 Subd. 2, was published in the Morris Sun Tribune on May 25 and June 1, in the Appleton Press on May 29 and June 5, in the Western Guard on May 29 and June 5, in the Northern Star on May 30 and June 6, in the Ortonville Independent on May 28 and June 4, and in the Valley News on May 28 and June 4, 2013. Further, a copy of the notice of filing was mailed to several addresses notifying them of the legal notice of filing, including the Big Stone, Traverse, Swift, Lac Qui Parle, and Stevens County Auditors and Administrators, and Soil and Water Conservation Districts; all of the cities within the watershed district; and representative for the Watershed District.

12. **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.

13. **Board Staff Report.** On August 19, 2013, David Sill, Board Conservationist, submitted a memo to the Southern Region Committee in regard to the Upper Minnesota River Watershed District Water Management Plan Final Review. The letter summarized the watershed district

history, setting, and planning process. Staff believes the revision is in conformance with the requirements of Minnesota Statutes 103D and guidance developed by BWSR, and recommended approval of the 2013 – 2023 Upper Minnesota River Watershed District Watershed Management Plan.

14. **Southern Region Committee.** The committee met on September 5, 2013. Those in attendance from the Board's Committee were Paul Langseth, Tom Loveall, Sandra Hooker, Judy Ohly, Rob Sip, and Steve Sunderland. Board staff in attendance were Jeff Nielsen and David Sill. Board staff recommended approval of the plan. After discussion the Southern Region Committee made a motion and recommended approval of the Revised Upper Minnesota River Watershed District Water Management 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 UMRWD 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 30, 2013 as the Revised Watershed Management Plan for the Upper Minnesota River Watershed District.

Dated at Saint Paul, Minnesota this 25th day of September, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brain Napstad, Chair

Upper Minnesota River Watershed District



Plan Update

Draft

August 30, 2013

Prepared for:

Board of Managers

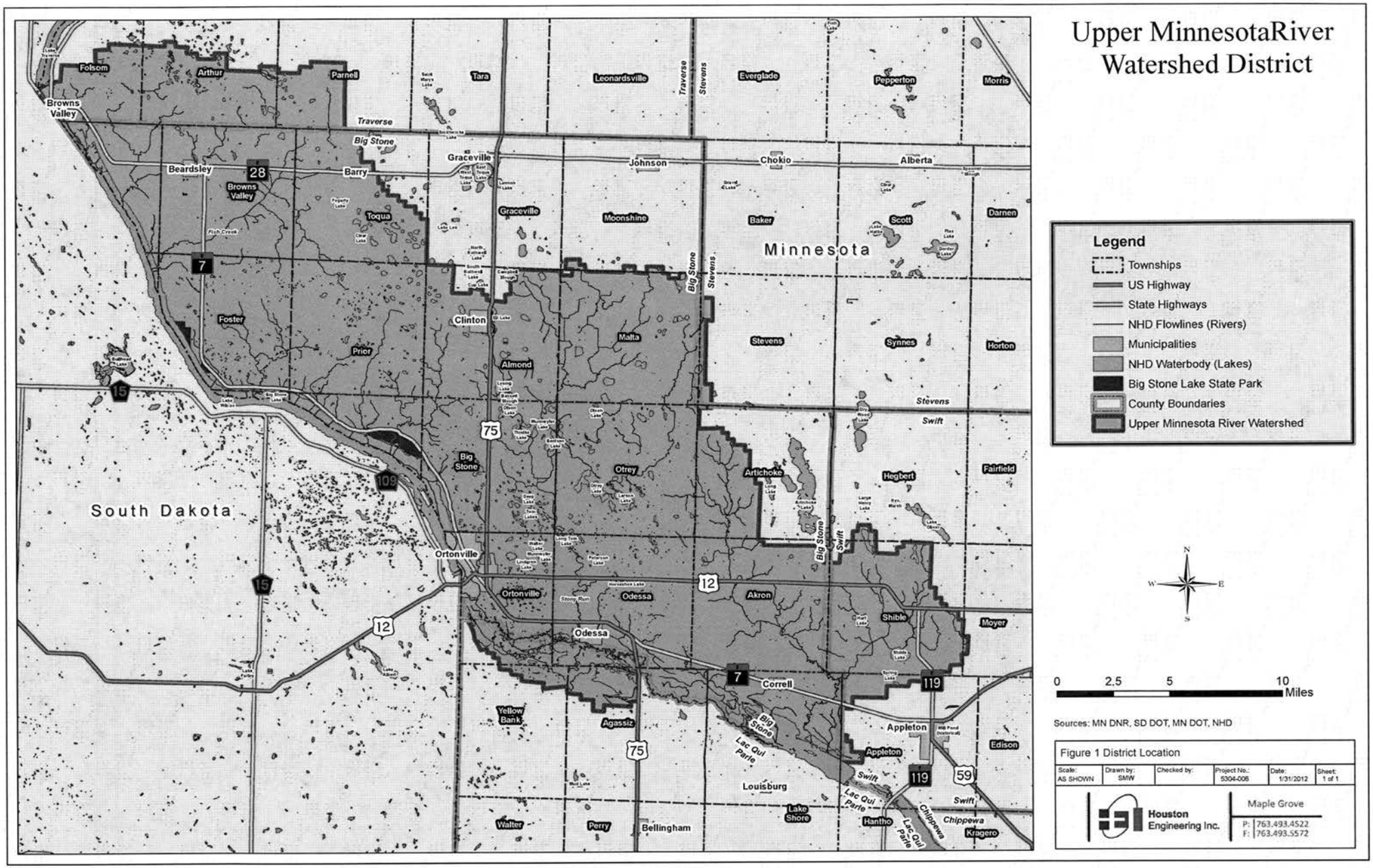
Upper Minnesota River Watershed District
211 2nd Street SE
Ortonville, MN 56278

Originally Prepared by:

Houston Engineering, Inc. August 2001

Updated by:

- Kathryn J Draeger, PhD Environmental Ground, Inc.
- Dianne Radermacher, UMRWD Administrator
- UMRWD Staff


Upper MinnesotaRiver Watershed District
Legend
Townships
US Highway
State Highways
NHD Flowlines (Rivers)
Municipalities
NHD Waterbody (Lakes)
Big Stone Lake State Park
County Boundaries
Upper Minnesota River Watershed
Minnesota
South Dakota
Folsom
Arthur
Parnell
Tara
Leonardsville
Everglade
Pepperton
Morris
Browns Valley
Traverse
Big Stone
Graceville
Johnson
Chokio
Alberta
Beardsley
Barry
Toqua
Moonshine
Baker
Scott
Darnen
Foster
Clinton
Malta
Stevens
Synnes
Horton
Prior
Almond
Otrey
Artichoke
Hegbert
Fairfield
Swift
Ortonville
Odessa
Akron
Shible
Moyer
Correll
Yellow Bank
Agassiz
Appleton
Edison
Louisburg
Lake Shore
Hantho
Kragero
Walter
Perry
Bellingham
Lac Qui Parle
Chippewa
0 2.5 5 10 Miles
Sources: MN DNR, SD DOT, MN DOT, NHD
Figure 1 District Location
Scale: AS SHOWN
Drawn by: SMW
Checked by:
Project No.: 5304-006
Date: 1/31/2012
Sheet: 1 of 1
Houston Engineering Inc.
Maple Grove
P: 763.493.4522
F: 763.493.5572

7 GOALS AND OBJECTIVES OF THE DISTRICT

The Upper Minnesota River Watershed District has established broad-based goals within the water resource management areas of water quantity, water quality, erosion and sedimentation, biotic diversity, recreational resources, intergovernmental relationships and public information and education. When appropriate, more specific objectives are identified as a means to accomplish the goals. In all cases it is the intent of the District to cooperate with the counties within its boundaries in order to achieve mutual goals and objectives that have been identified in each of the counties' Comprehensive Local Water Plan. This is done by staff participation on the water plan technical advisory committees.

7.1 WATER QUANTITY

7.1.1 To reduce damages caused by floodwaters.

a. All drainage in the District, public and private, must be coordinated and include careful analysis by the board of managers; their engineer and county engineers under their individual authority.
b. Wetland restoration, enhancement and creation will be utilized where feasible and desirable to create storage.
c. Land management techniques which improve infiltration, water-holding capacity, and reduce runoff will be encouraged.
d. Water flow control measures, such as levees and dikes, will be utilized to control flooding where desirable and feasible.
e. Consistent and fair culvert sizing will be used on natural streams and drainage systems.
f. Collaboration with public and private entities will be encouraged to maximize flood control efforts and mitigate flood damage.
g. Runoff rates should be controlled through the use of water control structures or other suitable means so as to delay the flow of water and release water in a controlled manner.
h. Land locked basins will be investigated and taken into consideration for water level management.

i. The use of water control structures to develop storage of excess runoff on drained lake basins should be sought in areas where such storage is compatible with the present land use.

j. Overflow of water from one watercourse to another should be controlled in the best interests of the District and its residents.

k. The District will encourage cooperation with agencies and organizations, private or public, in the management of flooding.

l. The Managers of the District will endeavor to seek out assistance, private or public, financial or technical, concerning floodwater management.

m. District reserves the right to call a moratorium on all drainage activities during extreme spring runoff events.

n. Promote drainage water management techniques as a multiple benefit best management practice.

o. Encourage a systematic redetermination of benefits for the county drainage system before the next ten year plan.

7.1.2 Administer and maintain the drainage systems of the District in order to fulfill their intended function.

The following objectives are necessary in order to support its goal of maintaining adequate and functional drainage systems within the District:

a. Comply with the laws of the Minnesota Drainage Code.

b. Allow the addition and construction of a new drain into an existing legal drainage system or natural waterway only if it will not adversely impact downstream landowners, and the additionally benefited lands pay their proportionate share.

c. Clarify responsibilities and foster cooperation among land owners in regards to drainage issues by:

    1. Promoting more public, rather than private, drainage systems

    2. Promote private drainage agreements that are recorded on property deeds

d. Coordinate the development of agricultural drainage and ensure the adequacy of the outlets.

e. Repair, improve, relocate, modify, consolidate or abandon all or parts of drainage systems as best meets the needs of the District.

f. Authorize no drainage project until the project effects are understood and the project is deemed to be in the best interest of the District and the public.

g. Encourage landowners within the District to maintain wetlands.

h. Consider the utilization of drainage systems or natural waterways for the discharge of wastewater only when such discharges meet permit requirements of the Minnesota Pollution Control Agency and do not adversely impact downstream water quality as determined by the District.

i. Redetermine benefits when it is determined the present drainage system does not reflect current values or conditions.

j. Consider assessing outlet benefits on property responsible for increased sedimentation and drainage system maintenance, caused by land use practices that accelerate erosion and sedimentation.

k. Encourage landowners undertaking private drainage system improvements to establish permanent 1-rod grassed buffer strips for those systems with a constructed bottom width of 4 feet or greater.

7.1.3 Develop programs and projects, which sustain an adequate supply of high quality surface and groundwater for public and private use.

a. Use groundwater on a sustained yield basis.

b. Understand the extent of water use for irrigation. When necessary, restrict irrigation where it is found to have detrimental effects to ground or surface water supplies. The District will encourage the use of low pressure sprinkler systems for irrigation.

c. Encourage the study and delineation of aquifers that are important groundwater resources within the District.

d. Consider the possibility of incorporating water supply as a purpose into selected flood control projects.

e. Cooperate with municipalities within the District to determine how adequate water supply and water quality can be maintained.

f. Ensure that District policies and permits support the integrity of designated groundwater protection areas.

g. Encourage the restoration, enhancement or creation of wetlands that have the potential for groundwater recharge.

h. Encourage water conservation practices.

7.1.4 Lake Level – Big Stone Lake

Operation of the dam regulating flows leaving Big Stone Lake should be operated in a prudent, reasonable manner, in accordance with "Operation and Maintenance Manual Big Stone Lake - Whetstone River Flood Control Upstream Works – Minnesota River," dated March 1987 or subsequent revisions. Progress will be made in the coming years to both update and finalize the 1987 Operations and Maintenance Manual. In addition, the District will work to find an equitable cost sharing arrangement for the operations and maintenance of the dam among Minnesota, South Dakota, and benefiting private sector parties.

7.2 WATER QUALITY

7.2.1 General

Maintain or improve water quality of all surface water and groundwater resources within the District. To achieve the goal of maximizing water quality within the District, the following objectives are established:

a. Promote advanced treatment of wastewater at all point sources within the District and promote advanced treatment of surface water discharge as new technologies become available.

b. Uphold the existing laws controlling discharge of conventional and toxic pollutants into surface waters from point sources.

c. Monitor water quality when necessary and feasible to protect surface and ground water resources.

d. Encourage responsible, efficient use of fertilizers and pesticides in agricultural and urban settings.

e. Encourage land use and agricultural practices that reduce the movement of nutrients, sediments and other substances off surfaces and into groundwater and surface water resources.

f. Encourage the maintenance, restoration, enhancement or creation of wetlands that may be important for nutrient entrapment.

g. Assist the Minnesota Pollution Control Agency with the assessment and creation of any TMDL's necessary to address impaired waters with the District, and participate in the Watershed Approach activities as well.

h. Assist with educating and informing District residents how individual actions may impact water quality. Involve citizens in water quality monitoring.

7.2.2 Big Stone Lake Water Quality Goals

Because Big Stone Lake is such an important recreational and economic resource within the District and previous efforts to improve water quality are extensive; a separate goal has been developed for the lake. The contributing drainage area to Big Stone Lake is an estimated 740,157 acres, with 83.7% of the area located within South Dakota and 16.3% of the area in Minnesota. The present total phosphorus and total nitrogen loads to Big Stone Lake for a "normal" hydrologic year, for the entire contributing drainage area, are 16,346 kg/yr and 80,054 kg/yr, respectively.

The District has established an *interim goal* of no-net increase in nutrient loading to Big Stone Lake, from the contributing drainage area. The District established the interim goal because of the amount of time likely needed (probably decades) to attain the ultimate goal.

The District has also established an *ultimate goal* for the lake. This goal was a direct result of the ten year Big Stone Lake Restoration final report. The ultimate goal is to reduce nutrient loading to Big Stone Lake by 40% for a normal hydrologic year, from the contributing drainage area. The 40% annual load reduction corresponds to the following in-lake annual concentration goals:

Lake Segment	Total Phosphorus (ug l^{-1})	Chlorophyll-a (ug l^{-1})
BSL-1	220	42
BSL-2	160	38
BSL-3	105	38
BSL-4	80	36
BSL-5	100	39
BSL-6	110	38

7.3 EROSION AND SEDIMENTATION

Wind and water erosion and their affects upon streams and drainage systems are a significant, long-term problem within the District. Sedimentation reduces the capacity of drainage systems and streams, damages aquatic habitat and transfers nutrients and other pollutants downstream to lakes.

7.3.1 The District will initiate and support viable projects whose primary or secondary purpose is reducing erosion.

The following objectives have been adopted in support of the erosion and sedimentation goal:

a. The District will promote the installation of erosion control measures as needed on natural and artificial channel systems.
b. The District will ensure proposed projects incorporate sufficient erosion control measures in the design.

7.3.2 The District will pursue erosion control and sedimentation management along all drainage systems whether private or public.

The following objectives are in support of the goal of erosion control and sediment management:

a. Erosion control measures will be pursued where problems exist and in priority areas such as Fish Creek, Hoss Creek, and Stoney Run.
b. Erosion control practices should be included as a component on all projects, including repairs and improvements.

c. Establishment of permanent vegetation and buffer strips will be vigorously pursued through the district's permitting process on all drainage systems in collaboration with the SWCD and NRCS.

d. Encroachment upon ditch right-of-way by destroying permanent cover or cultivating over the crown of a spoil bank will not be permitted.

e. Sediment will be removed from legal drainage systems in order to maintain effective, efficient drainage systems.

f. Promote and advocate the use of accepted agricultural conservation management practices.

7.3.3 Natural areas and riparian buffer strips will be encouraged along natural waterways.

7.4 BIOTIC DIVERSITY

The District recognizes the value of its biotic resources and will seek to maintain the conditions and habitats critical to the existence of these resources. An immediate need is to determine the baseline of the existing biotic resources.

The District will promote the maintenance of biotic diversity (defined as the number and types of plants and animals).

a. The District will cooperate with agencies and organizations to maintain biotic resources.

b. The District will encourage the maintenance of habitat (wetlands, native prairie, woodlands, etc.) that is important for fish wildlife populations.

c. Concepts of biotic diversity will be incorporated into projects where deemed feasible (e.g., use of native grasses for buffer strips).

d. Exceptional or unique resources identified by the Minnesota Biological Survey will be protected.

e. Promote the use of temporary and permanent easements to enhance fish and wildlife habitat.

f. Work with and assist the DNR on education and implementation of invasive species goals and procedures, including distribution of materials that reference identification and preventative action for invasive species.

7.5 THE MARSH LAKE OPPORTUNITY

Marsh Lake is a shallow 5,000 acre reservoir at the confluence of the Pomme de Terre and Minnesota Rivers. It forms part of the boundary between Big Stone, Lac qui Parle and to a minor extent Swift Counties. The Work Progress Administration created the reservoir in 1938 as part of a water conservation project. According to the U.S. Army Corps of Engineers, the project was never intended to be used for flood control. The creation of the Marsh Lake Dam provided increased fish and wildlife habitat, new Colonial Water bird habitat, and associated recreational opportunities. Unfortunately, there were inherent ecological costs associated with the project. Natural river processes were disrupted, impacting sediment movement, floodplain function, fish movement and various aquatic habitats. Additionally, natural flooding and drying cycles were disrupted, reducing plant diversity and associated fish and wildlife benefits found in the area prior to the Dam.

Marsh Lake has also been subject to long-term degradation that is associated with the Dam and its design. As a result, the lake continues to evolve into a sterile, turbid basin where recreational, ecological and associated economic values are lost. In addition, land use changes and the rapid deliveries of water into the system are causing larger and faster rises in lake elevation. This has increased sediment, nutrient and bacteria loadings. Carp thrive in this environment and along with wind driven wave action, their activities stir up sediments, uproot vegetation and prevent the growth of new vegetation. All of these factors work together to suppress the aquatic vegetation critical for improving water quality and providing fish and wildlife habitat. With declining habitat quality, the ability of Marsh Lake to sustain hunting, fishing and other recreational opportunities is being lost.

7.6 RECREATIONAL RESOURCES

Promote recreational opportunities when possible within the District.

The following objectives are consistent with the District's goal of creating recreational opportunities:

a. Remove stream impediments to enhance boating and rafting activities on the river systems, consistent with ecological principles.

b. Complete wetland restoration and wildlife enhancement features to enhance wildlife habitat and in turn recreational opportunities.

c. Develop facilities, where feasible and practical, to enhance recreational activities on streams and lakes within the District.

d. To provide facilities, where feasible and practical, for the observation of wildlife.

7.7 INTERGOVERNMENTAL RELATIONSHIPS

7.7.1 All initiatives of the District should utilize potential cooperative efforts with appropriate federal, state, county, and township agencies.

7.7.2 The District shall adopt by reference the applicable and compatible provisions of County Comprehensive Local Water Plans.

7.7.3 The District shall continue to provide representation on County Water Resource Advisory Committees which are active within its jurisdiction.

7.8 PUBLIC INFORMATION AND EDUCATION

7.8.1 The District shall seek to inform and educate the citizens within its jurisdiction of all its ongoing activities and projects.

7.8.2 The District shall seek to inform and educate the citizens within its jurisdiction of the benefits of the conservation of water and soil in the preservation and enhancement of our natural resources.

7.9 IMPLEMENTATION OF GOALS AND OBJECTIVES

The Upper Minnesota River Watershed District was created by and operates under Section 103D of the Minnesota Statutes. This legislation gives the District its authority to establish rules and regulations, require permits, construct projects, conduct studies, and perform other activities which contribute to the purpose for which the District was organized. Therefore, the District will use the power granted to it by the legislature to implement its goals and objectives. Implementation decisions are made at regularly scheduled Board meetings throughout the year. In addition, the Board conducts project planning and

coordination meetings with its Watershed District Advisory Committee, as required under Section 103D.331, on an annual basis. These meetings provide the Board of Managers with an opportunity to reflect on the effectiveness of meeting goals and objectives during the past year, as well as to re-invigorate its efforts for the coming year. Through these various meetings, the Board maintains an effective course of action to insure the implementation of its goals and objectives.

8 POLICIES OF THE DISTRICT

The following policies have been developed by the District as solutions to problems identified in Section 6.0, Existing Water and Water-Related Problems and to obtain the goals identified in Section 7.0, Goals and Objectives of the District.

8.1 PROJECT INVESTIGATION AND INITIATION

8.1.1 Petitioned Projects (Policy PI-1)

Projects of the Upper Minnesota River Watershed District may be initiated through the petition process as outlined in Section 103D of the Minnesota Statutes. The petition process remains an effective way for interested landowners to receive relief from unacceptable and undesirable "as-is" conditions.

The District has and will continue to assist the landowners and other interested parties in actively pursuing projects through the petition procedure.

8.1.2 Projects for the General Benefit of the District (Policy PI-2)

The District has historically allocated funds from its administrative and maintenance accounts for work with widespread benefits throughout the District. The restoration efforts of Big Stone Lake are an example. The District has and will continue to sponsor works of common benefit within the District.

8.1.3 Majority Resolution of the Board (Policy PI-3)

Section 103D.601 of the Minnesota Statutes authorizes the Board of Managers of Watershed Districts to initiate projects by a majority resolution of the Board of Managers. In most cases, funding utilized to construct projects of this nature is obtained from other governmental agencies or other agencies outside of the affected area. These projects are unique in that it is usually difficult to define an immediate adjacent benefiting area for assessment purposes. Instead, the benefiting area for these projects may be

10.2 WATERSHED MANAGEMENT PLAN COORDINATION

In order to implement the actions identified in this WMP, the District intends to work closely with the CAC, local, state, and federal government agencies, and watershed residents.

10.3 WATERSHED MANAGEMENT PLAN IMPLEMENTATION

This WMP is intended to be implementation oriented. The District is positioned for successful WMP implementation by the establishment of clearly linked resource issues, goals and policies, and specific action items. Section 11 of this document defines a probable implementation timeframe as well as an estimated index for successive years' budget. It is, however, anticipated that the implementation plan will be periodically reviewed and updated. The District will annually prioritize work activities from the implementation plan which will constitute the targeted efforts for the coming year. These work activities represent the annual work plan for the District. The intent is to provide flexibility to address emerging issues or new opportunities. Thus, priorities set for items in the implementation plan can be modified during development of annual work plans. Unforeseen items not on the implementation plan can be added.

An evaluation of the estimated costs associated with the implementation of this Plan is provided in Table 1. According to the Table, to fully implement the 112 initiatives contained in the Plan, costs would be estimated at $5,458,100 over the next ten years. Whiel the District generates $180,000 per year through its General Fund tax levy, not all of this money can be dedicated to projects; a portion will be used for staffing and other administrative costs. As a result, the District understands that it will need to seek outside sources of revenue (i.e. grants) and partnerships with other local units of government and State and Federal agencies to effectively implement this Plan.

Table 1

Estimated Plan Implementation Costs

Goal	# of Initiatives	Total Estimated Costs
Goal 1: Water Quantity	32	$3,027,500
Goal 2: Water Quality	19	$787,500
Goal 3: Erosion & Sedimentation	7	$353,000
Goal 4: Biotic Diversity	5	$23,100
Goal 5: Recreational Resources	4	$100,000
Goal 6: Intergovernmental Relationships	7	$314,500
Goal 7: Public Information & Education	11	$85,000
Goal 8: Implementation of Goals & Objectives	27	$767,500
Total	**112**	**$5,458,100**

10.4 WATERSHED MANAGEMENT PLAN SCHEDULE

Implementation of the WMP will begin with its adoption by the board of managers and final approval from BWSR. The WMP will remain in effect for a ten-year period which is specified as August 2013 to August 2023.

10.5 INTERGOVERNMENTAL CONFLICTS/RESOLUTION PROCESS

During plan development, no intergovernmental conflict occurred. Should such a conflict arise, the board of managers will attempt to mitigate the conflict. If efforts to resolve the conflict fail, a petition to conduct a contested case hearing will be submitted to BWSR.

10.6 WATERSHED MANAGEMENT PLAN EVALUATION

Periodic review is necessary to assess the success of this plan. The board of managers and CAC will conduct a review every two or three years to ensure the management strategies remain pertinent. Amendments will be recommended if needed.

11 IMPLEMENTATION PLAN

The Upper Minnesota River Watershed District's Watershed Management Implementation Plan for the years 2013 to 2023 is as follows:

11.1 GOAL 1: WATER QUANTITY

11.1.1 Objective A: Reduction of damages caused by floodwaters

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Finalize the phase I Browns Valley Flood Mitigation Project by completing as built drawings and conducting grant fund closeouts.	Little Minnesota River	2013-2015	*UMRWD	$50,000
2. Browns Valley Flood Mitigation Project annual inspections and maintenance.	Little Minnesota River	2013-2023	*UMRWD	$120,000
3. Reduce flows to Big Stone Lake from the Whetstone River. Work with the US Army COE on the restoration of the Whetstone River. • Complete diagnostic feasibility study, pre engineering and cost estimate. • Complete final engineering and project development plans. • Secure Funding Construction/Restoration of river channel.	Big Stone Lake, Minnesota River	2015-2016 2016-2017 2017-2018 2019-2023	*COE, UMRWD, DNR, SD DENR, CBSL, Big Stone County	$300,000
4. Toelle Coulee. Apply for flood damage reduction funding for the design and construction of Phase II of the Browns Valley Flood Mitigation Project.	Little Minnesota River	2017-2019	*UMRWD City of Browns Valley MN DNR	$1,000,000
5. Flood Predictions. Work with the North Central Rivers Forecast Center on flood predictions for Big Stone Lake. Submit lake level and snow pack data to NCRFC for evaluation on an annual basis.	Big Stone Lake	2013-2023	*UMRWD	$1,000/yr
6. Beardsley Dry Lake Flood Control Project. Operation, maintenance and annual inspection.	Hoss Creek	2013-2023	*UMRWD	$500/yr
7. New Drainage. Investigate the adoption of conservation drainage techniques which may include a drainage coefficient and control structures on new gravity flow pattern tile systems, where applicable.	All	2014-2016	*UMRWD	$2,000
8. Highway 12 Flood Control Project - Initiate annual operation and maintenance review	Minnesota River	2013-2023	*UMRWD	$1,000/yr

9. Garner resources in order to conduct a complete hydrological model of the UMR watershed. • Identify project parameters • Determine potential consultants and estimated costs • Seek funding resources to complete.	All	2013-2023 2014-2015 2016-2017 2018-2020	*UMRWD, DNR, BWSR.	$180,000
10. Based on hydrologic modeling, identify key areas for wetland restoration on private land and partner with USFWS, DNR, SWCD's and others and implement	All	2013-2023	*UMRWD, DNR, BWSR., MOA, SWCD	100,000
11. Promote drainage water management techniques as a multiple benefit best management practice	All	2013-2023	*UMRWD, DNR, BWSR., MOA	100,000

11.1.2 Objective B: Administer and maintain drainage systems of the District.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Drainage System Management. Ensure that public drainage systems are operated and maintained in accordance with State Drainage Law (M.S. Chapter 103E) and other applicable regulations.	All	2013-2023	*Counties, *UMRWD, DNR	$2,000/yr
2. Reduce flows to Big Stone Lake from the Whetstone River. Work with the US Army COE on the restoration of the Whetstone River.	Big Stone Lake, Minnesota River	2013-2023	*COE, UMRWD, DNR, SD DENR	$300,000
3. Rules and regulations. Review existing permit rules and regulations and make necessary changes.	All	2013	*UMRWD	$1,000
4. Branch 3A to County Ditch 13. Annual inspection and maintenance.	Lindholm Creek	2013-2023	*UMRWD	$35,000
5. Public Drainage Systems Inventory. Develop a GIS-based inventory of public drainage systems in the District. This inventory should include detailed attribute information for each system, including past maintenance efforts.	All	2013-2016	*Counties, UMRWD	$10,000
6. Improvement of Subwatershed Delineations. Work with partnering agencies to improve the accuracy of subwatershed delineations. Identify and document tile drainage that crosses sub-watershed boundaries	All	2013-2023	*DNR, *USGS, UMRWD	$500/yr
7. Public Waters Inventory. Review the current Public	All	2013-2023	*UMRWD, DNR	$5,000

Waters Inventory via field review or in office GIS review annually.				
8. Alternative Drainage Practices. Provide financial incentives to landowners for the implementation of alternative drainage water management practices that have the potential to improve water quality and reduce peak flows. Utilize District funds or apply for grants from BWSR Clean Water Funds to implement these activities. These alternatives may include any of the following: 1) the storage of water; 2) retiring land from production; 3) the use of temporary set-aside programs; 4) the utilization of set-back levees; 5) the use of diversions (which may include strategically diverting agricultural water into temporary storage areas); 6) restoring the natural flow characteristics of the stream channel; 7) creating multi stage channels; and 8) all other traditional and non-traditional approaches	Stony Run, Big Stone County Ditch 2, Swift County Ditch 10, Fish Creek.	2013-2023	*UMRWD, Counties, SWCDs, BWSR, MDA	$100,000
9. Seek grant funding for County and WD Drainage Records Modernization from the BWSR. Conversion of paper, Mylar and other types of hard copy documents and maps to digital format providing an archived copy of all original documents and maps. Conversion to digital format will improve access to drainage system records; and enhance drainage system management ability.	All	2015-2018	UMRWD, *Big Stone County,	$50,000
10. Seek funding via the Clean Water Fund/BWSR for Multipurpose Drainage Management Planning for a public drainage system. With engineering assistance develop sub-watershed (drainage system) scale implementation plans for multipurpose drainage management on Chapter 103E drainage systems to protect and improve water quality, together with adequate agricultural drainage, equitable flood protection, peak flow and erosion reduction, and wildlife habitat improvement.	County Ditch 7, County Ditch 13, County Ditch 2	2013-2023	UMRWD, *Big Stone County.	$200,000

11.1.3 Objective C: Sustain high quality surface and ground water supply.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Wellhead Protection. Participate in the preparation and implementation of wellhead protection plans for public water suppliers which include Ortonville, Odessa, Browns Valley, and Beardsley.	All	2013-2023	*Cities, UMRWD, Counties, MDH	$1,000/yr
2. BMP Program. Provide technical and financial assistance, as available, to local governmental units and landowners for the implementation of groundwater protection BMPs in the drinking water management areas identified by the city wellhead protection plans.	All	2013-2023	*Cities, UMRWD, Counties, MDH	$2,000/yr
3. Water Appropriation Permits. Review and provide comments, as necessary. On all water appropriation permit applications submitted to the DNR within the District.	All	2013-2023	*MN DNR, UMRWD, SWCD, Counties	$250/yr
4. Dam Reconstruction and Repair. Provide technical and financial assistance, as available, for the reconstruction and repair of dams to ensure adequate water levels are maintained. Complete an inventory of dam structures.	All	2013-2023	*UMRWD	TBD
5. Rule Recommendation. Regulate the reconstruction and repair of dams and other water control structures in the District.	All	2013-2023	*UMRWD	$1,000
6. Hydrologic Investigations. Conduct hydrologic investigations, as needed, to resolve conflicts in existing data and determine the influence of lesser-known basins in the District.	All	2013-2023	*UMRWD, DNR, USGS	$2,000/yr

11.1.4 Objective D: Lake level management

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Big Stone Lake/Whetstone River Operating Plan. • Finalize the draft Operating and Maintenance Plan by reconvening the Minnesota/South Dakota Boundary Waters Commission. • Implement operation and maintenance plan annually.	Big Stone Lake, Minnesota River	2013-2018 2013-2023	*UMRWD, COE, DNR, SD DENR, MPCA, SD GF&P, Ottertail Power	$8,000
2. Big Stone Lake/Whetstone River Maintenance Funding. Work with cooperating agencies to provide funding for operation and maintenance.	Big Stone Lake, Minnesota River	2013-2015	*UMRWD, COE, DNR, SD DENR, MPCA, SD GF&P, Ottertail Power	$3,000

3. Landlocked Basins. Work with DNR on the reduction and/or management of lake levels on Swenson Lake, and wetlands located in Sections, 11, 14, 16, 17 of Otrey Township, Section 27 of Akron Township, Sections 14 and 15 of Ortonville Township and Section 3 of Toqua Township which include subwatersheds: Stony Run, Five Mile Creek, and Fish Creek.	Stony Run, Five Mile Creek, Fish Creek	2013-2023	*DNR, Counties, UMRWD, USF&WS, ACOE	$10,000
4. Reduce flows to Big Stone Lake from the Whetstone River. Work with the US Army COE on the restoration of the Whetstone River. • Complete diagnostic feasibility study, pre engineering and cost estimate. • Complete final engineering and project development plans. • Secure Funding • Construction/Restoration of river channel.	Big Stone Lake, Minnesota River	2015-2016 2016-2017 2017-2018 2019-2023	*COE, UMRWD, DNR, SD DENR, CBSL, Big Stone County	$300,000
5. Stream flow Monitoring. Submission of lake level data to USGS monthly and financial support for the USGS gaging station at Peever quarterly.	Big Stone Lake, Minnesota River	2013-2023	*UMRWD, USGS	$50,000

11.2 GOAL 2: WATER QUALITY

11.2.1 Objective A: Maintain or improve the quality of all surface and groundwater

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Wastewater discharges. Work with the City of Ortonville on the dilution of their WWTP discharges.	Minnesota River	2013-2023	*UMRWD, City of Ortonville	$100/yr
2. Wetland Restoration. Kleindl wetland restoration bank restored. Complete annual monitoring of vegetation management and water control structures; also documentation of hydrology for the five year monitoring period. Sub-watershed – identify where located.	Fish Creek Big Stone Lake	2013-2018	*UMRWD	$8,000/yr
3. Storm water BMPs. Continue the rain garden/lakeshore buffer cost-share program by completing three projects per year.	Big Stone Lake, Minnesota River	2013-2023	*UMRWD, CBSL	$5,000/yr
4. Water Quality Monitoring. Continue the Big Stone Lake Water Quality Monitoring Program and Big Stone Lake	Big Stone Lake, Minnesota River	2013-2023	*UMRWD, CBSL	$11,000/yr

tributary monitoring.				
5. Data Collection and Organization. Develop and maintain a user-friendly database for all water resource monitoring data.	All	2013-2023	*UMRWD, MPCA	$2,000/yr
6. Subwatershed Water Quality Goals. Build local water quality database, utilizing available data to identify specific water quality goals for water resources. Use to target BMP implementation at the sub-watershed level utilizing CWL funding.	All	2015-2016	*UMRWD	$5,000/yr
7. Monitoring Plan. Prepare an annual Monitoring Plan for assessing the condition of surface and groundwater resources, as well as identifying pollution sources. This Plan should identify the specific sites to be monitored and contain detailed information on the physical, chemical, and biological parameters to be analyzed at each site.	All	2013-2023	*UMRWD, DNR, CBSL, MPCA, USGS	$1,000/yr
8. Volunteer Monitoring. Recruit volunteers to participate in monitoring programs. At least one volunteer should be identified from Big Stone Lake, Long Tom, Marsh, and Otrey.	All	2013-2023	*UMRWD, CBSL, MPCA	$300/yr
9. Annually submit surface water quality data to MPCA/EPA to be entered into MPCA's Environmental Data Access (EDA) system.	All	2013-2023	*UMRWD	$2000/yr
10. Mapping Application. Develop an interactive, web-based mapping application that connects users with water quality data from specific monitoring sites. UMRWD plans to link the interactive web based mapping application on our website.	All	2013-2014	*UMRWD	$5,000
11. Monitoring Summary. Include a summary of all monitoring data in the Watershed District annual Report.	All	2013-2023	*UMRWD	$500/yr
12. Stormwater Management Regulations. Cooperatively work with local units of government to ensure that all new development complies with local, State and Federal stormwater management regulations, whichever is more stringent. Provide watershed technical information and data as requested.	All	2013-2023	*Cities, *Counties, UMRWD, MPCA	$250/yr

13. Stormwater Management Ordinances. Provide technical assistance to local governmental units for the development of stormwater management ordinances.	All	2013-2023	*UMRWD, Cities, Counties	$8,000
14. BMP Program. Provide technical and financial assistance, as available, to local governmental units and landowners for the implementation of stormwater management BMPs.	All	2013-2023	*UMRWD, Cities, Counties, SWCDs	$5,000/yr
15. Rule Recommendation. Require that stormwater discharges to all water resources be approved by the District.	All	2013	*UMRWD	$1,000
16. MPCA Watershed Approach. Coordinate the preparation and implementation of the MPCA's Watershed Approach. • Intensive monitoring and assessment. • Watershed characterization and problem investigation (occurs over first three years); • Watershed Restoration and Protection Strategies	All	2015-2017 2015-2018 2016-2020	*UMRWD, LAs, MPCA	$200,000
17. Wastewater Treatment. Cooperatively work with local governmental units and other partners to identify and resolve wastewater treatment-related pollution issues in Ortonville, Browns Valley.	Big Stone Lake, Minnesota River	2016-2020	*City of Browns Valley, *City of Ortonville, UMRWD, MPCA	$2,500/yr
18. Based on subwatershed modeling, analysis, and TMDL results. Those high priority subwatersheds identified will be focused upon for implementation of restoration and/or protection activities and projects.	All	2018-2023	*UMRWD, *MPCA	$40,000/yr
19. Finalization of the Mud Lake wetland restoration projects, 5-Mile Creek subwatershed	Five Mile Creek	2013-2018	*DNR, *NCRS, UMRWD	$2,000

11.3 GOAL 3: EROSION & SEDIMENTATION

11.3.1 Objective A: Initiate and support projects to reduce erosion.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Stormwater Runoff. Restoration of the Central Park stormwater system in Ortonville.	Big Stone Lake, Minnesota River	2013-2023	*UMRWD, City of Ortonville, CPR	$80,000
2. Installation of water and sediment basins, grassed waterways and buffer strips. Encourage the installation of water and sediment	All	2013-2023	UMRWD, *SWCDs, Counties, FSA,	$300/yr

basins along with other erosion control practices through the District's permitting program.			*NRCS	
3. Highly Erodible Land. We will communicate to our local partners SWCD and NCRS to identify and target highly erodible land for enrollment in conservation easement programs and other cost share programs, such as CRP and RIM.	Hoss Creek, Fish Creek, Stony Run, Swift County Ditch #10	2013-2023	*SWCDs, UMRWD *NCRS	$2,000/yr
4. Stream Stabilization. Implement and/or provide technical and financial assistance, as available, to landowners for stream stabilization.	All	2013-2023	*UMRWD, DNR, COE	$20,000/yr
5. Implement stream stabilization and debris removal projects to maintain stream integrity on the lower reaches on the Whetstone River, Little Minnesota River, and the far upper reach of the Minnesota River.	All	2013-2023	*UMRWD, DNR, COE	$20,000/yr
6. BMP Program. Provide technical and financial assistance, as available, to local governmental units and landowners for the implementation of erosion and sediment control BMPs. Through the use of GIS and LIDAR develop an electronic map of the landscape to identify critical sources of water quality degradation and their locations in order to select and implement BMPs.	All	2013-2023	*UMRWD, *SWCDs, NRCS	$2,500/yr

11.3.2 Objective B: Erosion control along all private and public drainage systems.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Buffer strips. Continue to promote the installation of buffer strips on all private and public drainage systems within the district and work with the SWCD to develop an inventory of existing buffers within the District.	All	2013-2023	*UMRWD, Counties, SWCDs	$500/yr

11.4 GOAL 4: BIOTIC DIVERSITY

11.4.1 Objective A: Cooperate with agencies to maintain and improve biotic resources.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost

1. River Restoration. Continue to work with DNR Fisheries and the National Wildlife Refuge on the Whetstone River and Minnesota River Restoration projects.	Minnesota River	2013-2023	*UMRWD, DNR, USF&WD	$5,000
2. Public Water Access Signage. Install and maintain signage regarding the spread of invasive aquatic species at all public water accesses. .	All	2013-2023	*DNR, *LAs, UMRWD	$2,000
3. Minnesota Biological Survey. Acquire and utilize county Biological Survey data to prevent impact to the critical habitat areas of listed species.	All	2013-2023	*UMRWD, DNR	$100
4. On an individual basis, work with DNR on installing fish passages and barriers	Minnesota River Stoney Run	2013-2023	*DNR, *UMRWD	$1,000
5. Work with and assist the DNR on education and implementation of invasive species goals and procedures, including distribution of materials that reference identification and preventative action for invasive species	All	2013-2023	*DNR, *USF&WS, *UMRWD	$15,000

11.5 GOAL 5: RECREATIONAL RESOURCES

11.5.1 Objective A: Create recreational resources.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Facilities. Enhance the Big Stone Lake/Whetstone River Control site for recreational use.	Big Stone Lake, Minnesota River	2013-2023	*UMRWD, City of Ortonville, DNR	$3,000/yr
2. Wetland Restoration. Continue to work with the US F&WS on wetland restorations on Public lands. We would estimate up to 20 in this time frame	All	2013-2023	*UMRWD, USF&WS	$1,000/yr
3. Consider alternative opportunities for land locked basins, like Swenson Lake which could include flood easements, and controlled outlets.	Stoney Run, Fish Creek, Five Mile Creek, Minnesota River	2013-2023	*DNR, *USF&WS, UMRWD	$10,000
4. Support/sponsor the Marsh Lake restoration efforts that will restore the Pomme de Terre River to its historic channel, modify the Marsh Lake Dam, construct fishway, construct secondary drawdown structure, breach dike at abandoned fish pond, install gated culvert in the Louisburg Grade Road.	Minnesota River	2013-2017	*DNR, *COE, FWS, UMRWD	$5,000/yr

11.6 GOAL 6: INTERGOVERNMENTAL RELATIONSHIPS

11.6.1 Objective A: Cooperative efforts with federal, state, counties and townships.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Continue the cooperative DNR General Permitting Program.	All	2013-2023	*UMRWD, DNR	$2,000/yr
2. Host a rain garden demonstration with the U of M or DNR. Contact landowners for site location.	All	2013-2023	*UMRWD, DNR, U of M	$3,500
3. Continue to work with the State of SD on the implementation of a water quality monitoring program for the Whetstone and Little Minnesota Rivers, and all future water quality/quantity projects.	Big Stone Lake, Minnesota River	2013-2023	*UMRWD, SD DENR, EDWDD	$1,000
4. Continue to work with the National Wildlife Refuge and DNR Fisheries on the restoration of the Whetstone River and Minnesota River. • Complete diagnostic feasibility study, pre engineering and cost estimate. • Complete final engineering and project development plans. • Secure funding • Construction/Restoration of river channel.	Big Stone Lake, Minnesota River, Whetstone River	2015-2016 2016-2017 2017-2018 2019-2023	*COE, UMRWD DNR, SD DENR, DNR	$300,000
5. Continue the cooperative Rural Well Testing and Fourth Grade Wetland Restoration Projects with the Ortonville School, Big Stone County LWP, and USF&WS.	All	2013-2023	*UMRWD, Big Stone County, Ortonville School District, USF&WS	$2,000/yr
6. Continue to assist the City of Browns Valley and Traverse County with Browns Valley Flood Mitigation Plan.	Big Stone Lake, Minnesota River	2013-2023	*UMRWD, City of Browns Valley, Traverse County	$1,000/yr
7. Watershed board will maintain open communications and work with the township and county boards on issues pertaining to and impacting water quality and quantity management.	All	2013-2023	*UMRWD, Big Stone County Townships	$1,000/yr

11.7 GOAL 7: PUBLIC INFORMATION/EDUCATION

11.7.1 Objective A: Inform and educate citizens on conservation projects/programs.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Produce articles on conservation practices such as rain gardens, water quality, and conservation BMPs. We will produce articles at least annually.	All	2013-2023	*UMRWD	$300/yr
2. Continue the Rural Well Testing Program through Ortonville High school and cooperative effort with the Big Stone County Local Water Plan.	All	2013-2023	*UMRWD, Big Stone Co., Ortonville School District	$100/yr
3. Website for the District. Continue to enter data and update information and provide links to resources.	All	2013-2023	*UMRWD	$2,000/yr
4. Update the District's water management plan beginning in 2021 through 2023.	All	2013-2023	*UMRWD	$2,000
5. Hold a drainage tile educational seminar for local farmers and tile installers regarding emerging technologies for conservation drainage and drainage water management.	All	2014-2015	*UMRWD, MDA	$3,000
6. Volunteer Recruitment. Actively recruit and properly train volunteers to assist the District in water resource management.	All	2013-2023	*UMRWD, CBSL	$500/yr
7. Advisory Committee. Actively recruit residents to serve on the District's Advisory Committee.	All	2013-2023	*UMRWD	$100/yr
8. Youth Involvement. Support the implementation of water resource projects with youth.	All	2013-2023	*UMRWD	$1,000/yr
9. Educational Events and Workshops. Sponsor and facilitate education events and workshops with partnering agencies.	All	2013-2023	*UMRWD, DNR, SWCDs, Counties	$2,500/yr
10. Public Information Package. Develop a public information package that can be economically mailed or distributed to residents that explains what a watershed is and how they can impact water resources on a daily basis.	All	2013-2023	*UMRWD	$1,000/yr
11. Information Materials. Develop and collect informational materials, including brochures and other handouts that summarize land use/water resource issues in the District and make them readily available to the public.	All	2013-2023	*UMRWD	$500/yr

11.8 GOAL 8: IMPLEMENTATION OF GOALS AND OBJECTIVES

11.8.1 Objective A: Maintain an active Board of Managers and Advisory Committee.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Board of Managers Meetings. Hold monthly meetings of the District's Board of Managers.	All	2013-2023	*UMRWD	$7,500/yr
2. Advisory Committee Meetings. Hold quarterly meetings of the District's Advisory Committee.	All	2013-2023	*UMRWD	$1,000/yr
3. Future Membership. Recruit and maintain a listing of persons who are interested in serving on the Advisory Committee.	All	2013-2023	*UMRWD	$100/yr

11.8.2 Objective B: Maintain adequate staffing and utilize consultants when necessary.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Staffing Plan. Develop and implement a Staffing Plan to ensure that the goals and objectives of the District are effectively implemented.	All	2013	*UMRWD	TBD
2. Consultants. Utilize consultants to address engineering, hydrologic, and planning issues when necessary	All	2013-2023	*UMRWD	TBD
3. Increased staffing to implement water quality and quantity project and resource acquisition	All	2013-2023	*UMRWD	$40,000/yr

11.8.3 Objective C: Provide training opportunities for Board Managers, Advisory Committee members, and staff.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Conferences and Workshops. Provide funding for Board Managers, Advisory Committee members, and staff to attend conferences and workshops to increase internal knowledge and skills.	All	2013-2023	*UMRWD	$4,000/yr
2. New Manager and Committee Member Training. Conduct or provide funds for new Board Managers and Advisory Committee members to attend a training program to familiarize them on the	All	2013-2023	*UMRWD	$1,000/yr

many functions and responsibilities of the District.				

11.8.4 Objective D: Develop a comprehensive public relations program.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Mission Statement. Annually review District's mission statement.	All	2013	*UMRWD	$100/yr
2. District Website. Regularly maintain and update the District website.	All	2013-2023	*UMRWD	$500/yr
3. Annual Report. Prepare and distribute an Annual Report that summarizes the District's accomplishments to be submitted to BWSR by July 15th of each year.	All	2013-2023	*UMRWD	$1,500/yr
4. District Newsletters. Prepare and distribute newsletters at least annually via our district website. www.umrwd.org	All	2013-2023	*UMRWD	$2,000/yr
5. Tours. Provide tours of the watershed to stakeholders that highlight projects that the District has been involved with and areas that are in need of attention.	All	2013-2023	*UMRWD	$2,000/yr
6. Press Releases. Prepare and distribute quarterly press releases that summarize District activities and decisions.	All	2013-2023	*UMRWD	$500/yr

11.8.5 Objective E: Foster relationships with potential partners.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Meetings. Hold regular meetings with potential partners to discuss partnership opportunities and roles in implementation.	All	2013-2023	*UMRWD	$1,000/yr
2. Technical Committees. Form technical committees, as necessary, to address specific water resource issues.	All	2013-2023	*UMRWD	$500/yr
3. Directory. Maintain a current directory of representatives from all Federal, State, and local agencies, offices, and special interest groups. These representatives should be sent regular updates on the activities of the District.	All	2013-2023	*UMRWD	$100/yr

11.8.6 Objective F: Develop and implement a regulatory program.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. District Rules. Review, revise, adopt, and implement rules for the District.	All	2013-2023	*UMRWD	$30,000
2. Permitting and Inspection Program. Review and revise a permitting and inspection program for the implementation of rules.	All	2013-2023	*UMRWD	$8,500

11.8.7 Objective G: Strive for efficient planning and fiscal accountability.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Additional Funding Sources. Actively pursue additional funding sources, such as grants and donations, in order to fund the implementation of initiatives and reduce the tax levy burden on the residents of the District. Seek partnerships and cooperative agreements to finance initiatives, when appropriate in coordination with the District's annual work plan identify Clean Water Fund grant opportunities to pursue that year.	All	2013-2023	*UMRWD	$2,000/yr
2. Annual Work Plan and Budget. Prepare and adopt an annual work plan and budget following the statutory requirements of M.S. Chapter 103D.	All	2013-2023	*UMRWD	$500/yr
3. Annual Audit. Conduct an annual audit of the financial records of the District.	All	2013-2023	*UMRWD	$2,000/yr
4. Financing Mechanisms. Utilize appropriate financing mechanisms to fund District initiatives, including but not limited to mechanisms and procedures outlined in M.S. Chapter 103D.	All	2013-2023	*UMRWD	TBD

11.8.8 Objective H: Review and update the Watershed Management Plan.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Annual Plan Review. Hold an annual meeting of the Advisory Committee to review progress in achieving plan initiatives and identify emerging issues and opportunities that should be incorporated into the Plan through the amendment process.	All	2013-2023	*UMRWD	$100/yr

2. Plan Revision. Revise the Watershed Management Plan prior to its expiration by utilizing the completed watershed restoration and protection strategies (*WRAP*) via the one watershed, one plan approach.	All	2021-2023	*UMRWD, BWSR	$50,000

11.8.9 Objective I: Provide for UMRWD General Operating Support.

Initiative	Priority Subwatershed(s)	Proposed Timeframe	Coordinating Agency(s) (*Lead)	Estimated Cost
1. Continued levy based support of the UMRWD with a base 2013 level of approximately $100,000. *Please refer to table 1	All	2013-2023	*UMRWD	$1,000,000

Table 2

EVALUATION OF ORIGINAL OBJECTIVES OF THE UPPER MINNESOTA RIVER WATERSHED DISTRICT

Plan Objective	Degree of Activity[16]	Is there Need for Similar or Revised Policy?
To slow down weed and algae growth in the District's Lakes.	High	Yes
To reduce the pollution of the water in the lakes and water courses within the District.	High	Yes
To intelligently regulate the water levels of the various lakes within the District.	High	Yes
To keep adequate records of the water level, the chemistry, and other useful data.	High	Yes
To enhance the recreational facilities and scenic beauty of the District.	Moderate	Yes
To improve the needed drainage, prevent excessive runoff or seepage, and provide needed soil and water conservation in the District.	High	Yes
To provide funds to accomplish these objectives and to engage technical assistance and advice.	Moderate	Yes
To preserve, maintain, and improve habitat for fish and wildlife.	High	Yes

[16] Since preparation of "Overall Plan Upper Minnesota River Watershed District" (1988).

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Sibley County Local Water Management Plan Update**

Meeting Date: September 25, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Southern Region

Contact: Jeff Nielsen, Regional Supervisor

Prepared by: Chris Hughes, Board Conservationist

Reviewed by: Southern Region 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

LINKS TO ADDITIONAL INFORMATION

Sibley County Local Water Mangement Plan 2013-23

http://www.sibleyswcd.org/2013%20Draft%20Water%20Plan.pdf

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

On June 22, 2011 the Board of Water and Soil Resources (Board) approved the Sibley County Priority Concerns Scoping Document.

On December 14, 2011, the Board officially approved Sibley County's request for an extension of the end date of their current local water management plan to December 31, 2013.

On June 25, 2013, the Board received the Sibley County Local Water Management Plan Update (Plan Update), a record of the public hearing, and attendance sheet from the public hearing for final State review. No written comments pertaining to the Plan were received as part of the public hearing process.

On September 5, 2013, the Southern Region Committee (Committee) of the Board met with representatives of Sibley County to review state agencies review recommendations and comments. The Committee recommends approval of the Sibley County Plan Update with the requirement that text is added to the Plan Update explaining why some farmers are returning to moldboard plowing in a corn-on-corn rotation. This revision will have to be received by BWSR prior to September 25, 2013.

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 Sibley County (Minnesota Statutes, Section 103B.311, Subdivision 4 and Section 103B.315, Subdivision 5.)

ORDER APPROVING LOCAL WATER MANAGEMENT PLAN UPDATE

Whereas, the Sibley County (County) Board of Commissioners submitted a Local Water Management Plan Update (Plan Update) to the Board of Water and Soil Resources (Board) on June 25, 2013 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 March 4, 2011, the Board was mailed a Priority Concerns Scoping Document (PCSD) from the County, pursuant to M.S. Section 103B.312.

2. On June 22, 2011, the Board approved the Priority Concerns Scoping Document.

3. On October 13, 2011, the Board received a written request and resolution from Sibley County for an extension of their current local water management plan.

4. On December 14, 2011, the Board approved the extension request made by the County. The end date of the current local water management plan was extended to December 31, 2013.

5. On June 25, 2013, the Board received the County Plan Update, a record of the public hearing, and attendance sheet from the public hearing for final State review pursuant to M.S. Section 103B.315, Subd. 5. No written comments were received as part of the public hearing process.

6. On September 5, 2013, the Southern Region Committee of the Board met via conference call with representatives of the County to review the following state agency comments, commendations and approval recommendations regarding the final approval of the County Plan Update:

   - Minnesota Pollution Control Agency (MPCA) noted Plan Update does not violate any statutory or rule requirement administered by the MPCA and recommends approval of the entire Plan Update. MPCA provided additional comments for consideration.

   - Minnesota Department of Agriculture (MDA) noted Plan Update does not violate any statutory or rule requirement administered by the MDA and recommends approval of the entire Plan Update. MDA provided additional comments for consideration.

- Minnesota Department of Health (MDH) noted Plan Update does not violate any statutory or rule requirement administered by the MDH and recommends approval of the entire Plan Update.

- Minnesota Department of Natural Resources (MDNR) noted Plan Update does not violate any statutory or rule requirement administered by MDNR and recommends approval of the entire Plan Update.

- Minnesota Environmental Quality Board provided no comments.

- Board regional staff recommends approval of the County Plan Update

7. On September 5, 2013 the Southern Region Committee decided to recommend approval of the Plan Update to the Board on September 25, 2013 with the requirement that text is added to the Plan Update explaining why some farmers are returning to moldboard plowing in a corn-on-corn rotation.

8. On , 2013, the Board received the revised text as required.

9. On September 25, 2013, the Southern Region Committee of the Board presented its recommendation of approval of the Sibley County Local Water Management Plan Update to the Board. The Board adopted the Committee's recommendation.

10. This Plan Update will be in effect for a ten-year period until September 25, 2023, with the Goals, Objectives and Action items amended by September 25, 2018.

CONCLUSIONS

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

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

ORDER

The Board hereby approves the update of the Sibley County Local Water Management Plan 2013-2023 with a required update of the Implementation section (Goals, Objectives, and Action) to be completed by September 25, 2018.

Dated at St Paul, Minnesota this September 25, 2013.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

_____

BY: Brian Napstad, Chair

Sibley County
Comprehensive Local
Water Plan
2013 – 2023



County Road 6 - September 2010

Table of Contents

	Page
Executive Summary	1
Introduction	1
Background of Water Plan Process	3
Plan Purpose	4
Past Accomplishments	4
Partners	8
Summary of Priority Concerns	9
Drinking Water Quality	10
Water Quantity	10
Nutrient, Manure and Human Waste	10
Soil Erosion	10
Plan Administration	10
Estimated Costs	11
Priority Concerns Assessment	12
Drinking Water Quality	12
Water Quantity	13
Nutrient, Manure and Human Waste	13
Soil Erosion	14
Plan Administration	15
Goals, Objectives and Implementation	16
Priority Concern 1: Drinking Water Quality	17
Priority Concern 2: Water Quantity	20
Priority Concern 3: Nutrient, Manure and Human Waste	22
Priority Concern 4: Soil Erosion	24
Priority Concern 5: Plan Administration	25
Ongoing Programs	27
Water Plan Administration	29
Consistency with Other Plans	32
Recommendation of Amendments to Other Plans	32
Water Plan Amendment Procedure	33
Appendix A – Sibley County Lakes	34
Appendix B – 2012 Draft List of Impaired Waters	36
Appendix C – Priority Concerns Scoping Document	38

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Sibley County Board of Commissioners

Jim Nytes, District 1
Bill Pinske, District 2
Jim Swanson, District 3
Joy Cohrs, District 4
Harold Pettis, District 5

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Ronald Otto

With Special Assistance From:

Tom Fischer, BWSR

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Sibley SWCD will be responsible for the administration/coordination of the Sibley County Comprehensive Water Plan.

The Sibley County Comprehensive Water Plan will be effective from 2013 to 2023.

ACRONYMS

BC	Buffalo Creek (Crow River Watershed)
B/S	Bevens Silver Creek
BWSR	Board of Water and Soil Resources
BMP	Best Management Practices
CB	Sibley County Board of Commissioners
CREP	Conservation Reserve Enhancement Program
CRP	Conservation Reserve Program
CWF	Clean Water Fund
CWP	Clean Water Partnership
DNR	Minnesota Department of Natural Resources
DWSMA	Drinking Water Supply Management Area
EPA	Environmental Protection Agency
EQIP	Environmental Quality Incentive Program
ES	Environmental Services
FSA	Farm Service Agency
GIS	Geographical Information Services
HIC	High Island Creek
HICWD	High Island Creek Watershed District
IBI	Index of Biological Integrity
IWM	Intensive Watershed Monitoring
JPB	Joint Powers Board
MDA	Minnesota Department of Agriculture
MDH	Minnesota Department of Health
MM	Middle Minnesota
MPCA	Minnesota Pollution Control Agency
NPDES	National Pollutant Discharge Elimination System
NRGB	Natural Resources Block Grant
NRCS	Natural Resource Conservation Service
PH	Sibley County Public Health
RIM	Reinvest in Minnesota
RR	Rush River
SWCD	Soil and Water Conservation District
TMDL	Total Maximum Daily Load
USDA	United States Department of Agriculture
USGS	United States Geological Survey
WCA	Wetland Conservation Act
WRAC	Water Resources Advisory Committee
WS	Watersheds

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Executive Summary

Introduction

Sibley County is located in south central Minnesota approximately 50 miles southwest of the Twin Cities. The City of Gaylord is the County Seat. Sibley County is in the first ring of counties outside the Seven County Metropolitan Area. Sibley County's population is estimated to rise only 3.1% by 2035 (see Table 1). The eastern townships of Sibley County will see the most growth and as one moves west, in the county, the rural population will decline see Figure 2.

Figure 1 Sibley County

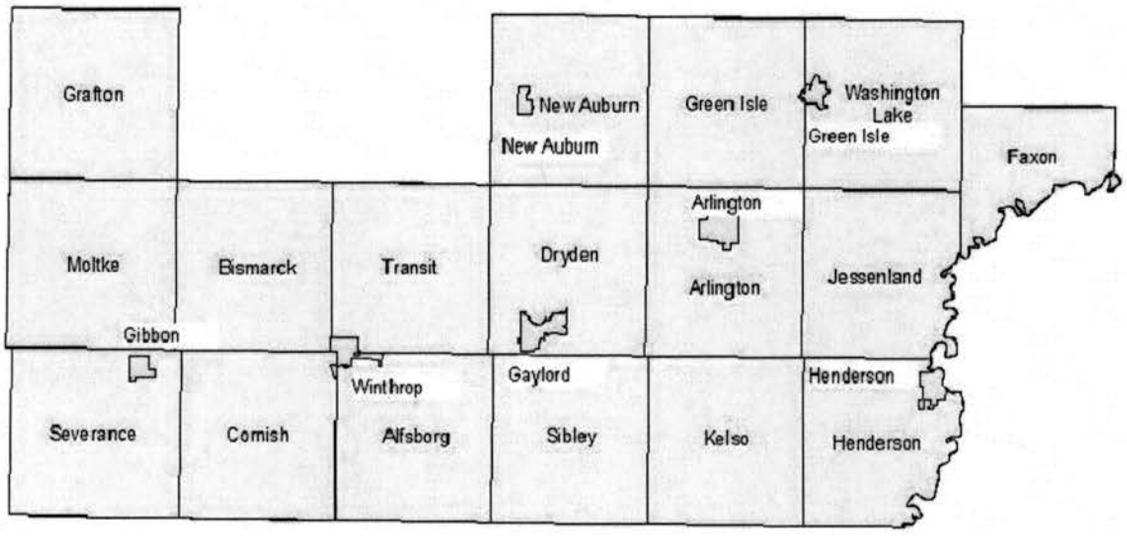


Surrounding counties include; McLeod County to the north, Carver County to the northeast, Scott County and Le Sueur County across the Minnesota River to the east, Nicollet County to the south and Renville County to the west.

Table 1 Sibley County Census (From State Demographers Office)

Census	2000	2006	2010	Projected 2035
Townships	7122	6889	6616	6670
Cities	8234	8417	8610	9180
Total	15356	15306	15226	15850

Figure 2 Townships and Cities



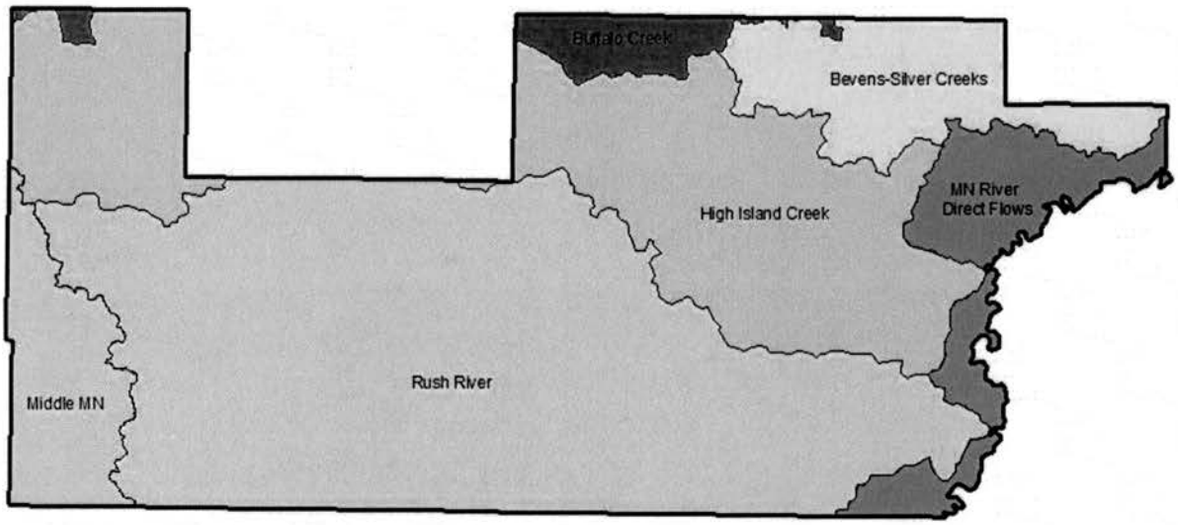
The Lower Minnesota River Watershed encompasses the largest part of the county (91%). The High Island Creek, the Rush River and the Bevens Silver Creek Watersheds along with the direct flow areas make up the Lower Minnesota River Watershed. (See Figure 3)

The Middle Minnesota River Watershed lies on the western edge of Sibley County. It flows to the south and is 6% of the area. The watershed contains Eight Mile Creek and a portion of Little Rock Creek.

The Buffalo Creek which flows in and out of the county on the northern edge contains 3% of the land area of the county. It flows to the South Fork Crow River Watershed which flows into the Mississippi River.

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Figure 3 Sibley County Major Watersheds



Agriculture is the dominant land use in Sibley County and will continue to be dominant in the future. Corn, soybeans, sugar beets, sweet corn and peas make up the majority of crops that are produced in Sibley County. Animal agriculture has declined in Sibley County since 2000 when the last water plan was updated. Large operations make up most of the animal agriculture in Sibley County today.

Background of Water Plan Process

The Sibley County Board of Commissioners passed a resolution on June 6, 1988 to apply for a grant to develop the County Comprehensive Water Management Plan and on July 16, 1988 appointed the first Water Resources Advisory Committee (WRAC). The first plan was approved by the Board of Soil and Water Resources in November 1990 and adopted by the Sibley County Commissioners on December 11, 1990. The first revision began with a resolution to update the Comprehensive Water Plan on October 25, 1994. The first revision was adopted by the Sibley County Board of Commissioners on July 9, 1996. The second revision of the County Water Plan began with a resolution to update on February 8, 2000. This revision was adopted by the Sibley County Board of Commissioners on February 12, 2002. The Sibley County Board of Commissioners passed a resolution to update the current Sibley County Comprehensive Water Plan on June 22, 2010. Because of time restraints in 2011 the Sibley County Board of Commissioners requested a two year extension to the current water plan. This extension was granted by BWSR. The current Water Plan will now end on December 31, 2013. This will be the third revision and the fourth generation of the Comprehensive Water Plan.

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Sibley County Environmental Services administered the Plan from the inception until the end of 1999. At that time the Sibley County Board of Commissioners asked Sibley SWCD to administer the Plan. Sibley SWCD continues to administer the Sibley County Comprehensive Local Water Plan at this time.

Plan Purpose

The purpose of the Local Water Management Plan is to protect the water resources in the county from point and nonpoint sources of pollution. The water plan meets the requirements set forth in Minnesota Statutes 103B.301 - .335. Subdivision 4 of Minnesota Statutes 103B.311 requires water plans to have the following:

1. The plan must cover the entire county.
2. The plan must address problems in the context of watershed units and groundwater systems.
3. The plan must be based upon principles of sound hydrologic management of water, effective environmental protection and efficient management.
4. The plan must be consistent with local water management plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or groundwater system.
5. The plan must cover a five or ten year period. Sibley County has decided that its plan will be for 10 years with review and amendment to the plan as necessary in five years.

Past Accomplishments

Sibley SWCD, Sibley County and its partners (listing is found at the end of this section) have worked on a significant number of the objectives contained in the 2002-2011 Sibley County Comprehensive Local Water Plan. Many existing and ongoing programs were built or enhanced as a result of implementing the water plan. Following are a few of the accomplishments from Sibley SWCD; NRCS; High Island Creek Watershed Clean Water Partnership; and Rush River Watershed Clean Water Partnership:

- 8,825 feet of terraces
- 2 Ag waste pits
- 54 unused wells sealed
- 1 Diversion
- 24 Water & Sediment Basins
- 8 Grade Stabilization Structures
- 357 acres of CREP
- 566 acres of RIM/WRP
- 465 Alternative Tile Inlets
- 175 acres of Wetland Restorations

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- 255 acres of Filter Strips
- Annual Educational Booth at the Sibley County Fair
- Develop, update and maintain the educational page on SWCD website
- Educational open house showing installation of rock inlets
- Calibration of manure spreading equipment
- Two Water Quality days for 4H
- Strip-Till demonstration plots

Well Sealing Program

From 2002 through 2010, 448 wells were drilled by landowners and 467 unused or abandoned wells were sealed. Water Planning secured a $10,000.00 grant in 2002 that sealed 27 wells at 50% cost share. Sibley SWCD funds the sealing of unused wells at 50% of the cost of sealing, up to $400 per well, if cost-share funding is available. Sibley SWCD has used State Cost Share funds to seal 68 wells since the program began in 2005. In 2012, fifteen landowners signed contracts to seal wells on their property.

Septic System Program

The Environmental Services Office administers planning and zoning, feedlots, septic systems, county and judicial ditches, floodplain, shoreland, agricultural weed and seed inspections and solid waste. The office has a director, an assistant director, an aide, an office manager and a part time solid waste officer. The Environmental Services Office contracts with a private contractor to do its septic system inspections.

Planning and Zoning updated the county's septic system ordinance in 2009. The updated ordinance is more restrictive than state law in certain areas. The ordinance states that systems must also comply with MPCA Rule 7080. In 2004 Sibley County required all septic systems to be compliant when the property is sold. The Sibley County Septic System inspector averaged 3-4 compliance inspections per year before the rule was enforced and 35-40 compliance inspections per year after the rule was enforced.

From the time the current water plan was adopted through 2012, 790 permits for septic systems were issued. Two hundred two (202) low interest loans have been used to finance upgrades to non-compliant systems. These loans have come from Clean Water Partnership money, Federal 319 money and the Ag BMP revolving loan fund from the Minnesota Department of Agriculture. The septic system loan program is run through the Water Planning office which is part of Sibley SWCD.

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Feedlot Program

Environmental Services Office staff continues to review permits of livestock producers. As part of the ongoing program, staff has been concentrating on Level III inspections for the last five years. All permits are reviewed with an onsite inspection visit every four years. The feedlot officer helps producers with permit renewal and makes them aware of all compliance issues.

The number of registered feedlots continues to decline in Sibley County as producers retire or decide to get out of animal agriculture. The number of registered feedlots in 2012 was 447. The largest group of producers is in the 10 - 299 animal units with 390 permits. Forty seven (47) producers have feedlot permits for 300 - 999 animal units. Sibley County has 75,729.227 animal units registered. Sibley County has 10 feedlots with greater than 1,000 animal units that are registered by MPCA.

Ditch Authority

Sibley County Environmental Services Office, which acts as the Ditch Authority, has 550 miles of ditch and 150 miles of tile under its authority with 25 miles of ditch requiring a one rod buffer. In 2009 the Sibley County Commissioners began the process of Redetermination of Benefits on all county ditches. This will be a long program and will be addressed in the new water plan also. This program will have two benefits. All landowners will now be assessed for damages and benefits and all county ditches will have a one rod buffer. The High Island Creek Watershed District has 94.84 miles of one rod buffer. The one rod buffer is on all waterways under their control. (See figure 3 for the location of the High Island Creek Watershed.)

Tri-County Solid Waste

Tri-County Solid Waste is a Joint Powers Board between Sibley, Nicollet and Le Sueur Counties that was organized in 1987. The three counties decided to use this approach to solid waste management rather than have separate programs in each county. The solid waste officer works out of the Environmental Services Office and splits his time between the three counties.

Tri-County Solid Waste implemented the Ag Bag Disposal program which is offered to farm operators twice a year. This program still sees continued strong demand and has been very successful. They have partnered with Townships to clean up ravines along town roads. Another program that has been quite successful is the Message in a Bottle where the county has placed receptacles to recycle aluminum cans and plastic bottles at the fairgrounds, county and city parks. Tri-County Solid Waste also offers a once a year Household Hazardous Waste pickup. This program rotates among the seven cities in Sibley County. See Table 2 for drop-off site

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locations for residents to use during the year. They continue the public education program with youth teaching them about recycling and water preservation.

Table 2 Sibley County Drop-Off Sites

City	Location	Time
Arlington	Main St. & 4th Ave.	Every Tuesday during Daylight Hours
Gaylord	South of Main St. on 5th St.	1st and 3rd Saturday 8:00 a.m. – 11:00 a.m.
Gibbon	Empty lot on Main St. by the RR tracks	1st and 3rd Tuesday 2:30 – 5:30 p.m.
Green Isle	By the Fire Hall	2nd Tuesday of the month 9:00 a.m. – 5:00 p.m.
Henderson	By the City Garage	Sunday – Saturday All Day
New Auburn	By City Hall	1st & 3rd Wednesdays 2:30 p.m. – 5:30 p.m.
Winthrop	By City Fire Garage	2nd & 4th Saturday 8:00 a.m. – 11:00 a.m.

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Total Maximum Daily Load (TMDL)

Water bodies that fail to meet one or more water quality standards are considered impaired and are subject for inclusion on Minnesota's Impaired Waters list. See Appendix B for the list of impaired waters in Sibley County. The Federal Clean Water Act requires a Total Maximum Daily Load be developed for identified impairments. A TMDL is defined as the maximum amount of a pollutant that a water body can receive and still meet water quality standards. A TMDL also identifies the process needed to gather data, stake holder input and technical expertise to identify the source of pollution. The last part of the TMDL process implements a plan to reduce pollution.

Sibley SWCD and Sibley County have participated in and coordinated water quality studies and implementation projects in the Rush River, High Island Creek, Buffalo Creek, Bevens Creek, Silver Creek, Eight Mile Creek and Little Rock Creek Watersheds. The studies have found that rivers and creeks have reaches that are impaired for nitrogen; phosphorus; sediment; and fecal coliform.

The TMDL Implementation Projects that were taking place in Sibley County ended June 30, 2011 except on the Buffalo Creek. These projects have had varied success with better results

toward the end rather than when they started. It seems that it took stakeholders a long time to be convinced that cooperating would help clean up the problems. The Buffalo Creek Implementation project ended June 30, 2013. The Rush River Implementation Project for Fecal Coliform is in effect between 2009 and 2014 and the High Island Creek TMDL Project for Fecal Coliform is in effect between 2011 and 2015.

TMDL Studies for fecal coliform impairments to Bevens-Silver Creeks, High Island Creek, Buffalo Creek and the Rush River have been drafted or completed. Sibley County will seek to implement recommendations from these studies with a focus on feedlot sources and non-compliant septic systems.

At this time work had begun on an IBI/Turbidity TMDL in both the High Island Creek and Rush River Watersheds. But with lack of funding and intensive water quality studies coming the TMDL will not be completed as soon as planned.

MPCA will be doing intensified water quality studies in the Middle Minnesota River Watershed in 2013 and the Lower Minnesota River Watershed beginning in 2014. These studies will be identifying biological stressors in the watersheds and create plans for protection, restoration and implementation.

Partners

The following is a partial list of partnerships that provided assistance, staff time or funding.

Sibley County
Sibley Soil and Water Conservation District
City of Arlington
City of Gaylord
City of Gibbon
City of Green Isle
City of Henderson
City of New Auburn
City of Winthrop
Buffalo Creek Watershed District
High Island Creek Watershed District
Brown-Nicollet-Cottonwood Water Quality Board
Board of Water and Soil Resources
Minnesota Pollution Control Agency
Environmental Protection Agency
Natural Resources Conservation Service

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Pheasants Forever
Farm Service Agency
Ducks Unlimited
Minnesota Pork Producers
Minnesota Corn Growers
Minnesota Soybean Growers
Minnesota State University Mankato
Minnesota Department of Natural Resources
Minnesota Extension Service
Minnesota Department of Health
Minnesota Department of Agriculture
U. S. Fish and Wildlife
Conservation Partners of America

Summary of Priority Concerns

The priority concerns of Sibley County water resources have been expressed by residents, water plan committee members and agency input. All comments and descriptions of the concerns have been documented in the Priority Concern Scoping Document located in Appendix C of this plan.

To accomplish the goals that have been put into this Comprehensive Water Plan, Sibley SWCD/Sibley County will need to coordinate activities with agencies and water management organizations. Education will also be a vital component of the Comprehensive Water Plan. Information in the form of handouts, meetings and demonstrations will be used to educate landowners about the county's water priorities. Before the end of the fifth year of this water plan, the plan will be revisited to update concerns that have come to light since the plan was approved.

The cost estimates to complete the Actions are outlined in the implementation schedule are based on available funding (see pages 17-27). The estimates are based on County funding, in-kind contributions, grants, private contributions and other outside sources needed to complete an Action. Sibley County recognizes that implementation and cost estimates can change throughout the plan and they are intended to illustrate the magnitude of water planning efforts. Financial resources are limited and some priority actions described in the plan may require staff and funding beyond current capabilities.

The process to identify the priority concerns began with a survey that county residents could respond to. The WRAC committee then met and identified the concerns that should be pursued in the new water plan. The priority concerns are:

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Drinking Water Quality

Wellhead Protection Plans address many of the concerns the public have with protecting groundwater. Not all cities have Wellhead Protection Plans or Drinking Water Supply Management Areas to protect drinking water. The WRAC also feels there is a continued need to properly de-commission abandoned or unused wells throughout the county. The goal of the Comprehensive Local Water Plan is to maintain or improve the groundwater resource in Sibley County.

Water Quantity

The public and the WRAC are quite concerned about the speed that water is leaving the land. How can this process be slowed? The goal of this concern is to keep the water on the land longer through the use of effective best management practices and improved management.

Nutrient, Manure and Human Waste

This priority concern was identified by the public and the WRAC to assist farmers and landowners in reducing phosphorus, nitrogen and other nutrients in the surface and ground water. The overall goal is to supply farmers with nutrient information on their cropland regarding application rates, residues, awareness of sensitive areas, and overlapping of nutrient applications.

This concern will also address the issue of septic system compliance in Sibley County. The goal of this concern is to improve surface and groundwater quality by addressing septic system compliance in Sibley County. Primarily individual septic systems and cluster housing developments will be the focus of this concern.

Soil Erosion

This plan will also address the issues with erosion and sediment control on agricultural and rural lands. In recent years farming practices have progressed rapidly in the way of implementing conservation practices while still achieving high yields. However, changes to land use and additional conservation practices may be necessary for agricultural land to continue to be profitable and sustainable. Reaching that sustainability through BMP promotion and implementation is needed. The goal of this concern is to reduce soil erosion from rural lands of Sibley County.

Plan Administration

This priority concern was added to the plan after the Priority Concerns Scoping Document was approved. The WRAC felt that for the Comprehensive Local Water Plan to be successful there was a need to have staff available to continually administer it.

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Estimated Costs

	Overall	County
Priority Concern 1: Drinking Water Quality		
Goal 1: Protect and improve the quality of groundwater for the citizens of Sibley County.	$ 174,900	$ 57,150
Goal 2: Protect and improve the quality of surface waters.	$ 2,608,650	$ 1,565,000
Goal 3: Conduct water quality studies.	$ 693,400	$ 396,000
Sub-Total:	**$ 3,476,950**	**$ 2,018,150**
Priority Concern 2: Water Quantity		
Goal 4: Encourage the preservation and restoration of wetlands.	$ 396,000	$ 326,000
Goal 5: Conduct water quantity studies.	$ 6,671,300	$ 2,607,500
Sub-Total:	**$ 7,067,300**	**$ 2,933,500**
Priority Concern 3: Nutrient, Manure and Human Waste		
Goal 6: Reduce the amount of phosphorus and nitrogen that is entering the water.	$ 17,207,000	$ 1,308,000
Sub-Total:	**$ 17,207,000**	**$ 1,308,000**
Priority Concern 4: Soil Erosion		
Goal 7: Reduce erosion and sediment loading of surface waters.	$ 11,100,490	$ 1,245,000
Sub-Total:	**$ 11,100,490**	**$ 1,245,000**
Priority Concern 5: Plan Administration		
Goal 8: Provide for effective plan administration and coordination.	$ 295,000	$ 295,000
Goal 9: Review and update the Water Plan.	$ 37,500	$ 37,500
Goal 10: Use of Geographic Information Systems data.	$ 846,000	$ 846,000
Goal 11: Pursue grant funding opportunities	$ 15,500	$ 15,500
Sub-Total:	**$ 1,194,000**	**$ 1,194,000**
Grand Total:	**$ 40,045,740**	**$ 8,698,650**

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Priority Concerns Assessment

The five priority concerns that will be addressed in the 2012 Local Water Management Plan are drinking water quality, water quantity, nutrient, manure and human waste and soil erosion. The following provides a brief assessment of each priority concern.

Drinking Water Quality

The Minnesota Department of Health is the state agency responsible for making efforts to protect our groundwater (drinking water). Efforts like the Wellhead Protection Program (WHP) are designed to help protect a public drinking water supply. In order to protect a supply of water that is constantly recharging, a geographic area must first be delineated to determine where your source water is coming from. This area is known as the Drinking Water Supply Management Area and follows parcel boundaries, roads, and geographic landmarks which allow the general public to visualize the recharge zone. The actual groundwater recharge boundary is known as the Wellhead Protection Area (WHPA). Potential hazards that could negatively affect the quality of the groundwater within the WHPA are then identified in the wellhead protection plan. Some examples of these hazards are, leaking storage tanks, industrial waste, feedlots, holding tanks above and below ground, agricultural chemical applications, non-compliant floor drains, etc. It is the duty of the public drinking water supplier to address these issues and take measures to protect the groundwater resource.

It is in the best interest of any municipality to take steps to protect the WHPA. Implementing BMPs in the recharge area now can greatly reduce the risk of the water supply being contaminated in the future. A variety of BMPs can be implemented in the WHPAs such as; CRP, RIM Wellhead program, reduced nutrient application on agricultural fields, cover crops, etc.

In rural areas, most landowners depend on their own drinking water supply system. Typically wells are drilled into aquifers that provide a rural resident with drinking water. Sibley SWCD has a cost share program to seal abandoned wells. When new wells are constructed landowners must seal existing unused wells on the property.

The County's drinking water quality has not shown much of a trend towards degradation or improvement. The deep clay soils on the county have kept contaminants from reaching drinking water aquifers. In the past, and presently, Sibley County has had an aggressive well sealing program to keep drinking water free of chemicals and other contaminants.

The aquifers that county residents use for drinking water get some of their recharge from surface water. Sibley County has many water bodies on the Clean Water Act Section 303(d) list of impaired waters (see Appendix B). These water bodies have been identified to have a pollutant

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source which can limit a stream or lake's designated use. Designated uses for a stream or lake include recreation/fishing, irrigation, swimming or industrial uses. When a pollutant inhibits the use of one or more of these designations, the stream/lake goes on the impaired waters list. Once a stream/lake is on the impaired waters list, the State of Minnesota is required to conduct a Total Maximum Daily Load study. The TMDL addresses the source(s) of the pollutant and determines how much of that pollutant a given water body can receive and still be able to meet water quality standards. The TMDL drives the Implementation Plan for a given impairment. The TMDL Implementation Plan set goals and objectives for actions that must be taken on the land in order to reach the calculated reductions laid out in the TMDL.

Water quality on most of the lakes in Sibley County has degraded from what it once was. Citizen associations and other interested individuals are working to clean up these water bodies. But, the process to restore these lakes to their designated use is lengthy and expensive. See Appendix A for a map of Sibley County lakes.

Water Quantity

Disposing of excess water is a problem facing all of Sibley County. To farm as efficiently as possible the landowners in the western part of the county, where the land is flat, want to get rid of their water as fast as possible. As you move east across the county the terrain becomes hilly and the landowners are complaining about the amount and speed of the water. The residents of eastern Sibley County are concerned about excessive streambank and gully erosion that is now occurring.

The Middle and Lower Minnesota Watersheds will be doing intensive watershed monitoring during the early years of the next Comprehensive Local Water Management Plan. When the monitoring is finished TMDLs will be developed to deal with the impairments found in our water. The Comprehensive Local Water Management Plan, through its partners, will need to work with landowners educating and helping them install practices that retain water at its source for longer period of time.

The trend seems to be more water and it comes at a faster pace. When it does rain the storms seem to be less frequent but more intense which creates flows that are flashier.

Nutrient, Manure and Human Waste

Land application of waste or over application of fertilizers, pesticides, manure, etc. are potential sources of non-point source pollution to groundwater as well as surface water. Enforcing the day to day operations of application practices is difficult, thus technical assistance and education are essential components that help protect the environment. To protect water quality and meet state

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rules, runoff pollutants must be reduced to safe levels before entering streams, rivers and lakes. Proper manure application can not only benefit the environment, it can also save landowners money by applying recommended amounts of manure in place of buying commercial fertilizers.

Elements such as nitrogen, phosphorous and potassium are generally the main ingredients of fertilizers. Nitrogen is water soluble and is able to move through the water table freely and phosphorous is able to attach to soil particles. When they are applied in excess of plant needs, nutrients can wash into aquatic ecosystems where they can cause excessive plant growth, which reduces swimming and boating opportunities, creates a foul taste and odor in drinking water, leads to increased algae blooms and kills fish.

In agricultural settings the MPCA regulates the application and setbacks for a variety of land-applied nutrients. The setbacks provide a buffer between areas that are more susceptible to contaminants than others. If these setbacks are practiced, farmers have the opportunity to land apply nutrients to their fields with limited negative effects on surrounding water quality sensitive features.

Residences that live within a municipality generally have water and waste water treatment available to them. Rural residences, on the other hand, need to rely on individual treatment systems to treat their wastewater locally. Subsurface Sewage Treatment Systems (SSTS) treat wastewater so that harmful pollutants such as excessive phosphorous, nitrates and fecal coliform do not reach our ground and surface water. Failing septic systems can cause fecal coliform to enter our streams and drinking water.

Currently Sibley County is following the MN Rule 7080 requirements. Also, Sibley County Environmental Services Office requires landowners to conduct compliance inspections of their existing SSTS when a bedroom is added to a home. Another method of upgrading septic systems is implementing a Point of Sale requirement in the County. Any home with a septic system must be inspected and, if needed, corrective actions taken prior to the sale of the home/property.

Point of Sale and Sibley County's low interest loan program have had a positive effect for residents to take corrective action on failing septic systems. The trend seems to be that a few home owners will upgrade their septic system every year but most upgrades are coming from Point of Sale.

Soil Erosion

This plan will focus on reducing the effects of erosion in urban and rural areas.

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The causes of erosion in urban /residential areas will be covered in this section along with possible remediation practices. Erosion control is a priority concern in Sibley County because of the negative impacts they can have on our streams and wetlands. Once soil particles become mobile, phosphorus and other elements also move. While phosphorus and other elements are key features in a healthy and fertile soil profile, in excess they pose a hazard to streams and wetlands. In urban settings the majority of erosion comes from construction site activity, vegetation removal, impacts on bluff land and increases in runoff volume. The increase of impervious surfaces leads to the increase of volume and rate of stormwater runoff unless otherwise treated.

Pre-settlement vegetation of Sibley County was made up of prairies, wetlands and shallow marshes and forested areas throughout river bottoms and hillsides. In the late 1800's agriculture started to dominate large portions of the landscape. Perennial vegetation has the ability to hold soil in place and absorb stormwater during rain events. Once removed, erosion and the amount of rain runoff increase immensely. This obviously affects the rate at which erosion occurs on the landscape as well as increasing the rate and flow at which rain water flows to rivers or lakes. Increasing the runoff rate causes gullies and streambank erosion. It is important to keep rain water and soil in place. Sibley County's agricultural background has been and will continue to be an economic stronghold, but conservation practices will have to be implemented in order to achieve sustainable yields and water quality standards in the future. Varieties of BMP's are available to help control erosion of agriculture land and are actively being promoted at Sibley SWCD.

Most farmers have assessed their tillage practices from years past and are now using practices that lower or minimize erosion. Many are seeing the value of filter strips, buffer strips and tillage practices designed to leave more crop residue on the surface. In the last few years there seems to be some farmers returning to moldboard plowing when the crop rotation is corn on corn. A few reasons why they are returning to the plow are excessive residue, university trials that show improved yields, management style and soil type.

Plan Administration

Funding, promotion and education will be key components of the Comprehensive Local Water Plan. To make this generation of the water plan successful, staffing will need to be kept at a level at or higher than present. If staffing would achieve a level higher than present, educational efforts and promotion of best management practices would be increased. More time could be spent by technicians to get practices in places that would do the most good for the environment. County staff would also enhance their job capabilities through the use of GIS technology.

DRAFT



Goals, Objectives and Implementation

This section establishes the Sibley County's Water Plan Goals, Objectives, and Actions. The Water Plan will cover a span of 10 years (2013-2023). The Water Resources Advisory Committee will take another look at this plan at its midpoint and decide if priorities have changed or additional priorities need to be added. A five-year amended plan will be done at this time.

The Goals, Objectives, and Action Steps that are identified in this section were developed with input from the public, various State and local governmental units/agencies, and the Water Resources Advisory Committee.

Each Action has been assigned specific implementation information, including the Focus Area, stakeholders involved, timeframe and an estimated cost to implement the activity. Collectively the Actions lay the foundation for achieving success with the Plan's Goals and Objectives.

Estimated Cost: This category divides the estimated costs of completing the Action Step into two columns: Overall and County. The Overall column provides an estimate of the total estimated cost among all stakeholders (i.e., grants, cost-share, County match, etc.) to implement the Action. The County column represents the estimated cost incurred either directly or indirectly by Sibley County to implement an Action; this includes costs incurred by Sibley SWCD. **The estimated costs associated with this plan are total costs not on a year by year basis.**

DRAFT

COMMITTEE RECOMMENDATIONS

Public Relations, Oversight, and Strategic Planning Committee

1. Reauthorization of the PRAP Assistance Grants – Don Buckhout – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: RE-AUTHORIZATION of PRAP ASSISTANCE GRANTS TO LGUs

Meeting Date: September 25, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: REGIONAL OPERATIONS & OVERSIGHT

Contact: DON BUCKHOUT

Prepared by: DON BUCKHOUT

Reviewed by: PROSP 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
- ☐ Other:

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

ACTION REQUESTED

APPROVE RESOLUTION

LINKS TO ADDITIONAL INFORMATION

PRAP Assistance Grant application information on the BWSR website

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

In March 2012 the Board authorized the PRAP Assistance Grants as a delegated authority to the Executive Director for the 2012-13 biennium. This resolution reauthorizes the delegation authority for the 2014-15 biennium. Grants or contracts are to be used to cost share with LGUs for expenses associated with certain organizational improvements or to address critical issues affecting their operational effectiveness.
This program is consistent with Minn. Statutes 103B.102 (PRAP authorizing legislation) that requires BWSR to provide assistance to underperforming local water management entities for improving their performance. The grants support the PRAP performance reviews by giving LGUs financial assistance to make improvements recommended during the review. Since 2012, the Executive Director has awarded PRAP Assistance Grants to three (3) LGUs for a total of $3608.28 of BWSR funds expended. All three grants were cost-shared 50:50 with the LGUs. As per Board direction, the Executive Director provides regular reports to the Board regarding the grants or contracts executed under this authority.

Minnesota Board of Water & Soil Resources

Board Resolution # _____

Minnesota Board of Water and Soil Resources
FY 14-15 Board Re-Authorization of PRAP Assistance Grants to LGUs

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WHEREAS the Board of Water and Soil Resources (BWSR) has a mandate under Minnesota Statutes Chap 103B.102 to regularly review the performance of local government water management entities in the state and provide assistance for "underperforming entities," and

WHEREAS BWSR routinely monitors the performance of Minnesota's local government water and land management entities, has conducted detailed performance reviews of more than 50 of those entities, and during the course of those reviews has identified the need for specialized assistance to improve their operational performance, and

WHEREAS BWSR receives other requests for specialized assistance to address particularly difficult operational or performance problems that cannot be addressed by routine BWSR staff support, and

WHEREAS the legislature has specifically authorized use of cost share rollover funds for local government assistance to address specialized assistance needs,

NOW THEREFORE BE IT RESOLVED THAT the BWSR Board authorizes the Executive Director to expend up to $10,000 per grant or contract for specialized assistance to local government water management entities to address operational or service delivery problems identified through a PRAP assessment, and

BE IT FURTHER RESOLVED THAT the BWSR Board requires that all such funds awarded be cost shared by the grantee at a percentage dependent on the size of the grant and determined by the Executive Director, and

BE IT FURTHER RESOLVED THAT the aggregate amount of expenditures for the PRAP program and awards are consistent with any appropriation conditions set by the legislature.

_____ **Date:** _____

Brian Napstad, Chair
Minnesota Board of Water and Soil Resources

NEW BUSINESS

1. Disaster Recovery Assistance Program (D-RAP) and Reinvest In Minnesota (RIM) Reserve Emergency Haying and Grazing - Bill Penning – ***DECISION ITEM***

2. 2013 Grants Monitoring Report – Tim Dykstal – ***INFORMATION ITEM***

3. Nutrient Study Results - Dave Wall, MPCA – ***INFORMATION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Disaster Recovery Assistance Program Policy and RIM Emergency Haying and Grazing**

Meeting Date: September 25, 2013

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

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Conservation Easements

Contact: Bill Penning

Prepared by: Bill Penning

Reviewed by: RIM Reserve Management Planning Committee(s)

Presented by: Bill Penning

☐ **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 approve the recommendation of the RRMPC to amend the Disaster Recovery Asistance Program (DRAP) Policy to prohibit emergency haying or livestock grazing on all stand-alone RIM easements.

MN Statutes 103F allows for agricultural production (including haying) and livestock grazing only if approved by the Board for conservation management purposes or extreme drought. This policy modification is being proposed to prohibit crop production (including haying) and livestock grazing during drought emergencies and only allow haying and livestock grazing for conservation management purposes.

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

MN Statute (103F.515) provides BWSR Board authority to allow agricultural production (including haying) and livestock grazing for conservation management purposes or extreme drought. Approval is documented in a Management Plan approved by the local Soil and Water Conservation District (SWCD) and the landowner.

Recent concerns have surfaced regarding reduced environmental and habitat benefits caused by haying and livestock grazing in extreme drought conditions. Last year's OHF appropriation included prohibitions on emergency haying or grazing in two RIM projects. It is likely to be included again this year. Having different policy for only some LSOHC funded easements creates administrative difficulties due to the level of tracking that is needed.

Currently BWSR adminsters over 6,250 RIM easements (closed and in process) on over 250,000 acres. Over the past 26 years there has been a very small number of easements approved for haying or grazing due to extreme drought. In addition, only a small number of easement holders have requested and have been approved to conduct haying or grazing for management purposes. Given the low demand, a consistent policy is desired.

RIM landowners still may request permission to hay or livestock graze their easmeent lands for conservation management purposes provided those activities are documented in a Management Plan approved by BWSR and signed by the landowners and the local SWCD.

Additionally for RIM easements that invovle a federal partner (CRP or WRP), the federal agency may allow emergency haying or livestock grazing.

Amended September 25, 2013

Minnesota Board of Water & Soil Resources

- POLICY -

Disaster Recovery Assistance Program

Overview

Disasters and emergency legislative funding occur frequently and usually unpredictably. These characteristics require a standard operating procedure for BWSR staff and LGUs to follow to optimize efficiencies, responsiveness, and legislative appropriations. In the event of a disaster, program policy (and guidance) will provide BWSR staff and LGUs the needed implementation information and related processes, of BWSR and other state and federal assistance providers.

Purpose

The Disaster Recovery Assistance Program provides designated appropriated funds and other BWSR designated funds to Local Governmental Units (LGUs) to install, repair, or rehabilitate erosion and sediment control and water quality and watershed protection projects in the disaster area. This Program will utilize appropriations for **Erosion and Sediment Control, and Water Quality and Watershed Protection Projects;** and, acquisition of **Reinvest in Minnesota (RIM) Reserve Conservation Easements.** The purpose of this policy is to provide clear expectations for the implementation of funds and programs, appropriated to or implemented by BWSR, that are associated with the DRAP.

Activation

The Board of Water and Soil Resources (BWSR) may activate the Disaster Recovery Assistance Program (DRAP) in the event of a natural disaster or extreme environmental impact. The DRAP is authorized by Minnesota Statutes §12A.05 to address critical conservation problems resulting from a natural disaster. This Policy is activated by BWSR resolution or by authority delegated to the Executive Director.

Table of Contents

Erosion and Sediment Control, and Water Quality and Watershed Protection 3

1.0 Project Allocation Priorities.....3

2.0 Funding Source Priorities.....3

3.0 Local Governmental Unit Eligibility Criteria.....4

4.0 Eligible Activities.....4

5.0 Technical and Administrative Expenses.....5

6.0 Cost Share Rates.....5

7.0 Technical Expertise.....5

8.0 Expenditure of Funds on Practices and Contracts.....6

9.0 Practice Sign-off and Payment.....7

10.0 Post-Construction and Follow-Up Activities.....8

11.0 LGU Reporting Requirements.....9

12.0 BWSR Program Monitoring, Closeout, and Penalty Procedures.....9

Reinvest in Minnesota (RIM) Reserve Conservation Easements.....9

13.0 Eligible Activities and Priorities.....10

14.0 Administrative and Technical Components.....10

15.0 Easement Payment Rates and Conservation Practice Cost-Share Rates.....11

16.0 Post Easement Conveyance Monitoring and Management.....11

17.0 Drought Emerge ncies and Emergency Haying and Grazing.....11

Erosion and Sediment Control, and Water Quality and Watershed Protection

LGUs are responsible for the administration and decisions concerning the local use of these funds in accordance with Minnesota Statutes, Minnesota Rules, BWSR policies; and all other applicable laws. BWSR will use grant agreements and contracts for assurance of deliverables and compliance, with applicable laws, rules and policies. Non-compliance with relevant statutes, rules, and policies may lead to imposition of financial penalties on the LGU.

1.0 Project Allocation Priorities (in priority order)

1. Conservation practices where imminent human safety or health is a concern.
2. Conservation practices that address erosion and water quality problems associated with imminent threats to private or public improvements (infrastructure).
3. Projects that repair, rehabilitate, or replace, existing conservation practices on private lands.
4. New conservation practices that address other erosion, water quality, and watershed protection problems created by the disaster.
5. New practices that will help prevent flood damages in the future.

These allocation priorities may consider other project specific factors including long-term solutions, relative benefits, cost/benefits, and the amount of federal contributions.

2.0 Funding Source Priorities

2.1 Landowners and Local Government Units must first pursue insurance assistance, and eligible federal program funding to repair damages on their properties, respectively, in accordance with M.S. 12A.03.

2.2 State funds appropriated for a disaster response should be used when possible to partner with federal funding for applicable disaster assistance on private lands as non-federal match for federal programs including, but not limited to:

2.2.1 Emergency Watershed Protection Program (EWP) (NRCS)

2.2.2 Emergency Conservation Program (ECP) (FSA)

2.2.3 Environmental Quality Incentives Program (EQIP) (NRCS)

2.2.4 Wetlands Reserve Program (WRP) (NRCS)

2.2.5 Conservation Reserve Program (CRP) (FSA)

2.2.6 Individual Assistance (IA) - FEMA

2.3 State disaster appropriated funds with no match

2.4 Other state or local funds

3.0 Local Governmental Unit Eligibility Criteria

Funds are allocated to LGUs based on the following minimum criteria:

3.1 Location within the applicable defined disaster area; and,

3.2 A Board Conservationist approved LGU damage assessment; and,

3.3 A MN Recovers Task Force Natural Resources Subcommittee or Board Conservationist review and approval of requests for funds; and,

3.4 BWSR Policy.

4.0 Eligible Activities

The primary purpose of activities funded with Disaster Recovery and Assistance funds is to apply structural or vegetative conservation practices to address problems associated with the disaster. Specific preventative practices may also be allowed through policy or appropriation.

4.1 **Practice Standards.** All practices must be consistent with the NRCS Field Office Technical Guide (FOTG), MN Stormwater Manual, or be professionally accepted engineering or ecological practices. Design standards for all practices must include specifications for operation and maintenance for the effective 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 Native Vegetation Establishment and Enhancement Guidelines, to the extent practicable.

4.2 **Effective Life.** All structural practices must be designed and maintained for a minimum effective life of ten years unless a longer term is specified in the design. The beginning date for a practice's effective life is the same date final payment is approved and the project is considered complete.

The grant recipient 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.

4.3 **Repair or Replacement 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 of the practice within the effective life. BWSR may allow replacement of a damaged practice or project that does not comply with expected lifespan requirements with a practice or project that provides equivalent water quality benefits.

5.0 Technical and Administrative Expenses

Disaster Recovery and Assistance Program funds may be used for reasonable technical and administrative (TA) expenses. Eligible TA expenses include the following activities: grant administration, site investigations and assessments, design and cost estimates, construction supervision, and construction inspections. These expenditures must be appropriately documented according to the Grants Manual.

6.0 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.

6.1 **Maximum Rates.** Projects are eligible for up to 100% state and/or federal cost share on disaster impacted sites. (See also 2.0.)

6.2 **Local Rates.** The LGU may set cost share rates less than 100% to help manage project costs and provide consistency for conservation programs. Prior to entering into any contracts with land occupiers, the LGU shall set cost share rates for activities.

6.3 **Match and In-Kind.** A land occupier may provide the remainder of the installation cost through in-kind services or materials, or non-state funds. The LGU shall determine whether charges for in-kind services and materials are practical and reasonable. Standard rates for in-kind services shall be identified in the LGU's cost share program policy or governing body resolution.

7.0 Technical Expertise

The LGU 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.

7.1 **Technical Provider Skills.** The LGU's cost-share policy must contain a description of staff skills, training, or credentials; or a description of other means the LGU will use to insure projects meet the requirements of this policy. This requirement is to demonstrate LGU capacity to design and install practices according to appropriate standards and specifications of the practice(s).

7.2 **BWSR Review.** BWSR reserves the right to review the licensure and credentials of all technical provider staff selected by the LGU, where appropriate.

8.0 Expenditure of Funds on Practices and Contracts

The LGU Governing Body or delegated entity has the authority and responsibility to encumber and approve expenditure of funds within their own organization. The action taken must be documented in the LGU official records. Grant reporting, fiscal management, and administration requirements are the responsibility of the grant recipient (See also 11.0.). BWSR recommends contracts be reviewed by the LGU's legal counsel.

8.1 **Cost Share Contract.** All LGU expenditures of funds providing financial assistance to landowners require a contract with the land occupier. A contract between the LGU and land occupier receiving state funds is required to provide a legal standing to ensure practices are installed according to approved standards and specifications, and maintained according to operations and maintenance plans. The contract must specify LGU enforcement provisions, including repayment of cost share funds and costs to recover and enforce the contract at a rate up to 150% of the original landowner agreement (See also 10.3.). 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 contract must also bear the landowner's signature.

8.1.1 **Contract Modifications.** Modifications to the contract may be made prior to execution.

8.1.2 **Contract Amendments.** Changes to an executed contract are considered an amendment to the contract and subject to review and approval by the LGU Board. 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.

8.1.3 **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 LGU may enter into a contract with only the group spokesperson of the contract.

8.2 **Contract Approval.** LGU Boards must approve or deny the contract. The action taken must be documented in the LGU's meeting minutes. Approval of a contract is considered approval for expenditure of funds.

8.3 **Emergency Work.** Projects where emergency work began prior to LGU or BWSR approval may be eligible for financial assistance with adequate documentation as detailed in DRAP Guidance.

8.4 **Contract and Grant Agreement Timeframe.** LGUs have the authority to adopt timely starting and completion dates. Execution and completion of a contract with a land occupier must be within the grant period unless the project is deemed an emergency (see 8.3). Contracts not completed within the period of the grant agreement must be cancelled unless the contract has been extended and the grant agreement with the LGU has been extended such that the contract timeframe is within the amended grant period.

8.5 **Canceled Projects.** Funds from canceled projects or remaining from completed projects where the final cost was less than the estimated amount may be re-encumbered to a new contract, or unspent funds must be returned, as provided in the grant agreement.

8.6 **Removal of Practices.** LGUs 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.

8.7 **Delegation.** LGUs may delegate signing contracts and supporting program documents to staff. This delegation must be identified in the LGU's policies or by resolution.

8.8 **Grant Agreement Extensions.** Any other existing BWSR grant agreement may be extended up to two additional years. This extension must be by executed amendment. Grant agreement periods, with extensions, may not exceed five years.

9.0 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.

9.1 **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. An example payment voucher form is available on the BWSR website.

9.2 **Actual Cost Different Than Estimated Cost.** In cases where the actual cost of the practice exceeds the estimated cost, the LGU may only share the additional amount when an amendment to the contract has been approved per policy 8.1.2. Where the actual cost is less than the estimated cost, the LGU shall only share the approved percentage of the actual cost of the practice (per policy 6.1).

9.3 **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.

9.4 **Combining Funding Sources.** Payment amounts from combined state and federal sources shall not exceed the 100% cost share rate.

9.5 **Final Plans.** One copy of the final as-built plan must be given to the land occupier and one copy retained with the project file located in the LGU office.

10.0 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 designated technical staff (per 7.0) are necessary to ensuring operation and maintenance has been taking place.

10.1 **Operation and Maintenance Plan.** Designated 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.

10.2 **Inspections.** Designated 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:

- **10.2.1** Verify that all components of the practice remain in place and are in good repair and providing designed environmental benefits and outcomes.
- **10.2.2** Identify repairs necessary in accordance with the operation and maintenance plan.
- **10.2.3** Identify further assessment or action necessary if repairs are beyond the scope of the operation and maintenance plan.

10.3 **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 for repayment of cost share funds and costs to recover and enforce contract, at a rate up to 150% of the original landowner agreement as determined by the LGU board. The LGU shall provide the basis for repayment.

11.0 LGU Reporting Requirements

To ensure the continued success of the DRAP, 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.

11.1 Reporting. LGUs must enter information on activities accomplished with the grant funding in eLINK. Reporting is required for grant fund expenditures and is to be completed by BWSR established reporting deadlines.

11.2 Grant Closeout Reporting. Within thirty (30) calendar days of the conclusion of each grant agreement or expenditure of all grant funds, LGUs are required to provide the following to BWSR:

- **11.2.1** Entry of information on all projects completed with the grant funding in eLINK
- **11.2.2** Signed Final Financial Report from eLINK
- **11.2.3** Return any unspent funds as instructed on the Returned Check Form, found on the BWSR website.

11.3 Records Retention. Project files must be retained by the LGU pursuant to Minnesota Statutes, §138.17 and consistent with ongoing records retention schedules.

11.4 Non-compliance with Reporting Requirements. Any LGU that does not satisfactorily complete these requirements may be ineligible to receive funds from BWSR programs until all required past reporting has been completed.

12.0 BWSR Program Monitoring, Closeout, and Penalty Procedures

BWSR staff is authorized to develop grant agreements, including requirements and processes for fiscal closeouts, and project outcomes reporting. 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.

Reinvest in Minnesota (RIM) Reserve Conservation Easements

In responding to flood disasters the BWSR seeks to acquire permanent conservation easements from willing landowners on damaged lands in declared disaster counties to provide flood attenuation, restore and protect soil and water resources, and to support and restore related fish and wildlife habitat. Easements will be acquired via the RIM Reserve program, MS 103F.501.

13.0 Eligible Activities and Priorities

13.1 Eligible lands

13.1.1 Flood damaged lands, both cropland and non-cropland areas. All eligible land types under MS 103F.515, Subd. 2 that have been damaged by flooding are eligible.

13.1.2 Riparian lands with a history of flooding within and beyond the 100 year floodplain, where an easement will help mitigate future flood impacts.

13.1.3 Wetland restorations where storage will help reduce future flood impacts.

13.2 **Priorities.** Cropland areas are the priority for funding consideration. Removing cropland from flood-prone areas will have positive water quality impacts, reduce runoff, and lessen negative economic impacts due to flooding for landowners and governments. Non-cropland areas are a lower priority.

13.3 **Conservation Plans.** All lands placed under easement will have an approved conservation plan developed to establish and maintain permanent vegetative cover and required structural practices consistent with the *Practice Specifications* section of the RIM handbook.

14.0 Administrative and Technical Components

14.1 Easement sign-up procedures

14.1.1 BWSR easement staff have the authority to develop specific procedures required to conduct landowner sign-up with SWCDs in response to disasters. This includes a complete list of what is needed to be submitted with each landowner application package.

14.1.2 SWCDs will take applications from landowners during the BWSR prescribed sign-up period, and prioritize their applications based on their effectiveness in addressing flood impacts in their county prior to submitting them to their BWSR Board Conservationist (BC) by the sign-up deadline.

14.1.3 BWSR BCs will rank and prioritize applications from all of their respective SWCDs prior to submittal to BWSR Easement staff for final funding decisions.

14.1.4 BWSR Engineering staff will review all applications where wetlands are proposed for restoration, or existing drainage infrastructure may be impacted.

14.1.5 All easement program procedures contained in the *RIM Reserve Conservation Easement Handbook* found on the BWSR website will be used to secure easements and pay for practice establishment.

14.2 SWCD Payment for Services. SWCDs will be compensated for their services associated with the acquisition of easements and installation of required practices via the current BWSR approved payment process.

15.0 Easement Payment Rates and Conservation Practice Cost-Share Rates

15.1 Easement and Practice Payments.

15.1.1 The most recent BWSR approved conservation easement payment rates will be used to compute payment for enrolled lands.

15.1.2 The current practice rate limits as prescribed by the BWSR will be used to reimburse landowners for their cost of establishing required vegetative and/or structural conservation practices.

15.1.3 The only structural practices eligible for cost-share are those required to restore wetlands via the RIM Reserve program. Other desired structural practices on lands under RIM easements will NOT be eligible for RIM cost-share.

16.0 Post Easement Conveyance Monitoring and Management

16.1 Monitoring/Site Inspections. All easements acquired will be inspected by SWCD staff on an annual basis for the first 5 years after an easement is recorded, and every 3rd year thereafter. BWSR will provide a list of easements for inspections to the SWCD.

16.2 Management and Maintenance. SWCDs will assist landowners or authorized agent with on-going management activities on their easements. Weed control, boundary issues, activities on the easement, and maintenance of water control structures are the main activities that landowners will need assistance with.

17.0 Drought Emergencies and Emergency Haying and Grazing

~~*(If appropriation language permits emergency haying and grazing, then the following section applies.)*~~

~~As authorized in MS 103F.501, subd. 4, (2) BWSR has developed policy for its RIM easement lands that is responsive to livestock producers needs while still protecting the wildlife habitat and other environmental concerns on these lands.~~

17.1 Federal Partnership Easements, CREP and RIM-WRP. Many RIM easements are enrolled jointly with a federal program, such as the Conservation Reserve Program (CRP), or the Wetlands Reserve Program (WRP). For these joint easements BWSR defers

to federal guidelines, requiring landowners to comply with federal provisions for haying and grazing.

17.2 **Stand Alone RIM Reserve Easements.** For lands with RIM easements only, emergency haying or livestock grazing is not allowed.~~the BWSR has established the following policy:~~

~~**17.2.1** Landowners or designee sign-up for emergency haying and grazing provisions with the local SWCD.~~

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~~**17.2.2** At least 50% of the easement acreage will remain undisturbed for wildlife.~~

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~~**17.2.3** Tree plantings, food plots, water control structures, wetland basins and stream banks shall be excluded.~~

~~**17.2.4** Where practical, mowing will begin in the center of the area to be harvested and commence inside out to allow wildlife to escape.~~

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~~**17.2.5** Haying/grazing will be limited to August 2 to September 30 to protect ground nesting wildlife.~~

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~~**17.2.6** Haying/grazing grasses should be harvested no shorter than 6" in height to ensure regrowth.~~

NOTE: Landowners with RIM easements may still request haying and livestock grazing for conservation management purposes consistent with RIM Vegetative Management and Enhancement of Conservation Easement Lands Policy, dated December 17, 2008.

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: 2013 Grants Monitoring Report

Meeting Date:

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

Item Type: ☐ Decision ☐ Discussion x Information

Section/Region: Fiscal Compliance / Land and Water Sections

Contact: Tim Dykstal

Prepared by: Tim Dykstal

Reviewed by: Committee(s)

Presented by: Tim Dykstal

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

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

Fiscal/Policy Impact

x None
☐ Amended Policy Requested
☐ New Policy Requested
☐ Other:

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

ACTION REQUESTED

None. Information only.

LINKS TO ADDITIONAL INFORMATION

See attached report.

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

On June 22, 2011, the Board Adopted the Grant Monitoring, Reconciliation and Verification Policy, which calls for an annual report to be delivered to the Board on grants monitoring. This is the second annual report.

2012-13 Grant Verification Site Visits Summary
for Fiscal Year 2011 Grants

County	LGU	Date of Site Visit	Status	Completion or Projected Completion Date	Verification Team Members	Comments
Chisago	County	9/11/2012	Complete.	3/13/2013	Tim Dykstal, Marcey Westrick, Matt Drewitz, Melissa Lewis	In compliance; time tracking needs improvement.
	SWCD	10/23/2012	Complete.	3/13/2013		In compliance; financial records in good order.
Morrison	County	9/24/2012	Complete.	3/1/2013	Tim Dykstal, Ron Shelito, Dan Steward	In compliance; time tracking and documentation of match and expenditures need improvement.
	SWCD	9/24/2012	Complete.	3/1/2013		In compliance; financial records in good order.
Watonwan	County	10/10/2012	Complete.	3/13/2013	Tim Dykstal, Ron Shelito, Mark Hiles	One finding; corrective action plan met; now in compliance.
	SWCD	10/10/2012	Complete.	2/20/2013		Several findings; corrective action plan met; now in compliance. Corrective action plan to be revisited in 10/2013.
Anoka	County	3/28/2013	Data analyzed; followup questions answered; results in process.	9/2013	Tim Dykstal, Marcey Westrick	
	SWCD	3/28/2013	Data analyzed; followup questions answered; results in process.	9/2013		
Pipestone	County	4/15/2013	Data processed; followup questions answered.	9/2013	Tim Dykstal, Matt Drewitz, David Sill	
	SWCD	4/15/2013	Data processed; followup questions answered.	9/2013		
Fillmore	County	5/14/2013	Data processed; followup questions answered.	10/2013	Tim Dykstal, Matt Drewitz, Steve Lawler	
	SWCD	5/14/2013	Data processed; followup questions answered.	10/2013		
Kanabec	County	5/21/2013	Data processed; followup questions answered.	10/2013	Tim Dykstal, Jason Weinerman, Don Buckhout	
	SWCD	5/21/2013	Data processed; followup questions answered.	10/2013		
Koochchiching	County	6/13/2013	Data collected.	12/2013	Tim Dykstal, Chad Severts, Ron Shelito	
	SWCD	6/13/2013	Data collected.	12/2013		
Dodge	County	8/20/2013	Data collected.	12/2013	Tim Dykstal, Jeff Nielsen, Steve Lawler, Tom Gile	
	SWCD	8/20/2013	Data collected.	12/2013		

Data compiled by Tim Dykstal
for BWSR Board Meeting, September 25, 2013

2013 Grants Monitoring, Reconciliation and Verification Report
September 25, 2013

Introduction

On June 22, 2011 the Board adopted the Grants Monitoring, Reconciliation and Verification Policy (GMRVP). The policy provided that:

- BWSR staff will annually monitor all grants;
- Competitive conservation program grants will be paid in three scheduled payments; and,
- Financial verification of grant reconciliations will be performed on ten percent of all BWSR grants annually.

This policy was implemented beginning in FY 2012. The implementation plan provided that the BWSR Grants Administrator will annually present a grants monitoring report to the BWSR Board.

Grants Monitoring

Grants "monitoring" is defined in the policy as the review and documenting of the grant recipient's progress implementing the grant and complying with the grant agreement. Grants monitoring occurs throughout the year, but it is formally required when BWSR staff review and approve all required annual reports consistent with the appropriate deadline, which is February 1, 2013 for grants activity that occurred in calendar year 2012, and July 31 for grants that expired on June 30, 2013. Because of the transition to the new eLINK reporting system, these deadlines have been extended, but data on monitoring as of the February deadline was captured before the "old" eLINK was shutdown on March 14, 2013.

Monitoring of 2012 Grants Activity				
Data Collected as of eLINK shutdown				
Type of Grant	Number of Grants	Number of Active Grants	Number of Active Grants Monitored	Percentage of Active Grants Monitored
Conservation Program and Operations Grants	382	341	253	73.2
Project Grants	179	139	120	86.3

These data indicate that, of 382 FY 2012 Conservation Program and Operations (CPOG) grants, 341 had reported some activity—some funds spent—as of March 2013. Of those 341 grants, 253—or 73.2 percent--had evidence in eLINK of having been monitored: had their report status in eLINK changed to either "accepted" or "approved."

Grants monitoring that occurs throughout the year is documented in a grant monitoring journal in eLINK that records the informal conversation, emails, and other contact that BWSR staff have with grant recipients about the progress on their grants. The data reported above do not capture this informal monitoring—only the status changes that are triggered when a BWSR staff member reviews a report in eLINK.

Grant Verification Site Visits

The heart of the Grants Monitoring, Reconciliation and Verification policy is the grant verification site visit. Agency policy is to conduct grant verifications on ten percent of all BWSR grants annually.

During a grant verification site visit, BWSR checks what a grant recipient has received in grant funds (revenue) against what the recipient has spent—and matched--on local programs, operations, and projects (expenditures). The central question in a verification visit is whether expenditures match revenue. If they do, the grant is reconciled. During the site visit, BWSR staff also check whether the terms of grant payments-- as stated in the grant agreement, the BWSR *Grant Administration Manual*, and all applicable state rules and regulations--have been complied with. The grant recipient's internal control environment is also checked.

The GMT and Regional Supervisors selected the following counties for the 2012-2013 cycle of grant verifications: Anoka, Chisago, Dodge, Fillmore, Kanabec, Koochiching, Morrison, Pipestone, and Watonwan. Three counties (Chisago, Morrison, and Watonwan) were visited in fall 2012. Those three counties have had their results processed and delivered. The six other counties were visited in the spring and summer of 2013: data from these visits are still being processed.

Two of the three counties visited in fall 2012 were fully in compliance, although the visit may have resulted in recommendations for improvement. (For example, one LGU was advised to work to maintain the identity of BWSR grants being charged by program type and fiscal year.) One county's SWCD was not in compliance, particularly with respect to documenting expenditures charged to the Wetland Conservation Act (WCA) and State Cost-Share grants. BWSR issued a corrective action plan, and the SWCD Board contracted with a neighboring SWCD to bring the LGU's financial records into compliance.

See the attached chart for a summary of the status and results of these visits.

A recurring observation from these verification visits concerns the billing that LGUs use to charge staff time to BWSR grants. Some LGUs, building off their work plans, use one, average rate to charge staff time. Other LGUs use rounded or "generic" rates. The new financial record keeping guidance that is being incorporated in the *Grant Administration Manual* advises LGUs that "The costs billed to BWSR grants must be based on actual expenditures, not budgeted figures," and that "Financial reconciliation must be based on actual, incurred costs."

Financial Record Keeping Guidance

To responsibly manage a BWSR grant, grant recipients must be able to document the receipt of revenue and expenditures on staff time, contractors, and other costs. They must also know what is and is not an "allowable" cost to be charged to a grant. With the institution of the GMRVP in 2011, BWSR's local partners had been asking for guidance about how to prepare to have their grants monitored and verified. BWSR's existing *Grant Administration Manual*, available online since 2011, discusses the general content of program and project files, but it did not list the specific kinds of documents needed to verify revenue and expenditures on BWSR grants. It also did not offer any best practice examples designed to providing the assurance that BWSR funds have been used as reported, and for the purposes stated in the grant agreement.

To that end, the Grants Monitoring Team has led an effort throughout 2013 to revise the *Grant Administration Manual*, greatly adding to its financial record keeping guidance. Local partners will be informed of the revisions in communications and at the BWSR Academy, in October.

Additional Grants Compliance Staff

BWSR's management has recognized that the increased attention paid to grants monitoring requires additional resources. In addition, although Board Conservationists are the agency's main grant monitors, in the field, evaluating a local government's internal controls, or performing a risk assessment, are skills cultivated by financial professionals. To allocate staff time and competencies more efficiently, BWSR is in the process of hiring two "Grants Compliance Specialists," one to be based in Mankato, and the other in Brainerd. The Grants Compliance

Specialists will work with regional field staff and the Fiscal Compliance Coordinator to enhance BWSR's compliance efforts.

Next Steps

Grants compliance steps to be taken in the coming year include:

- Conducting the next round of grant verification site visits.
- Hiring and training the two new Grants Compliance Specialists, and equipping them to lead the grant verifications.
- Standardizing grant monitoring guidance, to aid in the division of duties between Board Conservationists and Grants Compliance Specialists.
- Assessing the risks in BWSR's procedures of grants reporting, and grant oversight/monitoring, as part of BWSR's overall risk assessment plan.

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Nutrient Study Results

Meeting Date: 9/25/2013

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

Item Type: ☐ Decision ☐ Discussion X Information

Section/Region:

Contact: John Jaschke

Prepared by: John Jaschke

Reviewed by: Committee(s)

Presented by: Dave Wall, MPCA

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

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

Fiscal/Policy Impact

X None
☐ Amended Policy Requested
☐ New Policy Requested
☐ Other:

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

ACTION REQUESTED

None. Information only

LINKS TO ADDITIONAL INFORMATION

http://www.pca.state.mn.us/index.php/water/water-types-and-programs/surface-water/nutrient-reduction/report-on-nitrogen-in-surface-water.html.

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

In June 2013, the MPCA conducted a study of nitrogen in surface waters to better understand the nitrogen conditions in Minnesota's surface waters, along with the sources, pathways, trends and potential ways to reduce nitrogen in waters. The study was a collaborative effort led by Minnesota Pollution Control Agency, with assistance from the University of Minnesota and the U.S. Geological Survey. The report team used more than 50,000 water samples collected at 700 stream sites and used 35 years of monitoring data and findings from 300 published studies.