

**BOARD OF WATER AND SOIL RESOURCES  
RAMADA INN  
CHAPARRAL/FRONTIER CONFERENCE ROOM  
1500 EAST COLLEGE DRIVE  
MARSHALL, MINNESOTA  
AUGUST 23, 2012**

**BOARD MEMBERS PRESENT:**

Bob Burandt, Joe Collins, Jack Ditmore, Chis Elvrum, MDH; Rebecca Flood, MPCA;  
Christy Jo Fogarty, Sandy Hooker, Paul Langseth, Keith Mykleseth, Brian Napstad, Rob  
Sip, MDA; Steve Sunderland, Gene Tiedemann, Gerald Van Amburg

**BOARD MEMBERS ABSENT:**

Quentin Fairbanks  
Todd Foster  
Tom Landwehr, DNR  
Tom Loveall  
John Meyer  
Faye Sleeper, MES

**STAFF PRESENT:**

Mary Jo Anderson, John Jaschke, Jen Maleitzke, Jeff Nielsen, Kane Radel, David Sill

**OTHERS PRESENT:**

Kathryn Kelly, MASWCD  
Tom Kresko, DNR

**Chair Napstad called the meeting to order at 9:05 a.m.**

**PLEDGE OF ALLEGIANCE**

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**12-65** **ADOPT AGENDA** – Chair Napstad reported that an additional agenda item has been added under New Business - Wetland Conservation Act Alternative Emergency Standards. Moved by Paul Langseth, seconded by Sandy Hooker, to adopt the agenda with the additional agenda item. Jack Ditmore asked about the status of the Grants Monitoring Report that was tabled at the June Board meeting. John Jaschke stated that the Grants Monitoring Report will be expected on the agenda at the September Board meeting. Motion passed on a voice vote.

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**12-66** **MINUTES OF JUNE 27, 2012 BOARD MEETING** – Moved by Christy Jo Fogarty, seconded by Paul Langseth, to approve the minutes of June 27, 2012. Rebecca Flood would like an addition added to her report, on page 12, it should read, “Rebecca Flood reported that the Lake Pepin and Minnesota River sediment TMDL comment period for public input is nearing the end.” Motion passed on a voice vote.

**CONFLICT OF INTEREST DECLARATION**

Chair Napstad stated that the declaration process is being used today; he explained that the upcoming agenda item “Preliminary 2012 Flood Response” needs the Conflict of Interest Declaration form submitted.

Chair Napstad read the statement:

*“A conflict of interest whether actual or perceived occurs when someone in a position of trust has competing professional or personal interests and these competing interests make it difficult to fulfill professional duties impartially. At this time, members are requested to identify any potential conflicts of interest they may have regarding today’s business.”*

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

**REPORTS**

**Chair’s Report** – Brian Napstad reported that he was absent from the June 27<sup>th</sup> BWSR Board Meeting due to flooding in his area; he thanked Gerry VanAmburg for chairing the meeting. Brian reported that the flooding in Aitkin County closed roads, and caused other problems. They will get through it with the support of others.

Chair Napstad reported that he attended the EQB Meeting on June 19-20. Chair Napstad has been attending all EQB Meetings to accomplish the Governor’s Executive Order. Chair Napstad stated that once again BWSR staff have stepped up to the plate to carry out the Order. Brian Napstad has been appointed as Vice-Chair of the EQB.

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Chair Napstad thanked Mary Jo Anderson for coordinating all of the logistics for the Board tour and meeting, and he thanked BWSR staff for their assistance with the excellent tour yesterday. He also thanked Kerry Netzke, Pauline VanOverbeke, and John Biren, for their leadership in planning the tour.

**Administrative Advisory Committee (AAC)** – Chair Napstad reported that the AAC met this morning to discuss the Flood Relief Cost Share Disaster Recovery Program Policy and Resolution; and the Wetland Conservation Act Alternative Emergency Standards. These items are on the agenda later today.

**Executive Director's Report** – John Jaschke thanked BWSR staff, Area II, Lincoln and Lyon SWCDs/Counties for planning the excellent tour yesterday.

John reviewed information in Board Members' packets.

John reported that a meeting has been scheduled for August 27, 2012 from 9:00 a.m. to 3:00 p.m. at the Stearns SWCD in St. Cloud to review the proposed Cost-Share and Reinvest in Minnesota Reserve Rules. The meeting invitation was extended to SWCD supervisors and managers, and other local government officials. This meeting is as an opportunity to meet as an outreach effort and go through the rule line by line for clarification and improvements.

Keith Mykleseth noted that the listing of BWSR Advisory Members needs to be updated. John stated that staff will update.

John introduced Jen Maleitzke, Communications Director. Jen's work was noted as an asset to the agency.

John provided a status report on the PRAP Assistance Grants as requested by the Board. John reported that under the new authorization for PRAP Assistance Grants, BWSR has issued a PRAP Assistance Grant to the McLeod SWCD. This grant will fund half of an interagency agreement with the Carver SWCD for assistance with accounting system set-up.

John presented the Drainage Work Group report on behalf of Tom Loveall.

John explained that the Governor's Executive Order 12-4: Supporting and Strengthening the Implementation of the State's Wetland Policy is a project being pursued after intense legislative debate over specific changes to the Wetland Conservation Act that were considered 2012, some of which were enacted. The time frame remaining is very limited and no budget resources were appropriated to complete this project. At the

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same time there are a range of concurrent stakeholder processes that require time and energy from many of the key stakeholders. This effort will seek to achieve efficiency with targeted and focused stakeholder input opportunities. It is assumed that diverse voices from different sectors and regions of the state will help BWSR and cooperating agency staff frame and develop recommendations quickly. Meetings will be held statewide. Chair Napstad encouraged board members attendance at the meetings in their area.

John provided a staffing update. BWSR is going through the hiring process for the vacant assistant director position held by Julie Blackburn. The posting for the vacancy closed on August 20. Also, going through the hiring process for Kyle Skov's drainage engineering position; and two engineering technicians. The wetland specialist position in Rochester is vacant. The vacancy occurred due to Mary Kells, Board Conservationist in Rochester, moving to St. Paul to fill the vacant metro board conservationist position. Steve Lawler, wetland specialist in the Rochester office, took Mary Kells position.

**Dispute Resolution Committee** – Gerald Van Amburg reported that settlement discussions continue on appeal #09-13, an exemption decision in Ottertail County. John reported that the WCA appeal of a restoration order in Waseca County, filed with the Minnesota Court of Appeals will not move forward to the Supreme Court. BWSR concurred with the landowner, and the Appeals Court validated BWSR's decision.

**COMMITTEE RECOMMENDATIONS**

***Southern Water Planning Committee***

**Cottonwood County Local Water Management Plan Amendment** – Paul Langseth reported that BWSR approved the Cottonwood County 2007 - 2017 Comprehensive Local Water Management Plan (Plan) on June 27, 2007. This Plan contains an implementation section with goals, objectives and actions to address the county's priority concerns. The Board Order required Cottonwood County to update the Plan's implementation section by July 1, 2012. Cottonwood County followed the amendment process guidelines established. The Southern Water Planning Committee met on August 21, 2012 to review the Cottonwood County Plan Addendum and recommends approval. Moved by Paul Langseth, seconded by Sandy Hooker, to approve the Cottonwood County 2012 - 2017 Local Water Management Plan Addendum. Motion passed on a voice vote.

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12-67

**Freeborn County Local Water Management Plan Amendment** – Paul Langseth reported that the Board approved the Freeborn County 2006 - 2015 Comprehensive Water Management Plan on August 24, 2006. The Plan contains an implementation section with goals, objectives and actions to address the County's priority concerns. The Board Order required Freeborn County to update the Plan's implementation section

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by December 31, 2011. Freeborn County followed the amendment process guidelines established. The Southern Water Planning Committee met on August 21, reviewed the Freeborn County Plan Addendum and recommends approval. Moved by Paul Langseth, seconded by Sandy Hooker, to approve the Freeborn County 2011 - 2015 Local Water Management Plan Amendment. Discussion followed. Jack Ditmore asked for staff review of consistency in the dates on the Findings of Fact in the Plan Order. Motion passed on a voice vote.

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12-68

**Houston County CLWMP Five-Year Update Extension Request** – Paul Langseth reported that Houston County currently has a Comprehensive Local Water Management Plan that will expire in December 2017. On March 21, 2012, Houston County approved and submitted a resolution requesting an extension of their required five-year update to the implementation section of their Plan. BWSR staff reviewed this request and recommends approval. The Southern Water Planning Committee reviewed the extension request at their August 21<sup>st</sup> meeting and recommends approval of the extension. Moved by Paul Langseth, seconded by Steve Sunderland, to approve the two-year extension of the Houston County plan amendment. Discussion followed. Paul noted that there are different laws for watershed district plans, county plans, and metro Water Management Organizations plans are also different. Motion passed on a voice vote.

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12-69

**Murray County Local Water Management Plan Amendment** – Paul Langseth reported that the Board approved the Murray County 2007 - 2017 Comprehensive Local Water Management Plan (Plan) on June 27, 2007. The Board Order required Murray County to update the Plan's implementation section by July 1, 2012. Murray County followed the amendment process guidelines established. The Southern Water Planning Committee met on August 21<sup>st</sup>, reviewed the Murray County Plan Addendum and recommends approval. Moved by Paul Langseth, seconded by Keith Mykleseth, to approve the Murray County 2012 - 2017 Local Water Management Plan Amendment. Rebecca Flood noted that the Clean Water Act Section is actually Section 303, not Section 202 as listed. Motion passed on a voice vote.

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12-70

**Wabasha County CLWMP Extension Request** – Paul Langseth reported that Wabasha County currently has a Comprehensive Local Water Management Plan that will expire in December 2012. On June 28, 2012, Wabasha County approved and submitted a resolution requesting an extension of their current Plan. BWSR staff has reviewed this request and recommends approval. This extension request was reviewed by the Southern Water Planning Committee on August 21<sup>st</sup> and recommends approval of the two-year extension of the Plan. Jeff Nielsen explained the disarray in Wabasha County. Keith Mykleseth suggested PRAP. Moved by Paul Langseth, seconded by Rob Sip, to approve the Wabasha County Comprehensive Local Water Management Plan extension until December 31, 2014. Motion passed on a voice vote.

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12-71

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Chair Napstad called for a break in the meeting at 10:27 a.m. The meeting reconvened at 10:45 a.m.

**NEW BUSINESS**

**Establishment of An Audit Committee** – John Jaschke reported that the Board is authorized by Minnesota Statutes 103B.101 to “adopt an annual budget and work program that integrate the various functions and responsibilities assigned to it by law”; and to assess “board programs and recommendations for any program changes and board membership changes necessary to improve state and local efforts in water and soil resources management”. John reported that Tim Dykstal, BWSR Internal Control Coordinator, developed the Audit Committee Charter. BWSR staff and the Administrative Advisory Committee recommend approval of the establishment of an Audit Committee. An Audit Committee would appraise the effectiveness of the agency’s internal controls and risk assessment, provides an avenue of communication between BWSR’s internal audit function and external auditors, management, and the Board, and receives reports on BWSR’s fiscal compliance.

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12-72 Moved by Jack Ditmore, seconded by Paul Langseth, to approve the establishment of an Audit Committee. Motion passed on a voice vote. Chair Napstad asked board members to contact him if interested in being a member of the Audit Committee.

The Conflict of Interest Declaration forms were submitted and will be filed for the grant decision item. Chair Napstad declared a potential or perceived conflict of interest due to the flood affecting his professional and personal matters even though he has no known conflict at this time. He will abstain from voting.

**Preliminary 2012 Flood Response** – John Jaschke reported that the Minnesota Legislature will convene on August 24, 2012, in a Special Session to consider appropriations for cost share and easement disaster recovery funding, and invoke M.S. 12A.05 which authorizes waivers of State Cost Share and Reinvest In Minnesota (RIM) Rules for both existing and future contracts.

John stated that the information distributed to board members today is contingent on the anticipated State’s portion of funding appropriated at the Special Session tomorrow. John reviewed the proposed legislative bill that includes \$1.5M for Reinvest in Minnesota (RIM) Conservation Easements; and \$11M for the Erosion, Sediment, and Water Quality Control Cost-Share Program.

John explained the “Flood recovery: recent appropriation summary” and BWSR’s fifth preliminary damage estimates: June 2012 Flood.

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A Presidential Declaration of a Major Disaster (DR-4069) includes Duluth and the northeast part of the state were hit by severe storms and flash floods June 19-21. The storms followed windstorms and floods in western and south-central counties. The President declared a major disaster for 15 counties and three tribal governments, qualifying them for Federal Emergency Management Agency (FEMA) Public Assistance funding. Individual Assistance funding was not authorized.

John review the 2012 Flood Relief Resolution – noting the correction needed to replace the word *Bank* to *Band*, regarding the Fond du Lac Band of Lake Superior Chippewa, and the Mille Lacs Band of Ojibewe.

\*\* John reviewed the BWSR 2012 Flood Relief Cost Share Disaster Recovery Program Policy. Moved by Keith Mykleseth, seconded by Gene Tiedemann, to approve the corrected 2012 Flood Relief Resolution (changing *Bank* to *Band*).

\*\* 12-73 Moved by Jack Ditmore, seconded by Paul Langseth, to add an amendment to the Resolution – under II. Specific A, 5. would read, “ SWCDs or LGUs are authorized to reimburse landowners for costs incurred to rehabilitate and repair existing projects and conservation practices that were damaged due to the DR-4069 event on or after June 14, 2012, *based on adequate and verifiable documentation*. Motion on the amendment to the Resolution passed on a voice vote. Discussion followed.

12-74 Chair Napstad abstained from the vote on the 2012 Flood Relief Resolution – Motion passed on a voice vote.

**Wetland Conservation Act Alternative Emergency Standards** – John Jaschke reviewed the WCA Alternative Emergency Standards Resolution. The word *Bank* will be changed to *Band* in the resolution, as noted in the previous resolution. This is contingent on the Legislative Special Session action on August 24. There is a correction on page 2, Section II. Wetland Delineation, C., second sentence will read, “Provided these areas no longer meet wetland criteria, they shall not be considered jurisdictional wetlands under the Wetland Conservation Act. Jack Ditmore recommends inclusion of, “for the DR-4069

\*\* 12-75 area.” at the end of the resolution. Moved by Paul Langseth, seconded by Rob Sip, to approve the resolution with said changes. Motion passed on a voice vote.

**AGENCY REPORTS**

**Minnesota Department of Agriculture (MDA)** – Rob Sip reported that meetings are moving forward on the Agriculture Water Quality Certification advisory committee. Rob reported that MDA has a new updated document on BMPs; this publication will be coming out soon. Rob distributed a flyer, “Program Overview Summer 2012 Discovery Farms Minnesota” for board members’ information, and he also distributed a publication, “Tiling

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and Conservation Drainage Field Tour and Workshop, August 28-29, 2012, Hankinson, ND. Rob encouraged interested board members to attend.

**Minnesota Department of Health (MDH)** - Chris Elvrum commented on the anticipated legislative funding to MDH for well sealing and clean-up of wells.

**Minnesota Pollution Control Agency (MPCA)** – Rebecca Flood reported that the comment period on Stormwater Management ended in July. Staff are now compiling and preparing responses; she will keep the BWSR Board apprised.

**ADVISORY COMMENTS**

**Minnesota Association of Soil and Water Conservation Districts (MASWCD)** – Kathryn Kelly, MASWCD President, stated that MASWCD appreciates BWSR’s counsel and support to MASWCD. Kathryn reported that her term as President expires in December 2012. MASWCD’s Leadership Session will be held in September in Alexandria. The MASWCD Resolution Committee meets next week. The MASWCD annual meeting will be held December 2-4, at the Double Tree Hotel in Bloomington. Kathryn reported that MASWCD and NRCS are looking at “Field Offices of the Future” working with governmental offices. Kathryn thanked BWSR for the invitation to attend the tour and meeting today.

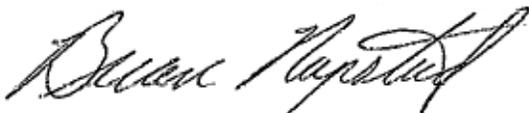
**Minnesota Association of Townships (MAT)** – Sandy Hooker reported that Gary Pedersen is the new executive director of MAT. Chair Napstad commended townships for their local involvement and the importance of townships during the flood event. The township in his area went out their way for flood response, greatly appreciated their support. Sandy Hooker stated that she was impressed with the tour and she learned a lot.

John reported that Tim Koehler retires from NRCS this week and starts with BWSR next week.

**Upcoming Meeting** - Next BWSR Board Meeting is September 26, 2012 in St. Paul.

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12-76 Moved by Christy Jo Fogarty, seconded by Paul Langseth, to adjourn the meeting at 12:10 p.m. Motion passed on a voice vote.

Respectfully submitted,



Brian Napstad  
Chair