

**BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
ST. PAUL, MINNESOTA 55155
WEDNESDAY, MAY 28, 2014**

BOARD MEMBERS PRESENT:

Jill Crafton, Joe Collins, Jack Ditmore, Chris Elvrum, MDH; Douglas Erickson, Rebecca Flood, MPCA; Christy Jo Fogarty, Sandy Hooker, Kathryn Kelly, Tom Loveall, Brian Napstad, Tom Landwehr, DNR; Tom Schulz, Rob Sip, MDA; Faye Sleeper, MES; Steve Sunderland, Gene Tiedemann, Gerald VanAmburg,

BOARD MEMBERS ABSENT:

Judy Ohly
Neil Peterson

STAFF PRESENT:

Mary Jo Anderson, Angie Becker Kudelka, Adam Beilke, Travis Germundson, John Jaschke, Al Kean, Melissa Lewis, Jeff Nielsen, Mary Peterson, Sarah Strommen, Doug Thomas, Dave Weirens

OTHERS PRESENT:

LeAnn Buck, Ian Cunningham, and Mark Zabel, MASWCD
Ray Bohn, MAWD
Stephanie Souter, Washington County

Chair Napstad called the meeting to order at 9:02 a.m.

PLEDGE OF ALLEGIANCE

****** **ADOPTION OF AGENDA** – Moved by Sandy Hooker, seconded by Joe Collins, to adopt the agenda as presented. *Motion passed on a voice vote.*
14-25

****** **MINUTES OF APRIL 23, 2014 BOARD MEETING** – Jill Crafton stated that Angie Becker Kudelka should be added to the staff present at the April Board meeting. Moved by Tom Schulz, seconded by Sandy Hooker, to approve the minutes of April 23, 2014 as corrected. *Motion passed on a voice vote.*
14-26

REPORTS

Chair & Administrative Advisory Committee – Brian Napstad reported that he attended the EQB meeting on May 21; discussion included silica sand mining; and environmental impact statements (EIS). EQB decided to take no action on the Minnesota Sands multi-site EIS.

Chair Napstad testified, representing Aitkin County, at a joint Committee hearing before Representative Dill and Representative Wagenius, regarding the challenges of mitigating wetland impacts due to mining in northeastern Minnesota. Meetings are being conducted with BWSR facilitation regarding solutions to enhance the conservation value of wetland mitigation.

Chair Napstad reported that EPA and the U.S. Army Corps of Engineers have jurisdiction related to the rulemaking process in refining navigable waters in the United States.

Chair Napstad reported that the Administrative Advisory Committee met this morning. Chair Napstad thanked board members who completed the executive director's performance evaluation. Chair Napstad and Vice-Chair VanAmburg will conduct John Jaschke's performance review this afternoon. Chair Napstad reported that John would like his review provided to board members. If approved by MMB, a confidential review will be mailed to board members.

Chair Napstad reported that the white-nose long-eared bats may be listed as endangered species, which impacts water management plans in forested counties potentially curtailing logging activities.

Executive Director's Report – John Jaschke reported that the Board tour will be held on August 26 in Anoka and Ramsey Counties; invitations and logistics will be sent out soon. John reviewed information in board members packets. John stated that a WCA stakeholder process will be developed for WCA legislative consideration next session; recommendations completed by fall. John stated that the EPA rule proposal is receiving much attention. Information is on EPA's website. John reported that staff have been spending considerable time on the draft Non-Point Priority Funding Plan (NPPF), copies will be available for board members later this week. Board Members asked to review the draft plan before it goes to Committees.

John stated that critical conservation areas in Minnesota were announced yesterday, including grassland areas of the county, including the Mississippi River basin; there may be an opportunity to apply for special farm bill funding.

John reported that he and Sarah Strommen have been meeting with DNR, PCA, MDA, MDH, and FSA leadership to discuss and review options and alternatives for a potential CREP proposal, an additional federal funding program with 100,000 acres that the State will enter into agreement with USDA-FSA.

John provided a brief PRAP grant status report.

Dispute Resolution Committee – Travis Germundson reported that 12 appeals are pending. There are two new appeals since last months' report; an appeal of an exemption determination in Kandiyohi County and an appeal of a restoration and replacement order in McLeod County.

Grants Program & Policy Committee – Steve Sunderland reported that the Grants Program & Policy Committee will meet jointly with the RIM Reserve & Soil Conservation Committee on June 12.

Water Management & Strategic Planning Committee – Jack Ditmore reported that the Water Management & Strategic Planning Committee met last night; the 1W1P pilot process was reviewed, and the plan content guidelines were discussed, recommendations will be presented at the June Board meeting. The next meeting of the Water Management & Strategic Planning Committee is June 24, at 5:30 PM.

Wetlands & Drainage Committee – Gerald Van Amburg reported that the Wetlands & Drainage Committee plan to meet in July.

Drainage Work Group – Al Kean reported that the Drainage Work Group will meet on June 12.

COMMITTEE RECOMMENDATIONS

Metro Region Committee

Boundary Changes for Brown's Creek and Rice Creek Watershed Districts – Mary Peterson introduced Stephanie Souter from Washington County, who was instrumental in the boundary change process. Mary reported that Washington County filed a boundary change Petition for the Brown's Creek Watershed District and the Rice Creek Watershed District filed a boundary change Petition for the Rice Creek Watershed District. The proposed boundary changes encompass approximately 568 acres of land in the Cities of Grant and Hugo in Washington County. The boundary changes would bring approximately 548 acres of land into compliance with the Metropolitan Surface Water Management Act that requires all land within the seven county metropolitan area be included in a watershed management plan. Approximately 20 acres of land would be transferred from one district to the other.

The proposed boundary changes would benefit the public welfare and public interest because they would achieve a more accurate alignment between the hydrologic and legal boundaries of the two watershed districts based on more precise topographic data currently available. The public welfare and public interest would be benefitted further by the proposed boundary changes because they would assign several parcels that are bisected by a current watershed district boundary to one or the other of the two watershed districts. In response to the Notice of Filing of the Petitions published in area newspapers, no comments were received, no hearing was requested and no hearing was held. The Metro Region Committee met and unanimously recommends approval of the boundary changes as proposed in the Petitions and that the watershed management plans of each watershed district be amended to include the area of the boundary changes within one year of the draft Order.

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14-27 Moved by Joe Collins, seconded Jill Crafton, that the Board hereby orders that the boundaries of the Brown's Creek Watershed District and the Rice Creek Watershed District are changed per the Petitions as identified in the parcel identification table, Exhibit A, of the Petitions and a map of the Petitioned Area dated February 20, 2014, Exhibit B, attached hereto and fully

incorporated herein. The watershed management plans for each of the two watershed districts must be amended to include the area of the boundary changes within one year of the date of this Order. *Motion passed on a voice vote.* Joe commended Jim Haertel on his excellent work on this process.

NEW BUSINESS

FY14 CWF Update of the Minnesota Public Drainage Manual Contract Award

Recommendations – Al Kean reported that the Clean Water Funds (\$235,000) were appropriated to BWSR in Laws of Minnesota 2013, Chapter 137, Article 2, Section 7(e) for grants to local government units and to update the Minnesota Public Drainage Manual and the Minnesota Public Drainage Law Overview for Decision Makers and to provide outreach to users. In accordance with the created a project RFP specifying expanded document objectives as well as a number of different types of updates that will be applied to the two documents cited in the appropriation. The RFP was open starting on February 3, 2014 and ending on March 19, 2014. Responses to the Update of the Minnesota Public Drainage Manual (UMPDM) project RFP established with funds appropriated in Laws of Minnesota 2013, Chapter 137, Section 7(e) were evaluated based on the following criteria presented to the Board in January 2014.

Ranking was accomplished by an interagency ranking team made up of BWSR (4), MDNR (1), MPCA (1), and MDA (1). Initial ranking (Criteria 1-4) occurred on April 16, 2014. Interviews were held and ranked on May 8, 2014. Due to the language in the appropriation requiring the project to be handled as a grant to a local government, it was originally taken before the Grants Program and Policy Committee on January 10, 2014. However, the legislature corrected the language in LOM 2014, CHAPTER 312--H.F.No. 3172 Article 14 on May 16, 2014. Normally contracts are handled administratively with an appropriate comment by the Director to the Board. However, due to the fact that this project started out as a grant to a local government and is now a contract, it is being brought to the Board as an information item only.

In accordance with the requirements of MMD the RFP responders cannot be told of their rank until the contract has been executed. The Board will not be told of the number, names, cost proposals, or ranks of responders. Contract development is in process. Execution of the contract is expected no later than July 15, 2014. Discussion followed. Chair Napstad thanked Al for his informative report.

Riparian Buffers – Doug Thomas reported that he represents BWSR on the Clean Water Council (CWC); he provided the riparian buffer presentation to the CWC. Al Kean provided an overview of buffer requirements and common types of riparian buffers, current regulations and rules that require vegetated buffers, recent reports, compliance and incentive programs for lake, stream, wetland, and ditch buffers.

Al introduced Logan Tjossem, Olmsted County Planning Department; and Skip Langer, Olmsted County Soil and Water Conservation District. Logan and Skip provided an overview of the shoreland buffer ordinance, a cooperative compliance project in Olmsted County, educating and working with landowners to recognize violations and comply with ordinances. Chair Napstad thanked Skip and Logan for their informative presentation. Tom Landwehr appreciated their good efforts. Gerry Van Amburg thanked Skip and Logan and requested a copy of their valuable presentation. John stated that staff will provide a copy to board members upon request. Al noted the importance of partnership on this effort.

Chair Napstad called for a break in the meeting at 10:55 a.m. The meeting reconvened at 11:10 a.m.

BWSR Legislative Update – Sarah Strommen presented BWSR’s legislative update. Sarah reported that the Minnesota Legislature officially adjourned its 2013-2014 Session on Friday, May 16. The capital investment (bonding) bill was a focal point of legislative discussion this year, the second year of the biennium. The Legislature ultimately enacted both a capital investment bonding bill and a capital investment cash bill, made possible because of the general fund surplus. Another focal point this year was Governor Dayton’s “Unsession” agenda: an effort to make state government work better, faster, simpler, and more efficiently for Minnesotans. More than 1,100 Unsession provisions were enacted, including several brought forward by BWSR. As with every year, there were discussions and actions on a variety of other budget and policy issues. Below is a summary of the key items affecting BWSR:

Capital Investment (Bonding) – Chapter 294 – H.F.2490

The final capital investment bonding bill funds \$846 million worth of projects throughout Minnesota. A significant portion (\$126 million) went for completion of the Capitol renovation. University of Minnesota and MnSCU campuses also received substantial support. Both BWSR programs for which we requested funds were funded, although at a lesser amount.

\$2M for Local Government Road Wetland Replacement Program. This program replaces wetlands lost as a result of local public road improvement projects as required by MN Statute 103G.222, consolidating the necessary technical and financial record-keeping to provide high quality, cost effective wetland replacement.

\$6M for Reinvest in Minnesota (RIM) Reserve. RIM Reserve restores wetlands and grasslands in agricultural watersheds through permanent conservation easements on private lands. The program uses science-based conservation methods that deliver multiple benefits.

Unsession – Chapter 248 – S.F. 2454

The Unsession agenda included reforms that improve government services, eliminate unnecessary and outdated statutes, and simplify language in state laws. BWSR, PCA, and DNR had a joint Unsession bill that included three BWSR components:

SWCD Voluntary Consolidation. This proposal simplifies the process for voluntary consolidation of districts by removing the requirement for a referendum and creating a process by which BWSR can make decisions on proposed consolidations.

Repeal of Star Lakes Board Language. Because the Star Lakes Board is now established as an independent 501(c)3 organization, the statutory language is no longer needed.

Repeal of Minnesota River Board Language. This language is no longer needed due to a recent decision by the Minnesota River Board to disband.

Supplemental Budget – Chapter 312 – H.F. 3172

The final supplemental budget includes \$262 million in additional spending for this biennium across all areas of state government. The bill contains a number of provisions of interest to BWSR:

Re-establishment of the Legislative Water Commission. The Commission will review water policy reports and recommendations from agencies and coordinate with the Clean Water Council. The House and Senate need to make initial appointments to the Commission by September 1, 2014.

\$1M to the University of Minnesota for the Forever Green Agricultural Initiative. The purpose of this program is to incorporate cover crops, potentially with some market value, into existing agricultural practices.

The Clean Water Fund article (Article 14) appropriates to BWSR \$1.4M from the Clean Water Fund. These appropriations include:

\$900K for Surface and Drinking Water Protection/Restoration. This program funds grants to LGUs for projects that protect, enhance, and restore water quality in lakes, rivers and streams and to protect groundwater and drinking water.

\$150K for Groundwater Protection in the North and East Metro Groundwater Management Area. BWSR will work with the Department of Health and LGUs.

\$250K for Groundwater Protection in the Bonanza Valley and Straight River Groundwater Management Areas. BWSR will work with the Department of Health and LGUs in conjunction with the One Watershed One Plan Initiative.

\$100K for Workshops for Public Officials. This appropriation is for work within the North and East Metro Groundwater Management Area.

Environment and Natural Resource Trust Fund (ENRTF) – Chapter 226 – H.F. 1874

BWSR has three programs that will receive funding from the ENRTF as recommended by the Legislative-Citizen Commission on Minnesota Resources (LCCMR):

\$335K for Northeast Minnesota White Cedar Restoration. This is Phase II of a project to assess the decline of northern white cedar plant communities, demonstrate restoration techniques, and provide restoration training.

\$392K for Minnesota Conservation Apprentice Academy. This program will fund 30 apprentice positions to mentor and train future conservation leaders by giving them real-world experience working with a local SWCD.

\$230K for Modernization of Drainage Records. This project will allow BWSR to develop a template and web-based GIS database portal to facilitate statewide modernization of public drainage records.

Outdoor Heritage Fund (OHF) - Chapter 256 - H.F. 1926

BWSR has five programs that will receive funding from the Outdoor Heritage Fund:

\$2.2M for Riparian Buffers. Phase IV of this successful program will continue to complement the Clean Water Fund riparian buffers by expanding buffer widths to enhance wildlife habitat.

\$9.71M for Wetland Restoration and Protection. This is Phase VI of this program to restore wetlands and associated upland. The program is implemented through a partnership with US Department of Agriculture farm bill programs (such as Wetlands Reserve Program), which leverages federal funding for every state dollar invested.

\$862K for Wild Rice Shoreland Protection. This is Phase III of a partnership with DNR and local SWCDs in north central Minnesota to permanently protect sensitive wild rice lake shoreland habitat in northern lakes.

\$1.2M for the Camp Ripley Partnership. This is Phase IV of the partnership with Morrison Co. SWCD, Camp Ripley, and DNR to protect high quality wildlife habitat and forest communities along the Mississippi River.

\$2.45M for Accelerated Protection of Grassland and Prairie Habitat. This is a partnership with the DNR to implement the Minnesota Prairie Conservation Plan through acquisition of permanent conservation easements to protect native prairie and grasslands.

Other Policy and Funding Provisions

There are a number of other provisions carried in a variety of bills that affect BWSR.

Drainage Work Group Bill (Chapter 164 – S.F. 2221). Consensus recommendations of the DWG that will enable multiple water management benefits from drainage projects and improved integration of public and private funding for water management involving drainage projects.

Sarah commended Al Kean and the Drainage Work Group for their efforts on this Bill.

Election of Metro SWCD Supervisors (Chapter 264 – H.F. 2390). Requires that SWCD supervisors in the seven-county metro area be elected by population-based districts.

Drainage Inspectors (Chapter 289 – H.F. 2733). Prohibits County Commissioners from serving as drainage inspectors.

Executive Branch Advisory Groups (Chapter 286 – H.F. 1863). Repeals the RIM Clean Energy Technical Advisory Committee (103F.518, subdivision 11).

AIS Prevention Aid to Counties (Chapter 308 – H.F. 3167). There is a provision in the Omnibus Supplemental Tax Bill that gives counties special AIS prevention aid, which they can in turn provide to an SWCD. The bill appropriates \$4.5M in 2014 and \$10M thereafter, distributed based on a county's share of watercraft trailer launches and a county's share of watercraft trailer parking spaces.

Agency Acquisition Procedure (Chapter 304 – S.F. 2175). This bill establishes a procedure for appraisals and prohibits agencies from paying more than 10 percent over appraised value. BWSR received an exemption due to having more specific procedures outlined for RIM under M.S. 103F.515.

Revisor's Bill (Chapter 275 – H.F. 2546). Fixes an outdated reference to the Commissioner of Agriculture in Minnesota Rules relating to soil loss.

Other Topics of Discussion:

BWSR staff participated in a number of informational hearings, including:

Pollinators. Dan Shaw presented highlights from BWSR's Pollinator Plan to the House Environment and Natural Resources Finance Committee.

Wetland Mitigation Siting (WCA). Informational hearings were held in the Senate and the House to discuss the recommendations of the Interagency Northeast MN Wetland Mitigation Siting Report. BWSR and other agencies will continue to work with stakeholders on this topic over the summer in pursuit of likely legislation in 2015.

Clean Water Fund Outcomes. BWSR staff presented a comprehensive review of the outcomes achieved and expected to be achieved from the FY14 Clean Water Fund appropriations.

Legacy Funds – Supplement/Substitute. BWSR staff participated in a House Legacy Committee hearing exploring how Clean Water Funds are used.

Chair Napstad thanked Sarah for her informative legislative update.

SWCD – Technical Capacity Summit & Funding Legislation – Sarah Strommen introduced Mark Zabel, President of MASWCD; and Ian Cunningham, Vice-President of MASWCD; LeAnn Buck, Executive Director of MASWCD. LeAnn congratulated Kathryn Kelly on her appointment to BWSR.

LeAnn reported that the current levels of SWCD technical assistance and district capacity are not fully able to meet current demands and future expectations. State General Fund budget reductions, declining Federal funding and support from USDA, and inconsistent and often insufficient support from Counties collectively threatens the stability of this foundation for achieving MN's conservation and clean water goals. Finding ways to grow the local/state revenue options for SWCDs is needed if the state is going to be able to accelerate the pace of progress in addressing the major non-point pollution issues we are facing (excessive soil loss; riparian buffer, groundwater, sourcewater and wetland protection; stormwater and drainage system storage and treatment, etc.). These endeavors require practice and project funding, but they are not possible or will not last without highly capable local staff who possess technical credentials and can earn the trust of landowners. Legislation was introduced late in the 2014 Session that includes mechanisms for SWCDs to generate local revenue to achieve their local/state/federal mission. MASWCD and BWSR will be holding a summit to gather ideas on June 11th in St. Cloud. Among the discussion points will be:

- What are the barriers/challenges to the way technical assistance works?

- What's working? (the benefits/strengths of how technical assistance works in Minnesota?)
- What are the key technical assistance needs today and into the future?
- What technical services lend themselves best to coordinated efforts or shared services?
- How do we foster more of the right kinds of shared services?
- What kind of state and local structure is needed to accelerate or enhance technical assistance?

LeAnn acknowledged and appreciates the partnership with BWSR and the assistance provided by John Jaschke and Doug Thomas; and appreciates Angie Becker Kudelka's assistance on the technical capacity summit. Ian stated the importance of local delivery and base capacity, MASWCD is proposing SWCD funding options to resolve issues. Mark commented on local capacity and the amount of time staff are spending on RFPs without funding; this technical assistance expenditure is not reimbursed. Discussion followed. LeAnn distributed the MASWCD 'SWCD Funding Initiative'. Chair Napstad stated that BWSR supports MASWCD.

AGENCY REPORTS

Minnesota Department of Agriculture (MDA) - Rob Sip announced and distributed a flyer for the 'Agricultural Drainage and the Future of Water Quality Workshop' on June 26 in Mankato.

Minnesota Department of Health (MDH) – Chris Elvrum reported that MDH was awarded funding for protection of groundwater management areas.

Minnesota Department of Natural Resources (DNR) – Tom Landwehr commented on the challenges in Minnesota regarding water issues. He reported that \$1M was appropriated for an enhanced study of White Bear Lake; \$44M for the Lewis & Clark pipeline; and a good water initiative was in the recent budget for the Mississippi Headwaters Board. DNR received approval for three proposals: restoration of Marsh Lake; authorization for Fargo-Moorhead diversion to proceed; and first in history Congress authorized closure of the Upper St. Anthony lock in order to prevent the spread of Asian Carp, and was awarded funding for an electric barrier.

Minnesota Pollution Control Agency (MPCA) – Rebecca Flood reported that the Administrative Law Judge recommended approval of solid standards this will be on the PCA Board meeting in June.

ADVISORY COMMENTS

Minnesota Association of Townships (MAT) – Sandy Hooker reported that MAT officials went to Washington, D.C. in early May to meet with congressional delegation.

Minnesota Association of Watershed Districts (MAWD) – Ray Bohn provided a brief overview of MAWD legislative issues. Ray stated that MAWD appreciates BWSR assistance during the legislative session, he thanked John and Sarah for the great work they do during session. Ray thanked Al Kean for his great work on the Drainage Bill. Ray invited board members to attend the MAWD Annual Summer Tour in Stillwater, June 18-20. Board members interested in attending can contact Mary Jo Anderson. MAWD's annual meeting will be in early December. Ray congratulated Jill Crafton on her appointment to the BWSR Board. Chair Napstad thanked Ray for his report.

Chair Napstad announced the upcoming meetings:

- BWSR All Staff Meeting – June 18-19, 2014, St. John's University, Collegeville
- Next BWSR Board Meeting – June 25, 2014, in St. Paul
- RIM Reserve & Soil Conservation Committee and the Grants Program & Policy Committee meetings on June 12
- Water Management & Strategic Planning Committee meeting on June 24

Chair Napstad adjourned the meeting at 12:40 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Brian Napstad".

Brian Napstad
Chair