

**BOARD OF WATER AND SOIL RESOURCES  
520 LAFAYETTE ROAD N.  
LOWER LEVEL CONFERENCE ROOM  
ST. PAUL, MINNESOTA 55155  
WEDNESDAY, MARCH 23, 2016**

**BOARD MEMBERS PRESENT:**

Patty Acomb, Joe Collins, Jill Crafton, Jack Ditmore, Chris Elvrum, MDH; Doug Erickson, Rebecca Flood, MPCA; Tom Landwehr, DNR; Tom Loveall, Brian Napstad, Tom Schulz, Rob Sip, MDA; Steve Sunderland, Gene Tiedemann, Gerald Van Amburg, Paige Winebarger

**BOARD MEMBERS ABSENT:**

Sandy Hooker  
Kathryn Kelly  
Neil Peterson  
Faye Sleeper, MES

**STAFF PRESENT:**

Mary Jo Anderson, Angie Becker Kudelka, Don Buckhout, Travis Germundson, Tom Gile, Dave Johnson, Al Kean, Les Lemm, Melissa Lewis, Bill Penning, Dan Shaw, Aaron Spence, Doug Thomas, Amy Waters, Dave Weirens, Tom Wenzel

**OTHERS PRESENT:**

Choi Lee, Nexus Community Partners  
Ben Baglio, AMC

**Chair Napstad called the meeting to order at 9:04 a.m.**

#### **PLEDGE OF ALLEGIANCE**

Chair Napstad reported that John Jaschke is on vacation this week; Doug Thomas is attending on John's behalf.

**ADOPTION OF AGENDA** – Chair Napstad reported that the agenda has been revised due to staff attending legislative hearings today. Moved by Tom Loveall, seconded by Jill Crafton, to adopt the revised agenda as presented. **Motion passed on a voice vote.**

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16-15

**MINUTES OF JANUARY 27, 2016 BOARD MEETING** – Chair Napstad noted the correction on page two referencing EQB's International Climate Adaption Team; it should read 'Interagency' rather than International. Moved by Tom Schulz, seconded by Jill Crafton, to approve the minutes of January 27, 2016 as corrected. **Motion passed on a voice vote.**

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16-16

#### **INTRODUCTION OF NEW EMPLOYEE**

Bill Penning introduced Amy Waters, Office & Administrative Specialist (OAS) in St. Paul. Chair Napstad welcomed Amy to BWSR.

#### **REPORTS**

**Chair's Report** - Brian Napstad reported on the following meetings he attended this past month. The Wetland Conservation Committee met regarding the WCA Legislative Report; and policy items. The EQB met twice; discussion included: the clean power plant rule by EPA, and refining the environmental review process. The AMC Environment and Natural Resources Policy Committee met, discussions included wetlands and buffers. The Water Management and Strategic Planning Committee met last night, recommendations are on the agenda later today.

**Administrative Advisory Committee (AAC)** – Chair Napstad reported that the AAC met this morning; discussions included legislative update and buffers discussion. BWSR will implement the law as directed. Chair Napstad reported that the Executive Director's performance review will be delayed until next month due to John Jaschke's absence this week. Chair Napstad and Vice-Chair Van Amburg will conduct the review with John.

**Executive Director's Report** – Doug Thomas reviewed information in board members' packets. Doug reported that the April 27<sup>th</sup> Board meeting has been cancelled. Doug commented on projected shortfalls in CWF and LSOHC revenue for the biennium ending in June 2017; LSOHC made adjustments to reduce funding on specific projects; no impact to BWSR funding. MMB meeting with agencies regarding projected reductions for CWF. Doug provided a brief update on CREP noting that Angie Becker Kudelka went to Washington, D.C. last week with the NACD legislative fly-in group; they met with Minnesota's Congressional Delegation and staff to discuss CREP along with FSA.

**Dispute Resolution Committee** – Travis Germundson provided a brief overview of the appeals filed with BWSR, currently eight appeals are pending. A new appeal File 16-2, regarding Rice Creek Watershed District Board of Managers' decision to initiate repair proceedings for Anoka County Ditch 46; no decision has been made on the appeal. Discussion followed.

**Grants Program & Policy Committee** – Steve Sunderland reported that the Grants Program & Policy Committee is scheduled to meet on April 26<sup>th</sup>.

**Water Management & Strategic Planning Committee** – Jack Ditmore reported that Water Management & Strategic Planning Committee met last night; recommendations are on the agenda later today. The Water Management & Strategic Planning Committee is meeting in conjunction with the Grants Program and Policy Committee on April 26. Jack thanked Melissa Lewis and Doug Thomas for the tremendous amount of great work they do.

**Wetland Conservation Committee** – Gerald Van Amburg reported that the Wetland Conservation Committee met on January 27 and March 9. The Committee discussed wetland banking fees; staff development of proposals for new fee authorities; and the clean water action 404 feasibility study. The Committee also reviewed the WCA Rulemaking Report; a recommendation is on the agenda later today.

**Buffers, Soils & Drainage Committee** – Brian Napstad reported that the Buffers, Soils & Drainage Committee recommendation is on the agenda later today. The Committee will meet immediately following the Board meeting today; the Committee has an aggressive schedule to move things forward before the Board.

**Drainage Work Group** – Tom Loveall reported that the Drainage Work Group met on March 3. Tom commented on drainage authority. Al Kean provided an overview of the meeting. Al will provide board members with a draft discussion paper regarding the differences and similarities of the buffer strip requirements, for information. Chair Napstad thanked Al and Tom for their report.

## COMMITTEE RECOMMENDATIONS

### ***Water Management & Strategic Planning Committee***

**One Watershed, One Plan Operating Procedures and Plan Content Requirements** – Melissa Lewis reported that the One Watershed, One Plan was adopted by the Board as a pilot program in June 2014, through the authorization of five pilot areas and adoption of Operating Procedures for Pilots. Plan Content Requirements for the Pilots were adopted by the Board in September 2014. The Water Management and Strategic Planning Committee reviewed edits and changes to these documents based on the pilot experiences and the new Comprehensive Watershed Management Plan type, Minnesota Statutes §103B.801. A public comment period was held January 28 – March 4, with minimal comments received. The Committee met on March 22, 2016, to review the One Watershed, One Plan Operating Procedures and Plan Content Requirements; and recommends approval. Moved by Jack Ditmore, seconded by Patty Acomb, to approve the One Watershed, One Plan Operating Procedures and Plan Content Requirements final documents. Jack stated that public comment was carefully considered. Chair Napstad stated that staff are doing a good job on this. ***Motion passed on a voice vote.***

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16-17

Jack Ditmore stated that the Water Management and Strategic Planning Committee reviewed the draft Transition Plan on March 22, goal is to present to the full Board in June; will be going out for public comment by next week to meet the deadline.

**Local Water Plan Extension and Amendment Policy** – Melissa Lewis reported that the Local Water Plan Extension Policy was adopted by the BWSR Board on December 17, 2014. The purposes of the policy were to facilitate the transition to *One Watershed, One Plan* and allow for effective participation in and use of WRAPS, while maintaining eligibility in applying for and receiving grants. The Water Management and Strategic Planning Committee revisited the policy on January 27, 2016. The Committee discussed modifying the existing policy to broaden the applicability to include amendments and delegate authority for approval of extensions and amendments, under specific circumstances, to the Executive Director. The Committee met on March 22, 2016; reviewed the modifications and recommend adoption. Moved by Jack Ditmore, seconded by Chris Elvrum, to adopt the Local Water Plan Extensions and Amendments Policy which

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replaces Board Resolution #14-76; and authorizes the BWSR Executive Director, for purposes of implementing the Local Water Plan Extension Policy, to approve and sign extension requests; place conditions on extension approvals; to approve and sign local water management plan amendments to incorporate 103F.46 summary of watercourses; to approve and sign amendments to local water plans required by Board order; and to approve and sign waivers to amendments required by Board order. Rebecca Flood recommends the Executive Director periodically be requested to report to the Board. Chair Napstad stated that the Executive Director will report as needed. **Motion passed on a voice vote.**

### **Grants Program and Policy Committee**

**One Watershed, One Plan Grant Program Policy and Request for Proposals** – Steve Sunderland reported that the Grants Program and Policy Committee approved the One Watershed, One Plan grant policy and Request for Proposals for the transition from local water management plans to a watershed approach. Melissa Lewis reported that the Clean Water Funds were appropriated to BWSR in Laws of Minnesota 2015, 1st Special Session, Chapter 2, Article 2, Sec. 7(j) for assistance, oversight, and grants to local governments to transition local water management plans to a watershed approach, also known as the One Watershed, One Plan Program. The proposed One Watershed, One Plan Fiscal Year 2016 Grant Policy was modeled after both the overall Clean Water Fund policies of the Board and the policy used for the One Watershed, One Plan pilot program. The proposed Request for Proposals was modeled after the Request for Interest used in the pilot program. The Water Management and Strategic Planning Committee provided a high-level review of the proposed documents as part of the One Watershed, One Plan program development, prior to the recommendation from the Grants Program and Policy Committee. Moved by Steve Sunderland, seconded by Doug Erickson, to adopt the FY2016 Grant Policy for One watershed, One Plan Planning Grants; and to authorize staff to finalize, distribute and promote a Request for Proposals for the One Watershed, One Plan Program. Jack Ditmore asked for a minor clarification in the eligible activities section of the Policy. Discussion followed. **Motion passed on a voice vote.**

### **NEW BUSINESS**

**BWSR Wetland Restoration Programs and New Wetland Restoration Guide** – Tom Wenzel and Dan Shaw presented an overview of BWSR Wetland Restoration Programs. Tom highlighted projects and reported that BWSR has incorporated many advances in wetland restoration programs and the approach to restoring drained and altered wetlands. Dan presented wetland bank projects and reported that advances include development of more sustainable and ecological-based restoration practices and strategies, in addition to new, updated technical methods, standards, and products. These new concepts, strategies, and techniques are incorporated into the new Minnesota Wetland Restoration Guide. Dan demonstrated the Guide located on BWSR's website. Discussion followed. Tom Landwehr commended Tom and Dan on the astounding work of BWSR staff on wetland restoration. Rebecca Flood acknowledged the years of good work and efforts on this. Al Kean thanked Tom, Dan and BWSR engineering technicians for their tremendous work on the Wetland Restoration Guide. Al stated that Dan is also an artist and much of his work is illustrated in the document. Chair Napstad thanked Tom and Dan for their great work and informative presentation.

### **COMMITTEE RECOMMENDATIONS (continued)**

#### **Wetland Conservation Committee**

**Wetland Conservation Act Rulemaking Report** – Dave Weirens reported that in 2015, several legislative changes were made to the Minnesota Wetland Conservation Act (WCA). The Wetland Conservation Committee met on March 9, 2016, reviewed the required Wetland Conservation Act Report to the Legislature and recommends approval. Les Lemm noted that the legislation included a requirement for BWSR to report to the committees with jurisdiction over the environment and natural resources on the

progress of developing policy for several issues. Les provided an overview of the report, including high priority areas for wetland mitigation, an in-lieu fee wetland replacement program, replacement wetland siting, and actions eligible for credit. WCA rulemaking began in fall 2015, and staff have been working on the initial concepts for implementation of these and other items. This legislative report summarizes this initial work, providing direction for the next stage of rulemaking. Les stated that staff have coordinated the development of this report with DNR and stakeholders. Moved by Gerald Van Amburg, seconded by Tom Landwehr, to accept the WCA Rulemaking Report for submittal to the legislature. Chair Napstad thanked staff for including maps on pages 8 and 9; showing the impacts, LGUs designated high priority for consolidations; and St. Louis County, the largest wetland bank in the country. Discussion followed. **Motion passed on a voice vote.**

Chris Elvrum left the meeting at 11:35 AM.

### ***Buffers, Soils & Drainage Committee***

**Buffer and Soil Erosion Implementation Plan and Timeline** – Tom Gile introduced himself as the new Buffer and Soil Loss Coordinator. Tom reported that staff have developed an implementation plan/schedule for the Buffers and Soil Erosion Programs, which includes conducting a request for information (RFI). Dave Weirens provided an overview of the implementation plan and schedule and presented a brief overview of M.S. 103F.48, Buffer Compliance and Enforcement: assessment, options and process. Dave stated that comments are welcome; the public comment period ends at 4:30 PM on May 1, 2016. Chair Napstad stated that the Buffers, Soils, and Drainage Committee unanimously recommends approval of the implementation plan, timeline, and RFI. Moved by Brian Napstad, seconded by Tom Loveall, to approve the Buffer and Soil Erosion implementation plan and schedule; and authorizes staff to conduct a request for information to be published in the State Register on specific implementation components of the Buffer and Soil Erosion Programs. Jill Crafton commended staff on the proactive approach of the plan. Joe Collins thanked staff for their efforts. **Motion passed on a voice vote.**

Dave reported on the House Environment and Natural Resources Policy and Finance Committee hearing today regarding buffers. Dave provided an update of HF 3000DE (Representative Torkelson) to amend the buffer law and the very recent delete all amendment; no action taken today by the Committee. Dave stated that the Committee hearing today addressed issues with a goal to move the legislation forward. Dave stated that BWSR staff are in contact with the Governor’s office on this legislation. Chair Napstad thanked Dave for the update.

**Buffer Establishment and Management Toolbox** – Tom Gile stated that 103F.48 does not provide ways to combine conservation practices to maximize effectiveness and methods to develop buffers with multiple benefits. BWSR has developed a “Buffer Establishment and Management Toolbox” to cover basic buffer concepts. Dan Shaw reported that the toolbox was developed to assist local government staff in their efforts to plan, establish and manage riparian buffers. The toolbox also includes approximately fifty links to additional information including the Minnesota Wetland Restoration Guide; BWSR’s Pollinator Toolbox; and BWSR’s What’s Working website. Dan stated that the website is very close to being posted. Tom stated that buffer requirements differ, this toolbox is more specific for landowners and SWCDs. Doug Thomas stated that this not intended to be mandatory but a potential resource for local staff and landowners. Tom stated that when a drainage authority is involved they should be consulted and that there may be opportunities to include seed mixes that can fit into how a drainage authority manages required 103E buffers. Chair Napstad thanked Tom and Dan for the informative presentation.

**Buffer Tracking Tool Prototype** — Tom Gile introduced Aaron Spence, BWSR support with MN.IT. Tom stated that as a part of Minnesota Statute 103F.48 (Riparian Protection and Water Quality Practices) SWCDs will be responsible to track progress toward compliance with the requirements in this legislation. Staff has begun development of a compliance tracking database and tools. The tools would provide SWCDs and BWSR with almost real time tracking and compliance data and could take the place of annual reporting by the SWCDs. Currently a prototype has been developed, in the process of field testing the programs with several SWCD staff and BWSR field staff. Tom stated that BWSR is working with DNR MN.IT staff on this as well. Tom Landwehr congratulated staff on this tracking prototype; he asked about alternative practices being used. Tom explained how the application can capture data on where alternative practices have been approved and what they are; and ability for matching and linking up with other information. Discussion followed. Tom stated that staff have been in contact with consulting firms regarding duplication efforts in working with others on this. Chair Napstad thanked Tom and Aaron for this great new tool.

#### **AGENCY REPORTS**

**Minnesota Department of Agriculture (MDA)** – Rob Sip reported that MDA hosted a Pollinator Summit on February 12, a good event, a report will be forthcoming as a result of the summit. Rob suggested that Brad Redlin, Program Manager of the MN Agricultural Water Quality Certification Program (MAWQCP), present the MAWQCP to the Board at an upcoming meeting.

**Minnesota Department of Natural Resources (DNR)** – Tom Landwehr stated that DNR is responsible for two phases of buffer mapping: 1) public waters; and 2) public ditches. The goal is to have the final version completed by July 1<sup>st</sup>.

Tom reported that DNR has determined that the environmental impact statement (EIS) for PolyMet Mining, Inc.'s proposed NorthMet project meets the state's standards for adequacy. DNR followed state law and based its decision on three criteria: 1) Does the EIS analyze the topics identified in scoping? Yes. 2) Does the EIS respond to comments received on the draft? Yes. 3) Did the DNR follow the process established in state statute and rule for preparing an EIS? Yes. The project now moves into the permitting process, in excess of 26 local, state and federal permits required. DNR is hosting a public information meeting in Hoyt Lakes on April 19.

Chair Napstad reported that the April 27<sup>th</sup> Board Meeting has been cancelled; committee meetings will be held on April 27.

#### **UPCOMING MEETINGS**

- BWSR Board Meeting, May 25, 2016, St. Paul
- Board Tour/Meeting, August 24-25 in East Grand Forks, Red River Valley area

Chair Napstad adjourned the meeting at 12:32 PM.

Respectfully submitted,



Brian Napstad  
Chair