



DATE: September 15, 2014  
 TO: Board of Water and Soil Resources' Members, Advisors, and Staff  
 FROM: John Jaschke, Executive Director *JAJ*  
 SUBJECT: BWSR Board Meeting Notice – September 24, 2014

The Board of Water and Soil Resources (BWSR) will meet on Wednesday, September 24, 2014, 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. **Proposed Rule Amendment for Metropolitan Area Local Water Management** - Minnesota Rules, Chapter 8410, govern local water management in the Twin Cities Metropolitan area. The existing rules were adopted by the Board on May 27, 1992. A Rule Advisory Committee was utilized in developing the proposed rule amendment. The rule amendment moves to a result-focused and performance-based watershed management plan. Electronic communication and the use of the Internet would be utilized. The draft rule amendment was available when the Request for Comments was noticed. Extensive stakeholder involvement in the development of the rule amendment resulted in few comments being received in response to the Request for Comments. The Metro Region Committee met on August 26, 2014 to review the draft rule amendment, the Statement of Need and Reasonableness, a Resolution and the BWSR staff recommendation. The Committee voted unanimously to recommend to the full Board approval of the attached Resolution authorizing the Executive Director to proceed with the attached Dual Notice of Intent to Adopt Rules and to proceed with the Order to Adopt Rules if there are no modifications to the draft rule amendment other than modifications approved by the Board. **DECISION ITEM**

***Northern Region Committee***

1. **Northern Red River Basin Local Water Management Plan Synchronization** - In the interest of synchronizing water management efforts in the Northern Red River Basin, Marshall County has requested a two-year extension to their Local Water Management Plan (LWP) until December 31, 2017; Pennington County has requested a waiver to the 5-year update requirement for their LWP; Red Lake County has requested a waiver to the 5-year update requirement for their LWP; Roseau County has requested a waiver to the 5-year update requirement for their LWP; and Kittson County has requested an extension for the requirement to complete the 5-year update until December 31, 2017. These requests would enable the counties to synchronize their schedules with the WRAPS and other local government partners as they transition into One Watershed One Plan. These requests are supported by BWSR Resolution #12-85 and the BWSR Local Water Plan Extensions Policy. **DECISION ITEM**

Bemidji	Brainerd	Detroit Lakes	Duluth	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	26624 N. Tower Road Detroit Lakes, MN 56501 (218) 846-8400	394 S. Lake Avenue Suite 403 Duluth, MN 55802 (218) 723-4752	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 9 <sup>th</sup> Street NW Suite 350 Rochester, MN 55901 (507) 206-2889

2. **Otter Tail County Water Plan Amendment** - Otter Tail County has completed the five- year amendment for the Local Water Management Plan. It was submitted for state agency review and state approval and will be effective until August 31, 2019. **DECISION ITEM**
  
3. **Becker County Local Water Management Plan Extension Request** – Becker County requests an extension to their current Local Water Plan for two years to December 31, 2016. The current plan is due for a full ten year update. The purpose of Becker County’s request is staff turnover in the water plan position, as well as retirements of other staff in the SWCD. This extension will allow new staff to become more familiar with local resource issues as well as utilize developing data and information from WRAPs among other sources to compose a better plan. **DECISION ITEM**
  
4. **Beltrami County Comprehensive Local Water Management Plan Extension** - Beltrami County has a Comprehensive Local Water Management Plan (Plan) that was set to expire May 28, 2013. On May 22, 2013, the Board of Water and Soil Resources (Board) approved a request for a two-year extension of the Plan for Beltrami County. On September 2, 2014, the Board received a request for an additional extension from Beltrami County to synchronize the development of the Plan with other planning and assessment efforts that include the Mississippi River (Headwaters) WRAPS process. On September 10, 2014, the Board’s Northern Region Committee, chaired by Tom Schulz, met to discuss the extension request. The Committee’s recommendation will be presented to the full Board for review and action. The State’s expectations for the extension request must be sent to Beltrami County. **DECISION ITEM**

***RIM Reserve & Soil Conservation Committee***

1. **Transitioning the RIM-WRP to the RIM Wetlands Program** – The RIM Reserve & Soil Conservation Committee will meet on September 16 to review the need and process to transition the RIM-WRP Partnership Program to the RIM Wetlands Program. The RIM-WRP Partnership has been very successful, enrolling over 35,000 acres since 2008. Changes to the Federal Farm Bill along with current RIM appropriations necessitates the need to formalize the RIM Wetlands program which includes RIM-WRP as well as stand-alone RIM as components. Staff recommends approval of the resolution. **DECISION ITEM**
  
2. **2014 Conservation Reserve Enhancement Program** - The RIM Reserve & Soil Conservation Committee will meet on September 16 to review the proposed 2014 Conservation Reserve Enhancement Program (CREP). State agencies, USDA Farm Services Agency and a number of partners support the formation of a CREP in Minnesota targeted at achieving long-term restoration and protection goals of Minnesota’s watersheds and natural habitat areas. Staff recommends approval of the resolution. **DECISION ITEM**

***Water Planning & Strategic Planning Committee***

1. **One Watershed, One Plan Implementation** - At this time the Water Management and Strategic Planning Committee is advancing the Plan Content Requirements for Pilot Watersheds document for Board discussion and adoption. This document provides specific details on the content requirements for drafting a plan intended to be used by the selected One Watershed, One Plan pilot watersheds.

On June 24, 2014 the Committee reviewed and provided comment on the One Watershed One Plan - Plan Content Requirements for Pilot Watersheds document. The committee recognized the need for additional feedback from the Local Government Water Roundtable; however, due to scheduling conflicts, the Roundtable was unable to meet until September 17, 2014. The committee agreed to one final review of the document on September 23, 2014. The anticipated action at this committee is for the attached Plan Content Requirements for Pilot Watersheds to be recommended for approval by the Board at the September 24<sup>th</sup> meeting. **DECISION ITEM**

## **NEW BUSINESS**

- 1. Clean Water Roadmap** - This Clean Water Roadmap's purpose is to articulate the long-term outcomes, expectations of progress, and measures of success toward our shared vision of clean, sustainably managed water resources in Minnesota. **Clean Water Council** members and other key stakeholders had the opportunity to provide meaningful feedback and input throughout the Roadmap development process. Environmental Initiative's work with the state agencies was completed in May 2014. The final Clean Water Roadmap is now ready for release and publication.

If you have any questions regarding the agenda, please feel free to call me at 651-296-0878. The Board meeting will adjourn about noon. I look forward to seeing you on September 24<sup>th</sup>!

BOARD OF WATER AND SOIL RESOURCES  
520 LAFAYETTE ROAD N.  
LOWER LEVEL CONFERENCE ROOM  
ST. PAUL, MINNESOTA 55155  
WEDNESDAY, SEPTEMBER 24, 2014

PRELIMINARY AGENDA

9:00 AM CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

ADOPTION OF AGENDA

MINUTES OF AUGUST 28, 2014 BOARD MEETING

INTRODUCTION OF NEW EMPLOYEE

- Heather Staff, Office & Administrative Specialist

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

REPORTS

- Chair & Administrative Advisory Committee – Brian Napstad
- Audit & Oversight Committee – Brian Napstad
- Executive Director – John Jaschke
- Dispute Resolution Committee – Gerald Van Amburg
- Grants Program & Policy Committee – Steve Sunderland
- RIM Reserve & Soil Conservation Committee – Gene Tiedemann
- Water Management & Strategic Planning Committee – Jack Ditmore
- Wetlands & Drainage Committee – Gerald Van Amburg
- Drainage Work Group – Tom Loveall/Al Kean

COMMITTEE RECOMMENDATIONS

*Metro Region Committee*

1. Proposed Rule Amendment for Metropolitan Area Local Water Management – Doug Thomas - **DECISION ITEM**

*Northern Region Committee*

1. Northern Red River Basin Local Water Management Plan Synchronization – Tom Schulz – **DECISION ITEM**

2. Otter Tail County Water Plan Amendment – Tom Schulz – **DECISION ITEM**
3. Becker County Local Water Management Plan Extension Request – Gerald Van Amburg – **DECISION ITEM**
4. Beltrami County Water Plan Extension Request – Neil Peterson - **DECISION ITEM**

#### ***RIM Reserve & Soil Conservation Committee***

1. Transitioning the Reinvest In Minnesota (RIM) Reserve – Wetlands Reserve Program (WRP) to the RIM Wetlands Program (RIM-Wetlands) – Tim Koehler – **DECISION ITEM**
2. 2014 Conservation Reserve Enhancement Program (CREP) Proposal – Tabor Hoek – **DECISION ITEM**

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

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

#### **NEW BUSINESS**

1. Minnesota's Clean Water Fund Roadmap – Final Revision – Sarah Strommen – **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 – Julie Ring
- 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**

- Next BWSR Board Meeting, October 22, 2014, St. Paul
- BWSR Academy, October 28-30, 2014, Breezy Point, Brainerd

**1:00 PM ADJOURN**

**BOARD OF WATER AND SOIL RESOURCES  
JIMMY'S CONFERENCE CENTER  
3565 LABORE ROAD, GARDEN ROOM  
VADNAIS HEIGHTS, MINNESOTA 55110  
THURSDAY, AUGUST 28, 2014**

**BOARD MEMBERS PRESENT:**

Joe Collins, Jill Crafton, Jack Ditmore, Doug Erickson, Christy Jo Fogarty, Kathryn Kelly, Tom Landwehr, DNR; Tom Loveall, Terry McDill, PCA; Brian Napstad, Neil Peterson, Tom Schulz, Faye Sleeper, MES; Steve Sunderland, Gene Tiedemann, Gerald Van Amburg, Rob Sip, MDA;

**BOARD MEMBERS ABSENT:**

Chris Elvrum, MDH  
Sandy Hooker

**STAFF PRESENT:**

Mary Jo Anderson, Steve Christopher, Dan Fabian, Jim Haertel, John Jaschke, Al Kean, Dale Krystosek, Ben Meyer, Mary Peterson, Ron Shelito

**OTHERS PRESENT:**

Ian Cunningham, MASWCD  
Jessica Pilarski, Washington County  
Lowell Johnson, Washington County  
David Brummel, Washington County

**CALL MEETING TO ORDER** – Chair Napstad called the meeting to order at 9:03 a.m.

## **PLEDGE OF ALLEGIANCE**

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14-48 **ADOPTION OF AGENDA** – Moved by Kathryn Kelly, seconded by Jill Crafton, to adopt the agenda as presented. *Motion passed on a voice vote.*

**\*\***  
14-49 **MINUTES OF JUNE 25, 2014 BOARD MEETING** – Moved by Tom Schulz, seconded by Jill Crafton, to approve the minutes of June 25, 2014 as circulated. *Motion passed on a voice vote.*

**INTRODUCTION OF NEW EMPLOYEE** - Jim Haertel introduced Ben Meyer, Wetland Specialist in the metro area. Chair Napstad welcomed Ben to BWSR.

## **REPORTS**

**Chair & Administrative Advisory Committee** – Brian Napstad reported that the Administrative Advisory Committee did not meet yesterday. Chair Napstad stated that reassignments to BWSR Committees have been made due to Judy Ohly's resignation from the Board. Chair Napstad thanked board members for serving on Committees.

Chair Napstad thanked Anoka Conservation District, Rice Creek Watershed District, and Coon Creek Watershed District for hosting the tour in the metro area. Chair Napstad thanked Jim Haertel and Mary Jo Anderson for a successful tour of the metro area; he also thanked John Jaschke and the metro region staff involved in the BWSR summer tour.

**Chair's Report** – Chair Napstad reported that he attended the Environmental Quality Board (EQB) meeting on August 20 in Duluth at the City Council Chambers. Don Ness, Mayor of Duluth; and Lt. Governor Yvonne Prettner Solon were in attendance. The EQB meeting theme was climate change on Lake Superior and ecology in the area. Nelson French, MPCA; and Dr. Lee Frolich, U of M; presented information regarding the climate change impact on forestry, flood recovery, restoration, redevelopment potential for the City of Duluth. Also discussed how to engage FEMA for improvement of other standards for design, for repair and replacement of flood damaged infrastructure. Chair Napstad stated the importance of meeting statewide to address issues in the area; a very informative meeting.

**Executive Director's Report** – John Jaschke thanked BWSR staff for their involvement in the Board tour yesterday. John reported that the Governor's Office is reviewing applications for the BWSR's citizen member vacancy. John reviewed information in the board members' packets. John reported that the Presidential flood disaster declaration does not have state funding to address the 37 counties affected by flooding to existing practices and projects. A special legislative session is yet to be determined.

John reported that he held meetings with ten SWCD lead staff statewide to discuss the opportunity for shared services; Clean Water Fund work; WCA; and recruiting high quality staff. John will share the input received. A CREP meeting is being scheduled with USDA to discuss pilot project status before a formal application is submitted. Chair thanked John for meeting statewide with SWCDs.

**Dispute Resolution Committee** – John Jaschke reported that there are 14 appeals pending. All appeals involve WCA, except one. One new appeal has been filed since the May report; an appeal of duplicate restoration orders in Otter Tail County regarding alleged drainage alterations to a wetland.

John provided a status report of active PRAP assistance grants. A projected spending of about \$32,000 of \$50,000 allocated for FY 14. There are three active grants (Sauk River WD, Heron Lake WD, Koochiching SWCD for assistance to North St. Louis SWCD). The Koochiching SWCD grant is essentially completed with just the final payment to be made, which will bring the total of that grant to \$10,000 expended. There are two applications in progress: Nicollet SWCD is nearly executed and East Ottertail has just started processing.

**Grants Program & Policy Committee** – Steve Sunderland reported that the Grants Program & Policy Committee will meet later this fall; date to be determined.

**Water Management & Strategic Planning Committee** – Jack Ditmore reported that the Water Management & Strategic Planning Committee will meet on September 23, 5:30 - 7:00 p.m.

**Drainage Work Group** – Tom Loveall reported that the Drainage Work Group met on July 31. Tom provided a summary of key discussion topics. Al Kean highlighted demonstration projects that BWSR is significantly involved in. The EPA proposed rule defining Waters of the U.S. protected under the Clean Water Act comment period is open until September 30. The next meeting of the Drainage Work Group is September 11, 12:30 – 3:30 p.m., at the Minnesota Farm Bureau Building in Eagan. Chair Napstad thanked Tom and Al for their report.

#### COMMITTEE RECOMMENDATIONS

##### *Metro Committee*

**Bassett Creek Watershed Management Commission Plan Amendment** – Steve Christopher reported that the final draft Amendment to the Bassett Creek Watershed Management Commission Watershed Management Plan was filed with the Board on June 7, 2014. The Amendment proposes to revise the Commission's current implementation program by adding one capital improvement project. The total estimated project cost ranges from \$1,319,000 to \$1,659,000. The Order contains the reviewing agencies' comments and the Commission's response to them. The Metro Region Committee met on August 7, 2014; and recommends approval of the Plan Amendment. Moved by Joe Collins, seconded by Faye Sleeper, to approve the Bassett Creek Watershed Management Commission Plan Amendment. ***Motion passed on a voice vote.***

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14-50

**Washington County Groundwater Plan** – Mary Peterson introduced representatives of Washington County Jessica Pilarski, Lowell Johnson, and David Brummel. Mary reported that the Washington County Groundwater Plan was filed with the Board on June 18, 2014. Development of a county groundwater plan is voluntary under the Metropolitan Surface Water Management Act. The County appointed a Groundwater Advisory Committee and a Technical Advisory Committee to begin developing the Plan in 2012. These committees met several times throughout the 2012 and 2013 planning process. Local and state agencies were actively involved throughout the planning process. The state agencies provided final review. The Plan is in conformance with the requirements of Minnesota Statutes Section 103B.255. Mary reported that Washington County requested submittal of corrections to the Plan which were included. The Metro Region Committee met on August 7; unanimously recommends the Plan be approved. Moved by Joe Collins, seconded by Christy Jo Fogarty, to approve the Washington County Groundwater Plan. Joe Collins stated that this is a good plan, difficult, and complex; he commended Washington County for their good work. Joe suggested that BWSR consider the value of mandatory groundwater plans in the metro area; highlighting the need for water use; as statutory change. Rob Sip commended the accountability in Appendix B of the Groundwater Plan Measures. Chair Napstad thanked Washington County for their efforts. John commented on the well developed structure of the Plan, which can be used as a template for others. Discussion followed. Mary reported that Washington County's implementation framework is instrumental in moving forward. ***Motion passed on a voice vote.*** Chair Napstad thanked Washington County representatives for the excellent Plan.

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14-51

Chair Napstad called for a break in the meeting at 10:35 a.m. The meeting reconvened at 10:50 a.m.

### ***Northern Region Committee***

Tom Schulz requested changing the order of agenda items to be presented; the Lake County Priority Concerns Document before and the City of International Falls Comprehensive Wetland Protection and Management Plan. Chair Napstad approved the request to change the order of agenda items.

**Cook County Local Water Management Plan** – Ron Shelito reported that the Northern Region Committee met on July 9, 2014, reviewed the Cook County Local Water Management Plan and agency comments. Ron stated that the power point presentation from Cook County was excellent. The Northern Region Committee recommends approval of the Cook County Local Water Management Plan for a 10-year period ending August 28, 2024. The current Cook County Local Water Management Plan was extended two years and expires October 26, 2014; with amendments completed by August 28, 2019. Moved by Tom Schulz, seconded by Kathryn Kelly, to approve the Cook County Local Water Management Plan, August 28, 2014 to August 28, 2024; with the Executive Summary, Goals, Objectives and Action Items amended by August 28, 2019. ***Motion passed on a voice vote.***

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14-52

**Lake County Priority Concerns Scoping Document** – Ron Shelito reported that Lake County submitted the Priority Concerns Scoping Document for state review and comment as part of updating their Local Water Management Plan. The Northern Region Committee met July 9, 2014, concurs with the Lake County priority concerns and recommends approval of the Lake County Priority Concerns Scoping Document. Moved by Tom Schulz, seconded by Doug Erickson, to approve the Lake County Priority Concerns Scoping Document. ***Motion passed on a voice vote.***

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14-53

**City of International Falls Comprehensive Wetland Protection and Management Plan** – Ron Shelito introduced Dale Krystosek, BWSR senior wetland specialist and project leader. Ron stated that a comprehensive wetland plan is different than a water plan. Dale reported that the City of International Falls has submitted their first Comprehensive Wetland Protection and Management Plan to BWSR for review and approval. Dale presented highlights of the Plan and reported that the Northern Region Committee met on July 9, 2014, to review the Plan. Based on the comments received and staff review of the Plan, the Northern Region Committee recommends approval of the 10-year period of International Falls Comprehensive Wetland Protection and Management Plan. John Jaschke thanked staff for their efforts in building a good working relationship with the City of International Falls to generate this Plan. Ron stated that working together and good compromise can make things happen. Dale stated that International Falls will be tracking wetland protection, they will continue to report to BWSR. Ron stated that close attention and interaction will continue. Discussion followed. Jill Crafton commended Dale on this work. Moved by Tom Schulz, seconded by Jill Crafton, to adopt the City of International Falls Comprehensive Wetland Protection and Management Plan. Jack Ditmore asked for a friendly amendment, on page 2, #3. last sentence, 'City' replaces 'District'. Friendly amendment accepted by Tom Schulz. Dale stated that the U.S. Army Corps of Engineers is in agreement with the Plan; the City ordinance is necessary, then execution of the Plan. ***Motion passed on a voice vote.***

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14-54

### ***Southern Region Committee***

**Lincoln County Comprehensive Local Water Management Plan Extension Request** – Kathryn Kelly reported that Lincoln County currently has a Comprehensive Local Water Management Plan that will expire on August 31, 2014. On July 15, 2014, Lincoln County approved and submitted a formal request for an extension of their current Plan. BWSR staff has reviewed this request and recommends approval. The Southern Region Committee met on August 7, 2014 and recommends approval. The state's expectations for the extension request must be sent to Lincoln County. Move by Kathryn Kelly, seconded by Steve

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14-55 Sunderland, to approve the extension of the Lincoln County Comprehensive Local Water Management Plan. *Motion passed on a voice vote.*

**Pipestone County Comprehensive Local Water Management Plan Extension Request** – Kathryn Kelly reported that on July 22, 2014, Pipestone County approved and submitted a formal request for an extension of their current Plan, expiring on August 25, 2014. BWSR staff reviewed the request and recommends approval. The Southern Region Committee reviewed the extension request at their meeting August 7, 2014 and recommends approval. The state’s expectations for the extension request must be sent to Pipestone County. Moved by Kathryn Kelly, seconded by Neil Peterson, to approve the extension of the Pipestone County Comprehensive Local Water Management Plan until December 31, 2015. Pipestone shall strive to complete the updating of their Comprehensive Local Water Management Plan in a timely manner.

Jack Ditmore expressed concern for counties seeking extensions without clear evidence of the formal agreement of 1W1P, effective participation in WRAPs, or plan synchronization. An extension is not an automatic issue that happens; he would like staff to work with the county before it expires; a year or so lead time. He encourages committee chairs to pay close attention to the expiration dates, transition, and technical concerns.

Kathryn stated that she has been in contact with Jeff Nielsen regarding his agreement for staff to work with counties. Ian Cunningham, Vice President of MASWCD, stated that Pipestone County is trying to synchronize water planning; 1W1P is being discussed in the County, working in coordination with Yellow Medicine County rather than duplication of efforts. Tom Loveall stated that extensions need to be legitimate; an opportunity to evolve, not to extend for no reason. Steve Sunderland agreed with board members’ concerns for the extensions. Jack thanked the Board for the opportunity to address his concerns.

14-56 *Motion passed on a voice vote.* Jack Ditmore opposed.

**Rice County Comprehensive Local Water Management Plan Extension Request** – Kathryn Kelly reported that Rice County currently has a Comprehensive Local Water Management Plan that will expire in December 2014. On June 23, 2014, Rice County approved and submitted a formal request for an extension of their current Plan. BWSR staff has reviewed this request and recommends approval. The Southern Region Committee reviewed the extension request at their meeting August 7, 2014 and recommends approval. The state’s expectations for the extension request must be sent to Rice County, to synchronize, update implementation schedule, and list accomplishments of last five years. Moved by Kathryn Kelly, seconded by Tom Schulz, to approve the Rice County Comprehensive Local Water Management Plan extension. Discussion followed. John Jaschke stated that the criteria and rationale identify that the Rice County extension is legitimate. The 1W1P is a pilot program in a transitional phase. *Motion passed on a voice vote.* Jack Ditmore opposed.

#### **AGENCY REPORTS**

**Minnesota Department of Agriculture** – Rob Sip distributed MDA’s ‘Drainage Recommendations for Local Water Management Plans’ for board members’ information. Discussion followed. Rob reported that he attended the EQB tour.

**Minnesota Department of Natural Resources** – Tom Landwehr reported that he’s been attending meetings in Moorhead, with board member Gerald Van Amburg, and city officials from Moorhead and Fargo, regarding the Fargo/Moorhead Diversion. The two state effort with an upstream detention facility is a controversial issue between Minnesota and North Dakota regarding funding, representation, and with discussions in the media. DNR is in the middle of an EIS, trying to address concerns. Discussion followed.

Tom reported that the Land Exchange Board is meeting with Ecosystem Investment Partners to restore hydrology to create a wetland bank; consolidation of large projects; unique approach, good mitigation site. DNR's concern for private landowners; address this ahead of time, tax forfeit for large mitigation projects; an endowment should be set up for future taxes to the county. DNR's role is to consider sale of lands and authorize use of the wetland bank for a permit to mine.

**Minnesota Extension Service** – Faye Sleeper announced and distributed a brochure on “Building Minnesota’s Capacity for Climate Adaptation: Second Conference on Climate Adaption” November 6, in Minneapolis; on-line registration. Faye also announced the Water Resources Conference, October 14-15, at the RiverCenter in St. Paul.

Chair Napstad suggested inviting experts to a future Board meeting to present climate change and adaptation information.

**Minnesota Pollution Control Agency** – Terry McDill reported that MPCA is requesting comments on the WRAPS and TMDLs for the Mississippi River Lake Pepin Watershed; public comment period ends September 10, 2014.

#### **ADVISORY COMMENTS**

Chair Napstad reported that Annalee Garletz, Association of Minnesota Counties (AMC), is now with Met Council. BWSR has not yet been notified who the AMC representative will be.

**Minnesota Association of Soil & Water Conservation Districts (MASWCD)** – Ian Cunningham thanked BWSR for inviting he and LeAnn Buck to attend the tour yesterday. Ian announced MASWCD’s training of supervisors and lead staff, ‘Strengthening Your SWCD: Taking Charge of Strategic Direction’, September 10-11, in Baxter. MASWCD hosted the SWCD Tech Assistance Summit on June 11 in St. Cloud. Ian reported that legislation was introduced for capacity building. Chair Napstad thanked Ian for attending the meeting today.

#### **UPCOMING MEETINGS**

- Next BWSR Board Meeting – September 24, 2014

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14-58 Moved by Kathryn Kelly, seconded Gerald Van Amburg, to adjourn the meeting at 12:23 p.m. ***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:** September 24, 2014

**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

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**

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  
September 12, 2014  
By: Travis Germundson

There are presently **13** appeals pending. All of the appeals involve WCA except File 10-10. There has been **no** new appeals filed since the last report (August 28th Board Meeting).

Format note: New appeals that have been filed since last report to the Board.  
~~Appeals that have been decided since last report to the Board.~~

File 14-7 (6-23-14) This is an appeal of duplicate restoration orders in Otter Tail County. The appeal regards the alleged drainage alterations to a Type 4 wetland. The petitioners have filed after-the-fact wetland applications for an exemption and no-loss with the LGU concurrently with the petition. The appeal has been placed in abeyance and the restorations orders stayed until there is a final decision on the wetland applications.

File 14-6 (5-28-14) This is an appeal of a replacement plan decision by DNR Land and Minerals involving the Hibbing Taconite Mine and Stockpile Progression and Williams Creek Wetland Mitigation. The appeal regards the approval of a wetland replacement plan application for mining related activities. A similar appeal was also filed simultaneously with DNR under procedures required for permit to mine. The appeal has been placed in abeyance for completion of DNR's contested case proceedings (pre-hearing conference took place on August 21, 2014).

File 14-5 (5-2-14) This is an appeal of an exemption determination in Kandiyohi County. The appeal regards the denial of a wetland exemption application. At issue is the wetland type determination. The appeal has been remanded for technical work and administrative proceedings.

File 14-4 (4-28-14) This is an appeal of a restoration and replacement order in McLeod County. The appeal regards alleged drainage improvements associated with the excavation of a private drainage system. At issue is a prior exemption determination. The appeal was placed in abeyance and the restoration and replacement orders stayed for the LGU to make a final decision on the after-the-fact wetland applications.

File 14-3 (4-17-14) This is an appeal of a restoration order in Murray County. The appeal regards alleged drainage impacts to a wetland confined on a DNR Wildlife Management Area (Degroot). The appeal was placed in abeyance and the Restoration Order stayed for the TEP to produce a revised written report adequately addressing the drainage modifications.

File 14-1 (2-3-14) This is an appeal of a replacement plan decision in Stearns County. The appeal regards the approval of a wetland replacement plan application. Previous appeals (File 12-19 and File 13-5) were remanded for further technical work and administrative proceedings, and now the current approval is being appealed. The appeal was accepted and a pre-hearing conference took place on June 2, 2014. As a result the pre-hearing conference the appeal proceedings have been placed on hold by mutual agreement for additional survey work and an on-site visit (scheduled for August 19<sup>th</sup>). *A verbal settlement agreement has been reached.*

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. *The appeal has been closed given that a certificate of satisfactory restoration/replacement has been issued.*~~

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 Type 2/3 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. A pending verbal settlement agreement is in place as a result of court ordered mediation.

### Summary Table

Type of Decision	Total for Calendar Year 2013	Total for Calendar Year 2014
Order in favor of appellant		1
Order not in favor of appellant	2	
Order Modified	1	
Order Remanded	4	1
Order Place Appeal in Abeyance	2	3
Negotiated Settlement	3	
Withdrawn/Dismissed	1	

**COMMITTEE RECOMMENDATION**

***Metro Region Committee***

1. Proposed Rule Amendment for Metropolitan Area Local Water Management –  
Doug Thomas - ***DECISION ITEM***



# BOARD MEETING AGENDA ITEM

**AGENDA ITEM TITLE:** Proposed Rule Amendment for Metropolitan Area Local Water Management

**Meeting Date:** September 24, 2014

**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:** 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**

Approval of Resolution authorizing the Executive Director to proceed with Dual Notice of Intent to Adopt Rules and to proceed with the Order to Adopt Rules if there are no modifications to the draft rule amendment other than modifications approved by the Board.

**LINKS TO ADDITIONAL INFORMATION**

<http://www.bwsr.state.mn.us/planning/metro/index.html> , right sidebar, Revisor’s Draft, Statement of Need and Reasonableness (SONAR), Summary of Changes, Current Rule, Advisory Committee Members

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

BWSR adopted the existing rules, Minnesota Rules Chapter 8410, on May 27, 1992. There have been many changes in water management since 1992 that necessitate a rule amendment. The goal of the Metropolitan Area Local Water Management Rule amendment is to build on BWSR’s experience implementing the Metropolitan Water Management program by moving away from an overly prescriptive, one-size-fits-all approach to a more result-oriented and performance-based framework. In essence, future watershed management plans would

consist of periodically updated inventories and goals, and frequently updated implementation and capital improvement plan sections. Electronic communication and use of the Internet would be utilized.

In a nine month period from Fall 2001 to Summer 2002, the Metro Water Planning Rules Advisory Committee (Committee) met five times to complete a rough draft of the revised rules. This process was temporarily delayed when BWSR intended to propose legislation to amend Minnesota Statutes §§ 103B.201 - 103B.255. The relevant statutes have not been amended.

The Committee defined their recommended changes in four categories: 1) Plan Content, 2) Plan Development Process, 3) Intergovernmental Coordination, and 4) Organizational Capacity. In their last meeting in June, 2002, the Committee agreed on the majority of specific rule changes needed to assemble a complete initial draft rules document in accordance with the list below. The Committee identified a few issues that remained, however the remaining issues cannot be addressed in the Rules revision without statutory changes. The following is a brief summary, by category, of the Committee's recommended changes and any remaining unresolved issues:

### **1) Plan Content – “Efficient Implementation”**

- Focusing plans on priority issues.
- Accountable administration and targeted capital improvement programs.
- Incorporating new data, analysis and inventories.
- Frequently updated implementation and capital improvement plans.
- Mechanisms for addressing impaired waters.

### **2) Plan Development Process – “Engagement and Involvement to Prioritize”**

- Tailoring programs to meet multiple objectives.
- Early announcement of “priority issues” through intensive citizen and agency involvement.
- Better annual reporting to evaluate if implementation achieves local goals.
- More attractive amendment and review procedures.

#### **B. Remaining Issues:**

- Streamlining and shortening the plan review process (statute was changed)

### **3) Intergovernmental Coordination – “Connection with Local Land use and State Regulations”**

#### **A. Rule Change Recommendations:**

- Better link between local comprehensive land use plans and metro water management plans.
- Procedures if local preferences conflict with state standards.

#### **B. Remaining Issues:**

- Improving groundwater /surface water interactions (statute change would be necessary).

### **4) Organizational Capacity – “Accountability for a Consistent Level of Implementation Metro-Wide”**

#### **A. Rule Change Recommendations:**

- Increase self-evaluation through development of report card.
- Develop guidelines for determination of non-implementation.
- Allow for alternative reporting methods such as “eLINK”.

#### **B. Remaining Issues:**

- No Issues Identified

A New Committee, consisting of many of the previous Committee members, met four times from February to June, 2009. The draft rule amendment was extensively modified based on the New Committee's recommendations. The New Committee reconvened from January to June, 2011 to finish work on the draft rule amendment. Some statute revisions were being sought in the 2012 legislative session.

The formal rulemaking process began in March, 2013, with publication of the Request for Comments on the draft rule amendment. Twelve entities submitted comments. Some revisions were made to the draft rule based on comments received. Almost all entities governed by the proposed rule approve of the amendments. Where there is disagreement, there is consensus that the updates are vast improvements to the existing rule.

In late July, 2014, Minnesota Management and Budget completed their review of the fiscal impact of the draft rule amendment accompanied with the Statement of Need and Reasonableness. Their conclusion was that BWSR adequately analyzed and presented the potential costs and benefits. Then the Governor's Office approved the Statement of Need and Reasonableness and authorized BWSR to proceed with the Notice of Intent to Adopt Rules.

The Metro Region Committee met on August 26, 2014 to review the certified Revisor's draft of the rule amendment dated 08/19/14 (attached), a Summary of Changes (attached), the Statement of Need and Reasonableness dated July 8, 2014, a proposed Resolution and the BWSR staff recommendation. The Metro Region Committee voted unanimously to recommend to the full Board approval of the attached Resolution authorizing the Executive Director to proceed with the attached Dual Notice of Intent to Adopt Rules and to proceed with the Order to Adopt Rules if there are no modifications to the draft rule amendment other than modifications approved by the Board. If there are proposed modifications to the draft rule amendment the matter will come back before the full Board. Note the Dual Notice has been approved by the Administrative Law Judge assigned by the Office of Administrative Hearings to this rulemaking. A Dual Notice allows for the rule amendment to be adopted without a public hearing if there are not at least 25 requests for a hearing received.

Resolution No. 14 - \_\_\_\_\_

**Proposed Amendment to Rules Governing Metropolitan Area Local Water Management, Minnesota Rules, Chapter 8410; Revisor's ID Number 4162**

1. The Executive Director of the Board of Water and Soil Resources is authorized and directed to sign and to give the Notice of the Board's Intent to Adopt Rules using Alternate Notices of whether a hearing will be held in the Revisor of Statutes draft, file number 4162, dated August 19, 2014, identified as Minnesota Rules, Chapter 8410, with any modifications approved by the Board. The Executive Director must give this notice to all persons who have registered their names with the Board for that purpose. The Executive Director must also publish the Notice in the State Register. Furthermore, the Executive Director is authorized and directed to do anything else needed to complete this Notice.
2. If there are fewer than 25 outstanding hearing requests, the Executive Director of the Board of Water and Soil Resources is authorized and directed to sign the Order Adopting Rules and to do anything else needed to adopt these rules without a hearing.
3. If there are 25 or more outstanding hearing requests, the Executive Director of the Board of Water and Soil Resources, is authorized and directed to act as the Board's representative at the hearing and do anything else needed to adopt these rules with a hearing. This includes authority to sign the Order Adopting Rules if there are no modifications to the rules other than modifications approved by the Board.

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September 24, 2014

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Brian Napstad, Chair

Board of Water and Soil Resources

## Minnesota Board of Water and Soil Resources

**DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received; Revisor's ID Number 4162.**

**Proposed Amendment to Rules Governing Metropolitan Area Local Water Management, *Minnesota Rules*, Chapter 8410; repealing parts 8410.0070, 8410.0090 to 8410.0130, and 8410.0170.**

**Introduction.** The Board of Water and Soil Resources intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on November 10, 2014, the agency will hold a public hearing in the Board Room, Minnesota Pollution Control Agency and Board of Water and Soil Resources, 520 Lafayette Road North, Saint Paul, MN 55155, starting at 2:00 p.m. on Tuesday, December 2, 2014. To find out whether the agency will adopt the rules without a hearing or if it will hold the hearing, you should contact the agency contact person after November 10, 2014 and before December 2, 2014, or check on-line at: [www.bwsr.state.mn.us/planning/metro/index.html](http://www.bwsr.state.mn.us/planning/metro/index.html), right sidebar.

**Agency Contact Person.** Submit any comments or questions on the rules or written requests for a public hearing to the agency contact person. The agency contact person is: Jim Haertel, Metro Region Manager, Board of Water and Soil Resources, 520 Lafayette Road North, Saint Paul, MN 55155; telephone: 651-297-2906, fax: 651-297-5615, and email: [jim.haertel@state.mn.us](mailto:jim.haertel@state.mn.us). TTY users may call the agency through Minnesota Relay at 1-800-627-3529.

**Subject of Rules and Statutory Authority.** The proposed rules are about the amendment of the rules governing local water management in the Twin Cities Metropolitan Area. The statutory authority to adopt the rules is *Minnesota Statutes*, sections 103B.211, 103B.227, 103B.231, 103B.235 and 103B.239. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed. This notice, the proposed rules and other information is available on-line at: [www.bwsr.state.mn.us/planning/metro/index.html](http://www.bwsr.state.mn.us/planning/metro/index.html), right sidebar.

**Comments.** You have until 4:30 p.m. on Monday, November 10, 2014, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change that you desire. Any comments that you have about the legality of the proposed rules must also be made during this comment period.

**Request for a Hearing.** In addition to submitting comments, you may also request that the agency hold a hearing on the rules. You must make your request for a public hearing in writing,

which the agency contact person must receive by 4:30 p.m. on Monday, November 10, 2014. You must include your name and address in your written request. In addition, you must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the agency cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

**Withdrawal of Requests.** If 25 or more persons submit a valid written request for a hearing, the agency will hold a public hearing unless a sufficient number of persons withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

**Alternative Format/Accommodation.** Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the contact information listed above.

**Modifications.** The agency might modify the proposed rules, either as a result of public comment or as a result of the rule hearing process. It must support modifications by data and views submitted to the agency or presented at the hearing. The adopted rules may not be substantially different than these proposed rules unless the agency follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the agency encourages you to participate in the rulemaking process.

**Cancellation of Hearing.** The agency will cancel the hearing scheduled for December 2, 2014, if the agency does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the agency will notify you before the scheduled hearing whether the hearing will be held. You may also contact the agency contact person at the contact information listed above after November 10, 2014, to find out whether the hearing will be held or check on-line at: [www.bwsr.state.mn.us/planning/metro/index.html](http://www.bwsr.state.mn.us/planning/metro/index.html), right sidebar.

**Notice of Hearing.** If 25 or more persons submit valid written requests for a public hearing on the rules, the agency will hold a hearing following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The agency will hold the hearing on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Eric L. Lipman is assigned to conduct the hearing. Judge Lipman can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, telephone: 651-361-7881, and fax: 651-539-0030.

**Hearing Procedure.** If the agency holds a hearing, you and all interested or affected persons, including representatives of governmental units, associations, or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the hearing record closes. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be

recorded in the hearing record for five working days after the public hearing ends. At the hearing the Administrative Law Judge may order that this five-day comment period is extended for a longer period but not more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period when the agency and any interested person may respond in writing to any new information submitted. No one may submit additional evidence during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the Administrative Law Judge no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. You may direct questions about the procedure to the Administrative Law Judge.

The agency requests that any person submitting written views or data to the Administrative Law Judge before the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the agency contact person at the address stated above.

**Statement of Need and Reasonableness.** The statement of need and reasonableness summarizes the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. It is now available from the agency contact person. You may review or obtain copies for the cost of reproduction by contacting the agency contact person. It is available on-line at: [www.bwsr.state.mn.us/planning/metro/index.html](http://www.bwsr.state.mn.us/planning/metro/index.html), right sidebar.

**Lobbyist Registration.** *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Ask any questions about this requirement of the Campaign Finance and Public Disclosure Board at: Suite #190, Centennial Building, 658 Cedar Street, Saint Paul, MN 55155, telephone 651-296-5148 or 1-800-657-3889.

**Adoption Procedure if No Hearing.** If no hearing is required, the agency may adopt the rules after the end of the comment period. The agency will submit the rules and supporting documents to the Office of Administrative Hearings for a legal review. You may ask to be notified of the date the rules are submitted to the office. If you want either to receive notice of this, to receive a copy of the adopted rules, or to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

**Adoption Procedure After a Hearing.** If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date that the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date that the agency adopts the rules and the rules are filed with the Secretary of State by requesting this at the hearing or by writing to the agency contact person stated above.

**Order.** I order that the rulemaking hearing be held at the date, time, and location listed above.

\_\_\_\_\_  
Date

\_\_\_\_\_  
John Jaschke, Executive Director  
Minnesota Board of Water and Soil Resources

# Summary of Changes - Draft Minn. Rules Chapter 8410

8/15/14

Highlights of the currently proposed revisions to the rule are provided below, organized by part within the proposed rule amendment. Many of the revisions are a reorganization of content and subsequent rewording of text with a goal towards a more clear and concise rule. In general, the proposed revisions are already being met by many of the organizations.

## METROPOLITAN AREA LOCAL WATER MANAGEMENT

### Scope

- Significantly new to the scope is that watershed plans can implement watershed restoration and protection strategies and can be the lead on developing total maximum daily load implementation plans if stated as an objective in a plan and reviewed and approved accordingly
- Revised rule would be applicable to plans and amendments one year after promulgation of the revised rule

### Definitions

- Definitions no longer applicable due to changes in the rule removed, and a few new definitions added

### Joint Powers Agreements

- Essentially unchanged except to allow map based on parcels rather than legal description
- JPAs compliant with existing rule will not need to be amended to be compliant with new rule

### Removal of Organization Representatives

- Essentially unchanged except removed BWSR from appeal process regarding decisions of appointing authorities

## WATERSHED MANAGEMENT ORGANIZATION PLANS

### Issue Identification and Assessment

- Combined multiple areas of the former rule
- Emphasizes the identification and assessment of issues up front prior to development of a plan in order to streamline the planning process. Includes advisory committee, resource assessments from plan review agencies, and review of local issues and controls.
- Requires an initial plan "kickoff" meeting
- Focuses an organization on developing a plan based on priority issues in consideration of water management problems and prevention, funding, and the regional/county/state/federal priorities identified

### Executive Summary

- Reorganized but essentially unchanged

### Land and Water Resources

- Reorganized and abridged data requirements

- Increased flexibility by allowing references to resource data rather than including the actual data – recognizes increased availability of data on the web and reduces volume of a plan

#### **Establishment of Goals**

- Goals required for priority issues identified as well as water quantity, water quality, public drainage systems, groundwater and wetlands
- Requires goals to be measurable, and establishment of procedures for evaluating progress towards goals at a minimum of every two years

#### **Implementation Actions**

- Broad implementation program categories are essentially the same; however, the details within have changed to be more concise and incorporate reorganized parts of the existing rule
- Requires implementation programs within this part be included in the plan unless justification is provided for not including a particular program
- Requires establishment of procedures for evaluating progress towards implementation at a minimum of every two years
- Allows establishment of environmental trading programs
- Local water plan revision process linked to comprehensive plan revision every ten years instead of needing revision with each organization plan update

#### **Amendments**

- Requires plan amendment if evaluation of progress on the implementation actions warrants
- Defines changes not requiring amendments
- Broadens minor amendment requirements so general amendments are needed less frequently

#### **Annual Reporting and Evaluation Requirements**

- Ties annual report to the calendar year and audit to the organization's fiscal year. Also gives additional time for the audit to be completed (6 months instead of 4 months)
- Increased emphasis on evaluation of progress towards goals and implementation
- Requires reporting on trends of water monitoring data rather than just the raw data
- Requires a website with meeting agendas, minutes, contact information, activity report, etc. Majority of organizations already have websites though some may need to post additional information.

#### **Determinations of Failure to Implement**

- Clarifies considerations in determining failure to implement and includes failure to submit annual reports or audits to be considered just cause to begin failure to implement process

### **LOCAL WATER PLANS**

#### **Plan Structure**

- Requires local water plans to be included in local comprehensive plans
- Removes requirement to outline the purposes of all the water management programs contained in the Metropolitan Surface Water Management Act
- Removes requirement to establish goals and policies
- Removes requirement for analysis of financial impact to implement local water plans
- Requires local water plan revisions once every 10 years in conjunction with local comprehensive plan schedule

1.1 **Board of Water and Soil Resources**1.2 **Proposed Permanent Rules Relating to Local Water Management**1.3 **8410.0010 SCOPE.**

1.4 Subpart 1. **Application.** ~~Upon adoption, Parts 8410.0010 to 8410.0180~~ 8410.0160  
 1.5 apply to the general administration of metropolitan watershed management activities and  
 1.6 to ten-year plan amendments to existing plans made approved by the board one year or  
 1.7 later after January 1, 1995 the effective date of this section, except when a watershed  
 1.8 management organization requests approval of a ten-year plan amendment or portions  
 1.9 of an amendment under parts 8410.0010 to 8410.0160 within one year of the effective  
 1.10 date of this section. If no plan has been submitted to the board by August 3, 1992, any  
 1.11 plan thereafter submitted must be in compliance with parts 8410.0010 to 8410.0180.  
 1.12 A watershed management organization ~~must~~ shall amend its plan ~~consistent with parts~~  
 1.13 ~~8410.0010 to 8410.0180~~ and submit amendments to the board according to its amendment  
 1.14 schedule and amendment procedures ~~outlined in part 8410.0140, but not later than ten~~  
 1.15 ~~years from the date of initial plan approval~~ consistent with this chapter.

1.16 Subp. 2. [See repealer.]

1.17 **8410.0020 DEFINITIONS.**

1.18 Subpart 1. **Scope Applicability.** The definitions in this part and in Minnesota  
 1.19 Statutes, section 103B.205, apply to parts 8410.0010 to 8410.0180 and have the meanings  
 1.20 given them.

1.21 [For text of subp 2, see M.R.]

1.22 Subp. 3. **Capital improvement.** "Capital improvement" means a physical  
 1.23 improvement that has an extended useful life. A capital improvement is not directed  
 1.24 toward maintenance of an in-place system during its life expectancy.



3.1 of Natural Resources, the Pollution Control Agency, and the Board of Water and Soil  
3.2 Resources.

3.3 Subp. 16. **Plan review authorities.** "Plan review authorities" means the  
3.4 Metropolitan Council, the Department of Agriculture, the Department of Health, the  
3.5 Department of Natural Resources, the Pollution Control Agency, the Board of Water and  
3.6 Soil Resources, and counties, cities, towns, and soil and water conservation districts  
3.7 partially or wholly within the watershed management organization as defined in Minnesota  
3.8 Statutes, section 103B.231, ~~subdivisions~~ subdivision 7, 8, and 9.

3.9 [For text of subp 17, see M.R.]

3.10 Subp. 18. **Seven-county metropolitan area or metropolitan area.** "Seven-county  
3.11 metropolitan area" ~~means the counties of Anoka, Carver, Dakota, Hennepin, Ramsey,~~  
3.12 ~~Scott, and Washington, excluding the corporate boundaries of the city of New Prague~~  
3.13 or "metropolitan area" has the meaning given in Minnesota Statutes, section 473.121,  
3.14 subdivision 2.

3.15 Subp. 19. [See repealer.]

3.16 Subp. 19a. **Ten-year plan amendment.** "Ten-year plan amendment" means a  
3.17 comprehensive amendment of a watershed management plan done not less than five years  
3.18 and not more than ten years after approval of the current plan by the Board of Water and  
3.19 Soil Resources. Ten-year plan amendments are typically done every ten years and are  
3.20 commonly referred to as plan revisions, revised plans, or plan updates.

3.21 [For text of subps 20 to 22, see M.R.]

3.22 Subp. 23. **Wetlands.** ~~"Wetlands" means waters of the state identified as wetlands~~  
3.23 ~~under~~ has the meaning given in Minnesota Statutes, section 103G.005, subdivision 19,  
3.24 paragraph (a).

3.25 Subp. 24. [See repealer.]

4.1 **8410.0030 ~~CONTENT OF JOINT POWERS AGREEMENTS.~~**

4.2 Subpart 1. **Requirements.** In addition to a description of any authorities adopted  
 4.3 under the content requirements of joint powers agreements as outlined in Minnesota  
 4.4 Statutes, section 103B.211, subdivision 1, joint powers agreements establishing a  
 4.5 watershed management organization ~~must~~ or amending an existing joint powers agreement  
 4.6 shall, at a minimum, contain the following items:

4.7 A. a purpose statement consistent with Minnesota Statutes, section 103B.201;

4.8 B. a section defining the powers and duties of the organization;

4.9 ~~B C.~~ an official map based on parcels or a complete legal description defining  
 4.10 the boundary of the organization;

4.11 ~~C.~~ a requirement to adopt rules of order and procedure;

4.12 D. a section defining how the organization's members will be represented, with  
 4.13 the total number of members on a joint powers board to be at least three;

4.14 E. a section outlining meetings to be scheduled at least annually;

4.15 F. a notification process for the agenda, location, and time of meetings;

4.16 ~~D G.~~ a process procedures for establishing an annual budget and annual  
 4.17 establishment of a work plan and budget;

4.18 E. ~~a formula for determining each member's share of the annual operating budget;~~

4.19 F. ~~a statement of how member appointees are to be compensated;~~

4.20 ~~G H.~~ a procedure ~~providing~~ for the establishment of ~~citizen and technical~~ an  
 4.21 advisory ~~committees~~ committee or other means of public participation;

4.22 H. ~~a section defining the powers and duties of the organization;~~

5.1 I. a formula for determining the share of the annual operating budget for each  
 5.2 of the organization's members or a description of revenue generating authorities the  
 5.3 organization will utilize;

5.4 ~~F~~J. a section establishing the duties and terms of the officers of the organization;

5.5 ~~J.~~ ~~a notification process on the location and time of meetings;~~

5.6 ~~K.~~ ~~a section defining the voting requirements for decision making and capital~~  
 5.7 ~~improvements consistent with Minnesota Statutes, section 103B.211, subdivision 1,~~  
 5.8 ~~paragraph (c);~~

5.9 ~~L.~~ ~~a section outlining meetings to be scheduled at least annually;~~

5.10 ~~M~~K. the process and responsibilities of the organization and its members for  
 5.11 filling vacancies consistent with Minnesota Statutes, section 103B.227, subdivisions  
 5.12 1 and 2;

5.13 L. a section specifying the compensation for members of a joint powers board;

5.14 M. a section defining the voting requirements for decision making and capital  
 5.15 improvements consistent with Minnesota Statutes, section 103B.211, subdivision 1,  
 5.16 paragraph (c);

5.17 N. a requirement to adopt rules of order and procedure; and

5.18 ~~N~~O. the duration of the agreement and a process for dissolution that provides for  
 5.19 at least 90 days' notice of the intent to dissolve to the affected counties and the board; ~~and.~~

5.20 ~~O.~~ ~~a section defining how the membership will be represented, with the total~~  
 5.21 ~~number of representatives to be at least three.~~

5.22 Subp. 2. **Updating.** Joint powers agreements must be updated if necessary to be in  
 5.23 conformance with this chapter no later than July 27, 1993, as determined by the board,  
 5.24 before the board makes a decision on a draft plan or plan amendment.

6.1 [For text of subp 3, see M.R.]

6.2 **8410.0040 REMOVAL OF ORGANIZATION REPRESENTATIVES.**

6.3 Subpart 1. Removal for violations. A manager of a watershed district or a member  
6.4 of a joint powers board may be removed from the position by a majority vote of the  
6.5 appointing authority before term expiration for violation of a code of ethics or bylaws  
6.6 of the watershed management organization or appointing authority or for malfeasance,  
6.7 nonfeasance, or misfeasance, after being provided an opportunity for a hearing before  
6.8 the appointing authority.

6.9 Subp. 2. Removal; elected officials, at-will members. ~~Managers~~ A member of a  
6.10 joint powers board who is holding the position as an elected official who are not reelected,  
6.11 is no longer serving in that position or are who is serving an indefinite term at the pleasure  
6.12 of the appointing authority, may be removed by the appointing authority at will. A decision  
6.13 of the appointing authority may be appealed to the Board of Water and Soil Resources.

6.14 **8410.0045 ISSUE IDENTIFICATION AND ASSESSMENT.**

6.15 Subpart 1. Priority issues.

6.16 A. Each plan shall identify priority issues in consideration of:

6.17 (1) water management problems, including prevention of future water  
6.18 management problems;

6.19 (2) funding levels; and

6.20 (3) regional, county, city, state, and federal water management priorities  
6.21 that are identified under this part.

6.22 B. Priority issues must be evaluated, addressed, and prioritized in the goals and  
6.23 implementation sections of the plan according to parts 8410.0080 and 8410.0105.

7.1 Subp. 2. **Advisory committee.** Watershed districts must comply with Minnesota  
7.2 Statutes, sections 103D.331 and 103D.337. All other organizations must establish an  
7.3 advisory committee, committees, or other means of public and technical participation  
7.4 acceptable to the board, for the purpose of making recommendations on a plan or ten-year  
7.5 plan amendment. The recommendations must address the issues identified under subpart  
7.6 7. The process must be summarized in the plan or ten-year plan amendment.

7.7 Subp. 3. **Plan review agency notification and involvement in plan development.**  
7.8 Before development of a plan or ten-year plan amendment, an organization must send  
7.9 notification to each plan review agency of plan initiation and correspondence requesting  
7.10 the management expectation for the plan review agency's priority issues, summaries of  
7.11 relevant water management goals, and water resource information. The organization must  
7.12 allow at least 60 days for the information to be submitted. For information received within  
7.13 the prescribed time period, the organization must take into consideration the goals of the  
7.14 plan review agencies and identify in the plan or plan amendment any inconsistencies with  
7.15 the organization's goals.

7.16 Subp. 4. **Review of local issues and controls.** Before development of a plan  
7.17 or ten-year plan amendment, an organization must send notification to each county,  
7.18 city, township, and soil and water conservation district wholly or partially within  
7.19 the organization, and to known stakeholders including the Minnesota Department of  
7.20 Transportation, of plan initiation and correspondence requesting input that includes local  
7.21 water-related issues, water management goals, official controls, and programs. The  
7.22 organization must allow at least 60 days for the information to be submitted. Known  
7.23 stakeholders include, but are not limited to, any entity that requests to be placed on the  
7.24 organization's mailing list. For information received within the prescribed time period, the  
7.25 organization must take into consideration the local water management goals and identify  
7.26 in the plan or plan amendment any inconsistencies with the organization's goals.

8.1 Subp. 5. Initial planning meeting. In the development of a plan or ten-year plan  
8.2 amendment and after completion of the time requirements under subparts 3 and 4, an  
8.3 organization must hold an initial planning meeting presided over by the organization's  
8.4 governing body to receive, review, and discuss input. Written notification must be made to  
8.5 the plan review authorities and known stakeholders including affected counties, cities, and  
8.6 towns and the Minnesota Department of Transportation. Legal notice must be posted on the  
8.7 organization's Web site and comply with open meeting law requirements. All notifications  
8.8 must occur at least two weeks before the meeting. The plan must document the public input.

8.9 Subp. 6. Relationship with other programs. In consideration of subpart 1, item A,  
8.10 subitem (3), a plan or ten-year plan amendment shall identify and consider all relevant  
8.11 plans and programs in setting priority issues. An organization must coordinate its planning  
8.12 activities with contiguous organizations and with counties and cities conducting water  
8.13 planning within the boundaries of the organization.

8.14 Subp. 7. Assessment of issues and identification of priority issues. In developing  
8.15 a plan or ten-year plan amendment, an organization must identify priority issues after  
8.16 assessing available information including the input received under this part and data  
8.17 and trend analyses under part 8410.0060. The input received must be summarized and  
8.18 the assessment process for evaluating issues received, and goals received from the plan  
8.19 review authorities, must be included in the plan or ten-year plan amendment. The  
8.20 success of implementing the previous plan, if any, must be summarized and considered in  
8.21 identifying priority issues.

8.22 **8410.0050 EXECUTIVE SUMMARY.**

8.23 Each plan ~~must~~ shall have a section entitled "Executive Summary." The summary  
8.24 ~~should outline~~ must include:

8.25 A. the purpose of the watershed management organization; ~~the membership of~~  
8.26 ~~the organization's board of managers; the general boundaries of the organization; a brief~~

9.1 ~~history of the organization; a summary of the organization's goals, problems, and potential~~  
9.2 ~~solutions; and the general content of required local plans.~~

9.3 B. a map of the organization;

9.4 C. the primary issues addressed in the plan;

9.5 D. the main goals in the plan;

9.6 E. the major actions in the plan; and

9.7 F. the responsibilities of local governments related to implementation of the  
9.8 plan including any changes in responsibilities from the previous plan.

9.9 **8410.0060 LAND AND WATER ~~RESOURCE INVENTORY~~ RESOURCES.**

9.10 Subpart 1. **Required Requirements.** Each plan must contain an inventory of water  
9.11 resource and physical factors affecting the water resources based on existing records and  
9.12 publications. If data publications and maps are available at a convenient central location,  
9.13 they may be included by reference. The plan must include a brief summary of the data and  
9.14 must identify where the publication can be obtained. At a minimum, the information in  
9.15 subparts 2 to 11 must be included in the plan. Subparts 2 and 4, item E, may be in the  
9.16 local plan instead of the watershed management organization plan. information and a  
9.17 general analysis based on existing records, plans, and publications for the elements listed  
9.18 in items A to M or from a previous plan of the organization or a county groundwater plan.  
9.19 Information may be incorporated by reference if the data is generally described in the plan  
9.20 and the complete data and analysis is in a freely accessible location that is specified.  
9.21 At a minimum, the plan must include a map of the surface water resources within the  
9.22 boundaries of the organization. Elements to include are:

9.23 A. topography;

9.24 B. soil;

9.25 C. general geology;

- 10.1            D. precipitation;
- 10.2            E. surface water resources including streams, lakes, wetlands, public waters,  
10.3 and public ditches;
- 10.4            F. water quality and quantity including trends of key locations and 100-year  
10.5 flood levels and discharges;
- 10.6            G. groundwater resources, including groundwater and surface water connections  
10.7 if defined in an approved and adopted county groundwater plan;
- 10.8            H. storm water systems, drainage systems, and control structures;
- 10.9            I. regulated pollutant sources and permitted wastewater discharges;
- 10.10           J. fish and wildlife habitat and rare and endangered species;
- 10.11           K. water-based recreation areas;
- 10.12           L. existing land uses and proposed development in local and metropolitan  
10.13 comprehensive plans; and
- 10.14           M. priority areas for wetland preservation, enhancement, restoration, and  
10.15 establishment.
- 10.16           Subp. 2. [See repealer.]
- 10.17           Subp. 3. [See repealer.]
- 10.18           Subp. 4. [See repealer.]
- 10.19           Subp. 5. [See repealer.]
- 10.20           Subp. 6. [See repealer.]
- 10.21           Subp. 7. [See repealer.]
- 10.22           Subp. 8. [See repealer.]
- 10.23           Subp. 9. [See repealer.]

11.1 Subp. 10. [See repealer.]

11.2 Subp. 11. [See repealer.]

11.3 **8410.0080 ESTABLISHMENT OF GOALS AND POLICIES.**

11.4 Subpart 1. **Plan contents Requirements.** Each plan ~~must~~ or ten-year plan  
11.5 amendment shall contain specific goal statements and corresponding policies relating to  
11.6 the overall purposes specified in Minnesota Statutes, section 103B.201, measurable goals  
11.7 that address issues identified under subparts 2 to 8 in conjunction with the priority issues  
11.8 that are identified by the organization under part 8410.0045. The goals must be consistent  
11.9 with the intent of the metropolitan water management program purposes in Minnesota  
11.10 Statutes, section 103B.201, and state and federal standards. The goals and policies of  
11.11 the watershed management organization shall coordinate and attempt to avoid resolve  
11.12 conflict with town, city, county, regional, or state goals and policies. The goals must  
11.13 be outlined in contain sufficient detail to provide direction regarding what the policies  
11.14 goals should accomplish, provide direction to the organization's board, and allow for the  
11.15 success or failure of the goals and policies to be quantified measured. The goals and  
11.16 policies should recognize the fundamental relationship between water quality and land  
11.17 use. Development of goals and policies must, at a minimum, address the issues in subparts  
11.18 2 to 9. A procedure must be included to evaluate progress for each goal defined in this part  
11.19 at a minimum of every two years according to part 8410.0150, subpart 3, item E.

11.20 Subp. 2. **Water quantity.** Each plan ~~must outline goals and policies describing~~  
11.21 ~~how storm water runoff will be managed. The maximum allowable peak runoff must be~~  
11.22 ~~established for appropriate subwatersheds to the extent necessary to assure that the goals~~  
11.23 ~~and policies of the organization will be met and address how runoff from developments~~  
11.24 ~~creating more than one acre of new impervious surface will be managed with respect to~~  
11.25 ~~Minnesota Statutes, section 103B.3365. The plan must describe the criteria used for~~  
11.26 ~~defining "appropriate subwatersheds."~~ Water quantity goals must be established to address

12.1 priority issues, at a minimum, considering volume, peak rate, base flow, imperviousness,  
12.2 or similar issues. The goals must recognize current trend direction and the fundamental  
12.3 relationship between water quantity and land use.

12.4 Subp. 3. **Water quality.** ~~Each plan must outline specific water quality goals and~~  
12.5 ~~policies for natural surface water storage and retention systems within the organization.~~  
12.6 ~~Goals should be related to parameters or quantities that can be measured. The relationship~~  
12.7 ~~of land use to water quality should be considered when developing goals and policies.~~  
12.8 ~~The goals and policies should be developed to strive for compliance with applicable~~  
12.9 ~~water quality standards and be suitable for the intended uses of natural surface water~~  
12.10 ~~storage and retention systems. Water quality goals must be established to address priority~~  
12.11 issues considering the uses of the water resource. The goals must recognize current trend  
12.12 direction and the fundamental relationship between water quality and land use. If water  
12.13 quality goals in the plan are less stringent than state water quality standards, the plan  
12.14 must acknowledge this.

12.15 Subp. 4. [See repealer.]

12.16 Subp. 5. [See repealer.]

12.17 Subp. 6. **Public ditch drainage systems.** ~~If Public ditch systems constructed~~  
12.18 ~~under Minnesota Statutes, chapter 103D or 103E, are within the organization, the plan~~  
12.19 ~~shall by policy drainage system management goals must be established. The goals must~~  
12.20 ~~define the organization's relationship to the ditch drainage authority and. The plan may~~  
12.21 ~~recommend whether or not there are advantages to managing the ditch drainage systems~~  
12.22 ~~under the Metropolitan Water Management Act or through transferring the drainage~~  
12.23 ~~authority according to Minnesota Statutes, section 103E.812, and may determine whether~~  
12.24 ~~ditch drainage maintenance activities have the potential of adversely impacting any goal~~  
12.25 ~~of the organization. The plan must generally describe the effect of the plan on existing~~  
12.26 drainage systems.

13.1 Subp. 7. **Groundwater.** ~~If a county groundwater plan has not commenced at the~~  
13.2 ~~time the plan or plan amendment is initiated, the organization shall assess the need and~~  
13.3 ~~degree of involvement the organization has in groundwater management and establish~~  
13.4 ~~appropriate goals and policies.~~ Goals must be established to address groundwater-surface  
13.5 water interactions defined in approved and adopted county groundwater plans that are in  
13.6 effect. Organizations are encouraged to establish goals to address groundwater issues  
13.7 identified within the area of the organization in the Twin Cities Metropolitan Area Master  
13.8 Water Supply Plan, source water protection plans, and local water supply plans.

13.9 Subp. 8. **Wetlands.** ~~Each plan must outline specific goals and policies regarding~~  
13.10 ~~the management of wetlands within the organization and identify high priority areas for~~  
13.11 ~~wetland preservation, restoration, and establishment. Wetland management goals and~~  
13.12 ~~policies should address utilization, protection and preservation, and the enhancement~~  
13.13 ~~or restoration of wetlands identified in the organization. Each plan must also evaluate~~  
13.14 ~~the need to establish a wetland banking system.~~ Goals must be established for wetland  
13.15 management. The goals must recognize the fundamental relationship between wetland  
13.16 management and land use.

13.17 Subp. 9. [See repealer.]

13.18 **8410.0105 IMPLEMENTATION ACTIONS.**

13.19 Subpart 1. **Requirements.** Each plan shall contain prioritized implementation  
13.20 actions through the year the plan extends to that consists of administrative processes and  
13.21 programs to address the goals defined under part 8410.0080 and that is consistent with the  
13.22 principles of part 8410.0045, subpart 1, item A. The programs described in subparts 2  
13.23 to 6 must be included in each plan unless the plan sufficiently justifies that a program or  
13.24 program element is not needed. Each plan shall include a procedure to evaluate progress  
13.25 for the implementation actions at a minimum of every two years according to part  
13.26 8410.0150, subpart 3, item E. Each plan shall:

14.1 A. include a table that briefly describes each component of the implementation  
14.2 actions, the schedule, estimated cost, and funding sources for each component including  
14.3 annual budget totals;

14.4 B. clearly define the responsibilities of the organization, the local government  
14.5 units, and other entities for carrying out the implementation actions;

14.6 C. define the organization's process for evaluating implementation of local  
14.7 water plans and procedures to address a local government unit failing to implement its  
14.8 local water plan or parts of its local water plan; and

14.9 D. include a procedure to establish an advisory committee, committees, or other  
14.10 means of public and technical participation acceptable to the board, for the purpose of  
14.11 making recommendations on a ten-year plan amendment.

14.12 Subp. 2. **Capital improvement program.** Each plan must consider the feasibility of  
14.13 implementing structural solutions for attaining the goals defined under part 8410.0080  
14.14 that cannot be resolved by nonstructural, preventative actions. Each plan must include  
14.15 a table for a capital improvement program that identifies structural and nonstructural  
14.16 alternatives that would lessen capital expenditures and sets forth, by year, details of each  
14.17 contemplated capital improvement that includes the need, schedule, estimated cost, and  
14.18 funding source. The information may be combined with subpart 1, item A. In assigning  
14.19 priorities, consideration must be given to federal, state, regional, local, and private  
14.20 partners and regional and state plans.

14.21 Subp. 3. **Operation and maintenance programs.** The plan must define who is  
14.22 responsible for inspection, operation, and maintenance of storm water infrastructure,  
14.23 public works, facilities, and natural and artificial watercourses and specify any new  
14.24 programs or revisions to existing programs needed to accomplish the goals defined under  
14.25 part 8410.0080.

15.1 Subp. 4. **Information and education program.** Each plan must provide for an  
15.2 information and education program in consideration of the goals defined under part  
15.3 8410.0080. The program must, at a minimum, include the purpose, targeted audiences,  
15.4 and actions. An annual communication must be distributed to residents of the organization  
15.5 in compliance with Minnesota Statutes, section 103B.227, subdivision 4.

15.6 Subp. 5. **Data collection programs.** Each plan must address whether established  
15.7 water quality, water quantity, and other monitoring programs implemented by the  
15.8 organization and others are capable of producing an accurate evaluation of the progress  
15.9 being made toward the goals defined under part 8410.0080. The programs shall, at a  
15.10 minimum, include the location of sampling, the frequency of sampling, the proposed  
15.11 parameters to be measured, and the requirement of periodic analysis of the data. Each  
15.12 organization must annually submit the collected data consistent with state compatibility  
15.13 guidelines to the appropriate state agency for entry into public databases.

15.14 Subp. 6. **Regulatory program.** Controls or performance standards must be  
15.15 described in the plan, although an organization's rules in place at the time of plan approval  
15.16 may be referenced instead. The plan must specifically describe how the organization's  
15.17 controls will be implemented in coordination with local official controls. The plan must  
15.18 clearly distinguish between the responsibilities of the organization and the affected  
15.19 local government units relative to controls established according to this subpart. The  
15.20 enforcement process for violations of controls of the organization must be defined.  
15.21 Controls must take effect within two years of plan adoption by the organization. The plan  
15.22 must include an assessment of existing controls within the organization's jurisdiction and  
15.23 address any deficiencies or redundancies related to attaining the goals defined under part  
15.24 8410.0080. If a plan notes the existence of certain land uses that could adversely affect the  
15.25 organization's ability to achieve the goals defined under part 8410.0080, the organization  
15.26 must provide written notification to that unit of government specifying the issue. The  
15.27 following items must be considered in developing a regulatory program:

16.1           A. standards or controls that may be more restrictive than those required by the  
16.2 Wetland Conservation Act determined to be necessary to achieve the goals defined under  
16.3 part 8410.0080. Local wetland management controls must include maps or inventories of  
16.4 wetlands, existing comprehensive wetland protection and management plans, descriptions  
16.5 of existing local wetland banking programs, and procedures used in determining  
16.6 replacement of wetland functions and values for evaluating wetland replacement proposals;

16.7           B. standards or controls for managing storm water runoff must, at a minimum,  
16.8 address:

16.9                   (1) erosion and sediment transport to receiving waters;

16.10                   (2) nutrient loading and concentration; and

16.11                   (3) maximum permissible runoff rates and volumes;

16.12           C. standards or controls to address flood impacts; and

16.13           D. management programs establishing a classification system for the  
16.14 management of water bodies must be consistent with chapter 7050. If the organization  
16.15 classifications are inconsistent, the organization must petition the Pollution Control  
16.16 Agency to revise the classifications in chapter 7050.

16.17           Subp. 7. Incentive programs. The plan must define, for cost share or grant programs,  
16.18 if any, the general purpose, scope, time period, amount of funds, funding source, general  
16.19 eligibility criteria for dispersing funds, and a clear link to the goals the program addresses.

16.20           Subp. 8. Waters restoration and protection program.

16.21           A. A plan may implement a restoration and protection program for waters that  
16.22 are impaired or need to be protected. The program may involve monitoring, assessment,  
16.23 and water quality restoration and protection actions.

16.24           B. An organization may take the lead on developing a total maximum daily load  
16.25 (TMDL) or a TMDL implementation plan as a third party under Minnesota Statutes, section

17.1 114D.25, subdivision 5. The TMDL or TMDL implementation plan must be developed in  
17.2 coordination with, and provided to, the Pollution Control Agency for review and approval.

17.3 C. An organization may take the lead on developing a watershed restoration and  
17.4 protection strategy as described in Minnesota Statutes, section 114D.15, by entering into  
17.5 an agreement with the Pollution Control Agency.

17.6 D. An organization may submit a request as a third party for a Category 4b  
17.7 determination to the Pollution Control Agency as allowed under the federal Clean Water  
17.8 Act, section 303(d).

17.9 Subp. 9. **Trading programs.** An organization may establish and implement an  
17.10 environmental trading program that allows for water-related impacts to be offset at  
17.11 different locations than the site of impact.

17.12 Subp. 10. **Local water plans.**

17.13 A. An organization plan must specify to what degree the organization plan may  
17.14 be adopted by reference by a local government unit for all or part of its local water plan.  
17.15 Upon request of a local government unit, an organization must provide a list to the local  
17.16 government unit and the plan review agencies of local water plan revisions necessary for  
17.17 compliance with the organization plan. A local water plan may serve as a storm water  
17.18 pollution prevention program if it is approved by the Pollution Control Agency and it  
17.19 complies with the requirements of any applicable national pollutant discharge elimination  
17.20 system/state disposal system storm water permit.

17.21 B. A plan must include a schedule for implementation of local water plans  
17.22 that requires all local water plans to be adopted not less than one year but no more than  
17.23 two years before the local comprehensive plan is due. A plan must not deviate from the  
17.24 schedule. Extensions of local comprehensive plan due dates do not alter the schedule.  
17.25 Organizations may extend all or portions of local water plans to align with the local  
17.26 comprehensive plan schedule during the initial three years of transition to the revised rule.

18.1 Notwithstanding local water plan schedules in previously approved plans, all local water  
18.2 plans must be adopted according to this subpart after December 31, 2016.

18.3 **8410.0140 PLAN ~~CONTENTS~~; AMENDMENTS.**

18.4 Subpart 1. **Amendment section.**

18.5 A. Each plan must contain a section entitled "Amendments to Plan" containing  
18.6 the year the plan extends to and establishing the process by which ~~interim~~ amendments, as  
18.7 defined in this part, may be made and who may initiate the amendments.

18.8 B. A plan must extend at least five years but no more than ten years from the  
18.9 date the board approves the plan.

18.10 C. An organization must evaluate the implementation actions in its plan with the  
18.11 annual activity report under part 8410.0150, subpart 3, item E, at a minimum of every two  
18.12 years. If changes to the implementation actions are necessary as a result of the evaluation,  
18.13 then a plan amendment is required unless otherwise provided under subpart 1a.

18.14 Subp. 1a. **Changes not requiring an amendment.** These changes to plans must be  
18.15 distributed according to subpart 5 with a version showing deleted text as stricken and new  
18.16 text as underlined. Amendments to plans are not required for changes such as:

18.17 A. formatting or reorganization of the plan;

18.18 B. revision of a procedure meant to streamline administration of the plan;

18.19 C. clarification of existing plan goals or policies;

18.20 D. inclusion of additional data not requiring interpretation;

18.21 E. expansion of public process; or

18.22 F. adjustments to how an organization will carry out program activities within  
18.23 its discretion.

19.1 Subp. 2. **General Amendment procedure.** All amendments to a plan must adhere  
19.2 to the review process provided in Minnesota Statutes, section 103B.231, subdivision 11,  
19.3 except when the proposed amendments ~~constitute~~ are determined to be minor amendments  
19.4 ~~and~~ according to the following provisions:

19.5 A. ~~the watershed management organization has held a public meeting to explain~~  
19.6 ~~the amendments and published a legal notice of the meeting twice, at least seven days and~~  
19.7 ~~14 days before the date of the meeting;~~ the board has either agreed that the amendments  
19.8 are minor or failed to act within five working days of the end of the comment period  
19.9 specified in item B unless an extension is mutually agreed to with the organization;

19.10 B. ~~the organization has sent copies of the amendments to the affected local units~~  
19.11 ~~of government, the Metropolitan Council, and the state review agencies~~ plan review  
19.12 authorities for review and comment allowing at least 30 days for receipt of comments, has  
19.13 identified the minor amendment procedure is being followed, and directed that comments  
19.14 be sent to the organization and the board; and

19.15 C. no county board has filed an objection to the amendments with the  
19.16 organization and the board within the comment period specified in item B unless an  
19.17 extension is mutually agreed upon by the county and the organization;

19.18 ~~€ D. the board has either agreed that the amendments are minor or failed to act~~  
19.19 ~~within 45 days of receipt of the amendments;~~ the organization has held a public meeting to  
19.20 explain the amendments and published a legal notice of the meeting twice, at least seven  
19.21 days and 14 days before the date of the meeting; and

19.22 E. the amendments are not necessary to make the plan consistent with an  
19.23 approved and adopted county groundwater plan.

19.24 Subp. 3. [See repealer.]

20.1 Subp. 4. **Form of amendments.** Draft and final amendments must be bound paper  
20.2 pages unless a receiving entity agrees in advance to receive an amendment in electronic  
20.3 format. Draft amendments must show deleted text as stricken and new text as underlined.  
20.4 Unless the entire document is reprinted, all final amendments adopted by the organization  
20.5 must be printed in the form of replacement pages for the plan; with each page of which must:

20.6 A. ~~on draft amendments being considered, show deleted text as stricken and~~  
20.7 ~~new text as underlined;~~

20.8 B. ~~be~~ renumbered as appropriate; and

20.9 C. ~~include~~ each page including the effective date of the amendment.

20.10 Subp. 5. **Distribution of amendments.** Each organization must maintain a  
20.11 distribution list of agencies and individuals who have received a copy of the plan ~~and.~~  
20.12 An organization shall distribute copies of amendments to all on the distribution list and  
20.13 post the amendments on the organization's Web site within 30 days of adoption. All  
20.14 ~~organizations should consider sending drafts of proposal amendments to all plan review~~  
20.15 ~~authorities to seek their comments before establishing a hearing date or commencing~~  
20.16 ~~the formal review process.~~

## 20.17 **8410.0150 ANNUAL REPORTING AND EVALUATION REQUIREMENTS.**

20.18 Subpart 1. **Requirement for annual ~~financial~~, activity, and audit reports.**

20.19 A. An organization shall annually:

20.20 (1) within 120 days of the end of the watershed-management organization's  
20.21 fiscal calendar year, each organization shall submit to the board a financial report; submit  
20.22 to the board an activity report; for the previous calendar year; and

20.23 (2) within 180 days of the end of the organization's fiscal year, submit to  
20.24 the board and the state auditor's office an audit report for the preceding fiscal year if it  
20.25 the organization has expended or accrued funds during this time, except as provided

21.1 in Minnesota Statutes, section 6.756. When a county or city audit report contains the  
21.2 financial statements for an organization, the organization must submit to the board  
21.3 excerpts from the audit report concerning the organization within 30 days of completion  
21.4 of the audit report. The audit report must be prepared by a certified public accountant or  
21.5 the state auditor in the format required by the Government Accounting Standards Board.

21.6 B. These The reports may be combined into a single document. ~~The audit~~  
21.7 ~~report for the preceding fiscal year must be prepared by a certified public accountant or~~  
21.8 ~~the state auditor and forwarded to the state auditor's office within 120 days of the end of~~  
21.9 ~~the fiscal year:~~

21.10 Subp. 2. [See repealer.]

21.11 Subp. 3. **Content of annual activity report.** The annual activity report must include  
21.12 the following information:

21.13 A. a list of the organization's board members, ~~advisory committee members, and~~  
21.14 ~~board member vacancies at the end of the reporting year, including the names of designated~~  
21.15 ~~officers and members and information on how members can be contacted, and indicating~~  
21.16 the governmental organization that each board member represents for joint powers  
21.17 organizations and the county that each member is appointed by for watershed districts;

21.18 B. ~~a list of organization employees and consultants, including mailing addresses~~  
21.19 ~~and telephone numbers~~ identification of a contact person capable of answering questions  
21.20 about the organization including a postal and electronic mailing address and telephone  
21.21 number;

21.22 C. an assessment of the previous year's annual work plan that indicates whether  
21.23 the stated ~~goals and objectives~~ activities were achieved and, if they were not achieved,  
21.24 ~~indicates why they could not be achieved~~ completed including the expenditures of each  
21.25 activity with respect to the approved budget unless included in the audit report;

22.1 D. a projected work plan and budget for the ~~next~~ current year indicating the  
22.2 ~~desired goals and objectives~~ specifying which activities will be undertaken;

22.3 E. ~~a summary of the permits or variances issued or denied under ordinances~~  
22.4 ~~or rules required by the organization or local plan and any enforcement actions initiated~~  
22.5 ~~by either the organization or its local units of government;~~ at a minimum of every two  
22.6 years, an evaluation of progress on goals and the implementation actions, including the  
22.7 capital improvement program, to determine if amendments to the implementation actions  
22.8 are necessary according to part 8410.0140, subpart 1, item C, using the procedures  
22.9 established in the goals and implementation sections of the plan under parts 8410.0080,  
22.10 subpart 1, and 8410.0105, subpart 1;

22.11 F. a summary of ~~water quality~~ significant trends of monitoring data ~~collected by~~  
22.12 ~~the organization or its local units of government~~ required by part 8410.0105, subpart 5;

22.13 G. ~~an evaluation of the status of local plan adoption and implementation based on~~  
22.14 ~~a review of the local unit of governments' activities by the organization during the past year;~~

22.15 H.G. a copy of the ~~written~~ annual communication required by part ~~8410.0100~~  
22.16 8410.0105, subpart 3 4;

22.17 I.H. the organization's activities related to the biennial solicitations for interest  
22.18 proposals for legal, professional, or technical consultant services under Minnesota  
22.19 Statutes, section 103B.227, subdivision 5;

22.20 I. an evaluation of the status of local water plan adoption and local  
22.21 implementation of activities required by the watershed management organization  
22.22 according to part 8410.0105, subpart 1, items B and C, during the previous year;

22.23 J. ~~an assessment of changes in fund balances, including a description of the~~  
22.24 ~~costs of each program element with respect to the overall annual budget; and~~

23.1 ~~Ⓚ~~ J. the status of any locally adopted wetland banking program, ordinances or  
23.2 rules required by the organization including their enforcement; and

23.3 K. a summary of the permits and variances issued or denied and violations  
23.4 under rule or ordinance requirements of the organization or local water plan.

23.5 Subp. 3a. Watershed management organization Web sites. An organization shall  
23.6 have a Web site that, at a minimum, contains the location, time, agenda, and minutes  
23.7 for organization meetings; contact information for the organization including a person  
23.8 capable of answering questions about the organization; the current watershed management  
23.9 plan; annual activity reports and audits for the past three years; rules and regulatory  
23.10 program, if any; a list of the organization's board members including identification of  
23.11 designated officers and the governmental organization that each board member represents  
23.12 for joint powers organizations and the county that each board member is appointed by  
23.13 for watershed districts; and a list of employees including postal and electronic mailing  
23.14 addresses and telephone numbers. The Web site shall be kept current on a monthly basis  
23.15 or more frequently.

23.16 Subp. 4. Procedure for state audit. The board shall use the procedure described in  
23.17 items A to D to determine whether to order a state financial or performance audit of an  
23.18 organization.

23.19 [For text of item A, see M.R.]

23.20 B. The executive director shall determine whether there is a basis for a  
23.21 complaint before reporting the complaint to the board. The executive director shall ensure  
23.22 that the affected organization is and the plan review agencies are notified of the complaint  
23.23 and given an opportunity to respond to, or comment on, the allegations before determining  
23.24 whether there is a basis for the complaint.

23.25 C. If the executive director determines there is a basis for the complaint, the  
23.26 complaint shall be reported to the board. The affected organization shall be given an

24.1 opportunity to appear before the ~~board at the time the complaint is reported to it~~ board's  
24.2 dispute resolution committee established under Minnesota Statutes, section 103B.101,  
24.3 subdivision 10, and respond to the allegations in the complaint. The complainant shall  
24.4 also be given an opportunity to appear be heard.

24.5 D. ~~After having the complaint reported to it, and after~~ providing an opportunity  
24.6 for the organization and the complainant to be heard ~~by it,~~ the board shall decide whether  
24.7 to order a state financial or performance audit of the organization. The cost of state  
24.8 financial and performance audits shall be paid for by the organization.

24.9 **8410.0160 ~~GENERAL~~ PLAN STRUCTURE.**

24.10 Subpart 1. Requirement. Each local water plan must, at a minimum, meet the  
24.11 requirements for local water management plans in Minnesota Statutes, section 103B.235,  
24.12 and this part, except as provided by the watershed management organization plan under  
24.13 ~~part 8410.0110~~ 8410.0105, subpart ~~3~~ 10. ~~Each local plan must include sections containing~~  
24.14 ~~a table of contents; purpose; water resource related agreements; executive summary;~~  
24.15 ~~land and water resource inventory; establishment of goals and policies; relation of goals~~  
24.16 ~~and policies to local, regional, state, and federal plans, goals, and programs; assessment~~  
24.17 ~~of problems; corrective actions; financial considerations; implementation priorities;~~  
24.18 ~~amendment procedures; implementation program; and an appendix.~~

24.19 Subp. 2. Local comprehensive plan. ~~Each community should consider including~~  
24.20 ~~its local government unit must include the local water plan as a chapter of its local~~  
24.21 ~~comprehensive plan. Each local plan shall be adopted within two years of the board's~~  
24.22 ~~approval of the last organization plan that affects local units of government. All local~~  
24.23 comprehensive plans must be consistent with local water plans adopted under this part.

24.24 Subp. 3. Plan contents. Each local water plan, in the degree of detail required in the  
24.25 organization plan, must contain the following:

24.26 A. an executive summary that summarizes the highlights of the local water plan;

25.1 B. appropriate water resource management-related agreements that have  
25.2 been entered into by the local community must be summarized, including joint powers  
25.3 agreements related to water management that the local government unit may be party  
25.4 to between itself and watershed management organizations, adjoining communities, or  
25.5 private parties;

25.6 C. the existing and proposed physical environment and land use must be  
25.7 described. Drainage areas and the volumes, rates, and paths of storm water runoff must be  
25.8 defined. Data may be incorporated by reference as allowed under parts 8410.0060 and  
25.9 8410.0105, subpart 10, or the local comprehensive plan;

25.10 D. an assessment of existing or potential water resource-related problems  
25.11 must be summarized. The problem assessment must be completed for only those areas  
25.12 within the corporate limits of the local government unit and similar to the process under  
25.13 part 8410.0045, subpart 7; and

25.14 E. a local implementation program through the year the local water plan extends  
25.15 must describe nonstructural, programmatic, and structural solutions to problems identified  
25.16 in item D. The program must not jeopardize achievement of the goals of an organization's  
25.17 plan. The implementation components must be prioritized consistent with the principles  
25.18 of part 8410.0045, subpart 1, item A. Local water plans must prioritize the implementation  
25.19 components of an organization plan consistent with the organization priorities set forth  
25.20 under part 8410.0105 only for implementation components that must be facilitated by  
25.21 the local government unit. Local official controls must be enacted within six months of  
25.22 approval of the local water plan by the organization. The program shall:

25.23 (1) include areas and elevations for storm water storage adequate to meet  
25.24 performance standards or official controls established in the organization plan;

25.25 (2) define water quality protection methods adequate to meet performance  
25.26 standards or official controls in the organization plan and identify regulated areas;

26.1                   (3) clearly define the responsibilities of the local government unit from that  
26.2 of an organization for carrying out the implementation components;

26.3                   (4) describe official controls and any changes to official controls relative to  
26.4 requirements of the organization's plan;

26.5                   (5) include a table that briefly describes each component of the  
26.6 implementation program and clearly details the schedule, estimated cost, and funding  
26.7 sources for each component including annual budget totals; and

26.8                   (6) include a table for a capital improvement program that sets forth,  
26.9 by year, details of each contemplated capital improvement that includes the schedule,  
26.10 estimated cost, and funding source.

26.11                Subp. 4. **Amendment procedures.** A section entitled "Amendments to Plan" must  
26.12 establish the process by which amendments may be made. The amendment procedure  
26.13 shall conform with the plan amendment procedures in the organization plans that affect  
26.14 the community.

26.15                Subp. 5. **Submittal and review.** After consideration and before adoption, the local  
26.16 water plan or local water plan amendments shall be submitted for review according to  
26.17 Minnesota Statutes, section 103B.235.

26.18                Subp. 6. **Adoption and implementation.** Each local water plan shall be adopted  
26.19 not less than one year but no more than two years before the local comprehensive plan is  
26.20 due. Extensions of local comprehensive plan due dates do not alter the local water plan  
26.21 schedule. Each local water plan must be adopted and implemented in accordance with  
26.22 the time requirements of Minnesota Statutes, section 103B.235, subdivision 4. Each  
26.23 local government unit must notify affected organizations and the Metropolitan Council  
26.24 within 30 days of adoption and implementation of the local water plan or local water plan  
26.25 amendment, including the adoption of necessary official controls.

27.1 **8410.0180 DETERMINATIONS OF FAILURE TO IMPLEMENT.**27.2 [For text of subp 1, see M.R.]

27.3 Subp. 2. ~~Establishing cause~~ Petition. ~~Before the board's involvement in~~  
27.4 ~~determinations of whether a plan is being properly implemented,~~ The board shall first may  
27.5 ~~establish just cause for the determination~~ determining whether a plan is being properly  
27.6 implemented by review of a written complaint from an aggrieved party or through  
27.7 ~~conclusions arrived at by board staff under the review of an organization's annual report.~~  
27.8 ~~A complaint or appeal made by an aggrieved party under Minnesota Statutes, section~~  
27.9 ~~103B.231, subdivision 13,~~ petition. A petition may be made by a plan review agency,  
27.10 board staff, a local government unit, or 50 residents with land in the area that is subject to  
27.11 the petition. A petition must be made in writing to the executive director of the board and  
27.12 must summarize the issues at dispute and the efforts the party made to resolve the problem.

27.13 Subp. 3. ~~Board staff responsibilities~~ Petition review process.

27.14 A. ~~Board staff may investigate issues relating to alleged failure to implement~~  
27.15 ~~plans primarily by response from written complaint from an aggrieved party or by review~~  
27.16 ~~of the organization's annual report. Within 30 days of receiving a written complaint~~  
27.17 petition, board staff are required to send a copy to the plan review agencies and initiate  
27.18 a preliminary investigation of the facts as they appear based on personal observation,  
27.19 assessment including a review of all relevant documents, review of comments from the  
27.20 plan review agencies, and discussions with involved parties. The results of this the  
27.21 preliminary investigation assessment shall be reviewed with the executive director, and  
27.22 the board's legal counsel if appropriate, before preparation of a report. The report shall  
27.23 ascertain whether a failure to implement exists, define the exact nature of the failure to  
27.24 implement, and recommend a course of action, and a report prepared if the executive  
27.25 director determines just cause exists. Just cause may be established if no annual report  
27.26 or audit has been submitted compliant with the requirements in part 8410.0150, or if a

28.1 plan has not been amended according to part 8410.0140, subpart 1, item C. Just cause may  
28.2 be established for other reasons according to subpart 3a. The executive director of the  
28.3 board may combine multiple petitions involving the same organization and process as one  
28.4 decision. If the executive director determines just cause does not exist, the petitioner, the  
28.5 organization, and the plan review agencies shall be provided written notice of the decision.  
28.6 The executive director may require more frequent reporting and thorough evaluation than  
28.7 required under part 8410.0150.

28.8 ~~B. On completion of a report regarding a complaint or review of an annual~~  
28.9 ~~report, the staff shall send a copy of its report by certified mail to the organization~~  
28.10 ~~members of record to set a time and place for a meeting agreeable to all parties to~~  
28.11 ~~informally discuss the contents of the report if a conflict exists. The complainant and~~  
28.12 ~~any other aggrieved or affected party shall also be sent a copy of the report by certified~~  
28.13 ~~mail and shall be invited to attend any meeting held to discuss the report. If just cause is~~  
28.14 ~~established, board staff shall conduct further investigation and prepare a report. The report~~  
28.15 ~~shall conclude whether a failure to implement exists, define the exact nature of the failure~~  
28.16 ~~to implement, and recommend a course of action. The report shall be sent to the petitioner,~~  
28.17 ~~the organization, the plan review agencies, and affected local governments. Board staff~~  
28.18 ~~shall provide written notification to all those to whom it sent the report of the time and~~  
28.19 ~~location of a meeting to discuss the contents of the report.~~

28.20 ~~C. The affected organization shall be is allowed ~~30~~ 60 days after the meeting~~  
28.21 ~~in item B to hold a public meeting hearing to develop a formal course of action if the~~  
28.22 ~~joint powers agreement requires that process. Any and send a formal response shall be~~  
28.23 ~~sent by certified mail to the board and any known aggrieved or affected party within~~  
28.24 ~~15 days of the meeting parties.~~

28.25 ~~D. The affected organization and any aggrieved or affected party may not~~  
28.26 ~~appeal to the board's dispute resolution committee established under Minnesota Statutes;~~

29.1 ~~section 103B.101, subdivision 10, to hear and resolve disputes over plan implementation~~  
29.2 ~~until after the meeting has been held according to item B.~~

29.3 ~~E. Based on information discovered at the meeting held according to item B, or~~  
29.4 ~~receipt of the formal response received from the organization according to item C, board~~  
29.5 ~~staff shall report to the board at a regular meeting as to the status of the dispute. If the~~  
29.6 ~~board needs to take further action to resolve the dispute, board staff shall recommend the~~  
29.7 ~~appropriate course of action, consulting with the board's legal counsel as appropriate.~~

29.8 Subp. 3a. Criteria and standards for determinations. In making a determination  
29.9 on the petition, the board must consider:

29.10 A. whether the joint powers agreement and watershed management plan  
29.11 complies with this chapter and Minnesota Statutes, section 103B.211, subdivision 1;

29.12 B. whether the organization is actively implementing a plan that has been  
29.13 approved by the board within the previous ten years. At a minimum, the organization is  
29.14 addressing its priority issues in the plan, is carrying out its implementation actions, has a  
29.15 current monitoring program to assess whether progress is being made on goals, and has  
29.16 made progress on goals for the priority issues;

29.17 C. whether the organization is actively implementing the actions adopted in  
29.18 its plan that were derived from a county groundwater plan that has been approved by the  
29.19 board and adopted by the county;

29.20 D. whether the organization has a contact person that is capable of answering  
29.21 questions about the organization and able to assist local governments and citizens in  
29.22 resolving their concerns;

29.23 E. whether the organization submits annual activity reports and audits that  
29.24 comply with the requirements in part 8410.0150;

30.1 F. whether an evaluation under Minnesota Statutes, section 103B.102, of an  
30.2 organization's performance, financial, and activity information resulted in any corrective  
30.3 actions or areas of concern;

30.4 G. whether the organization sufficiently implemented the actions in its previous  
30.5 plan and made progress on attaining the goals in its previous plan;

30.6 H. whether the organization maintains a Web site that complies with part  
30.7 8410.0150, subpart 3a; and

30.8 I. any other factors pertinent to the petition.

30.9 Subp. 4. ~~Board responsibilities~~ Determinations.

30.10 A. On receipt of the ~~board staff's report and recommendations, the board is~~  
30.11 ~~required to do any or all of the following~~ information under subpart 3, items B and  
30.12 C, the board may:

30.13 (1) ~~do nothing further if the staff's investigation finds~~ recommendation is  
30.14 that the subject plan is being properly implemented, provided the board concurs;

30.15 (2) advise board staff to conduct additional fact finding it considers  
30.16 necessary and report back to the board accordingly;

30.17 (3) ~~order the dispute resolution committee to convene to attempt to~~  
30.18 ~~negotiate the matter and to advise the board further; or~~ direct the organization to develop  
30.19 an amended plan within a reasonable time period;

30.20 (4) direct staff or the dispute resolution committee to attempt to resolve the  
30.21 matter and to advise the board further; or

30.22 (4) (5) issue findings of fact and conclusions of its investigation advising  
30.23 the affected organizations, county, or counties of the documented failure to implement the  
30.24 subject plan and advise the appropriate unit of government ~~of~~ to complete its responsibility

31.1 to ~~implement the plan~~ under Minnesota Statutes, section 103B.231, subdivision 3,  
31.2 paragraph (b) or (c), within a prescribed period of time.

31.3 B. The board shall provide written notice of the determination to the petitioner,  
31.4 the organization, other local governments, and the plan review agencies.

31.5 B C. On issuance of its findings under ~~subpart 3~~, item A, subitem (5), the board  
31.6 shall notify the appropriate counties to proceed as required by Minnesota Statutes, section  
31.7 103B.231, subdivision 3, paragraph (b) or (c), as applicable. If a county fails to act after it  
31.8 is notified, the board shall notify state agencies that they may initiate their ~~prerogatives~~  
31.9 responsibilities under Minnesota Statutes, section 103B.231, subdivision 3, paragraph (g).

31.10 ~~C. The board's dispute resolution committee has the following duties and~~  
31.11 ~~responsibilities with respect to disputes relating to failure to implement a plan:~~

31.12 ~~(1) convene and hear appeals from both aggrieved parties and organizations~~  
31.13 ~~not satisfied with the findings and recommendations of the board's staff report presented~~  
31.14 ~~at the meeting required by subpart 2; and~~

31.15 ~~(2) convene at the pleasure of the board as prescribed by item A to attempt~~  
31.16 ~~to negotiate and settle disputes over determinations relating to implementation of plans~~  
31.17 ~~and to further advise the board.~~

31.18 Subp. 5. Appeal of determinations or decisions.

31.19 A. No appeal may be made to the board for the board's dispute resolution  
31.20 committee established under Minnesota Statutes, section 103B.101, subdivision 10, to  
31.21 hear and resolve disputes concerning plan implementation until after the procedures in  
31.22 subpart 4 have been completed or until after the executive director has made a decision  
31.23 that just cause does not exist under subpart 3, item A.

31.24 B. The determination of the board under subpart 4 or the decision of the  
31.25 executive director that just cause does not exist under subpart 3, item A, is final if not

32.1 appealed to the executive director of the board within 30 days after the date on which the  
32.2 notice of determination or decision is sent to those required to receive notice. A written  
32.3 appeal may be made by the petitioner or the organization. Within 30 days after receiving  
32.4 the appeal, the board, its dispute resolution committee, or its executive director must  
32.5 decide whether to hear the appeal. An appeal may be denied and not heard if the board,  
32.6 its dispute resolution committee, or its executive director decide the appeal is without  
32.7 sufficient merit, trivial, or brought solely for purposes of delay.

32.8 C. After an appeal is granted, the appeal must be decided by the board within 60  
32.9 days after submittal of written briefs for the appeal and conclusion of a hearing by the  
32.10 dispute resolution committee. Parties to the appeal are the appellant and the organization.  
32.11 The board or its executive director may elect to combine multiple appeals involving the  
32.12 same organization and process as one decision. An appeal of a board decision may be  
32.13 taken to the state Court of Appeals and must be considered an appeal from a contested case  
32.14 decision for purposes of judicial review under Minnesota Statutes, sections 14.63 to 14.69.

32.15 Subp. 6. **Determination necessary for watershed district termination.** A  
32.16 determination of failure to implement under subpart 4, item A, subitem (5), is necessary  
32.17 before the board may terminate a watershed district under Minnesota Statutes, section  
32.18 103B.221.

32.19 **REPEALER.** Minnesota Rules, parts 8410.0010, subpart 2; 8410.0020, subparts 4, 5, 10,  
32.20 11, 12, 13, 19, and 24; 8410.0060, subparts 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11; 8410.0070;  
32.21 8410.0080, subparts 4, 5, and 9; 8410.0090; 8410.0100; 8410.0110; 8410.0120;  
32.22 8410.0130; 8410.0140, subpart 3; 8410.0150, subpart 2; and 8410.0170, are repealed.

## **COMMITTEE RECOMMENDATIONS**

### ***Northern Region Committee***

1. Northern Red River Basin Local Water Management Plan Synchronization – Tom Schulz – ***DECISION ITEM***
  
2. Otter Tail County Water Plan Amendment – Tom Schulz – ***DECISION ITEM***
  
3. Becker County Local Water Management Plan Extension Request – Gerald Van Amburg – ***DECISION ITEM***
  
4. Beltrami County Water Plan Extension Request – Neil Peterson - ***DECISION ITEM***



## BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE:

Northern Red River Basin Local Water Management Plan  
Synchronization

Meeting Date:

September 24, 2014

Agenda Category:

Committee Recommendation     New Business     Old Business

Item Type:

Decision     Discussion     Information

Section/Region:

North Region

Contact:

Matt Fischer

Prepared by:

Matt Fischer

Reviewed by:

North Region Committee    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     General Fund Budget  
 Amended Policy Requested     Capital Budget  
 New Policy Requested     Outdoor Heritage Fund Budget  
 Other:     Clean Water Fund Budget

### ACTION REQUESTED

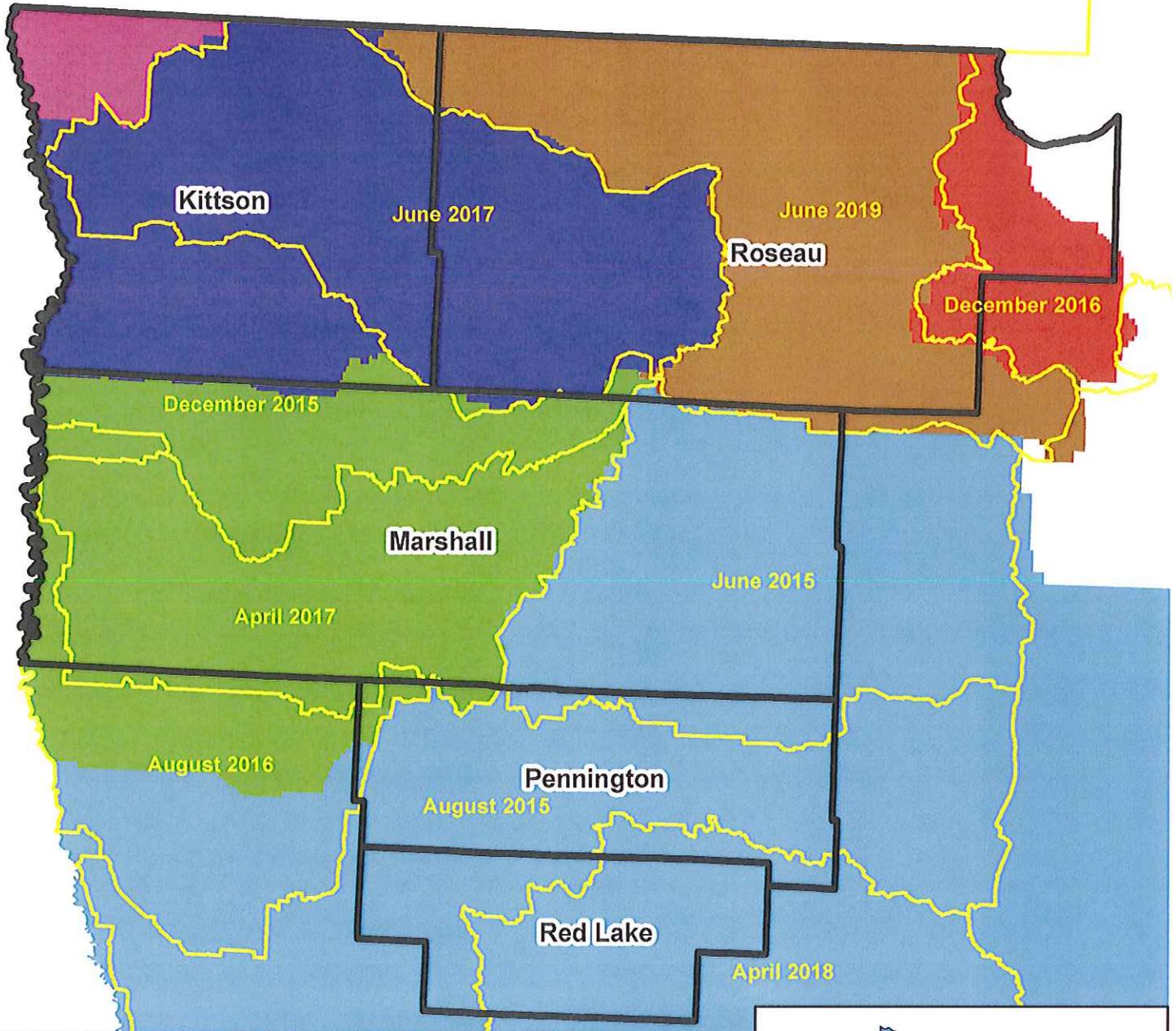
Approval to extend the Marshall County Local Water Management Plan until December 31, 2017, to waive the 5-year update requirement for the Comprehensive Local Water Management Plans of Pennington, Red Lake, and Roseau Counties, and extend the requirement to complete the 5-year update for the Kittson County Comprehensive Local Water Management Plan until December 31, 2017.

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

On September 26, 2012, the BWSR Board passed Resolution #12-85 which synchronized watershed district plan expiration dates in the Red River Basin with the MPCA's WRAPS schedules, and further allowed counties in the Red River Basin to petition BWSR to extend local water plan expiration dates to enable more effective coordination with watershed district partners. On June 25, 2014, the BWSR Board passed the Local Water Plans Extensions Policy which supports extensions of local water plans and waivers to the 5-year update requirement in order for local government units to participate in and more effectively utilize the MPCA's WRAPS, and synchronize water management efforts between partners.

The actions requested are based on these five counties recognizing the importance of the information and scientific data that will be provided by the WRAPS, and the desire to synchronize water management efforts with the WRAPS and partners as they transition into One Watershed One Plan. Each county put extensive thought into what they would need to synchronize with the multiple major watershed/watershed district schedules that are included within their county. The watershed district plan expiration dates were already extended by Resolution #12-85 to synchronize with the WRAPS, and the above listed actions would be the next step to ensure a successful transition into One Watershed One Plan in the Northern Red River Basin.

# Northern Red River Basin Local Water Management Plan Synchronization

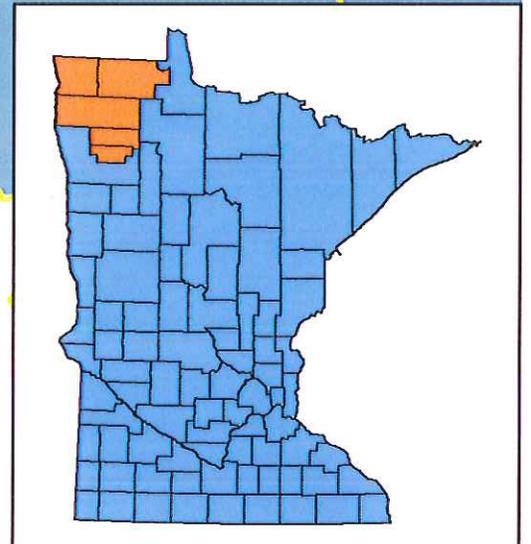


-  Counties
-  WRAPS Boundaries (Scheduled Completion Dates on Map)

## Watershed Districts

Name (Plan Expiration Date)

-  JOE RIVER (April 2016)
-  MIDDLE-SNAKE-TAMARAC RIVERS (September 2022)
-  RED LAKE (October 2018)
-  ROSEAU RIVER (April 2019)
-  THE TWO RIVERS (October 2017)
-  WARROAD (August 2018)



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

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In the Matter of Extending the Local Water Management Plan for **Marshall County**, Waiving the Requirement to Complete the 5-year Update for **Pennington County**, **Red Lake County**, and **Roseau County**, and Extending the 5-year Update Requirement for **Kittson County** (Minnesota Statutes, Section 103B.3367, BWSR Resolution #12-85, and BWSR's Local Water Plan Extensions Policy)

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ORDER  
SYNCHRONIZING  
LOCAL  
WATER MANAGEMENT  
PLANS

**Whereas**, Marshall County has a State approved Local Water Management Plan pursuant to M.S. 103B.301, that is effective until December 31, 2015; and

**Whereas**, Pennington County has a State approved Comprehensive Local Water Management Plan pursuant to M.S. 103B.301, that is effective until May 26, 2020, with the Goals, Objectives and Action Items to be updated by May 26, 2015 (5-year update), as per the BWSR Order dated May 26, 2010; and

**Whereas**, Red Lake County has a State approved Comprehensive Local Water Management Plan pursuant to M.S. 103B.301, that is effective until March 24, 2020, with the 5-year update required by March 24, 2015, as per the BWSR Order dated March 24, 2010; and

**Whereas**, Roseau County has a State approved Comprehensive Local Water Management Plan pursuant to M.S. 103B.301, that is effective until March 24, 2020, with the 5-year update required by March 24, 2015, as per the BWSR Order dated March 24, 2010; and

**Whereas**, Kittson County has a State approved Comprehensive Local Water Management Plan pursuant to M.S. 103B.301, that is effective until May 26, 2020, with the 5-year update required by May 26, 2015, as per the BWSR Order dated May 26, 2010; and

**Whereas**, the Board has authorization to grant extensions pursuant to M.S. 103B.3367; and

**Whereas**, the Board adopted Resolution #12-85 "Red River Basin Watershed District Plan Expiration Date Extension" on September 26, 2014; and

**Whereas**, the Board adopted the Local Water Plan Extensions Policy on June 25, 2014.

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

**FINDINGS OF FACT**

- 1) On August 19, 2014, the Minnesota Board of Water and Soil Resources received a resolution from Marshall County requesting a two-year extension to their Local Water Management Plan until December 31, 2017. The following are the reasons for the request:

- Marshall County is interested in pursuing options under the One Watershed One Plan program and was part of the Thief River Watershed nomination for the pilot program.
- Marshall County intends to participate in and more effectively utilize the MPCA's watershed-based 10-year approach of monitoring, assessment, and development of Watershed Restoration and Protection Strategies (WRAPS), which are scheduled to be completed in over 99% of the County by June of 2017. The following table shows the WRAPS schedules for the County.

Watershed	% of County	Scheduled Completion Date
Snake River	39.7%	April 2017
Thief River	33.2%	June 2015
Tamarac River	21.6%	December 2015
Grand Marais Creek	4.0%	August 2016
Roseau River	0.8%	June 2019
Two Rivers	0.7%	June 2017

- Marshall County wishes to coordinate their time schedules and plan development efforts with local watershed districts to produce the most effective One Watershed One Plan. The following table shows the partner watershed districts' plan expiration dates.

Watershed District	% of County	Plan Expiration Date
Middle-Snake-Tamarac River WD	64.5%	September 2022
Red Lake WD	33.7%	October 2018
Two Rivers WD	1.2%	October 2017
Roseau River WD	0.6%	April 2019

- The Red Lake, Two Rivers, and Roseau River Watershed Districts' plan expirations dates were previously adjusted by BWSR Resolution #12-85 for the purpose of effectively synchronizing comprehensive watershed planning efforts.

2) On August 20, 2014, the Minnesota Board of Water and Soil Resources received a resolution from Pennington County requesting a waiver of the requirement to complete the 5-year update to their Comprehensive Local Water Management Plan. The following are the reasons for the request:

- Pennington County has been selected as part of the group to pilot the One Watershed One Plan program in the Red Lake River Watershed, which is scheduled to be completed by the end of 2015.
- Pennington County will need to focus their efforts on the One Watershed One Plan pilot as it is going to require a substantial amount of their time and resources.
- The One Watershed One Plan for the Red Lake River Watershed will substitute for over 72% of Pennington County's current Comprehensive Local Water Management Plan.
- Pennington County intends to participate in and more effectively utilize the MPCA's WRAPS, which are scheduled to be completed for all of the watersheds in the County by April of 2018. The following table shows the WRAPS schedules for the County.

Watershed	% of County	Scheduled Completion Date
Red Lake River	72.5%	August 2015
Thief River	13.1%	June 2015
Clearwater River	9.2%	April 2018
Grand Marais Creek	3.1%	August 2016
Snake River	2.1%	April 2017

- Pennington County wishes to synchronize water management efforts between partners and over 95% of the County is within the Red Lake Watershed District, whose plan expiration date of October 2018 was previously adjusted by BWSR Resolution #12-85.

3) On August 25, 2014, the Minnesota Board of Water and Soil Resources received a resolution from Red Lake County requesting a waiver of the requirement to complete the 5-year update to their Comprehensive Local Water Management Plan. The following are the reasons for the request:

- Red Lake County has been selected as part of the group to pilot the One Watershed One Plan program in the Red Lake River Watershed, which is scheduled to be completed by the end of 2015.
- Red Lake County will need to focus their efforts on the One Watershed One Plan pilot as it is going to require a substantial amount of their time and resources.
- The One Watershed One Plan for the Red Lake River Watershed will substitute for over 35% of Red Lake County's current Comprehensive Local Water Management Plan.
- Red Lake County intends to participate in and more effectively utilize the MPCA's WRAPS, which are scheduled to be completed for the two watersheds in the County by April of 2018. The Clearwater River Watershed covers 65% of the County and is scheduled to be completed April 2018, and the Red Lake River Watershed covers 35% of the County and is scheduled to be completed August 2015.
- Red Lake County wishes to synchronize water management efforts between partners and the entire County is within the Red Lake Watershed District, whose plan expiration date of October 2018 was previously adjusted by BWSR Resolution #12-85.

4) On August 19, 2014, the Minnesota Board of Water and Soil Resources received a resolution from Roseau County requesting a waiver of the requirement to complete the 5-year update to their Comprehensive Local Water Management Plan. The following are the reasons for the request:

- Roseau County is interested in pursuing options under the One Watershed One Plan program and was part of the Thief River Watershed nomination for the pilot program.
- Roseau County intends to participate in and more effectively utilize the MPCA's WRAPS, which are scheduled to be completed for all of the watersheds in the County by April of 2019. The following table shows the WRAPS schedules for the County.

Watershed	% of County	Scheduled Completion Date
Roseau River	56.0%	June 2019
Two Rivers	29.5%	June 2017
Lake of the Woods	13.6%	December 2016
Tamarac River	0.7%	December 2015
Thief River	0.2%	June 2015

- Roseau County plans on synchronizing water management efforts with partners in order to transition into One Watershed One Plan. The following table shows the watershed districts' plan expiration dates.

Watershed District	% of County	Plan Expiration Date
Roseau River WD	56.0%	April 2019
Two Rivers WD	29.5%	October 2017
Warroad River WD	13.6%	August 2018
Middle-Snake-Tamarac River WD	0.7%	September 2022
Red Lake WD	0.2%	October 2018

- The Roseau River, Two Rivers, and Red Lake Watershed Districts' plan expiration dates were previously adjusted by BWSR Resolution #12-85 for the purpose of effectively synchronizing comprehensive watershed planning efforts.

5) On August 29, 2014, the Minnesota Board of Water and Soil Resources received a resolution from Kittson County requesting an extension of the requirement to complete the 5-year update to their

Comprehensive Local Water Management Plan until December 31, 2017. The following are the reasons for the request:

- Kittson County wishes to participate in and more effectively utilize the MPCA’s WRAPS, which are scheduled to be completed in over 97% of the County by June of 2017. The following table shows the WRAPS schedules for the County.

Watershed	% of County	Scheduled Completion Date
Two Rivers	53.7%	June 2017
Tamarac River	43.6%	December 2015
Roseau River	2.7%	June 2019

- Kittson County intends on synchronizing water management efforts with partners as they transition into One Watershed One Plan. The following table shows the watershed districts’ plan expiration dates.

Watershed District	% of County	Plan Expiration Date
Two Rivers WD	85.1%	October 2017
Joe River WD	11.4%	April 2016
Roseau River WD	2.1%	April 2019
Middle Snake Tamarac River WD	1.4%	September 2022

- The Two Rivers, Joe River, and Roseau River Watershed Districts’ plan expiration dates were previously adjusted by BWSR Resolution #12-85 for the purpose of effectively synchronizing comprehensive watershed planning efforts.

- 6) Board of Water and Soil Resources staff reviewed and recommended approval of the extension request by Marshall County, the 5-year update waiver requests by Pennington, Red Lake, and Roseau Counties, and the extension to the 5-year update requirement by Kittson County.
- 7) On September 10, 2014, the North Region Committee met and reviewed the Marshall County request for an extension, the Pennington County request for a waiver to the 5-year update, the Red Lake County request for a waiver to the 5-year update, the Roseau County request for a waiver to the 5-year update, and the Kittson County request for an extension of the requirement to complete the 5-year update. The Committee recommended approval of these 5 requests.

### CONCLUSION

All relevant requirements of law and rule have been fulfilled. The Board has proper jurisdiction in the matters of extending the Local Water Management Plan of Marshall County and waiving/extending the 5-year update requirements for the Comprehensive Local Water Management Plans of Pennington, Red Lake, Roseau, and Kittson Counties, pursuant to M.S. 103B.3367, BWSR Resolution #12-85, and BWSR’s Local Water Plan Extensions Policy.

### ORDER

The Board hereby approves the two-year extension of the Marshall County Local Water Management Plan until December 31, 2017, the waiver to the 5-year update requirement for the Pennington County Comprehensive Local Water Management Plan, the waiver to the 5-year update requirement for the Red Lake County Comprehensive Local Water Management Plan, the waiver to the 5-year update requirement for the Roseau County Comprehensive Local Water Management Plan, and the extension to the 5-year

update requirement for the Kittson County Comprehensive Local Water Management Plan until December 31, 2017.

Dated at St. Paul, Minnesota, this 24<sup>th</sup> day of September 2014.

**MINNESOTA BOARD OF WATER AND SOIL RESOURCES**

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BY: Brian Napstad, Chair



# BOARD MEETING AGENDA ITEM

**AGENDA ITEM TITLE:** Otter Tail County Local Water Plan Amendment

**Meeting Date:** September 24, 2014

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

**Item Type:**  Decision  Discussion  Information

**Section/Region:** Northern

**Contact:** Pete Waller

**Prepared by:** Pete Waller

**Reviewed by:** Northern Committee(s)

**Presented by:** Thomas 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 Otter Tail County Local Water Management Plan August 31, 2009 – August 31, 2019 (Amended 2014)

**LINKS TO ADDITIONAL INFORMATION**

The Otter Tail County Local Water Management Plan August 31, 2009 – August 31, 2019 (Amended 2014) can be found on either the East Otter Tail SWCD or West Otter Tail SWCD web sites below:

<http://www.eotswcd.org/>

<http://www.wotswcd.org/>

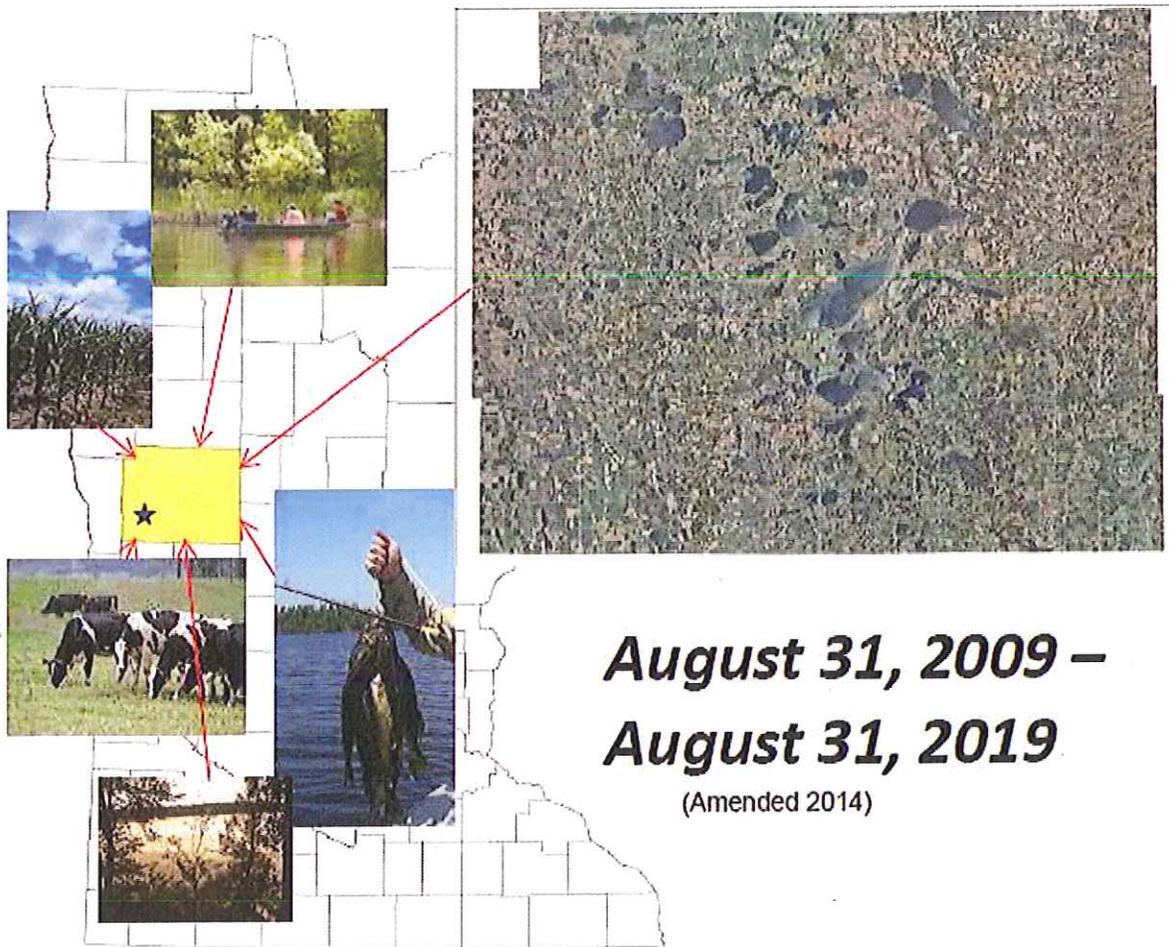
**SUMMARY** (Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)

January 21, 2014, Otter Tail County adopted a resolution to begin the five-year amendment process for their Comprehensive Local Water Management Plan. The county submitted their five-year amendment of the Local Water Management Plan to the BWSR, on June 2, 2014. The Local Water Management Plan five-year amendment meets the requirements of 103B.313-103B.314, as well as the guidelines established by BWSR. On September 10, the Northern Committee met with Otter Tail County representatives and reviewed the amendment. The Northern Committee recommended to approve the five-year amendment.

# *Otter Tail County*

## *Location Map*

### *Local Water Management Plan*



***August 31, 2009 –***

***August 31, 2019***

**(Amended 2014)**



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

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

ORDER  
APPROVING  
LOCAL WATER  
MANAGEMENT PLAN  
AMENDMENT

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**Whereas**, on August 27, 2009, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Otter Tail County Local Water Management Plan Update (Plan); August 31, 2009 – August 31, 2019 with an Implementation Program through 2014; and

**Whereas**, this Board Order stipulated that Otter Tail County was required to amend the Goals, Objectives and Action Items by August 31, 2014; and

**Whereas**, the Otter Tail County Board of Commissioners submitted the Otter Tail County Local Water Management Plan Amended 2014 to the Board on June 2, 2014; and

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

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

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

**FINDINGS OF FACT**

1. On February 21, 2014, the Board received a January 21, 2014 resolution from Otter Tail County stating its intent to amend its current Plan by providing for the required update of the five-year implementation section, pursuant to M.S. Section 103B.314, Subd. 6.
2. On February 13, 2014, Board staff provided information on the amendment process to Otter Tail County.
3. On February 21, 2014, Otter Tail County provided proper notice to local units of government and state agencies of the county's intent to amend its five-year implementation section and invited all recipients to participate in the amendment process.
4. On February 13, 2014, Otter Tail County convened its water plan task force to initiate the five-year implementation section update. Two additional public input meetings were conducted. Regional staff of the state agencies participated in these meetings.
5. In March 2014, Otter Tail County received written comments from the state review agencies Minnesota Department of Agriculture, the Minnesota Department of Natural Resources, and the Minnesota Board of Water and Soil Resources and also from adjacent local government units the Becker County SWCD, the Pelican River Watershed District, the Buffalo-Red River Watershed District, the Pomme de Terre Joint Powers Board, the Todd County SWCD, and Wilkin County.

6. No other state agency or local government unit provided written comments to Otter Tail County.
7. On May 13, 2014, after providing for proper public notice, Otter Tail County conducted a public hearing on the proposed Amendment. The addition of pollinators in the Wildlife Section was suggested. The suggestion was incorporated.
8. On June 2, 2014, the Amendment which was developed by Otter Tail County and includes the revised five-year implementation section was submitted to the required state review agencies.
9. On June 2, 2014, the BWSR received the Otter Tail County Plan Amendment, a record of the public hearing, and copies of all written comments pertaining to the Amendment, pursuant to M.S. Section 103B.314, Subd. 6.
10. On September 10, 2014, the Board's Northern Committee (Committee) reviewed the Otter Tail County Plan Amendment, pursuant to 103B.301 and guidelines established by the Board.
11. Board regional staff provided its recommendation of approval to the Committee.
12. The Committee voted to recommend approval to the full Board at its next scheduled meeting.
13. This Amendment will be in effect until August 31, 2019.

### **CONCLUSIONS**

1. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of approving the Otter Tail County Comprehensive Water Plan Amendment pursuant to Minnesota Statutes, 103B.314, Subd. 6.
2. The Otter Tail County Local Water Management Plan August 31, 2009 – August 31, 2019 – Amended 2014 attached to this Order states goals, objectives, and actions the county will address as the five year implementation section: August 31, 2014 – August 31, 2019. This Plan Amendment is in conformance with the requirements of M.S. Section 103B.301.

### **ORDER**

The Board hereby approves the attached amendment of the Otter Tail County Water Management Plan for August 31, 2014 – August 31, 2019. Otter Tail County will be required to provide for a complete update of its Water Management Plan prior to August 31, 2019.

Dated at St. Paul, Minnesota, this **24th day of September 2014**.

### **MINNESOTA BOARD OF WATER AND SOIL RESOURCES**

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BY: Brian Napstad, Chair

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## **I. Executive Summary**

The priority concerns of the residents of Otter Tail County have been well documented through a survey process and two public meetings conducted for that purpose. Each of these concerns will be addressed at length in this plan, with emphasis on surface and groundwater resources. These two resources were identified by survey as the most threatened. The Priority Concerns Scoping Document can be found, in its entirety, in the Appendix of this plan.

### **A. Background**

Otter Tail County is located in west-central Minnesota amid the sandy glacial outwash plain with gently rolling hills. Along the northwestern and southeastern edges lie steeper hills and bluffs. The majority of the county's 1,048 lakes are formed in the sandy areas. The Pelican and Otter Tail Rivers flow to the west in the Red River Watershed, then north to Hudson Bay. The Leaf River starts north of Henning and flows to the Red Eye River and out the eastern edge to the Upper Mississippi River, while the Pomme de Terre and Chippewa Rivers headwater in the southwest corner and flow to the Minnesota River. Both the Upper Mississippi and the Minnesota Rivers end up in the Gulf of Mexico. The continental divide runs along the major basin boundaries. The City of Fergus Falls is the county seat. The population in Otter Tail County between 1990 and 2000 has increased by 12.7%. The number of households has risen 16.2%, from 19,510 in 1990 to 22,671 in 2000. A greater than 40% increase in population is predicted throughout the county. Development is occurring mainly around the lakes and greater than 50% growth is predicted in Perham, Pelican Rapids, Otter Tail and New York Mills.

Agriculture, in the form of cultivated land is the dominant land use within the county. In the past twenty years, cultivated land has decreased and grasslands have doubled. The county acreage includes 12% water and 4.7% wetlands classification.

Otter Tail County's Local Water Management Plan (LWMP) is implemented by the Soil and Water Conservation Districts. Due to the size of the county, it is split into the East and West Otter Tail SWCD. Currently, the administration of the LWMP is the responsibility of East Otter Tail Office Manager, with support from the West Otter Tail District Manager. The original LWMP was formally adopted on October 10, 1990. The responsible government unit for implementation of the original plan was the Land and Resource Management Department. Two plan revisions have been implemented since then. This third revision will be implemented by August 31, 2009.

### **B. Plan Purpose**

The purpose of this LWMP is to identify existing and potential problems and opportunities for protection, management and development of water resources and related land resources in Otter Tail County. Pursuant to the requirements of Minn. Stat. 103B.311subd., the five requirements of this plan are as follows:

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 principals 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 ground water system.

- 
5. The plan will be effective for a ten year period until August 31, 2019; with the Goals, Objectives & Action Items amended by August 31, 2014.

Changing development patterns and economic growth will eventually create more pressure on natural resources and impact agricultural, water resources and recreational needs of Otter Tail County residents.

### **C. Description of Priority Concerns**

Following a series of two public participation meetings in Otter Tail County, priority concerns were established. These meetings were facilitated with both a survey of perceived threatened resources and problems within the county and an active participation process to address these problems. From this process, Development Pressure was identified as the over-reaching issue for Otter Tail County. Based on this premise, the following priority concerns were identified:

1. Surface Water Quality Issues
  - a. Water Quality Issues
    - i. Targeting the restoration and protection of surface water by using tools like lake assessments, MPCA WRAPS, and other assessment tools to prioritize water quality projects.
    - ii. Continuing to support shoreline specialist position.
    - iii. Support and implement watershed based assessments and plans developed.
    - iv. Support surface water quality monitoring efforts.  
Drainage water management
  - b. Regulatory Issues
    - i. Lake re-classification, Alternative shoreland rules, Agricultural rules, Support state-wide process, Agriculture advisory task force
    - ii. Otter Tail County Shoreland Buffer Initiative
    - iii. Sanitation Code
2. Groundwater Issues:
  - a. Quality Issues:
    - i. Elevated nitrate concentration in drinking water, public and private.
    - ii. Educational efforts for ag producers (Programs and workshops)
    - iii. Irrigation management, tools for irrigators and weather data
    - iv. Nutrient management
    - v. Reductions in CRP acres
    - vi. Septics
    - vii. Ag BMPS
  - b. Quantity Issues:
    - i. Pumping to other watersheds, Ethanol plants, Increased demand for irrigation water
    - ii. Impacts of increased tile drainage.

These issues will be the focus in the establishment of goals, objectives and strategies for implementation.

### **D. Consistency of plan with other pertinent local, state, and regional plans**

Numerous plans were considered in the completion of this document. Major basin plans

include the Minnesota Red River Basin Water Quality Plan, Upper Mississippi Basin Plan and the Minnesota River Basin Plan. Watershed District Plans include the Buffalo-Red and Bois de Sioux. Watershed joint-powers and associations with plans include the Otter Tail River, the Pomme de Terre River, and the Chippewa River Watersheds. Wellhead protection plans from the cities of Perham and Parkers Prairie were reviewed for appropriate strategies; as well as plans from the Pelican Group of Lakes Improvement District, Long Range Planning Task Force report and recommendations, "Building Local Partnerships for Managing Water Resources in Otter Tail County", and US Fish and Wildlife Service Comprehensive Conservation Plan and Environmental Assessment. These plans were reviewed for compatibility and collaboration. Otter Tail County Local Water Management Plan update has utilized appropriate action items to support these plans, and is consistent with the data and goals presented therein. All relevant plans developed between 2014-2019 may be integrated into the Water Plan.

**E. Recommendations to Other Plans and Official Controls**

The Otter Tail County Local Water Management task force supports the statewide revision of the Shoreland Regulations. It was the feeling of the general public, supported by the task force, that the existing regulations do not adequately preserve the sensitive shorelines that are still undeveloped.



# BOARD MEETING AGENDA ITEM

**AGENDA ITEM TITLE:** Becker County LWP Extension Request

**Meeting Date:** September 24, 2014

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

**Item Type:**  Decision  Discussion  Information

**Section/Region:** North Region

**Contact:** Brett Arne

**Prepared by:** Brett Arne

**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

- Becker County requests BWSR:
- Extend the County Local Water Plan expiration date two (2) years until December 31, 2016 pursuant to M.S. 103B.3367 and Board Resolution #12-85 dated September 26, 2012.

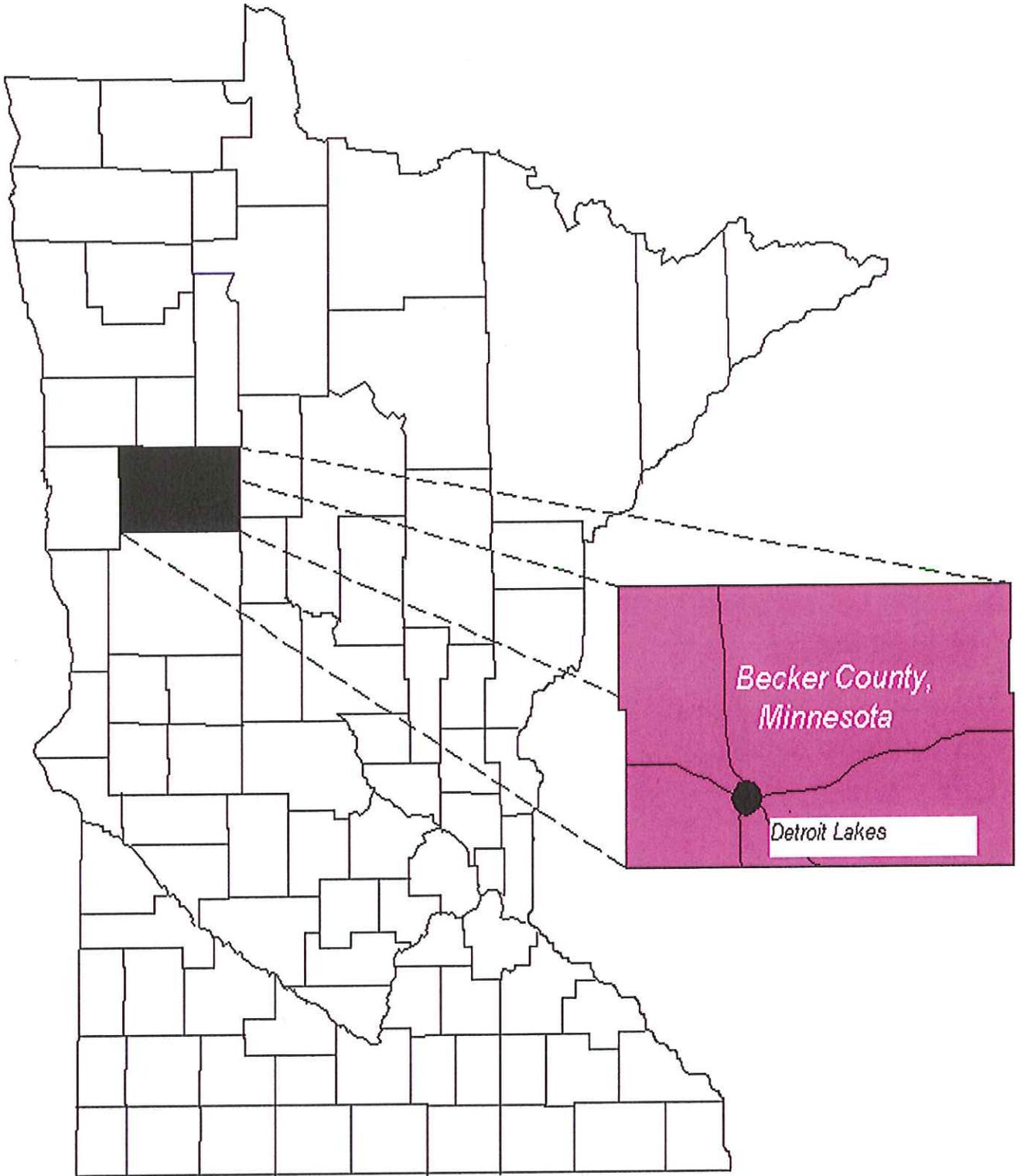
## LINKS TO ADDITIONAL INFORMATION

N/A

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

1. The request is based on the following:
  - Multiple staff turnover including the Water Planner position in 2013 led to a delay in water plan update considerations as new staff acclimate to local resource issues in Becker County.
  - 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 and Board resolution #12-85 allowing entities in the Red River Basin to synchronize planning efforts.
  - Along with synchronizing local water management planning and implementation, additional data is anticipated to be available Red River Basin-wide beginning at the end of 2014 with the advent of a Shared Services Clean Water Fund project utilizing GIS data, models, and staff as part of a joint effort between Technical Service Areas 1 and 8 in northern and northwestern Minnesota and further work completed by the International Water Institute and Houston Engineering.

*Becker County  
Location Map*





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

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In the Matter of Extending the Local Water Management Plan  
for Becker County (Minnesota Statutes, Section 103B.3367,  
and BWSR Board Resolution #12-85)

ORDER  
EXTENDING  
LOCAL  
WATER MANAGEMENT  
PLAN

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**Whereas**, the Becker County Board of Commissioners has a State-approved Local Water Management Plan that is effective until December 31, 2014, pursuant to M.S. 103B.301, and

**Whereas**, the Minnesota Board of Water and Soil Resources (Board) has authorization to grant extensions pursuant to M.S. 103B.3367 and,

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

#### FINDINGS OF FACT

- 1) On July 22, 2014, the Minnesota Board of Water and Soil Resources received a resolution from the Becker County Board of Commissioners requesting a 2 year extension, to December 31, 2016 to allow time to compensate for staff turnover and to align with other local County and Watershed District plans pursuant to M.S. Section 103B.3367, and BWSR Board Resolution #12-85 dated September 26, 2012.
- 2) The extension request cited numerous applicable purposes to include the following:
  - Local Soil and Water Conservation District Staff Turnover in 2013
    - i) The SWCD Administrator is the County Water Planner.
    - ii) The Administrator retired in 2013.
    - iii) Total staff turnover between three employees included losing over a century of combined local planning and implementing experience and knowledge.
  - Surrounding County and Watershed District Plan Synchronization
    - i) On September 26, 2012 the BWSR Board adopted Resolution #12-85 allowing Counties and Watershed Districts in the Red River Basin to synchronize efforts.
  - Increase in Data Availability via Shared Services and WRAPs
    - i) On January 22, 2014 the Board awarded a Shared Services Clean Water Fund proposal to fund GIS data development in Northern and Northwestern Minnesota Technical Service Areas 1 and 8.
    - ii) Staff working on the project will be providing products and services to planning efforts in the Red River Basin.
    - iii) WRAPS projects in the Wild Rice Watershed are scheduled to begin in 2014 to provide additional data in future planning efforts.

- 3) On July 22, 2014, the Board of Water and Soil Resources staff reviewed the Becker County extension request. The purpose and reasoning was deemed adequate and local staff recommended approval of the extension.
- 4) On September 10, 2014 the North Region Committee met and reviewed the Becker County LWP request for extension. The Committee recommended approval of the request.

### **CONCLUSIONS**

- 1) All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of Extending the Comprehensive Local Water Plan of Becker County pursuant to Minnesota Statutes, 103B.3367, and pursuant to Board Resolution #12-85.

### **ORDER**

The Board hereby approves the two (2) year extension of the Becker County Local Water Management Plan until December 31, 2016.

Dated at St Paul, Minnesota, this twenty-fourth day of September 2014.

### **MINNESOTA BOARD OF WATER AND SOIL RESOURCES**

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BY: Brian Napstad, Chair



# BOARD MEETING AGENDA ITEM

**AGENDA ITEM TITLE:** Beltrami County Comprehensive Local Water Management Plan Extension

**Meeting Date:** September 24, 2014

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

**Item Type:**  Decision  Discussion  Information

**Section/Region:** North Region

**Contact:** Ron Shelito

**Prepared by:** Chad Severts

**Reviewed by:** Northern Region Committee(s)

**Presented by:** Neil Peterson

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 Beltrami County Comprehensive Local Water Management Plan extension request.

## LINKS TO ADDITIONAL INFORMATION

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

Beltrami County has a Comprehensive Local Water Management Plan (Plan) that was set to expire May 28, 2013. On May 22, 2013, the Board of Water and Soil Resources (Board) approved a request for a two year extension of the Plan for Beltrami County. On September 2, 2014, the Board received a request for an additional extension of the plan from Beltrami County to synchronize the development of the Plan with other planning and assessment efforts. Beltrami County is currently participating in the Mississippi River (Headwaters) WRAPS process which includes many of the County's priority water resources. Beltrami County and the other counties in the jurisdiction of the Mississippi Headwaters Board (MHB) have begun the minor watershed screening process developed by Crow Wing County. Beltrami County has also begun coordinating the efforts between the MHB and the City of Bemidji to conduct a stormwater analysis for the City. BWSR staff determined the incorporation of these planning and assessment efforts is critical to the prioritizing and targeting strategies of the Local Water Management planning process and recommended the approval of the request.

On September 10, 2014, the Board's Northern Region Committee, chaired by Tom Schulz, met to discuss the extension request. After discussion, the Committee decided with a unanimous vote to recommend approval of the Beltrami County extension request and bring this recommendation forward to the full BWSR Board for review and action. The State's expectations for the extension request must be sent to Beltrami County.



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

In the Matter of Extending the Local Water Management Plan Update for Beltrami County (Minnesota Statutes, Section 103B.3367, authorizing BWSR to grant extensions.)

ORDER EXTENDING  
LOCAL WATER  
MANAGEMENT PLAN

**Whereas**, Beltrami County has a state approved Comprehensive Local Water Plan (CLWP) that is effective until May 28, 2015, pursuant to M.S. Section 103B.301; and

**Whereas**, Beltrami County has submitted a resolution requesting an extension of its Plan; and

**Whereas**, the Board of Water and Soil Resources (Board) has the authorization to grant extensions with or without conditions pursuant to Minnesota Statutes 103B.3367.

**Now therefore**, the Board of Water and Soil Resources hereby makes the following Findings of Fact, Conclusions and Order:

#### FINDINGS OF FACT

1. On September 2, 2014, Beltrami County Board of Commissioners passed a resolution requesting an extension of their Comprehensive Local Water Plan to May 28, 2017. The following are the reasons for the request:
  - Beltrami County is currently participating in the Mississippi River (Headwaters) WRAPS process that is projected to be completed July 2016.
  - Beltrami County is currently in the process of conducting the minor watershed screening process developed by Crow Wing County.
  - Beltrami County is currently coordinating efforts between the Mississippi Headwaters Board and the city of Bemidji to conduct a stormwater analysis for the City.
2. On September 2, 2014, Board staff reviewed and recommended approval of the extension request by Beltrami County in order to coordinate with the current planning and assessment efforts.
3. On September 10, 2014, Board of Water and Soil Resources Northern Water Planning Committee reviewed and recommended approval of the extension request by Beltrami County.

#### CONCLUSION

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 Beltrami County pursuant to M.S. Section 103B.3367.

ORDER

The Board of Water and Soil resources hereby approves the extension of the Beltrami County Comprehensive Local Water Plan until May 28, 2017. Dated at St. Paul, Minnesota, this 24<sup>th</sup> day of September 2014.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

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BY: Brian Napstad, Chair

**COMMITTEE RECOMMENDATION**

***RIM Reserve & Soil Conservation Committee***

1. Transitioning the Reinvest In Minnesota (RIM) Reserve – Wetlands Reserve Program (WRP) to the RIM Wetlands Program (RIM-Wetlands) – Tim Koehler – ***DECISION ITEM***
2. 2014 Conservation Reserve Enhancement Program (CREP) Proposal – Tabor Hoek – ***DECISION ITEM***



## BOARD MEETING AGENDA ITEM

**AGENDA ITEM TITLE:** Resolution Transitioning the RIM-WRP Partnership Program to the RIM Wetlands Program

**Meeting Date:** September 24, 2014

**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 & Soil Conservation Committee(s)

**Presented by:** Tim Koehler

**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 RRSCC to authorize staff to transition RIM-WRP to the RIM Wetlands Program.

### 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 establish and implement the Reinvest In Minnesota (RIM) Reserve program via implementation of Minnesota Statutes, Section 103F.505 to 103F.531. The RIM Wetlands Program and the land that it will protect and restore falls within the authorities and guidance found in the above referenced Minnesota Statutes.

During the past 28 years the RIM program has been one of the state’s most successful and influential programs for protecting and restoring wetlands and their associated uplands throughout the state. Specific and general appropriations have been used to accomplish the RIM program objectives.

A recent and successful example is the RIM-Wetlands Reserve Program (WRP) Partnership, which since 2008 has utilized Outdoor Heritage Fund and Capital Investment appropriations to focus on permanently protecting approximately 35,000 acres of wetlands and their associated uplands.

With the passage of the new Federal Farm Bill in 2014, the WRP is now the Wetlands Reserve Easement (WRE) program. Although the new rules for this program are still being written it is apparent there are a number of changes that affect the compatibility with the RIM program. It is anticipated that in the future WRE and RIM will be able to be paired only in specific circumstances, thereby making it necessary for BWSR to explore additional options for achieving wetland protection and restoration goals.

Therefore, staff recommends a transition from RIM-WRP to the RIM Wetlands program. This approach continues the programmatic focus on wetland restoration and protection while allowing for a diversity of partnership and financial resources as well as RIM-only easements in order to meet state conservation goals.

Once developed, training and outreach will be conducted with local Soil and Water Conservation Districts (SWCD's), partners and landowners. Subsequent sign-ups will be conducted to utilize appropriated RIM funding.

## **Board Resolution # 14- \_\_\_\_\_**

### **Transitioning the Reinvest in Minnesota (RIM) Reserve – Wetlands Reserve Program (WRP) Program to the RIM Wetlands Program (RIM-Wetlands)**

**WHEREAS** the Minnesota State Legislature appropriates Reinvest In Minnesota (RIM) Reserve funds to the Board of Water and Soil Resources (BWSR) from Capital Investment, Outdoor Heritage Fund and Clean Water Fund sources to acquire and restore permanent RIM conservation easements under Minnesota Statutes, Section 103F.515 to 103F.531; and

**WHEREAS** during the past 28 years the RIM program has been one of the state's most successful and influential programs for protecting and restoring wetlands and associated uplands throughout the state; and

**WHEREAS** the most recent and successful example of a RIM wetlands focused effort is the RIM-WRP Program Partnership, which since 2008 has utilized Outdoor Heritage Fund and Capital Investment appropriations to focus on permanently restoring and protecting approximately 35,000 acres of wetlands and their associated uplands; and

**WHEREAS** with the passage of the new Federal Farm Bill in 2014, the WRP is now known as the Wetlands Reserve Easement (WRE) program, and that program is still being formalized; and

**WHEREAS** changes within the new Farm Bill affect the manner in which RIM can be paired with federal programs and provides the opportunity for a RIM-Wetlands program, which will be structured with the capability of capturing a diversity of partnership and financial resources as well as RIM-only easements; and

**WHEREAS** the state's conservation goals continue to emphasize the importance of permanently protecting and restoring previously drained wetlands and adjacent native grasslands to achieve the greatest wetland functions and values, while optimizing wildlife habitat, protecting water quality, restoring hydrology, providing water storage and providing other environmental benefits on private lands; 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 - 2014 to 2018, the aforementioned benefits are now in jeopardy as nearly 705,000 acres of Minnesota's conservation lands enrolled in the USDA CRP will expire; and

**WHEREAS** the RIM Wetlands Program 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 Natural Resources (MN DNR), the United States Department of Agriculture (USDA) and the United States Fish and Wildlife Service (USFWS); and

**WHEREAS** the RIM Wetlands program is administered by the BWSR in cooperation with local Soil and Water Conservation Districts (SWCDs), with SWCDs being reimbursed for 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** previously approved RIM-WRP BWSR Board resolutions are supplemental to this resolution and will remain in effect until material changes in the program warrants and amendment; and

**WHEREAS** the Board of Water and Soil Resources RIM Reserve & Soil Conservation Committee (RRSCC) met 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 continue to implement RIM Wetlands efforts; and
2. Target expiring CRP contracts with critical wetland restoration practices for enrollment into the RIM-Wetlands Program; and
3. Develop the RIM-Wetlands Program eligibility and sign-up procedures; and
4. Conduct landowner sign-ups and select applications for funding using funding appropriated for the RIM Wetlands Program.

Dated at Saint Paul, Minnesota this 24th day of September, 2014.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: \_\_\_\_\_

Brian Napstad, Chair



# BOARD MEETING AGENDA ITEM

**AGENDA ITEM TITLE:** Conservation Reserve Enhancement Program (CREP)

**Meeting Date:** September 12, 2014

**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 and Soil Conservation Committee(s)

**Presented by:** Tabor Hoek

Audio/Visual Equipment Needed for Agenda Item Presentation

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

### Fiscal/Policy Impact

- |   |  |
|---|--|
| <input type="checkbox"/> None                     | <input type="checkbox"/> General Fund Budget                     |
| <input type="checkbox"/> Amended Policy Requested | <input checked="" type="checkbox"/> Capital Budget               |
| <input type="checkbox"/> New Policy Requested     | <input checked="" type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other:                   | <input checked="" type="checkbox"/> Clean Water Fund Budget      |

## ACTION REQUESTED

The Board is requested to approve the recommendation of the RRSCC to authorize staff to pursue a CREP proposal with local, state, and federal partners and identify how RIM and CRP through a CREP can best work together to continue protection of land in Minnesota.

## LINKS TO ADDITIONAL INFORMATION

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

Over the past several months, conservation agencies in Minnesota have been meeting to gauge the interest and discuss the potential to enter into another Conservation Research Enhancement Program (CREP) agreement with United State Department of Agriculture (USDA). MN has previously entered into the Minnesota River CREP in 1996, and CREP II in 2005. A number of key factors have stimulated this discussion of late to implement a new chapter for CREP in Minnesota:

- We have recently finalized a number of watershed based, water quality focused plans and strategies that call for grassland and wetland conservation practices to be implemented in key

areas in order to meet statewide nutrient reduction goals.

- Minnesota is also a state experiencing significant loss of key grasslands on an annual basis. This is further complicated with the 700,000 acres of Minnesota CRP contracts expiring in the next 5 years.
- Although Minnesota has made large investments for clean water annually, we have a large unmet demand to fund permanent conservation easements under the states Reinvest in Minnesota (RIM) program. Minnesota has a strong funding tradition of RIM, but, without a federal partnership, we are only able to partially meet the need and realize the resource benefits and protection of these conservation easements.
- The citizens of Minnesota passed the Clean Water Land and Legacy amendment in 2008, which generates approximately \$200M annually for conservation efforts related to water quality and wildlife habitat efforts.
- We estimate a new CREP initiative for 100,000 acres will cost \$750M over the next 5 years. A combination of USDA CRP payments and incentives will be necessary to achieve the 80:20 federal-state match requirements. Minnesota will rely upon Legacy Amendment and capital bonding process to fund the state's share. We have secured funding for the initial environmental assessment work and an annual strategy to secure the state's share over the next 5 years.

The new Minnesota CREP would address nutrient reduction plans that affect water quality on a national scale with the Hypoxic Zone in the Gulf of Mexico and on an international scale at Lake Winnipeg in Canada as the Red River leaves the US. This CREP would also aim to address the loss of grasslands in Minnesota, enhancing wildlife and pollinator habitat, and protecting sensitive groundwater resources.

Minnesota is ready to implement a CREP that will directly address documented resource problems with strategic, long term solutions. It will require a strong program and financial commitment from both USDA and the State of Minnesota to achieve this 100,000 acre goal.

## Board Resolution # \_\_\_\_\_

### 2014 Conservation Reserve Enhancement Program Proposal

**WHEREAS** the Minnesota State Legislature appropriates Reinvest In Minnesota (RIM) Reserve funds to the Board of Water and Soil Resources (BWSR) from Capital Investment, Outdoor Heritage Fund and Clean Water Fund sources to acquire and restore permanent RIM conservation easements under Minnesota Statutes, Section 103F.515 to 103F.531; and

**WHEREAS** RIM permanently protects and restores previously drained wetland and adjacent grasslands to achieve the greatest wetland functions and values, while optimizing wildlife habitat and protecting water quality; and

**WHEREAS** RIM, the premier private lands easement program in the nation, is a local-state partnership delivered by Soil and Water Conservation Districts (SWCDs) and BWSR; and

**WHEREAS** the BWSR promotes partnerships that address statewide water quality goals and increases wildlife habitat benefits; 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 - 2014 to 2018, the aforementioned benefits are now in jeopardy as more than 705,000 acres of Minnesota's conservation lands enrolled in the USDA CRP will expire; and

**WHEREAS** the recently enacted federal Farm Bill will reduce CRP authority nationwide from 32 million acres to 24 million acres by September 30, 2018; and

**WHEREAS** the Conservation Reserve Enhancement Program (CREP) is a voluntary land conservation program that combines CRP and other programs to help agricultural producers protect environmentally sensitive land, decrease erosion, restore wildlife habitat, and safeguard ground and surface water; and

**WHEREAS** the leaders of the BWSR, the Minnesota Pollution Control Agency, the Minnesota Department of Natural Resources, the Minnesota Department of Agriculture, and the Minnesota Department of Health signed of letter of intent to the USDA Farm Service Agency on June 16, 2014, signaling a commitment to partnering in a CREP initiative; and

**WHEREAS** the BWSR RIM Reserve & Soil Conservation Committee (RRSCC) met and unanimously recommends the following provisions.

**NOW, THEREFORE, BE IT RESOLVED THAT,** the Minnesota Board of Water and Soil Resources authorizes staff to:

1. Pursue a CREP proposal with local, state, federal and private sector partners.
2. Identify how RIM and CRP through a CREP can best work together to achieve long-term restoration and protection of Minnesota's watersheds and natural habitat areas.

Dated at Saint Paul, Minnesota this 24<sup>th</sup> day of September, 2014.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: \_\_\_\_\_

Brian Napstad, Chair

DRAFT

**COMMITTEE RECOMMENDATION**

***Water Planning & Strategic Planning Committee***

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



# BOARD MEETING AGENDA ITEM

**AGENDA ITEM TITLE:** One Watershed, One Plan Implementation

**Meeting Date:** September 24, 2014

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

**Item Type:**  Decision     Discussion     Information

**Section/Region:** \_\_\_\_\_

**Contact:** Melissa Lewis

**Prepared by:** Melissa Lewis/Doug Thomas  
Water Management & Strategic

**Reviewed by:** 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 – Plan Content Requirements for Pilot Watersheds

**LINKS TO ADDITIONAL INFORMATION**

Resolution 14-XX - One Watershed, One Plan – Plan Content Requirements for Pilot Watersheds – (attached)

Final Draft - One Watershed, One Plan – Plan Content Requirements for Pilot Watersheds –(attached)

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

In December 2013, the Board adopted the One Watershed, One Plan Guiding Principles and Plan Types and in April 2014, the Board adopted a Final Suggested Boundary Map. In June 2014, the Board adopted One Watershed, One Plan Operating Procedures and selected five pilot watersheds for initial implementation of One Watershed, One Plan. At this time the Water Management and Strategic Planning Committee is advancing the Plan Content Requirements for Pilot Watersheds document. This document provides specific details on the content requirements for drafting a plan intended to be used by the selected One Watershed, One Plan pilot watersheds.

On June 24, 2014 the Committee reviewed and provided comment on the One Watershed One Plan - Plan Content Requirements for Pilot Watersheds document. The Committee recognized the need for additional feedback from the Local Government Water Roundtable; however, due to scheduling conflicts, the Roundtable was unable to meet until September 17, 2014. The committee agreed to one final review of the document on September 23, 2014. The anticipated action at this Committee is for the attached Plan Content Requirements for Pilot Watersheds to be recommended for approval by the Board at the September 24<sup>th</sup> meeting.



Board Resolution # 14-\_\_\_\_\_

**ONE WATERSHED, ONE PLAN**  
**AN CONTENT REQUIREMENTS FOR PILOT WATERSHEDS**

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**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**, M.S. 103B.101. Subd. 14, 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, generally referred to as One Watershed, One Plan; 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 implementation of a pilot watershed approach; and

**WHEREAS**, the Water Management & Strategic Planning Committee (WMSP) and its predecessor PROSP Committee met 7 times during 2013 and 2014 for the purpose of developing operating procedures, policies, and plan content requirements to guide organization and development of pilot area One Watershed, One Plans; and

**WHEREAS**, the development of the Plan Content Requirements for Pilot Watersheds has been informed by review and comment from the Interagency WRAPS Team, Local Government Water Roundtable Workgroup, BWSR Senior Management Team, and BWSR Executive Team; and

**WHEREAS**, the WMSP met on September 23, 2014 to review a final draft Plan Content Requirements for Pilot Watersheds document and by consensus recommended its approval by the full Board.

**NOW THEREFORE BE IT RESOLVED**, the Board hereby:

Adopts the One Watershed, One Plan - Plan Content Requirements for Pilot Watersheds dated September 23, 2014.

Date: \_\_\_\_\_

\_\_\_\_\_  
Brian Napstad, Chair  
Board of Water and Soil Resources

Attachments:

Draft One Watershed, One Plan - Plan Content Requirements for Pilot Watersheds, September 23, 2014.



# One Watershed, One Plan

## DRAFT Plan Content for Pilot Watersheds

September 10, 2014



**Purpose:** As per Minnesota Statutes §103B.101 Subd. 14, the Board of Water and Soil Resources “*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,*” also known as *One Watershed, One Plan*. This document outlines plan content requirements for implementing this statute through selected pilot watersheds.

## Introduction

This document contains specific details on the content requirements for drafting a plan through the *One Watershed, One Plan* pilot program. Full operating procedures for developing the plan - including initiating the planning process through review, approval, and adoption - are contained in the *One Watershed, One Plan* Operating Procedures document on the *One Watershed, One Plan* page of the BWSR website.

The following [Guiding Principles](#) provided sideboards and direction in the plan content requirements outlined in this document:

- *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 strive for a systematic, watershed-wide, science-based approach to watershed management; driven by the participating local governments.
- Plans developed within *One Watershed, One Plan* should embrace the concept of multiple benefits in the development and prioritization of implementation strategies and actions.
- *One Watershed, One Plan* planning and implementation efforts will recognize local commitment and contribution.
- *One Watershed, One Plan* is not intended to be a one size fits all model.

The requirements in this document are also supported by the vision of the Local Government Water Roundtable that future watershed-based plans will have sufficient detail that local government units can, with certainty, indicate a pollutant of concern in a water body, identify the source(s) of the pollutant, and provide detailed projects that address that particular source. This vision also includes a future of limited wholesale updates to watershed-based plans; with a streamlined process to incorporate collected data, trend analysis, changes in land use, and prioritization of resource concerns into the watershed-based plan; and an emphasis on watershed management and implementation through shorter-term workplans and budgeting. This vision includes acknowledging and building off of existing plans and data (including local and state plans and data), as well as existing local government services and capacity.

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**NOTE: Operating Procedures for establishing planning boundaries, requirements for participation and formal agreement between local governments within the boundary, and procedures for plan development are provided in separate document.**

## I. Overview

The requirements for plan content found in this document in general include background information and a purpose for the requirement, guidance for how the requirement can be met through the planning process, and the specific plan content requirements. The primary planning terms used are: priority issues, goals, and actions. These terms are defined within the sections they are used.

Plan development procedures and steps such as: initiating a plan, establishing a planning boundary, requirements for participation and formal agreements between local governments within the boundary, and procedures for formal review and approval can be found in the *One Watershed, One Plan Program Operating Procedures for Pilots* document found on the BWSR website. Also found in the *Operation Procedures for Pilots* is the concept of three approvable plan types within the *One Watershed - One Plan* framework:

- **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 leverages the existing requirements for watershed district plans and has 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.

Each plan content requirement section in this document contains a statement as to how the requirement may vary by these plan types. The Water Quality Implementation Plan type must have goals to address the water quality priority issues. The remaining plan types must have goals to address all identified priority issues such as water quality, water quantity, groundwater, etc.

Although not required, a recommendation in the planning process is to develop an overarching mission or vision statement, as well as higher-level guiding principles or purposes. The purpose of establishing a vision, mission, and/or guiding principles is to provide a sense of direction for the plan and participants in the planning process. Additionally, overall organization and format of the watershed-based plan is a local decision unless otherwise specified in these requirements as long as the plan content requirements are met. However, using planning terminology consistent with this document is recommended.

An underlying theme within these requirements is the intent for watershed-based plans developed through *One Watershed, One Plan* to be succinct, with a thorough and science-based process used in development, and an emphasis in the resulting plan on the implementation schedule and implementation programs. For example, the information found in a Land and Water Resources Inventory is extremely valuable to the planning process and ultimate implementation of the actions in the plan; however, the majority of this information can be incorporated into the final plan document by reference.

## II. Plan Content Requirements

Each watershed-based plan will contain the elements outlined in the following sections.

### 1. Executive Summary

Each plan will have a section entitled "Executive Summary." The purpose of the executive summary is to provide a condensed and concise summary of the contents of the overall plan. A well-written executive summary is beneficial for current and future elected officials, staff, citizens, and stakeholders to achieve an understanding of the plan and its intent.

#### Plan Content Requirement: Executive Summary

Each plan will have a section entitled "Executive Summary." The purpose of the executive summary is to provide a brief look at the contents of the plan. The summary will include:

- A. Purpose, mission, or vision statement if developed;
- B. A general map or description of the planning boundary and smaller planning or management units if used;
- C. A summary of the priority issues and goals that are addressed in the plan;
- D. A summary of the implementation actions and programs;
- E. A brief description of the process used to identify the measurable goals and targeted implementation actions; and
- F. An outline of the responsibilities of participating local governments.

This requirement applies to all plan types; however, the requirement to have a separate Executive Summary for the plan type Water Quality Implementation Plan can be waived if this plan type is amended into an existing local water plan.

### 2. Analysis and Prioritization of Issues

This section of the plan is intended to summarize the process planning partners used to reach understanding of and agreement on the watershed issues and priorities that will be addressed within the lifespan of the plan. Prioritizing is recognition that not all identified issues can be addressed in the timeframe of a ten year plan—some items will be addressed before others. Broad issues likely to be identified through the watershed planning process include:

- Soil erosion and sedimentation
- Soil health
- Altered hydrology
- Shoreland and riparian management
- Maintenance of core services; understanding of local capacity
- Water quality
- Water supply (protect, provide and conserve)
- Drinking water supply
- Wetland management
- Drainage system management
- Wastewater management
- Groundwater protection
- Flood damage reduction
- Drought
- Habitat, wildlife and fisheries
- Education, outreach and civic engagement
- Contaminants of emerging concern
- Emerging issues (e.g. land cover and/or climate change)
- Invasive species management

The list above is not all inclusive; any land and water related issue could be part of the plan. The process for considering and prioritizing issues generally has two parts: agreement on priority natural resources and agreement on priority issues impacting those resources. High quality recreational lakes, the main stem of the primary river in the watershed, or a

specific groundwater aquifer that is the primary drinking water source in the watershed are all examples of priority resources. Identifying priority issues goes a step further by focusing on the issue(s) that impact the priority resources of the watershed, such as: “high quality recreational lakes showing a downward trend in water quality” or “sedimentation in the main stem of the priority river.”

Through plan development, potential priority resources and issues are reviewed, aggregated, and summarized from: existing local plans, studies, and information; modeling, data collection, and assessment completed through the WRAPS and/or TMDLs; other state plans or studies; feedback received from the initial notifications to the plan review authorities and stakeholders; and the initial planning meeting(s) held in the watershed (see *One Watershed, One Plan* Operating Procedures for Pilots). These summarized issues are then filtered through local knowledge and information, and priority issues are selected in consideration of:

- Science and data generated through modeling, data collection, and assessment such as WRAPS, TMDLs, or equivalent;
- Anticipated future impacts or landuse changes that may provide an opportunity or escalate a risk if nothing occurs;
- Understanding of trends and/or tipping points for individual water resources;
- Understanding of precipitation frequency as per NOAA Atlas 14;
- Understanding of citizen and local landowner willingness to participate in potential changes to watershed management;
- Local values which may incorporate specific water or landscape resources as a priority.

Additional consideration should be made of the high-level state priorities identified in the state’s Nonpoint Priority Funding Plan for Clean Water Implementation Funding. These are the priorities identified by the state agencies for investing Clean Water Fund nonpoint implementation money, based on the principles of asset preservation and risk-opportunity assessment.

- Restore those impaired waters that are closest to meeting state water quality standards.
- Protect those high-quality unimpaired waters at greatest risk of becoming impaired.
- Restore and protect water resources for public use and public health, including drinking water.

### Plan Content Requirement: Analysis and Prioritization of Issues

The plan must contain:

1. A summary of the issues and resource concerns identified;
2. The steps used to consider and prioritize the identified resources and issues; and
3. A list of the agreed upon priority resources and issues for the watershed and a brief description of why the issue was selected.

Priorities issues can be articulated in the plan through both a list/descriptions and map(s). The format and exact planning terminology used in the plan for presenting priority issues may vary as long as the plan covers the three requirements above, and the terminology used is defined in the plan (the summary and steps are suggested to be included as appendices). The plan is not expected to address all identified issues; however, it should include a brief explanation as to why certain issues were rejected as priorities for this planning cycle.

In the event that conflicts exist in the interpretation of issues and/or selection of priority issues, consider whether the conflict can be addressed by having both watershed-wide priorities as well as individual priorities of the participating local governments.

Plans that do not demonstrate a thorough analysis of issues, using available science and data, will not be approved. BWSR will consider the guidance and recommended tools outlined in *Section 2 Analysis and Prioritization of Issues* in assessing if analysis has been thorough.

This requirement applies to all plan types.

Through the development of the *One Watershed, One Plan* program, BWSR has partnered with the University of Minnesota to assess tools and models to assist in prioritization for the purposes of developing a watershed-based plan. Through this project, specific models and tools are recommended to be used in the pilot watersheds to assist in the identification of priority issues.

Assistance with selecting and using the models and tools will be made available to pilot watersheds through BWSR. Additional or alternative models, tools, or processes that are already in use across the state may be proposed; however, agreement between the pilot watershed and BWSR staff on whether the proposed tool, model, or process meets the specific criteria outlined in the analysis will need to be achieved before proceeding. This agreement will be outlined in the approved workplan for the pilot watersheds.

### **3. Establishment of Measurable Goals**

The plan must contain measurable goals, sometimes called objectives in planning, to address the priority issues. Measurable goals articulate what the planning partners want to achieve and allow for future evaluation of progress. A useful method for assessing if a goal is measurable is to ask the question for each goal: “will we be able to measure / show / report that we have been successful in achieving this goal when we assess implementation of the plan in the future?”

The development of measurable goals and the resulting implementation actions will be an iterative process. Goals from existing local water plans and information should be summarized and discussed for potential inclusion as part of this process. WRAPS, TMDLs, and the models used for the prioritization process noted above should all be used in the setting of goals. The implementation programs and schedule for achieving the goals should be considered and goals adjusted to reflect those achievable within the timeframe of the plan versus those that may reflect a longer view.

Formatting, terminology, and organization in the plan to meet this requirement can vary. For example, a goal to “maintain clean drinking water for future generations” is too broad to be feasibly measured and may better serve as a guiding principle. However, a broad goal such as this could be acceptable if it is supported by a series of measurable sub-goals or objectives similar to the examples below. The plan may contain a blend of goals common to the watershed

as a whole, goals individual to a specific local government participant(s) and/or resource, and goals that persist beyond the timeframe of the plan.

Not every goal can be measurable within the timeframe of the plan; however the aggregate of goals in the plan should together articulate an intended pace of progress. For example, if a water quality standard is unable to be met within the lifespan of the plan, the plan should contain longer-term goals with interim points at which progress can be examined and methods and models to establish the goal can be reevaluated. Ideally, these interim points would use some measure to show attainment of an interim goal.

The timeframe of goals may also need to recognize unique settings and situations across the state. As an example, The Minnesota Geological Survey notes that response time of nitrate concentrations to changes in land use practices in southeast Minnesota will likely vary in different hydrogeologic settings, and may lag behind landuse changes by decades. In addition some water quality or designated use support goals may take decades to achieve (e.g. changes in stream biota, altered base flow hydrology).

#### **Plan Content Requirement: Establishment of Measurable Goals**

Each priority issue must have associated measurable goals for addressing the issue. Some goals will be watershed-wide; however, the majority should be focused on a specific subwatershed, natural resource, or local government. Goals for prevention of future water management problems should also be considered. Plans that do not contain sufficient measurable goals to indicate an intended pace of progress for addressing the priority issues will not be approved.

BWSR will consider the guidance and recommended tools outlined in *Section 2 Analysis and Prioritization of Issues*, the balance of broad versus focused goals and shorter-term versus longer-term goals, and detail in the targeted implementation schedule to assess if goals are sufficient. Additionally, the pace of progress towards achieving goals will be used in determinations of the extent or depth of future 10 year plan revisions. BWSR may consider issuing findings when a plan and associated implementation is sufficient that a complete revision will not be required.

The Water Quality Implementation Plan type must have goals to address the water quality priority issues. The remaining plan types must have goals to address all identified priority issues.

#### **4. Targeted Implementation Schedule**

Targeting takes a closer look at the priority issues and identifies cost-effective, targeted, and measurable actions necessary to achieve the goals. These actions are included in the plan in consideration of: available technical skills and capabilities, knowledge of landowner willingness, funding resources available, and implementation items or projects from existing local water plans and information and the Strategies and Actions table from the WRAPS. Actions are entered into a schedule or table that provides the details of:

- A brief description of what each action is;
- Location targeting where the action will occur;
- Identification of roles and who is responsible for the action;
- An estimate of cost and potential sources of funding for implementing the action;
- An estimate of when the implementation will occur within the 10 year timeframe of the plan; and
- How the action will be measured.

The purposes of the implementation schedule are to clearly indicate an intended pace of progress for achieving the goals, support development of shorter term workplans and budgets for the planning partners, and to support budget requests to the state through BWSR's Biennial Budget Request (BBR). A template for the targeted implementation schedule will be provided. The schedule should be supported by maps indicating the location(s) of the targeted activities.

The development of a targeted implementation schedule and associated actions is an iterative process. The same tools used for prioritization and goal setting can be used to assist with the selection of actions to be included in the targeted implementation schedule.

The depth and specificity of targeted actions identified in the plan will vary. For example, capital improvement projects and best management practices to be implemented on public land can generally be specifically located and identified in the plan; whereas, conservation practices proposed for private lands may be specifically identified through the use of models and tools for purposes of developing measurable goals and the targeted implementation schedule, but those locations are only generally described in the plan itself. For these areas, the plan must overtly describe actions to work with landowners in these critical areas and tailor conservation practices.

#### **Plan Content Requirement: Targeted Implementation Schedule**

Each plan will have a targeted implementation schedule for achieving the goals with:

1. A brief description of what each action is;
2. Targeting where the action will occur;
3. Identification of roles and who is responsible government unit for the action;
4. An estimate of cost and potential sources of funding for implementing the action;
5. An estimate of when the implementation will occur within the 10 year timeframe of the plan; and
6. How the action will be measured.

The schedule must clearly identify the actions the planning partners will undertake with available local funds versus the actions that will be implemented only if other sources of funds become available, and should be supported by maps indicating the location(s) of the targeted activities.

## **5. Implementation Programs**

The implementation programs described below support the targeted implementation schedule by describing the overarching program(s) that will be used to implement actions identified in the schedule and how these programs will be coordinated between the local water management responsibilities.

- A. **Plan Administration and Coordination:** The plan must describe the following administration and coordination programs as indicated in the table *Plan Content Requirement: Implementation Programs by Plan Type* at the end of this section.
  - i. **Decision-making and Staffing:** Describe how the partners will transition from a planning partnership to implementation of a watershed-based plan through descriptions of roles and responsibilities of participating local governments.
    - a. **Policy Team** (decision-making): Describe if the policy team created to develop the plan will continue through plan implementation, or clearly outline an alternative method to provide oversight and maintain accountability throughout plan implementation.
    - b. **Advisory Committee** (advising): Describe if the advisory committee(s) created for plan development will continue through plan implementation and/or describe alternative methods to ensure: a

dependable forum to exchange information and knowledge about the watershed and implementation of the plan, and meet the statutory requirements for ongoing advisory committees of counties (Minnesota Statutes §103B.301-103B.3355) and watershed districts (Minnesota Statutes §103D.331-103D.337).

The plan should also establish procedures for engaging state agencies, and describe the ongoing role and commitments of the state agencies on project teams for plan implementation.

- c. **Identification and Coordination of Shared Services (staffing):** Describe specialized and shared service areas that will be used in the watershed to implement the actions identified in the schedule and achieve greater efficiencies in service delivery. This may include shared services for program management such as if a plan action requires forest resource management technical assistance, but the local government where the action is occurring does not have a staff forester. The watershed plan and associated formal agreements should describe how the service will be shared and/or the need met. Or it may include project management, for example if one county has history and experience in implementing a large-scale multipurpose drainage project, another county in the watershed may want to contract for services with staff of the first to implement a similar project. Shared services may also include partnership with non-governmental organizations.
- ii. **Collaboration with other Units of Government:** Describe relationships with other units of government not part of the formal agreement for plan development, including the drainage authorities within the planning boundary. For example, cities and townships are not required participants; however, recognition and inclusion of cities and townships is important and especially critical to recognize for actions involving waste water treatment plants, source water and wellhead protection for population centers, MS4s, etc. Additionally, federal government partners are not required participants; however, federal programs and partnerships are very important resources in watershed management.
- iii. **Funding:** Describe how actions in the implementation schedule will be funded. Both the state and local governments have responsibility for funding water management. All funding methods currently available to participants remain available to the participants and/or to the organization as a whole through the participants.
  - a. **Local Funding:** The local government planning partners have variable methods and options for generating funds to implement watershed management and to leverage state and other funding. These methods, options, and commitments of the participants must be clearly outlined in the plan.
  - b. **State Funding:** Describe state funding needs for implementation of the plan. This can be achieved through separation in the targeted implementation schedule of locally funded projects versus projects that will proceed only with state funds.
  - c. **Collaborative Grants:** Describe the intended approach to coordinated submittal of state grant applications. Collaborative grant making is a goal of *One Watershed, One Plan*.
  - d. **Federal Funding:** Federal sources of funds can be important to watershed management. The plan should describe what type of federal funding resources may be pursued to implement the plan, to the extent possible.
  - e. **Other Funding Sources:** Other sources of funds, such as from non-governmental organizations and private landowner funding, can be important to watershed management. The plan should describe what types of other funding resources may be pursued to implement the plan, to the extent possible.
- iv. **Work Planning:** Describe how the targeted implementation schedule and the implementation programs will be used for work planning. For example, describe if a collaborative work plan for the watershed, individual

work plans for each local government participant, or some combination work planning be used; and describe how the work plan will be finalized and approved.

- a. **Local Purpose:** Include a frequency, method, decision-making, and local purposes for work planning. Frequency is suggested to be annual in order to be incorporated into local budgeting and staffing decisions related to implementation of the plan and can be no more than every two years. Purposes depend on the extent of collaboration intended in the implementation schedule, programs, and subsequent agreements; as well as the extent of collaborative grant-making intended.
  - b. **State Purpose:** Describe a biennial commitment to collaboratively review and submit a BWSR biennial budget request (BBR) from the watershed. Future BBRs should be generated from the Targeted Implementation Schedule. Submittal of the BBR is a requirement for Soil and Water Conservation Districts and Counties to meet planning requirements associated with grants.
- v. **Assessment and Evaluation:** Describe the frequency, method(s), purposes, decision-making, and procedures for periodic assessment and evaluation of plan implementation. Periodic understanding of accomplishments—based on the targeted implementation schedule—is needed to measure progress, drive the work plan, and provide accountability.
- a. **Annual Evaluation:** Describe an annual commitment to collaboratively review and submit to BWSR's Level I [Performance Review and Assistance Program](#) performance standards. Additionally, describe sufficient baseline local evaluation of previous years' work to support generation of the local work plan above (if an annual local work plan is being used) and reporting requirements below.
  - b. **Biennial Evaluation:** If the watershed chooses a biennial work plan, a biennial evaluation must be described to evaluate the previous years' work and support the work plan. It is recommended this baseline evaluation ties to the requirement for measurability in the targeted implementation schedule and that a method for tracking implementation consistently across the watershed be described.
  - c. **Five Year Evaluation:** Include a schedule for a thorough five year assessment and potential revision to implementation schedule. The purpose of this evaluation is to determine progress and consider whether staying the course or resetting direction is necessary, and it may include revisions to models, considerations of new monitoring data, etc. Additional guidance, including BWSR involvement in this evaluation, will be developed through the pilot watersheds.
  - d. **Reporting:** Describe collaborative approaches to provide accountability to stakeholders and to meet annual reporting requirements of local governments, grant reporting requirements, and specific program and financial reporting requirements. Information on required annual reporting can be found on the BWSR website: [www.bwsr.state.mn.us/grants/reporting/reporting.html](http://www.bwsr.state.mn.us/grants/reporting/reporting.html). Consider a periodic 'state of the watershed report,' or individualized 'waterbody report cards' or other methods to provide accountability and demonstrate outcomes locally. See also the Education and Information requirements below.
- vi. **Plan Amendments:** Describe procedures for considering plan amendments, who can propose amendments, what criteria will be used in considering amendments, and who makes the decision to proceed with the amendment.
- vii. **Formal Agreements:** List and briefly describe any formal agreements between local governments that are pertinent to water management. This includes longstanding existing agreements and any new agreements to be implemented as part of the plan. For example, prior to completion of the plan the formal agreement between partners for planning purposes should be revisited in consultation with Minnesota Counties Intergovernmental Trust (MCIT) and legal counsel. MCIT may recommend revising the planning agreement,

establishing separate agreements or contracts for specific services or actions; and/or developing a broader, watershed-wide agreement for ongoing partnership.

- B. **Plan Implementation Programs:** Describe the following programs to support the targeted implementation schedule as indicated in the table *Plan Content Requirement: Implementation Programs by Plan Type* at the end of this section.
- i. **Incentive Programs:** Describe local voluntary cost share or grant programs necessary to achieve the goals; including the general purpose and scope, criteria that will be used to select projects/disperse funds, actions to work with landowners in these critical areas to tailor conservation practices, and how the program(s) will be implemented across the watershed to provide consistency and achieve goals. Incentive programs may be targeted to specific issues, e.g. grants for sealing abandoned wells, or specific areas, e.g. watershed of priority lakes.
  - ii. **Capital Improvements:** Describe opportunities for watershed-wide collaboration (e.g. sharing of specialized services and/or lessons learned on these large-scale projects) on capital improvements (physical/structural improvement with an extended life) identified in the targeted implementation schedule. Consider including opportunities for improved water management associated with county and township roads and within drainage systems managed through Drainage Law.
    - a. **Drainage:** Describe opportunities for enabling large-scale multi-purpose projects on a watershed basis.
    - b. **Capital Improvement Programs (CIPs) for Watershed Districts.** CIPs are required in the plan when a watershed district is included, consistent with the requirements of Minnesota statutes §103B and 103D. A CIP is an itemized program for at least a five-year prospective period, and any amendments to it, subject to at least biennial review, that sets forth the schedule, timing, and details of specific contemplated capital improvements by year, together with their estimated cost, the need for each improvement, financial sources, and the financial effect that the improvements will have on the local government unit or watershed management organization. This requirement can be incorporated into the targeted implementation schedule if the specific requirements are clearly met.
  - iii. **Operation and Maintenance:** Include a description of who is responsible for inspection, operation and maintenance of stormwater infrastructure, public works, facilities, and natural and artificial watercourses. Specify any new programs or revisions to existing programs needed to accomplish the goals or that may benefit from watershed-wide collaboration.
  - iv. **Regulation and Enforcement:** Describe existing regulations, controls, and authorities relevant to water management for the purposes of highlighting areas of duplication, gaps, and opportunities. Include description of drainage authorities and responsibilities. Use this analysis to identify areas to maximize effectiveness and build efficiencies through improved coordination and consistent application of regulations in support of meeting plan goals. Consider also opportunities for efficiencies in required annual reports related to regulation, and enforcement and connections to possible data gaps. Regulatory areas to consider include, but are not limited to: shoreland, floodplain, septic, Wetland Conservation Act, erosion control, minimum impact design standards, land use, feedlots, prescription drug drop off, etc.
    - a. **Regulation and Enforcement for Watershed Districts:** Describe the rules and associated permit programs of watershed districts in the watershed, consistent with and as necessary to meet the requirements of Minnesota statutes §103B.337-103D.345.
    - b. **Comprehensive or land use plans:** Describe the land use authorities within the watershed as well as potential opportunities to achieve goals through, or potential conflicts with, comprehensive land use plans.

- v. **Data Collection and Monitoring:** Describe data collection and monitoring activities necessary to support the targeted implementation schedule and reasonably assess and evaluate plan progress.
- a. **Inventory:** Describe additional inventories needed in the watershed to address any gaps in the land and water resources inventory support actions in the targeted implementation schedule, if applicable.
  - b. **Monitoring:** Describe the locations, frequency, and parameters of existing water quality, quantity and other monitoring programs in the watershed. Describe if these established monitoring programs are capable of producing an accurate evaluation of the progress being made toward the goals, including improved calibration of model(s), and any new monitoring needed to improve understanding of the watershed baseline or assess particular resources. State agencies are available to assist with identification of state monitoring activities.
- Include a requirement for periodic analysis of the data, a commitment to collect data consistent with state compatibility guidelines, and a commitment to submit locally collected data to the appropriate state agency for entry into public databases.
- vi. **Information, Outreach, and Education Programs:** The plan must describe information, outreach, and education program(s); specifically, opportunities where there are benefits from watershed-wide collaborations and areas where focused or targeted actions will support the priority issues and goals of the plan. At a minimum, include the purpose, targeted audiences, and a description of the actions or methods. Consider development of an education plan for the overall watershed using an approach currently successfully used in Minnesota is an adaptation of the U.S. Environmental Protection Agency guidance “Getting in Step: A Guide for Conducting Watershed Outreach Campaigns” available at: [www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf](http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf).

**Plan Content Requirement: Implementation Programs by Plan Type**

The following outlines the *minimum* plan content requirements for implementation programs, by plan type. BWSR will use the descriptions of the programs above to determine if the requirement has been met.

	Plan Content Requirement	Water Quality Implementation Plan	Priority Concerns Implementation Plan	Comprehensive Watershed Management Plan
Plan Administration & Coordination	Decision-making and staffing	Required	Required	Required
	Collaboration with other units of government	May include	May include	Required
	Funding	Required	Required	Required
	Work Planning	Required	Required	Required
	Assessment and Evaluation	Required	Required	Required
	Plan Amendments	Required	Required	Required
	Formal Agreements	Required	Required	Required
Plan Implementation Programs	Incentive Programs	Required	Required	Required
	Capital Improvements	May include	Required if necessary to address priorities	Required
	Operation and Maintenance	May include	Required if necessary to address priorities	Required
	Regulation and Enforcement	May include	Required if necessary to address priorities	Required
	Data Collection and Monitoring	Required	Required	Required
	Information, Outreach, and Education Programs	Required	Required	Required

**6. Plan Appendix - Land and Water Resources Inventory**

A land and water resource inventory is simply an account of the water resources and physical factors affecting the water resources within the watershed. In most cases, adequate data, inventories, and general analysis of land and water resources already exist; new information does not necessarily need to be generated and the majority of resource information can be incorporated by reference with a brief general description. At a minimum, the plan should acknowledge the resource information from existing local water plans and the Watershed Restoration and Protection Strategies Report (WRAPS). This information is important not just to understand the historic status of the watershed, but use to consider the future.

Going forward, wholesale updates and/or revisions to land and water resource inventories should be limited. Instead greater flexibility and a streamlined process for more frequent updates to incorporate collected data, updated trends analysis, and changes in land use typically associated with land and water resource inventories are envisioned.

#### **Plan Content Requirement: Land and Water Resources Inventory**

The plan must contain sufficient land and water resource information to inform the planning process and support actions in the plan. Specifically, the plan must include a brief general description of—and reference where to find—the typical and available land and water resource information. This information includes, but is not limited to:

- Topography, soils, general geology;
- Precipitation;
- Water Resources
  - Surface water resources; including streams, lakes, wetlands, public waters and public ditches;
  - Groundwater resources, including groundwater and surface water connections if known;
  - Water quality and quantity, including trends of key locations and 100-year flood levels and discharges, regulated pollutant sources and permitted wastewater discharges;
  - Stormwater systems, drainage systems and control structures;
  - Water-based recreation areas;
- Fish and wildlife habitat, rare and endangered species;
- Existing land uses and proposed development

Inventory information critical to supporting the priorities and actions of the plan may need to be more thoroughly described. For example, a description of results of trend analysis may need more in-depth description to support a priority issue in the plan; however, the data behind the analysis can be referenced.

If gaps in inventory information are identified through the plan development process, consider implementation action(s) to fill the gap rather than delaying the planning process to generate new data.

This requirement applies to all plan types and is suggested to be included as an appendix to the plan.

**NEW BUSINESS**

1. Minnesota's Clean Water Fund Roadmap – Final Revision – Sarah Strommen –  
***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

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

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

**Fiscal/Policy Impact**

- |   |   |
|---|---|
| <input type="checkbox"/> None                     | <input type="checkbox"/> General Fund Budget          |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget               |
| <input type="checkbox"/> New Policy Requested     | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other:                   | <input type="checkbox"/> Clean Water Fund Budget      |

**ACTION REQUESTED**

Information Item -

**LINKS TO ADDITIONAL INFORMATION**

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

This past November marked five years since voters approved Minnesota’s Clean Water, Land and Legacy Amendment, which received more votes than any other candidate or issue on the ballot in 2008. The **Clean Water Fund** was established through the Legacy Amendment to supplement traditional sources of funding for clean water over the course of its 25-year life.

Environmental Initiative convened leaders from the seven state agencies responsible for water management activities under the Clean Water Fund between May 2013 - May 2014 to identify:

- What water resources outcomes we expect to achieve after 25 years of investments from the Clean Water Fund.
- The pace of progress required to meet those goals.
- What the implications may be for future funding priorities.