



DATE: March 16, 2015
TO: Board of Water and Soil Resources' Members, Advisors, and Staff
FROM: John Jaschke, Executive Director 
SUBJECT: BWSR Board Meeting Notice – March 25, 2015

The Board of Water and Soil Resources (BWSR) will meet on Wednesday, March 25, 2015, 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).

Due to construction work at the St. Paul office, the main entrance at 520 Lafayette Road will be closed through mid-May. During this time, visitors should enter the building through the temporary public entrance located on the west side of the MPCA building on Lafayette Road, between the MPCA and DNR buildings (follow the signs). Security and a receptionist will be located at this entrance for guidance to the lower level board room.

The following information pertains to agenda items:

COMMITTEE RECOMMENDATIONS

North Region Committee

- 1. Redistribution of Manager Appointments for the Middle-Snake-Tamarac Rivers Watershed District** - Polk County Board of Commissioners petitioned the Board of Water and Soil Resources to redistribute manager appointments for the Middle-Snake-Tamarac Rivers Watershed District pursuant to Minn. Stat. § 103D.301, Subd. 3. The current distribution of manager appointments is as follows: Marshall 6, Polk 1, Pennington 0, Kittson 0, and Roseau 0. The petition indicates that residents within the district have expressed frustration and concerns with the District Managers and that proper adherence to Minn. Stat. § 103D.301 Subd. 1 with appointments by Kittson, Roseau, and Pennington Counties will assist in addressing those issues. A public hearing and two public meetings were held and presided over by the North Region Committee and based on the entire record the Committee recommends that the petition be denied and the current redistribution of managers remain unchanged. **DECISION ITEM**

Bemidji 403 Fourth Street NW Suite 200 Bemidji, MN 56601 (218) 755-2600	Brainerd 1601 Minnesota Drive Brainerd, MN 56401 (218) 828-2383	Detroit Lakes 26624 N. Tower Road Detroit Lakes, MN 56501 (218) 846-8400	Duluth 394 S. Lake Avenue Suite 403 Duluth, MN 55802 (218) 723-4752	Mankato 12 Civic Center Plaza Suite 3000B Mankato, MN 56001 (507) 344-2821	Marshall 1400 East Lyon Street Marshall, MN 56258 (507) 537-6060	New Ulm 261 Highway 15 South New Ulm, MN 56073 (507) 359-6074	Rochester 3555 9 th Street NW Suite 350 Rochester, MN 55901 (507) 206-2889
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Central Office / Metro Office 520 Lafayette Road North Saint Paul, MN 55155 Phone: (651) 296-3767
www.bwsr.state.mn.us TTY: (800) 627-3529 An equal opportunity employer

Fax: (651) 297-5615

Southern Region Committee

- 1. Le Sueur County Comprehensive Local Water Management Plan Extension Request** – The Le Sueur County Comprehensive Local Water Management Plan is effective to December 31, 2015. On January 6, 2015, the Board received a petition from Le Sueur County requesting a six month extension to June 30, 2016. The reasons for the request are to allow time for a new water planner to collaborate with partners, and follow through on the County’s resolution to participate in the Watershed Restoration and Protection Strategies (WRAPS) process and transition to One Watershed, One Plan. On January 28, 2015, the Board’s Southern Region Committee, chaired by Kathryn Kelly, met to discuss the extension request. The Committee recommends approval of the Le Sueur County extension request. ***DECISION ITEM***
- 2. Lyon County Comprehensive Local Water Management Plan Waiver Request** – The Lyon County Comprehensive Local Water Management Plan is effective until December 17, 2018 – with a required amendment to the Implementation section by December 31, 2015. On January 12, 2015, BWSR received a written request from the Lyon County Board of Commissioners requesting a waiver from the requirement to amend the goals, objectives, and action items of their Local Water Management Plan by December 31, 2015. This waiver will allow Lyon County and its local partners time to more effectively participate in the Yellow Medicine One Watershed, One Plan pilot and the development of Watershed Restoration and Protection Strategies (WRAPS) within the County. On January 28, 2015, the Board’s Southern Region Committee, chaired by Kathryn Kelly, met to discuss the waiver request. The Committee recommends approval of the Lyon County waiver request. ***DECISION ITEM***
- 3. Yellow Medicine County Local Water Management Plan Extension Request** - Yellow Medicine County has a Comprehensive Local Water Management Plan with an effective end date to their Plan on May 31, 2015. Yellow Medicine County is now requesting additional time to align watershed based planning efforts that are occurring in their region. On January 12, 2015, BWSR received a written request from the Yellow Medicine County Board of Commissioners requesting an extension of the effective date of their current Local Water Management Plan until December 31, 2016. This extension will allow Yellow Medicine County and its local partners time to more effectively participate in the Yellow Medicine One Watershed, One Plan pilot and development of Watershed Restoration and Protection Strategies (WRAPS) within the County. On January 28, 2015, the Board’s Southern Region Committee, chaired by Kathryn Kelly, met to discuss the extension request. The Committee recommends approval of the Yellow Medicine County extension request. ***DECISION ITEM***
- 4. Winona County Local Water Management Plan Extension Request** – Winona County has a Comprehensive Local Water Management Plan that is effective until December 31, 2015. Winona County is now requesting additional time to align watershed based planning efforts that are occurring in their region. On January 5, 2015, BWSR received a written request from the Winona County Board of Commissioners requesting an extension of the effective date of their current Local Water Management Plan until December 31, 2018. This extension will allow Winona County and its

local partners time to more effectively participate in the Root River One Watershed, One Plan pilot and development of Watershed Restoration and Protection Strategies (WRAPS) within the County. On January 28, 2015, the Board's Southern Region Committee, chaired by Kathryn Kelly, met to discuss the extension request. The Committee recommends approval of the Winona County extension request. **DECISION ITEM**

- 5. Cedar River Basin Extension Requests** – Mower County has a Comprehensive Local Water Management Plan with an effective end date to their Plan of December 31, 2015. Turtle Creek Watershed District has a Watershed Management Plan that covers the period of January 28, 2004 through January 28, 2014. Both Mower County and Turtle Creek Watershed District are now requesting additional time to align watershed based planning efforts that are occurring in their region. BWSR received a written request from the Mower County Board of Commissioners and the Turtle Creek Watershed District Board of Managers requesting extension of the effective date of their current Plans until December 31, 2018. These extensions will allow Mower County time to more effectively participate in the Root River One Watershed, One Plan pilot and help synchronize resources and water management efforts of Mower County, Turtle Creek Watershed District and partners with the development of Watershed Restoration and Protection Strategies (WRAPS) in the Cedar River Basin. On January 28, 2015, the Board's Southern Region Committee, chaired by Kathryn Kelly, met to discuss the extension request. The Committee recommends approval of the Mower County and Turtle Creek Watershed District's extension requests. **DECISION ITEM**

NEW BUSINESS

- 1. Governor's Buffer Initiative** - An overview of the Governor's Buffer Initiative will be provided. Background information will also be briefly shared and distributed to explain the reasoning and decisions behind specific points of the Initiative. Future BWSR Board resolutions or actions may develop from the Governor's Buffer Initiative as the effort moves forward. **INFORMATION ITEM**
- 2. Office of Legislative Auditor's (OLA) Audit of BWSR's Clean Water Fund Expenditures** - The purpose of the item is to inform the Board of the findings related to BWSR in the audit report and BWSR's response to them, to promote accountability. **INFORMATION ITEM**

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 March 25th!

BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, MARCH 25, 2015

PRELIMINARY AGENDA

9:00 AM CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

ADOPTION OF AGENDA

MINUTES OF JANUARY 28, 2015 BOARD MEETING

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

INTRODUCTION OF NEW EMPLOYEE

- Greg Fetter, IT Services Manager

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

Northern Region Committee

1. Redistribution of Manager Appointments for the Middle-Snake-Tamarac Rivers Watershed District – Gerald Van Amburg and Travis Germundson - **DECISION ITEM**

Southern Region Committee

1. Le Sueur County Comprehensive Local Water Management Plan Extension – Kathryn Kelly – ***DECISION ITEM***
2. Lyon County Comprehensive Local Water Management Plan Extension – Kathryn Kelly – ***DECISION ITEM***
3. Yellow Medicine County Comprehensive Local Water Management Plan Extension – Kathryn Kelly – ***DECISION ITEM***
4. Winona Comprehensive Local Water Management Plan Extension – Kathryn Kelly – ***DECISION ITEM***
5. Cedar River Basin Water Management Plan Synchronization – Chris Elvrum – ***DECISION ITEM***

NEW BUSINESS

1. Governor’s Buffer Initiative – Tim Koehler, Al Kean, BWSR; Jason Garms, DNR; and Gaylen Reetz, MPCA – ***INFORMATION ITEM***
2. Office of Legislative Auditor’s (OLA) Audit of BWSR’s Clean Water Fund Expenditures – Tim Dykstal – ***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 – Jennifer Berquam
- Minnesota Association of Conservation District Employees – Ed Lenz
- 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 – Walter Albarran

UPCOMING MEETINGS

- Next BWSR Board Meeting, April 22, 2015, St. Paul

Noon **ADJOURN**

**BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, JANUARY 28, 2015**

BOARD MEMBERS PRESENT:

Joe Collins, Jack Ditmore, Chris Elvrum, MDH; Doug Erickson, Sandy Hooker, Kathryn Kelly, Tom Landwehr, DNR; Tom Loveall, Terry McDill, MPCA; Brian Napstad, Neil Peterson, Tom Schulz, Faye Sleeper, MES; Steve Sunderland, Gene Tiedemann, Gerald Van Amburg

BOARD MEMBERS ABSENT:

Jill Crafton
Matt Wohlman, MDA

STAFF PRESENT:

Mary Jo Anderson, Angie Becker Kudelka, Don Buckhout, Grant Bullemer, Steve Christopher, Travis Germundson, Jim Haertel, John Jaschke, Al Kean, Melissa Lewis, Sarah Strommen, Doug Thomas, Dave Weirens, Marcey Westrick

OTHERS PRESENT:

Jason Garms, DNR
Ray Bohn, MAWD

CALL MEETING TO ORDER – Chair Napstad called the meeting to order at 9:02 a.m.

PLEDGE OF ALLEGIANCE

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15-01 **ADOPTION OF AGENDA** – Moved by Tom Schulz, seconded by Neil Peterson, to adopt the agenda as presented. *Motion passed on a voice vote.*

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15-02 **MINUTES OF DECEMBER 17, 2014 BOARD MEETING** – Jack Ditmore stated that a correction is needed on his Water Management & Strategic Planning Committee report. The second sentence should read, “The Committee received a status report of four pilot programs, significant progress is being made; three have finished their grant work plans and an MOA among planning partners and a fourth expects to complete these steps by the end of the year. Moved by Jack Ditmore, seconded by Tom Loveall, to approve the minutes of December 17, 2014 corrected. *Motion passed on a voice vote.*

CONFLICT OF INTEREST DISCLOSURE

Chair Napstad explained that the conflict of interest disclosure process is being used today on agenda item FY2015 Clean Water Fund Competitive Grants Program Funding Recommendations. He then read the statement: “A conflict of interest, whether actual, potential, or perceived, occurs when someone in a position of trust has competing professional or personal interests and these competing interests make it difficult to fulfill professional duties impartially. At this time, members are requested to declare conflicts of interest they may have regarding today’s business.”

REPORTS

Chair’s Report – Brian Napstad reported that the EQB meeting for January was cancelled. Chair Napstad attended the Northern Region Committee meeting, the Audit & Oversight Committee meeting, and the Grants Program & Policy Committee meeting. Chair Napstad commended BWSR staff for their work on facilitating meetings regarding the proposed WCA changes. Wetland issues are being addressed by a long-term wetlands working group; stakeholders include industry, environmental interests, the Nature Conservancy, AMC, DNR, and watershed districts working on legislative language.

Audit & Oversight Committee – Chair Napstad reported that the Audit & Oversight Committee’s recommendation of the 2015 PRAP Report to the Legislature is on the agenda later today. The Committee reviewed the Senior Management Team’s (SMT) recommendation of risk assessment, fund accountability and integrity, staff capacity and succession planning.

Administrative Advisory Committee (AAC) – Chair Napstad reported that the Administrative Advisory Committee met this morning. Discussion included staffing status, legislative process: policy and budget; and committee issues. John Jaschke will organize an informational presentation on buffers at an upcoming Board meeting. Chair Napstad reported that Sarah Strommen, a valuable employee is leaving BWSR to become a DNR Assistant Commissioner soon; the agency wishes Sarah the best.

INTRODUCTION OF NEW EMPLOYEE – John Jaschke introduced Grant Bullemer, Easement Development Specialist in the St. Paul office. Chair Napstad welcomed Grant to the Board.

Executive Director’s Report – John Jaschke recognized Sarah Strommen for her exceptional work at BWSR, she will be greatly missed, he wished Sarah the best in her new position at DNR. Sarah expressed her appreciation for working at BWSR for two years, and looks forward to her new endeavor at DNR.

John provided a staffing update. Melissa Lewis has agreed to a five-month temporary reassignment as legislative coordinator in Sarah’s absence. John thanked Melissa for her efforts. John reported on staff

retirements: Ron Shelito, Keith Grow, Chris Hughes, and Dave Sill. John reported that grants specialist Gwen Steel is leaving to move to Colorado. Don Buckhout will transition away from PRAP to serve as the lead planner with the 1W1P North Fork Crow Watershed effort and some of the northeast metro groundwater pilot project work. BWSR is in the process of succession planning and filling vacant positions.

John reviewed information in board members' packets, and briefly commented on the Governor's budget recommendation which includes a 1.8% inflationary increase.

DNR Commissioner Tom Landwehr introduced Jason Garms, DNR ag program liaison. Chair Napstad welcomed Jason.

Dispute Resolution Committee – Travis Germundson reported that there are presently 13 appeals pending. File #14-10 appeal in Stearns County, withdrawn by petitioner; File #14-05 appeal in Kandiyohi County, settlement agreement reached; and File #14-01 appeal of a replacement plan decision in Stearns County has reached a tentative settlement agreement. Chair Napstad thanked Travis for his report.

Grants Program & Policy Committee – Steve Sunderland reported that the Grants Program & Policy Committee met on January 20; the Committee recommendations are on the agenda later today.

Water Management & Strategic Planning Committee – Jack Ditmore reported that the Water Management & Strategic Planning Committee did not meet this month. Jack reported the March 24, 2015 Committee meeting has been cancelled due to the 1W1P transition, this will allow staff additional time to develop strategies for the Committee to consider; and provide an opportunity to incorporate legislative action into the strategies.

Drainage Work Group (DWG) – Tom Loveall provided a brief report of the Drainage Work Group meeting on January 8, 2015. Al Kean provided a summary of the DWG's discussion topics. The full Drainage Work Group does not plan to meet during the 2015 legislative session, but subgroups will plan to meet. Chair Napstad thanked Tom and Al for their report.

COMMITTEE RECOMMENDATIONS

Metro Region Committee

Pioneer-Sarah Creek Watershed Management Commission Comprehensive Watershed Management Plan – Steve Christopher reported that the Pioneer-Sarah Creek Watershed Management Commission was created in 1978 and is located along the western edge of Hennepin County. The Plan Revision is the Third Generation Watershed Management Plan for the organization. The plan focuses on education, monitoring and partnerships for successful implementation of projects. The Metro Region Committee met on January 12, 2015 to discuss the plan and recommends approval of the Water Management Plan dated December 2014 as the Watershed Management Plan for the Pioneer-Sarah Creek Watershed Management Commission, valid through December 31, 2020. Joe Collins commended Steve on the great work he provided on this Plan. Jack Ditmore asked for clarification of the Order, #14 Findings of Fact. Steve provided clarification and proposed #14 to include: "The Committee asked the question to the Commission's representatives whether a six year approval or a ten year approval with a mandatory amendment at five years would be preferable. The Commission representatives responded that the six year approval would assist with implementation of the Plan on the part of the cities." Moved by Joe Collins, seconded by Jack Ditmore, to accept the amendment to the Order, Findings of Fact #14 includes the clarification presented; and to approve the Pioneer-Sarah Creek Watershed Management Commission Comprehensive Watershed Management Plan. Discussion followed. ***Motion passed on a voice vote.***

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15-03

North Region Committee

Douglas County Comprehensive Local Water Plan Amendment Extension Request – Gerald Van Amburg reported that Douglas County requested an extension to the Comprehensive Local Water Management Plan five-year amendment requirement until January 31, 2017. This extension will provide the opportunity for Douglas County to participate in, and effectively utilize the information obtained from MPCA’s Watershed Restoration and Protection Strategy (WRAPS) process, and utilize the Lake Protection Analysis information Douglas Soil and Water Conservation District is currently developing. The North Region Committee met January 14, 2015 to review the extension request and recommends approval of the extension. Moved by Gerald Van Amburg, seconded Tom Schulz, to approve the extension to the five-year amendment requirement for the Douglas County Comprehensive Local Water Management Plan until January 31, 2017. **Motion passed on a voice vote.**

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15-04

Grant County Comprehensive Local Water Management Plan Extension Request – Gerald Van Amburg reported that Grant County requested an extension to the Comprehensive Local Water Management Plan update requirement until December 31, 2017, for the purposes of participating in and effectively utilizing the information from the MPCA’s Watershed Restoration and Protection Strategy (WRAPS) process. This will allow Grant County to better address the water quality impairments and the potential for water planning at a watershed scale. The North Region Committee met January 14, 2015 to review the extension request and recommends approval of the two-year extension. Moved by Gerald Van Amburg, seconded by Kathryn Kelly, to approve the extension to the ten-year update requirement for the Grant County Comprehensive Local Water Management Plan until December 31, 2017. Discussion followed. **Motion passed on a voice vote.**

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15-05

Stevens County Comprehensive Local Water Management Plan Extension Request – Gerald Van Amburg reported that Stevens County requested an extension, until June 30, 2017, to the Comprehensive Local Water Management Plan update requirement for the purposes of participating in and effectively utilizing the information from the MPCA’s Watershed Restoration and Protection Strategy (WRAPS) process. The North Region Committee met January 14, 2015 to review the extension request and recommends approval of the two year extension. Moved by Gerald Van Amburg, seconded by Neil Peterson, to approve the extension to the ten-year update requirement for the Stevens County Comprehensive Local Water Management Plan until June 30, 2017. **Motion passed on a voice vote.** John reported that they are the first county to implement buffers.

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15-06

Clay County Comprehensive Local Water Management Plan Extension Request – Gerald Van Amburg reported that Clay County requested an extension to their current Comprehensive Local Water Management Plan for one year to December 31, 2016. The current plan is due for a full ten-year update. The chief purpose of Clay County’s request is to utilize developing data and information from WRAPS, and to synchronize with other local planning efforts to compose a more scientifically reinforced water management plan. The North Region Committee met January 14, 2015 to review the extension request and recommends approval of the one year extension. Moved by Gerald Van Amburg, seconded by Doug Erickson, to approve the extension of the Clay County Comprehensive Local Water Management Plan to December 31, 2016. **Motion passed on a voice vote.**

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15-07

Pelican River Watershed District (PRWD) Revised Watershed Management Plan Extension Request – Gerald Van Amburg reported that the Pelican River Watershed District requested an extension to their current Revised Watershed Management Plan to December 31, 2016. The current plan will expire on February 24, 2015. The chief purpose of PRWD’s request is to synchronize with Becker County planning efforts, and incorporate new data due to completion of a TMDL study and completion of a Soil Erosion

and Drainage Law Compliance grant which are pivotal to new decisions that will be made in the revision of Pelican River's Watershed Management Plan. The North Region Committee met January 14, 2015 to review the extension request and recommends approval . Moved by Gerald Van Amburg, seconded by Neil Peterson, to approve the extension of the Pelican River Watershed District Watershed Management Plan until December 31, 2016. **Motion passed on a voice vote.**

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15-08

Lake County Comprehensive Local Water Management Plan Extension – Tom Schulz reported that Lake County submitted a cover letter and County Resolution to BWSR on October 1, 2014. The North Region Committee met January 14, 2015 to discuss the documents received and approved an extension to the Lake County Comprehensive Local Water Management Plan. Based on the participation of Lake County in the Lake Superior North One Watershed, One Plan pilot project and the scheduled completion dates of Watershed Restoration and Protection Strategies in Lake County between 2016 and 2019, the Committee recommends approval of an extension of the three-year extension. Moved by Tom Schulz, seconded by Kathryn Kelly, to approve the Lake County Comprehensive Local Water Management Plan to January 1, 2019. Discussion followed regarding the flexibility needed to accommodate the 1W1P schedule. **Motion passed on a voice vote.**

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15-09

Carlton County Comprehensive Local Water Management Plan 5-year Amendment – Tom Schulz noted a correction needed on page two, #6. of the Order, an unexplained "Error! Reference source not found" message appeared, it was removed. Chair Napstad has a corrected copy of the Order. Tom reported that Carlton County adopted a Resolution on May 13, 2014, to complete the required five-year Comprehensive Local Water Management Plan (CLWMP) Amendment. A properly noticed public hearing on the CLWMP amendment was held August 12, 2014. The North Region Committee met January 14, 2015, to discuss the Carlton County CLWMP amendment and the comments received on the amendment as part of the public hearing notice. Based on the comments received and the County's response to the comments received, the North Region Committee recommends approval of the required five-year amendment. Moved by Tom Schulz, seconded by Joe Collins, to approve the five-year amendment of the Carlton County Comprehensive Local Water Management Plan; the Plan remains in effect until March 24, 2020. **Motion passed on a voice vote.**

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15-10

Chair Napstad called for a break in the meeting at 10:37 AM. The meeting reconvened 10:55 AM.

Audit & Oversight Committee

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15-11

2015 PRAP Report to the Legislature – Don Buckhout reported that the annual PRAP Report to the Legislature is required by statute as a summary of local government performance in water management. This is the 8th such report. Each year at the January meeting the Board is given the opportunity to approve this report before it is sent to the legislature by the February 1 deadline. This year the Audit and Oversight Committee has primary responsibility for the report; the Committee met on January 21, 2015, to review the report and recommends approval. Don presented a summary of the report. Moved by Kathryn Kelly, seconded by Steve Sunderland, to approve the 2015 PRAP Report for transmittal to the Legislature and publication on the Board's website, with allowance for any minor editing modifications necessary for publication. Discussion followed. **Motion passed on a voice vote.** John thanked Don for his great efforts on the PRAP, his work is so appreciated! Chair Napstad echoed those thoughts and wished Don the best in his new endeavor.

Chair Napstad stated that board members have submitted their completed Conflict of Interest Disclosure forms; the documents will be filed for the grant decision item. All board members are eligible to vote; except Joe Collins has declared an actual conflict of interest – as a board member of the Capital Region Watershed District.

COMMITTEE RECOMMENDATIONS

Grants Program & Policy Committee

FY2015 Clean Water Fund Competitive Grants – Marcey Westrick reported that the Grants Program and Policy Committee met on January 20, to review the FY2015 Clean Water Funds applications submitted in the following category: Projects and Practices, Accelerated Implementation, Community Partners and Soil Erosion Drainage Law Compliance. Marcey distributed maps showing the recommended funding in each category and presented the recommendations as approved by the Grants Program and Policy Committee.

** Moved by Sandy Hooker, seconded by Faye Sleeper, that the Board approves the recommendations as presented:

1) Approves the recommended funding allocations to implement the FY 2015 CWF Competitive Grant Program as presented and the scoring results for the following programs and amounts shown below:

Grant Program Allocated Funds

A. Clean Water Assistance Grants	\$9,250,000
B. Accelerated Implementation Grants	\$2,922,994
C. Community Partners Conservation Program Grants	\$1,359,425
D. Soil Erosion and Drainage Law Compliance	\$ 610,476

2) Authorizes staff to: A. approve project work plans; B. enter into grant agreements consistent with this resolution and Legislative appropriations; C. Shift funds as follows: Up to \$180,549 of Accelerated Implementation Grant funds to the Chisago Chain of Lakes Targeted Watershed Demonstration Project; and D. assign funds noted in (1) that may become available, to unfunded project and practices applications, in rank order, if funded projects are withdrawn, do not receive work plan approval by March 20, 2015 unless extended for cause, or are modified to reduce the state funding needed to accomplish the project.

15-12 Joe Collins abstained from the vote. *Motion passed on a voice vote.*

FY2015 Clean Water Fund Soil Erosion and Drainage Law Compliance Second Round Buffer Initiative – Marcey Westrick reported that a second round of Soil Erosion and Drainage Law Compliance Grants is proposed to have a solicitation period from February 2 to April 3, 2015. Marcey presented background information and reported that staff proposed three options; with the staff recommendation of Option #2: Public Waters Inventory, including Chapter 103E drainage ditches that are Public Waters + inventory and prioritize opportunities for side inlet controls, wetland restoration or other drainage storage and treatment system. Applicant must propose, or have already completed/are in the process of completing, a plan to determine conservation plan or buffer strip compliance and develop enforcement plan(s). In addition, LGUs may also apply for opportunities to inventory and prioritize other drainage treatment options (currently this was activities 5 and 6 under the Soil Erosion and Drainage Law Compliance FY 2015 RFP). The Grants Program and Policy Committee approved the staff recommendation of Option #2 for Board approval. Discussion followed regarding clarification.

** Moved by Steve Sunderland, seconded by Joe Collins, that the Board approves Option #2 and authorizes staff to finalize, distribute and promote a Request For Interest (RFI) for the Soil Erosion and Drainage Law Compliance Buffer Initiative consistent with the provisions of appropriations enacted in 2013, Minn. Stat. 103B.3369 and this Board resolution. *Motion passed on a voice vote.*

15-13

AGENCY REPORTS

Minnesota Department of Health (MDH) – Chris Elvrum reported that MDH released the CWF report.

Minnesota Department of Natural Resources (DNR) – Tom Landwehr reported that Governor Dayton attended the DNR Roundtable and announced a new approach to buffer laws. A technical work group consisting of BWSR, DNR, MDA, and PCA are meeting to develop a buffers plan for the Governor's approval; creating a simple, phase-in approach, looking at tax implications and exemptions, intending to get feedback from partner interests. Tom stated that this internal process is the starting point to establish language to be introduced as a legislative bill.

Tom provided an update on the Fargo Moorhead Diversion and stated the funding challenges with this federal project. DNR is providing an environmental impact statement to be done by mid-summer.

Minnesota Extension Service (MES) – Faye Sleeper briefly commented on the 2015 Aquatic Invaders Summit held January 20-21, in St. Cloud with MAWD. Contact Faye for more information on AIS. Faye announced that Robert Venette is the new director of the Minnesota Invasive Terrestrial Plants & Pests Center.

Minnesota Pollution Control Agency (MPCA) – Terry McDill reported that MPCA CWF partnership grants (\$1.7M appropriation) are open until March 6, 2015; the language focuses on protection.

ADVISORY COMMENTS

Minnesota Association of Townships (MAT) – Sandy Hooker reported that she attended the MASWCD annual meeting in December and was pleasantly surprised to learn that the Outstanding Conservationists Award recipients were township officers. John Jaschke recognized Neil Peterson as the AMC Outstanding Farmer of the Year. It was noted that Gene Tiedemann and Steve Sunderland had also been award recipients of the Farmer of the Year.

Minnesota Association of Watershed Districts (MAWD) – Ray Bohn reported that MAWD's annual meeting in December had good attendance. Ray invited board members to attend MAWD's legislative reception on March 11; and the legislative breakfast on March 12 at the Embassy Suites, in St. Paul. The MAWD Summer tour will be held in Duluth, June 24-25. Ray appreciates working closely with BWSR staff during the legislative session. MAWD will support the buffer issues. Ray thanked the Drainage Work Group for their efforts. MAWD will begin meeting with drainage authorities on transfer issues. Ray thanked Don Buckhout for all his great work on PRAP; extremely helpful. Thanks to Board members for all their efforts. Kathryn Kelly reported that she attended the AIS session in St. Cloud, she appreciated the good conference.

UPCOMING MEETINGS

- Southern Region Committee Meeting today (immediately following Board Meeting)
- No February Board Meeting; the next BWSR Board Meeting is March 25, 2015, in St. Paul

Chair Napstad adjourned the meeting at 12:35 PM.

Respectfully submitted,

Mary Jo Anderson
Recorder



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Dispute Resolution Committee Report

Meeting Date: March 25, 2015

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)

Travis Germundson/Gerald

Presented by: VanAmburg

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

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
March 13, 2015
By: Travis Germundson

There are presently **12** appeals pending. All of the appeals involve WCA. There has been **1** new appeal filed since the last report dated January 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 15-3 (3-5-15) This is an appeal of a Restoration Order in Wabasha County. The appeal regards the unauthorized placement of approximately 2,980 square feet of fill in a wetland associated with the development of a residential parcel. No decision has been made on the appeal.

File 15-2 (1-16-15) This is an appeal of an exemption and no-loss decision in Otter Tail County. The appeal regards the denial of after-the-fact wetland applications for an exemption and no-loss, that resulted from issuance of a Restoration Order. The Restoration Order was appealed and placed in abeyance until there is a final decision on the applications (Appeal File 14-7). *The appeal has been granted and a copy of the official record has been requested.*

File 15-1 (1-8-15) This is an appeal of a Restoration Order in Morrison County. The appeal regards 5,000 square feet of alleged wetland impact associated with a residential building pad. 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 restoration order stayed until there is a final decision on the wetland applications.

File 14-9 (12-3-14) This is an appeal a series of multiple exemption and no-loss decisions in McLeod County. The appeal regards the approval of three exemption and no-loss decisions. At issue is the LGU's assessment that the applications were approved by operation of law under Minn. Stat. §15.99 (60 day rule). The after-the-fact applications were submitted in conjunction with an appeal of a restoration order (File 14-4). *The appeal has been granted. A pre-hearing conference was held on March 11, 2015 and there was agreement among the parties to continue settlement discussions.*

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 restoration orders stayed until there is a final decision on the wetland applications. Those decisions were appealed (File 15-2).

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.

~~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. A Settlement Agreement has been reached and the appeal dismissed.~~

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. The applications were determined to be approved by operation of law under Minn. Stat. §15.99. That decision has been appealed (File 14-9). *The appeal will continue to be held in abeyance.*

~~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 19th). A verbal settlement agreement was reached during the 2nd pre-hearing conference. A final draft settlement agreement has been distributed to the parties for signature. A Settlement Agreement has been reached and the appeal dismissed.~~

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 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 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. A revised wetland bank plan application has been approved with conditions. Those conditions require the approval of partial ditch abandonment along with a Conditional Use Permit for alterations in the floodplain.

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 2014	Total for Calendar Year 2015
Order in favor of appellant	2	
Order not in favor of appellant		
Order Modified		
Order Remanded	1	
Order Place Appeal in Abeyance	3	
Negotiated Settlement	2	
Withdrawn/Dismissed	2	

COMMITTEE RECOMMENDATIONS

Northern Region Committee

1. Redistribution of Manager Appointments for the Middle-Snake-Tamarac Rivers Watershed District – Gerald Van Amburg and Travis Germundson - ***DECISION ITEM***



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Redistribution of Manager Appointments for the Middle-Snake-Tamarac Rivers Watershed District

Meeting Date: March 25, 2015

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: North Region

Contact: Travis Germundson/Brian Dwight

Prepared by: Travis Germundson

Reviewed by: North Region Committee Committee(s)
Jerry Van Amberg/Travis

Presented by: Germundson

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input checked="" 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

Decision on the order denying the petition to redistribute the managers of the Middle-Snake-Tamarac Watershed District

LINKS TO ADDITIONAL INFORMATION

http://www.bwsr.state.mn.us/boardpackets/hearing_record/hearing_record.pdf

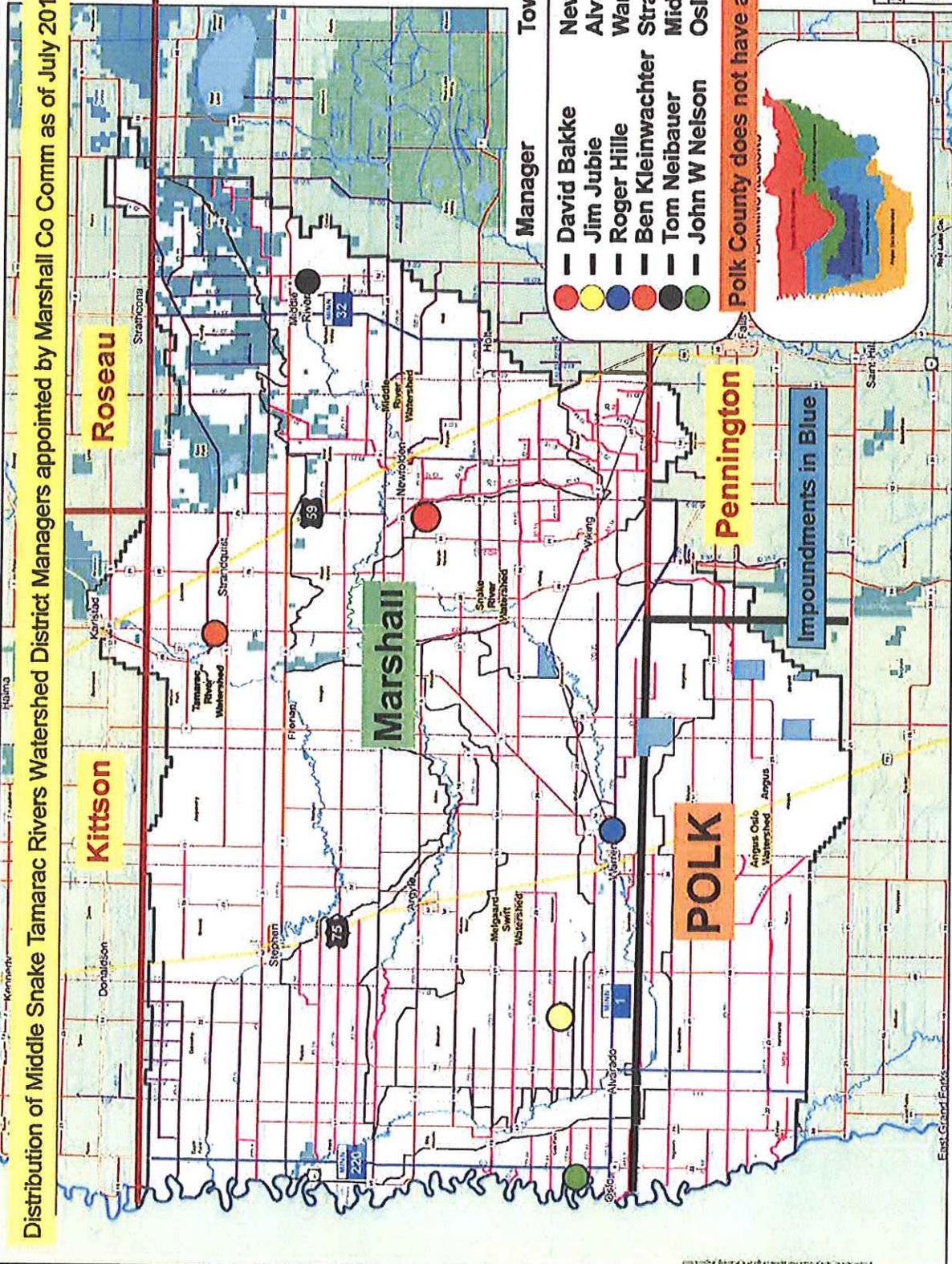
SUMMARY (Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)

The Petition for the redistribution of manger positions dated June 6, 2013 was filed with the Board of Water and Soil Resources on June 7, 2013 by Polk County Board of Commissioners in accordance with Minn. Stat. § 103D.301, Subd. 3 (Exhibit 1). On July 23, 2013 Polk County Board of Commissioners voted to table the Petition in support of investigating an alternative approach on manager appointments with the other affected counties (Exhibit 2). Due to the apparent lack of interest among some member counties Polk County Board of Commissioners on August 29, 2013 requested that the Board move forward with the hearing on the Petition (Exhibit 4). The Petition states that appointments by Kittson, Roseau, and Pennington Counties will assist in addressing issues that exist between residents and the Watershed Board. Presently, Marshall County appoints six mangers, and Polk County appoints one manger.

A public hearing was held on November 13, 2013 in Warren Minnesota. The North Region Committee met on January 8, 2014 in Bemidji Minnesota and recommended redistributing one manager position from Marshall County to Polk County with the distribution of 5 managers appointed by Marshall County and 2 managers appointed by Polk County (Exhibit 24). On January 21, 2014 Polk County Board of Commissioners passed a resolution (Exhibit 29) requesting that the Board of Water and Soil Resources remove the County's request from its January 22, 2014 Board agenda. On January 22, 2014 the Administrative Advisory Committee met and recommended that the item be withdrawn from the agenda and that the Board reopen the record. That same day the Board passed a resolution that reopened the record and remanded the matter back to the North Region Committee to hold a public meeting and accept additional testimony and evidence (Exhibit 28 and 36). In another effort to further discuss options at the local level Polk County requested that additional time be given on their request for delay (Exhibit 37). Finally, after exploring local options Polk County Board of Commissioners made the request on October 31, 2014 that BWSR move forward with the Petition (Exhibit 48). The North Region Committee met again on January 14, 2015 in Bemidji and based on additional public comment made a motion to rescind their previous recommendation and recommend that the petition be denied. The recommendation would leave the current distribution of managers unchanged. The committee determined that there is little evidence that the member counties are interested in having an appointment; the petition does not request an additional manager appointment for Polk County; redistribution of managers will not resolve the issues addressed in the petition; progress has been made within the past year with new managers, staff, and training; BWSR is committed to assist the Watershed in implementing recommendations in the 2008 Performance Review and Assistance Program Report.

Distribution of Middle Snake Tamarac Rivers Watershed District Managers appointed by Marshall Co Comm as of July 2014

- Legend**
- County Boundary
 - Legal Boundary
 - Cities
 - Sections, Watershed
 - Townships
 - Transportation**
 - US Highway
 - State Highway
 - County Highway
 - County Road
 - Legal Drainage Ditch
 - Railroads
 - Water Features**
 - Centerline (River)
 - Stream (Perennial)
 - Drainage Ditch (Perennial)
 - Stream (Intermittent)
 - Drainage Ditch (Intermittent)
 - Waterbody
 - State and Federal Land**
 - National Wildlife Refuge
 - Waterfowl Production Areas



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

In the Matter of petition for Redistribution of
Manager Positions for the Middle-Snake-Tamarac
Rivers Watershed District pursuant to Minnesota
Statutes § 103D.301

**ORDER
REDISTRIBUTION OF
MANAGER POSITIONS**

Whereas, a Petition was filed with the Board of Water and Soil Resources (Board) on June 7, 2013 by Polk County Board of Commissioners to redistribute the managers of the Middle-Snake-Tamarac Rivers Watershed District (District), pursuant to Minn. Stat. § 103D.301, Subd. 3., and;

Whereas, the Board has completed its review of the Petition and the entire record;

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

FINDINGS OF FACT

1. **Petition.** The Petition for the redistribution of manger positions (Exhibit 1) dated June 6, 2013 was filed with the Board on June 7, 2013 by Polk County Board of Commissioners in accordance with Minn. Stat. § 103D.301, Subd. 3. On July 23, 2013 Polk County Board of Commissioners voted to table the Petition in support of investigating an alternative approach on manager appointments with the other affected counties (Exhibit 2). Then on August 29, 2013 the Polk County Board of Commissioners requested that the Board proceed with a public hearing on the Petition due to the apparent lack of interest by the other counties to establish an advisory committee. (Exhibit 4). A public hearing was held on November 13, 2013 presided over by the Board's North Region Committee. That committee than met on January 8, 2014 and made a recommendation (Exhibit 24). Prior to a final Board decision Polk County Board of Commissioners requested that additional time be given for further discussion among some of the member counties (Exhibits 29). In response the Board reopened the record on January 22, 2014 and remanded the matter to the North Region Committee to hold another public meeting (Exhibit 28). Finally, after exploring various local options the Polk County Board of Commissioners made the request on October 31, 2014 that BWSR move forward with the petition (Exhibit 48).
2. **Redistribution of Manager Positions.** After 10 years from the establishment of the watershed district the county board of commissioners of a county affected by the watershed district may petition the Board to redistribute the managers pursuant to Minn. Stat. § 103D.301, Subd. 3.

3. **Reason for the Redistribution.** The Petition states that “appointees by Kittson, Roseau, and Pennington Counties will assist in addressing issues that exist between our residents and the Watershed Board”. According to the Petition Polk County Board of Commissioners have been approached by residents within the District expressing frustration and concerns with their interactions with the District Managers. At the January 14, 2015 North Region Committee meeting the petitioner clarified those concerns as being the inability to work with landowners; bookkeeping and accountability; clear definition of roles and responsibilities, and additional board and staff training.
4. **Present Distribution of Managers.** Presently, Marshall County appoints six managers, and Polk County appoints one manager. The Counties of Kittson, Pennington and Roseau have no appointments. This distribution was established by Board Order on August 28, 2002 in association with enlargement petition to include the Tamarac Watershed area. Approximately 93 percent of the Tamarac Watershed area fell within Marshall County.
5. **Publish Notice of Public Hearing.** Legal notice of public hearing was published in the Middle River Honker on October 26 and November 2, 2013, the Crookston Daily Times on October 28, and November 4, 2013, the Warren Sheaf and Kittson County Enterprise on October 30 and November 6, 2013, the Stephen Messenger on October 31 and November 7, 2013, and the Roseau Times on November 2 and 9, 2013. Legal notice was also mailed to several addresses including the auditors and administrators of each county in the District, each Soil and Water Conservation District in the District, and all the cities in the District.
6. **Public Hearing.** A public hearing was held on November 13, 2013 from 6:00 PM to 7:30 PM at the Bremer Bank Building, 202 W. Johnson Avenue, Warren Minnesota. The proceedings were audio recorded (Exhibit 12). The hearing panel consisted of Board members Brian Napstad, Gerald Van Amburg, Gene Tiedemann, Tom Schulz and DNR designee Keith Mykleseth. After all people present at the public hearing were given an opportunity to speak and enter exhibits, the hearing record was left open for two weeks until 4:30 PM on November 27, 2013 for receipt of written comments.

The following list of exhibits comprise the hearing record.

Exhibit 1. Petition for Redistribution of Manager Positions for the Middle-Snake-Tamarac Rivers Watershed District from Polk County Board of Commissioners, dated June 6, 2013.

Exhibit 2. Letter dated July 23, 2013, from Craig Bunes, Polk County Board of Commissioners, to Brian Dwight, Board of Water and Soil Resources stating that the Polk County Board of Commissioners voted to table its petition in order to support the facilitation of an advisory panel.

Exhibit 3. Letter dated August 14, 2013, from Brian Dwight, Board of Water and Soil Resources, to County Auditors and Administrators affected by the District informing them of the petition and requesting a meeting to discuss the petition and possible alternatives.

Exhibit 4. Email correspondence dated August 29, 2013 from Craig Bunes, Polk County Board of Commissioners, to Brian Dwight, Board of Water and Soil Resources requesting that the Board proceed with a Public Hearing on the Petition.

Exhibit 5. Board of Water and Soil Resources' Order for public hearing to be held on the redistribution of manager positions petition for the Middle-Snake-Tamarac Rivers Watershed District, dated September 25, 2013.

Exhibit 6. Memorandum, dated October 1, 2013 from Brian Dwight, Board of Water and Soil Resources, to the Board of Water and Soil Resources' North Region Committee on the Petition and potential hearing dates and locations.

Exhibit 7. Memorandum, dated October 23, 2013 from Travis Germundson, Board of Water and Soil Resources to several addressees providing notice of the public hearing including legal notice, and list of addresses.

Exhibit 8. Memorandum, dated November 1, 2013 from Travis Germundson, Board of Water and Soil Resources, to the Board of Water and Soil Resources' North Region Committee informing them of the date, time, and location of the hearing and supporting documentation (Exhibits 1,2,3, and6).

Exhibit 9. Affidavit of Publication dated November 5, 2013, of Legal Notice in the Crookston Daily Times on October 28th and November 4, 2013.

Exhibit 10. Affidavit of Publication dated November 6, 2013, of Legal Notice in the Kittson County Enterprise on October 30th, and November 6, 2013.

The follow exhibits were received during the November 13, 2013 Public Hearing

Exhibit 11 A. County Board Resolutions from Roseau and Pennington Counties supporting Marshall County on holding a hearing to determine removal of members of the Middle Snake Tamarac Rivers Watershed District, dated June 28, 2005, submitted by Jim Stengrim landowner.

Exhibit 11 B. Binder titled Minnesota Department of Natural Resources Interview Transcription with the Office of Legislative Auditor Office, dated January 3, 2012, submitted by Jim Stengrim landowner.

Exhibit 11 C. Binder titled Middle Snake Tamarac Rivers Watershed District Interview Transcription with the Office of Legislative Auditor Office, dated January 9, 2012, submitted by Jim Stengrim landowner.

After all people present at the public hearing were given an opportunity to speak and enter written comments, the hearing record was left open for two weeks until 4:30 PM on November 27, 2013, for receipt of written comments. The following exhibits were received while the hearing record was open.

Exhibit 12. Compact Disk of audio recording of the November 13, 2013 Public Hearing.

Exhibit 13. Affidavit of Publication dated November 11, 2013 of Legal Notice in the Messenger on October 31, and November 7, 2013.

Exhibit 14. Affidavit of Publication dated November 13, 2013 of Legal Notice in the Roseau Times on November 2 and 9, 2013.

Exhibit 15. Letter dated November 21, 2013 from Elden Elseth and Loren Zutz residents, to Travis Germundson, Board of Water and Soil Resources in support of the redistribution of manager positions petition.

Exhibit 16. Email correspondence dated November 26, 2013 from Bill Sparks, Minnesota Department of Revenue, to Travis Germundson, Board of Water and Soil Resources regarding Taxable Market Values by County within the District.

Exhibit 17. Letter dated November 25, 2013, from Ben Kleinwachter, Middle Snake Tamarac Rivers Watershed District Manager to Travis Germundson, Board of Water and Soil Resources in opposition to redistribution of manager positions petition.

Exhibit 18. Letter received November 26, 2013 from Wally Diedrich resident, to Travis Germundson, Board of Water and Soil Resources, in support of the redistribution of manager appointments.

Exhibit 19. Letter dated November 25, 2013 from Roger Hille, Middle Snake Tamarac Rivers Watershed District to Travis Germundson, Board of Water and Soil Resources in opposition to the petition to redistribute manager positions.

Exhibit 20. Email correspondence received November 27, 2013 from Sharon Bring, Marshall County Board of Commissioners, to Travis Germundson, Board of Water and Soil Resources expressing support for of past distribution of managers a desire to continue to work with watershed districts within the county.

Exhibit 21. January 8, 2014 North Region Committee Meeting Packet, dated December 30, 2013.

Exhibit 22. Internal Memorandum dated December 31, 2013 from Brian Dwight, Board of Water and Soil Resources to the Board's Northern Plan Review Committee providing background information on the petition.

Exhibit 23. Compact Disk recording of the Board of Water and Soil Resources North Region Committee meeting.

Exhibit 24. Minutes from the January 8, 2014 Board of Water and Soil Resources North Region Committee meeting.

Exhibit 25. Board Meeting Agenda Item Packet, consisting of Request for Agenda Item, Draft Board Order, Map, and Petition.

Exhibit 26. Affidavit of Publication dated November 30, 2013 of Legal Notice in the Middle River Honker on October 26 and November 2, 2013.

Exhibit 27. Affidavit of Publication dated November 29, 2013 of Legal Notice in the Warren Sheaf on October 30 and November 6, 2013.

On January 22, 2014 Board of Water and Soil Resources' Board reopened the record. The following exhibits were received while the record was open.

Exhibit 28. Board of Water and Soil Resources' Board Resolution #14-03, dated January 22, 2014 that reopens the record to receive other relevant information and remands the matter back to the Northern Region Committee to hold a public meeting and accept additional testimony.

Exhibit 29. Polk County Board of Commissioners' Resolution #2014-0006, dated January 21, 2014 requesting that the Board of Water and Soil Resources remove the County's request to redistribute managers for the Middle-Snake-Tamarac Rivers Watershed District from its January 22, 2014 meeting agenda.

Exhibit 30. Letter dated January 13, 2014 from Jim Stengrim to John Jaschke, Board of Water and Soil Resources regarding inaccurate and incomplete government data.

Exhibit 31. Court of Appeals Unpublished Opinion entitled Middle-Snake-Tamarac Rivers Watershed District v. Stengrim, dated January 17, 2012.

Exhibit 32. Letter dated February 4, 2014 from Jim Stengrim to John Jaschke with the Board of Water and Soil Resources further contesting the accuracy and completeness of data transmitting Exhibit 32A and 32B.

Exhibit 32 A. Binder of various Middle-Snake-Tamarac Rivers Watershed District Transcript Recordings from calendar year 2007.

Exhibit 32 B. Binder of additional supporting documentation regarding the Agassiz Water Management Resources Project.

Exhibit 33. Email correspondence dated February 10, 2014 from Travis Germundson, Board of Water and Soil Resources to Jim Stengrim regarding entering documents into the record.

Exhibit 34. Minutes from the Board's January 22, 2014 Administrative Advisory Committee Meeting.

Exhibit 35. Minutes of the January 22, 2014 Board of Water and Soil Resources' Board Meeting.

Exhibit 36. Letter dated February 6, from Jim Stengrim to Travis Germundson, Board of Water and Soil Resources in response to Exhibit #17.

Exhibit 37. Letter dated February 12, 2014 from Don Diedrich, Polk County Board of Commissioners to Travis Germundson, Board of Water and Soil Resources requesting that the Board of Water and Soil Resources delay the proceedings.

Exhibit 38. Email correspondence dated February 19, 2014 from Ron Shelito, Board of Water and Soil Resources to the Board's North Region Committee postponing the March 5, 2014 meeting.

Exhibit 39. Email correspondence dated February 18, 2014 from Travis Germundson, Board of Water and Soil Resources to Chuck Whiting, Polk County Administrator providing notification that the March 5, 2014 public meeting is postponed.

Exhibit 40. Letter dated February 24, 2014 from Jim Stengrim to Travis Germundson, Board of Water and Soil Resources in response to Exhibit #20.

Exhibit 41. Letter dated February 25, 2014 from Loren Zutz and Elden Elseth, residents to John Jaschke, Board of Water and Soil Resources in response to Exhibit #19 transmitting Exhibit #41 A.

Exhibit 41 A. Letter dated February 25, 2014 from Loren Zutz and Elden Elseth, residents to John Jaschke, Board of Water and Soil Resources providing additional comments and evidence in response to Exhibit 19.

Exhibit 42. Letter dated February 14, 2014 from LeRoy Vonasek, Marshall County Board Chairperson to the Board of Water and Soil Resources supporting the Board's process to provide consistent and proper distribution.

Exhibit 43. Letter dated March 17, 2014 from Travis Germundson, Board of Water and Soil Resources to Elden Elseth and Loren Zutz, residents providing notification that Exhibits #41 and #41A will be entered into the official record.

Exhibit 44. Email correspondence dated June 6, 2014 from Craig Bunes, Polk County Commissioner to Travis Germundson, Board of Water and Soil Resources providing an update on meetings between the watershed district, Marshall County and Polk County.

Exhibit. 45. Agenda and Internal Memorandum for the June 11, 2014 North Region Committee Meeting.

Exhibit 46. Draft Minutes from the June 11, 2014 Board of Water and Soil Resources North Region Committee meeting

Exhibit. 47. Email correspondence dated August 25, 2014 from Craig Bunes, Polk County Board of Commissioners to Travis Germundson, Board of Water and Soil Resources on recent manager reappointments of the district.

Exhibit. 48. Letter dated October 31, 2014 from Don Diedrich, Polk County Board of Commissioners to John Jaschke and Brian Dwight with the Board of Water and Soil Resources requesting that the petition be brought back before the Board.

Exhibit 49. Memorandum dated December 29, 2014 from Travis Germundson, Board of Water and Soil Resources to List of Addressees providing notice of the North Region Committee Meeting and agenda.

Exhibit 50. Email correspondence dated December 22, 2014 from Jim Stengrim to Travis Germundson, Board of Water and Soil Resources regarding the January 14, 2015 committee meeting agenda.

Exhibit 51. Email correspondence dated December 22, 2014 from Elden Elseth, resident to Travis Germundson, Board of Water and Soil Resources regarding the January 14, 2015 committee meeting agenda.

Exhibit 52. Email correspondence dated December 29, 2014 from Travis Germundson, Board of Water and Soil Resources, to Elden Elseth, resident in response to Exhibit 51.

Exhibit 53. Email correspondence dated December 31, 2014 from Elden Elseth, resident to Travis Germundson, Board of Water and Soil Resources regarding public comments and advice from the Attorney Generals Office.

Exhibit 54. Email correspondence dated December 31, 2014 from Jim Stengrim, to Travis Germundson, Board of Water and Soil Resources regarding public comments and advice from Attorney Generals Office.

Exhibit 55. Email correspondence dated January 7, 2015 from Travis Germundson, Board of Water and Soil Resources to Elden Elseth, residents in response to Exhibit 54.

Exhibit 56. Email correspondence dated January 9, 2015 from Danny Omdahl, Middle-Snake-Tamarac Rivers Watershed District to Brian Dwight and Travis Germundson with the Board of Water and Soil Resources transmitting an updated manager distribution map for the district.

Exhibit 56A. Map of the watershed district illustrating the current distribution of managers transmitted with Exhibit 56.

Exhibit 57. Internal Memorandum dated January 8, 2015 from Brian Dwight, Board of Water and Soil Resources to the Board's North Region Committee providing background information on the petition.

Exhibit 58. Internal Memorandum dated January 8, 2015 from Ron Shelito, Board of Water and Soil Resources to the Board's North Region Committee on the meeting agenda.

Exhibit 59. Letter dated January 12, 2015 from Elden Elseth, resident to the Northern Committee of BWSR expressing concerns about the meeting location and requirement on manager distribution.

Exhibit 60. Jim Stengrim's presentation information, dated 1-14-15.

7. **Staff Recommendation.** Staff has determined that the Petition is valid pursuant to Minn. Stat. § 103D.301. With those requirements being met, Board staff provided the North Region Committee with several options for consideration based on statutory requirements and the entire record:

1. <u>Polk County Board of Commissioners Petition (Exhibit 1)</u> : request appointments from Kittson, Roseau, and Pennington Counties Marshall 3, Polk 1, Pennington 1, Kittson 1, and Roseau 1
2. <u>Elseth and Zutz Letter (Exhibit 15)</u> : request that BWSR grant one manager appointment to each of the five counties: Option 1: Marshall 2, Polk 2, Pennington 1, Kittson 1, and Roseau 1 Option 2: Marshall 3, Polk 1, Pennington 1, Kittson 1, and Roseau 1
3. <u>BWSR's standard method of assessing population, area, and TMV (Exhibits 6 and 16)</u> : Marshall 5, Polk 2, Pennington 0, Kittson 0, and Roseau 0
4. <u>Population only</u> : Marshall 4, Polk 1, Pennington 1, Kittson 1, and Roseau 0
5. <u>No Change as requested by MSTRWD Mangers (Exhibit 17 and 19) and Marshall County (Exhibit 20)</u> : Marshall 6, Polk 1, Pennington 0, Kittson 0, and Roseau 0

Historically the (re)distribution of managers has been based on; 1) the percent of the watershed district that is within a county 2) assessed land value with that portion of the county 3) population within that portion of the county.

County	Marshall	Polk	Pennington	Kittson	Roseau
% Area of WD	79.51 %	17.03%	1.8%	1.07%	.59%
Population *	8,499	772	191	552	31
TMV	\$1,390,522,100	\$355,828,600	\$21,871,200	\$10,477,100	\$3,211,300

2000 Census Data*

8. **North Region Committee (1st meeting).** The committee met on Wednesday January 8, 2014 at the Beltrami Electric Building in Bemidji MN. Those in attendance from the Board's Committee were Brian Napstad, Gene Tiedemann, Mike Carroll, Rob Sip, Gerald Van Amburg, and Tom Schulz. Board staff in attendance were Pete Waller, Brian Dwight, Matt Fischer, Brett Arne, and Travis Germundson. Committee members Napstad and Tiedemann recused themselves from discussion and making a recommendation. After discussion and, based on the oral and written testimony on the Petition, and based on the entire record, the committee decided to recommend redistributing one manager position from Marshall County to Polk County with the new distribution consisting of 5 managers appointed by Marshall County and 2 managers appointed by Polk County. The Counties of Kittson, Pennington and Roseau will remain with no appointments. The Committee determined that the change was supported by taxable market value of each county's area within the District, the percent of area of each county within the District, and the percent of population of each county's area within the District, as depicted in the table above. The Committee also considered the fact that no other counties affected by the District have come forward and expressed a willing interest in having a manager appointment. Marshall and Polk Counties also have a history of making appointments. Finally, the committee recommended that current Marshall County managers finish their respective terms.

9. **Administrative Advisory Committee.** The committee met on Wednesday January 22, 2014 at 520 Lafayette Road N, in St. Paul before the regular scheduled Board meeting. Those in attendance from the Board's Committee were Brian Napstad, Gerald VanAmburg, Paul Langseth, Gene Tiedemann and Jack Ditmore. Board staff in attendance were John Jaschke, Mary Jo Anderson, and Travis Germundson. The Committee discussed the resolution passed by Polk County Board of Commissioners (Exhibit #29). Staff recommended that the Board honor the request. The Administrative Advisory Committee agreed that the item should be withdrawn from the agenda. In addition it was recommended that that the Board re-open the record in record in the matter regarding the distribution of managers for the MSTRWD at the upcoming Board meeting as per draft resolution. The Committee recommended actions outlined in the draft resolution (Exhibit 34).

10. **Board Meeting.** The full BWSR Board met on Wednesday January 22, 2014 in the lower level Board Room at 520 Lafayette Road N., in St. Paul. Board Members in attendance were Joe Collins, Jack Ditmore, Chris Elvrum, Christy Jo Fogarty, Sandy Hooker, Paul Langseth, Tom Landwehr, Tom Loveall, Terry McDill, Brian Napstad, Judy Ohly, Tom Schulz, Rob Sip, Faye Sleeper, Steve Sunderland, Gene Tiedemann, and Gerald VanAmburg. It was reported that on January 21, 2014 BWSR received a resolution from Polk County Board of Commissioners requesting that the petition be tabled (Exhibit 29). Moved by Gerald Van Amburg, Seconded by Jack Ditmore to approve the resolution as presented. John Jaschke suggested minor edits. Gerald VanAmburg and Jack Ditmore agreed to the edits. Motion passed on a voice vote (Exhibit 28 and 35).
11. **North Region Committee (2nd meeting).** The committee met on June 11, 2014 at the Great River Regional Library in St. Cloud MN. Those in attendance from the Board's Committee were Tom Schultz, Gene Tiedemann, Keith Mykleseth, Rob Sip, Neil Peterson, Gerry Van Amburg, and Brian Napstad. Board staff in attendance were Pete Waller, Jason Weinerman, Doug Thomas, Ron Shelito, and Travis Germundson. Staff provided a brief update on recent actions that have transpired on the petition to redistribute manager appointments for the Middle-Snake-Tamarac Rivers Watershed District since the Board reopen the record and discussed the request to postpone action on the petition by the petitioner until the end of the year. The committee accepted the request and let the decision on the petition remain pending (Exhibit 46).
12. **North Region Committee (3rd meeting).** The committee met again on Wednesday January 14, 2015 at the Beltrami County Administration Building in Bemidji MN as directed by Board Resolution (Exhibit #28) and request by Polk County Board of Commissioners (Exhibit # 48) to bring this item back to the Board for a decision. Those in attendance from the Board's Committee were Tom Schultz, Brian Napstad, Gerald Van Amburg, Keith Mykleseth, and Neil Peterson. Board staff in attendance were Ron Shelito, Pete Waller, Brian Dwight, Brett Arne, Ryan Hughes, Chad Severts, and Travis Germundson. After all people present at the public meeting were given an opportunity to speak the hearing record was closed. After discussion and, based on the oral and written testimony on the Petition, and based on the entire record, the committee decided to rescind the January 8, 2014 recommendation and deny the petition. Resulting in no change occur to the current distribution of managers (Marshall 6, Polk 1, Pennington 0, Kittson 0, and Roseau 0). The Committee concluded that there is little evidence that the member counties are interested in having an appointment; redistributing the managers will not resolve the issues brought forth in the petition; the petition does not request an additional manager appointment for Polk County. The Committee believes that a combination of changes that have occurred over the past year as to new manager appointments, hiring a new district administrator, and training will address the issues raised in the petition. BWSR's is also committed to assisting the District in implementing the recommendations in the District's 2008 Performance Review and Assistance Program (PRAP) Report.

CONCLUSIONS

1. The Petition for the redistribution of manager positions of the Middle-Snake-Tamarac Rivers Watershed District is valid in accordance with Minn. Stat. § 103D.301.
2. All relevant, substantive and procedural requirements of law and rule have been fulfilled.
3. Proper notice of hearing was given and the public hearing was held in accordance with applicable laws.
4. The Board has proper jurisdiction in the matter of ordering the redistribution of manager positions for the Middle-Snake-Tamarac Rivers Watershed District.
5. The Board has discretion as to how they choose to redistribute managers among the counties affected by the watershed district in accordance with the policy and purposes of Minnesota Statutes Chapter 103D.
6. The Board has historically looked at population, area and taxable market value by county affected by the watershed district in considering distribution of manager appointments.
7. The redistribution of manager positions as proposed in the Petition for the Middle-Snake-Tamarac Rivers Watershed District should be denied as per the North Region Committee recommendation. The current distribution should remain the same as follows: Marshall County with six manager appointments, Polk County with one manager appointment, and Pennington, Kittson, and Roseau Counties with no manager appointments.
8. A petition for the redistribution of managers may not be filed with the Board more often than once in ten years in accordance with Minn. Stat. § 103D.301, Subd. 3.(c).

ORDER

The Board hereby denies the petition to redistribute the managers of the Middle-Snake-Tamarac Rivers Watershed District. The current distribution of managers will remain unchanged. Marshall County Board of Commissioners will continue to appoint six managers positions and Polk County Board of Commissioners will continue to appoint one manager position with the total number of managers to remain at seven.

Dated at Saint Paul, Minnesota this 25th day of March, 2015.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brian Napstad, Chair

COMMITTEE RECOMMENDATIONS

Southern Region Committee

1. Le Sueur County Comprehensive Local Water Management Plan Extension – Kathryn Kelly – ***DECISION ITEM***

2. Lyon County Comprehensive Local Water Management Plan Extension – Kathryn Kelly – ***DECISION ITEM***

3. Yellow Medicine County Comprehensive Local Water Management Plan Extension – Kathryn Kelly – ***DECISION ITEM***

4. Winona Comprehensive Local Water Management Plan Extension – Kathryn Kelly – ***DECISION ITEM***

5. Cedar River Basin Water Management Plan Synchronization – Chris Elvrum – ***DECISION ITEM***



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Le Sueur County CLWM Plan Extension

Meeting Date: March 25, 2015

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Southern Region

Contact: Jeff Nielsen

Prepared by: Chris Hughes

Reviewed by: Southern Region Committee(s)

Presented by: Kathryn Kelly

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 to extend the Le Sueur County Comprehensive Local Water Management Plan until June 30, 2016.

LINKS TO ADDITIONAL INFORMATION

N/A

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

Le Sueur County (County) has a Comprehensive Local Water Management Plan (Plan) that was approved by the Board on December 13, 2006. The effective date (end date) of this Plan is December 31, 2015.

On January 6, 2015, the Board received a request from the Le Sueur County Board of Commissioners requesting a six month extension. This allows them to participate in the Watershed Restoration and Protection Strategies (WRAPS) process and transition to One Watershed, One Plan in Le Sueur County and with its local partners. It also allows time for the new county staff person to work with their partners on local resource issues while they amend their plan for a period of the next five years.

BWSR policy is to grant extensions which facilitate the transition to One Watershed, One Plan. An amended county plan will be submitted to BWSR for approval by June 30, 2016, and extend no longer than December 31, 2020.

On January 28, 2015, the Southern Regional Committee (Committee) of the Board reviewed the Extension request. Board regional staff provided its recommendation of approval of the request to the Committee. After discussion, the Committee's decision was to present a recommendation of approval of the Extension request to the full Board.

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

In the Matter of Extending the Comprehensive Local Water Management Plan for Le Sueur County, pursuant to Minnesota Statutes, Section 103B.3367.

**ORDER
EXTENDING
COMPREHENSIVE
LOCAL WATER
MANAGEMENT PLAN**

Whereas, on December 13, 2006, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Le Sueur County Comprehensive Local Water Management Plan (Plan) that is effective until December 31, 2015; and

Whereas, the Board has authorization to grant extensions pursuant to Minnesota Statutes Section 103B.3367; and

Whereas, the Board adopted Resolution #14-76 *Local Water Plan Extensions Policy* on December 17, 2014;

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

FINDINGS OF FACT

1. On January 6, 2015, the Board received a petition from Le Sueur County requesting an extension to their Comprehensive Local Water Management Plan from the current date of December 31, 2015 until a new date of June 30, 2016. The following are the reasons for the request.
 - A. Le Sueur County intends to participate in and more effectively utilize the Minnesota Pollution Control Agency's ten-year approach for monitoring, assessing, and developing Watershed Restoration and Protection Strategies (WRAPS). The following table shows the WRAPS schedules for the County.

Major Watershed	% of County	Scheduled WRAPS Completion Date
Minnesota River (Mankato)	18.4 %	December 2017
Lower Minnesota River	50.3 %	December 2018
Cannon River	30.6 %	December 2015
Le Sueur River	0.7 %	December 2014

- B. Le Sueur County passed a resolution of intent to participate in watershed-based planning under the One Watershed, One Plan program on January 6, 2015.

- C. Le Sueur County staff retirement has resulted in the current vacancy of the County Local Water Planner position. The position when filled will need additional time to get acquainted with County Water Planning, WRAPS and the One Watershed, One Plan framework.
 - D. Le Sueur County staff intends to submit a plan amendment and additional extension request by June 30, 2016. This amendment will revise the implementation section and executive summary of the plan and request an additional extension sufficient to fully coordinate with WRAPS and transition to One Watershed, One Plan.
2. **Southern Regional Committee.** On January 28, 2015, the Southern Regional Committee (Committee) of the Board reviewed the Extension request. Those in attendance from the Board's Committee were Kathryn Kelly, Steve Sunderland, Chris Elvrum, Sandy Hooker, Tom Loveall, and Doug Erickson. Board staff in attendance was Water Plan and Policy Coordinator Melissa Lewis. After discussion, the Committee's decision was to present a recommendation of approval of the Extension request to the full Board.

CONCLUSIONS

- 1. All relevant substantive and procedural requirements of law have been fulfilled.
- 2. The Board has proper jurisdiction in the matter of extending Comprehensive Local Water Management Plans, pursuant to Minnesota Statutes, Section 103B.3367.
- 3. The Le Sueur County extension request is in conformance with the requirements of Minnesota Statutes, Section 103B.3367 and the Board's *Local Water Plan Extensions Policy* dated December 17, 2014.

ORDER

The Board hereby approves the extension of the Le Sueur County Comprehensive Local Water Management Plan until June 30, 2016.

Dated at St. Paul, Minnesota, this 25th day of March, 2015.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chair



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Lyon County
Comprehensive Local Water Management Plan Waiver

Meeting Date: March 25, 2015

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Southern Region

Contact: Jeff Nielsen

Prepared by: David Sill

Reviewed by: Southern Region Committee(s)

Presented by: Kathryn Kelly

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 Lyon County Comprehensive Local Water Management Plan waiver request.

LINKS TO ADDITIONAL INFORMATION

N/A

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

The Lyon County Comprehensive Local Water Management Plan is effective until December 17, 2018 – with required amendments to the Implementation section by December 31, 2011 and December 31, 2015. The December 2011 amendment updating goals, objectives and actions was completed on time. Lyon County is now requesting additional time to align watershed based planning efforts that are occurring in their region.

On January 12, 2015, the Minnesota Board of Water and Soil Resources received a written request from the Lyon County Board of Commissioners requesting a waiver from the requirement to amend the goals, objectives and action items of their Local Water Management Plan by December 31, 2015. This waiver will allow Lyon County and its local partners time to more effectively participate in the Yellow Medicine One Watershed, One Plan pilot and the development of Watershed Restoration and Protection strategies (WRAPS) within the county.

On January 28, 2015, the Board’s Southern Region Committee, chaired by Kathryn Kelly, met to discuss the waiver request. The Committee recommended approval of the Lyon County waiver request and to bring this recommendation forward to the full BWSR Board for review and action.

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

In the Matter of waiving the required five year amendment for the Comprehensive Local Water Management Plan for Lyon County, pursuant to Minnesota Statutes, Section 103B.3367.

**ORDER
WAIVING REQUIREMENT TO
AMEND
COMPREHENSIVE
LOCAL WATER
MANAGEMENT PLAN**

Whereas, on December 17, 2008, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Lyon County Comprehensive Local Water Management Plan (Plan) that is effective until December 17, 2018 and required the goals, objectives and action items to be updated by December 31, 2015 by what is typically termed a 5-year Amendment; and

Whereas, the Board has authorization to grant extensions pursuant to Minnesota Statutes Section 103B.3367; and

Whereas, the Board adopted Resolution #14-76 *Local Water Plan Extensions Policy* on December 17, 2014;

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

FINDINGS OF FACT

1. On January 12, 2015, the Board received a petition from Lyon County requesting a waiver of the requirement to complete the 5-year Amendment to their Comprehensive Local Water Management Plan. The following are the reasons for the request.
 - A. Lyon County intends to participate in and more effectively utilize the Minnesota Pollution Control Agency's ten-year approach for monitoring, assessing, and developing Watershed Restoration and Protection Strategies (WRAPS). The following table shows the WRAPS schedules for the County.

Major Watershed	% of County	Scheduled WRAPS Completion Date
Yellow Medicine River	23%	June 2015
Des Moines River	3%	December 2018
Redwood River	42%	December 2020
Cottonwood River	32%	December 2020

- B. Lyon County passed a resolution of intent to participate in watershed-based planning under the One Watershed, One Plan program on September 2, 2014.
 - C. Lyon County and Lyon Soil and Water Conservation District staff are actively involved in the Yellow Medicine River Watershed One Watershed, One Plan pilot project, expected to be completed in 2016.
2. **Southern Regional Committee.** On January 28, 2015, the Southern Regional Committee (Committee) of the Board reviewed the waiver request. Those in attendance from the Board's Committee were Kathryn Kelly, Steve Sunderland, Chris Elvrum, Sandy Hooker, Tom Loveall and Doug Erickson. Board staff in attendance was Water Plan and Policy Coordinator, Melissa Lewis. Board staff provided its recommendation of approval of the request to the Committee. After discussion, the Committee's decision was to present a recommendation of approval of the waiver request to the full Board.

CONCLUSIONS

1. All relevant substantive and procedural requirements of law have been fulfilled.
2. The Board has proper jurisdiction in the matter of waiving the requirement to complete the 5-year Amendment of a Comprehensive Local Water Management Plan, pursuant to Minnesota Statutes, Section 103B.3367.
3. The waiver request of the required 5-year Amendment is in conformance with the requirements of Minnesota Statutes, Section 103B.3367 and the Board's *Local Water Plan Extensions Policy* dated December 17, 2014.

ORDER

The Board hereby approves the waiver of the requirement for a 5-year Amendment of the Lyon County Comprehensive Local Water Management Plan.

Dated at St. Paul, Minnesota, this 25th of March., 2015

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chair



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Yellow Medicine County
Comprehensive Local Water Management Plan Extension

Meeting Date: March 25, 2015

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Southern Region

Contact: Jeff Nielsen

Prepared by: David Sill

Reviewed by: Southern Region Committee(s)

Presented by: Kathryn Kelly

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 Yellow Medicine County Comprehensive Local Water Management Plan extension request.

LINKS TO ADDITIONAL INFORMATION

N/A

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

Yellow Medicine County has a Comprehensive Local Water Management Plan that was approved by the Minnesota Board of Water and Soil Resources (Board) on June 23, 2010, and locally adopted by the County via a resolution dated July 27, 2010. The effective (end date) of this Plan is May 31, 2015. Yellow Medicine County is now requesting additional time to align watershed based planning efforts that are occurring in their region. On January 12, 2015, the Board received a written request from the Yellow Medicine County Board of Commissioners requesting an extension of the effective date of their current County Comprehensive Local Water Management Plan until December 31, 2016. This extension will allow Yellow Medicine County and its local partners time to more effectively participate in the Yellow Medicine One Watershed, One Plan pilot planning effort and development of Watershed Restoration and Protection strategies (WRAPS) within the county.

On January 28, 2015, the Board’s Southern Region Committee, chaired by Kathryn Kelly, met to discuss the extension request. The Committee recommended approval of the Yellow Medicine County extension request and to bring this recommendation forward to the full BWSR Board for review and action.

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

In the Matter of Extending the Comprehensive Local Water Management Plan for Yellow Medicine County, pursuant to Minnesota Statutes, Section 103B.3367.

**ORDER
EXTENDING
COMPREHENSIVE
LOCAL WATER
MANAGEMENT PLAN**

Whereas, on June 23, 2010, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Yellow Medicine County Comprehensive Local Water Management Plan (Plan) that is effective until May 31, 2015; and

Whereas, the Board has authorization to grant extensions pursuant to Minnesota Statutes Section 103B.3367; and

Whereas, the Board adopted Resolution #14-76 *Local Water Plan Extensions Policy* on December 17, 2014;

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

FINDINGS OF FACT

1. On January 12, 2015, the Board received a petition from Yellow Medicine County requesting an extension to their Comprehensive Local Water Management Plan from the current date of May 31, 2015 until a new date of December 31, 2016. The following are the reasons for the request.
 - A. Yellow Medicine County intends to participate in and more effectively utilize the Minnesota Pollution Control Agency's ten-year approach for monitoring, assessing, and developing Watershed Restoration and Protection Strategies (WRAPS). The following table shows the WRAPS schedules for the County.

Major Watershed	% of County	Scheduled WRAPS Completion Date
Yellow Medicine River	72%	June 2015
Lac qui Parle River	24%	December 2019
Redwood River	4%	December 2020

- B. Yellow Medicine County passed a resolution of intent to participate in watershed-based planning under the One Watershed, One Plan program on September 9, 2014.

- c. Yellow Medicine County has been selected as a participant in the One Watershed, One Plan pilot program for the Yellow Medicine River Watershed area, which is scheduled to be completed by the end of 2015 and will require a substantial amount of county staff time and resources. The One Watershed, One Plan pilot will include 72 % of the county and will substitute for the current Comprehensive Local Water Management Plan when completed.
2. **Southern Regional Committee.** On January 28, 2015, the Southern Regional Committee (Committee) of the Board reviewed the Extension request. Those in attendance from the Board's Committee were Kathryn Kelly, Steve Sunderland, Chris Elvrum, Sandy Hooker, Tom Loveall, and Doug Erickson. Board staff in attendance was Melissa Lewis, Water Plan and Policy Coordinator. Board staff provided its recommendation of approval of the request to the Committee. After discussion, the Committee's decision was to present a recommendation of approval of the Extension request to the full Board.

CONCLUSIONS

1. All relevant substantive and procedural requirements of law have been fulfilled.
2. The Board has proper jurisdiction in the matter of extending Comprehensive Local Water Management Plans, pursuant to Minnesota Statutes, Section 103B.3367.
3. The Yellow Medicine County extension request is in conformance with the requirements of Minnesota Statutes, Section 103B.3367 and the Board's *Local Water Plan Extensions Policy* dated December 17, 2014.

ORDER

The Board hereby approves the extension of the Yellow Medicine County Comprehensive Local Water Management Plan until December 31, 2016.

Dated at St. Paul, Minnesota, this 25th of March, 2015.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chair



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Winona County Comprehensive Local Water Management Plan Extension

Meeting Date: March 25, 2015

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Southern Region

Contact: Jeff Nielsen

Prepared by: Steve Lawler

Reviewed by: Southern Region Committee(s)

Presented by: Kathryn Kelly

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 Winona County Comprehensive Local Water Management Plan extension request.

LINKS TO ADDITIONAL INFORMATION

N/A

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

Winona County has a Comprehensive Local Water Management Plan that was approved by the Minnesota Board of Water and Soil Resources (Board) on October 26, 2011, and locally adopted by the County via a resolution dated December 13, 2011. The effective (end date) of this Plan is December 31, 2015. Winona County is now requesting additional time to align watershed based planning efforts that are occurring in their region. On January 5, 2015, the Board received a written request from the Winona County Board of Commissioners requesting an extension of the effective date of their current County Comprehensive Local Water Management Plan until December 31, 2018. This extension will allow Winona County and its local partners time to more effectively participate in the Root River One Watershed, One Plan pilot planning effort and development of Watershed Restoration and Protection strategies (WRAPS) within the county.

On January 28, 2015, the Board's Southern Region Committee, chaired by Kathryn Kelly, met to discuss the extension request. The Committee recommended approval of the Winona County extension request and to bring this recommendation forward to the full BWSR Board for review and action.

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

In the Matter of Extending the Comprehensive Local Water Management Plan for Winona County, pursuant to Minnesota Statutes, Section 103B.3367.

**ORDER
EXTENDING
COMPREHENSIVE
LOCAL WATER
MANAGEMENT PLAN**

Whereas, on October 26, 2011, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Winona County Comprehensive Local Water Management Plan (Plan) that is effective until December 31, 2015; and

Whereas, the Board has authorization to grant extensions pursuant to Minnesota Statutes Section 103B.3367; and

Whereas, the Board adopted Resolution #14-76 *Local Water Plan Extensions Policy* on December 17, 2014;

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

FINDINGS OF FACT

1. On January 5, 2015, the Board received a petition from Winona County requesting an extension to their Comprehensive Local Water Management Plan from the current date of December 31, 2015 until a new date of December 31, 2018. The following are the reasons for the request.
 - A. Winona County intends to participate in and more effectively utilize the Minnesota Pollution Control Agency's ten-year approach for monitoring, assessing, and developing Watershed Restoration and Protection Strategies (WRAPS). The following table shows the WRAPS schedules for the County.

Major Watershed	% of County	Scheduled WRAPS Completion Date
Mississippi Winona Basin	69 %	June 2015
Root River	31 %	February 2015

- B. Winona County passed a resolution of intent to participate in watershed-based planning under the One Watershed, One Plan program on December 23, 2014.
 - C. Winona County has been selected as a participant in the One Watershed, One Plan pilot program for the Root River Watershed area, which is scheduled to be completed by the end of 2015 and

will require a substantial amount of county staff time and resources. The One Watershed, One Plan pilot will include 31% of the county and will substitute for the current Comprehensive Local Water Management Plan when completed.

2. **Southern Regional Committee.** On January 28, 2015, the Southern Regional Committee (Committee) of the Board reviewed the Extension request. Those in attendance from the Board's Committee were Kathryn Kelly, Steve Sunderland, Chris Elvrum, Sandy Hooker, Tom Loveall, and Doug Erickson. Board staff in attendance was Melissa Lewis, Water Plan and Policy Coordinator. Board staff provided its recommendation of approval of the request to the Committee. After discussion, the Committee's decision was to present a recommendation of approval of the Extension request to the full Board.

CONCLUSIONS

1. All relevant substantive and procedural requirements of law have been fulfilled.
2. The Board has proper jurisdiction in the matter of extending Comprehensive Local Water Management Plans, pursuant to Minnesota Statutes, Section 103B.3367.
3. The Winona County extension request is in conformance with the requirements of Minnesota Statutes, Section 103B.3367 and the Board's *Local Water Plan Extensions Policy* dated December 17, 2014.

ORDER

The Board hereby approves the extension of the Winona County Comprehensive Local Water Management Plan until December 31, 2018.

Dated at St. Paul, Minnesota, this 25th of March, 2015.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chair



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Cedar River Basin
Water Management Plan Synchronization

Meeting Date: March 25, 2015
Agenda Category: Committee Recommendation New Business Old Business
Item Type: Decision Discussion Information
Section/Region: Southern Region
Contact: Jeff Nielsen
Prepared by: Steve Lawler
Reviewed by: Southern Region Committee(s)
Presented by: Chris Elvrum

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

None 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 Mower County Comprehensive Local Water Management Plan until December 31, 2018 and to extend the Watershed Management Plan for Turtle Creek Watershed District until December 31, 2018.

LINKS TO ADDITIONAL INFORMATION

N/A

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

Mower County has a Comprehensive Local Water Management Plan that was approved by the Minnesota Board of Water and Soil Resources (Board) on December 14, 2005. Mower County submitted a Local Water Management Plan Amendment to the Board on March 11, 2011 and was approved by the Board on April 27, 2011. The Amendment is in effect until December 31, 2015. On January 20, 2015, the Board received a written request from the Mower County Board of Commissioners requesting an extension of the effective date of their current County Comprehensive Local Water Management Plan until December 31, 2018.

Turtle Creek Watershed District has an approved Watershed Management Plan that covers the period of January 28, 2004 through January 28, 2014. The process for approval of a revised watershed management plan pursuant to Minnesota Statutes 103D.405 requires approximately an additional one year and three months beyond the ten-year plan or April 28, 2015 for the Turtle Creek Watershed District. On January 29, 2015, the Board received a written request from the Turtle Creek Watershed District requesting an extension of the effective date of their current Watershed Management Plan until December 31, 2018.

The actions requested are based on the County and Watershed District's recognition of the need to have access to data and assessment information that will be provided by the WRAPS, and the desire to synchronize water management efforts with the WRAPs and partners within the Cedar River Basin as they transition into One Watershed, One Plan. The County and Watershed District have carefully considered staff capacity, including the commitment by the County as an active participant in the Root River One Watershed, One Plan pilot planning effort. The above actions will effectively coordinate resources and synchronize water plan schedules to ensure a successful transition into One Watershed, One Plan in the Cedar River Basin.

On January 28, 2015, the Board's Southern Region Committee, chaired by Kathryn Kelly, met to discuss the extension request. The Committee recommended approval of the Mower County and Turtle Creek Watershed District's extension requests and to bring this recommendation forward to the full BWSR Board for review and action. The Committee approval was contingent upon Turtle Creek Watershed District supplying a final signed resolution for an extension. The resolution arrived January 29, 2015.

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

In the Matter of Extending the Comprehensive Local Water Management Plan for Mower County and Extending the Watershed Management Plan for Turtle Creek Watershed District, pursuant to Minnesota Statutes, Section 103B.3367.

**ORDER
SYNCHRONIZING
COMPREHENSIVE
LOCAL WATER
MANAGEMENT PLANS**

Whereas, on December 14, 2005, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Mower County Comprehensive Local Water Management Plan (Plan) that is effective until December 31, 2015; and

Whereas, on January 28, 2004, the Board by Board Order approved the Turtle Creek Watershed District Watershed Management Plan (Plan) that covers the period through January 28, 2014, and

Whereas, the Board has authorization to grant extensions pursuant to Minnesota Statutes, Section 103B.3367; and

Whereas, the Board adopted Resolution #14-76 *Local Water Plan Extensions Policy* on December 17, 2014;

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

FINDINGS OF FACT

1. On January 20, 2015, the Board received a petition from Mower County requesting an extension to their Comprehensive Local Water Management Plan from the current date of December 31, 2015 until a new date of December 31, 2018. The following are the reasons for the request.
 - A. Mower County intends to participate in and more effectively utilize the Minnesota Pollution Control Agency's ten-year approach for monitoring, assessing, and developing Watershed Restoration and Protection Strategies (WRAPS). The following table shows the WRAPS schedules for the County.

Major Watershed	% of County	Scheduled WRAPS Completion Date
Root River Watershed	42%	February 2015
Cedar River Watershed	58%	Beginning of 2016

- B. Mower County passed a resolution of intent to participate in watershed-based planning under the One Watershed, One Plan program on December 23, 2014.
- C. Mower County has been selected as a participant in the One Watershed, One Plan pilot program for the Root River Watershed area, which is scheduled to be completed by the end of 2015 and will require a substantial amount of county staff time and resources. The One Watershed, One Plan pilot will include 42% of the county and will substitute for the current Comprehensive Local Water Management Plan when completed.
- D. Mower County wishes to synchronize 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
Cedar River WD	42%	September 23, 2019
Turtle Creek WD	1%	January 28, 2014

2. On January 29, 2015, the Board received a petition from Turtle Creek Watershed District dated January 20, 2015 requesting extension to their Watershed Management Plan. The following are the reasons for the request.

- A. Turtle Creek Watershed District intends to participate in and more effectively utilize the Minnesota Pollution Control Agency's ten-year approach for monitoring, assessing, and developing Watershed Restoration and Protection Strategies (WRAPS). The following table shows the WRAPS schedule for the Watershed District.

Major Watershed	Scheduled WRAPS Completion Date
Cedar River Watershed	Beginning of 2016

- B. Turtle Creek Watershed District passed a resolution of intent to participate in watershed-based planning under the One Watershed, One Plan program on January 20, 2015.
- C. Turtle Creek Watershed District wishes to synchronize plan development efforts with local partners to produce the most effective One Watershed, One Plan. The following table shows the partner water plan expiration dates.

Local Government Partners	% of Cedar River Watershed	Plan Expiration Date
Cedar River WD	42%	September 23, 2019
Turtle Creek WD	15%	January 28, 2014
Mower County	40%	December 31, 2015
Freeborn County	53%	December 31, 2015
Dodge County	6.5%	December 31, 2016
Steele County	.05%	December 31, 2016

3. **Southern Regional Committee.** On January 28, 2015, the Southern Regional Committee (Committee) of the Board reviewed the extension and waiver requests. Those in attendance from the Board's Committee were Kathryn Kelly, Steve Sunderland, Chris Elvrum, Sandy Hooker, Tom Loveall, and Doug Erickson. Board staff in attendance was Melissa Lewis, Water Plan and Policy Coordinator. Board staff provided its recommendation of approval of the requests to the Committee. After discussion, the Committee's decision was to present a recommendation of approval of the Extension requests to the full Board contingent upon a final signed resolution consistent with the draft being provided to BWSR from the Turtle Creek Watershed District.
 - A. Extend the Mower County Comprehensive Local Water Management Plan from the current date of December 31, 2015 until a new date of December 31, 2018.
 - B. Extend the Turtle Creek Watershed District Watershed Management Plan from the current date of January 28, 2014 until a new date of December 31, 2018.

CONCLUSIONS

1. All relevant substantive and procedural requirements of law have been fulfilled.
2. The Board has proper jurisdiction in the matter of extending a Comprehensive Local Water Management Plan or a Comprehensive Watershed Management Plan, pursuant to Minnesota Statutes, Section 103B.3367.
3. The Mower County extension request and the Turtle Creek Watershed District request are in conformance with the requirements of Minnesota Statutes, Section 103B.3367 and the Board's *Local Water Plan Extensions Policy* dated December 17, 2014.

ORDER

The Board hereby approves the extension of the Mower County Comprehensive Local Water Management Plan until December 31, 2018, and the extension of the Watershed Management Plan for Turtle Creek Watershed District until December 31, 2018.

Dated at St. Paul, Minnesota, this 25th of March, 2015.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chair

NEW BUSINESS

1. Governor's Buffer Initiative – Tim Koehler, Al Kean, BWSR; Jason Garms, DNR; and Gaylen Reetz, MPCA – ***INFORMATION ITEM***
2. Office of Legislative Auditor's (OLA) Audit of BWSR's Clean Water Fund Expenditures – Tim Dykstal – ***INFORMATION ITEM***



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE:

Governor's Buffer Initiative

Meeting Date:

March 25, 2015

Agenda Category:

Committee Recommendation New Business Old Business

Item Type:

Decision Discussion Information

Section/Region:

Contact:

Tim Koehler

Prepared by:

Tim Koehler

Reviewed by:

Committee(s)

John Jaschke, Tim Koehler, Al Kean,
Jason Garms – DNR, Gaylen Reetz -
MPCA

Presented by:

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

Information/Potential Future Actions

ACTION REQUESTED

Information and discussion with the BWSR Board in order to make them aware of the Governor's Buffer Initiative and background information used in the development of the initiative.

LINKS TO ADDITIONAL INFORMATION

Governor's Buffer Fact Sheet (attached)
Governor's Buffer Backgrounder (attached)
BWSR Agricultural/Rural Riparian Buffer Analysis, December 2014(attached)
Riparian Buffers at a Statewide Scale, MPCA, February 2015 (attached)

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

An overview of the Governor's Buffer Initiative will be provided. Background information will also be shared to explain the reasoning behind specific points of the Initiative. Future BWSR Board resolutions or actions may develop from the Governor's Buffer Initiative as the effort moves forward.

Fact Sheet

Governor Mark Dayton's Buffer Initiative

WHAT IS THE BILL'S PURPOSE AND WHO HELPED CRAFT IT?

- The Buffer Initiative bill will protect Minnesota's water resources from erosion and runoff pollution by establishing at least 50 feet of vegetation around the state's waters.
- The vegetated buffer will also provide aquatic and wildlife habitat.
- Minnesota Department of Agriculture, Minnesota Board of Water and Soil Resources, Minnesota Department of Natural Resources, and the Minnesota Pollution Control Agency prepared the bill with stakeholder input.

WHAT IS REQUIRED?

- The bill will require a 50-foot wide buffer of perennial vegetation.
- Landowners retain use of buffer in any way they want, as long as permanent vegetation is maintained.
- In cases where a 50-foot buffer will not protect or improve water quality, there will be a process for landowners to seek approval for an alternative practice.
- There will be exceptions for areas covered by a road, building or other structures; areas enrolled in the Conservation Reserve Program (CRP); public or private water access or recreational use areas; and municipalities in compliance with federal and state storm water requirement.

WHERE IS IT REQUIRED?

- All perennial waters. Perennial waters are public waters and other watercourses with a defined bed and bank and have water flowing during the majority of the growing season in most years.
- The DNR will establish and maintain an inventory map of each county that shows the waters that are subject to the buffer requirement.

IMPLEMENTATION AND ENFORCEMENT

- Soil and water conservation districts will implement the buffer requirement, including planning, technical assistance to landowners, approval of alternative practices, and tracking and reporting progress.
- The DNR may issue an order requiring violations be corrected and administratively assess monetary penalties for violations.
- The state may withhold funds from a soil and water conservation district for failure to implement buffer requirements.

PHASE IN FOR COMPLIANCE

- Buffers will need to be in place by September 1, 2016.
- Landowners who have applied for financial assistance by September 1, 2016 shall receive a conditional compliance waiver approved and filed by the soil and water conservation district until financial assistance is available for buffer installation, up to Sept. 1, 2017.

FUNDING

- Landowners can use federal Farm Bill resources, such as CRP, to get buffers installed. Other state program conservation dollars may be available.

Buffer Initiative
Background
2-28-2015

In preparing the Governor's Buffer Initiative proposal, the Department of Natural Resources, Department of Agriculture, Pollution Control Agency, and Board of Water and Soil Resources conducted the following research and outreach:

- 1) A series of studies to look at the extent to which Minnesota's waters are subject to current buffer requirements and the extent to which buffers currently are in place;
- 2) Stakeholder input meetings with agriculture interests, environment and conservation organizations, and federal, state, and local government representatives;
- 3) Discussions with key legislators; and
- 4) Surveys to counties currently implementing buffer requirements to better understand key elements of success.

Below is a summary of the key findings of each of these efforts.

Studies on Extent of Buffer Requirements and Buffers in Place

- Buffers currently are required by two primary areas of regulations, Shoreland Rules (Part 6120.3300 Zoning Provisions) and MN Statutes Chapter 103E Drainage law.
- 64% of watercourses are not subject to buffer requirements.¹
- There are an estimated 102,482 acres of cultivated land within riparian zones along surface water features (in counties with more than 30% agricultural land).²
- At a statewide scale, 2/3 of all stream/river miles have a 50 foot buffer composed of at least 90% perennial vegetation.³
 - In the northern portion of the state, 94% of river/stream miles have good perennial vegetated buffers.
 - In the central portion of the state, 69% of river/stream miles have good perennial vegetated buffers.
 - In the western and southern portion of the state, 43% of river/stream miles have good perennial vegetated buffers.

Stakeholder Meetings

- The buffer initiative needs to have a clear purpose, and that purpose should focus on water quality not habitat.
- There should be some flexibility to the "one-size-fits-all" 50 foot requirement to account for variations in site conditions and to allow for science-based solutions.
- Providing basic definitions and develops maps depicting where requirements will apply is important to avoid confusion and ambiguity.
- Use both a "carrot" and a "stick."
- Funding is a key element of the proposal
 - Landowners should be compensated. (Agriculture)

¹ *Agricultural/Rural Riparian Buffer Requirements and Strategy*. Minnesota Board of Water and Soil Resources, January 2015.

² *Cultivated Riparian Zone Estimates*. Minnesota Board of Water and Soil Resources, December 2009.

³ *Riparian Buffers at a Statewide Scale*. Minnesota Pollution Control Agency, February 2015.

Buffer Initiative

Background

2-28-2015

- Focus funding on voluntary enhancements beyond what's required.
(Environment)
- Adequate funding for state and local implementation is essential.
(government)

Legislator Meetings

- The buffer initiative needs to have a clear purpose, and that purpose should focus on water quality not habitat.
- Approach should be targeted; concern over a one-size-fits-all approach.
- Working with existing programs and including voluntary enhancement is important.
- Will be difficult to get passed this session.

Surveys of Counties Successfully Implementing Buffer Requirements

- Landowners were given time to come into compliance. The length of time varies from 1-5 years, but typical is more than 1 year.
- In all cases, landowners were encouraged to enroll in local, state, or federal voluntary conservation programs prior to enforcement commencing. Many landowners installed buffers without assistance.
- Counties achieved compliance rates of 99% by the end of the phase-in period.
- Implementing the program required financial resources.



Agricultural/Rural Riparian Buffer Analysis

December 2014

Executive Summary

The Agricultural/Rural Riparian Buffer Analysis was developed from a 2014 analysis of current requirements for the riparian areas of certain watercourses. This analysis includes a summary of these requirements.

Purpose

The primary purpose of this analysis is to quantify the extent to which riparian areas are subject to regulation.

Key Finding

Approximately 64% of riparian areas of watercourses that were analyzed are not governed by current laws or regulations. Due to the unavailability of data for private ditches and small (intermittent) watercourses at the time of analysis, the percent of riparian areas not governed by current laws and regulations is expected to be higher than 64%.

Introduction

The Agricultural/Rural Riparian Buffer Analysis is not a comprehensive study but instead has been developed to:

- Summarize the benefits of buffers,
- Evaluate the current regulatory and voluntary approaches in use today in Minnesota, and
- Define an estimate in the 67 Minnesota Counties where cropland encompasses at least 30% of the landuse, of where buffers are required by statute or rule and where they are not.

Current regulations for buffers are defined in Shoreland Rules (MN Rule, Chapter 6120, Shoreland and Floodplain Management) and MN Statutes Chapter 103E Drainage law. Due to ongoing confusion and public misperceptions over where buffers are required under these regulations, an analysis of the percent of regulated and non-regulated river, stream and ditch miles in the 67 counties of the state with >30% cropland was conducted and used in this analysis.

Definitions

Definitions relevant to this analysis include:

Riparian: Of, pertaining to, or located on or adjacent to the bank of a watercourse or other water body.

Riparian Buffer: An area along and adjacent to a water body that buffers the effects of adjacent land use on the water body. This typically involves a set back of a particular land use and can involve trapping of sediment, nutrients and/or bacteria, as well as terrestrial and aquatic habitat protection and improvement.

Filter Strip: A strip of perennial vegetation with sheet flow of surface water runoff across the strip, and/or near-surface groundwater flow beneath the strip, to filter sediment, nutrients and/or bacteria from the surface water and/or near-surface groundwater. Sheet flow across a filter strip generally requires a relatively uniform controlling elevation and slope of the filter strip from the adjacent land use to the water body to avoid concentrated flow.

Functions and Values

Buffer Functions and Values

In most situations, riparian buffers provide a last line of defense before surface and shallow groundwater flow reaches a watercourse, but it is important to note that not all waters benefit equally. These buffers work best in conjunction with in-field conservation measures to reduce field runoff, erosion and nutrient transport before entrapment within the buffer area. In addition, buffers provide numerous wildlife and other environmental benefits listed below. Many buffers are not an ideal filter strip, because runoff from the adjacent land may not flow across the buffer.

Benefits

- Trap sediment and nutrients from adjacent lands. Many studies indicate >80% efficiency is possible at the field edge.
- Provide a setback distance from input's (pesticides, herbicide, nutrients, and manure) applied to adjacent lands.
- Improve stream or ditch bank stability with deep rooted plants.
- Provide an infiltration area for surface water. Land with perennial vegetation can infiltrate water at up to 10x the rate of tilled ground.
- Provide an uptake and denitrification zone for shallow subsurface flow. Native trees and grass have root systems far exceeding most agricultural crops or introduced species of grass and will draw nutrients from shallow groundwater flow. Soil biology in buffers (e.g. saturated buffers) can break down nitrates in subsurface water into harmless nitrogen gas.
- Retirement from crop production of areas that have low productivity or are inefficient to farm can provide water quality and habitat benefits.
- Provide habitat for some wildlife species if corridor is wide enough (>400') and/or the buffer connects larger habitat areas together. Aquatic habitat improvements are also realized when negative inputs to a water body are reduced and riparian zone is restored with vegetation.

Limitations

- Site conditions, such as topography, often do not allow for shallow sheet flow.
- A buffer is an edge of field practice. It is typically most effective when erosion and nutrient loss are controlled on the field before reaching the edge of field.
- Subsurface drainage, open tile intakes, and constructed drainage swales can bypass the buffer and reduce its benefits of sediment removal and nutrient uptake.

- Maintenance typically is required to remove trapped sediments and nutrients to continue maximum environmental benefits.
- Regulated buffer areas currently allow for vehicular travel, agricultural implement usage, intense harvest, deposition of spoil, unspecified vegetative species, and routine chemical applications for weed and pest control.
- Narrow buffers can be a predator sink for some wildlife species, including pollinators.

Where Buffers Are Required and Not Required - Current Regulatory Framework and Non-regulated Waters

Shoreland Rules (Part 6120.3300 Zoning Provisions)

Watercourses identified on the Public Waters Inventory (PWI), generally have greater than a 2 square mile drainage area, can be perennial or intermittent, and are governed by Shoreland Rules. Shoreland Rules, for covered PWI watercourses, are generally administered by counties who have adopted local shoreland ordinances.

For purposes of this Analysis the focus was largely on areas of the State that are dominantly agricultural. As such we provide the following agricultural standard from the Shoreland Rules and point out that under certain conditions a buffer is not always required.

Agricultural use standards – Subpart 7 Items A, B, C and D

Item A – “The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.”

Item B – “General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service.”

Item C - addresses feedlots.

Item D – “Use of fertilizer, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.”

Estimates of buffer compliance

A number of surveys, inventories, studies and modeling have occurred to determine compliance with Shoreland Rules. Most have utilized aerial imagery and computer programs to assess the current land-use of the fifty foot buffer areas. In one such study by the Environmental Working Group (EWG), in 37 southern Minnesota counties 8,649 acres of 50 feet wide buffers were required and 6,364 acres were present (74% of what is required) and 2,285 acres or 26% was found to be absent. Areas with annual cropping that are covered by existing conservation plans have generally not been assessed.

MN Statutes Chapter 103E Drainage law

Requirements

Since 1977, Minnesota Statutes Chapter 103E Drainage has required the establishment and maintenance of at a minimum 1-rod (16.5 foot) buffer strips of perennial vegetation when viewers (who determine benefits and land rights costs for drainage systems) are appointed. The types of drainage proceedings that trigger the appointment of viewers and the buffer strip requirement include ditch establishment, expansion, or improvement and certain petitioned repairs that require a redetermination of benefits and damages. Ditches where these activities have not occurred since 1977 do not require a buffer strip until these proceedings occur.

Status of Chapter 103E Ditches with Buffers

In 2006 BWSR published a Public Drainage Ditch Buffer Strip Study about the use, maintenance and benefits of Chapter 103E ditch buffer strips. At that time, 12% of Chapter 103E drainage ditches had triggered the requirement for buffer strips. Since 2007, drainage authorities have been required in Chapter 103E to regularly inspect, and annually report ditch buffer strip establishment, inspection and compliance data to BWSR. Based on the reporting data through 2013, the Chapter 103E ditches requiring buffer strips has increased from 12% in 2006 to approximately 20% in 2013 (approximately 8% increase) Much of this increase is due to the number of drainage systems for which redetermination of benefits has been done to update benefits of the systems by parcel and to update the associated distribution of drainage system cost assessments to benefited lands.

Estimates of buffer compliance

The 2006 ditch buffer strip study determined that 72% of the Chapter 103E ditch miles required to have buffer strips were in compliance at that time. Although quantitative information is not available, it is expected that the requirement for ditch buffer strip reporting since 2007, including inspection and compliance information, has increased drainage inspector and drainage authority knowledge about, and compliance with, the ditch buffer strip requirements in Chapter 103E.

Where Buffers Are Not Required

The majority of watercourses in the state are not identified as PWI waters or Chapter 103E governed ditches. These watercourses are generally intermittent in nature and can be as small as a grassed waterway in a cropland field or a tributary to a larger watercourse.

Current Analysis of Regulated and Non-Regulated Waters

BWSR and MN.IT Services staff utilized current data to analyze watercourse types in four selected watersheds and for the entire state in counties that have cropland in excess of 30% of the land-use (67 of 87 counties). This analysis was done to determine the approximate percent of the following four categories of watercourses:

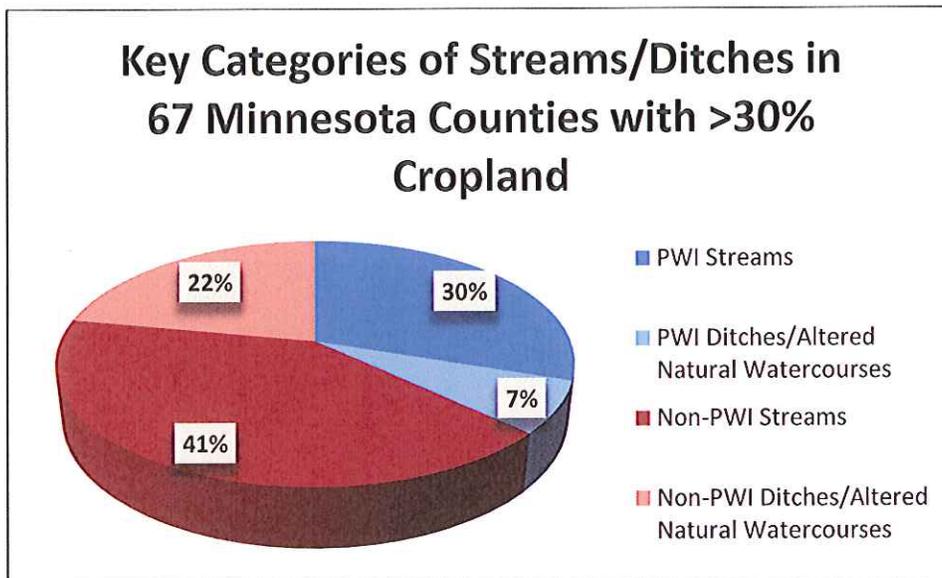
- Public Waters Inventory (PWI) streams
- PWI Ditches / Altered Natural Watercourses
- Non-PWI Streams
- Non-PWI Ditches / Altered Natural Watercourses

In addition to the four major watercourse types that were analyzed, there are also thousands of miles of primarily private ditches and watercourses that are not cataloged in available state databases and are also not covered by Shoreland Rules or MN Statutes Chapter 103E Drainage law. Therefore, the percent of watercourse miles that are regulated is expected to be smaller than what has been estimated.

Public Waters Inventory (PWI)/Non-PWI Streams Analysis

There were two main data layers used in the GIS analysis. First, a copy of the most current and complete statewide streams and ditches data was obtained from the Minnesota DNR. This layer contains at least 13,000 more miles of ditches than what is currently available via the DNR Data Deli. The second data layer used was the DNR Public Waters Inventory (PWI) which contains PWI waters found on the current paper regulatory maps. The first step in the process was to remove all streams designated as public water from the data set containing all streams and ditches. This resulted in two mutually exclusive streams/ditches layers: PWI streams and ditches, and non-PWI streams and ditches. Linear miles were then calculated for all water features in both data sets and calculated for each study area. Results concluded that within all counties that contained >30% cropland (67 of 87 counties), 37% of streams and ditches are included in the PWI and 63% are non-PWI streams/ditches.

A statewide summary completed for 67 counties with greater than 30% cropland found the breakdown of watercourse types displayed below.



Classification	Linear Miles	% Total Streams/Ditches
PWI Streams	21,642	30%
PWI Ditches/Altered Natural Watercourses	4,731	7%
Non-PWI Streams	28,760	41%
Non-PWI Ditches/Altered Natural Watercourses	15,381	22%

The analysis that was conducted can be summarized as it relates to where buffers are or aren't required statewide in the 67 counties as detailed below.

Riparian Classification	Linear Miles	% Total Streams/Ditches	Buffer Required (Feet)
Shoreland Requirement	21,642	30%	50.0
Ditch Buffer Requirement*	4,022	6%	16.5
No Buffer Requirement*	44,850	64%	0.0

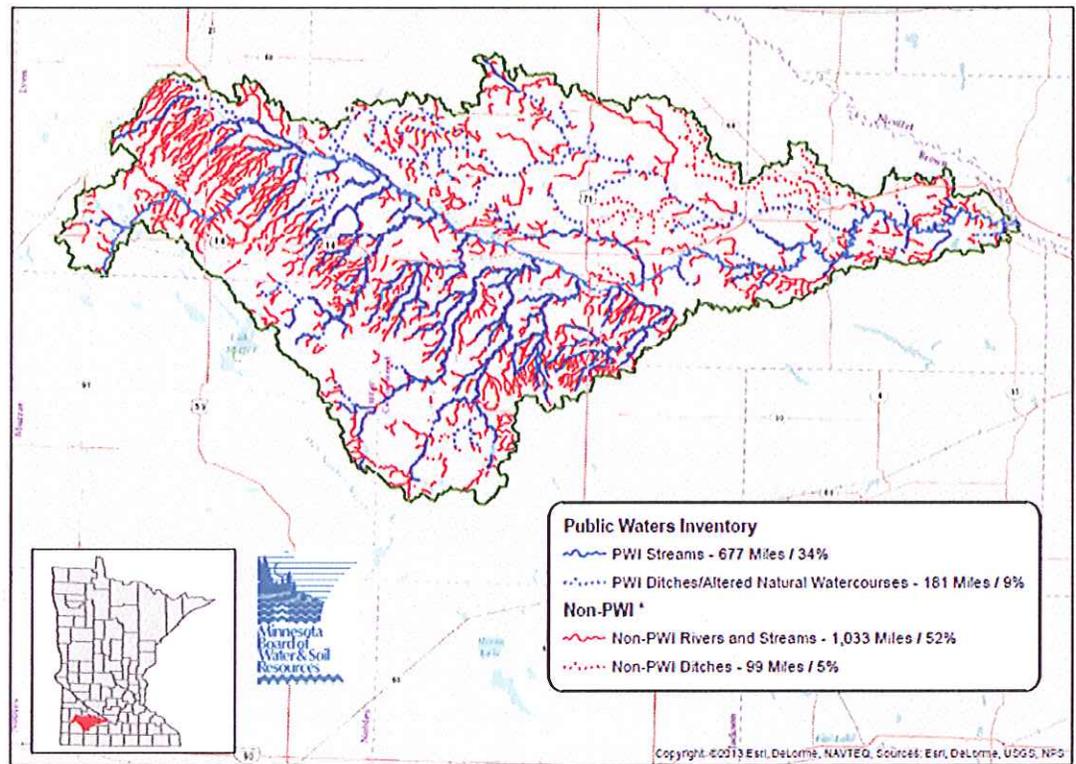
* It has been calculated that approximately 20% of drainage ditches governed by MN Statutes Chapter 103E Drainage law are currently required to have at a minimum 1-rod buffer strips.

Note: This analysis underestimates non-regulated watercourses because there are many miles of non-regulated watercourses that are currently not cataloged by DNR or other entities (private ditches, field level drainage features and small water courses) and were not able to be analyzed as part of this effort. Therefore, the true percent of non-regulated watercourses is believed to be much greater than 64%.

It is important to remember that PWI areas are governed by Shoreland Rules generally require a 50- foot buffer, while Chapter 103E Drainage law requires a minimum a one rod (16.5 foot) buffer strip width, when triggered by the appointment of viewers. To achieve environmental goals, often times a buffer width must be 100's of feet wide (not just 50 or 16.5 feet wide), depending on the site characteristics and the environmental goals to be achieved.

Proportion of Streams and Ditches Included/Not Included in the Public Waters Inventory
Cottonwood River Watershed

In addition, four major watersheds were analyzed including – the Sandhill River in NW MN, the North Fork Crow River in Central MN, Cottonwood River in SW MN and finally the Root River in SE MN (see Appendix A for maps and data for these four watersheds). This analysis was done to illustrate that the percent of watercourses by category vary from one part of the state to another depending on topography, landscape type, land-uses and drainage activities.



Riparian Buffers at a Statewide Scale

John Sandberg

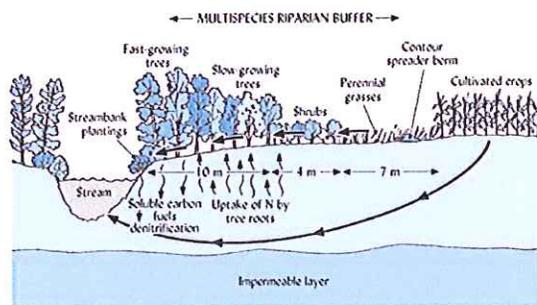
A.J. Petersen

April Lueck

MPCA Biomonitoring Unit

Land Cover in Riparian Zones

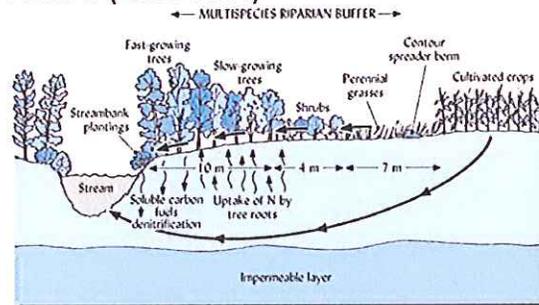
- Intact riparian zones provide ecological benefits
 - Minimize erosion
 - Reduce sediment and pollutants in runoff
 - Shading
 - In-stream habitat



http://faculty.yc.edu/yc/faculty/jgs105/week15/nutrient_management/nutrient_management_print.html

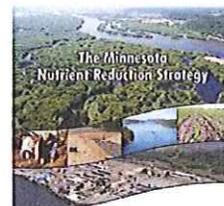
Land Cover in Riparian Zones

- Minnesota Rules require permanent vegetation adjacent to streambanks
 - MN Shoreland Management Rule: 50 feet
 - MN Drainage Law: 1 rod (16.5 feet)

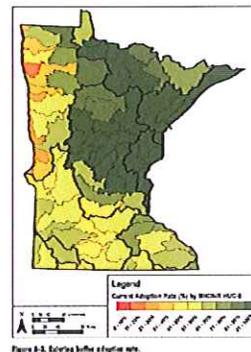


Land Cover in Riparian Zones

- Vegetated stream buffers are key components of Minnesota's Nutrient Reduction Strategy



BMP	Lifecycle cost (\$/acre/year)	Nitrogen reduction efficiency	Phosphorus reduction efficiency	Notes
Perennial energy crops	\$50 ²	95% ²	34% ²	
Perennial buffers in riparian areas (replacing row crops)	\$30-300 ^{2,3}	95% ²	55% ²	See discussion of area treated in below.
Wetlands in marginal cropland (replacing row crops)	\$30-110 ^{2,3}	95% ²	55% ²	
Conservation easements and land retirement	\$6-110 ^{2,3}	83% ^{2,4,5}	56% ^{2,4,5}	Average of values based on Upper Midwest research.



Assessing Riparian Land Cover

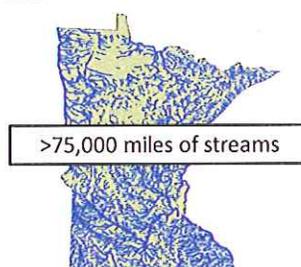
- Automated classification (remote sensing)

- Data readily available
- Rapid assessment
- Coarse-scale
- Classification errors

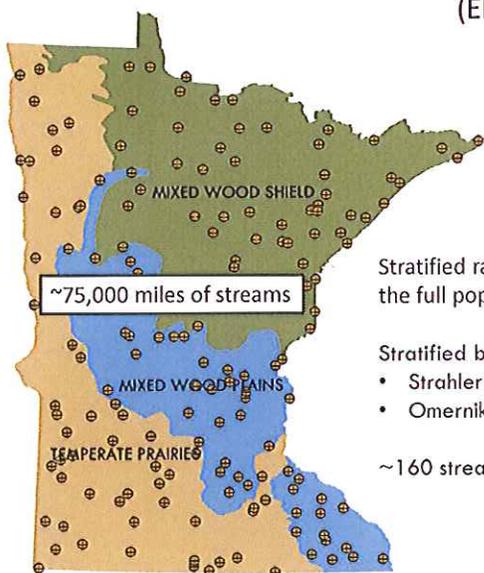


- Air photo interpretation

- More accurate & precise
- Time consuming (expensive)



Environmental Monitoring and Assessment Protocol (EMAP)



Stratified random design allows extrapolation to the full population of MN rivers and streams

Stratified by:

- Strahler stream order
- Omernik Level 2 Ecoregion

~160 stream and river locations (2010 survey)

Objectives

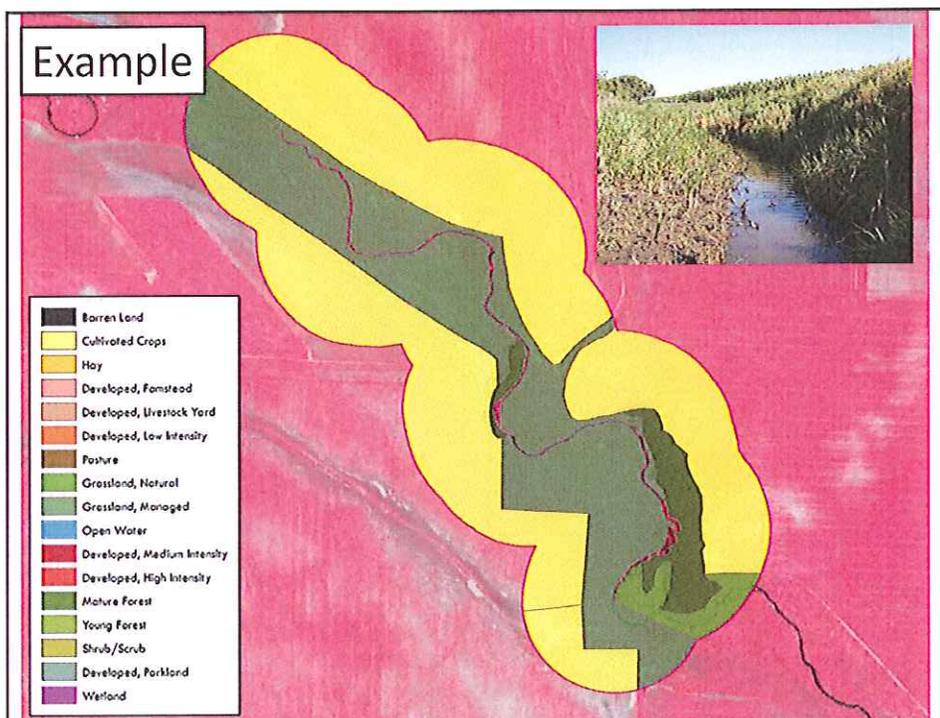
- Classify riparian land use and land cover at multiple buffer distances at ~160 EMAP sites
- Extrapolate statewide and ecoregional estimates (percent/miles of streams) for riparian condition

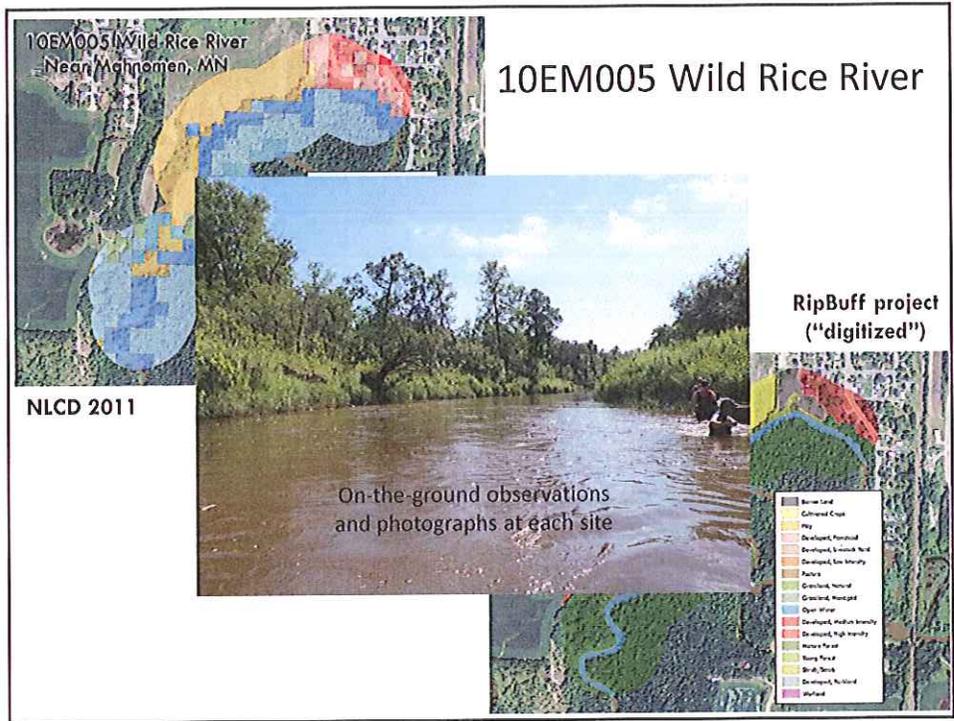
Objectives

- Evaluate relationships between buffer condition and biological condition
- Evaluate accuracy of field assessments of riparian conditions
- Methods comparison

Methods

- Precisely classify riparian land cover
 - High-resolution aerial photography
 - Site pictures
 - Field-collected data
- 1000 linear meters of stream at each site
- 0.25 acre minimum patch size
- Variable buffer distances from “wetted edge”
 - Maximum: 100m
 - Minimum: 50 ft
- R, “sp survey” package for condition and percentile estimates





NLCD 2011

RipBuff project ("digitized")

On-the-ground observations and photographs at each site

10EM005 Wild Rice River

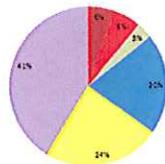
Digitized



- Barren Land
- Developed, Open Space
- Developed, Residential
- Forest
- Grassland
- Open water
- Cultivated Crops
- Shrubland
- Wetland

CoverType	NLCD	RipBuff
Barren Land	0.0	1.7
Developed, Open Space	3.4	0.0
Developed, Residential	3.4	4.4
Forest	0.0	31.8
Grassland	2.0	0.0
Open water	12.5	6.1
Row Crop	14.7	9.7
Shrubland	0.0	5.4
Wetland	25.2	2.2
Total	61.2	61.2

NLCD 2011



- Air-photo interpretation provides different information than auto-classified data
- Biomonitoring crews have been to these sites, recorded data, pictures, etc
- Improved accuracy and precision

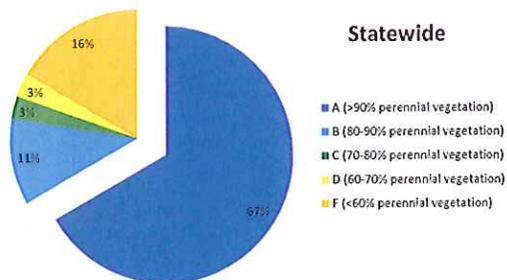
Results

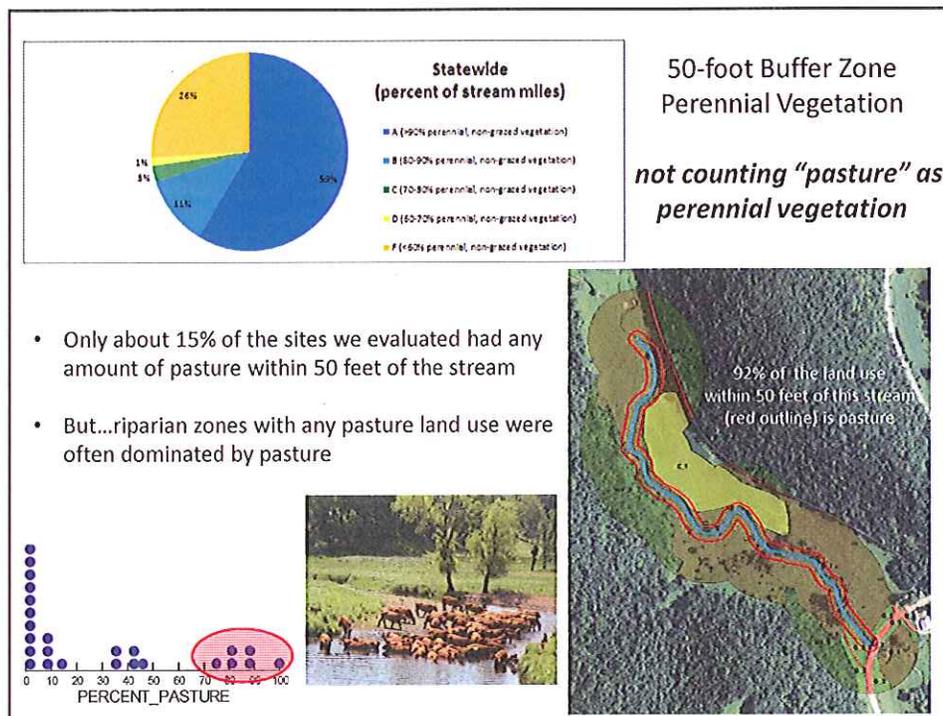
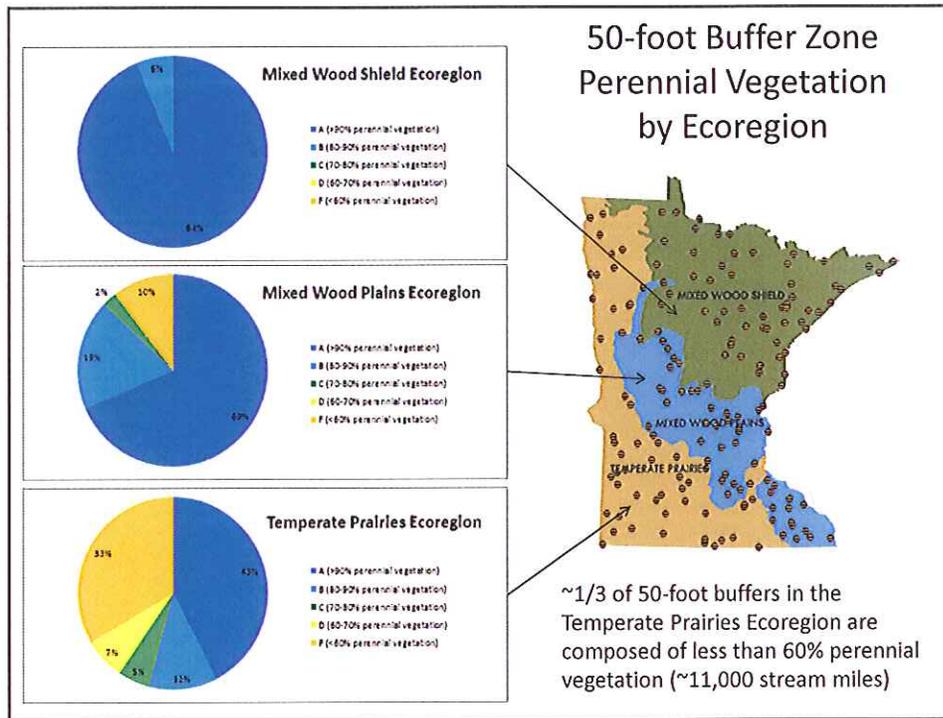
50-foot Buffer Zone Perennial Vegetation

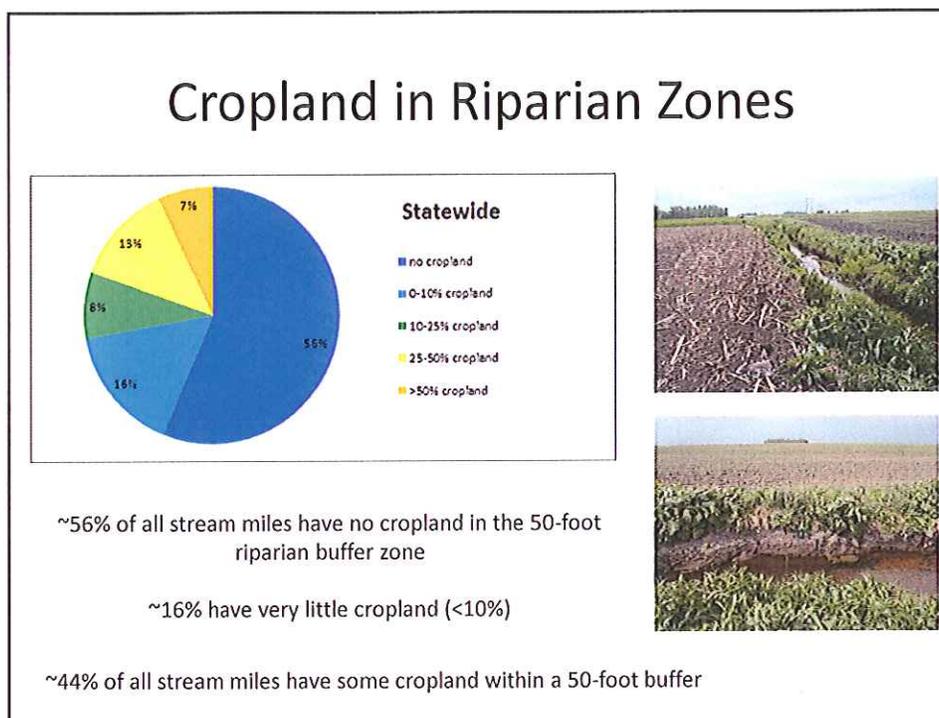
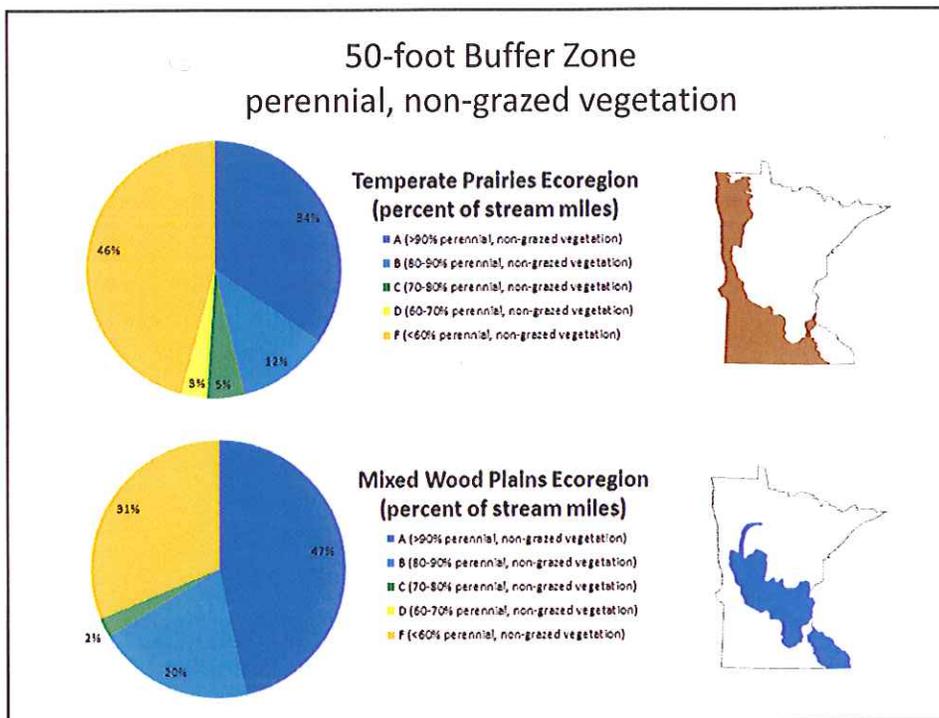
This definition of “Perennial vegetation” includes:

- Forest and wetland
- Natural grassland
- Managed grassland
 - Ditch banks
 - Road shoulders
 - Pasture

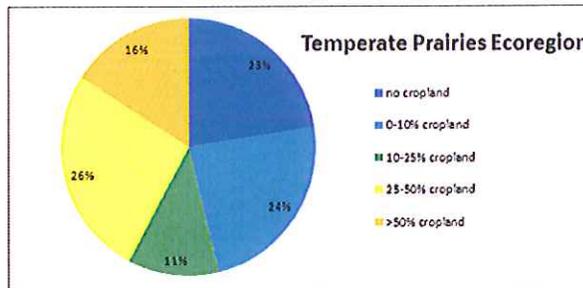
At a statewide scale, **~2/3 of all stream/river miles** have a 50-foot buffer composed of **at least 90% perennial vegetation**







Cropland in Riparian Zones



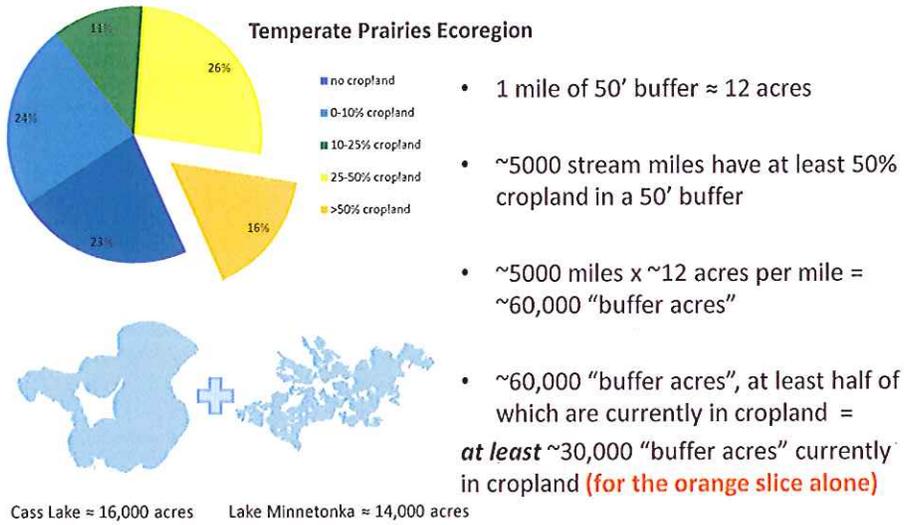
In the Temperate Prairies Ecoregion, 16% (~5,000 miles) of streams have 50-foot buffers composed of >50% cropland



Back of the Envelope Calculations

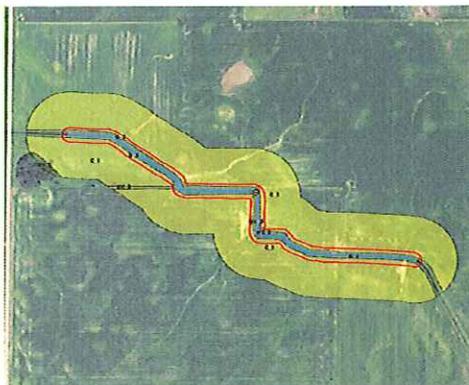
- The EMAP statistical model is not capable of producing “acreage” estimates for cover types
 - Stream miles vs riparian zone area (line vs polygon)
 - Due to the shape and width of streams, buffers are not of equal area for a given length of stream, and sometimes overlap

Back of the Envelope Calculations

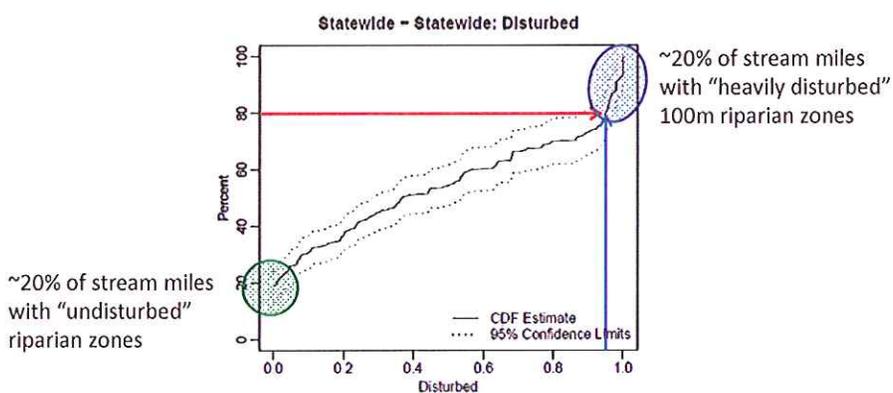


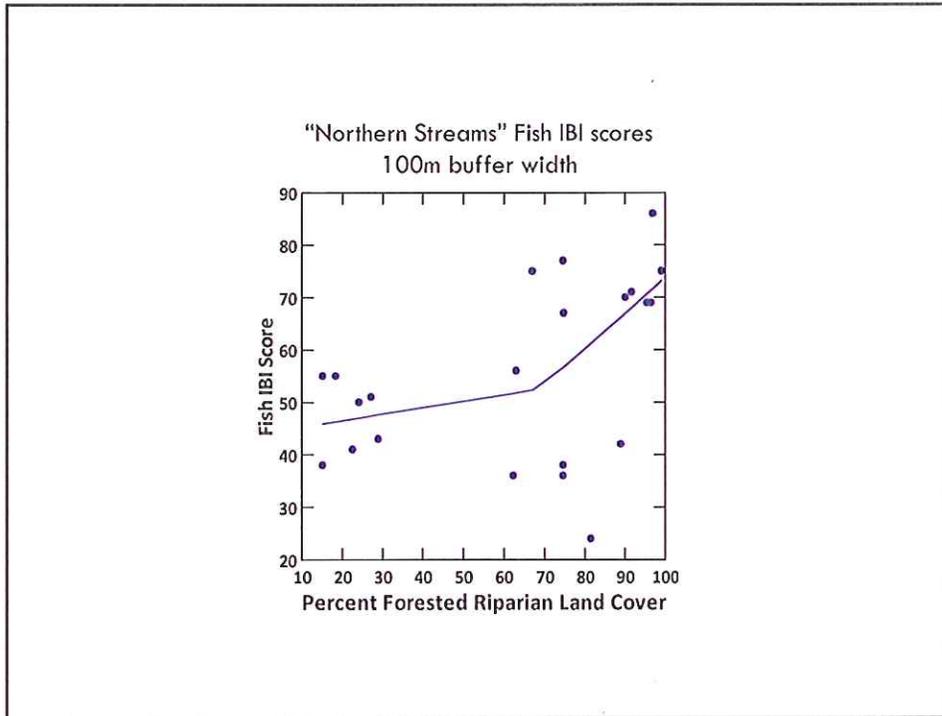
- In this study, we evaluated riparian vegetation within 50 feet of a stream's "wetted edge"
- For ditches, much of this 50-foot zone sometimes a steeply-sloped, trapezoidal, grassy "ditch bank"
- Does this "count" ?

"Wetted Width" vs "Ditch Bank"



100m Buffer Width







BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: OLA Audit of BWSR's Clean Water Fund Expenditures

Meeting Date: March 25, 2015

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Organizational Effectiveness

Contact: Tim Dykstal

Prepared by: Tim Dykstal

Reviewed by: _____ Committee(s)

Presented by: Tim Dykstal

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. Information only.

LINKS TO ADDITIONAL INFORMATION

The Board packet contains a copy of the OLA report.

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

The Minnesota Office of the Legislative Auditor (OLA) recently completed an internal controls and compliance audit of BWSR's (and MPCA's) expenditures from the Clean Water Fund for the period July 2011 through March 2014. The audit report concluded that BWSR "had generally adequate internal controls and generally complied with most legal requirements" applicable to Clean Water Fund appropriations. Board members will be informed of the findings related to BWSR in the report and BWSR's response to them.



OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

FINANCIAL AUDIT DIVISION REPORT

Board of Water and Soil Resources and the Pollution Control Agency

Clean Water Fund Expenditures

Internal Controls and Compliance Audit

July 2011 through March 2014

February 23, 2015

Report 15-03

FINANCIAL AUDIT DIVISION
Centennial Building – Suite 140
658 Cedar Street – Saint Paul, MN 55155
Telephone: 651-296-4708 • Fax: 651-296-4712
E-mail: legislative.auditor@state.mn.us
Website: <http://www.auditor.leg.state.mn.us>
Through Minnesota Relay: 1-800-627-3529 or 7-1-1

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The Financial Audit Division annually audits the state's financial statements and, on a rotating schedule, audits agencies in the executive and judicial branches of state government, three metropolitan agencies, and several "semi-state" organizations. The division has a staff of forty auditors, most of whom are CPAs. The division conducts audits in accordance with standards established by the American Institute of Certified Public Accountants and the Comptroller General of the United States.

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Conclusion on Internal Controls

The Financial Audit Division bases its conclusion about an organization's internal controls on the number and nature of the control weaknesses we found in the audit. The three possible conclusions are as follows:

Conclusion	Characteristics
Adequate	The organization designed and implemented internal controls that effectively managed the risks related to its financial operations.
Generally Adequate	With some exceptions, the organization designed and implemented internal controls that effectively managed the risks related to its financial operations.
Not Adequate	The organization had significant weaknesses in the design and/or implementation of its internal controls and, as a result, the organization was unable to effectively manage the risks related to its financial operations.



OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA • James Nobles, Legislative Auditor

February 23, 2015

Senator Roger J. Reinert, Chair
Legislative Audit Commission

Members of the Legislative Audit Commission

Mr. John Jaschke, Executive Director
Minnesota Board of Water and Soil Resources

Mr. John Linc Stine, Commissioner
Minnesota Pollution Control Agency

This report presents the results of our internal control and compliance audit of the Minnesota Board of Water and Soil Resources' and the Minnesota Pollution Control Agency's expenditures from the Clean Water Fund for the period from July 1, 2011, through March 31, 2014. The objectives of this audit were to determine if the board and the agency had adequate internal controls for its Clean Water Fund expenditures and complied with finance-related legal requirements.

We discussed the results of the audit with the board's and the agency's staff at exit conferences on February 10, 2015. This audit was conducted by Scott Tjomsland, CPA, CISA (Audit Manager) and auditors Joan Haskin, CPA, CISA, Sandy Ludwig, Tracia Polden, Heather Varez, CPA, CFE, and Zach Yzermans, CPA.

We received the full cooperation of the board's and the agency's staff while performing this audit.

Handwritten signature of James R. Nobles in black ink.

James R. Nobles
Legislative Auditor

Handwritten signature of Cecile M. Ferkul in black ink.

Cecile M. Ferkul, CPA, CISA
Deputy Legislative Auditor

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Report Summary

Water is one of Minnesota's most important natural resources. To help protect the resource, in 2008, voters approved a constitutional amendment to dedicate one-third of an additional sales tax to the Clean Water Fund.¹ The constitutional amendment requires that money in this fund be used "To protect, enhance, and restore water quality in lakes, rivers, and streams and to protect groundwater from degradation, and . . . to protect drinking water sources." The Legislature appropriates money from the Clean Water Fund for specific activities. The two largest recipients of appropriations from the fund are the Board of Water and Soil Resources and the Pollution Control Agency.

This audit examined expenditures from the Clean Water Fund by the Board of Water and Soil Resources and the Pollution Control Agency, during the period from July 2011 through March 2014. The audit focused on whether the board and the agency had adequate internal controls to ensure that they used money from the Clean Water Fund in compliance with purposes described in the state constitution, the appropriation laws, and in compliance with other finance-related legal requirements.

Conclusion

The Board of Water and Soil Resources and the Pollution Control Agency each had generally adequate internal controls and generally complied with most legal requirements applicable to spending money from Clean Water Fund appropriations. However, both the board and the agency had some internal control weaknesses and instances of noncompliance.

Key Findings

- The Board of Water and Soil Resources could not demonstrate that it limited administrative cost allocations to its Clean Water Fund appropriations to actual costs that were directly related to and necessary for each specific appropriation. ([Finding 1, page 9](#))
- The Board of Water and Soil Resources did not deposit returned grant money from the Clean Water Fund appropriations or certain interagency receipts into the proper appropriation accounts. ([Finding 2, page 14](#))
- The Pollution Control Agency did not comply with state guidelines for allocating costs to its Clean Water Fund appropriations. ([Finding 3, page 16](#))

¹ *Minnesota Constitution*, art. XI, sec. 15, provides for the distribution of additional dedicated sales tax into four funds; 33 percent to the Clean Water Fund; 33 percent to the Outdoor Heritage Fund; 19.75 percent to the Arts and Cultural Heritage Fund; and 14.25 percent to the Parks and Trails Fund.

Background

Water is one of Minnesota’s most important natural resources. To help protect the resource, in 2008, Minnesota voters approved a constitutional amendment to increase state sales tax by three-eighths of 1 percent for a 25-year period; dedicating one-third of the additional sales tax to the Clean Water Fund.² The constitutional amendment (sometimes referred to as the Legacy Amendment) requires that the money in the Clean Water Fund be used “to protect, enhance, and restore water quality in lakes, rivers, and streams and to protect groundwater from degradation, and at least five percent . . . must be spent only to protect drinking water sources.” The Legislature appropriates money from the Clean Water Fund for specific programs and activities.

Table 1 summarizes the Clean Water Fund appropriations to governmental entities in fiscal years 2012, 2013, and 2014.

Table 1
Clean Water Fund Appropriations
Fiscal Years 2012, 2013, and 2014

Governmental Entities	FY 2012	FY 2013	FY 2014
Board of Water and Soil Resources ¹	\$27,534,000	\$31,734,000	\$30,689,000
Pollution Control Agency ¹	24,212,000	23,558,000	28,365,000
Public Facilities Authority	16,710,000	16,710,000	11,000,000
Department of Natural Resources	10,860,000	9,860,000	12,635,000
Department of Agriculture	7,700,000	7,700,000	7,310,000
Department of Health	2,988,000	3,050,000	4,635,000
Metropolitan Council	500,000	500,000	2,037,000
University of Minnesota	0	1,800,000	615,000
Legislature	13,000	0	15,000
Total	\$90,517,000	\$94,912,000	\$97,301,000

¹ See Appendix A for a detailed list of Clean Water Fund appropriations to the Board of Water and Soil Resources and the Pollution Control Agency for fiscal years 2012, 2013, and 2014.

Source: *Laws of Minnesota* 2011, First Special Session, chapter 6, art. 2; *Laws of Minnesota* 2012, chapter 264, art. 2; and *Laws of Minnesota* 2013, chapter 137, art. 2.

This audit examined expenditures from the Clean Water Fund appropriations to the Board of Water and Soil Resources and the Pollution Control Agency, which were the two largest recipients of Clean Water Fund money in fiscal years 2012, 2013, and 2014.

² *Minnesota Constitution*, art. XI, sec. 15, provides for the distribution of the additional dedicated sales tax into four funds, as follows: 33 percent to the Clean Water Fund; 33 percent to the Outdoor Heritage Fund; 19.75 percent to the Arts and Cultural Heritage Fund; and 14.25 percent to the Parks and Trails Fund.

Board of Water and Soil Resources

The Legislature established the Board of Water and Soil Resources in 1987 when it combined the Soil and Water Conservation Board with the Water Resources Board and the Southern Minnesota Rivers Basin Council. As set forth in *Minnesota Statutes* 2014, 103B.101, the board consists of 20 members, including 15 appointed by the Governor; the commissioners of the Departments of Agriculture, Health, Natural Resources, and the Pollution Control Agency; and the director of the University of Minnesota Extension Service. The board employs an executive director to oversee daily operations. The board works in partnership with Minnesota's 89 soil and water conservation districts, 46 watershed districts, 23 metropolitan watershed management organizations, and 80 county water managers, as well as private landowners, to improve and protect Minnesota's water and soil resources. The board employs staff throughout the state housed at nine office locations, including the central and metro field office in St. Paul and field offices in Bemidji, Brainerd, Duluth, Detroit Lakes, Mankato, Marshall, New Ulm, and Rochester.

Pollution Control Agency

The Legislature established the Pollution Control Agency in 1967 to protect the air, waters, and land in Minnesota. The agency's daily operations are directed by a commissioner, while agency policy and direction are set by the Pollution Control Agency Citizens' Board. As set forth in *Minnesota Statutes* 2014, 116.02, the Citizens' Board consists of the commissioner and eight members appointed by the Governor who are not employees of the state or federal government. The agency's mission is to protect and improve the environment and enhance human health. The agency employs staff throughout the state housed at eight office locations, including the central and metro regional office in St. Paul and regional offices in Brainerd, Detroit Lakes, Duluth, Mankato, Marshall, Rochester, and Willmar.

Clean Water Fund Appropriations

The Clean Water Fund appropriations to the Board of Water and Soil Resources and the Pollution Control Agency provided funding for specific purposes. Most of the appropriations to the board were intended for various grant programs that primarily provided money to local government units, and for the purchase of conservation easements.³ Most of the appropriations to the agency were intended for water quality program activities performed by agency staff or hired contractors.

³ A conservation easement is a legal restriction placed on a parcel of land that limits its use. Landowners receive an easement payment in return for establishing conservation practices on the land, but retain full ownership of the land. The easement is recorded on the land title with the county recorder and transfers with the land if the parcel is sold.

Table 2 summarizes the board's and the agency's expenditures from selected Clean Water Fund appropriations from July 1, 2011, through March 31, 2014.

<u>Expenditures</u>	<u>Board of Water and Soil Resources</u>	<u>Pollution Control Agency</u>
Grants	\$29,743,953	\$8,083,778
Easements	8,203,621	0
Contracted Services	1,370,271	25,966,906
Payroll	3,973,681	16,273,848
Indirect Costs	0 ²	8,530,032
Other Purchased Services, Supplies, Equipment, and Other Expenses	<u>337,725</u>	<u>4,601,874</u>
Total Expenditures	<u>\$43,629,251</u>	<u>\$63,456,438</u>

¹ See Appendix A for the selected Clean Water Fund appropriations to the Board of Water and Soil Resources and the Pollution Control Agency.

² Instead of using an indirect cost plan, the Board of Water and Soil Resources transferred money from its Clean Water Fund appropriations to an administrative account it created in the Clean Water Fund, and paid administrative costs directly from that account. The board's process is described in more detail in Finding 1.

Source: State of Minnesota's accounting system.

Objective, Scope, and Methodology

The objective of our audit of Clean Water Fund expenditures made by the Board of Water and Soil Resources and the Pollution Control Agency, for the period of July 2011 through March 2014, was to answer the following questions:

- Did the Board of Water and Soil Resources and the Pollution Control Agency have adequate internal controls to ensure that they used money from Clean Water Fund appropriations for the intended purposes, accurately paid employees, grantees, and vendors in accordance with management's authorizations, complied with finance-related legal requirements, and created reliable financial data?
- For the transactions tested, did the Board of Water and Soil Resources and the Pollution Control Agency spend money from Clean Water Fund appropriations in compliance with the constitution; state statutes and laws; state, board, and agency policies; and other applicable finance-related legal requirements?

To answer these questions, we performed the following steps:

- We reviewed the appropriation laws to gain an understanding of the intended purpose of and requirements for each selected Clean Water Fund appropriation. In addition, we gained an understanding of the board's and the agency's financial policies and procedures.
- We considered the risk of errors in the accounting records and potential noncompliance with relevant legal requirements. This included a review of the processes used by the board and the agency to ensure they only spent money from Clean Water Fund appropriations on activities that were directly related to and necessary for the specific appropriations.⁴
- We obtained and analyzed the board's and the agency's accounting data to identify unusual trends or significant changes in financial operations. We examined samples of financial transactions and reviewed supporting documentation to test whether the board's and the agency's controls were effective and if the transactions complied with laws, regulations, policies, and contract provisions.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective.

We used various criteria to evaluate internal controls and compliance. We used, as our criteria to evaluate board and agency controls, the guidance contained in the *Internal Control-Integrated Framework*, published by the Committee of Sponsoring Organizations of the Treadway Commission.⁵ We used state and federal laws, regulations, and contracts, as well as policies and procedures established by the departments of Management and Budget and Administration and the board's and the agency's policies and procedures as evaluation criteria over compliance.

Conclusion

The Board of Water and Soil Resources and the Pollution Control Agency each had generally adequate internal controls and generally complied with most legal

⁴ *Laws of Minnesota* 2011, First Special Session, chapter 6, art. 2, sec. 2, subd. 2 and *Laws of Minnesota* 2013, chapter 137, art. 2, sec. 2, subd. 2, stated "Money appropriated...may not be spent on activities unless they are directly related to and necessary for a specific appropriation."

⁵ The Treadway Commission and its Committee of Sponsoring Organizations were established in 1985 by the major national associations of accountants. One of their primary tasks was to identify the components of internal control that organizations should have in place to prevent inappropriate financial activity. The resulting *Internal Control-Integrated Framework* is the accepted accounting and auditing standard for internal control design and assessment.

requirements applicable to spending money from Clean Water Fund appropriations. However, both the board and the agency had some internal control weaknesses and instances of noncompliance.

The following *Findings and Recommendations* section further explains the exceptions noted above.

Findings and Recommendations

The Board of Water and Soil Resources could not demonstrate that it limited administrative cost allocations to its Clean Water Fund appropriations to actual costs that were directly related to and necessary for each specific appropriation.

Finding 1

The Board of Water and Soil Resources developed a methodology to estimate and allocate administrative costs to Clean Water Fund appropriations that was generally reasonable; however, the board did not validate or accurately execute the methodology. As a result, the board could not show that it had limited administrative cost allocations to Clean Water Fund appropriations to costs that were directly related to and necessary for each specific appropriation.

The laws that appropriated Clean Water Fund money to the board stated that “Money appropriated . . . may not be spent on activities unless they are directly related to and necessary for a specific appropriation.”⁶ In addition, guidance issued by the Department of Management and Budget on the use of money from Legacy funds states that for costs to be allowable, they “. . . should be necessary for the legacy programs they are supporting.”⁷

In developing a methodology to determine the costs of administering its Clean Water Fund grant and easement programs, the board did the following:

- The board identified its total administrative costs,⁸ and how much of those costs were related to the administration of its Clean Water Fund grant appropriations and its Clean Water Fund easement appropriations, based on estimates of percentages of employees’ time spent working on Clean Water Fund activities.
- The board then proportionately allocated the Clean Water Fund’s estimated administrative costs to the specific grant and easement appropriations.

⁶ *Laws of Minnesota* 2011, First Special Session, chapter 6, art. 2, sec. 2, subd. 2 and *Laws of Minnesota* 2013, chapter 137, art. 2, sec. 2, subd. 2.

⁷ *Laws of Minnesota* 2013, chapter 137, art. 2, sec. 2, subd. 2, states, “Money appropriated in this article must be spent in accordance with Minnesota Management and Budget’s Guidance to Agencies on Legacy Fund Expenditure.” The Department of Management and Budget issued that guidance in December 2012.

⁸ The board’s administrative costs included payroll, office rent, computer services, phones, vehicle rent, and travel.

- Finally, the board transferred amounts from the specific Clean Water Fund appropriations into an account it created in the Clean Water Fund from which it paid the administrative costs.

Table 3 shows the amounts transferred each fiscal year.

	<u>2012</u>	<u>2013</u>	<u>2014</u>
Clean Water Fund Grant Appropriations	\$19,250,000	\$22,150,000	\$21,855,000
Transfers-out for Administrative Costs	<u>(1,101,313)</u>	<u>(806,038)</u>	<u>(1,930,000)</u>
Grant Appropriations after Transfers-out	<u>\$18,148,687</u>	<u>21,343,962</u>	<u>19,925,000</u>
Clean Water Fund Easement Appropriations	\$ 7,300,000	\$ 8,300,000	\$ 7,800,000
Transfers-out for Administrative Costs	<u>(673,685)</u>	<u>(230,458)</u>	<u>(290,000)</u>
Easement Appropriations after Transfers-out	<u>\$ 6,626,315</u>	<u>\$ 8,069,542</u>	<u>\$ 7,510,000</u>

Source: State of Minnesota's accounting system.

While the methodology was generally reasonable, it had the following deficiencies:

- Estimated Administrative Costs Not Validated. The board did not compare the total estimated administrative costs used in its cost allocation methodology to the actual costs incurred to determine if any adjustments to the cost allocations were necessary. In addition, for about 70 percent of the board's employees with payroll costs allocated to the Clean Water Fund,⁹ the board did not validate whether the estimated percentages of work time related to Clean Water Fund grant or easement activities reasonably approximated the actual time those employees applied.¹⁰ The board used the estimated payroll percentages in its cost allocation methodology to apportion its total estimated administrative costs to the Clean Water Fund grant and easement appropriations.

⁹ The board did have a process for its board conservationists, but those positions represented less than 30 percent of the employees with payroll costs allocated to the Clean Water Fund appropriations.

¹⁰ This issue was previously reported in Office of the Legislative Auditor's Financial Audit Division Report 11-27, *Legacy Funds: Outdoor Heritage, Clean Water, and Parks and Trails*, issued November 30, 2011 (Finding 1).

The Department of Management and Budget's guidance addresses the use of estimated percentages of payroll costs and states:

The amount of staff compensation charged to legacy funds for wages, salary, and benefits should be reflective of their workload on legacy projects. Agencies should have checks in place to ensure that legacy funds – and all other state funds – are charged in a way that accurately reflects actual employee time. This could include staff tracking their actual time spent on legacy programs on an on-going basis, or allocating cost according to staff position descriptions. If an agency does not have a personnel time report system that can handle actual hours, a reasonable percentage of time spent on legacy activities approach could be used, and the percentage used for individual programs should be checked at least quarterly to be sure that it is accurate. If there are discrepancies found, the agencies should complete expenditure corrections and adjust position descriptions accordingly.

Without a periodic validation of the board's administrative cost estimates to the actual costs, and employees' expected activities to how they actually used their time, the board's cost allocation methodology may not accurately associate costs with the specific appropriations to which they were directly related and necessary.

- Formula Errors. The electronic spreadsheets the board used for its 2014 cost allocation methodology had 36 formula errors, resulting in an overstated estimate of the Clean Water Fund's grant and easement administrative costs of about \$50,000.

The board also had the following deficiencies in its allocations of administrative costs to Clean Water Fund grant and easement appropriations:

- Unexplained Adjustments and Transfer Amounts. Board staff did not have documentation to support (and could not explain to us) adjustments they made to the grant and easement programs' administrative cost estimates determined through the cost allocation methodology. Board staff also did not have documentation to support (and could not explain to us) why the amounts they transferred from the specific appropriations into the administrative cost account were different from the estimated administrative costs. The Department of Management and Budget's guidance instructs agencies to document how they allocated administrative costs to the Legacy funds.

Table 4 shows our comparison of the board's administrative cost estimates and amounts transferred each fiscal year.

Table 4
Board of Water and Soil Resources
Clean Water Fund Appropriations for Grants and Easements
Comparison of Administrative Cost Estimates and Actual Transfers
to the Clean Water Fund Administrative Account
Fiscal Years 2012 through 2014

Appropriation Type and Fiscal Year	(a) Per Methodology	(b) Unexplained Adjustments	(a + b) Final Estimates	(c) Actual Transfers	(c - (a + b)) Unexplained Transfer Variances
<u>Grant Appropriations</u>					
Fiscal Year:					
2012	\$1,105,903	\$ 0	\$1,105,903	\$1,101,313	(\$ 4,590)
2013	1,191,566	(438,753)	752,813	806,038	53,225
2014	<u>2,031,732</u>	<u>(400,000)</u>	<u>1,631,732</u>	<u>1,930,000</u>	<u>298,268</u>
Total	<u>\$4,329,201</u>	<u>(\$ 838,753)</u>	<u>\$3,490,448</u>	<u>\$3,837,351</u>	<u>\$346,903</u>
<u>Easement Appropriations</u>					
Fiscal Year:					
2012	\$753,685	0	\$753,685	\$673,685	(\$ 80,000)
2013	754,833	0	754,833	230,458	(524,375)
2014	<u>229,422</u>	<u>0</u>	<u>229,422</u>	<u>290,000</u>	<u>60,578</u>
Total	<u>\$1,737,940</u>	<u>0</u>	<u>\$1,737,940</u>	<u>\$1,194,143</u>	<u>(\$543,797)</u>
Overall Totals	<u>\$6,067,141</u>	<u>(\$838,753)</u>	<u>\$5,228,388</u>	<u>\$5,031,494</u>	<u>(\$196,894)</u>

Source: OLA analysis of the board's cost allocation records and the state accounting system's transfer transactions.

- Easement Appropriations Charged Twice for Same Costs. Included in the board's fiscal year 2012 and 2013 administrative cost estimates for the easement programs (as shown in Table 4) was \$638,000 each year that the board planned to use for grants to local governments (to cover their administrative costs of easement purchases) and reimbursements to landowners (for the costs of implementing conservation practices on the land).¹¹ However, the board actually paid those grants and reimbursements, which totaled about \$267,000, directly from the easement appropriations instead of from the administrative cost account. Essentially, the board charged the easement appropriations twice for the grants and reimbursements – once when it paid them directly from the appropriations and again when it transferred money from the appropriations to the administrative cost account. The Department of Management and Budget's guidance cautions “. . . a cost should not be categorized as a direct expenditure to a project if a cost of the same

¹¹ The board's actual transfers to the administrative account for those costs totaled \$704,000. In fiscal year 2014, the board did not include grants to local governments and reimbursements to landowners in its estimated administrative costs calculation.

purpose and in similar circumstances has been allocated to the award as an indirect expenditure.”

- Money Transferred From Easement Appropriations was Used for Grant-related Administrative Costs. The board did not use all the money transferred from the easement appropriations for easement related expenditures. Instead, as shown in Table 5, the board used a portion of the money transferred from the easement appropriations for grant-related administrative costs.¹² The table shows the amounts transferred into the Clean Water Fund administrative cost account from Clean Water Fund grant and easement appropriations for fiscal years 2012 and 2013, and the expenditures from the administrative cost account for costs related to the grant and easement programs.¹³ (The grant deficit is bigger than the easement excess because the account had other money available at the beginning of fiscal year 2012.)

Table 5
Board of Water and Soil Resources
Clean Water Fund Administrative Cost Account
Fiscal Years 2012 and 2013 (combined)

	<u>Grants</u>	<u>Easements</u>
Actual Transfers In	\$1,907,351	\$904,143
Administrative Cost Expenditures	<u>2,607,811</u>	<u>252,756</u>
Excess Transfers/(Expenditures)	<u>\$ (700,460)</u>	<u>\$651,387</u>

Source: OLA analysis of the board's cost allocation records and the state's accounting system.

The board received a Clean Water Fund appropriation each fiscal year for purposes other than grants and easements, but had inconsistencies in how it used money from these appropriations for administrative costs, including the following:

- In fiscal year 2012, the board allocated to this appropriation about \$49,190 of the administrative costs it estimated for its Clean Water Fund grant programs. It did not allocate any administrative costs to the appropriation in fiscal years 2013 or 2014 as part of that cost allocation plan.
- In fiscal years 2012 and 2014, the board paid \$32,110 and \$122,039, respectively, in administrative costs for payroll directly from the

¹² We think that the negative \$438,753 unexplained adjustment to the fiscal year 2013 administrative cost estimate for the grant appropriations in Table 4 may have been made by board staff to use the unspent balance in the administrative cost account at the end of fiscal year 2012.

¹³ The board did not distinguish between grant and easement costs when it made payments from the Clean Water Fund administrative cost account. We used the board's cost allocation methodology to classify the expenditures as either grant related or easement related.

appropriations.¹⁴ However, the board did not allocate any costs for office rent, computer services, phones, vehicle rent, or travel to the appropriation.

As a result of all of these problems, the board could not demonstrate, and we could not validate, that money from each specific Clean Water Fund appropriation was only used for activities that were directly related to and necessary for that appropriation.

Recommendations

- *The Board of Water and Soil Resources should improve its methodology to calculate and its process to allocate administrative costs to Clean Water Fund appropriations by:*
 - *fixing formula errors;*
 - *periodically verifying the estimated administrative costs to the actual administrative costs, and employees' expected activities to their actual activities;*
 - *documenting all adjustments to cost allocations and transfer amounts; and*
 - *establishing controls to ensure that it uses money transferred into the administrative cost account for the intended costs.*
- *The Board of Water and Soil Resources should restore to the easement appropriations from the Clean Water Fund the money it used for grant-related administrative costs.*

Finding 2

The Board of Water and Soil Resources did not deposit returned grant money from the Clean Water Fund appropriations or certain interagency receipts into the proper appropriation accounts.

In the state's accounting system, agencies establish separate accounts for each appropriation from the Legislature, including those from the Clean Water Fund. Those accounts contain controls limiting the availability of each appropriation to the period of time specified by the Legislature. Using separate accounts also helps agencies ensure that they use each appropriation for its intended purpose. We identified the following instances where the board did not deposit receipts into the proper account, which made those appropriation controls ineffective.

¹⁴ In fiscal year 2013, the board did not pay any administrative costs directly from the appropriation.

- The board did not deposit about \$396,000 of returned grant money into the Clean Water Fund accounts from which it paid the grants. Instead, the board deposited that money into a Miscellaneous Special Revenue Fund account. The board paid the grants from several fiscal years 2010 and 2011 Clean Water Fund appropriations, which were available to the board until June 30, 2010, and June 30, 2012, respectively.¹⁵ Any portion of the appropriations not used by those dates should revert to the Clean Water Fund for future appropriations by the Legislature. In contrast, money in the Miscellaneous Special Revenue Fund account is available until it is spent. Since the board collected all of the returned grant money after the last available date for the respective Clean Water Fund appropriations, the money should have reverted to the Clean Water Fund. Depositing the money into the Miscellaneous Special Revenue Fund account allowed the board to retain the money beyond the dates made available by the Legislature, and increased the risk of the board using the money for purposes other than those specified by the Legislature for each appropriation.
- The board did not deposit about \$85,000 in interagency receipts from the Pollution Control Agency into the same account from which it paid the corresponding expenditures. The board and the agency executed an interagency agreement for a water quality project managed by the board. The agreement required the agency to provide \$341,605 from a federal award for the project, and the board to provide \$130,000 from a Clean Water Fund appropriation. The project was still in progress as of September 30, 2014, but through that date the board had spent about \$382,000 (\$167,000 of the agency's share of project costs paid from a Miscellaneous Special Revenue Fund account, and \$85,000 of the agency's share plus the board's \$130,000 share paid from a Clean Water Fund account). However, the board deposited all the receipts from the agency into the Miscellaneous Special Revenue Fund account, instead of splitting those receipts between the accounts from which it paid the agency's share of project costs.

¹⁵ *Laws of Minnesota* 2009, chapter 172, art. 2, sec. 1 stated that Clean Water Fund appropriations for fiscal years 2010 and 2011 "...are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively." *Laws of Minnesota* 2010, chapter 361, art. 2, sec. 6(e) stated, "The appropriations in fiscal year 2011 to the Board of Water and Soil Resources in Laws 2009, chapter 172, article 2, section 6, are available until June 30, 2012...."

Recommendations

- *The Board of Water and Soil Resources should revert the \$396,000 in returned grant money to the Clean Water Fund, and should reallocate \$85,000 in project expenditures from the Clean Water Fund account to the Miscellaneous Special Revenue Fund account.*
- *The Board of Water and Soil Resources should deposit returned grant money into the accounts from which it paid the grants, and should deposit interagency receipts into the same account from which it paid corresponding expenditures.*

Finding 3**The Pollution Control Agency did not comply with state guidelines for allocating costs to its Clean Water Fund appropriations.**

The Pollution Control Agency received several Clean Water Fund appropriations intended for specific activities. The appropriation laws stated that “Money appropriated . . . may not be spent on activities unless they are directly related to and necessary for a specific appropriation.”¹⁶ The agency paid program costs related to a specific appropriation directly from that appropriation, and allocated a share of its administrative costs to each appropriation using an indirect cost plan. We identified instances of noncompliance with allocations of indirect costs and program payroll costs to Clean Water Fund appropriations.

Lower Indirect Cost Rate for Clean Water Fund Appropriations. The agency used an indirect cost plan to allocate administrative costs to its Clean Water Fund appropriations, but used a lower indirect cost rate than it used to allocate costs to appropriations from other funds. For example, in fiscal year 2014, the agency only used about 10 percent of its Clean Water Fund appropriations for administrative costs, but used about 20 percent of its appropriations from other state funds for those costs. The Department of Management and Budget’s Guidance to Agencies on Legacy Fund Expenditure¹⁷ states, “The ‘direct and necessary’ requirement does not prohibit the use of indirect cost billing for necessary administrative costs” It also states, “Under law and state policy, all state funds, including the legacy funds, should pay their portion of administrative costs, and not be subsidized by the general fund or other dedicated funding sources.”

¹⁶ *Laws of Minnesota* 2011, First Special Session, chapter 6, art. 2, sec. 2, subd. 2 and *Laws of Minnesota* 2013, chapter 137, art. 2, sec. 2, subd. 2.

¹⁷ *Laws of Minnesota* 2013, chapter 137, art. 2, sec. 2, subd. 2 states “Money appropriated in this article must be spent in accordance with Minnesota Management and Budget’s Guidance to Agencies on Legacy Fund Expenditure.”

Estimates for Payroll Costs Not Validated. Minnesota Management and Budget's guidance established requirements for charging payroll costs to appropriations, as follows:

The amount of staff compensation charged to legacy funds for wages, salary, and benefits should be reflective of their workload on legacy projects. Agencies should have checks in place to ensure that legacy funds – and all other state funds – are charged in a way that accurately reflects actual employee time. This could include staff tracking their actual time spent on legacy programs on an on-going basis, or allocating cost according to staff position descriptions. If an agency does not have a personnel time report system that can handle actual hours, a reasonable percentage of time spent on legacy activities approach could be used, and the percentage used for individual programs should be checked at least quarterly to be sure that it is accurate. If there are discrepancies found, the agencies should complete expenditure corrections and adjust position descriptions accordingly.

Before the start of each fiscal year, the agency assigned percentages of payroll costs for each employee to specific appropriations based on estimated work activities to be performed during the year. The agency was also developing and implementing a time keeping system for employees to track actual time spent working on various activities. By March 2014, some agency employees were effectively using the time keeping system. For those employees, the agency charged payroll costs for hours worked to appropriations based on actual work activities performed instead of estimated work activities.

For employees that did not use the time keeping system, the agency did not have a process to validate at least quarterly that the assigned percentage of payroll costs paid from Clean Water Fund appropriations was accurate based on actual work activities performed.¹⁸ We identified one employee with 50 percent of payroll costs paid from a Clean Water Fund appropriation in fiscal year 2013, but just 10 percent paid from that appropriation in fiscal year 2014. Agency staff told us that they reduced the percentage for fiscal year 2014 after determining that the employee had only worked about 10 to 20 percent on activities related to that appropriation in fiscal year 2013. However, the agency did not record an expenditure correction to reallocate fiscal year 2013 payroll costs. A correction to reduce the percentage charged to the Clean Water Fund appropriation to 20 percent would have reallocated about \$22,000 in payroll costs to an appropriation in another fund.

¹⁸ This issue was reported in the Office of the Legislative Auditor's Financial Audit Division, report 11-27, *Legacy Funds: Outdoor Heritage, Clean Water, and Parks and Trails*, issued November 30, 2011 (Finding 1).

For employees that used the time keeping system, the agency charged payroll costs for paid time off to appropriations based on estimated work activities instead of actual work performed. The agency did not have a process to reallocate payroll costs for paid time off in the same proportion as payroll costs for actual hours worked.¹⁹ Minnesota Management and Budget's guidance states "Employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, . . . are allowed if . . . the cost is equitably allocated to all related activities." We identified one employee that charged 77 percent of the payroll costs for hours worked to a Clean Water Fund appropriation but had all paid time off charged to that appropriation. The agency should have reallocated about \$3,000 in payroll costs for the paid time off to an appropriation in another fund. We also identified an employee that charged 82.5 percent of the payroll costs for hours worked to a Clean Water Fund appropriation but had 75 percent of the payroll costs for paid time off charged to that appropriation. The agency should have reallocated about \$4,200 in payroll costs for paid time off to the Clean Water Fund appropriation from appropriations in other funds.

Recommendations

- *The Pollution Control Agency should allocate administrative costs to Clean Water Fund appropriations using the same indirect cost rate used for allocations to appropriations from other state funds.*
- *The Pollution Control Agency should improve its procedures to ensure it equitably allocates payroll costs to Clean Water Fund appropriations.*

Finding 4

The Board of Water and Soil Resources and the Pollution Control Agency paid \$3,500 and about \$25,000, respectively, from Clean Water Fund appropriations for activities that were not directly related to and necessary for the appropriations.

The Clean Water Fund appropriation laws stated that, "Money appropriated . . . may not be spent on activities unless they are directly related to and necessary for a specific appropriation."²⁰ We identified the following expenditures from Clean Water Fund appropriations that were not for activities related to those appropriations:

- The Board of Water and Soil Resources paid a \$3,500 invoice from a Clean Water Fund appropriation for easements that was for activities

¹⁹ Ibid., p. 17.

²⁰ *Laws of Minnesota* 2011, First Special Session, chapter 6, art. 2, sec. 2, subd. 2 and *Laws of Minnesota* 2013, chapter 137, art. 2, sec. 2, subd. 2.

related to an appropriation in a different fund. Notes written on the invoice indicated that the board intended to pay it from the correct appropriation, but inadvertently selected a Clean Water Fund appropriation purchase order to pay it from.

- The Pollution Control Agency paid about \$25,000 from a Clean Water Fund appropriation for expense reimbursements to 49 employees that worked on activities related to other appropriations.
 - Approximately \$23,000 of these reimbursements were to 43 employees whose payroll costs were paid from other funds.
 - Approximately \$2,000 of these reimbursements were to 6 employees whose payroll costs were paid from other Clean Water Fund appropriations.

Recommendations

- *The Board of Water and Soil Resources and the Pollution Control Agency should process expenditure corrections to reallocate the expenditures to the proper appropriation.*
- *The Board of Water and Soil Resources and the Pollution Control Agency should strengthen procedures to ensure that they pay expenditures from the proper appropriations.*

The Pollution Control Agency and the Board of Water and Soil Resources did not accurately calculate certain nonroutine payroll payments to employees.

Finding 5

Inaccurate Military Salary Differential Payments. The Pollution Control Agency underpaid one employee by about \$8,400 for military salary differential pay.²¹ *Minnesota Statutes* 2014, 43A.183, subd. 1, states, “Each agency head shall pay to each eligible member an amount equal to the person’s salary differential for each month or portion of month that the person is ordered to serve in active service.” *Minnesota Statutes* 2014, 43A.183, subd. 2(b), defines salary differential:

“Salary differential” means the difference between: (1) the person’s monthly total gross earnings as an active state employee, excluding any overtime pay received but including all other earnings, averaged over the last three full months of the person’s active state employment prior to reporting to active service, and including any additional salary or earnings adjustments that the person would have received at any time during the

²¹ Approximately \$7,200 should be allocated to the Clean Water Fund, with the rest allocated to a different fund.

person's authorized leave from state employment had the person been serving as an active state employee during that time; and (2) the person's monthly base pay in active service.

The Department of Management and Budget developed a worksheet for agencies to calculate an employee's average monthly pay for the last three full months worked before being called to active service. The Pollution Control Agency used that worksheet, but instead of using the employee's earnings for each paid day during those months in the calculation (there were between 21 and 23 paid days each month), it used the earnings for two pay periods (20 days) in each month. In addition, the agency did not recognize that the employee had received a pay rate increase for those last three full months worked, and used the old pay rate in the calculation.

Inaccurate Pay Rate Adjustment Payments. The Board of Water and Soil Resources and the Pollution Control Agency miscalculated payments for pay rate adjustments to several employees. All of those payments were either fully or partially paid from Clean Water Fund appropriations. Department of Management and Budget Policy PAY0025 states, "When an employee receives a change in pay rate, . . . the change will have an effective date. . . . If the effective date is in a past pay period, a pay rate adjustment is necessary." The board and the agency miscalculated three and eleven payments, respectively, resulting in seven overpayments ranging from \$21 to \$325 and seven underpayments ranging from \$39 to \$506.

Recommendations

- *The Board of Water and Soil Resources and the Pollution Control Agency should make additional payments to employees to correct the underpayments and should collect overpayments from employees.*
- *The Board of Water and Soil Resources and the Pollution Control Agency should strengthen their procedures to ensure the accuracy of nonroutine payroll payments to employees.*

Finding 6

The Board of Water and Soil Resources and the Pollution Control Agency did not comply with state requirements to ensure the integrity of employee time reporting and accuracy of payroll expenditures.

The Board of Water and Soil Resources and the Pollution Control Agency did not review key payroll reports designed to ensure the integrity of employee time reporting and accuracy of payroll expenditures. The board and the agency also weakened the integrity of employee time reporting by providing some employees the ability to approve their own hours worked and leave taken. Both board and

agency employees enter hours worked and leave hours into the state's self service time entry system. Once supervisors review and approve employee time, the hours are uploaded into the state's payroll system. Between July 2011 and March 2014, the board and the agency spent about \$19.8 million and \$199.9 million, respectively, on employee payroll costs from all funding sources.

Department of Management and Budget Policy PAY0017 has several requirements to ensure the integrity of payroll hours reported through the self service time entry system, including the following:

The best control over the integrity of employees' payroll information is achieved when employees prepare their own timesheets and supervisors, who have direct knowledge of employees' work, review and approve timesheets.

Agencies are responsible for assigning employee job records to department IDs to properly reflect employee/supervisor relationships.

Employees are responsible for completing and modifying their timesheets.

Supervisors/managers are responsible for reviewing and approving employee timesheets.

Use of backup approvers and payroll staff to modify or approve employee timesheets is permitted, but should be strictly limited. When backup approvers and payroll staff modify or approve timesheets, they should document the reason for the modification or approval

Employees should not approve their own timesheets.

Payroll staff should review the . . . Self Service Time Entry Audit Report Complete a comprehensive review of the report each pay period This report provides a list of employees whose time entry information was entered and approved in Self Service, but the employee did not personally complete their time entry, and/or the approval was not entered by the primary approver.

The Board of Water and Soil Resources and the Pollution Control Agency assigned five and ten employees, respectively, as backup approvers for their own timesheets. We reviewed all of those employees' timesheets and found one instance where a Pollution Control Agency employee approved her own timesheet.

Department of Management and Budget Policy PAY0028 includes several requirements to ensure the accuracy of payroll transactions, including the following:

Agencies must verify the accuracy of payroll and human resources transactions Various system edits and reports . . . are used to ensure the accuracy of payroll and human resources transactions.

Agency payroll and human resources designees must review the Payroll Register to verify that: Time and amounts were paid at the correct rate, and Any [*sic*] necessary adjustments were processed.

An agency accounting or program manager designee must review the Payroll Posting Audit Trail to verify that payroll expenditures were posted to the correct account.

Agencies should document the review of these reports so that the auditors can verify that the review is being accomplished.

The Board of Water and Soil Resources did not review the Payroll Register since November 2012, and the Pollution Control Agency did not document its review of the Payroll Register except when it included certain error codes. Neither the Board of Water and Soil Resources nor the Pollution Control Agency documented any review of the Payroll Posting Audit Trail, although the board claimed it reviewed the report each pay period. Not reviewing those reports increases the risk that inaccurate payroll transactions could occur and not be detected and corrected.

Recommendations

- *The Board of Water and Soil Resources and the Pollution Control Agency should review payroll reports in compliance with state policy.*
- *The Board of Water and Soil Resources and the Pollution Control Agency should not provide employees the ability to approve their own timesheets.*

Finding 7

The Board of Water and Soil Resources did not always document its justification and authorization for hiring new employees at salaries higher than the minimum rate for a position.

The board did not document its justification for hiring six employees at salaries higher than the minimum rate for a position.

Minnesota Rules 2009, 3900.2100, subp. 2, established guidelines for setting employee salaries for new hires:

Salary upon entry into civil service should usually be at the minimum rate for the classification. An appointing authority may make an appointment at the second or third step of a range An appointing authority must receive prior authorization from the commissioner [of the Department of Management and Budget] to make an appointment at or beyond the fourth step of the salary range Appointments above the minimum rate must be based upon the exceptional qualifications of the applicant or the unavailability of applicants at the minimum rate.

In October 2010, the Department of Management and Budget delegated the authority to set salaries for new employees hired by the board to the board's administrative and technical services director. The delegation stated, "This delegation was granted based on the written procedures/guidelines you currently have in place and the knowledge and experience you have gained" Those board guidelines stated, "All relevant information for the candidate regarding compensation decisions should be included on the approved form" That form included various elements to be considered for salary decisions, such as education, experience, and specialized skills, and required the signature of the administrative and technical services director.

We identified 18 employees hired by the board between July 2011 and March 2014 with initial salaries set above the third step of the positions' salary range. The board allocated at least a portion of the salaries for nine of them to Clean Water Fund appropriations, and we requested documentation of the board's justification for the higher salary for those nine. However, the board did not have any documented justification for six of those employees. For the other three, the higher salaries were reasonable based on the board's documented justification, but the authorization signature of the administrative and technical services director was missing for one of them.

Recommendation

- *The Board of Water and Soil Resources should document its justification and authorization for hiring new employees at salaries higher than the minimum rate for a position.*
-

Finding 8

The Board of Water and Soil Resources did not require easement implementation program grantees to document their easement implementation costs.²²

The board awarded easement implementation program grants equal to \$2,000 per easement to local soil and water conservation districts. During the scope of the audit, the board disbursed \$434,000 to 28 districts from its Clean Water Fund appropriations for easements. The board determined that \$2,000 per easement was a reasonable amount to offset the costs incurred by districts to help the board acquire easements, and did not require the districts to document their actual costs. The Clean Water Fund appropriation laws stated that, "Money appropriated . . . may not be spent on activities unless they are directly related to and necessary for a specific appropriation."²³ Not requiring districts to document their easement implementation costs increased the risk that Clean Water Fund appropriations for easements were used for unallowable activities.

The board questioned whether the cost of obtaining and reviewing evidence of grantees' use of these small grants outweighs the benefit provided. The board may be able to use alternative procedures to obtain sufficient assurance about the appropriate use of the grants. For example, it could have grantees certify they used the money appropriately and periodically review support documentation for a sample of grants.

Recommendation

- *The Board of Water and Soil Resources should develop procedures to ensure easement implementation program grantees use grants for easement implementation costs.*

Finding 9

The Pollution Control Agency did not document its justification for advances of grant money from a Clean Water Fund appropriation to four Minnesota cities.

The Pollution Control Agency advanced 80 percent of the grants to four Minnesota cities from a Clean Water Fund appropriation without documenting the

²² We reported this same issue for easement implementation program grants paid from proceeds from the sale of general obligation bonds in Office of the Legislative Auditor's Financial Audit Division, Report 14-06, *General Obligation Bond Expenditures*, issued March 6, 2014. In its response to that report, the board indicated that it would start requiring additional documentation from the grantees by July 2014. However, as of August 2014, the board had not yet implemented those changes.

²³ *Laws of Minnesota* 2011, First Special Session, chapter 6, art. 2, sec. 2, subd. 2 and *Laws of Minnesota* 2013, chapter 137, art. 2, sec. 2, subd. 2.

reason an advance payment was necessary.²⁴ Those advance payments totaled \$241,593, ranging from \$20,800 to \$80,000. Department of Administration Office of Grants Management Policy 08-08 addresses grant payments as follows:

Reimbursement is the preferred method for making grant payments . . . Although they are not preferred, advance payments on grants may be allowed in certain situations In order to make advance payments, agencies must prepare a written justification or include a justification in the grant agreement that details the specific need to utilize advance payments.

The grant agreement with each city included a clause requiring the 80 percent advance payments, with the final 20 percent disbursed after grantees completed the projects and submitted final reports. However, those clauses did not address the need for advance payments, and the agency did not document any justification for the advance payments in its grant files.

Recommendation

- *The Pollution Control Agency should strengthen its procedures to ensure it documents its justification for advances of grant money in compliance with state policy.*

²⁴ *Laws of Minnesota 2009*, chapter 172, art. 2, sec. 4(g), appropriated money from the Clean Water Fund “. . . to provide grants to local units of government for up to 50 percent of the costs to implement best management practices to treat or clean up contaminated sediments in storm water ponds and other waters”

Appendix A: Clean Water Fund Appropriations

The following sections describe the Clean Water Fund appropriations provided to the Board of Water and Soil Resources and the Pollution Control Agency for fiscal years 2012, 2013, and 2014.

Board of Water and Soil Resources

Purpose	FY 2012	FY 2013	FY 2014	Appropriation
Pollution reduction and restoration grants	\$13,750,000	\$15,350,000	\$14,705,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 7(a), as amended by <i>Laws of Minnesota</i> 2012, chapter 264, art. 2, sec.3; and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 7(a) and (b).
Conservation easements	7,300,000	8,300,000	7,800,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 7(e) and (f), as amended by <i>Laws of Minnesota</i> 2012, chapter 264, art. 2, sec.3; and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 7(f) and (g).
Targeted local resource protection and enhancement grants	3,000,000	3,600,000	3,500,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 7(b), as amended by <i>Laws of Minnesota</i> 2012, chapter 264, art. 2, sec.3; and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 7(c).
Community partners grants	1,500,000	1,500,000	1,500,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 7(g); and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 7(h).
Technical assistance and grants for the conservation drainage program	1,000,000	1,700,000	1,700,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 7(d), as amended by <i>Laws of Minnesota</i> 2012, chapter 264, art. 2, sec.3; and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 7(e).
State oversight and accountability	900,000	1,200,000	950,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 7(c), as amended by <i>Laws of Minnesota</i> 2012, chapter 264, art. 2, sec.3; and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 7(d).
Assistance and grants to transition local water management plans to a watershed approach ¹	0	0	450,000	<i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 7(j).
Restoration evaluations ¹	84,000	84,000	84,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 7(h); and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 7(i).
Total	<u>\$27,534,000</u>	<u>\$31,734,000</u>	<u>\$30,689,000</u>	

¹ We did not review expenditures from these appropriations in this audit.

Source: *Laws of Minnesota* 2011, First Special Session, chapter 6, art. 2; *Laws of Minnesota* 2012, chapter 264, art. 2; and *Laws of Minnesota* 2013, chapter 137, art. 2.

Pollution Control Agency

<u>Purpose</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>Appropriation</u>
Total maximum daily load studies and implementation plans	\$9,400,000	\$9,400,000	\$9,400,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 5(b); and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 5(b).
Statewide assessments of surface water quality and trends	7,500,000	7,500,000	7,600,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 5(a); and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 5(a).
Total maximum daily load research and database development	1,150,000	1,150,000	1,150,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 5(g); and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 5(g).
Groundwater assessments	1,125,000	1,125,000	1,125,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 5(c); and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 5(c).
Clean water partnership program grants	1,000,000	1,000,000	1,000,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 5(e); and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 5(e).
Wild rice standards study	1,000,000	500,000	0	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 5(j).
Enhancing the county-level delivery system for subsurface sewage treatment systems	862,000	708,000	3,250,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 5(k); and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 5(j).
National pollutant discharge elimination system wastewater and storm water total maximum daily load implementation efforts	800,000	800,000	900,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 5(h); and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 5(i).
Water quality improvements in the lower St. Louis River and Duluth harbor	750,000	750,000	750,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 5(d); and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 5(d).
Storm water research and guidance ¹	400,000	400,000	275,000	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 5(f); and <i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 5(f).
Characterize groundwater flow and aquifer properties in the I-94 corridor	225,000	225,000	0	<i>Laws of Minnesota</i> 2011, First Special Session, chapter 6, art. 2, sec. 5(i).
Competitive grant program for sewer projects ¹	0	0	1,500,000	<i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 5(k).
Initiate development of a multiagency watershed database reporting portal ¹	0	0	1,000,000	<i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 5(h).
Wastewater treatment system designs and practices ¹	0	0	375,000	<i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 5(l).
Support for the Clean Water Council ¹	0	0	40,000	<i>Laws of Minnesota</i> 2013, chapter 137, art. 2, sec. 5(m).
Total	<u>\$24,212,000</u>	<u>\$23,558,000</u>	<u>\$28,365,000</u>	

¹ We did not review expenditures from these appropriations in this audit.Source: *Laws of Minnesota* 2011, First Special Session, chapter 6, art. 2 and *Laws of Minnesota* 2013, chapter 137, art. 2.



February 19, 2015

James R. Nobles, Legislative Auditor
 Office of the Legislative Auditor
 140 Centennial Office Building
 658 Cedar Street
 Saint Paul, Minnesota 55155-4708

Dear Mr. Nobles:

Thank you for the opportunity to respond to the findings and recommendations included in the internal controls and compliance audit on Clean Water Fund Expenditures conducted by your office. Our response addresses findings 1, 2, and 4 through 8, which relate to the Minnesota Board of Water and Soil Resources.

Finding 1. The Board of Water and Soil Resources could not demonstrate that it limited administrative cost allocations to its Clean Water Fund appropriations to actual costs that were directly related to and necessary for each specific appropriation.

Recommendations

- *The Board of Water and Soil Resources should improve its methodology to calculate and its process to allocate administrative costs to Clean Water Fund appropriations by:*
 - *fixing formula errors;*
 - *periodically verifying the estimated administrative costs to the actual administrative costs, and employees' expected activities to their actual activities;*
 - *documenting all adjustments to cost allocations and transfer amounts; and*
 - *establishing controls to ensure that it uses money transferred into the administrative cost account for the intended costs.*
- *The Board of Water and Soil Resources should restore to the easement appropriations from the Clean Water Fund the money it used for grant-related administrative costs.*

Response

We agree with the recommendations, and have already improved our internal controls to ensure that money allocated for administrative costs is used for that purpose alone. We no longer transfer funds to the administrative cost account as they are received, but annually, as they are included in a given fiscal year's spending plan. A manager must now agree to the amount specified in the spending plan,

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which is established by program staff, and another manager must verify that the amount specified was transferred. In addition, we are performing a risk assessment of our internal processes for ensuring accountability of our funding sources.

We have fixed the formula errors noted in the spreadsheets used to calculate a fiscal year's cost allocations, effective fiscal year 2015. We have also corrected the transfer error in fiscal years 2012 and 2013 noted in the finding. Reversals were taken to restore \$651,387 from the administrative cost account to the easement appropriations.

We are committed to addressing the auditor's recommendation to periodically verify estimated administrative costs to actual administrative costs, and employee's expected activities to their actual activities. As the report notes, we already have a process to validate the work time of our field staff, and we have made considerable efforts to implement an agency-wide system. Because tracking and verifying actual costs is both a challenge and a necessity for every state agency, we believe a standard solution or tool that could be shared across the enterprise would facilitate meeting this goal.

Persons Responsible: Bill Eisele, Administrative and Technology Services Director; Doug Thomas, Assistant Director, Regional Operations.

Estimated Implementation Date: July 2015.

Finding 2. The Board of Water and Soil Resources did not deposit returned grant money from the Clean Water Fund appropriations or certain interagency receipts into the proper appropriation accounts.

Recommendations

- *The Board of Water and Soil Resources should revert the \$396,000 in returned grant money to the Clean Water Fund, and should reallocate \$85,000 in project expenditures from the Clean Water Fund account to the Miscellaneous Special Revenue Account.*
- *The Board of Water and Soil Resources should deposit returned grant money into the accounts from which it paid the grants, and should deposit interagency receipts into the same account from which it paid corresponding expenditures.*

Response

We agree with the recommendations, and have made the corrections specified.

It had been our practice to deposit returned funds in the Miscellaneous Special Revenue Account. Effective fiscal year 2015, returned funds are being returned to their account of origin and, if applicable, cancelled. We have developed two additional tools to improve our tracking of returned grant funds. We now use a checklist specifying the restrictions tied to the use of Clean Water funds to

code disbursements into SWIFT. We added a field for the expiration date of the appropriation to the Grants Encumbrance authorization form. When the funding for a grant comes from two separate sources, as in the second case described in the report, we will explore the option of creating separate accounts for each source of funding.

Persons Responsible: Dave Weirens, Assistant Director, Programs and Policy; Bill Eisele, Administrative and Technology Services Director.

Estimated Implementation Date: Completed.

Finding 4. The Board of Water and Soil Resources paid \$3,500 from Clean Water Fund appropriations for activities that were not directly related to and necessary for the appropriations.

Recommendations

- *The Board of Water and Soil Resources should process expenditure corrections to reallocate the expenditures to the proper appropriation.*
- *The Board of Water and Soil Resources should strengthen procedures to ensure that it pays expenditures from the proper appropriations.*

Response

We agree with the first recommendation, and have made the correction specified.

Although we agree with the intent of the second recommendation, we believe that no changes to our existing procedure are necessary. Under the existing procedure, an accounting technician enters the accounting strings, and a manager reviews the financial report to ensure that accounting strings are entered correctly. The error noted in the report was the result of a coding mistake that was not caught in a subsequent review.

Person Responsible: Bill Eisele, Administrative and Technology Services Director.

Estimated Implementation Date: Completed.

Finding 5. The Board of Water and Soil Resources did not accurately calculate certain nonroutine payroll payments to employees.

Recommendations

- *The Board of Water and Soil Resources should make additional payments to employees to correct the underpayments and should collect overpayments from employees.*
- *The Board of Water and Soil Resources should strengthen its procedures to ensure the accuracy of nonroutine payroll payments to employees.*

Response

We agree with the recommendations. We will make the corrections specified.

To ensure the accuracy of payroll payments to employees, nonroutine adjustments will be referred to a more senior accounting staff person than previously.

Person Responsible: Bill Eisele, Administrative and Technology Services Director.

Estimated Implementation Date: March 2015.

Finding 6. The Board of Water and Soil Resources did not comply with state requirements to ensure the integrity of employee time reporting and accuracy of payroll expenditures.

Recommendations

- *The Board of Water and Soil Resources should review payroll reports in compliance with state policy.*
- *The Board of Water and Soil Resources should not provide employees the ability to approve their own timesheets.*

Response

We have removed the permissions that could have allowed backup approvers to approve their own timesheets. (We note that the auditor did not find an instance of a BWSR employee approving his or her own timesheet.) To ensure the accuracy of payroll transactions, we will periodically review the Payroll Register and document it, and we will document our review of the Payroll Posting Audit Trail.

Person Responsible: Bill Eisele, Administrative and Technology Services Director.

Estimated Implementation Date: February 2015.

Finding 7. The Board of Water and Soil Resources did not always document its justification and authorization for hiring new employees at salaries higher than the minimum rate for a position.

Recommendation

- *The Board of Water and Soil Resources should document its justification and authorization for hiring new employees at salaries higher than the minimum rate for a position.*

Response

Notes providing justification and hiring new employees at higher rates were available at the time of the audit, but were not summarized on the Department of Management and Budget's required form. Required forms have since been completed for those hires. Going forward, we will use the required form to summarize salary decisions.

Person Responsible: Bill Eisele, Administrative and Technology Services Director.

Estimated Implementation Date: Completed.

Finding 8. The Board of Water and Soil Resources did not require easement implementation program grantees to document their easement implementation costs.

Recommendation

- *The Board of Water and Soil Resources should develop procedures to ensure easement implementation program grantees use grants for easement implementation costs.*

Response

Our easement implementation grant program has documented the costs of delivering an easement and verifies the work performed through project completion. The amount we pay in reimbursement, \$2000 per easement, is based on a 1998 study that set expectations of grantee work and surveyed their costs. We know those costs have been incurred when we verify that the easement has been delivered.

We are now updating this survey by conducting a stratified sample of soil and water conservation districts to determine the costs of taking an easement based on the volume of easement transactions. We will conduct the survey periodically to ensure the reimbursement amount is sufficiently accurate and equitable. We will institute a process for grantees to certify that they used the money appropriately.

Since 1998, our expectations of the work performed by program grantees have not changed and payment amounts per easement have not increased. Documenting the costs of standardized, repetitive work through periodic surveys, and reimbursing local governments for those costs after verifying the work performed, is the most cost-effective way to deliver this important conservation program to the state.

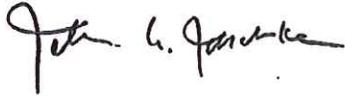
Persons Responsible: Dave Weirens, Assistant Director, Programs and Policy; Bill Penning, Easements Section Manager.

Estimated Implementation Date: July 2015.

James R. Nobles, Legislative Auditor
February 19, 2015
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We value the work by the OLA staff to evaluate our internal controls and compliance, and we appreciate their professionalism and the respect they accorded our mission and that of our local partners to advance conservation in Minnesota. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John G. Jaschke". The signature is written in a cursive style with a large initial "J".

John G. Jaschke
Executive Director

cc: Brian Napstad, BWSR Board Chair



Minnesota Pollution Control Agency

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February 18, 2015

Mr. James R. Nobles
Legislative Auditor
Office of the Legislative Auditor
Centennial Office Building, Room 140
658 Cedar Street
St. Paul, Minnesota 55155-1603

Dear Mr. Nobles:

Thank you for the opportunity to review and respond to the Office of Legislative Auditor's (OLA) findings and recommendations resulting from a recent audit of the Clean Water Fund for the Minnesota Board of Water and Soil Resources and the Minnesota Pollution Control Agency. We are committed to sound fiscal and program management, and the use of the Clean Water Fund to meet the requirements of the Federal Clean Water Act, the State Clean Water Legacy Act, and other legislative directives.

Further, we appreciate the professional review conducted by OLA staff, and have written a response to each audit finding and recommendation within your report that names our agency.

Finding #3: The Pollution Control Agency did not comply with state guidelines for allocating cost to its Clean Water Fund appropriations.

OLA Recommendation:

- *The Pollution Control Agency should allocate administrative costs to Clean Water Fund appropriations using the same indirect cost rate used for allocations to appropriations from other state funds.*
- *The Pollution Control Agency should improve its procedures to ensure it equitably allocate payroll costs to Clean Water Fund appropriations.*

Agency response: We generally agree with the OLA's recommendations concerning internal cost allocation rates, and agree with the recommendation concerning distribution of leave time to Clean Water Fund appropriations.

We believe ourselves to be generally in compliance with "MMB Guidance to Agencies on Legacy Fund Expenditures" when determining our cost allocation plans for charges to Clean Water Fund (CWF) appropriations. These guidelines allow for multiple cost allocation methods to ensure the efficient and appropriate use of all state monies. As we prepare our spending plan for FY 2016-17, we will continue to refine our cost allocation plan to make more transparent the process of allocating and direct charging costs to CWF appropriations.

Also, we will develop a process to review and reconcile paid leave time charges that result from actual billing through self-service time entry versus those which are automatically charged according to default ratios for persons eligible to be funded by multiple appropriations. We will work with Minnesota Management and Budget (MMB) toward improving the electronic self-entry payroll

system's accuracy in allocating leave time so it supports our use of multiple funding sources to implement programs.

Implementation Date: September 30, 2015
Responsible Manager: Lyle Mueller, Chief Financial Officer

Finding #4: The Board of Water and Soil Resources and the Pollution Control Agency paid \$3,500 and about \$25,000, respectively, from Clean Water Fund appropriations for activities that were not directly related to and necessary for the appropriations.

OLA Recommendation:

- *The Board of Water and Soil Resources and the Pollution Control Agency should process expenditure corrections to reallocate the expenditures to the proper appropriation.*
- *The Board of Water and Soil Resources and the Pollution Control Agency should strengthen procedures to ensure that they pay expenditures from the proper appropriations.*

Agency response: We agree in part with the OLA's recommendations.

Agency management maintains that the expense reimbursements submitted for required state travel and supplies costs by 43 employees whose salaries were paid from sources other than the Clean Water Funds were allowable as CWF expenses. In view of this OLA recommendation, we will review our guidance and documentation to ensure appropriate expenses are paid from CWF appropriations and charges for related agency activities are transparent to internal and external parties.

We agree with OLA findings that \$2,000 of reimbursements were to six employees whose payroll costs were paid from nonrelated CWF appropriations, and that those reimbursements were made in error. These charges occurred in the past biennium; it is not possible to make corrections to affected Clean Water Fund appropriations. We will strengthen procedures to ensure that expenditures are made from proper appropriations in the future.

Implementation Date: June 30, 2015
Responsible Manager: Lyle Mueller, Chief Financial Officer

Finding #5: The Pollution Control Agency and the Board of Water and Soil Resources did not accurately calculate certain nonroutine payroll payments to employees.

OLA Recommendation:

- *The Board of Water and Soil Resources and the Pollution Control Agency should make additional payments to employees to correct the underpayments and should collect overpayments from employees.*
- *The Board of Water and Soil Resources and the Pollution Control Agency should strengthen their procedures to ensure the accuracy of nonroutine payroll payments to employees.*

Agency response: We agree with the recommendation to ensure continuous accuracy in employee salary payments.

We will review auditor-identified instances of under and overpayments and take necessary steps to ensure that employee earnings are reconciled. To identify employees whose pay rates have changed during a pay period, we presently rely upon notification from our Human Resources section and/or monitor changes in negotiated employee agreements. We intend to develop a report that identifies changes in rates of pay by employee and pay period to ensure full accuracy of payroll payments.

We have corrected the one affected active service employee's compensation through a series of payments, the last of which was made on January 27, 2015. We will develop a policy for nonroutine payroll transactions that requires at least two persons to review the calculation in the future. We will also work with MMB to clarify and simplify guidance on making Military Salary Differential Payments.

Implementation Date: June 30, 2015
Responsible Manager: Lyle Mueller, Chief Financial Officer

Finding #6: The Board of Water and Soil Resources and the Pollution Control Agency did not comply with state requirements to ensure the integrity of employee time reporting and accuracy of payroll expenditures.

OLA Recommendation:

- *The Board of Water and Soil Resources and the Pollution Control Agency should review payroll reports in compliance with state policy.*
- *The Board of Water and Soil Resources and the Pollution Control Agency should not provide employees the ability to approve their own timesheets.*

Agency response: We generally agree with OLA recommendations.

As noted during audit work, we complete required reviews of Payroll Register reports for instances that necessitate follow-up, but are doing so in a manner that is paperless. The only documentation retained on payroll report review are those with an error code of 3 or higher, which was verified during testing. We will develop a paperless process to document instances where follow-up is not required.

We will also review our management decision to provide uniquely situated employees the ability to approve their own timesheets. Where this ability has been granted, our practice is to ensure that when the supervisor is available, the self-approved timesheet will be reviewed, signed and filed as documentation of that approval. A revised policy will be developed in consultation with our Human Resources section.

Implementation Date: June 30, 2015
Responsible Manager: Lyle Mueller, Chief Financial Officer

Finding #9: The Pollution Control Agency did not document its justification for advances of grant money from a Clean Water Fund appropriation to four Minnesota cities.

Mr. James R. Nobles
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February 18, 2015

OLA Recommendation:

- *The Pollution Control Agency should strengthen its procedures to ensure it documents its justification for advances of grant money in compliance with state policy.*

Agency response: We agree with OLA recommendations.

As noted during the audit process, we held internal deliberations on the appropriateness of advance grant payments, but did not maintain documentation of the justification within the grant file or in the grant agreements themselves. We will ensure that proper approval is maintained if future need of advance grant payments is determined.

Implementation Date: January 31, 2015

Responsible Manager: Lyle Mueller, Chief Financial Officer

Thank you again for the opportunity to respond. If you have any questions, please feel free to contact Chief Financial Officer Lyle Mueller at 651-757-2591, Lyle.Mueller@state.mn.us.

Sincerely,



John Linc Stine
Commissioner

JLS/JLB:kld