



DATE: August 15, 2016

TO: Board of Water and Soil Resources' Members, Advisors, and Staff

FROM: John Jaschke, Executive Director 

SUBJECT: August 24-25, 2016 – BWSR Board Tour Details and Meeting Notice

The Board of Water and Soil Resources' (BWSR) will tour Polk County on Wednesday, August 24, 2016. See attached tour itinerary. The accommodations for the Board Tour and Meeting will be at the Fairfield Inn & Suites Hotel in East Grand Forks.

Tuesday, August 23rd

A passenger van will depart from the BWSR St. Paul office at 1:00 PM; arriving in East Grand Forks about 6:00 PM. If you are interested in riding in the van, please contact Mary Jo Anderson mary.jo.anderson@state.mn.us

Sleeping rooms have been reserved at the Fairfield Inn & Suites, 514 Gateway Drive NE, East Grand Forks, MN 56721, on Tuesday and Wednesday evenings, August 23 and 24. See the attached room reservation list. Rooms have been direct billed (you do not pay for the room unless noted on the rooming list). Contact Mary Jo Anderson immediately if you do not need a sleeping room. Directions to the hotel:

<http://www.marriott.com/hotels/maps/travel/gfkeg-fairfield-inn-and-suites-east-grand-forks/#directions>

Tuesday Evening 6:30 – 8:30 PM – An informal gathering will be held at the Fairfield Inn meeting room; appetizers and refreshments will be served at 6:30 PM. At 7:00 PM Jeff Lewis, Executive Director, Red River Basin Commission (RRBC), will present an overview of the RRBC; water quality accomplishments with partners; and nutrient reduction information.

Wednesday, August 24th – BWSR Board Tour

Breakfast, starting at 6:30 AM, is included for guests staying at the Fairfield Inn on Tuesday evening.

Registration for the tour will begin at 7:15 AM in the hotel lobby. Tour attendees will board the coach bus and promptly depart from the Fairfield Inn at 7:30 AM and travel to City Hall for introductions and a brief overview of the day.

The tour will consist of a few stops where we will be walking a short distance, wear your comfortable walking shoes, and casual attire. The tour will be held rain or shine, dress accordingly.

Bemidji	Brainerd	Detroit Lakes	Duluth	Mankato	Marshall	New Ulm	Rochester
403 Fourth Street NW Suite 200 Bemidji, MN 56601 (218) 755-2600	1601 Minnesota Drive Brainerd, MN 56401 (218) 203-4470	26624 N. Tower Road Detroit Lakes, MN 56501 (218) 846-8400	394 S. Lake Avenue Suite 403 Duluth, MN 55802 (218) 723-4752	12 Civic Center Plaza Suite 3000B Mankato, MN 56001 (507) 344-2821	1400 East Lyon Street Marshall, MN 56258 (507) 537-6060	21371 State Hwy 15 New Ulm, MN 56073 (507) 359-6074	3555 9 th Street NW Suite 350 Rochester, MN 55901 (507) 206-2889

Central Office / Metro Office 520 Lafayette Road North Saint Paul, MN 55155 Phone: (651) 296-3767 Fax: (651) 297-5615

www.bwsr.state.mn.us TTY: (800) 627-3529 An equal opportunity employer

The coach bus will travel through Polk County. We will see ring dikes, creek restoration and buffers; arrive in Euclid at 11:45 AM for lunch at the One N Only; and a presentation by Pennington SWCD on ditch inventory. The coach bus will depart at 1:00 PM and tour impoundments, wetland restoration, and stabilization projects.

The coach bus will arrive back at the Fairfield Inn at 4:30 PM to allow attendees a chance to refresh or those not joining us for dinner, return to your car. The coach bus will depart the Fairfield Inn at 5:00 PM; arrive in downtown East Grand Forks at 5:05 PM, attendees will have some leisure time to walk along the boardwalk or the Red River State Recreation Area. Dinner will be served at 6:00 PM at the Banquets on the Boardwalk, followed by a presentation from the East Grand Forks Public Works Director on the history of flooding in the area. The coach bus will depart from downtown East Grand Forks at 7:45 PM; arriving back at the Fairfield Inn at 7:50 PM.

If you will not be present for the Wednesday coach bus tour, do not plan to stay for dinner on Wednesday evening; or if you do not need a room reservation on Tuesday or Wednesday evening at the Fairfield Inn, please contact Mary Jo Anderson immediately, as we need to know the number of people attending. If you have special food needs, please contact Mary Jo (phone: 651-297-4290) as soon as possible. The expenses during the tour (breaks and meals) are direct billed, you do not pay.

Thursday, August 25th – BWSR Board Meeting

Breakfast, starting at 6:30 AM, is included for guests staying at the Fairfield Inn on Wednesday evening.

The Board of Water and Soil Resources (BWSR) will meet on Thursday, August 25th, beginning at 9:00 AM. The meeting will be held in the meeting room at the Fairfield Inn in East Grand Forks. The following information pertains to agenda items:

COMMITTEE RECOMMENDATIONS

Southern Region Committee

- 1. Area II Minnesota River Basin Projects FY 2017 Biennial Work Plan and Grant** – BWSR oversees the legislative appropriations related to the efforts of the Area II Minnesota River Basin Projects (Area II) for construction of floodwater retarding and retention structures. The 2015 Minnesota Legislature appropriated funding for Area II Minnesota River Basin Projects resulting in a fiscal year 2017 grant of \$140,000. The overall budget objectives are included in the plan. Staff recommends approval of this plan and execution of the grant agreement for FY 2017. The Board's Southern Region Committee met on July 27, 2016 to review the Area II Biennial Work Plan and recommends approval of the plan and execution of the FY 2017 grant. ***DECISION ITEM***
- 2. Cottonwood County Priority Concerns Scoping Document** – Cottonwood County submitted the Priority Concerns Scoping Document for state review and comment as part of updating their Comprehensive Local Water Management Plan. The Southern Regional Committee (Committee) met July 27, 2016, after the state agencies comment period ended. The Committee concurred with the selected priority concerns and recommended comments in a letter for the full Board to review. The State's expectations of the final plan must be sent to Cottonwood County. ***DECISION ITEM***
- 3. Faribault County Comprehensive Local Water Management Plan Extension Request** – Faribault County currently has a Comprehensive Local Water Management Plan (Plan) that will expire December 31, 2016. On July 19, 2016, Faribault County submitted a formal request for an extension of their current Plan. BWSR staff has reviewed this request and recommends approval. This extension request was considered by the BWSR Southern Region Committee, chaired by Kathryn Kelly, at their July 27, 2016 meeting. The Committee's

recommendation will be presented to the full Board for review and action. The State's expectations for the extension request must be sent to Faribault County. **DECISION ITEM**

4. **Le Sueur County Local Water Management Plan Amendment** – Le Sueur County submitted their Local Water Management Plan Amendment, a record of the public hearing, and copies of all written comments pertaining to the Amendment to the Board for final State review on June 21, 2016 (the agency review period began March 23, 2016). On July 27, 2016, the Southern Region Committee (Committee) of the Board reviewed the recommendation of the State review agencies regarding final approval of the Le Sueur County Local Water Management Plan Amendment. The Committee recommends approval. The Findings of Fact, Conclusions and Order are drafted for the full Board's review and action. **DECISION ITEM**

Buffers, Soils & Drainage Committee

1. **Adoption of the Buffer Program Policies.** The Buffers, Soils and Drainage Committee have reviewed the seven draft Buffer Program Policies and is recommending Board adoption. These policies are: 1. Buffer Compliance Determination Policy (*Parcel and Bank Approach*); 2. Buffer Law Reporting and Progress Tracking Policy; 3. MS4 Exemption Policy; 4. Alternative Practices Implementation Policy; 5. Alternative Practices Approved by the Board Policy; 6. Local Water Resources Riparian Protection Policy (*Other Watercourses*); and 7. Non Implementation Policy. **DECISION ITEM**

Grants Program & Policy Committee

1. **One Watershed, One Plan Planning Grants** – The One Watershed, One Plan Planning Grants Request for Proposal (RFP) ended on June 17, 2016 with nine applications received. This action will approve and authorize staff to enter into work plans and grant agreements with seven of the applicants. **DECISION ITEM**
2. **Grass Lake Grant** - In 2011, BWSR received a direct appropriation for the Grass Lake project to acquire conservation easements, reroute County Ditch 23A, construct water control structures, and plant vegetation in order to restore the 1,200 acre prairie wetland basin adjacent to the city of Willmar in Kandiyohi County. This action will grant the remaining funds to Kandiyohi County to complete the construction on the main outlet to the project and additional restoration activities by 2017. **DECISION ITEM**
3. **Red Lake River One Watershed, One Plan Presentation** – The Red Lake River watershed was selected as one of the five watersheds for the One Watershed, One Plan Pilot Program. The group has been meeting regularly over the last two years and now has a draft plan completed that is anticipated to be submitted for the initial 60-day formal review in the near future. The Red Lake River Planning Work Group will present their draft plan and pilot experience. **INFORMATION ITEM**

OLD BUSINESS

1. **2016 Board Meeting Schedule Adjustment** – Request to change the meeting date from October 26 to Thursday, October 27, 2016 due to staffing conflicts (BWSR Academy). **DECISION ITEM**

NEW BUSINESS

1. **Boundary Change Petition Vadnais Lake Area Water Management Organization** - A Petition for a technical change/correction to the common boundary of the Vadnais Lake Area Water Management Organization (VLAWMO) and Rice Creek Watershed District (RCWD), pursuant to Minn. Stat. 103B.215 has been filed with the Board. The proposed boundary change would update the common boundary with the correct parcel list to achieve a more accurate alignment between the hydrologic and legal boundaries. The Petition proposes a transfer of those acres/parcels listed in the Ramsey County database as RCWD to the VLAWMO. Copy of the

petition and map illustrating the proposed boundary change is attached. Written statements of concurrence have been received from the City of White Bear Lake and Rice Creek Watershed District. The Administrative Advisory Committee reviewed the petition and supporting documentation and recommended approval per the attached draft Order. **DECISION ITEM**

2. **Clean Water Council & Interagency Coordinating Team Preliminary FY18-19 Budget Recommendations** - BWSR staff will provide a review of the Clean Water Council's Ad-hoc Policy Committee draft policy statements related to drinking water and the Budget Oversight Committee's preliminary recommendations for BWSR activities from its August 5, 2016 meeting. **INFORMATION ITEM**
3. **Coffee Creek Project and Presentation of the Environmental Initiative Award to BWSR** – Chris Kleist, City of Duluth – **INFORMATION ITEM**

If you have any questions regarding the agenda, please feel free to call me at 651-296-0878. The meeting will adjourn about noon. I look forward to seeing you in East Grand Forks!



BWSR Board Tour Itinerary

August 24, 2016

Fairfield Inn & Suites – Lobby
514 Gateway Drive NE, East Grand Forks, MN 56721

- 7:15 AM Check-in at registration table, Lobby
- 7:30 Depart via coach bus to City Hall Council Chambers
- 7:45 Welcome & introductions - Brian Napstad and John Jaschke, BWSR
Brief overview of tour – Matt Fischer, BWSR Board Conservationist
Overview of Grand Marais Creek Restoration Project – Myron Jesme, Red Lake WD Administrator
- 9:00 Depart City Hall
- 9:15 **Grand Marais Creek Restoration Project***
Presenters: Myron Jesme, Red Lake WD Administrator
Nicole Bernd, West Polk SWCD Manager
Project Highlights: restoration project
- 10:15 **Refreshment Break**
- 10:35 Depart Grand Marais Creek, overview en route: buffers, windbreaks, tile drainage
- 11:05 **Ditch 15 Project**
Presenter: Myron Jesme, Red Lake WD Administrator
Project Highlights: buffers
- 11:45 **Lunch – One N Only in Euclid***
Presentation on Pennington County Ditch Inventory
Presenter: Bryan Malone, Pennington SWCD Manager
- 1:00 PM Depart Euclid
- 1:05 **Euclid East***
Presenter: Myron Jesme, Red Lake WD Administrator
Project Highlights: flood damage reduction/natural resource enhancements
- 1:30 Depart Euclid East, overview en route: Brandt outlet, RIM, impoundments
- 2:05 **Louisville-Parnell Wetland Bank***
Presenters: Myron Jesme, Red Lake WD Administrator
Project Highlights: wetland restoration
- 2:40 **Refreshment Break at Old Crossing Treaty County Park***
Presenters: Virgil Benoit, Professor of French Language at University of North Dakota
Highlights: history/treaty negotiated

- 3:20 Travel to EGF, overview en route: Prairie Plan-Glacial Ridge, Red Lake River projects in Crookston
Presenters: Ross Hier, DNR Crookston
Nicole Bernd, Red Lake SWCD Manager
Shannon Stassen, Crookston City Administrator
- 4:30 **Arrive at the Fairfield Inn** (drop-off those not staying for dinner)
- 5:00 Depart Fairfield Inn via coach bus for downtown East Grand Forks
Leisure time to walk along the boardwalk, Red River State Recreation Area
- 6:00 **Dinner – *Banquets on the Boardwalk***
Presentation ‘History of Flooding’
Presenter: Jason Stordahl, East Grand Forks Public Works Director
- 7:45 **Depart** via coach bus to Fairfield Inn
- 7:50 PM **Arrive** at Fairfield Inn

*** Participants will exit the bus at this stop.**

Project summaries and fact sheets are included in the tour packet.

August 10, 2016

Fairfield Inn & Suites, East Grand Forks, MN
651-385-5547

Rooming List for Board of Water and Soil Resources

Tuesday, August 23, 2016

1. Patty Acomb
2. Mary Jo Anderson
3. Brett Arne
4. Angie Becker Kudelka
5. Jill Crafton
6. Joe Collins
7. Jack Ditmore
8. Doug Erickson
9. Matt Fischer
10. Tom Gile
11. Celi Haga
12. Ryan Hughes
13. John Jaschke
14. Kathryn Kelly
15. Brian Napstad
16. Neil Peterson
17. Nathan Redalen
18. Tom Schulz
19. Steve Sunderland
20. Doug Thomas
21. Gerald Van Amburg
22. Paige Winebarger
23. Brian Dwight
24. Maggie Leach

25. Chris Elvrum, MDH**
26. Rebecca Flood, MPCA **
27. Tom Landwehr, DNR **
28. Rob Sip, MDA **
29. Faye Sleeper, UofM **

Wednesday, August 24, 2016

1. Patty Acomb
2. Mary Jo Anderson
3. Brett Arne
4. Angie Becker Kudelka
5. Jill Crafton
6. Joe Collins
7. Jack Ditmore
8. Doug Erickson
9. Matt Fischer
10. Tom Gile
11. Celi Haga
12. Ryan Hughes
13. John Jaschke
14. Kathryn Kelly
15. Brian Napstad
16. Neil Peterson
17. Nathan Redalen
18. Tom Schulz
19. Steve Sunderland
20. Doug Thomas
21. Gerald Van Amburg
22. Paige Winebarger
23. Tom Loveall

24. Chris Elvrum, MDH **
25. Rebecca Flood, MPCA **
26. Tom Landwehr, DNR **
27. Rob Sip, MDA **
28. Faye Sleeper, UofM **

*** will pay for room upon arrival*

**BOARD OF WATER AND SOIL RESOURCES
514 GATEWAY DRIVE NE, MEETING ROOM
EAST GRAND FORKS, MINNESOTA 56721
THURSDAY, AUGUST 25, 2016
PRELIMINARY AGENDA**

9:00 AM CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

ADOPTION OF AGENDA

MINUTES OF JUNE 22, 2016 BOARD MEETING

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

CONFLICT OF INTEREST DECLARATION

- Area II Minnesota River Basin Projects FY 2017 Grant
- One Watershed, One Plan Planning Grants
- Grass Lake Grant

INTRODUCTION OF NEW EMPLOYEES

- Maggie Leach, Board Conservationist, Brainerd

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 Committee – Gene Tiedemann
- Water Management & Strategic Planning Committee – Jack Ditmore
- Wetland Conservation Committee – Gerald Van Amburg
- Buffers, Soils & Drainage Committee – Brian Napstad
- Drainage Work Group – Tom Loveall/Al Kean

COMMITTEE RECOMMENDATIONS

Southern Region Committee

1. Area II Minnesota River Basin Projects FY 2017 Biennial Work Plan and Grant – Kathryn Kelly - ***DECISION ITEM***
2. Cottonwood County Priority Concerns Scoping Document – Kathryn Kelly - ***DECISION ITEM***
3. Faribault County Comprehensive Local Water Management Plan Extension Request – Kathryn Kelly - ***DECISION ITEM***
4. Le Sueur County Local Water Management Plan Amendment – Kathryn Kelly – ***DECISION ITEM***

Buffers, Soils & Drainage Committee

1. Adoption of the Buffer Program Policies – Tom Gile – ***DECISION ITEM***

Grants Program & Policy Committee

1. One Watershed, One Plan Planning Grants – Doug Thomas - ***DECISION ITEM***
2. Grass Lake Grant - Doug Thomas - ***DECISION ITEM***
3. Red Lake River One Watershed, One Plan Presentation – Matt Fischer and Red Lake River Planning Work Group - ***INFORMATION ITEM***

OLD BUSINESS

1. 2016 Board Meeting Schedule Adjustment – John Jaschke – ***DECISION ITEM***

NEW BUSINESS

1. Boundary Change Petition Vadnais Lake Area Water Management Organization– John Jaschke – ***DECISION ITEM***
2. Clean Water Council & Interagency Coordinating Team Preliminary FY18-19 Budget Recommendations - Doug Thomas – ***INFORMATION ITEM***
3. Coffee Creek Project and Presentation of the Environmental Initiative Award to BWSR – Chris Kleist, City of Duluth – ***INFORMATION ITEM***

AGENCY REPORTS

- Minnesota Department of Agriculture – Rob Sip
- 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 – Tiffany Determan
- Minnesota Association of Soil & Water Conservation Districts – LeAnn Buck
- Minnesota Association of Townships – Nathan Redalen
- Minnesota Association of Watershed Districts – Ray Bohn
- Natural Resources Conservation Service – Cathee Pullman

UPCOMING MEETINGS

- BWSR Board Meeting, September 28, 2016, St. Paul

Noon **ADJOURN**

**BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, JUNE 22, 2016**

BOARD MEMBERS PRESENT:

Patty Acomb, Jill Crafton, Jack Ditmore, Chris Elvrum, MDH; Rebecca Flood, MPCA; Kathryn Kelly, Tom Loveall, Brian Napstad, Dave Schad, DNR; Tom Schulz, Rob Sip, MDA; Faye Sleeper, MES; Steve Sunderland, Gene Tiedemann, Gerald Van Amburg, Paige Winebarger

BOARD MEMBERS ABSENT:

Joe Collins
Doug Erickson
Neil Peterson
Sandy Hooker

STAFF PRESENT:

Mary Jo Anderson, Angie Becker Kudelka, Dave Copeland, Travis Germundson, Tom Gile, Jim Haertel, John Jaschke, Al Kean, Melissa Lewis, Jeff Nielsen, Bill Penning, Gwen Steel, Doug Thomas, Pete Waller, Dave Weirens, Marcey Westrick, Wayne Zellmer

OTHERS PRESENT:

Jason Garms and Judy Schulte, DNR
Julie Blackburn, RESPEC
Bob and Pat Tammen, WAG
Ben Baglio, AMC

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

PLEDGE OF ALLEGIANCE

** 16-39 **ADOPTION OF AGENDA** – Chair Napstad reported that the agenda is revised to include “Method for Establishing Native Prairie Bank Payment Rates under Committee Recommendations, Administrative Advisory Committee. Moved by Kathryn Kelly, seconded by Jill Crafton, to adopt the agenda as revised. **Motion passed on a voice vote.**

** 16-40 **MINUTES OF MAY 25, 2016 BOARD MEETING** – Moved by Gerald Van Amburg, seconded by Tom Schulz, to approve the minutes of May 25, 2016 as presented. **Motion passed on a voice vote.**

PUBLIC ACCESS FORUM

- Jill Crafton commented on the City of Waukesha Diversion Project. Jill thanked DNR for the open process. She distributed copies of comments from the Great Lakes Coalition.

CONFLICT OF INTEREST DECLARATION

- FY 2017 Buffer Law Funding Allocations
- FY 2016 & 2017 Clean Water Fund Non-Competitive Grants to SWCDs for Local Capacity Services and TSAs for Enhanced Shared Technical Services
- FY17 SWCD Programs & Operations and Non-Point Engineering Assistance Grant Allocations
- Proposed FY 2017 Natural Resources Block Grant
- Red River Basin Commission 2016 Funding
- USDA-NRCS Regional Conservation Partners Program (RCPP) Project

Chair Napstad 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.”

INTRODUCTION OF NEW EMPLOYEES

- Jeff Nielsen introduced Dave Copeland, Board Conservationist, in Rochester. Chair Napstad welcomed Dave to BWSR.

John Jaschke recognized Jim Haertel on his retirement, as an outstanding employee that will be missed by BWSR. John thanked Jim for his years of service. John stated that Kevin Bigalke has been hired to replace Jim Haertel. John also recognized Jeff Nielsen on his retirement and thanked Jeff for his years of service. Kathryn Kelly stated that Jeff has consistently been a great asset in the Southern Region and although Jeff will be gone soon, he has scheduled Southern Region Committee meetings into fall! Jack Ditmore stated that he has had the pleasure of working with Jim and Jeff and both are deeply dedicated staff; he congratulated them on their retirement.

REPORTS

Chair & Administrative Advisory Committee – Brian Napstad thanked board members and staff for their work and participation in the extraordinary number of committee meetings lately. The EQB meeting was held last week; Brian was unable to attend as he attended a meeting in Thief River Falls.

Chair Napstad reported that the Governor's office appointed Nathan Redalen, replacing Sandy Hooker as the township representative on BWSR. Nathan will replace Sandy on BWSR Committees. John Jaschke will contact Nathan and provide board member orientation.

Chair Napstad reported that the Administrative Advisory Committee (AAC) met this morning; the Committee's recommendations are on the agenda later today.

Executive Director's Report – John Jaschke stated that a special legislative session has not yet been scheduled. John reviewed the information in board members' packets. John will provide board members with an updated staff org chart.

Dispute Resolution Committee – Travis Germundson provided a brief overview of the appeals filed with BWSR, currently there are 11 appeals pending. The DRC hearing is scheduled for August 22. Travis thanked Paige Winebarger for agreeing to attend the hearing as a substitute board member. Chair Napstad also thanked Paige for her temporary assignment.

Grants Program & Policy Committee – Steve Sunderland reported that the Committee has eight recommendations on the agenda later today.

Water Management & Strategic Planning Committee – Jack Ditmore reported that an update is in board members' folder today. The Committee met via conference call on June 14; recommendations are on the agenda later today.

Buffers, Soils & Drainage Committee – Chair Napstad reported that the Committee recommendation is on the agenda later today. The Committee met in St. Cloud, a good meeting location.

Drainage Work Group – Tom Loveall reported that the Drainage Work Group met on June 9, 2016. Al Kean provided a brief overview of the meeting. Dave Schad, DNR, stated that noted in the DWG meeting summary is frustration expressed regarding the time it's taking DNR to provide a full draft regarding drainage work in public waters. Dave reported that this is a complex issue; interpreting and understanding the intersections of drainage law, public water law and buffer law has taken time. DNR wants to do what is right to achieve the clarification that is necessary. Discussion followed.

Chris Elvrum arrived at 9:45 AM. Rebecca Flood left the meeting at 9:50 AM.

COMMITTEE RECOMMENDATIONS

Administrative Advisory Committee

Petition for Termination of the Thirty Lakes Watershed District – Travis Germundson reported that Crow Wing County submitted a petition on behalf of numerous residents to terminate the Thirty Lakes Watershed District pursuant to Minn. Stat. §103D.271. Statute requires that the BWSR Board conduct a hearing on the Termination Petition within the watershed district. The Thirty Lakes Watershed District has undertaken a comprehensive evaluation of the effectiveness and efficiency of the District's programs and services and concluded that the District should be dissolved. Travis stated that a very transparent process was utilized. The Administrative Advisory Committee met this morning and recommends the Board order a public hearing be held on the Petition for Termination of the Thirty Lakes Watershed District. The public hearing to be held at the Lake Edward Town Hall located in Nisswa. Chair Napstad reported that the AAC reviewed the document and unanimously recommend approval of

** the order to recommend a hearing. Moved by Chair Napstad, seconded by Tom Loveall, the Board hereby orders a public hearing be held on the Petition for Termination of the Thirty Lakes Watershed District to be presided over by the Northern Regional Committee at a date, time, and location to be determined by the Executive Director. Jack Ditmore state that the Findings of Fact on page, item #2, second line should read 'signatures'. **Motion passed on a voice vote.**

16-41

Method for Establishing Native Prairie Bank Payment Rates – Bill Penning reported that MS 84.96 subd. 5b requires the BWSR Board to establish easement payment rates for the DNR's Native Prairie Bank Program (NPB). The statute makes reference to using "65 percent of the permanent marginal agricultural land payment rate" to establish NPB payment rates. Unfortunately, there is no fiscal data set available that is linked to marginal agricultural land. BWSR has long used data collected by County Tax Assessors in determining RIM rates and has used 65% of the RIM cropland rate as a proxy for determining NPB payment rates. Since last year's Board Resolution (15-38) on this subject DNR has continued to analyze data and refine data on NPB rates. Bill reported that DNR desires an update to the method being used to calculate NPB payment rates. The new method will use only non-cropland rates in developing a proxy for the marginal agricultural land rate based upon the following formula: NPB Payment Rate = 65% RIM Non-Crop Rate. The Administrative Advisory Committee met this morning and recommends updating the method used to determine Native Prairie Bank easement payment rates. Bill stated that the Board Resolution memorializes the transition and allows BWSR staff to provide non-cropland rates to DNR staff for their use in calculating the NPB easement payment rate. Chair Napstad reported that the AAC met to review this, determined the legislative intent, and unanimously recommends approval. Moved by Brian Napstad, seconded by Gerald Van Amburg, to authorize staff to provide non-cropland rates to DNR staff who will use the following formula to determine NPB easement payment rates that best approximate 65 percent of the permanent marginal agricultural land. NPB Payment Rate = 65% RIM Non-Crop Rate. John Jaschke stated that DNR requested BWSR staff review and recommend approval. Discussion followed. **Motion passed on a voice vote.**

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16-42

Northern Region Committee

Clearwater County Comprehensive Local Water Management Plan Amendment – Gene Tiedemann reported that Clearwater County adopted a resolution on January 20, 2015, to complete the BWSR Board Order requiring a five-year amendment to the Clearwater County 2010-2020 Comprehensive Local Water Management Plan. A properly noticed public hearing for the amendment was held on April 19, 2016. The County submitted the Plan amendment and required documents to the BWSR on May 17, 2016. The Northern Regional Committee met June 8, 2016, to review the Plan amendment and recommends approval of the BWSR Board Order required five-year amendment of the Clearwater County Comprehensive Local Water Management Plan. The Plan remains in effect until May 26, 2020. Moved by Gene Tiedemann, seconded by Tom Schulz, to approve the Clearwater County Comprehensive Local Water Management Plan Amendment. Jack Ditmore questioned the date of written comments received. John Jaschke stated that staff will review the dates. Staff reviewed the Order, the dates are correct. **Motion passed on a voice vote.**

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16-43

Buffers, Soils, and Drainage Committee

Buffer Program Policies: Authorizing Public Review and Comment – Dave Weirens reported that the Buffers, Soils and Drainage Committee has met several times following the March Board meeting and recommends the Board authorize public review and comment for the 7 program policies that are under development. Tom Gile reviewed the policies which are: (1) Draft Buffer Compliance Determination Policy (*Parcel and Bank Approach*); (2) Draft Buffer Law Reporting and Progress Tracking Policy; (3) Draft MS4 Exemption Policy; (4) Draft Alternative Practices Implementation Policy; (5) Draft Alternative

Practices Approved by the Board Policy; (6) Draft Local Water Resources Riparian Protection Policy (*Other Watercourses*); and (7) Draft Non-Implementation Policy.

Jill Crafton mentioned the level of watershed districts' involvement and representation. Discussion followed. Tom Gile stated that LGU Water Roundtable sessions will be conducted statewide, a communication effort with consistent messaging. Dave Weirens stated that broad communication is the intent. Dave Schad stated that statute states that DNR have mapping done by July; they are on task with that with a series of updates to the maps and continual maintenance to the maps in the future. Chair Napstad stated that Committee meetings are open meetings, if watershed districts and others are interested in attending they are welcome to do so. Dave Weirens stated that he and Tom are meeting with LGUs as much as possible. Dave provided an overview of the resolution, Buffer Program Policies: Authorizing Public Review and Comment. Dave explained the comment period process; comments will be received via U.S. mail and e-mail. Jack Ditmore stated that the third WHEREAS in the Resolution has duplication, 'adjacent to water body' the error will be corrected in the Resolution signed by Chair Napstad.

** Moved by Brian Napstad, as chair of the Buffers, Soils, and Drainage Committee, seconded by Steve Sunderland, to make the correction in the third WHEREAS of the Resolution, and authorize staff to request comments on the preliminary policies attached to the Resolution. Gene Tiedemann commented that Policy #4 states "103F.48 must be applied to each bank within a parcel and must:" Gene stated that *must* is an impossibility that should be looked at carefully during the public comment period. Discussion followed. ***Motion passed on a voice vote.***

16-44

Chair Napstad called for a break in the meeting at 10:45 AM. The meeting reconvened at 11:00 AM. Gene Tiedemann left the meeting at 11:00 AM to attend the MAWD Board meeting in Winona. Rebecca Flood returned to the meeting at 11:00 AM.

Conflict of Interest Disclosure Forms were distributed to board members for the upcoming agenda item USDA-NRCS Regional Conservation Partners Program (RCPP) Project.

Chair Napstad stated that board members have submitted their completed Conflict of Interest Disclosure forms; the documents will be filed for the grant decision items. All board members are eligible to vote on the grant items.

Grants Program & Policy Committee

FY2017 Buffer Law Funding Allocations – Doug Thomas reported that the Laws of 2015 included new state policy for required buffers on public waters and public drainage systems. The 2015 legislature also appropriated Clean Water Funds to BWSR to support local implementation of the new buffer law in FY 2016 and 2017. The Grants Program and Policy Committee met on May 20, 2016 and recommends approval of: 1) non-competitive grant allocations to support SWCD implementation of new buffer law; 2) not require a local match; 3) be awarded as a up front lump sum payments; 4) only require annual and final eLINK reporting; 5) authorize staff to finalize, distribute and promote a SWCD request for funding to implement the FY 2017 Buffer Law program; and 6) authorize staff to execute grant agreements with individual SWCDs after receipt and approval of requests for funding not to exceed grant allocation amounts approved by the Board. Moved by Steve Sunderland, seconded by Faye Sleeper, to approve the Grants Program & Policy Committee recommendation of the following FY 2017 SWCD Buffer Implementation Funding Allocations:

Category 1 - \$3,000 (Lake, Cook and Ramsey)

Category 2 - \$5,000 (South St. Louis, Koochiching, Itasca, North St. Louis and Carlton)

Category 3 - \$10,000 (Anoka, Hennepin, Aitkin, Hubbard, Crow Wing, Scott, Cass, Kanabec, Washington, Lake of the Woods, Mille Lacs, Pine, Sherburne, Isanti, Chisago and Wadena)

Category 4 - \$20,000 (Clearwater, Benton, Carver, Beltrami, Wright, Mahnomen, Root River, Winona, Rice, McLeod, Dakota, Todd, Douglas, Nicollet, Wabasha, Waseca and Red Lake)

Category 5 - \$25,000 (Morrison, Steele, Dodge, Big Stone, Pipestone, Meeker, Watonwan, Le Sueur, Becker, East Otter Tail, Olmsted, Rock, Sibley, Pope, Lincoln, Grant, Pennington, West Otter Tail, East Polk and Goodhue)

Category 6 - \$30,000 (Chippewa, Traverse, Stevens, Brown, Jackson, Kandiyohi, Freeborn, Fillmore, Swift, Cottonwood, Mower, Lyon, Blue Earth, Faribault, Lac Qui Parle and Murray)

Category 7 - \$35,000 (Nobles, Martin, Yellow Medicine, Wilkin, Roseau, Clay, Stearns, Kittson, Redwood and Norman)

Category 8 - \$45,000 (Renville, West Polk and Marshall)

16-45 **Motion passed on a voice vote.** Tom Loveall abstained from voting.

FY 2016 & 2017 Clean Water Fund Non-Competitive Grants to SWCDs for Local Capacity Services and TSAs for Enhanced Shared Technical Services – Doug Thomas reported that the CWF appropriations in Laws of 2015 included new state funding to support SWCD services and enhanced delivery of engineering and technical services. On May 20, 2016 the Grants Program and Policy Committee met and recommend approval of: 1) FY 2016 and 2017 CWF non-competitive grant allocations that have been developed to support SWCD local capacity to implement their authorities in Minn. Stat. sections 103C.321 and 103C.331 and to enhance technical assistance to deliver essential engineering and technical services through TSAs; 2) authorize staff to finalize, distribute and promote a SWCD and TSA request for funding to implement the remaining FY 2016 local capacity services funds for matching grants and the FY 2017 payments and matching grants to soil and water conservation districts for the purposes of Minn. Stat. sections 103C.321 and 103C.331; 3) grants for enhanced technical assistance to TSAs with the provisions of appropriations enacted in 2015, Minn. Stat. section 103B.3369; and 4) authorize staff to execute grant agreements with individual SWCDs and TSAs after receipt and approval of requests for funding not to exceed grant allocation amounts approved by the Board. Discussion followed.

Faye Sleeper left the meeting at 11:20 AM.

** Moved by Steve Sunderland, seconded by Tom Schulz, to approve the Grants Program & Policy Committee recommendations and adopt the resolution and allocations as presented. A typo on page one of the resolution, the seventh WHEREAS, the word *unanimously* was misspelled; the resolution will be corrected for Chair Napstad's signature. **Motion passed on a voice vote.**

16-46

Proposed FY '17 SWCD Programs and Operations Grants Allocations – Wayne Zellmer reported that the Grants Program & Policy Committee met on May 20, 2016, reviewed the proposed SWCD grant allocations and recommend approval of the FY17 allocations for the Conservation Delivery, Easement Delivery, Non Point Engineering Assistance, and Cost Share Grant Programs. Wayne presented the Committee recommendations:

1. Staff to allocate grant funds to individual SWCDs up to the amounts listed below and as provided on the attached allocation spreadsheet, *Proposed FY '17 SWCD Programs and Operations Grants*:

State Cost Share Grants	\$1,197,434
Conservation Delivery Grants	\$1,765,001
Easement Delivery Grants	\$291,004

Wayne noted a correction on the Resolution under #2. It should read, "SWCDs, to use all or part of their state cost-share grant" – delete the word allocation, see below. The Resolution will be corrected for Chair Napstad's signature.

2. SWCDs, to use all or part of their ~~allocation~~ state cost-share grant for technical assistance, when the following conditions exist:
 - i. Other non-state funds will be leveraged and they couldn't do the project otherwise; Or,
 - ii. Funds are used on a project(s) that is State Cost Share Program or EQIP eligible and their 2015 Financial Report indicates less than an 18-month fund balance; And
 - iii. Board Conservationist approval.

3. The allocation of the Non Point Engineering Assistance Grants to joint powers boards up to the \$1,060,000, as listed below:

NPEA Area	Base Grant	Host/Fiscal Agent SWCD	Equipment	Total Grant
1	\$120,000	\$10,000	\$0	\$130,000
2	\$120,000	\$5,000	\$20,000	\$145,000
3	\$120,000	\$10,000	\$0	\$130,000
4	\$120,000	\$5,000	\$0	\$125,000
5	\$120,000	\$10,000	\$20,000	\$150,000
6	\$120,000	\$5,000	\$0	\$125,000
7	\$120,000	\$10,000	\$0	\$130,000
8	\$120,000	\$5,000	\$0	\$125,000

Discussion followed. John Jaschke clarified that state match components are not duplication, as funds are being paired. Moved by Steve Sunderland, seconded by Paige Winebarger, to approve the Grants Program & Policy Committee recommendations and adopt the funding allocations as presented.

**

16-47 **Motion passed on a voice vote.**

Proposed FY 2017 Natural Resources Block Grant – Wayne Zellmer reported that the Natural Resources Block Grant (NRBG) provides assistance to local governments to implement state natural resource programs. These programs are: Comprehensive Local Water Management, the Wetland Conservation Act, the DNR Shoreland Management, and the MPCA Subsurface Sewage Treatment Systems. Wayne reported that the Grants Program & Policy Committee recommends approval of the Proposed FY17 Natural Resources Block Grant allocations. Wayne presented the allocations.

**

Moved by Steve Sunderland, seconded by Patty Acomb, to authorize staff to allocate individual grants amounts to counties meeting the NRBG Program requirements, as indicated on the attached spreadsheet *PROPOSED FY'17 NATURAL RESOURCES BLOCK GRANTS*, for grant programs funded by BWSR appropriations, as determined by the BWSR and DNR, and totaling:

LWM	\$1,139,152
WCA	\$1,906,479
DNR Shoreland	\$384,950

To approve the Local Water Management, Wetland Conservation Act, and DNR Shoreland Programs, Local Governmental Units have the flexibility of determining the amount of grant and required match of

16-48 these three BWSR Programs, to allocate to each of their programs locally; and authorizes staff to allocate individual grants amounts to counties, for funds appropriated to and allocations determined by the MPCA, for the MPCA SSTS Program Grant. Discussion followed. **Motion passed on a voice vote.**

Red River Basin Commission 2016 Funding – Jim Haertel reported that the Red River Basin Commission (RRBC) is an international organization which receives financial support from the states of North Dakota, Minnesota, and the province of Manitoba. BWSR is the Minnesota state agency that reviews and approves the annual reports and work plans of the RRBC; and the Minnesota grant is processed by BWSR. The Grants Program and Policy Committee recommends approval. Jim stated that Jeff Lewis, Executive Director of the RRBC, will present the 2015 annual report and 2016 work plan and budget of the RRBC at the August meeting in East Grand Forks. Moved by Steve Sunderland, seconded by Kathryn Kelly, to approve the Grants Program & Policy Committee recommendation to approve the Red River Basin Commission 2015 report, 2016 work plan and budget, and grant of \$100,000 to the RRBC for its 2016 operations. John Jaschke stated that the RRBC recently updated its bylaws and completed an audit, both reasons to be assured of the funding being used well. **Motion passed a voice vote.**

**

16-49

Erosion Control and Water Management Program Policy Amendment – Pete Waller reported that the Erosion Control and Water Management Program is more commonly known as the State Cost Share Program. Legislation in 2015 necessitated changes to the BWSR Erosion Control and Water Management Program Policy. The BWSR Cost Share Work Group recommended changes consistent with the 2015 Legislation to the BWSR Grants Team and the BWSR Senior Management Team. The Grants Program and Policy Committee met on May 20, 2016 to review the draft Policy and unanimously recommended approval. Pete provided an overview of the policy amendments. Discussion followed. Moved by Gerald Van Amburg, seconded by Kathryn Kelly, to approve the Grants Program & Policy Committee recommendation to adopt the amendments to the Erosion Control and Water Management Program Policy, effective July 1, 2016 for the 2017 Fiscal Year and beyond. **Motion passed on a voice vote.**

**

16-50

USDA-NRCS Regional Conservation Partners Program (RCPP) Project –Al Kean reported that the Lower Mississippi River Feedlot Management in Minnesota Project will be leveraging State funding from BWSR to provide a match for the Natural Resources Conservation Service Regional Conservation Partnership Program (RCPP) project. BWSR will provide technical and financial assistance to plan and design projects to mitigate feedlot runoff from smaller open lot feedlots in southeastern Minnesota. BWSR will provide \$1.6M over the duration of the RCPP project as will the NRCS. BWSR funds will be from a combination of the General Fund and the Clean Water Fund. Al provided an overview of the RCPP project. The Grants Program and Policy Committee met on May 20 and recommend approval. Discussion followed. Moved by Rebecca Flood, seconded by Steve Sunderland, to:

**

1. Approves providing 1:1 match for the RCPP Project over five (5) State fiscal years (FY 2016, 2017, 2018, 2019, 2020) up to a total contribution of \$1,600,000, as defined below; and
2. Approves allocations from the FY 2016 and FY 2017 General Fund Feedlot Water Quality Management grants for a total of \$520,000 to be provided as match for the RCPP Project; and
3. Approves the allocation of \$300,000 from Clean Water Funds in FY 2017 to be provided as match for the RCPP Project; and
4. Approves that the Board will provide up to \$260,000 per year in FY 2018, FY 2019, and FY 2020 from the General Fund or the Clean Water Fund as match for the RCPP Project, subject to availability of applicable appropriations; and
5. Authorizes the Board’s Executive Director to sign the Partnership Agreement MOU between the USDA-NRCS and the Board for the RCPP Project.

16-51 **Motion passed on a voice vote.**

FY 2017 CWF Competitive Grants Program Authorization – Marcey Westrick reported that the FY17 Clean Water Fund Competitive Grants Program includes four BWSR grant programs (1. Projects and Practices; 2. Accelerated Implementation; 3. Community Partners; and 4. Multipurpose Drainage Management), Minnesota Department of Health Well Sealing Grants and Minnesota Department of Agricultural AgBMP loans. The proposed application period is June 27 to August 8, 2016. The application scoring process will be conducted by staff from DNR, MDA, MDH, PCA and BWSR as has been the case in previous years. Marcey provided an overview of the amendments. Marcey reported that the Grants Program and Policy Committee met on April 26, 2016 to review the Clean Water Fund Competitive Grants Program Policy developed by staff and recommends approval. Discussion followed. Chair Napstad stated that ranking criteria is reviewed by BWSR Committees. Moved by Kathryn Kelly, seconded by Jill Crafton, to authorize staff to finalize, distribute and promote Request For Proposals (RFP) for the FY2017 Clean Water Fund Competitive Grants Program consistent with the provisions of appropriations enacted in 2015, Minn. Stat. 103B.3369 and adopts the FY2017 Clean Water Fund Competitive Grants Policy as presented. **Motion passed on a voice vote.**

**

16-52

Water Management and Strategic Planning Committee

One Watershed, One Plan Transition Plan – Melissa Lewis reported that the adoption of a One Watershed, One Plan Transition Plan (Plan) by BWSR by June 2016 is a requirement of 2015 statute. The Water Management and Strategic Planning Committee reviewed drafts of the Plan at the September and December 2015 and January 2016 Committee meetings. The Committee recommended and the Board approved a public comment period on the Plan in March 2016; this comment period was held March 23 – May 4, 2016. On May 24, 2016, the Committee reviewed the comments received and changes made to the Plan, and recommend adoption of the Plan. Moved by Jack Ditmore, seconded by Tom Loveall, to approve the One Watershed, One Plan Transition Plan. Discussion followed. John Jaschke stated that this is a really good outcome for an extensive multi-year process. **Motion passed on a voice vote.** Chair Napstad thanked Melissa on the great job, as well as the Committee on their efforts. Jack stated that he’s proud to be a part of the team.

**

16-53

Local Water Plan Extensions and Amendment Policy – Melissa Lewis reported that the primary purposes of the Local Water Plan Extension and Amendment policy are to facilitate the transition to One Watershed, One Plan and allow for effective participation in and use of WRAPS, while maintaining eligibility in applying for and receiving grants. Legislative action in the 2016 session removed a requirement to incorporate the summary of watercourses associated with the Buffer Law into water plans through plan amendment, which was also addressed in the policy. Melissa reported that the Water Management and Strategic Planning Committee met on May 24, 2016 to review the revision to the Local Water Plan Extension and Amendments Policy that removes reference to Minnesota Statutes §103F.48 and recommends approval. John Jaschke stated that the change allows for the amendment without a process. Moved by Jack Ditmore, seconded by Kathryn Kelly, to approve the Water Management and Strategic Planning Committee’s recommendation to adopt the Local Water Plan Extensions and Amendments Policy dated June 22, 2016. Discussion followed. **Motion passed on a voice vote.**

**

16-54

Nonpoint Priority Funding Plan (NPPF) – Marcey Westrick reported that the Water Management & Strategic Planning Committee recommends approval of the 2016 Nonpoint Priority Funding Plan and to direct staff to post to the website by July 1, 2016. Marcey provided an overview of the resolution. Jack Ditmore stated that the public comment period ended on June 6; the Committee met on June 14, 2016 via conference call to review public comments and prioritize responses. Moved by Steve Sunderland, seconded by Jill Crafton, to approve the Water Management & Strategic Planning Committee’s

**

16-55 recommendation that the 2016 NPFP will be used to prioritize potential nonpoint restoration and protection actions for which money from the Clean Water Fund is proposed to be used and state agencies allocating such funds are required to target money according to priorities identified in the 2016 NPFP. **Motion passed on a voice vote.**

Rebecca Flood left the meeting at 12:45 PM.

AGENCY REPORTS

Minnesota Department of Agriculture (MDA) – Rob Sip reported that this is National Pollinators Week, in celebration, he distributed a pollinator seed mix to board members. Rob also distributed a flyer for the Field Day tomorrow, in Rothsay, sponsored by Nordick Farms, MDA, Minnesota Corngrowers, and Wilkin SWCD.

Minnesota Department of Natural Resources (DNR) – Dave Schad reported that DNR received an appropriation for forestry management, grants to SWCDs and other private forest landowners, funding will be available July 1 to hire staff.

Dave reported that DNR is working on a rule for non-conforming use in the Mississippi River critical zone in the metro area, a controversial process. DNR staff are working with communities to understand their concerns; public meetings held, public comment period is open, local communities to update local ordinances when the rule is finalized in a few months.

UPCOMING MEETINGS

- BWSR Tour and Meeting, August 24-25, 2016, East Grand Forks. Hotel reservations will be made at the Fairfield Inn in East Grand Forks; RSVP to Mary Jo Anderson by August 10. Carpooling options will be available departing from St. Paul. More information will be provided next month as the tour itinerary and logistics are finalized.

** 16-56 Moved by Jack Ditmore, seconded by Steve Sunderland, to adjourn the meeting at 12:58 PM. **Motion passed on a voice vote.**

Respectfully submitted,

Mary Jo Anderson
Recorder



Conflict of Interest Disclosure Form for Board Members

Grant Program: Area II Minnesota River Basin Projects FY 2017 Grant

Name of Review Group: Board of Water and Soil Resources

Before any review of grant applications, the chair of the meeting shall make this statement about conflict of interest:

Chair 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."*

This form gives grant application reviewers an opportunity to disclose any actual, potential or perceived conflicts of interest that may exist during a grant review process. It is the grant reviewer's obligation to be familiar with the Office of Grants Management (OGM) Policy 08-01, Conflict of Interest Policy for State Grant-Making, and to disclose any conflicts of interest accordingly. All grant reviewers *must* complete and sign a conflict of interest disclosure form. On the form, the grant reviewer must identify any grant applicant with which they have an actual, potential or perceived conflict, although they do not need to provide the reason for the conflict on the disclosure form.

A disclosure does not automatically result in the grant application reviewer being removed from the review process.

Please read the definitions of conflict of interest below and mark the appropriate boxes that pertain to you and your status as a reviewer of applications for this grant program.

Conflicts of interest may be actual, potential, or perceived:

ACTUAL CONFLICT OF INTEREST:

An actual conflict of interest occurs when a decision or action would compromise a duty to a party without taking immediate appropriate action to eliminate the conflict.

POTENTIAL CONFLICT OF INTEREST:

A potential conflict of interest may exist if a grant reviewer has a relationship, affiliation, or other interest that could create an inappropriate influence if the person is called on to make a decision or recommendation that would affect one or more of those relationships, affiliations, or interests.

PERCEIVED CONFLICT OF INTEREST:

A perceived conflict of interest is any situation in which a reasonable third party would conclude that conflicting duties or loyalties exist.

At a minimum, all internal parties who are involved in the grant review or grant management process must be made aware that an actual, potential, or perceived conflict has been disclosed and evaluated, even if it is not serious enough to remove or reassign the employee or grant reviewer. After reviewers have signed the conflict of interest form, therefore, the conflicts--if any--that have been disclosed shall be announced to the reviewing body as a whole. Disclosed conflicts and their resolution will also be noted in the meeting minutes, and the forms will be kept as documentation of the grant review.

As a grant reviewer, I certify that I have read and understand the descriptions of conflict of interest explained above and in OGM Policy 08-01. Check either box 1a or 1b **and** either box 2a or 2b.

- 1a. I have reviewed the list of applicants, and I do not have any conflicts of interest relating to this program's grant applicants or proposed projects.
- 1b. I have an ACTUAL, POTENTIAL, or PERCEIVED conflict of interest with the applicant(s) listed below. (Note: If you disclose a conflict, you must identify the applicant on this form, but a description is discretionary. Under Minnesota Statute 13.599, this form is considered public data.)

Applicant	Type of Conflict (ACTUAL, POTENTIAL, or PERCEIVED)	Description of Conflict (optional)

- 2a. After reviewing this form and OGM Policy 08-01, I CHOOSE to participate in this review process.
- 2b. After reviewing this form and OGM Policy 08-01, I CHOOSE NOT to participate in this review process. I will avoid discussing the applicant and/or applications from organizations with which I have disclosed a conflict of interest with other reviewers.

Reviewer's printed name: _____

Reviewer's signature: _____

Date: _____

Reviewer's Organization/Agency: _____

Revised, 5/13



Conflict of Interest Disclosure Form for Board Members

Grant Program: 1W1P Planning Grants

Name of Review Group: Board of Water and Soil Resources

Before any review of grant applications, the chair of the meeting shall make this statement about conflict of interest:

Chair 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.”*

This form gives grant application reviewers an opportunity to disclose any actual, potential or perceived conflicts of interest that may exist during a grant review process. It is the grant reviewer’s obligation to be familiar with the Office of Grants Management (OGM) Policy 08-01, Conflict of Interest Policy for State Grant-Making, and to disclose any conflicts of interest accordingly. All grant reviewers *must* complete and sign a conflict of interest disclosure form. On the form, the grant reviewer must identify any grant applicant with which they have an actual, potential or perceived conflict, although they do not need to provide the reason for the conflict on the disclosure form.

A disclosure does not automatically result in the grant application reviewer being removed from the review process.

Please read the definitions of conflict of interest below and mark the appropriate boxes that pertain to you and your status as a reviewer of applications for this grant program.

Conflicts of interest may be actual, potential, or perceived:

ACTUAL CONFLICT OF INTEREST:

An actual conflict of interest occurs when a decision or action would compromise a duty to a party without taking immediate appropriate action to eliminate the conflict.

POTENTIAL CONFLICT OF INTEREST:

A potential conflict of interest may exist if a grant reviewer has a relationship, affiliation, or other interest that could create an inappropriate influence if the person is called on to make a decision or recommendation that would affect one or more of those relationships, affiliations, or interests.

PERCEIVED CONFLICT OF INTEREST:

A perceived conflict of interest is any situation in which a reasonable third party would conclude that conflicting duties or loyalties exist.

At a minimum, all internal parties who are involved in the grant review or grant management process must be made aware that an actual, potential, or perceived conflict has been disclosed and evaluated, even if it is not serious enough to remove or reassign the employee or grant reviewer. After reviewers have signed the conflict of interest form, therefore, the conflicts--if any--that have been disclosed shall be announced to the reviewing body as a whole. Disclosed conflicts and their resolution will also be noted in the meeting minutes, and the forms will be kept as documentation of the grant review.

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Applicant	Type of Conflict (ACTUAL, POTENTIAL, or PERCEIVED)	Description of Conflict (optional)

- 2a. After reviewing this form and OGM Policy 08-01, I CHOOSE to participate in this review process.
- 2b. After reviewing this form and OGM Policy 08-01, I CHOOSE NOT to participate in this review process. I will avoid discussing the applicant and/or applications from organizations with which I have disclosed a conflict of interest with other reviewers.

Reviewer's printed name: _____

Reviewer's signature: _____

Date: _____

Reviewer's Organization/Agency: _____

Revised, 5/13



Conflict of Interest Disclosure Form for Board Members

Grant Program: Grass Lake Grant

Name of Review Group: Board of Water and Soil Resources

Before any review of grant applications, the chair of the meeting shall make this statement about conflict of interest:

Chair 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.”*

This form gives grant application reviewers an opportunity to disclose any actual, potential or perceived conflicts of interest that may exist during a grant review process. It is the grant reviewer’s obligation to be familiar with the Office of Grants Management (OGM) Policy 08-01, Conflict of Interest Policy for State Grant-Making, and to disclose any conflicts of interest accordingly. All grant reviewers *must* complete and sign a conflict of interest disclosure form. On the form, the grant reviewer must identify any grant applicant with which they have an actual, potential or perceived conflict, although they do not need to provide the reason for the conflict on the disclosure form.

A disclosure does not automatically result in the grant application reviewer being removed from the review process.

Please read the definitions of conflict of interest below and mark the appropriate boxes that pertain to you and your status as a reviewer of applications for this grant program.

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ACTUAL CONFLICT OF INTEREST:

An actual conflict of interest occurs when a decision or action would compromise a duty to a party without taking immediate appropriate action to eliminate the conflict.

POTENTIAL CONFLICT OF INTEREST:

A potential conflict of interest may exist if a grant reviewer has a relationship, affiliation, or other interest that could create an inappropriate influence if the person is called on to make a decision or recommendation that would affect one or more of those relationships, affiliations, or interests.

PERCEIVED CONFLICT OF INTEREST:

A perceived conflict of interest is any situation in which a reasonable third party would conclude that conflicting duties or loyalties exist.

At a minimum, all internal parties who are involved in the grant review or grant management process must be made aware that an actual, potential, or perceived conflict has been disclosed and evaluated, even if it is not serious enough to remove or reassign the employee or grant reviewer. After reviewers have signed the conflict of interest form, therefore, the conflicts--if any--that have been disclosed shall be announced to the reviewing body as a whole. Disclosed conflicts and their resolution will also be noted in the meeting minutes, and the forms will be kept as documentation of the grant review.

As a grant reviewer, I certify that I have read and understand the descriptions of conflict of interest explained above and in OGM Policy 08-01. Check either box 1a or 1b **and** either box 2a or 2b.

- 1a. I have reviewed the list of applicants, and I do not have any conflicts of interest relating to this program's grant applicants or proposed projects.
- 1b. I have an ACTUAL, POTENTIAL, or PERCEIVED conflict of interest with the applicant(s) listed below. (Note: If you disclose a conflict, you must identify the applicant on this form, but a description is discretionary. Under Minnesota Statute 13.599, this form is considered public data.)

Applicant	Type of Conflict (ACTUAL, POTENTIAL, or PERCEIVED)	Description of Conflict (optional)

- 2a. After reviewing this form and OGM Policy 08-01, I CHOOSE to participate in this review process.
- 2b. After reviewing this form and OGM Policy 08-01, I CHOOSE NOT to participate in this review process. I will avoid discussing the applicant and/or applications from organizations with which I have disclosed a conflict of interest with other reviewers.

Reviewer's printed name: _____

Reviewer's signature: _____

Date: _____

Reviewer's Organization/Agency: _____

Revised, 5/13



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Dispute Resolution Committee Report

Meeting Date: August 25, 2016

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Programs and Policy/Central

Contact: Travis Germundson

Prepared by: Travis Germundson

Reviewed by: _____ Committee(s)

Presented by: Gerald Van Amburg

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- None
- Amended Policy Requested
- New Policy Requested
- Other:
- General Fund Budget
- Capital Budget
- Outdoor Heritage Fund Budget
- Clean Water Fund Budget

ACTION REQUESTED

None

LINKS TO ADDITIONAL INFORMATION

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

The report provides a monthly update on the number of appeals filed with BWSR.

Dispute Resolution Report
August 12, 2016
By: Travis Germundson

There are presently 13 appeals pending. All of the appeals involve WCA. There has been 2 new appeals filed since the last report (June 22nd 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 16-8 (8-9-16) This is an appeal of a replacement plan decision in St. Louis County. The appeal regards the denial of a replacement plan application for wetland impacts associated with the construction of a new high school. No decision has been made on the appeal.

File 16-7 (7-7-16) This is an appeal of a restoration order in Morrison County. The appeal regards the unauthorized impacts to approximately 3.6 acres of wetland associated with an agricultural drainage project. The appeal has been placed in abeyance until the LGU makes a final decision on the applications for exemption, no-loss and a replacement plan.

File 16-6 (5-27-16) This is an appeal of a restoration order in Wabasha County. The appeal regards the unauthorized impacts to approximately 61 acres of wetland associated with the placement of agricultural drain tile. *The appeal has been placed in abeyance for the Technical Evaluation Panel to convene onsite and develop written findings of fact.*

File 16-5 (4-28-16) This is an appeal of an exemption and no-loss decision in Olmsted County. The appeal regards the denial of an exemption and no-loss application for agricultural activities resulting in 4.6 acres of wetland impact. The applications were submitted in conjunction with an appeal of a restoration order (File 15-7). The appeal has been placed in abeyance pending the outcome of a local appeal proceedings.

File 16-4 (4-18-16) This is an appeal of an exemption decision in Wright County. The appeal regards the denial of an exemption application for repair of a pre-existing drain tile system that will partially drain 5-10 acres of wetland. A decision has been made to grant and hear the appeal. *A pre-hearing conference is scheduled for September 15, 2016.*

File 16-3 (4-9-16) This is an appeal of a replacement plan decision in Hennepin County. The appeal regards the denial of a replacement plan application by the City of Deephaven for wetland impacts associated with the construction of signal family residential structure. A decision has been made to grant and hear the appeal. *A pre-hearing conference took place on June 27, 2016 and the parties opted to proceed with filing of written briefs and a hearing before the DRC.*

File 15-10 (10-14-15). This is an appeal of a restoration order in Chisago County. The appeal regards the unauthorized placement of fill in a wetland resulting in approximately 1.5 acres of impact. The alleged impacts are associated with the construction of motor cross/ATV track. The appeal has been placed in abeyance and the restoration order stayed for the Technical Evaluation Plan to convene on site and develop written findings of fact on the area of impact.

File 15-9 (9-17-15) This is an appeal of a replacement plan decision in Crow Wing County. The appeal regards the denial of a replacement plan application for wetland impacts associated with the construction of a residential driveway and structure within the Shoreland Management District of South Long Lake. A previous decision approving a similar replacement plan application had been appealed (File 15-5). The appeal was remanded for additional technical evaluation on impact avoidance including a no-build alternative, and now the current denial is being appealed. The parties have been unable to reach a settlement agreement and have requested to move forward with filing of written briefs and a hearing before the DRC. A hearing has been scheduled before the Dispute Resolution Committee for Monday August 22nd at 1:00 PM here in St. Paul.

File 15-7 (7-20-15) This is an appeal of a Restoration Order in Olmsted County. The appeal regards the unauthorized placement of drain tile in a purported wetland. Applications for exemption and no-loss determinations have been submitted to the local unit of government concurrently with the appeal. The appeal has been placed in abeyance until the LGU makes a final decision on the applications for exemption and no-loss. That decision has been appealed (File 16-5). The appeal will remain in abeyance until there is a final decision on the exemption and no-loss appeal.

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. DNR's February 11, 2016 final decision has been appealed to the Court of Appeals. The appeal will remain in abeyance pending judicial review.

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 until there is a final decision by the Court of Appeals on File 14-9.

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. Site certification is scheduled to take place during the 2016.

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 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.

Summary Table

Type of Decision	Total for Calendar Year 2015	Total for Calendar Year 2016
Order in favor of appellant		
Order not in favor of appellant	4	1
Order Modified		
Order Remanded	1	
Order Place Appeal in Abeyance	4	4
Negotiated Settlement		1
Withdrawn/Dismissed	2	

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2014).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-0004**

In the Matter of Franz Schauer, WCA Application,
dated April 28, 2014 for No-Loss and Exemption;
Petition for Appeal dated December 3, 2014, No. 14-09,
re: LGU decisions on November 3, November 19, and December 2, 2014.

**Filed August 8, 2016
Affirmed
Bjorkman, Judge**

Minnesota Board of Water and Soil Resources
File No. 14-09

Franz P. Schauer, Bonita Springs, Florida (pro se relator)

Lori Swanson, Attorney General, Jill Schlick Nguyen, Assistant Attorney General,
St. Paul, Minnesota (for respondent Minnesota Board of Water and Soil Resources)

Michael K. Junge, McLeod County Attorney, Glencoe, Minnesota (for respondent McLeod
County)

Considered and decided by Rodenberg, Presiding Judge; Peterson, Judge; and
Bjorkman, Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

Relator challenges the order of respondent Minnesota Board of Water and Soil
Resources (BWSR) reversing respondent McLeod County's grant of exemption and no-
loss determinations to relator in relation to wetland restoration and replacement. Relator

argues that the BWSR did not have jurisdiction to review McLeod County's decisions, and that the BWSR erred when it held that the county complied with Minn. Stat. § 15.99 (2014). We affirm.

FACTS

Relator Franz Peter Schauer owns property that contains a wetland area. On November 3, 2013, Schauer received a cease and desist order from the Minnesota Department of Natural Resources (DNR), indicating that his excavation of a ditch impermissibly drained the wetland, and demanding that Schauer stop all activity related to draining, filling, or excavating the wetland area. On December 11, the McLeod County Wetland Technical Advisory Committee met to discuss the situation, and passed a motion directing Schauer to refill the ditch.

On March 3, 2014, the Commissioner of Natural Resources issued a restoration order and a replacement order (R&R orders) that described what Schauer must do to restore the wetland. The R&R orders also informed Schauer that he had 21 days to submit a replacement plan or apply for exemption or no-loss determinations.¹

On April 25, Schauer filed applications for exemption and no-loss determinations, which McLeod County received on April 28. Schauer's attorney attached an affidavit to the applications stating that additional supporting documents would be provided as they

¹ A no-loss determination is a finding that the challenged activity will not impact the wetland or cause permanent loss of the wetland. Minn. R. 8420.0415 (2013). An exemption determination is a finding that activity affecting a wetland does not require replacement of the wetland because the activity falls within a listed exemption category. Minn. R. 8420.0420 (2013).

became available. Schauer also appealed the R&R orders to the BWSR, which stayed the appeal pending resolution of the applications.

On May 30, with his attorney's advice, Schauer signed a document waiving McLeod County's 60-day deadline for deciding whether to grant his applications under Minn. Stat. § 15.99. Roger Berggren, a McLeod County environmentalist, signed the waiver agreement and returned it to Schauer's attorney on June 9. Berggren stated that Schauer must submit his supporting documents by July 15. Schauer did not do so.

On August 11, a McLeod County Technical Evaluation Panel (TEP) met to consider Schauer's applications. The TEP recommended denial of both applications. One week later, the McLeod County Environmental Services Committee² met to discuss the applications. Prior to that meeting, Schauer submitted written comments supporting his applications, which were distributed to the committee members. The committee considered Schauer's comments and the TEP recommendation, and ultimately recommended that McLeod County Environmental Services deny the exemption and no-loss determinations.

McLeod County Environmental Services issued a formal notice of decision on August 18, denying both applications. The notice of decision references the TEP and McLeod County Environmental Services Committee recommendations. The denial was based on the finding that Schauer's ditch-cleaning activity exceeded regular maintenance

² The McLeod County Environmental Services Committee is also referred to as the McLeod County Wetland Advisory Committee.

and resulted in a wetland loss and impact that is not permitted under the Minnesota Wetland Conservation Act.

On August 27, Berggren sent the notice of decision to Schauer. On September 8, Schauer sent a letter to the McLeod County Board of Commissioners, asserting that the notice of decision was untimely because he did not receive it by the extended deadline. Twelve days later, Schauer notified the Board of Commissioners that he was appealing the notice of decision. On October 10, McLeod County Administrator Patrick Melvin advised Schauer that the notice of decision was in fact timely, and that he had scheduled a hearing on Schauer's appeal. Schauer's attorney responded on October 28, asking Melvin to reconsider the timeliness issue. Melvin responded that same day, stating that the county agreed that the notice of decision was untimely, and the applications for exemption and no-loss determinations were therefore granted by operation of law.

McLeod County Environmental Services issued additional notices of decision on November 3, November 19, and December 2. The final notice of decision states that Schauer's applications were approved without conditions. On December 3, Jeremy Maul—the BWSR representative to the TEP—appealed the last three notices of decision to the BWSR. The BWSR's Dispute Resolution Committee reviewed the record and heard oral arguments from the parties, and recommended that the three notices of decision be reversed.

The BWSR issued an order reversing the last three notices of decision. After determining that it had jurisdiction to consider the appeal, the BWSR concluded that the first notice of decision (August 18) was timely and effective, and that McLeod County

erred by applying the automatic-approval rule pursuant to Minn. Stat. § 15.99. Schauer appeals by writ of certiorari.

DECISION

A BWSR order regarding an appeal from an exemption or no-loss determination is considered an agency decision in a contested case for purposes of judicial review under Minn. Stat. §§ 14.63-.69 (2014). Minn. Stat. § 103G.2242, subd. 9(d) (2014). We review such decisions to determine whether the decision is: (1) in violation of constitutional provisions, (2) in excess of statutory authority or jurisdiction, (3) the product of unlawful procedure, (4) affected by an error of law, (5) unsupported by substantial evidence, or (6) arbitrary or capricious. Minn. Stat. § 14.69. A presumption of correctness attaches to an agency's decision, and we defer to an agency's conclusions in its area of expertise. *In re Review of 2005 Annual Automatic Adjustment of Charges*, 768 N.W.2d 112, 119 (Minn. 2009). But we are not bound by an agency's determination of the meaning of a statute, which is a question of law that we review de novo. *St. Otto's Home v. Minn. Dep't of Human Servs.*, 437 N.W.2d 35, 39-40 (Minn. 1989).

I. The BWSR had jurisdiction to hear the appeal of the notices of decision.

A local government unit's exemption or no-loss determination may be appealed to the BWSR. Minn. Stat. § 103G.2242, subd. 7, 9(a) (2014).³ The BWSR shall grant the petition and hear the appeal unless the petitioner has not exhausted all local administrative

³ Appeal may be taken by the wetland owner, anyone who is required to receive the notice of decision of a replacement plan, or 100 residents of the county in which a majority of the wetland is located. Minn. Stat. § 103G.2242, subd. 9(a).

remedies. *Id.*, subd. 9(b)(2) (2014). If a determination was made by a local-government-unit staff member, the challenger must first appeal the decision to the local government unit. Minn. R. 8420.0200, subp. 2(C), .0905, subp. 3(A) (2013). Whether the BWSR has jurisdiction to review a particular matter is a question of law that we review de novo. *In re Hubbard*, 778 N.W.2d 313, 318 (Minn. 2010).

Determining whether the BWSR had jurisdiction to hear Maul's appeal depends on whether the challenged notices of decision reflect determinations made by the local government unit or a local-government-unit staff member. Schauer argues that the BWSR lacked jurisdiction because Berggren made the decision in his capacity as a local-government-unit staff member, and therefore the appeal should have been made to the McLeod County Board of Commissioners. We disagree.

After Schauer applied for exemption and no-loss determinations, two McLeod County committees evaluated the applications. On August 11, the TEP held a meeting to discuss the applications and recommended that they be denied. And on August 18, the McLeod County Environmental Services Committee met and passed a motion recommending the denial of the applications. The August 18 notice of decision states that the decision is based on the recommendations from the TEP and Environmental Services Committee, and is the decision of the local government unit—McLeod County Environmental Services.

Although the August 18 notice of decision was not appealed, the process that led to that decision illustrates why the subsequent notices of decision are decisions of the local government unit rather than a staff member. The multiple evaluation processes and

committee recommendations demonstrate that Berggren was not acting in an individual capacity when he signed the notices of decision. Moreover, the revised notices of decision, while signed by Berggren, all state that they are decisions of McLeod County Environmental Services, the local government unit. Because the notices reflect decisions of the local government unit, we conclude that the BWSR had jurisdiction to hear Maul's appeal. Minn. Stat. § 103G.2242, subds. 7, 9(a).

II. The August 18 notice of decision was timely and is supported by substantial evidence.

Schauer asserts that the BWSR erred by finding that he waived the 60-day deadline for McLeod County to issue a decision, and by finding that the August 18 notice of decision was timely.

An agency⁴ must approve or deny within 60 days a written request for government approval. Minn. Stat. § 15.99, subds. 2(a), 3(a). If an agency fails to deny an application within 60 days, the application is automatically approved. *Id.*, subd. 2(a). But an agency may, with notice to the applicant, extend the deadline, and an applicant may also request an extension. *Id.*, subd. 3(f), (g).

McLeod County received Schauer's applications on April 28.⁵ On May 30, Schauer signed an agreement stating that he was "waiving the right to have a Board Decision in this

⁴ "Agency" includes a county. Minn. Stat. § 15.99, subd. 1(b).

⁵ Although the BWSR addressed the merits of Maul's appeal, it initially found that Schauer's applications for exemption and no-loss determinations were untimely. We disagree. While McLeod County did not officially waive the deadline for Schauer's applications, the county did not object to their timeliness. After Schauer submitted the applications, McLeod County acted on the applications as if they were timely. We

matter within the 60 days of the application under Minnesota Statute Section 15.99.” By signing the waiver, Schauer agreed that McLeod County had an additional 60 days to make a decision regarding his application. This created a new deadline of August 26. Berggren signed the notice of decision on August 18, within the extended deadline. Schauer nonetheless argues that the decision was untimely because he did not receive a copy of it until August 27. Schauer also argues that Berggren’s offer to submit Schauer’s comments to the TEP (Schauer submitted his supporting comments after the TEP met) if Schauer agreed to another 60-day waiver demonstrates that a final decision was not made on August 18. We are not persuaded.

First, our supreme court has rejected the argument that an agency must provide an applicant with a written statement of the reasons for denying an application to comply with the 60-day rule. *Hans Hagen Homes, Inc. v. City of Minnetrista*, 728 N.W.2d 536, 540 (Minn. 2007). In *Hans Hagen*, the city argued that denial of an application occurs when the local government unit votes to deny the application and adopts a written statement of the reasons for denial, regardless of whether notice is provided to the applicant. *Id.* at 539-40. Our supreme court agreed, holding that Minn. Stat. § 15.99, subd. 2(c), which requires an agency to provide applicants with a written statement of the reasons for denial, is directory, rather than mandatory. *Id.* at 542. Accordingly, the city’s failure to provide its written statement within 60 days did not implicate the automatic-approval provision. *Id.* at 544.

conclude that by processing the applications, McLeod County effectively waived the deadline in Minn. R. 8420.0900, subp. 4(D).

Second, Berggren's offer to forward Schauer's written comments to the TEP did not disturb the finality of the August 18 decision. Berggren's offer effectively presented the opportunity to appeal the decision to McLeod County. Schauer chose not to explore that option. And our caselaw is clear that a denial is considered to occur when a government unit votes to deny the application and adopts a written statement explaining the reasons for denial. *Id.* at 540. We conclude that those actions were completed on August 18.

Having concluded that the August 18 notice of decision was timely, we consider whether it is supported by the record. *See City of Moorhead v. Minn. Pub. Utils. Comm'n*, 343 N.W.2d 843, 847 (Minn. 1984) (stating that an appellate court will not disturb an agency's decision if it is supported by the record). Schauer does not assert that the notice of decision is legally erroneous or that it lacks evidentiary support. And review of the record reveals evidence that existing ditches on Schauer's property were deepened and widened in a manner that could impact or cause permanent loss to the wetland. This evidence supports the decision to deny Schauer's applications for exemption and no-loss determinations.⁶

⁶ Schauer argues that the BWSR's findings of fact rely on evidence that is not in the record. We disagree. The challenged findings relate to information contained in the four notices of decision, all of which were included in the revised record and index. Schauer does not dispute that the BWSR was permitted to consider documents in the revised record and index.

Because McLeod County made its decision within the extended review period, and Schauer makes no argument challenging the merits of the August 18 notice of decision, we affirm.

Affirmed.

COMMITTEE RECOMMENDATIONS

Southern Region Committee

1. Area II Minnesota River Basin Projects FY 2017 Biennial Work Plan and Grant – Kathryn Kelly - ***DECISION ITEM***
2. Cottonwood County Priority Concerns Scoping Document – Kathryn Kelly - ***DECISION ITEM***
3. Faribault County Comprehensive Local Water Management Plan Extension Request – Kathryn Kelly - ***DECISION ITEM***
4. Le Sueur County Local Water Management Plan Amendment – Kathryn Kelly – ***DECISION ITEM***



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Area II Minnesota River Basin Projects
Biennial Work Plan & Grant

Meeting Date: August 25, 2016
Agenda Category: Committee Recommendation New Business Old Business
Item Type: Decision Discussion Information
Section/Region: South
Contact: Ed Lenz
Prepared by: Carla Swanson-Cullen
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

- | | |
|---|---|
| <input type="checkbox"/> None | <input checked="" 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

Approval and execution of fiscal year 2017 grant agreement.

LINKS TO ADDITIONAL INFORMATION

http://www.bwsr.state.mn.us/boardpackets/2016/Area_II_FY16_17_Biennial_Plan_Update.pdf

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

Legislative appropriation to Area II Minnesota River Basin Projects to assist its nine member counties flood control projects in southwestern Minnesota. A 25% non-state match is required.



Board Resolution # _____

Area II Minnesota River Basin Projects Biennial Work Plan and Grant

WHEREAS, the Area II Minnesota River Basin Projects (Area II) is eligible to receive a \$140,000 FY 2017 grant through Minnesota Statutes 2015 First Special Session, Chapter 4, Article 3, Section 4 from the Minnesota Board of Water and Soil Resources (BWSR). This grant is available for administrative and implementation efforts of Area II within their nine-county project area. This grant is available with a 25 percent local match requirement; and

WHEREAS, Area II has developed a Biennial Work Plan to cover activities for FY 2016 and 2017 with a Fiscal 2017 Update; and

WHEREAS, Area II has secured their 25 percent match requirement.

THEREFORE BE IT RESOLVED, the BWSR hereby approves the Area II FY 2016 and 2017 Biennial Work Plan with Fiscal 2017 Update; and

BE IT FURTHER RESOLVED, the Board of Water and Soil Resources enter into a grant agreement with the Area II Minnesota River Basin Projects for these funds.

Brian Napstad, Chair
Minnesota Board of Water and Soil Resources

Date: _____



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Cottonwood County Priority Concerns Scoping Document

Meeting Date: August 25, 2016

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Southern

Contact: Ed Lenz

Prepared by: Mark Hiles

Reviewed by: Southern Regional 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 Cottonwood County Priority Concerns Scoping Document

LINKS TO ADDITIONAL INFORMATION

<http://www.bwsr.state.mn.us/boardpackets/2016/CottonwoodCountyPCSD.pdf>

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

The Cottonwood County Comprehensive Local Water Management Plan is due to expire on July 1, 2017. The County passed a resolution to begin the plan update process on March 1, 2016. The initial step in the update process, the Priority Concerns Scoping Document (PCSD), was developed by the county and routed to the state review agencies on May 5, 2016. The BWSR Regional Committee met on July 27, 2016 to discuss the content of the PCSD and the state agency comments and recommendations received for the final plan.

All required components of the PCSD have been covered and the priority concerns identified to be addresses are deemed appropriate. The Committee voted unanimously to recommend the draft official state comment letter to the full board.



August 25, 2016

Cottonwood County Commissioners
c/o Kay Gross, Water Plan Coordinator
339 9th Street
Windom, MN 56101

RE: Official Comments Pertaining to the State Review of the Cottonwood County Priority Concerns Scoping Document for the Local Water Management Plan Update

Dear Cottonwood County Commissioners:

Pursuant to Minnesota Statutes §103B.313, subdivision 5, this letter communicates the official comments of the State of Minnesota pertaining to the priority concerns Cottonwood County has chosen to address in the update of the County Comprehensive Local Water Management Plan (Plan).

The Cottonwood County Priority Concerns Scoping Document (PCSD) provides information about the County, summarizes the priority concerns development process, and provides the following priority concerns for inclusion in the Plan update:

- Improve Surface Water Quality
- Protect Groundwater
- Drainage Management
- Feedlot & SSTS (Sub-Surface Sewage Treatment Systems)

The Board of Water and Soil Resources (BWSR), along with the State review agencies, received the PCSD on May 5, 2016. The Department of Natural Resources, Department of Agriculture, Minnesota Pollution Control Agency and Minnesota Department of Health did not provide comments on the PCSD.

The Board Conservationist noted that Cottonwood County had done an excellent job of incorporating notes and suggestions from the State agencies during the original input seeking period.

The BWSR Southern Regional Committee met on July 27, 2016, to discuss comments received from State review agencies and others, discuss the content of the PCSD, and recommendations for the content of the final plan. The Committee's findings were presented to the BWSR Board at its meeting on August 25, 2016.

Bemidji 403 Fourth Street NW Suite 200 Bemidji, MN 56601 (218) 755-2600	Brainerd 1601 Minnesota Drive Brainerd, MN 56401 (218) 203-4470	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 21371 State Hwy 15 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

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www.bwsr.state.mn.us

TTY: (800) 627-3529

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Cottonwood County Commissioners

August 25, 2016

Page 2

The BWSR Board has deemed the priority concerns to be addressed in the Plan are appropriate; no changes are recommended or required to the PCSD as drafted. Please proceed with the development of your Plan. The BWSR Board encourages the County to continue to engage in a process that includes a broad range of citizens and interest groups, in addition to local government officials, and State and federal resource managers during the development of goals, objectives, and an implementation plan.

We look forward to the completion of your plan and its implementation.

Sincerely,

Brian Napstad, Chair
Minnesota Board of Water and Soil Resources

cc: Kay Gross, County Water Plan Coordinator
Rob L. Sip, MDA (via email)
Amanda Strommer, MDH (via email)
Catherine Fouchi, DNR (via email)
Julie Holleran, MPCA (via email)
Ed Lenz, BWSR Regional Manager (via email)
Mark Hiles, BWSR Board Conservationist (via email)
Mary Jo Anderson, BWSR (file copy)



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Faribault County CLWM Plan Extension

Meeting Date: August 25, 2016

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Southern Region

Contact: Ed Lenz

Prepared by: Mark Hiles

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 Faribault County Comprehensive Local Water Management Plan until December 31, 2017.

LINKS TO ADDITIONAL INFORMATION

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

Faribault County has submitted a request for an extension of the Faribault County Comprehensive Local Water Management Plan (Plan). The existing Plan will expire on December 31, 2016. Reasons for requesting an extension include: 1) adequate alignment of planning efforts in the Blue Earth Watershed, 2) allowing sufficient time for local staff to meet with the local task force to discuss and review priority concerns and work toward developing the plan, and 3) additional staff time which has been limited due to workload as provided in the enclosed request for extension memo. The requested Plan extension is eligible based on the Local Water Plan Extension Policy adopted by the Minnesota Board of Water and Soil Resources on December 17, 2014.

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 Faribault
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 Faribault County Comprehensive Local Water Management Plan (Plan) that is effective until December 31, 2016; and

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

Whereas, the Board adopted Resolution #16-18 *Local Water Plan Extension and Amendment Policy* on March 23, 2016;

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

FINDINGS OF FACT

1. On July 19, 2016, the Board received a petition from Faribault County requesting an extension to their Comprehensive Local Water Management Plan from the current date of December 31, 2016 until a new date of December 31, 2017. The following are the reasons for the request.
 - A. Allow for adequate alignment of planning efforts in the Blue Earth Watershed.
 - B. Allow for sufficient time for local staff to meet with the local task force to discuss and review priority concerns and work toward developing the plan.
 - C. Commit additional staff time which has been limited due to workload.
2. **Southern Regional Committee.** On July 27, 2016, the Southern Regional Committee (Committee) of the Board reviewed the Extension request. Those in attendance from the Board's Committee were Katheryn Kelly (Chair), Chris Elvrum, Douglas Erickson, Tom Loveall, Rob Sip, and Steve Sunderland. Board staff in attendance were Assistant Director for Regional Operations Doug Thomas, Southern Region Manager Ed Lenz. The representative from the County was Michele Stindtman, Faribault County/SWCD. 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.

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 Faribault 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 Faribault County Comprehensive Local Water Management Plan until December 31, 2017.

Dated at East Grand Forks, Minnesota, this 25th of August, 2016.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chair



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Le Sueur County Comprehensive Local Water Management Plan Amendment

Meeting Date: August 25, 2016

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: South Region

Contact: Ed Lenz

Prepared by: Jennifer Mocol-Johnson

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 Le Sueur County Comprehensive Local Water Management Plan required five-year Amendment.

LINKS TO ADDITIONAL INFORMATION

The amended plan is available electronically at the following link:

http://www.co.le-sueur.mn.us/document_center/Environmental/Water%20Management%20Program/2015%20Water%20Plan%20Final%20Draft-After%20Comments%20052316.pdf

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

The current Le Sueur County Comprehensive Local Water Management Plan (Plan) was approved December 15, 2010, with an effective date until December 31, 2015. An extension request was received on January 6, 2015, and approved on March 25, 2015, giving a deadline of June 30, 2016. The approved amendment allowed for the revising of the Implementation Section and Executive Summary of the Plan, and allowed for additional time to coordinate with WRAPS and transition of One Watershed, One Plan.

A public hearing occurred on March 22, 2016; however, at the time was not properly noticed. All required local units of government were notified of the public hearing, and sixty-day agency review did occur. A second public hearing occurred on August 2, 2016, with proper noticing for the public hearing occurring the weeks of July 18 and July 25, 2016. The Southern Region Committee met on July 27, 2016 and recommended the approval of the Plan amendment contingent upon no major modifications occurring as a result of the August 2, 2016 public hearing. No comments were received during the public hearing held on August 2, 2016 and no modifications occurred.

Based on staff observations Le Sueur County has satisfied the guidelines established by BWSR, as well as the requirements of 103B.315, Subdivision 6.

Once approved, this plan will be valid through December 31, 2021.

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

In the Matter of the review of the Comprehensive Local Water Management Plan Amendment for Le Sueur County, pursuant to Minnesota Statutes Section 103B.315, Subdivision 6.

**ORDER
APPROVING
COMPREHENSIVE
LOCAL WATER
MANAGEMENT PLAN
AMENDMENT**

Whereas, on December 15, 2010, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the Le Sueur County 2010-2015 Comprehensive Local Water Management Plan (Plan); and

Whereas, the Board of Commissioners of Le Sueur County (County) submitted a Comprehensive Local Water Management Plan Amendment (Amendment) to the Board on March 22, 2016 pursuant to Minnesota Statutes Section 103B.314, Subdivision 6; and

Whereas, the Board has completed its review of the Amendment;

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

FINDINGS OF FACT

1. On January 6, 2015, the Board received a petition from Le Sueur County stating its intent to amend its current Plan, pursuant to M.S. Section 103B.314, Subd. 6.
2. On March 23, 2015, Le Sueur County provided proper notice to local units of government and state agencies of the county's intent to amend its current Plan and invited all recipients to participate in the amendment process.
3. Le Sueur County received written comments from the Board on May 18, 2016.
4. The following summarizes state review agencies' written comments provided to Le Sueur County.
 - A. Minnesota Department of Agriculture (MDA): Provided a link to the MDA website. Also requested additional efforts related to drainage water management (DWM) and focusing on encouraging landowners and farmers to implement DWM practices and management plans. Regarding water storage, MDA recommended considering to develop water storage plans for both public drainage systems and private on-farm water storage. Regarding wind and water erosion, MDA recommended focusing and renewing efforts to reduce wind and water erosion and continuing to implement conservation practices. MDA also recommended a process being developed to prioritize lake management and protection efforts.

- B. Minnesota Department of Health: Provided clarifying language regarding aquifers that exist within the County, as well as requested to be added as a partner on Action Item 48, and suggested clarifying Action Item 58. No major comments were received.
 - C. Minnesota Department of Natural Resources: No comments were received.
 - D. Minnesota Pollution Control Agency: No comments were received.
 - E. Minnesota Environmental Quality Board: No comments were received.
5. Le Sueur County received written and verbal comments from a series of local partners during the Local Water Plan Task force meetings held on August 17th, 2015 and February 18th, 2016. Those comments were incorporated into the implementation section and shared with task force members on February 16, 2016 and March 12, 2016 and utilized for the final copy, which underwent the public hearing.
 6. No other local government unit provided written comments to Le Sueur County.
 7. **Southern Region Committee.** On July 27, 2016 the Southern Region Committee (Committee) of the Board reviewed the Amendment. Those in attendance from the Board's Committee were Chair Kathryn Kelly, Chris Elvrum, Douglas Erickson, Rob Sip, Steve Sunderland, and Tom Loveall. Board staff in attendance were Assistant Director for Regional Operations Doug Thomas, Southern Region Manager Ed Lenz, Board Conservationist Jason Beckler, and Board Conservationist Jennifer Mocol-Johnson. The representative from the County was Joshua Mankowski. Board regional staff provided its recommendation of approval to the Committee contingent upon a properly noticed public hearing. After discussion, the Committee's decision was to present a recommendation of approval of the Amendment to the full Board contingent upon the completion of the properly noticed public hearing on August 2, 2016 with no major changes made as a result.
 8. This Plan will be in effect until December 31, 2021.

CONCLUSIONS

1. All relevant substantive and procedural requirements of law have been fulfilled.
2. The Board has proper jurisdiction in the matter of approving a Comprehensive Local Water Management Plan Amendment pursuant to Minnesota Statutes, 103B.315, Subd. 6.
3. The Amendment attached to this Order is in conformance with the requirements of Minnesota Statutes, Section 103B.301.

ORDER

The Board hereby approves the attached Amendment of the Le Sueur County Comprehensive Local Water Management Plan 2016-2021. The Plan will be in effect until December 31, 2021.

Dated at East Grand Forks, Minnesota, this twenty-fifth of August, 2016.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Brian Napstad, Chair

DRAFT

COMMITTEE RECOMMENDATIONS

Buffers, Soils & Drainage Committee

1. Adoption of the Buffer Program Policies – Tom Gile – ***DECISION ITEM***



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Adopting Buffer Program Policies

Meeting Date: August 25, 2016

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: _____

Contact: Dave Weirens

Prepared by: Dave Weirens

Reviewed by: Buffers, Soils and Drainage Committee(s)

Presented by: Tom Gile

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

The Board is requested to adopt the recommendation of the Buffers, Soils and Drainage Committee to adopt the seven Buffer Program policies.

LINKS TO ADDITIONAL INFORMATION

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

Staff and the Buffers, Soils and Drainage Committee have made significant progress on implementing the Buffer Program, consistent with the schedule discussed by the Board in March. Seven policies necessary to provide direction for implementing this program have been developed and reviewed by the Committee, these are:

- (1) Buffer Compliance Determination;
- (2) Buffer Law Reporting and Progress Tracking;
- (3) MS4 Exemption;
- (4) Alternative Practices Implementation;
- (5) Alternative Practices Approved by the Board;
- (6) Local Water resources Riparian Protection;
- and (7) Non-Implementation.

Following Board review on June 22, 2016, staff conducted a public comment period from June 27 through July 27. The draft policies have been revised in consideration of the input received which were reviewed by the Buffers, Soils and Drainage Committee on August 11.

Board Resolution #_____

Buffer Program Policies

WHEREAS, Minnesota Statutes 103B.101 authorizes the Board of Water and Soil Resources (BWSR) to coordinate water and soil resources planning and implementation activities of counties, soil and water conservation districts, watershed districts, watershed management organizations and other local units of government and to hold public hearings and adopt rules and orders necessary to execute its duties; and

WHEREAS, Minnesota Statutes Section 103F.48 establishes a riparian protection and water quality practices program, commonly referred to as the Buffer Law; and

WHEREAS, Minnesota Statutes, Section 103F.48, Subd. 3(a) provides that “landowners owning property adjacent to a water body adjacent to water body identified and mapped on a buffer protection map” must maintain a buffer or alternative water quality practice to protect the state's water resources; and

WHEREAS, Minnesota Statutes, Section 103F.48, subdivision 6(a) states “soil and water conservation districts must assist landowners with implementation of the water resource riparian protection requirements established in this section. For the purposes of this subdivision, assistance includes planning, technical assistance, implementation of approved alternative practices, and tracking progress toward compliance with the requirements”; and

WHEREAS, Minnesota Statutes, Section 103F.48, subdivision 5(4)(i), municipal separate storm sewer system (MS4), states landowners are exempt from the water protection requirements of this section if they are regulated by a national pollutant discharge elimination system/state disposal system (NPDES/SDS) permit under Minnesota Rules, chapter 7090, and provides water resources riparian protection; and

WHEREAS, Minnesota Statutes, Section 103F.48, subdivision 3(b) states landowners owning property used for cultivation adjacent to a water body identified on the state’s buffer protection maps may meet the requirements of the riparian buffer law by “adopting an alternative riparian water quality practice, or combination of structural, vegetative, and management practices, based on the Natural Resources Conservation Service Field Office Technical Guide or other practices approved by the board that provide water quality protection comparable to the buffer protection for the water body the property abuts”; and

WHEREAS, Minnesota Statutes, Section 103F.48, subdivision 4 provides that soil and water conservation districts must provide a summary of watercourses to local water management authorities by July, 1, 2017; and

WHEREAS, on June 22, 2016 the Board authorized staff to request public review and comment on the following draft policies to ensure transparency and openness in the implementation of the Buffer Law:

1. Buffer Compliance Determination Policy (*Parcel and Bank Approach*)
2. Buffer Law Reporting and Progress Tracking Policy

3. MS4 Exemption Policy
4. Alternative Practices Implementation Policy
5. Alternative Practices Approved by the Board Policy
6. Local Water Resources Riparian Protection Policy (*Other Watercourses*)
7. Non Implementation Policy; and

WHEREAS, the Buffers, Soils and Drainage Committee reviewed the draft Buffer Program policies on May 19, June 6 and August 11 and recommends adoption by the Board.

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources adopts the following Buffer Program policies:

1. Buffer Compliance Determination Policy (*Parcel and Bank Approach*)
2. Buffer Law Reporting and Progress Tracking Policy
3. MS4 Exemption Policy
4. Alternative Practices Implementation Policy
5. Alternative Practices Approved by the Board Policy
6. Local Water Resources Riparian Protection Policy (*Other Watercourses*)
7. Non Implementation Policy.

BE IT FURTHER RESOLVED THAT, if any of these policies are declared to be unenforceable or invalid, the remainder will continue to be valid and enforceable.

By: _____ Date: _____

Brian Napstad, Chair
Minnesota Board of Water and Soil Resources

Attachments:

1. Buffer Compliance Determination Policy (*Parcel and Bank Approach*)
2. Buffer Law Reporting and Progress Tracking Policy
3. MS4 Exemption Policy
4. Alternative Practices Implementation Policy
5. Alternative Practices Approved by the Board Policy
6. Local Water Resources Riparian Protection Policy (*Other Watercourses*)
7. Non Implementation Policy



Policy 1: Compliance Determinations (Parcel and Bank Approach)

Buffer Law Implementation

DRAFT: August 9, 2016

Policy – June 22, 2016

It is the policy of the Board of Water and Soil Resources that SWCDs will perform compliance reviews at the following scales:

1. An overall status of “Compliant” or “Not Compliant” will be determined and tracked on a parcel basis as identified by a unique number or description.
2. Each bank, or edge, of a water body on an individual parcel will be reviewed independently to determine if an adequate buffer or alternative practice(s) has been installed.

Policy – August 9, 2016

It is the policy of the Board of Water and Soil Resources that SWCDs will perform compliance reviews at the following scales:

1. An overall status of “Compliant” or “Not Compliant” will be determined and tracked on a parcel basis as identified by a unique locally defined property identification number or description.
2. Each bank, or edge, of a water body on an individual parcel will be reviewed independently to determine if a compliant buffer or alternative practice(s) has been installed.

Background

The Buffer Law establishes buffer widths or required alternative water quality practices based on the classification of the waters identified on the Buffer Protection Maps.

It is the landowner’s responsibility to establish and maintain a buffer or alternative practice. It is necessary to prescribe the scale at which a buffer or alternative practice would be reviewed to assess compliance with the law for SWCDs. This policy provides a consistent legal basis for the scale at which Soil and Water Conservation Districts (SWCDs) determine compliance. In addition, it provides clarification for the scale at which the entity “with jurisdiction” would pursue any necessary corrective actions.

Policy Need:

- 1) Landowners subject to monitoring or corrective actions need to know at what scale those determinations will occur.
- 2) It provides a consistent legal basis for the scale at which the Counties, SWCDs and Watershed Districts determine buffer compliance.
- 3) It provides a consistent legal basis for the SWCD to issue a validation of compliance if requested by a landowner.

Statutory Basis

- Section 103F.48 Subd. 3(a). Water Resource protection requirements
- Section 103F.48, Subd. 6. Local implementation and assistance
- Section 103F.48 Subd. 7. Corrective Actions
- Section 103F.48 Subd. 8. Funding subject to withholding
- Section 103B.101 Subd. 12(a). Administrative Penalty Orders



Policy 2: Reporting and Progress Tracking

Buffer Law Implementation

DRAFT: August 9, 2016

Policy

It is BWSR's policy that SWCDs are required to provide reporting to BWSR to ensure they are "tracking progress towards compliance." This policy provides a consistent process through which SWCDs can understand those expectations. Progress reporting must be accomplished as follows:

1. Buffer compliance reporting must be submitted, in a form prescribed by the board, by SWCDs by the following dates:
 - a. January 1, 2017
 - b. January 1, 2018
 - c. July 1, 2018
 - d. January 1, 2019
2. Beginning January 1, 2019 reporting must be submitted annually.
3. SWCDs who commit to using the BWSR Buffer Compliance Tracking Tool, and provide all of the needed information to support it, will meet the reporting requirements listed in Items #1 and #2.
4. Starting November 2, 2018, ongoing compliance tracking of all parcels subject to the Buffer Law, at least once every 3 years, will occur as provided in a local monitoring plan adopted by the SWCD and via requests for validations of compliance, spot checks, complaints to ensure riparian protections continue to be in place.
5. Each SWCD will adopt a plan for ongoing tracking of compliance, posted to the SWCD website, no later than November 2, 2018.

Background

The Buffer Law requires Soil and Water Conservation Districts (SWCDs) to assist landowners with implementation of the water resource riparian protection requirements. This policy describes the specific activities which SWCDs must perform under Minnesota Statutes 103F.48.

SWCDs

- A. Must provide assistance to landowners which includes:
 - a. *planning assistance*
 - b. *technical assistance*
 - c. *implementation of approved alternative practices, and;*
 - d. *tracking progress toward compliance with the requirements.*

This policy provides a consistent process through which SWCDs can understand implementation expectations. It provides a framework for landowner compliance reviews and reporting by local governments. Guidance and tracking tools will also be developed to support SWCDs.

Policy Need:

- 1) Landowners need assurance of consistent and equitable enforcement of the Buffer Law.
- 2) SWCDs must consistently collect information regarding compliance that can be used to measure implementation progress statewide.
- 3) The Board of Water and Soil Resources (BWSR) needs a clear basis for withholding funds from a water management authority or SWCD that fails to implement the law.

Statutory Basis.

- Section 103F.48, Subd. 6 Local implementation and assistance
- Section 103F.48, Subd. 8 Funding subject to withholding.
- 103B.101 Subd. 12(a) Administrative Penalty Orders.



Policy 3: MS4 Exemption

Buffer Law Implementation

DRAFT: August 9, 2016

Policy

It is the policy of the Board of Water and Soil Resources that:

1. NPDES/SDS Program municipal separate storm sewer system (MS4) permittees are not required to take any action regarding this exemption.
2. Actions that meet the “water resources riparian protection” provision of M.S. 103F.48, Subd. 5 (4) include, separately or in combination:
 - a. Perennially rooted vegetation as prescribed in M.S. 103F.48, Subd. 3(a), or
 - b. Alternative riparian water quality practices as prescribed in M.S. 103F.48, Subd. 3(b), or
 - c. Projects with comparable water quality protection provided by MS4 managed or sponsored infrastructure.
3. NPDES/SDS Program municipal separate storm sewer system (MS4) permittees that choose to take action to support this exemption must:
 - a) have implemented a MS4 permittee sponsored project(s) which provides water quality protection comparable to a buffer for the parcel seeking the exemption; and
 - b) provide evidence of (a) to the landowner and the respective SWCD.

Background

This policy provides direction to cities, townships, watershed districts, soil and water conservation districts (SWCD), counties and landowners regarding the implementation of Minnesota Statutes 103F.48, subdivision 5(4). This provision provides an exemption to landowners from the requirements of the Buffer Law if the following conditions are met:

- (1) The land is subject to a NPDES/SDS Program municipal separate storm sewer system (MS4) permit; and
- (2) Water resources riparian protection is provided; and
- (3) The site is not inconsistent with the requirements of the state shoreland rules.

A MS4 permit does not have water resources riparian protection as a required component of the permit and the MS4 permit does not provide water resources riparian protection for areas outside the infrastructure subject to and managed by the MS4 permittee. Therefore, a MS4 permittee is not expected to provide water quality protection comparable to the buffer protection as part of the permit.

The Minnesota Pollution Control Agency (MPCA) oversees the NPDES/SDS Programs and can provide information on entities regulated under this program including specific requirements for each permit.

Policy Need:

- 1) Landowners need to know if the MS4 Permittee has or is planning an infrastructure project with water quality protection comparable to the buffer protection for their parcel.
- 2) The MS4 needs to know that they may be able to help landowners with cultivated lands achieve eligibility for an exemption from the buffer law requirements by accomplishing a project with comparable water quality protection.
- 3) SWCDs need to know, for progress tracking and compliance validation, if an infrastructure project with water quality protection comparable to a buffer for a parcel is being provided by the MS4 permittee.

Statutory Basis.

- Section 103F.48 Subd. 5(4)(i). Exemptions
- Section 103F.48 Subd. 7. Corrective Actions
- Section 103B.101 Subd. 12(a). Administrative Penalty Orders
- Section 103F.48 Subd. 9. Appeals and Validations of Penalty Orders



Policy 4: Alternative Practices Implementation

Buffer Law Implementation

DRAFT: August 9, 2016

Policy

It is the policy of the Board of Water and Soil Resources that assessments of the water quality benefit provided by an alternative riparian water quality practice(s) for compliance with the water resources riparian protections of 103F.48 must be applied to each bank within a parcel and must:

Achieve water quality benefit via: (a) documentation of the assessment method used; (b) a map or diagram of the practices; and (c) documentation that the water quality protection is comparable to a buffer for the water resource it abuts.

Water quality protection comparable to a buffer means that the alternative practice(s) proposed or implemented must:

1. Treat all water running off of a parcel which would otherwise be treated by a 103F.48 prescribed buffer prior to entering a waterbody identified on the Buffer Protection Map.
2. Demonstrate treatment or protections from erosion and runoff pollution, including suspended solids, sediment and sediment associated constituents at least equivalent to that which the buffer would provide; and
3. Consider the stability of soils, shores and banks.

Background

The Buffer Law allows use of alternative practices approved by the board on agricultural lands which provide comparable water quality benefit to that of a buffer.

A buffer, as described in the NRCS Field Office Technical Guide, provides treatment along the entire frontage of a water body where overland flows move towards the water resource. Buffers may also provide a surface water protection setback for application of pesticides and crop nutrients based on specific product label best management practices. In addition, a buffer's established root structure can provide shore and bank soil stability.

Policy Need

- 1) Provide a consistent basis for determining "comparable water quality benefit" including the scale at which these benefits will be assessed.
- 2) To establish a process for consideration of a proposed/implemented alternative practice(s) to be validated by the SWCD per MS§103F.48 Subd. 3 (d).
- 3) SWCDs and local governments need to validate the sufficiency of the alternative practices should corrective actions be needed.

Statutory Basis

Minnesota Statutes §103F.48, the Buffer Law, includes the following purposes:

- (1) protect state water resources from erosion and runoff pollution;
- (2) stabilize soils, shores, and banks; and
- (3) protect or provide riparian corridors.

The law allows use of alternative practices approved by the board on agricultural lands which provide comparable water quality benefit to that of a buffer as follows:

(b) A landowner owning property adjacent to a water body identified in a buffer protection map and whose property is used for cultivation farming may meet the requirements under paragraph (a) by adopting an alternative riparian water quality practice, or combination of structural, vegetative, and management practices, based on the Natural Resources Conservation Service Field Office Technical Guide or other practices approved by the board, that provide water quality protection comparable to the buffer protection for the water body that the property abuts. Included in these practices are retention ponds and alternative measures that prevent overland flow to the water resource.

For further reference:

- Section 103F.48 Subd. 3(b). Water Resource protection requirements
- Section 103F.48, Subd. 6. Local implementation and assistance
- Section 103F.48, Subd. 7. Corrective Actions
- Section 103F.48, Subd. 8. Funding subject to withholding
- Section 103B.101, Subd. 12(a). Administrative Penalty Orders



Policy 5: Other Alternative Practices Approved by the Board

Buffer Law Implementation

DRAFT: August 9, 2016

Policy

It is BWSR's policy that alternative practices which do not exist within the NRCS Field Office Technical Guide will be considered for use as a practice statewide as follows:

1. Via a proposal form, in a format prescribed by the Board, for the purposes of evaluating:
 - A) Proposed practices to provide comparable water quality protection; and
 - B) Methods that may serve as evidence that comparable water quality protections will be achieved.
2. Within 90 days of receiving a completed proposal form, the BWSR Executive Director will convene a technical advisory team to review the proposal for the purposes of developing a recommendation to the BWSR Buffers, Soils and Drainage Committee.
3. The ad-hoc technical team may include staff representation from the following agencies:
 - a. Board of Water and Soil Resources
 - b. Minnesota Department of Natural Resources
 - c. Minnesota Pollution Control Agency
 - d. Minnesota Department of Health
 - e. Minnesota Department of Agriculture
 - f. University of Minnesota
 - g. USDA – Natural Resources Conservation Service

The Executive Director may invite other experts to participate or provide input.

4. The BWSR Board will consider a recommendation from the Buffers, Soils and Drainage Committee for inclusion of the practice(s) or method(s) as a Board-approved alternative water quality practice within 90 days of a Committee recommendation.
5. This policy becomes effective January 1, 2017.

Background

The Buffer Law allows use of alternative practices approved by the board on property which is used for cultivation farming and provide comparable water quality benefit to that of a buffer.

Policy Need:

- 1) A process must be established for Board of Water and Soil Resources (BWSR) Board consideration of alternative water quality practice(s) not found in the NRCS Field Office Technical Guide so they may be used as an alternative to the standard buffer widths.

Statutory Basis

Minnesota Statutes §103F.48, the Buffer Law, includes the following purposes:

- (1) protect state water resources from erosion and runoff pollution;
- (2) stabilize soils, shores, and banks; and
- (3) protect or provide riparian corridors.

This law allows use of alternative practices approved by the board on agricultural lands which provide comparable water quality benefit to that of a buffer as follows:

(b) A landowner owning property adjacent to a water body identified in a buffer protection map and whose property is used for cultivation farming may meet the requirements under paragraph (a) by adopting an alternative riparian water quality practice, or combination of structural, vegetative, and management practices, based on the Natural Resources Conservation Service Field Office Technical Guide or other practices approved by the board, that provide water quality protection comparable to the buffer protection for the water body that the property abuts. Included in these practices are retention ponds and alternative measures that prevent overland flow to the water resource.

For further reference:

- Section 103F.48 Subd. 3(b). Water Resource protection requirements
- Section 103F.48, Subd. 6. Local implementation and assistance
- Section 103F.48 Subd. 8. Funding subject to withholding
- Section 103B.101 Subd. 12(a). Administrative Penalty Orders



Policy 6: Local Water Resources Riparian Protection ("Other Watercourses")

Buffer Law Implementation

DRAFT: August 9, 2016

Policy

It is the policy of the Board of Water and Soil Resources that each SWCD must take the following steps:

1. Consult with the local water management authorities within its jurisdiction.
2. Consider watershed data, water quality and land use information.
3. Assess the water quality benefits that buffers or alternative practices could provide to local water resources that were not included on the Buffer Protection Map.
4. Prepare a rationale for inclusion or exclusion of waters that were not included on the Buffer Protection Map prior to adoption of the summary of watercourses.
5. Adopt a resolution establishing the summary of watercourses in map or list form and submit it to all local water management authorities within their jurisdiction and to BWSR by July 1, 2017.

Background

The Buffer Law requires buffers or alternative practices to provide riparian protection for public waters and public drainage systems as identified on the Buffer Protection Maps. The Law recognizes that 'other watercourses' which are not found on the DNR Buffer Protection Map may benefit from installation of buffers or alternative practices to protect or improve water quality. It also establishes a process for Soil and Water Conservation Districts (SWCDs) to initiate a local water resources riparian protection process that is then incorporated in local water management plans by local water management authorities.

Policy Need:

- 1) To provide assurance that the SWCD summary of watercourses (aka "other watercourses") that a local water management authority must incorporate into their plan is developed in a systematic and rational manner, based on watershed data, water quality, and land use information.
- 2) The local water management authority needs these assurances to sustain the credibility of their state-approved local water management plan when they seek state funds or pursue other endeavors that have a prerequisite of a state-approved local water management plan.

Statutory Basis

Minnesota Statutes §103F.48, Subd. 4. establishes a two-step sequential process as follows:

1. *In consultation with local water management authorities, on or before July 1, 2017, the soil and water conservation district shall develop, adopt, and submit to each local water management authority within its boundary a summary of watercourses for inclusion in the local water management authority's plan.*
2. *A local water management authority that receives a summary of watercourses identified under this subdivision must incorporate an addendum to its comprehensive local water management plan or comprehensive watershed management plan to include the soil and water conservation district*

recommendations by July 1, 2018. The incorporation of the summary of watercourses provided by the soil and water conservation district does not require a plan amendment as long as a copy of the included information is distributed to all agencies, organizations, and individuals required to receive a copy of the plan changes. A local water management authority that receives a summary of watercourses identified under this subdivision must address implementation of the soil and water conservation district recommendations when revising its comprehensive local water management plan as part of a regularly scheduled update to its comprehensive local water management plan or development of a comprehensive watershed management plan under section 103B.801.

For further reference:

- Section 103F.48, Subd. 6. Local implementation and assistance
- Section 103F.48, Subd. 8. Funding subject to withholding
- Chapters 103B, 103D. Water plan review and approval elements



Policy 7: Failure to Implement

(Amended to replace Board Resolution 15-95)

Buffer Law Implementation

DRAFT: August 9, 2016

Policy

It is BWSR's policy that failure to implement/non-implementation of the Buffer Law is defined as when a county, watershed district, metropolitan watershed management organization or SWCD has been determined not to have been implementing one or more of the statutory duties listed below.

Activities not Subject to Failure to Implement

All other activities conducted by a SWCD, county, watershed district, or metropolitan water management organization, separately or jointly, that is associated with coordinating activities, collecting and sharing information, education and outreach to landowners, providing financial assistance, and carrying out other statutory authorities are not to be considered required implementation under Minn. Stat. 103F.48 and as such will not be considered as part of a failure to implement/non-implementation determination by BWSR.

Background

Mn Statutes 103F.48, as amended by Laws of Minnesota 2016, Chapter 85, establishes a requirement for landowners to maintain a buffer on or before the dates and widths as follows:

- November 1, 2017 – 50-foot average width, 30-foot minimum width, buffers must be in place on lands adjacent to public waters as identified and mapped on a buffer protection map (Subd. 2(e)(1))
- November 1, 2018 – 16.5-foot minimum width buffers must be in place on lands adjacent to public ditches as identified and mapped on a buffer protection map (Subd. 2(e)(2))

This law also includes prescribed assistance and monitoring roles for SWCDs and elected enforcement authorities for Counties and Watershed Districts. The law also provides for a Board of Water and Soil Resources (BWSR) compliance role where a county or watershed district do not accept jurisdiction and for BWSR to take steps if a local government fails to implement their prescribed or elected duties.

Policy Need:

- 1) Local governments required to carry out duties or elect jurisdiction under the Buffer Law need to know what the standard is for sufficient implementation.
- 2) To provide a consistent basis for potential BWSR actions to withhold funding for insufficient implementation of statutory responsibilities.

Statutory Basis

The relevant provisions are:

Minnesota Statutes 103F.48, Subd. 8. **Funding subject to withholding.**

The board may withhold funding from a local water management authority with jurisdiction or a soil and water conservation district that fails to implement this section, or from a local water management authority that fails to implement subdivision 4. Funding may be restored upon the board's approval of a corrective action plan.

Minnesota Statutes 103F.48, Subd. 7. **Corrective actions.**

(b) A county or watershed district exercising jurisdiction under this subdivision and the enforcement authority granted in section 103B.101, subdivision 12a, shall affirm their jurisdiction and identify the ordinance, rule, or other official controls to carry out the compliance provisions of this section 5 and section 103B.101, subdivision 12a, by notice to the board prior to March 31, 2017. A county or watershed district must provide notice to the board at least 60 days prior to the effective date of a subsequent decision on their jurisdiction.

(c) (2nd sentence) If a county or watershed district with jurisdiction over the noncompliant site has not adopted a plan, rule, ordinance, or official control under this paragraph, the board must enforce this section under the authority granted in section 103B.101, subdivision 12a.

Minnesota Statutes 103F.48, Subd. 8 applies to SWCDs and local water management authorities. Local water management authority is defined as (Minn. Stat. 103F.48, Subd 2(g)): a watershed district, metropolitan water management organization, or county operating separately or jointly in its role as a local water management authority under chapter 103B or 103D. Therefore the local governments that Subd. 8 applies to are: SWCDs, counties, watershed districts, and metropolitan watershed management organizations.

Minnesota Statutes 103F.48 establish the following authorities and responsibilities for local governments to implement the Buffer Law:

SWCDs

- A. May issue a validation of compliance when requested by a landowner. (Subd. 3(d))
- B. Must develop, adopt and submit to each local water management authority a summary of watercourses (aka "other watercourses") by July 1, 2017 for inclusion in the local water management authorities' plan. (Subd. 4)
- C. Must assist landowners with implementation of the water resource riparian protection requirements including: planning, technical assistance, implementation of approved alternative practices, and tracking progress towards compliance with the requirements provided in Minnesota Statutes 103F.48, Subd. 3. (Subd. 6)
- D. Must notify the county or watershed district with jurisdiction when it determines a landowner is not in compliance. (Subd. 7)
- E. Must grant a conditional waiver to a landowner: (a) who has applied for and maintained eligibility for financial assistance within one year of the compliance dates in Minnesota Statutes 103F.48, subd. 3(e); or (b) are subject to a drainage proceeding. (Laws of Minnesota 2015, 1st Special Session, Chapter 4, Article 4, Section 146).

Counties and Watershed Districts

- A. Must incorporate the SWCD summary of watercourses (aka "other watercourses") recommendations into its comprehensive local water management plan by July 1, 2018. (Subd. 4)
- B. If electing jurisdiction to enforce the buffer requirement as identified on the Buffer Protection Map, must provide the landowner with a list of corrective actions needed to come into compliance and a practical timeline to meet the riparian protection requirements when notified by the SWCD that a landowner is not in compliance. A copy of the corrective action must be provided to BWSR. (Subd. 7(a))

- C. Elect to accept jurisdiction* and identify the ordinance, rule, or other official controls to carry out the compliance provisions of section 103F.48 and section 103B.101, subdivision 12a, by notice to the board prior to March 31, 2017 (Subd. 7(b)). May adopt an administrative penalty order plan. (Subd. 7(b))

* If a county or watershed district with jurisdiction over the noncompliant site has not adopted a plan, rule, ordinance, or official control under this paragraph, the board must enforce this section under the authority granted in section 103B.101, subdivision 12a.

Metropolitan Watershed Management Organizations

- A. Must incorporate the SWCD summary of watercourses (aka “other waters”) recommendations into its comprehensive watershed management plan by July 1, 2018. (Subd. 4)

COMMITTEE RECOMMENDATIONS

Grants Program & Policy Committee

1. One Watershed, One Plan Planning Grants – Doug Thomas - ***DECISION ITEM***

2. Grass Lake Grant - Doug Thomas - ***DECISION ITEM***

3. Red Lake River One Watershed, One Plan Presentation – Matt Fischer and Red Lake River Planning Work Group - ***INFORMATION ITEM***



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: One Watershed, One Plan Planning Grants

Meeting Date: August 25, 2016

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Regional Operations

Contact: Doug Thomas

Prepared by: Melissa Lewis

Reviewed by: Grants Program and Policy Committee(s)

Presented by: Doug Thomas

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- None
- Amended Policy Requested
- New Policy Requested
- Other:
- General Fund Budget
- Capital Budget
- Outdoor Heritage Fund Budget
- Clean Water Fund Budget

ACTION REQUESTED

Approval of the One Watershed, One Plan Planning Grants

LINKS TO ADDITIONAL INFORMATION

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

The One Watershed, One Plan Planning Grants Request for Proposal (RFP) ended on June 17, 2016. Nine applications were received. The applications are fairly well distributed between basins, consistent with the Transition Plan for One Watershed, One Plan. Staff screened the applications against the RFP selection criteria and feedback on the application areas was received from the Interagency WRAPS Implementation Team. Senior Management Team provided a final review at their August 9th meeting and recommended funding seven of the applications. Grants Program and Policy Committee reviewed this recommendation on August 11, 2016 and recommends the attached resolution approving seven applications to the board.



Board Resolution # _____

**ONE WATERSHED, ONE PLAN
FY16 PLANNING GRANTS**

WHEREAS, the Clean Water Fund (CWF) is established in M.S. 114D.50; and,

WHEREAS, Clean Water Funds have been appropriated to BWSR in Laws of Minnesota 2015, 1st Special Session, Chapter 2, Article 2, Sec. 7(j) for assistance, oversight, and grants to local governments to transition local water management plans to a watershed approach as provided for in Minnesota Statutes, chapters 103B, 103C, 103D, and 114D; and

WHEREAS, the Board has authority under Minn. Stat. 103B.3369 to make grants to cities, townships, counties, soil and water conservation districts, watershed districts, joint powers organizations, and other special purpose districts or authorities with jurisdiction in water and related land resources management when a proposed project, practice or activity implements a county water plan, watershed management plan, or county groundwater plan; and

WHEREAS, the Comprehensive Watershed Management Planning Program authority, also known as One Watershed, One Plan, is established in Minnesota Statutes §103B.801; and

WHEREAS, the Board on March 23, 2016 authorized staff (Board resolution 16-19) to distribute and promote a Request for Proposals (RFP) for the One Watershed, One Plan Program; and

WHEREAS, a formal RFP was noticed on March 24, 2016 with a submittal deadline of June 17, 2016; and

WHEREAS, the Board on June 22, 2016 adopted a One Watershed, One Plan Transition Plan (Board resolution 16-53) for development, approval, adoption, and coordination of plans consistent with section 103A.212; and

WHEREAS, Staff screening, Interagency WRAPS Implementation Team recommendations, consistency with the Transition Plan, and the selection criteria within the RFP were all considered by the BWSR Senior Management Team (SMT) on August 9, 2016; and SMT recommended funding the following seven applications: Missouri, Pomme de Terre, Cedar, Lake of the Woods, Cannon, Thief River, and Leech Lake; and

WHEREAS, the Grants Program and Policy Committee on August 11, 2016 reviewed the SMT recommendation for One Watershed, One Plan Planning Grants and recommended board approval of the planning grants for Missouri, Pomme de Terre, Cedar, Lake of the Woods, Cannon, Thief River, and Leech Lake watersheds.

NOW THEREFORE BE IT RESOLVED, the Board hereby:

- 1) Approves and authorizes seven One Water, One Plan planning grants for: Missouri, Pomme de Terre, Cedar, Lake of the Woods, Cannon, Thief River, and Leech Lake
- 2) Authorize staff to complete work plans and enter into grant agreements with these watershed areas for development of One Watershed, One Plans.
- 3) Approves the allocation of up to \$1,700,000.

Brian Napstad, Chair
Board of Water and Soil Resources

Date: _____



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Grass Lake Grant

Meeting Date: August 25, 2016

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Regional Operations

Contact: Doug Thomas

Prepared by: Melissa Lewis

Reviewed by: Grants Program and Policy Committee(s)

Presented by: Doug Thomas

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- None
- Amended Policy Requested
- New Policy Requested
- Other:
- General Fund Budget
- Capital Budget
- Outdoor Heritage Fund Budget
- Clean Water Fund Budget

ACTION REQUESTED

Approval of grant to Kandiyohi County for the Grass Lake Project.

LINKS TO ADDITIONAL INFORMATION

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

In 2011, BWSR received a direct \$1,614,000 capital budget appropriation to acquire conservation easements, reroute County Ditch 23A, construct water control structures, and plant vegetation in order to restore the 1,200 acre Grass Lake prairie wetland basin adjacent to the city of Willmar in Kandiyohi County. To date, \$214,000 has been spent internally on this complex project and the remaining funds must be encumbered by December 31, 2016. Staff requests authorization to grant the remaining \$1,400,000 to Kandiyohi County to complete the construction of the main outlet to the project and additional restoration activities. No match is required for these funds and the project should be completed in 2017.



Board Resolution # _____

IMPLEMENTATION OF THE GRASS LAKE PRAIRIE WETLAND RESTORATION PROJECT

WHEREAS, the Board of Water and Soil Resources (Board) is involved with the restoration of the 1,200-acre Grass Lake Prairie Wetland located in Kandiyohi County;

WHEREAS, the Board received a \$1,614,000 capital budget appropriation in the 2011 Laws of Minnesota, First Special Session, Chapter 12, Section 7, Subdivision 4 Grass Lake to acquire conservation easements, reroute County Ditch 23A, construct water control structures, and plant vegetation in order to restore the Grass Lake prairie wetland basin adjacent to the city of Willmar in Kandiyohi County;

WHEREAS, the Board has spent or encumbered an amount equal to \$214,000 from this appropriation for eligible project activities;

WHEREAS, the Board in partnership with the city of Willmar, Kandiyohi County, the Kandiyohi Soil and Water Conservation District, and other project partners as efforts continue to restore this critical water resource;

WHEREAS, Kandiyohi County has agreed to manage and oversee the remaining project implementation activities.

NOW, THEREFORE BE IT RESOLVED, the Board hereby authorizes staff to enter into a grant agreement with Kandiyohi County in an amount not to exceed \$1,400,000 from the 2011 Laws of Minnesota, First Special Session, Chapter 12, Section 7, Subdivision 4 for use on approved Grass Lake project activities, including but not limited to contracts for project construction and consulting services.

Brian Napstad, Chair
Board of Water and Soil Resources

Date: _____



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Red Lake River One Watershed, One Plan Presentation

Meeting Date: August 25, 2016

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Northern Region

Contact: Matt Fischer

Prepared by: Matt Fischer

Reviewed by: NA Committee(s)

Presented by: Matt Fischer/Red Lake River Planning Work Group

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)*

At the June 2014 BWSR Board meeting, the Red Lake River watershed was selected as one of the five pilot watersheds to complete a One Watershed, One Plan. The Counties of Pennington, Red Lake, and Polk; the Pennington, Red Lake County, and West Polk Soil and Water Conservation Districts; and the Red Lake Watershed District entered into a memorandum of agreement to coordinate efforts to complete a Comprehensive Watershed Management Plan. The group has been meeting regularly over the last two years and now has a draft plan completed that is anticipated to be submitted for the initial 60-day formal review in the near future. The Red Lake River Planning Work Group will present their draft plan and pilot experience.

OLD BUSINESS

1. 2016 Board Meeting Schedule Adjustment – John Jaschke – ***DECISION ITEM***



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: 2016 Board Meeting Schedule Adjustment

Meeting Date: August 25, 2016

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: _____

Contact: John Jaschke

Prepared by: Mary Jo Anderson

Reviewed by: John Jaschke Committee(s)

Presented by: John Jaschke

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 change the BWSR Board Meeting date from Wednesday, October 26, 2016 to Thursday, October 27, 2016.

LINKS TO ADDITIONAL INFORMATION

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

2016 Board Meeting Schedule – change the meeting date from October 26 to Thursday, October 27, 2016 due to staffing conflicts (BWSR Academy).

NEW BUSINESS

1. Boundary Change Petition Vadnais Lake Area Water Management Organization–
John Jaschke – **DECISION ITEM**
2. Clean Water Council & Interagency Coordinating Team Preliminary FY18-19 Budget
Recommendations - Doug Thomas – **INFORMATION ITEM**
3. Coffee Creek Project and Presentation of the Environmental Initiative Award to BWSR –
Chris Kleist, City of Duluth – **INFORMATION ITEM**



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE:

**Boundary Change Petition
Vadnais Lake Area Water Management Organization**

Meeting Date:

August 25, 2016

Agenda Category:

Committee Recommendation New Business Old Business

Item Type:

Decision Discussion Information

Section/Region:

Central Region

Contact:

Travis Germundson

Prepared by:

Travis Germundson

Reviewed by:

Administrative Advisory Committee Committee(s)

Presented by:

Brian Napstad/John Jaschke

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

Board approval is needed to change/correct the common boundary of the Vadnais Lake Area Water Management Organization and the Rice Creek Watershed District pursuant to Minn. Stat. §103B.215.

LINKS TO ADDITIONAL INFORMATION

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

A petition for a technical change/correction to the common boundary of the Vadnais Lake Area Water Management Organization (VLA WMO) and Rice Creek Watershed District (RCWD), pursuant to Minn. Stat. §103B.215 has been filed with the Board. The proposed boundary change encompasses approximately 65.39 acres of land in White Bear Lake, Ramsey County, Minnesota that would correct the assessment designation of 96 parcels that were inadvertently omitted from a previous boundary change proceeding in 2008-2009. The Petition proposes a transfer of those acres/parcels identified in the Ramsey County database as RCWD to the VLA WMO. Written statements of concurrence have been received from the City of White Bear Lake and Rice Creek Watershed District.

The Administrative Advisory Committee reviewed the petition and attached draft Order and concur with staffs' recommendation that the Board approve the boundary change petition.

A copy of the petition and map illustrating the proposed boundary change are attached. Also attached is a draft Board Order that would approve the boundary change.

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

In the Matter of the Boundary Change for the
Vadnais Lake Area Water Management Organization
pursuant to Minnesota Statutes § 103B.215

**ORDER
BOUNDARY
CHANGE**

Whereas, the Vadnais Lake Area Water Management Organization (VLAWMO) filed a Petition on May 11, 2016 with the Board of Water and Soil Resources (Board) to change the common boundary of the VLAWMO and the Rice Creek Watershed District (RCWD) pursuant to Minn. Stat. § 103B.215, and;

Whereas, the Board has completed its review of the Petition;

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

FINDINGS OF FACT

1. **Petition.** A Petition to change the common boundary of the VLAWMO and RCWD was filed by the VLAWMO Board of Directors with the Board on May 11, 2016.
2. **Property Description.** The territory included in the boundary change, the Petitioned Area, is located in the City of White Bear Lake in Sections 14 and 23, all within Ramsey County entirely within the metropolitan area and totals approximately 65.39 acres of land. The Petitioned Area would correct the assessment designation of 96 parcels that were inadvertently omitted from a previous boundary change proceeding in 2009. The Petitioned Areas includes the transfer of 65.39 acres of territory from the jurisdiction of RCWD to the VLAWMO. The Petitioned Area is depicted on a map attached to the petition and further identified in three property identification tables attached to the Petition.
3. **Reasons for Boundary Change.** The proposed boundary changes would achieve a more accurate alignment between the hydrologic and legal boundaries of the VLAWMO, and RCWD. The requested boundary changes are consistent with the purposes and requirements of Minn. Stat. §§ 103B.205 to 103B.255.
4. **Statements of Concurrence.** The required statements of concurrence pursuant to Minn. Stat. §103B.215, Subd. 2 item c from the City of White Bear Lake and RCWD where submitted with the Petition.

5. **Effect on Benefits and Damages.** The Petition states the proposed boundary change will not affect the benefits or damages for any improvements previously constructed by the VLAWMO or the RCWD.
6. **Notice of Filing.** A Legal Notice of Filing of the proposed boundary changes, pursuant to Minn. Stat. § 103B.215, Subd. 3, was published in the Ramsey County Review on June 29, and July 6, 2016, and in the White Bear Press on June 29 and July 6, 2016. Statute requires that within 20 days of the last date of publication of the Notice of Filing that at least one request for hearing be received by the Board before a hearing will be held. No requests for hearing and no comments were received during the specified period of time.

CONCLUSIONS

1. The Petition for boundary change of the VLAWMO is valid in accordance with Minn. Stat. § 103B.215.
2. All relevant substantive and procedural requirements of law and rule have been fulfilled.
3. The Board has proper jurisdiction in the matter of ordering a watershed district boundary change.
4. The territory included in the requested boundary change is within the hydrologic boundaries of the VLAWMO or the RCWD.
5. The governing bodies of the City of White Bear Lake and the RCWD concur with the requested boundary change.
6. The requested boundary change is consistent with the purpose and requirements of Minn. Stat. §§ 103B.205 to 103B.255.
7. The requested boundary changes can be accomplished in conformance with Minn. Stat. § 103B.225 regarding benefits and damages.
8. The proposed boundary changes should be approved per the Petition for RCWD, and the VLAWMO should be encouraged to change their organizational boundaries consistent with this Order.

ORDER

The Board hereby orders that the boundaries of the Rice Creek Watershed District are changed per the Petition as depicted on the map attached to this Order and made a part hereof, including the data sets the map was created from. The Board strongly recommends Vadnais Lake Area Water Management Organization take immediate action to change its organizational boundaries consistent with this Order.

Dated at East Grand Forks, Minnesota this 25th day of August, 2016.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Brian Napstad, Chair



800 County Road E East, Vadnais Heights, MN 55127
www.vlawmo.org

RECEIVED

MAY 11 2016

**Bd. of Water & Soil Resources
St. Paul**

To: The Board of Water & Soil Resources
520 Lafayette Road
St. Paul, MN 55155

May 10, 2016

Re: The Petition of the Vadnais Lake Area Water Management Organization for an Order Changing the Boundary between Rice Creek Watershed District and VLA WMO.

Please accept this petition on behalf of the Vadnais Lakes Area Water Management Organization (VLA WMO) regarding boundary changes between VLA WMO and Rice Creek Watershed District (RCWD). The new watershed lines are based on hydrologic information and should resolve a number of questioned areas along our boundary. The last boundary change in 2008 missed 96 parcels that should have been included in the transfer from RCWD to VLA WMO. This boundary change petition corrects that oversight. The parcel lists and map in the enclosed petition identify the areas currently considered part of Rice Creek Watershed District that should be added to the area of VLA WMO.

Concurrence has been acquired from the affected watershed and community. Statements of concurrence are enclosed.

The attached map shows the areas of largest change. Specific parcel information is included in the Petitions.

Thank you for your consideration.

Sincerely,

Stephanie McNamara, Administrator
Vadnais Lake Area Water Management Organization

Enclosed: Petition of VLA WMO for an Order Changing the Boundary between RCWD and VLA WMO

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

**PETITION OF
THE VADNAIS LAKE AREA WATER MANAGEMENT ORGANIZATION
FOR AN ORDER
UPDATING THE BOUNDARY BETWEEN
THE RICE CREEK WATERSHED DISTRICT AND
THE VADNAIS LAKE AREA WATER MANAGEMENT ORGANIZATION**

Summary and Request

The Vadnais Lake Area Water Management Organization (VLAWMO) is petitioning the Minnesota Board of Water and Soil Resources (BWSR) to update the boundary with the corrected parcel list between the Rice Creek Watershed District (RCWD) and VLAWMO in Sections 14 and 23 in White Bear Lake, Ramsey County. A petition for a boundary change between VLAWMO and RCWD was submitted and approved in 2009 to achieve a more accurate alignment between the hydrologic and legal boundaries of the two WMOs. This was accomplished by transferring 65.39 acres in the City of White Bear Lake that was listed in the Ramsey County database as Rice Creek Watershed District to the Vadnais Lake Area Water Management Organization. The BWSR Board's Order accomplished the boundary change, however Ramsey County has since determined that the parcel list contained some inaccuracies when compared to the maps contained in the original petition for the boundary change and would require a new BWSR Order to complete the watershed designation on the 96 parcels identified in the attached map.

Background

For several years the VLAWMO and its neighboring water management organization (WMO), the RCWD, have been aware of mostly minor adjustments to the parcel list that should be made. In its December 2007 Comprehensive Water Management Plan, VLAWMO committed to updating the watershed boundaries to as near as possible to the hydrologic boundary. Parcels split by the hydrologic boundary would be assigned to one watershed with agreement from both WMOs. The original boundary change petition was submitted and approved in 2009. Ramsey County indicated that there were missing parcels from the original petition's parcel list and they were unable to change the watershed designation unless a State approved petition identifying the parcels to be transferred was submitted. The writing of the 2017 Comprehensive Water Management Plan and the update of the Joint Powers Agreement (JPA) has prompted the need to rectify this issue.

At the February 24, 2016 meeting of the VLAWMO Board of Directors, staff were directed to proceed with the Petition process and to pursue concurrence from appropriate agencies and then submit the petition to the Board of Water and Soil Resources (BWSR) for approval.

This petition includes maps that represent the boundaries between the VLAWMO and the RCWD. These boundaries were depicted in the same way in the original petition. The section entitled "Property Identification" includes the parcels for which the watershed designation must be transferred from the RCWD to the VLAWMO and a map showing those parcels in more detail.

Watershed Boundary Change Process under M.S. 103B.215

Authorization

The VLAWMO was organized as a Joint Powers Agreement (JPA) WMO under M.S. 471.59 and M.S. 103B.205 to 103B.255. The RCWD is also a WMO as defined under MN Statutes 103B.205. The VLAWMO and RCWD are wholly within the "metropolitan area" as defined under Minnesota Statutes sections 103B.205 (8) and 473.121 (2) (2007).

The boundaries of a watershed district wholly within the metropolitan area may be changed pursuant to this section or chapter 103D.

Petition

The governing board of a WMO may petition the BWSR for an order changing the parcel list of a watershed district wholly within the metropolitan area, by adding new territory to the district or by transferring territory that is within the district to the jurisdiction of another watershed management organization.

The petition must include the following:

1. A description, with particularity the change in boundary requested, the territory affected, and the reasons for the change.
2. An explanation that the change is consistent with the purposes and requirements of Sections 103B.205 to 103B.255.
3. Identify property subject to section 103B.225.
4. A written "statement of concurrence" from the governing body of each statutory or home rule charter city and town and each watershed management organization have jurisdiction over the territory proposed to be added or transferred.

1. Boundary Change Description

M.S. 103B.215 requires that the petition describe with particularity.

Table 1: Boundary Change Description for the City of White Bear Lake

Criteria	Description																														
The change in boundary requested	Transfer of 65.39 acres in the City of White Bear Lake currently within the RCWD to the VLAWMO. * All areas identified on the attached maps and in the property identification tables below.																														
The territory affected	<table border="1"> <thead> <tr> <th>Land Use</th> <th>Acres</th> <th>% of Area</th> </tr> </thead> <tbody> <tr> <td>Church</td> <td>2.6</td> <td>3.98</td> </tr> <tr> <td>Commercial</td> <td>2.93</td> <td>4.48</td> </tr> <tr> <td>Multi-Family Residential</td> <td>0.2</td> <td>0.31</td> </tr> <tr> <td>Municipal</td> <td>25.03</td> <td>38.28</td> </tr> <tr> <td>Railroad</td> <td>2.8</td> <td>4.28</td> </tr> <tr> <td>School</td> <td>2.57</td> <td>3.93</td> </tr> <tr> <td>Single Family Residential</td> <td>28.4</td> <td>43.43</td> </tr> <tr> <td>State Property</td> <td>0.86</td> <td>1.32</td> </tr> <tr> <td>Total</td> <td>65.39</td> <td>100</td> </tr> </tbody> </table>	Land Use	Acres	% of Area	Church	2.6	3.98	Commercial	2.93	4.48	Multi-Family Residential	0.2	0.31	Municipal	25.03	38.28	Railroad	2.8	4.28	School	2.57	3.93	Single Family Residential	28.4	43.43	State Property	0.86	1.32	Total	65.39	100
	Land Use	Acres	% of Area																												
	Church	2.6	3.98																												
	Commercial	2.93	4.48																												
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	Railroad	2.8	4.28																												
	School	2.57	3.93																												
	Single Family Residential	28.4	43.43																												
State Property	0.86	1.32																													
Total	65.39	100																													
The reason for the change	Reconciles legal boundaries to better reflect the hydrologic boundaries in the areas in question. Request by VLAWMO.																														

2. Consistency with the purposes and requirements of M.S. 103B.205 to .255 (Metropolitan Surface Water Management Act)

Minnesota Statute 103B.205 Subd. 11 defines "Watershed" as "a drainage area having boundaries which are substantially coterminous with those of an aggregation of contiguous minor watershed units possessing similar drainage patterns and which cross the borders of two or more local governmental units."

The areas proposed to be added to the VLAWMO are clearly inside the hydrologic boundaries of the watershed.

Including these parcels within the appropriate hydrologic boundary will allow VLAWMO and the RCWD to manage their water resources in a uniform manner consistent with the purposes and requirements of the Metropolitan Surface Water Management Act.

Maps and Further Description

The following maps illustrate the boundary change request.

Figure 1: Vadnais Lake Area Water Management Organization and Rice Creek Watershed District Location Map

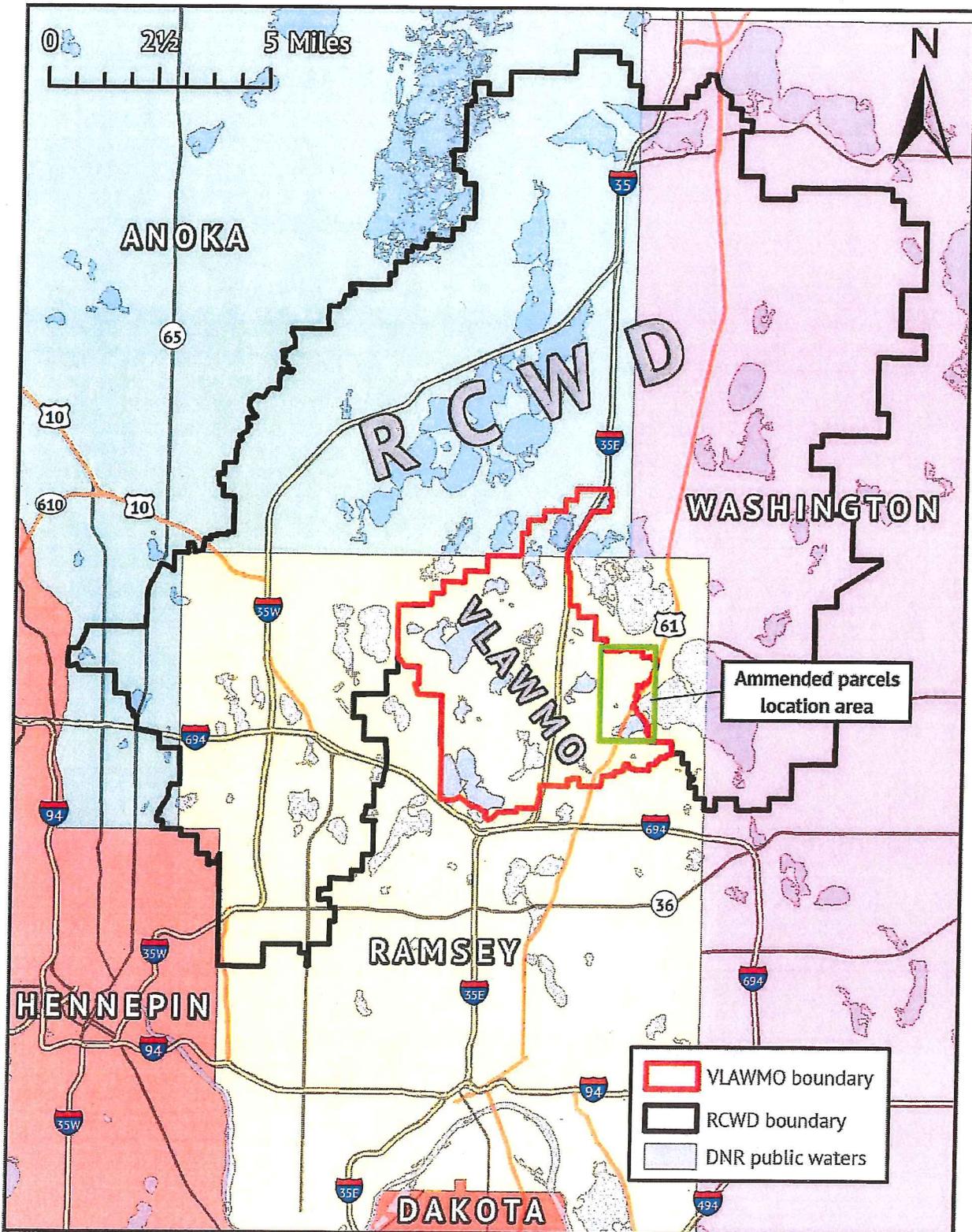
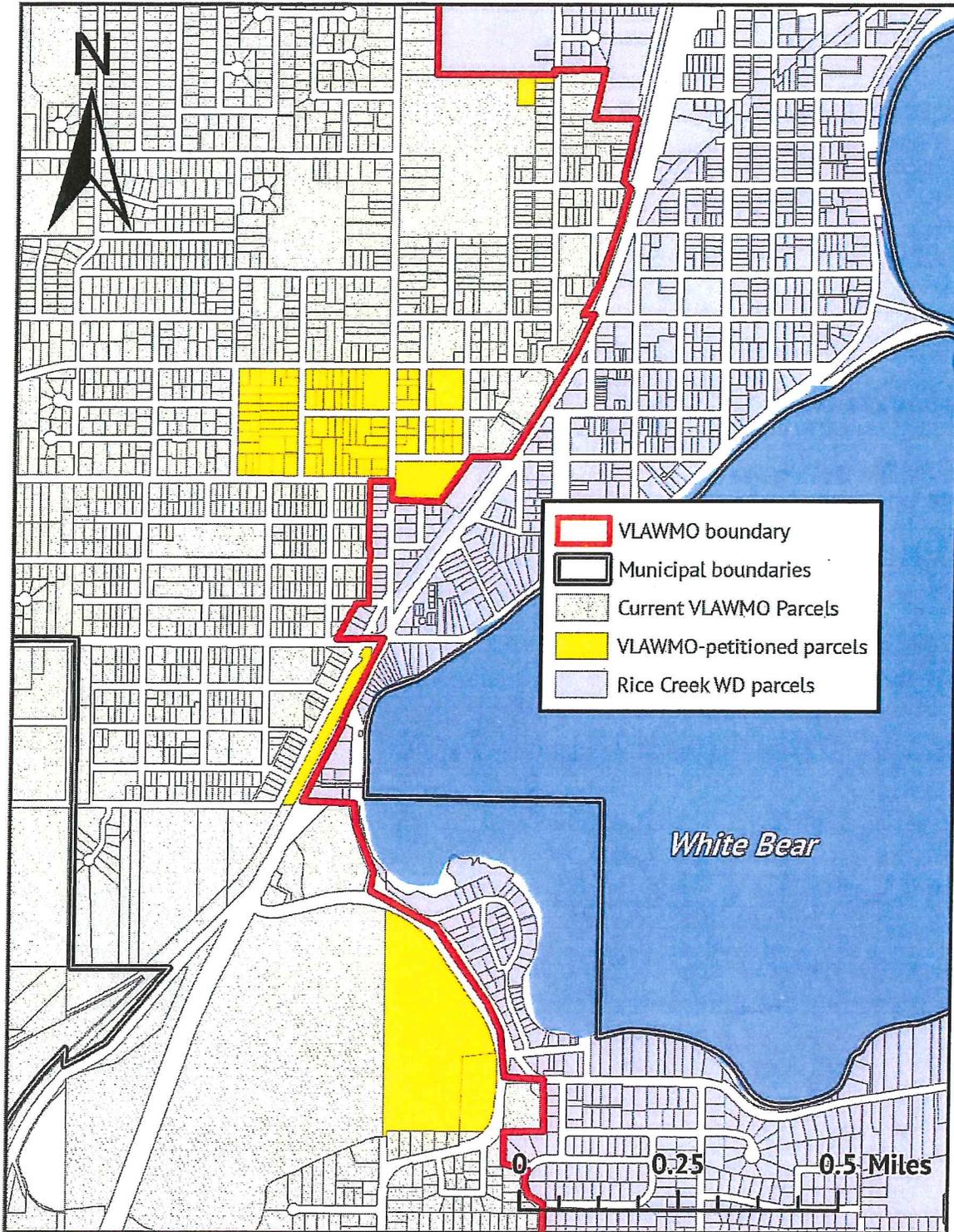
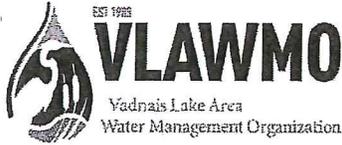


Figure 2: Detailed map showing parcels requested for watershed designation change



The addition or transfer of the property as described above in this Petition will not affect the benefits of damages for any improvement previously constructed by the VLAWMO or the RCWD, and such boundary change can be accomplished in accordance with Minnesota Statutes 103B.225.



VADNAIS LAKE AREA WATER MANAGEMENT ORGANIZATION
BOARD OF MANAGERS

RESOLUTION 02-2016

PETITION FOR AN ORDER
UPDATING THE BOUNDARY BETWEEN
THE RICE CREEK WATERSHED DISTRICT AND THE
VADNAIS LAKE AREA WATER MANAGEMENT ORGANIZATION

WHEREAS, a watershed is defined under Minnesota Statutes section 103B.205 (11) (2007) as a drainage area having boundaries which are substantially coterminous with those of an aggregation of contiguous minor watershed units possessing similar drainage patterns and which cross the borders of two or more local government units; and

WHEREAS, The VLAWMO is established and authorized under Minnesota Statutes 103D; and is a watershed management organization as defined under Minnesota Statutes section 103B.205 (13) (2007) and 471.59; and

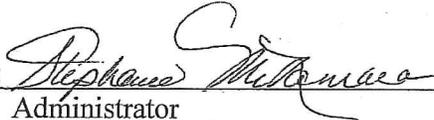
WHEREAS, VLAWMO is a watershed district wholly within the "metropolitan are" as defined under Minnesota Statutes-sections 103B.205 (8) and 473.121 (2) (2007); and

WHEREAS, The boundaries of a watershed district wholly within the metropolitan area may be changed pursuant to this section or chapter 103D; and

WHEREAS, On, March 23, 2016 the Board of Directors of the VLAWMO voted unanimously to update the boundary of the VLAWMO with the Rice Creek Watershed District using the process described in M.S. 103B.215;

NOW, THEREFORE, BE IT RESOLVED, the VLAWMO District petitions the Minnesota Board of Water and Soil Resources pursuant to Minnesota Statutes section 103B.215 to issue an order changing the boundary of the VLAWMO and the Rice Creek Watershed District as described in the "Petition of Vadnais Lake Area Water Management Organization for an Order Updating the Boundary Between the Rice Creek Watershed District and the Vadnais Lake Area Water Management Organization".

A motion was made by Long and seconded by Jones to approve Resolution 02-2016 to formally petition BWSR to change the watershed boundary. Vote: all aye. Motion passed.

Attest: 
Administrator

Date: 3-24-16

Request for Order

Therefore, based on the above, the Vadnais Lake Area Water Management Organization requests that the Minnesota Board of Water and Soil Resources, pursuant to Minnesota Statutes section 103B.215, issue an order to update the boundary with the corrected parcel list of the Vadnais Lake Area Water Management Organization and the Rice Creek Watershed District consistent with this petition.

All areas are in Sections 14 and 23 in White Bear Lake, Ramsey County Minnesota. The boundary line and parcels affected are detailed in Figure 2. The individual parcels are identified in Table 2 as well.

Dated: May 3, 2016

By



Marc Johannsen, Chair
Vadnais Lake Area Water Management Organization

Statements of Concurrence

Statements of Concurrence are required from the City of White Bear Lake and the RCWD. Letters requesting these Statements of Concurrence from the following units of government are attached.

RESOLUTION NO. 11792

**RESOLUTION PROVIDING A STATEMENT OF CONCURRENCE TO VADNAIS
AREA WATER MANAGEMENT ORGANIZATION FOR BOUNDARY UPDATE**

WHEREAS the Vadnais Lake Area Water Management Organization (VLAWMO) passed a resolution ordering a petition for updating the boundary with the Rice Creek Watershed District; and,

WHEREAS petitions for changes to watershed boundaries require a Statement of Concurrence from affected agencies, which includes the City of White Bear Lake; and,

NOW THEREFORE, BE IT RESOLVED that the White Bear Lake City Council agrees with VLAWMO's boundary update and approves the Mayor's signature on the Statement of Concurrence.

The foregoing resolution offered by Councilmember **Biehn** and supported by Councilmember **Jones**, was declared carried on the following vote:

Ayes: Biehn, Edberg, Engstran, Jones, Walsh
Nays: None
Passed: April 12, 2016



Jo Emerson, Mayor

ATTEST



Kara Coustry, City Clerk



The Vadnais Lake Area Water Management Organization
800 East County Road E, Vadnais Heights, 55127 651-204-6070
Website: www.vlawmo.org; Email: office@vlawmo.org

March 25, 2016

Ellen Richter, City Manager
City of White Bear Lake
4701 Highway 61
White Bear Lake, MN 55110

Re: Request for Statement of Concurrence on Proposed Boundary Change Update between Vadnais Lake Area Water Management Organization and Rice Creek Watershed District in Sections 14 and 23 of the City of White Bear Lake.

We are requesting a "Statement of Concurrence" from the City of White Bear Lake as required under M.S. 103B.215 to be submitted with the petition for a boundary change update.

Attached is a copy of the petition to the Board of Water and Soil Resources (BWSR) under M.S. 103B.215. The reason for the proposed update follows Ramsey County determining that the parcel list used in the March 25, 2009 boundary change to achieve a more accurate alignment between the hydrologic and legal boundaries for the two Watershed Management Organizations contained some inaccuracies and requires updating when compared to the maps contained in the original petition for the boundary change.

The Vadnais Lake Area Water Management Organization Board of Directors hopes to address the final petition at its April 27, 2016 meeting.

If you have questions or concerns please call me at 651-204-6073.

Sincerely,

Stephanie McNamara
VLAWMO Administrator

c. Dan Jones, City of White Bear Lake
J. Haertel, BWSR

The City of White Bear Lake has reviewed the watershed boundary as attached and concurs with the new boundary.

Authorized signature

April 12, 2016
Date



The Vadnais Lake Area Water Management Organization
800 East County Road E, Vadnais Heights, 55127 651-204-6070
Website: www.vlawmo.org; Email: office@vlawmo.org

March 25, 2016

Phil Belfiori, Administrator
Rice Creek Watershed District
4325 Pheasant Ridge Dr. NE #611
Blaine, MN 55449

Re: Request for Statement of Concurrence on Proposed Boundary Change Update between Vadnais Lake Area Water Management Organization and Rice Creek Watershed District in Sections 14 and 23 of the City of White Bear Lake.

We are requesting a "Statement of Concurrence" from the Rice Creek Watershed District as required under M.S. 103B.215 to be submitted with the petition for a boundary change update.

Attached is a copy of a petition to the Board of Water and Soil Resources (BWSR) under M.S. 103B.215. The reason for the proposed boundary change update follows Ramsey County determining that the parcel list used in the March 25, 2009 boundary change to achieve a more accurate alignment between the hydrologic and legal boundaries for the two Watershed Management Organizations contained some inaccuracies and requires updating when compared to the maps contained in the original petition for the boundary change.

The Vadnais Lake Area Water Management Organization Board of Directors hopes to address the final petition at its April 27, 2016 meeting.

If you have questions or concerns please call me at 651-204-6073.

Sincerely,

Stephanie McNamara
VLAWMO Administrator

c. J. Haertel, BWSR

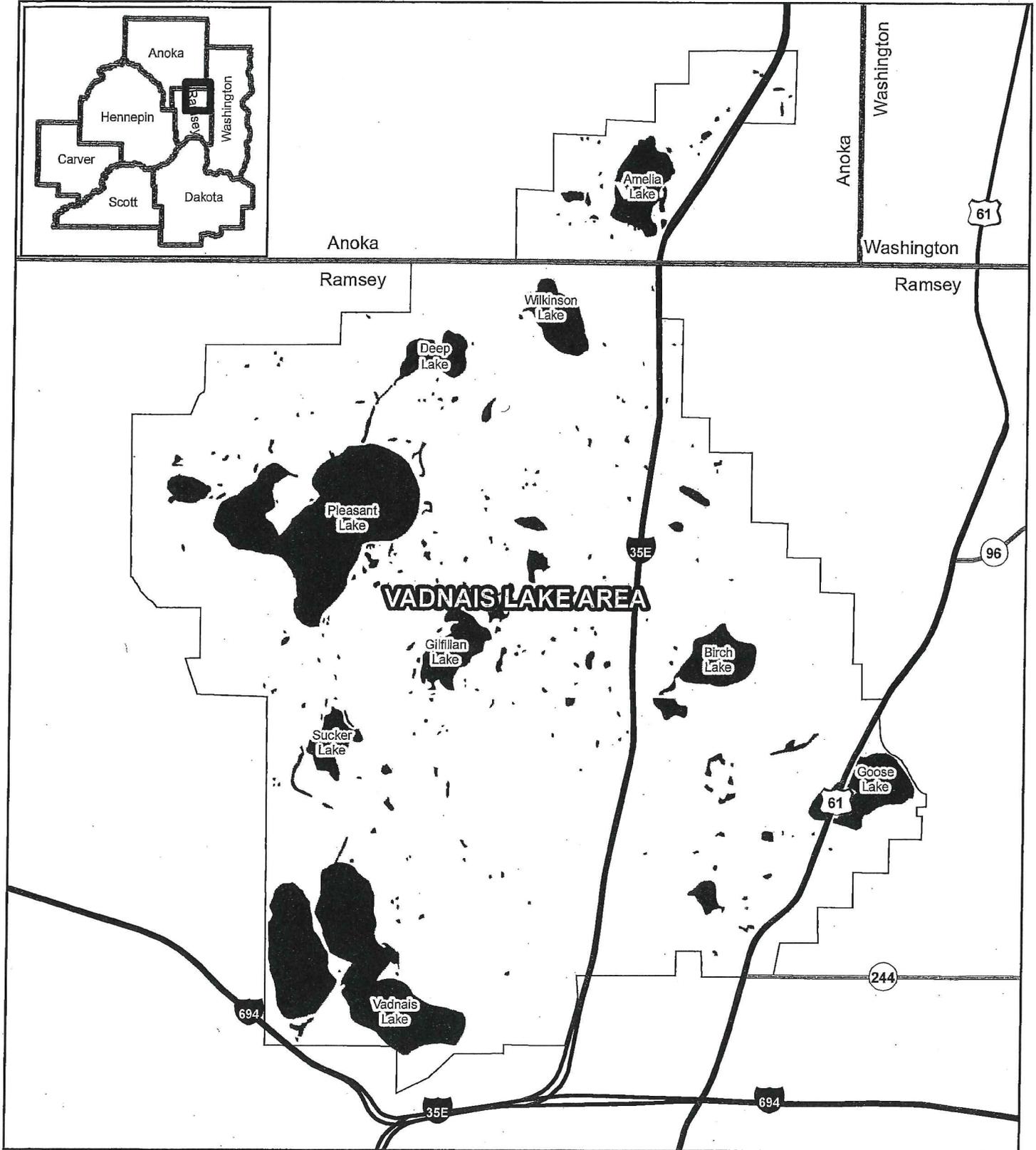
The Rice Creek Watershed District has reviewed the watershed boundary as attached and concurs with the new boundary.

Authorized signature

4-27-16

Date

Vadnais Lakes Water Management Organization



 Vadnais Lakes WMO
 Counties



3. Property Identification

Table 2 indicates parcels currently within the RCWD that are proposed to be transferred to the VLAWMO in the City of White Bear Lake. This area totals 65.39 acres.

Table 2: Detailed Parcel List

PIN	Building #	Street Name	Street Type	Acres Deeded	Land Use Description
123-143022310064	4741	BALD EAGLE	AVE	1.66	Church
123-143022310063	2002	4TH	ST	0.23	Church - Other
123-143022310065	1999	3RD	ST	0.23	Church - Other
123-143022420130	4711	MURRAY	AVE	0.48	Church-Other Res
123-143022310084	4687	BALD EAGLE	AVE	0.18	Commercial
123-143022420038	2050	4TH	ST	1.85	Commercial
123-143022420044	4738	BALD EAGLE	AVE	0.35	Commercial
123-143022420045	4744	MURRAY	AVE	0.28	Commercial
123-143022420072	0	2ND	ST	0.09	Commercial
123-143022420126	4760	BALD EAGLE	AVE	0.18	Commercial
123-143022420060	4720	BALD EAGLE	AVE	0.20	Multi Family
123-143022420068	4701	MILLER	AVE	0.26	Muni Svc Other
123-233022420019	0	WHITE BEAR	AVE	24.77	Muni Svc Other
123-233022210021	0	UNASSIGNED- BNSF RR		2.80	Railroad
123-143022420131	4680	BALD EAGLE	AVE	2.57	Schools-Private
123-143022120011	4989	DIVISION	AVE	0.26	Single Family
123-143022310030	1904	4TH	ST	0.29	Single Family
123-143022310031	1914	4TH	ST	0.29	Single Family
123-143022310032	4754	WOOD	AVE	0.29	Single Family
123-143022310033	4746	WOOD	AVE	0.29	Single Family
123-143022310034	4740	WOOD	AVE	0.29	Single Family
123-143022310035	4732	WOOD	AVE	0.29	Single Family
123-143022310036	4722	WOOD	AVE	0.37	Single Family
123-143022310037	4712	WOOD	AVE	0.37	Single Family
123-143022310038	4702	WOOD	AVE	0.49	Single Family
123-143022310039	1905	BIRCH LAKE	AVE	0.29	Single Family
123-143022310040	1909	BIRCH LAKE	AVE	0.22	Single Family
123-143022310041	1915	BIRCH LAKE	AVE	0.22	Single Family
123-143022310042	1921	BIRCH LAKE	AVE	0.44	Single Family
123-143022310043	1931	BIRCH LAKE	AVE	0.41	Single Family
123-143022310044	1941	BIRCH LAKE	AVE	0.44	Single Family
123-143022310045	4701	CAMPBELL	AVE	0.34	Single Family
123-143022310046	4709	CAMPBELL	AVE	0.65	Single Family
123-143022310048	4739	CAMPBELL	AVE	0.44	Single Family
123-143022310049	4731	CAMPBELL	AVE	0.56	Single Family
123-143022310050	4745	CAMPBELL	AVE	0.49	Single Family
123-143022310051	4753	CAMPBELL	AVE	0.51	Single Family
123-143022310052	1924	4TH	ST	0.37	Single Family
123-143022310053	1934	4TH	ST	0.18	Single Family
123-143022310054	4759	CAMPBELL	AVE	0.24	Single Family

PIN	Building #	Street Name	Street Type	Acres Deeded	Land Use Description
123-143022310055	1944	4TH	ST	0.16	Single Family
123-143022310056	4760	CAMPBELL	AVE	0.23	Single Family
123-143022310057	1966	4TH	ST	0.23	Single Family
123-143022310058	1972	4TH	ST	0.23	Single Family
123-143022310059	1976	4TH	ST	0.19	Single Family
123-143022310060	1980	4TH	ST	0.27	Single Family
123-143022310061	1986	4TH	ST	0.23	Single Family
123-143022310062	1992	4TH	ST	0.23	Single Family
123-143022310066	1991	3RD	ST	0.23	Single Family
123-143022310067	1985	3RD	ST	0.23	Single Family
123-143022310068	1979	3RD	ST	0.23	Single Family
123-143022310069	1973	3RD	ST	0.34	Single Family
123-143022310070	1967	3RD	ST	0.23	Single Family
123-143022310071	1961	3RD	ST	0.34	Single Family
123-143022310072	1960	3RD	ST	0.24	Single Family
123-143022310073	1966	3RD	ST	0.48	Single Family
123-143022310074	1974	3RD	ST	0.23	Single Family
123-143022310075	1980	3RD	ST	0.23	Single Family
123-143022310076	1986	3RD	ST	0.31	Single Family
123-143022310077	1992	3RD	ST	0.26	Single Family
123-143022310078	2000	3RD	ST	0.56	Single Family
123-143022310079	4729	BALD EAGLE	AVE	0.28	Single Family
123-143022310080	4721	BALD EAGLE	AVE	0.25	Single Family
123-143022310081	4711	BALD EAGLE	AVE	0.35	Single Family
123-143022310082	4701	BALD EAGLE	AVE	0.74	Single Family
123-143022310083	4695	BALD EAGLE	AVE	0.27	Single Family
123-143022310085	1999	BIRCH LAKE	AVE	0.19	Single Family
123-143022310086	1997	BIRCH LAKE	AVE	0.19	Single Family
123-143022310087	1993	BIRCH LAKE	AVE	0.19	Single Family
123-143022310088	1985	BIRCH LAKE	AVE	0.25	Single Family
123-143022310089	1981	BIRCH LAKE	AVE	0.42	Single Family
123-143022310091	1965	BIRCH LAKE	AVE	0.20	Single Family
123-143022310092	1961	BIRCH LAKE	AVE	0.41	Single Family
123-143022310093	4702	CAMPBELL	AVE	0.22	Single Family
123-143022310094	4710	CAMPBELL	AVE	0.22	Single Family
123-143022310096	1975	BIRCH LAKE	AVE	0.82	Single Family
123-143022310101	4721	CAMPBELL	AVE	0.54	Single Family
123-143022310102	4711	CAMPBELL	AVE	0.46	Single Family
123-143022420039	2058	4TH	ST	0.14	Single Family
123-143022420041	0	BALD EAGLE	AVE	0.21	Single Family
123-143022420042	4743	MURRAY	AVE	0.24	Single Family
123-143022420043	4744	BALD EAGLE	AVE	0.24	Single Family
123-143022420053	4709	MILLER	AVE	0.26	Single Family
123-143022420054	2068	3RD	ST	0.26	Single Family
123-143022420055	2058	3RD	ST	0.26	Single Family

PIN	Building #	Street Name	Street Type	Acres Deeded	Land Use Description
123-143022420056	2044	3RD	ST	0.13	Single Family
123-143022420057	4720	MURRAY	AVE	0.13	Single Family
123-143022420058	2030	3RD	ST	0.20	Single Family
123-143022420059	4730	BALD EAGLE	AVE	0.16	Single Family
123-143022420062	4710	BALD EAGLE	AVE	0.16	Single Family
123-143022420065	2047	2ND	ST	0.26	Single Family
123-143022420066	2059	2ND	ST	0.26	Single Family
123-143022420067	2063	2ND	ST	0.26	Single Family
123-143022420127	2026	4TH	ST	0.17	Single Family
123-233022420020	4235	WHITE BEAR	AVE	4.35	Single Family
123-143022120010	4969	DIVISION	AVE	0.86	State Property



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Clean Water Council & Interagency Coordinating Team Preliminary FY18-19 Budget Recommendations

Meeting Date: August 25, 2016

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Regional Operations

Contact: Doug Thomas

Prepared by: Doug Thomas

Reviewed by: None required Committee(s)

Presented by: Doug Thomas

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- None
- Amended Policy Requested
- New Policy Requested
- Other:
- General Fund Budget
- Capital Budget
- Outdoor Heritage Fund Budget
- Clean Water Fund Budget

ACTION REQUESTED

Informational Item – no action required

LINKS TO ADDITIONAL INFORMATION

<https://www.pca.state.mn.us/about-mpca/clean-water-council>

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

Present information on Clean Water Council’s (CWC) Ad-hoc Policy Committee proposed policies and the CWC Budget Oversight Committee preliminary FY18-19 budget recommendations. The Ad-hoc Policy Committee has developed draft policies on Advancing Drinking Water Protection and Living Cover for Water Protection for full CWC consideration in August. The Budget Oversight Committee will be developing its preliminary FY18-19 budget recommendations in August and which will then be presented to the full CWC in September of this year. BWSR staff will provide a review of the draft policy statements and the Budget Oversight Committee’s preliminary recommendations for BWSR activities from its August 5, 2016 meeting.

DRAFT Policy Recommendation on Living Cover as passed by the Policy Ad Hoc Committee of the Clean Water Council for stakeholder review

Please note the full Clean Water Council has not yet discussed this draft policy recommendation.

Living Cover for Water Protection

Policy Statement

Establish living cover in vulnerable public and private wellhead areas to protect drinking water sources.

Land use is one of the greatest influences on the quality of Minnesota's ground and surface waters, affecting the purity of our state's sources of drinking water. The State of Minnesota should promote land use practices like living cover that minimize or eliminate potential contamination of water in targeted high risk areas such as wellhead protection areas. The Clean Water Council should consider multiple approaches to encourage living cover with an emphasis on economically sustainable approaches. One approach that has not been fully explored would be to offer lower property taxes for certain types of land use practices that are protective of groundwater in defined (vulnerable) wellhead protection areas, as an opportunity to reduce costs and influence choices made by landowners.

Background

Recent reports including the Minnesota Pollution Control Agency's Nutrient Reduction Strategy have indicated the dramatic influences land use can have on water quality. 26 million acres of Minnesota's 55 million acres total is in agricultural lands and important to our economy. Roughly 1.2 million acres are in areas where groundwater is used as a public drinking water sources (called "wellhead protection areas) Because of the nature of native soils and geology, roughly 360,000 of those 1.2 million acres are vulnerable to contamination from activities on the land surface. In these areas, land use has a significant impact (positive or negative) on groundwater quality. When soils are bare (for up to 9 1/2 months of the year for some crops), nutrients and other chemicals in the soil can leach away or run off to contaminate ground and surface water, and can lead to contamination of drinking water sources. When there is living cover on the land, soil erosion is reduced or eliminated and plants take up nutrients that might otherwise contaminate ground or surface water.

Barriers

Economics drives many land use decisions. Currently there are a number of barriers to establishment of perennial crops and cover crops including markets for products; equipment for establishment, management, and harvesting; infrastructure (e.g., for cellulosic ethanol production); and consumer awareness and demand for foods like flours from perennial grains, and grass-fed beef. Costs for crop production include equipment, seeds, fertilizer, fuel, shipping, storage, land (owning or renting), salaries, etc. Revenue comes from sale of crops. Other factors also affect economic returns on land use, including property taxes. There are limits to funding available for economic incentives like easements and land purchase.

State government can have relatively little influence on costs or revenues, other than by providing cost-share to promote or support activities, and altering the impact (costs) of taxes. An additional factor in land management is that roughly 50 percent of cropland in Minnesota is rented. Incentives that can positively influence a landowner (whether directly operating the land or renting it out) to establish land use practices that are protective of groundwater in vulnerable areas.

Living Cover Definition (as defined in the 2015 Environmental Water Quality Board Water Policy Report)

Living Cover includes:

Perennial crops: Perennial grasses, hay and pasture anchor the soil, build organic matter, and increase the soil's ability to hold water and nutrients.

Cover crops: Grasses, small grains, legumes and winter annuals provide cover before the primary crop establishes and after it is harvested, reducing runoff, erosion and nitrate leaching.

Prairie and grasses: Grasses and prairie plants have extensive root systems that hold soil in place. Grass or prairie buffers can be added in fields, on field edges or as grassed waterways.

Wetlands: Natural and constructed wetlands prevent erosion and filter water, absorbing excess nutrients before they enter lakes and streams.

Forests: Forests filter water and maintain deep root systems that stabilize soil and build organic matter.

No till/minimum till: After harvest, plant residue can be left in place to protect soils from erosion before crops establish the next spring.

DRAFT Policy Recommendation on Drinking Water Protection as passed by the Policy Ad Hoc Committee of the Clean Water Council for stakeholder review

Please note the full Clean Water Council has discussed this draft policy recommendation but has not yet taken action on it.

Advancing Drinking Water Protection

Policy Statement

In the spirit of the Clean Water, Land and Legacy Amendment's call to protect our sources of drinking water, the State of Minnesota should take concrete steps to assess and address potential threats to safe drinking water. This assessment of drinking water needs and challenges should identify regulatory, technological, and behavioral barriers; and translate emerging science into protective public health policy and action. This approach should be flexible - to address threats at any point from source water to taps in homes; and focused - to lead to specific and timely interventions by the state, water utilities, and other partners. In the meantime, current state policy efforts should:

- Require the testing of private wells providing drinking water at property transfer and notification of testing results to buyers.
- Require periodic testing of private wells providing drinking water to rental properties and require notification of the results before rental properties can rent to new tenants or enter into new lease agreements.
- Require the notification of the existence of lead in a drinking water distribution system from the main water line to the tap and education on possible actions at property transfer.
- Require the notification of the existence of lead in a drinking water distribution system from the main water line to the tap and education on possible actions before rental properties can rent to new tenants or enter into new lease agreements.
- Recommend that the Minnesota Department of Health determine the scope of the lead problem in drinking water and cost to remove all lead from drinking water distribution systems.
- Require that surface water-based community public water systems prepare source water intake protection plans with defined implementation activities for review and approval by the Minnesota Department of Health.
- Promote economic incentives for land use practices that protect high risk source water areas and maximize multiple benefits.

Background

Approximately 20% of Minnesotans have a private well as their water supply. Nitrate contamination is increasing in some areas of the state and approximately 10% of new wells exceed the safe drinking water standard for arsenic. Private wells are not regulated beyond the construction standards and an initial test of water quality for bacteria, nitrate and arsenic. Any follow up or periodic testing, or treatment for contaminants, is up to the well owner.

Lead is a component of many drinking water service lines and plumbing systems, particularly in older buildings. It is critical to protect Minnesota's drinking water at the tap but also to increase consumers' understanding of lead toxicity and eliminate sources because there is no safe level of lead exposure. A comprehensive approach is needed to reduce children's exposure to lead in dust, paint, and drinking water.

Drinking water sources are at risk of contamination in many parts of Minnesota. Protecting drinking water *at the source* in rivers, lakes, and groundwater is the most cost-effective and equitable strategy because it prevents both known and unknown contaminants from entering the water supply, protects both public and private wells, and does not rely on costly treatment or individual action.

- Only 2.7% of the 360,000 acres of in high risk wellhead protection areas are protected by conservation easements.
- Only 3 out of the 24 public drinking water suppliers that use surface water have source water protection plans because these are voluntary.
- Only about a hundred of the more than 80,000 commercial chemicals used in the United States are regulated in public water supplies as contaminants under the Safe Drinking Water Act. There are no regulations on private water supplies.

CLEAN WATER COUNCIL

RESOLUTION TO ENCOURAGE STATE INVESTMENT IN ADVANCING DRINKING WATER PROTECTION

WHEREAS, safe drinking water is of vital importance to the public health of Minnesota citizens; and

WHEREAS, ensuring safe and sufficient drinking water to protect public health and meet citizen expectations for safe and reliable drinking water for generations to come will require a series of strategic safeguards from our drinking water sources to the taps in our homes, and State policies that go beyond the Safe Drinking Water Act; and

WHEREAS, timely actions are needed to protect those who drink from private wells, to educate consumers about their role in lead prevention, and to prevent contaminants from entering source waters; and

WHEREAS, incidents in Fairmont and New Brighton, Minnesota, Elk River, West Virginia, Flint, Michigan, Toledo, Ohio, and Des Moines, Iowa, point to threats that have relevance for Minnesota, including lead, harmful algal blooms, unregulated contaminants, and rising nitrate levels in source waters; and

WHEREAS, prevention of these and other potential threats to the safety of our drinking water requires broad support for new partnerships, technologies, and proactive strategies that promote and sustain systemic actions; and

WHEREAS, care must be taken to identify the most cost-effective and equitable strategies that will address both known and unknown contaminants, protect public and private wells, and not rely solely on costly treatment or individual action;

NOW, THEREFORE BE IT RESOLVED, the Clean Water Council encourages the State of Minnesota to invest resources in advancing drinking water protection by engaging local and national experts and academic institutions to identify regulatory, technological, and behavioral barriers and to enable the development of public health policies and an implementable action plan to address emerging threats and ensuring long-term, safe drinking water in Minnesota.

DRAFT FY18-19 CWF recommendations (7/20/16). PLEASE NOTE: The BOC Chair Vice Chair developed these DRAFT numbers as a starting place for BOC discussion on August 5, 2016.

Activity Number	Agency	Clean Water Fund FY18-19 Program Name	FY16-17 Clean Water Council Recs (10/20/14)	FY16-17 CWF Appropriations	DRAFT BOC FY18-19 CWF Recs - compared with FY16-17 (July 2016)	BOC FY18-19 Funding Notes (Jan-July 2016)	Draft BOC Recs (8/5/16)	BOC Comments (8/5/16)	DRAFT Agency (ICT) FY18-19 CWF Recs (6/24/16)	Notes from ICT (6/24/16)
20	BWSR	Targeted Wellhead/Drinking Water Protection (BWSR)	3,500,000	3,500,000	Steady		3,500,000		3,500,000	Will leverage federal dollars via CREP 3 agreement
37	BWSR	Surface and Drinking Water Protection/Restoration Grants (Projects and Practices) (BWSR)	29,550,000	20,375,000	Increase	BOC recommends (1) to increase funding for this program for FY18-19 over FY16-17 amounts, (2) that BWSR place a greater emphasis (e.g. higher points in scoring projects) on projects focused on protection efforts, and (3) to earmark a certain amount (e.g. \$5M) of this program funding to leverage a potential Regional Conservation Partnership Program grant proposal. BOC would like further discussion on (1) how to require more local commitment to implement changes (e.g. planning and zoning) and/or match in order to receive state funding dollars, (2) if this funding should be limited to local governmental units, and (3) how this program funding addresses drinking water project needs (note it is also related to the targeted wellhead/drinking water protection program - #20).	29,500,000		24,500,000	Increase to restore funds that were shifted in FY16-17 to fund SWCD capacity grants.
38	BWSR	Grants to Watersheds with Multiyear Plans (Targeted Watershed Program) (BWSR)	17,858,000	9,750,000	Increase	Consider expanding this program idea to include One Watershed One Plan Implementation (Activity #310).	0	replace with Acticity #310	12,000,000	Increase to address shift in FY16-17 to fund SWCD capacity grants.
39	BWSR	Accelerated Implementation (BWSR)	12,000,000	11,500,000	Steady		12,000,000		12,000,000	
40	BWSR	Measures, Results and Accountability (BWSR)	1,900,000	1,900,000	Steady		1,900,000		1,900,000	
41	BWSR	Conservation Drainage Management and Assistance (BWSR)	1,500,000	1,500,000	Steady		1,500,000		1,500,000	

DRAFT FY18-19 CWF recommendations (7/20/16). PLEASE NOTE: The BOC Chair Vice Chair developed these DRAFT numbers as a starting place for BOC discussion on August 5, 2016.

Activity Number	Agency	Clean Water Fund FY18-19 Program Name	FY16-17 Clean Water Council Recs (10/20/14)	FY16-17 CWF Appropriations	DRAFT BOC FY18-19 CWF Recs - compared with FY16-17 (July 2016)	BOC FY18-19 Funding Notes (Jan-July 2016)	Draft BOC Recs (8/5/16)	BOC Comments (8/5/16)	DRAFT Agency (ICT) FY18-19 CWF Recs (6/24/16)	Notes from ICT (6/24/16)
42	BWSR	Riparian Buffer-Permanent Conservation Easements (BWSR)	15,000,000	9,750,000	Increase		12,000,000		12,000,000	Increase for additional activities and will leverage federal funds via CREP 3
43	BWSR	Technical Evaluation (BWSR)	168,000	168,000	Steady		168,000		168,000	
44	BWSR	Community Partners Clean Water Program (BWSR)	1,500,000	1,500,000	Increase	Consider merging with and revising BWSR Community Partners Program with Water Legacy Grants (Activity #301) so additional entities (e.g. nonprofit organizations) are eligible.	-	replace with Acticity #301	1,000,000	
45	BWSR	Water Management Transition (One Watershed One Plan) (BWSR)	4,200,000	4,200,000	Steady		4,200,000		4,200,000	
77	BWSR	Buffer and Soil Erosion Law Implementation (BWSR)	2,000,000	5,000,000	Increase		6,800,000		6,800,000	Increase for additional activities
78	BWSR	Conservation Reserve Enhancement Program (CREP) (BWSR)	18,000,000	18,000,000	No Funding	BOC members are very supportive of this program but there is concern that this funding would be substituting for traditional sources (e.g. bonding) of funding.	0	Note this is part of federal CREP 3 request; substitution concerns. If bonding funds are appropriated then the BOC would recommend \$18M in funding.	18,000,000	
79	BWSR	Critical Shoreland Protection-Permanent Conservation Easements (BWSR)	2,000,000	2,000,000	Increase		2,500,000		2,000,000	
80	BWSR	Tillage and Erosion Transects (BWSR)	1,000,000	1,000,000	Decrease	Reduction in funding because it doesn't need as much funding to maintain efforts.	850,000		850,000	Goes from start up of program to operational which should reduce costs.
90	BWSR	Grants to Soil and Water Conservation Districts (BWSR)	0	22,000,000	No Funding	FY16-17 appropriation language states that future funding for these efforts should come from the General Fund.	0		0	

DRAFT FY18-19 CWF recommendations (7/20/16). PLEASE NOTE: The BOC Chair Vice Chair developed these DRAFT numbers as a starting place for BOC discussion on August 5, 2016.

Activity Number	Agency	Clean Water Fund FY18-19 Program Name	FY16-17 Clean Water Council Recs (10/20/14)	FY16-17 CWF Appropriations	DRAFT BOC FY18-19 CWF Recs - compared with FY16-17 (July 2016)	BOC FY18-19 Funding Notes (Jan-July 2016)	Draft BOC Recs (8/5/16)	BOC Comments (8/5/16)	DRAFT Agency (ICT) FY18-19 CWF Recs (6/24/16)	Notes from ICT (6/24/16)
301	BWSR	Water Legacy Grants Program (BWSR)			Fund (New)	Consider merging with and revising BWSR Community Partners Program (Activity #44) so additional entities (e.g. nonprofit organizations) are eligible.	2,000,000			
310	BWSR	One Watershed One Plan Implementation (BWSR)			Fund (New)	Consider replacing BWSR Targeted Watershed Program (Activity #38) with this program.	12,000,000			
	BWSR					BWSR Subtotal	88,918,000		100,418,000	
5	DNR	Stream Flow Monitoring (DNR)	4,000,000	4,000,000	Steady	Follow-up questions to DNR on substitute versus supplement	4,000,000		4,000,000	COLA covered by current funds.
6	DNR	Lake IBI assessment (DNR)	2,600,000	2,600,000	Steady		2,600,000		2,600,000	COLA covered by current funds.
7	DNR	Fish Contamination Assessment (DNR)	270,000	270,000	Steady		270,000		420,000	Increase requested by MPCA to expand suite of contaminants included in analysis. COLA will be covered by current funds.
10	DNR	Watershed Restoration and Protection Strategies (DNR)	3,880,000	3,880,000	Steady		3,970,000		3,970,000	COLA covered by a combination of current funds and the requested increase.
18	DNR	Aquifer Monitoring for Water Supply Planning (DNR)	2,750,000	2,750,000	Steady or Increase		3,400,000		4,050,000	This line is a combination of activity numbers 18 and 19 from previous years. Increase would recover a portion of the FY14-15 GWMA funding that was cancelled in 2016. New money would fund development of a groundwater online curriculum.
34	DNR	Nonpoint Source Restoration and Protection Activities (DNR)	1,000,000	2,000,000	Steady		2,000,000		2,000,000	COLA covered by current funds
57	DNR	Applied Research and Tools (DNR)	1,350,000	1,350,000	Steady or Decrease		1,215,000		1,700,000	Several activities will be maintained at existing level of effort, with COLA covered by current funds. New funds for culvert web app, MN TOPO enhancements, and mine impacts work with MPCA.

DRAFT FY18-19 CWF recommendations (7/20/16). PLEASE NOTE: The BOC Chair Vice Chair developed these DRAFT numbers as a starting place for BOC discussion on August 5, 2016.

Activity Number	Agency	Clean Water Fund FY18-19 Program Name	FY16-17 Clean Water Council Recs (10/20/14)	FY16-17 CWF Appropriations	DRAFT BOC FY18-19 CWF Recs - compared with FY16-17 (July 2016)	BOC FY18-19 Funding Notes (Jan-July 2016)	Draft BOC Recs (8/5/16)	BOC Comments (8/5/16)	DRAFT Agency (ICT) FY18-19 CWF Recs (6/24/16)	Notes from ICT (6/24/16)
59	DNR	County Geologic Atlases (DNR)	500,000	500,000	Steady		250,000		250,000	Program can maintain the current level of effort with reduced funding. COLA absorbed with current funds.
76A	DNR	Buffer Map Maintenance		650,000	Need More Information	Need to discuss both buffer mapping and infrared imagery efforts	200,000	split this into 2 programs	850,000	Increase for buffer mapping maintenance and color infrared imagery
76B	DNR	Color Infrared Imagery Analysis	650,000				650,000	Need more discussion on the different imagery tools being supported by CWF		
251	DNR	White Bear Lake Design-Build Proposals (DNR)		150,000			0			
63	Legislature	Legislative Coordinating Commission Website (LCC)	30,000	0	Fund		15,000		0	
4	MDA	Monitoring for Pesticides in Surface Water and Groundwater (MDA)	700,000	700,000	Steady				700,000	COLA will be absorbed with current funds.
15	MDA	Nitrate in Groundwater (MDA)	5,171,000	5,171,000	Steady or Increase				4,171,000	The FY16-17 appropriation included work to address nitrate in groundwater and to test private wells for pesticides. MDA recommends splitting this program into two separate requests (activity #15 and #307). The nitrate request includes a \$1 million increase for additional activities.
17	MDA	Irrigation Water Quality Protection (MDA)	220,000	220,000	Steady				220,000	
31	MDA	AgBMP Loan Program (MDA)	150,000	150,000	Steady				150,000	COLA will be absorbed with current funds.

DRAFT FY18-19 CWF recommendations (7/20/16). PLEASE NOTE: The BOC Chair Vice Chair developed these DRAFT numbers as a starting place for BOC discussion on August 5, 2016.

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32	MDA	Technical Assistance (MDA)	2,250,000	2,250,000	Steady				2,550,000	Includes additional funds for cover crop on farm demonstrations. COLA will be absorbed with current funds.
33	MDA	MN Agricultural Water Quality Certification Program (MDA)	2,500,000	5,000,000	Need More Information	Needs further discussion			5,500,000	Increase to leverage corporate activities.
55	MDA	Academic Research/Evaluation (MDA)	1,575,000	1,575,000	Steady				1,575,000	COLA will be absorbed with current funds.
56	MDA	Research Inventory Database (MDA)	100,000	100,000	Steady				100,000	COLA will be absorbed with current funds.
75	MDA	Vegetative Cover and Soil Health (MDA)	0	0	Fund (New)				350,000	
81	MDA or UMN	Forever Green Agriculture Initiative (UMN or MDA)	500,000	1,000,000	Need More Information	Further discussion needed because a large increase (\$7.89M for FY18-19) is requested by UMN			1,000,000	
307	MDA	Pesticide Testing of Private Wells (MDA)		see notes					2,000,000	This activity was previously funded under the appropriation for Nitrate in Groundwater (activity #15) but now MDA is recommending it be split into two programs. As the total number of wells sampled for nitrate increases, the number of wells that need to be sampled for pesticides increases. This funding increase covers the increased costs for this sampling.
23	MDH	Drinking Water Contaminants of Emerging Concern Program (MDH)	2,200,000	2,200,000	Hold	Need more information - see what results are from UMN study (ready in June 2016)	2,200,000		2,500,000	Increase to cover additional activities and COLA

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24	MDH	Source Water Protection (MDH)	3,800,000	3,800,000	Steady or Increase		5,595,000	5,595,000		Increase to cover additional activities and COLA
26	MDH	Well Sealing Cost Share (MDH)	225,000	225,000	Steady		500,000	500,000		Increase for additional activities and COLA
27	MDH	Groundwater Virus Monitoring Plan (MDH)	350,000	350,000	Steady or No Funding	Waiting for agency recommendations; will have results from epidemiological study in about 9 months	200,000	200,000		COLA will be covered through a reduction in FTEs for this effort.
28	MDH	Private Well Water Supply Protection (MDH)	650,000	650,000	Steady	Note that Policy Committee should discuss private well testing at property transfer; note funding direction will be more for education than testing	800,000	800,000		Increase for additional activities and COLA
74	MDH	Groundwater Restoration and Protection Strategies (MDH)	250,000	250,000	Steady or Increase		400,000	400,000		Increase for additional activities and COLA
305	MDH	Drinking Water Protection (MDH)			Fund (New)		300,000			
309	MDH	Statewide Recreational Water Testing Portal (MDH)			Fund (New)		0	BOC agrees that this is a good program, but are not convinced it should use Clean Water Fund dollars	400,000	

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21	Met Council	Metropolitan Area Water Supply Sustainability Support (Met Council)	1,950,000	1,950,000	Decrease	Request the MCES provide more information on projects and tools			2,000,000	Increase for additional program activities
72	Met Council	Water Demand Reduction Grant Program Pilot (Met Council)	500,000	500,000	Steady				1,000,000	Increase due to additional activities
306	Met Council	Metropolitan Area Water Quality Sustainability Support (Met Council)			No Funding (New)				300,000	
1	MPCA	Continue monitoring & assessment efforts to meet the 10-year cycle (MPCA)	16,500,000	16,550,000	Steady		16,550,000		17,196,000	Increase for cost of living (COLA). Includes expanded contaminant of new concern effort.
9	MPCA	Watershed Restoration and Protection Strategies (includes TMDL development) (MPCA)	19,590,000	20,290,000	Need more information	Questions on indirect costs and how that effects pass-through funding and where indirect costs were covered in the past	20,290,000		21,463,000	Increase for COLA
11	MPCA	Groundwater Assessment (MPCA)	2,363,000	2,363,000	Steady		2,363,000		2,527,000	Increase for COLA

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12	MPCA	Enhanced County Inspections/SSTS Corrective Actions (MPCA)	7,245,000	7,245,000	Steady or Increase	Need more information on how much progress making compared with scope of problem.	7,245,000		7,800,000	Increase for COLA
29	MPCA	Great Lakes Restoration Project (MPCA)	1,500,000	1,500,000	Steady		1,500,000		1,675,000	Increase for COLA
47	MPCA	NPDES Wastewater/Stormwater TMDL Implementation (MPCA)	1,800,000	1,800,000	Steady		1,800,000		1,957,000	Increase for COLA
50	MPCA	Watershed Research and Database Development (Watershed Data Integration Project or WDIP) (MPCA)	2,300,000	2,155,000	Steady or Decrease	Revisit this item. Explain and justify costs and outcomes.	Undecided		2,310,000	Increase due to COLA
52	MPCA	Accelerated Implementation of MS4 Permit Requirements (MPCA)	550,000	550,000	Steady	MPCA would shift efforts for FY18-19 so this funding would be used to accelerate implementation versus research.			557,000	Shifts MPCA priority from research to outreach and technical assistance for accelerated implementation.
62	MPCA	Clean Water Council Budget (MPCA)	100,000	100,000	Steady				100,000	

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64	MPCA	St. Croix River Monitoring and Phosphorus Reduction (MPCA)		0	Defer	BOC needs to discuss possibility of grant program			0	
92	MPCA	National Park Water Quality Protection Program (MPCA)	0	2,000,000	Defer	BOC needs to discuss possibility of grant program			0	
202	MPCA	Riverwatch Activities in the Red River Watershed (MPCA)		200,000	Defer	BOC needs to discuss possibility of grant program			0	This is an appropriation that has been legislatively directed and not requested by MPCA.
48	PFA	Point Source Implementation Grants (WWTP and Stormwater) (PFA)	18,000,000	18,000,000	Steady				18,000,000	Governor's bonding proposal for PSIG grants intended to supplement not supplant CWF dollars
49	PFA	Small Community Wastewater Treatment Program (PFA)	500,000	500,000	No Funding	Subject to change			250,000	FY2018-19 request subject to change (possibly downward) based on new project requests that will be better known in June/July 2016.
61	UMN	County Geologic Atlases (UMN)			Need More Information	Depends on other grant opportunities - will know more this late summer/early fall			0	
82	UMN	Stormwater BMP Performance Evaluation and Technology Transfer (UMN)	550,000	550,000	Increase	Note this funding passed through MPCA in past years.			0	MPCA shifted their stormwater funding to activity #52 and shifted their priorities from research and outreach to technical assistance for accelerated implementation.
312	UMN	Clean Water Return on Investment Pilot (UMN)			Fund (New)					

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TOTALS									326,522,000	



BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Environmental Initiative Award Presentation for Coffee Creek

Meeting Date: August 25, 2016

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Northern

Contact: Ryan Hughes

Prepared by: Ryan Hughes

Reviewed by: _____ Committee(s)

Presented by: Chris Kleist

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

Chris Kleist, City of Duluth Project Manager, will be providing a presentation on the Coffee Creek project and presenting the Board with the Environmental Initiative Award the City received for the project.

LINKS TO ADDITIONAL INFORMATION

<http://environmental-initiative.org/our-work/environmentalinitiative-awards/2016-awards-finalists/coffee-creek-daylighting-and-restoration>

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

Coffee Creek is a DNR designated trout stream in the center of the City of Duluth. The 2012 flood in northeast Minnesota caused severe damage to Coffee Creek and the key pieces of stormwater infrastructure within and adjacent to the creek. BWSR provided disaster relief assistance through authorization of phased disaster relief grants to address the highest prioritized projects within the City, which included this project and many others. The Coffee Creek project was a multi-partner project due to both the public infrastructure issues as well as the native Brook Trout population concerns within the Creek. This natural channel restoration project provides a unique example of how sustainable redevelopment can be achieved simultaneously with achieving conservation, social and economic objectives to ensure greater resiliency to future extreme weather events. This project was awarded the 2016 Environmental Initiative Award in the Natural Resources Category and Chris Kleist will be providing a presentation on the project and presenting the Board with the 2016 Environmental Initiative Award.