Minnesota Board of Water & Soil Resources

DATE: September 19, 2016

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

FROM: John Jaschke, Executive Director

SUBJECT: BWSR Board Meeting Notice – September 28, 2016

The Board of Water and Soil Resources (BWSR) will meet on Wednesday, September 28, 2016, beginning at 9:00 a.m. The meeting will be held in the lower level Board Room at 520 Lafayette Road N., St. Paul. Parking is available in the lot directly in front of the building (see hooded parking area).

The following information pertains to agenda items:

COMMITTEE RECOMMENDATIONS

Central Region Committee

1. **Brown's Creek Watershed District 2017-2026 Watershed Management Plan** - The Brown's Creek Watershed District (BCWD) was established in 1997 primarily to resolve flooding issues that its predecessor organization, the Brown's Creek Watershed Management Organization, was unable to resolve. Located in the east-central portion of the Metropolitan Area the BCWD encompasses approximately 29.9 square miles of Washington County, contains several land uses and a number of significant natural resources, Brown's Creek ultimately flowing into the St. Croix River. Since the BCWD addressed the flooding issues in the early 2000's, the organization has focused on its responsibilities related to protecting and restoring the ecological health of the Brown's Creek corridor (one of the few remaining designated trout streams in the Twin Cities) and the lakes, ponds and wetlands that support the constant source of groundwater to this cold water fishery. This plan will be the fourth BCWD Plan approved by the Board under the Watershed Act, Minnesota Statutes Chapter 103D and the 1982 Metropolitan Surface Water Management Act, Minnesota Statutes Chapter 103B. It builds upon the successful implementation of the 2007 to 2016 Plan with a new implementation program designed to meet the BCWD's updated goals and priorities. The Central Region Committee met earlier this month to discuss the plan and recommends approval per the attached draft Order. ***DECISION ITEM***

2. **Vadnais Lake Area Watershed Management Organization Plan 2017-2026** –The final draft Watershed Management Plan of the Vadnais Lake Area Watershed Management Organization (VLAWMO) was filed with the Board on July 5, 2016. The watershed is located in northeast metro

area within Ramsey and Anoka counties and encompasses the City of North Oaks and portions of the cities of White Bear Lake, Gem Lake, Vadnais Heights, Lino Lakes and White Bear Township. The Board's Central Region Committee met on September 8, 2016 in St. Paul to review and discuss the Plan. The committee unanimously voted to recommend approval of the Plan to the full Board. ***DECISION ITEM***

Administrative Advisory Committee

1. **Watershed District Model Buffer Enforcement Rule** - Watershed districts can elect to enforce the Buffer Law. To facilitate consideration by watershed district boards, staff are proposing to amend an agreement with the Red River Watershed Management Board to develop a model rule for consideration by watershed districts. ***DECISION ITEM***

2. **SWCD Technology Capacity Survey & Report Grant** – Authorize a grant, in the amount of $18,494, with the Becker SWCD, on behalf of SWCDs state-wide, for development of a state-wide SWCD technology capacity survey and report. The survey will provide data to assess and formulate a plan of action (report) that will address both current shortcomings in the current operational agreements which provide technology services to SWCDs and recommend future models for how SWCD technology capacity needs can be met. ***DECISION ITEM***

Dispute Resolution Committee

1. **Hearing on a Wetland Conservation Act (WCA) Appeal of a Replacement Plan Decision, Crow Wing County, File 15-9.** The Dispute Resolution Committee conducted a hearing on August 22, 2016 at 1:00 PM in the Central/West Board Room in the St. Paul. Following the close of the hearing, the Dispute Resolution Committee deliberated and voted 4 to 1 approving a motion that the County's findings of fact are not clearly erroneous, that the County correctly applied the law to the facts, and that the local government unit made no procedural errors prejudicial to the party. The Dispute Resolution Committee recommends that Crow Wing County's August 21, 2015 decision denying the replacement plan application be affirmed. ***DECISION ITEM***

NEW BUSINESS

1. **Minnesota Public Drainage Manual (MPDM) Update** – The MPDM was first developed in 1991 to provide guidance to drainage authorities as they administer Chapter 103E drainage systems. The MPDM has multiple audiences: drainage authorities, their engineers, attorneys and inspectors; landowners; regulatory agencies; and other interested parties. It is a guidance document and is not rule or law. ***INFORMATION ITEM***

If you have any questions regarding the agenda, please feel free to call me at 651-296-0878. The Board meeting will adjourn about noon. We look forward to seeing you on September 28th!

BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD N.
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55155
WEDNESDAY, SEPTEMBER 28, 2016
PRELIMINARY AGENDA

9:00 AM CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

ADOPTION OF AGENDA

MINUTES OF AUGUST 25, 2016 BOARD MEETING

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

CONFLICT OF INTEREST DECLARATION

- SWCD Technology Capacity Survey & Report Grant

INTRODUCTION OF NEW EMPLOYEES

- Kevin Bigalke, Central Region Manager
- Tim Smith, Wetland Banking Coordinator, St. Paul Office
- Julie Westerlund, 1W1P Coordinator, St. Paul Office

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

Central Region Committee

1. Brown's Creek Watershed District (BCWD) Watershed Management Plan 2017-2026 – Dan Fabian - ***DECISION ITEM***

2. Vadnais Lake Area Watershed Management Organization Plan 2017-2026 – Mary Peterson – ***DECISION ITEM***

Administrative Advisory Committee

1. Watershed District Model Buffer Enforcement Rule – Dave Weirens – ***DECISION ITEM***

2. SWCD Technology Capacity Survey & Report Grant – John Jaschke – ***DECISION ITEM***

Dispute Resolution Committee

1. Hearing on a Wetland Conservation Act (WCA) Appeal of a Replacement Plan Decision, Crow Wing County, File 15-9 – Travis Germundson – ***DECISION ITEM***

NEW BUSINESS

1. Minnesota Public Drainage Manual Update – Al Kean and Tim Gillette – ***INFORMATION ITEM***

AGENCY REPORTS

- Minnesota Department of Agriculture – Matt Wohlman
- Minnesota Department of Health – Chris Elvrum
- Minnesota Department of Natural Resources – Tom Landwehr
- Minnesota Extension Service – Faye Sleeper
- Minnesota Pollution Control Agency – Rebecca Flood

ADVISORY COMMENTS

- Association of Minnesota Counties – Jennifer Berquam
- Minnesota Association of Conservation District Employees – 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 Academy, October 24-26, 2016, Brainerd
- Next BWSR Meeting, Thursday, October 27, St. Paul

Noon **ADJOURN**

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

BOARD MEMBERS PRESENT:
Joe Collins, Jill Crafton, Jack Ditmore, Chris Elvrum, MDH; Doug Erickson, Rebecca Flood, MPCA; Kathryn Kelly, Tom Landwehr, DNR; Tom Loveall, Brian Napstad, Neil Peterson, Nathan Redalen, Tom Schulz, Rob Sip, MDA; Faye Sleeper, MES; Steve Sunderland, Gene Tiedemann, Gerald Van Amburg, Paige Winebarger

BOARD MEMBERS ABSENT:
Patty Acomb

STAFF PRESENT:
Mary Jo Anderson, Brett Arne, Angie Becker Kudelka, Matt Fischer, Tom Gile, Celi Haga, Ryan Hughes, John Jaschke, Al Kean, Doug Thomas, Pete Waller

OTHERS PRESENT:
Nicole Bernd, West Polk SWCD
Aaron Habermehl, West Polk SWCD
Tanya Hanson, Red Lake County SWCD
Bryan Malone, Pennington SWCD
Peter Nelson, Pennington SWCD
Chris Kleist, City of Duluth
Barb Huberty, Legislative Water Commission

DRAFT

Chair Napstad called the meeting to order at 9:00 a.m.

PLEDGE OF ALLEGIANCE

Chair Napstad welcomed everyone and thanked West Polk SWCD, Red Lake WD, Pennington SWCD, University of North Dakota, the City of Crookston, the City of East Grand Forks, DNR, and the RRBC for their involvement in the BWSR tour. Chair Napstad thanked BWSR staff Matt Fischer, Celi Haga, and Mary Jo Anderson for planning an excellent tour. Chair Napstad thanked Board Members for their attendance and expressed the connection between monthly Board meetings and committee meetings and appreciated seeing examples on the tour of how the Board makes things happen.

** 16-57 **ADOPTION OF AGENDA** – Moved by Neil Peterson, seconded by Paige Winebarger, to adopt the agenda as presented. ***Motion passed on a voice vote.***

** 16-58 **MINUTES OF JUNE 22, 2016 BOARD MEETING** – Jill Crafton noted an error on page four, top paragraph, last sentence, it should read, Jack Ditmore stated. Moved by Tom Schulz, seconded by Kathryn Kelly, to approve the minutes of June 22, 2016 as corrected. ***Motion passed on a voice vote.***

CONFLICT OF INTEREST DECLARATION

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

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 EMPLOYEE

- Ryan Hughes introduced Maggie Leach, Board Conservationist in Brainerd. Chair Napstad welcomed Maggie to the Board.

Chair Napstad welcomed and introduced Nathan Redalen, newly appointed board member representing townships.

REPORTS

Chair & Administrative Advisory Committee (AAC) – Brian Napstad reported that the EQB did not meet in August. The AAC met via phone/email regarding the Vadnais Lakes WMO boundary change petition on the agenda later today.

Executive Director's Report – John Jaschke thanked everyone for attending the tour. He stated that it was good to have Governor Dayton join us yesterday as he tours Minnesota's 87 counties in 86 days. John reported that a special legislative session has not been scheduled and is highly unlikely. John reported that he conducted Listening Sessions statewide meeting with BWSR staff and LGUs, discussing what we can do to prioritize and work together on issues. John stated that the BWSR Strategic Plan will be updated this year; staff will bring process recommendations to the Board and committees.

Dispute Resolution Committee (DRC) – Gerald Van Amburg reported that a DRC hearing was held on August 22, 2016, regarding a WCA appeal decision in Crow Wing County; there will be more information in September. Jack Ditmore commented on the Court of Appeals decision regarding McLeod County and the importance of timelines as actions are processed.

Grants Program & Policy Committee – Steve Sunderland reported that the Grants Program & Policy Committee met on August 11, 2016 in St. Cloud; recommendations are on the agenda later today.

Wetland Conservation Committee – Gerald Van Amburg reported that the Wetland Conservation Committee met on August 19, 2016. Four items were discussed: 1) Status of the Local Wetland Replacement Program. Staff are working on a strategy for future funding. 2) Wetland banking fees. Staff are developing implementation proposals for fees being collected. 3) 2015 Legislature granted BWSR authority for establishment of a stakeholder advisory committee. 4) Update from Doug Norris, DNR, regarding the Clean Water Act Section 404 Assumption Feasibility Study. Gerald reported on the personnel changes in the BWSR Wetland Section; Tim Smith is the new wetland banking coordinator. Staff will send staffing updates to board members. Tom Landwehr stated DNR's concerns for wetland banking long-term obligations, maintenance of structures, tax payment; endowments are a good mechanism. Tom suggested the Committee and staff discuss and come before the Board with recommendations/options. Gerald stated that the Committee discussed the liability; staff plans to work on this effort in a timely manner. Gerald stated that legislative action is necessary. Discussion followed. John stated staff and the Committee are working on requesting legislative authorization.

Buffers, Soils & Drainage Committee – Brian Napstad reported that the Buffers, Soils & Drainage Committee met on August 11 in St. Cloud; recommendation is on the agenda later today.

Drainage Work Group – Tom Loveall reported that the Drainage Work Group met on July 14 and August 11, 2016. Al Kean provided an overview of the meeting. The next meeting of the Drainage Work Group is September 15, 2016.

John Jaschke 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.

COMMITTEE RECOMMENDATIONS

Southern Region Committee

Area II Minnesota River Basin Projects FY 2017 Biennial Work Plan and Grant – Kathryn Kelly thanked staff for their information and assistance on the Southern Region Committee. Kathryn reported that the 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. The 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. Moved by Kathryn Kelly,
16-59 seconded by Chris Elvrum, to approve the Area II FY2016 and 2017 Biennial Work Plan and enter into a grant agreement with the Area II Minnesota River Basin Projects for these funds. ***Motion passed on a voice vote.***

Cottonwood County Priority Concerns Scoping Document – Kathryn Kelly reported that 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 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 to Cottonwood County. The State's expectations of the final plan must be sent to Cottonwood County. Moved by Kathryn Kelly, seconded by Steve Sunderland, to approve the Cottonwood County Priority Concerns Scoping Document. Rebecca Flood noted the correct spelling of Juline Holleran's name. ***Motion passed on a voice vote.***

** 16-60

Faribault County Comprehensive Local Water Management Plan Extension Request – Kathryn Kelly reported that Faribault County currently has a Comprehensive Local Water Management Plan that will expire December 31, 2016. On July 19, 2016, Faribault County submitted a formal request for an extension of their current Plan. The Southern Region Committee met on July 27, 2016 and recommends approval of the extension. The State's expectations for the extension request must be sent to Faribault County. Moved by Kathryn Kelly, seconded by Doug Erickson, to approve the extension of the Faribault County Comprehensive Local Water Management Plan until December 31, 2017. ***Motion passed on a voice vote***. Tom Loveall abstained from voting.

** 16-61

Le Sueur County Local Water Management Plan Amendment – Kathryn Kelly reported that 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 reviewed the recommendation of the State review agencies regarding final approval of the Le Sueur County Local Water Management Plan Amendment; and recommends approval. Moved by Kathryn Kelly, seconded by Paige Winebarger, to approve the Le Sueur County Local Water Management Plan Amendment. ***Motion passed on a voice vote.***

** 16-62

Buffers, Soils & Drainage Committee

Adoption of the Buffer Program Policies – Tom Gile reported that the Buffers, Soils and Drainage Committee have reviewed the seven draft Buffer Program Policies and is recommending Board adoption. Tom provided a brief overview of the seven 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); and 7. Non Implementation Policy*. Discussion followed. Tom Landwehr stated that we need to be conscience of water and wind erosion; clarification is needed on Policy #4. Tom Gile stated that guidance and adequate training is being developed for SWCDs. Kathryn Kelly appreciates BWSR staff work and articulation on the policies. Kathryn stated that SWCD staff are looking forward to working on the buffer program efforts. Discussion followed on Policy #5 - Tom Landwehr stated that there is potential for confusion; other watercourses need to be identified and criteria and guidance. John stated that we have a statute to follow without rulemaking authority. Tom Gile stated that misconceptions are being addressed and guidance provided to SWCDs; consistently providing the message that this is an inventory with the SWCD as the decision maker on this policy. John stated that staff will continue working on additional needed policies and guidance to support the program.

** 16-63

Moved by Tom Landwehr, seconded by Rebecca Flood; that the Board adopts the Buffer Program Policies as presented; if any of these policies are declared to be unenforceable or invalid, the remainder will continue to be valid and enforceable. ***Motion passed on a voice vote.***

Grants Program & Policy Committee

One Watershed, One Plan Planning Grants – Doug Thomas reported that the One Watershed, One Plan (1W1P) Planning Grants Request for Proposal (RFP) ended on June 17, 2016 with nine applications received. The Grants Program & Policy Committee met on August 11, 2016; reviewed the SMT
** recommendation for the 1W1P Planning Grants and unanimously recommend approval. Moved by
16-64 Steve Sunderland, seconded by Faye Sleeper, to: 1) Approve and authorize 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 to enter into grant agreements with these watershed areas for development of One Watershed, One Plans; and 3) Approves the allocation of up to $1,700,000. ***Motion passed on a voice vote.***

Grass Lake Grant – Doug Thomas reported that 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. The funds to Kandiyohi County will complete the construction on the main outlet to the project and additional restoration activities by 2017. Doug stated that the
** Grants Program & Policy Committee recommends approval of the Grass Lake grant. Moved by Kathryn
16-65 Kelly, seconded by Tom Loveall, to authorize 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, Subd. 4, for use on approved Grass Lake project activities, including but not limited to contracts for project construction and consulting services. Discussion followed. ***Motion passed on a voice vote.***

Chair Napstad called for a break in the meeting at 11:15 am. The meeting reconvened at 11:32 a.m.

Red Lake River One Watershed, One Plan Presentation – Matt Fischer thanked the Board for coming to East Grand Forks to tour Polk County. Matt reported that the Red Lake River watershed was selected as one of five watersheds for the One Watershed, One Plan Pilot Program. Matt introduced the Red Lake River Planning Work Group: Nicole Bernd, District Manager, West Polk SWCD; Peter Nelson, Water Plan Coordinator, Pennington SWCD; Bryan Malone, District Manager, Pennington SWCD; and Tanya Hanson, District Manager, Red Lake SWCD. Myron Jesme, Administrator, Red Lake WD; is also part of this group although not in attendance today. Nicole reported that 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. Nicole presented the Red Lake River Planning Work Group's draft plan and pilot experience. Nicole stated that the collaboration is a benefit, the involvement of the group makes things happen. Tom Landwehr congratulated the group on the work being done on the pilot program. Jack Ditmore also congratulated the group on their efforts and asked what BWSR can do to enhance the guidelines. Nicole stated that Matt Fischer has been instrumental in the planning structure of the group; they are very fortunate to have an open line of communication. Discussion followed. Chair thanked the Red Lake River Planning Work Group for their efforts and for coming before the Board today.

OLD BUSINESS

2016 Board Meeting Schedule Adjustment – John Jaschke reported that BWSR board members were contacted to check availability prior to requesting to change the meeting date from October 26 to
** Thursday, October 27, 2016 due to staffing conflicts (BWSR Academy). Moved by Tom Loveall, seconded
16-66 by Jack Ditmore, to change the October 26 meeting date to Thursday, October 27, 2016. ***Motion passed on a voice vote.***

NEW BUSINESS

Boundary Change Petition Vadnais Lake Area Water Management Organization – John Jaschke reported that 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. 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 unanimously recommend approval.

** 16-67 Moved by Kathryn Kelly, seconded by Joe Collins, that the Board orders the boundaries of the Rice Creek Watershed District changed per the Petition as depicted on the map 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 the Order presented. ***Motion passed on a voice vote.***

Clean Water Council & Interagency Coordinating Team Preliminary FY18-19 Budget Recommendations – Doug Thomas provided a review of the Clean Water Council's Ad-hoc Policy Committee draft policy statements related to drinking water and living cover for water protection. Doug provided a brief overview of the Budget Oversight Committee's preliminary recommendations from its August 5, 2016 meeting for BWSR activities. Chair Napstad thanked Doug for the information.

Coffee Creek Project and Presentation of the Environmental Initiative Award to BWSR – Ryan Hughes introduced Chris Kleist, City of Duluth project manager. Chris presented the Coffee Creek project and explained that the 2012 flood in northeast Minnesota caused severe damage to Coffee Creek. BWSR provided disaster relief assistance through authorization of phased disaster relief grants to address the highest prioritized projects within the City. The project was a multi-partner project due to both the public infrastructure issues as well as the native Brook Trout population concerns. The restoration project provides a unique example of how sustainable redevelopment can be achieved with conservation, social and economic objectives to ensure greater resiliency to future extreme weather evens. Chris, on behalf of the City of Duluth, presented BWSR with the 2016 Environmental Initiative Award. Chair Napstad and John Jaschke accepted the award and thanked Chris for the presentation.

AGENCY REPORTS

Minnesota Department of Agriculture (MDA) – Rob Sip invited board members to attend the 2016 Prairie Grains Conference, December 7-8, 2016 in Grand Forks, ND.

Minnesota Department of Natural Resources (DNR) – Tom Landwehr reported that the Fargo-Moorhead diversion project is still in progress; DNR is reviewing the permit application. Tom stated that DNR is working with the MN Aquatic Invasive Research Center (MAISRC) on new invasive species. The 2016 MAISRC Management Showcase will be held on September 12 at the U of M. DNR is hosting an Angler and Hunter Recruitment and Retention Summit on August 26-27, 2016, at the Earle Brown Center.

Minnesota Extension Service (MES) – Faye Sleeper reported that the Buffer Science and Design Symposium will be held on September 16 at the Northstar Ballroom, U of M, St. Paul Campus. The 2016 Water Resources Conference will be held October 18-19, at the St. Paul River Centre. Faye reported that the Minnesota Climate Adaptation Partnership is co-sponsoring the National Adaptation Forum on May 9-11, 2017 in St. Paul; a flyer was distributed.

UPCOMING MEETINGS

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

Jack Ditmore stated that the Board Member location map needs a correction on the number and location of Joe Collins/Jack Ditmore.

** 16-68 Moved by Tom Loveall, seconded by Kathryn Kelly, to adjourn the meeting at 12:52 PM. ***Motion passed on a voice vote.***

Respectfully submitted,

Mary Jo Anderson
Recorder

DRAFT

Conflict of Interest Disclosure Form
for Board Members

Grant Program: FY17 SWCD Technology Capacity Survey & Report 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

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Dispute Resolution Committee Report**

Meeting Date: September 28, 2016

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

Item Type: ☐ Decision ☐ Discussion ☒ Information

Section/Region: Central Office

Contact: Travis Germundson

Prepared by: Travis Germundson

Reviewed by: _____ Committee(s)

Presented by: Travis Germundson/Gerald VanAmburg

☐ **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 appeal filed with BWSR.

Dispute Resolution Report
September 15, 2016
By: Travis Germundson

There are presently **14** appeals pending. All of the appeals involve WCA. There has been **2** new appeals filed since the last report (August 25th 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 16-10 (9-12-16) This is an appeal of an exemption decision in Sibley County. The appeal regards the denial of an agricultural drainage exemption associated with 8.5 acres of wetland. *No decision has been made on the appeal.*

File 16-9 (8-15-16) This is an appeal of a restoration order in Todd County. The appeal regards the unauthorized impacts to approximately 19.9 acres of wetland associated with the placement of agricultural drain tile. *The appeal has been placed in abeyance until the LGU makes a final decision on the applications for exemption and no-loss.*

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. *A decision has been made to grant and hear 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.~~ *The appeal has been withdrawn and the case dismissed.*

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 took place on August 22nd and the committee made a recommendation that will be presented to the full BWSR Board on September 28th.*

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. *The Court of Appeals issued an Opinion on August 8, 2016 affirming BWSR's decision. However, appeal will remain in abeyance for additional 60 days in case the decision is taken to the State Supreme Court*

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	5
Negotiated Settlement		1
Withdrawn/Dismissed	2	1

COMMITTEE RECOMMENDATIONS

Central Region Committee

1. Brown's Creek Watershed District (BCWD) Watershed Management Plan 2017-2026 – Dan Fabian - ***DECISION ITEM***

2. Vadnais Lake Area Watershed Management Organization Plan 2017 - 2026 – Mary Peterson – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Brown's Creek Watershed District (BCWD) Watershed Management Plan - 2017-2026

Meeting Date: September 28, 2016

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Central Region

Contact: Kevin Bigalke

Prepared by: Dan Fabian

Reviewed by: Central Region Committee(s)

Presented by: Dan Fabian

☐ **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 Brown's Creek Watershed District (BCWD) 2017-2026 Watershed Management Plan

LINKS TO ADDITIONAL INFORMATION

Link to final draft of plan:
http://bcwd.org/vertical/sites/%7B64FB1BEC-A43C-4118-B98E-92A5C0551F17%7D/uploads/BCWD_2017-26_WMP_-_clean_draft_with_appendices_8-30-2016.pdf

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

Background

"The Brown's Creek Watershed District (BCWD) was established in 1997 when the Brown's Creek Watershed Management Organization was unable to resolve flooding issues in Goggins Lake, Plaisted Lake, School Section Lake and Kismet Basin. Since these flooding issues were addressed in the early 2000's, the BCWD has taken an active role in protecting and restoring Brown's Creek, one of the few remaining designated trout streams in the Twin Cities Metropolitan Area. Over the course of the last 15 years, the BCWD has transitioned from being an organization

focused on the protection of a single species to one that is focused on the ecological health of the entire Brown's Creek corridor and the lakes, ponds and wetlands that support the constant source of groundwater to this cold water fishery. In addition, the BCWD recognizes the contributions it has on the St. Croix River, which is designated as a National Scenic Riverway" (BCWD 2017 WMP).

The BCWD is located exclusively in Washington County in the east-central portion of the Metropolitan Area encompassing portions of the City of Grant, the City of Hugo, the City of Lake Elmo, May Township, the City of Oak Park Heights, the City of Stillwater and Stillwater Township. It is bound by the Valley Branch Watershed District to the south, the Middle St. Croix Watershed Management Organization to the southeast, the Carnelian-Marine–St. Croix Watershed District to the northeast, and the Rice Creek Watershed District to the west. The entire watershed is approximately 29.9 square miles containing several land uses with a number of significant natural resources.

In 2015 the Board of Water and Soil Resources (BWSR) completed a Level II Performance Review of the BCWD as part of BWSR's Performance Review and Assessment Program (PRAP). In the final PRAP Level II Report the BCWD was commended for meeting 12 out of 12 Benchmark Performance Standards. One of the recommendations from that report was that the District *"continue to expand the use of Prioritized, Targeted and Measurable (PTM) as criteria for Goals and Objectives in the next water management plan as appropriate".*

Plan Summary

The BCWD has completed this fourth generation 2017-2026 Watershed Management Plan to accomplish their Mission Statement that *"The BCWD works with the community to: Preserve and improve the quality of the District's water and natural resources; Educate residents about the value of this ecosystem and advise residents of their potential impacts on the functions and values of the District's water and natural resources; Implement acceptable solutions to water-related issues; Sustainably accommodate development; and Assure that the integrity of the watershed is preserved for future generations".*

The Plan includes a comprehensive "Table of Contents"; "Glossary of Terms", list of "Acronyms", and a list of "Referenced Documents". This leads to a concise, informative Executive Summary that also works as a separate handout on the Plan. It includes the required information, nicely summarizing the Primary Issues, Major Goals and the resulting Major Actions in the Plan. This is followed by an introductory letter from the BCWD President.

The main body of the Plan includes:
"Section 1 - Introduction and Plan Requirements" with a brief history of the BCWD its accomplishments since the 1997 inception and other background information on the BCWD.

"Section 2 - Assessment and Priority Concerns" documents the process that the BCWD undertook to identify its priority concerns. In addition to the upfront information provided by agencies as part of the initial plan notification process and BCWD review of their existing plans and policies, they conducted a very robust, innovative "Stakeholder and Public Involvement" effort to solicit valuable input from area residents and other stakeholders. A highlight was the kick-off for the public involvement portion of the plan that included an ice cream social held in conjunction with the grand opening of the Brown's Creek State Trail. This public involvement effort was also the subject of an October 2015 BWSR Snapshots article.

One of the primary actions the BCWD Board of Managers made from the initial stages of the planning effort was the establishment of a realistic Implementation Plan that was obtainable within the expected 10-yr life of the Watershed Management Plan. As part of that effort the BCWD Managers were very conscious about defining and establishing an annual budget affordable to their residents and they were equally conscious about how much of the annual budget should be allocated to the District's programs. An interesting part of this process included an estimation of what it would cost to do everything needed to bring their resources into compliance with their water quality standards. This in turn led into how the Managers prioritized their annual expenditures for the next 10-yrs of plan implementation. In the end it was determined that 25% of the annual budget would be allocated to construction projects that have a direct benefit to the surface water or groundwater resources found in the

Brown's Creek contributing watershed's. That annual CIP budget was further prioritized and allocated towards to BCWD's impaired resources as 70% to Brown's Creek; 15% to Long Lake; 5% to South School Section Lake and 10% to all of the other waterbodies. Section 2.4 describes the process in more detail.

The assessment process identified 15 primary issue categories that are addressed in the Watershed Management Plan. These issues are broken down into sub-issue areas and the resulting policies, goals and objectives for addressing the priority categories. A total of 97 goals were developed to support the identified issue categories.

"Section 3 – Issues, Policies, Goals and Objectives for Addressing Priority Concerns" describes in detail this effort and implementation items (with projected expenditures) the BCWD will pursue to achieve each goal needed to address the identified issues.

Finally the implementation items identified in Section 3 are incorporated into the BCWD Implementation Program described in **"Section 4 – Implementation"**. The implementation plan uses both structural (capital improvement) and programmatic elements to achieve the goals identified in the plan. Each of the various elements are described in sufficient detail in Section 4. As the BCWD evaluated all of the implementation activities identified during the development process they also developed criteria determining which activities should be eliminated, implemented first, or implemented later in the 10-yr timeframe of the plan. Similarly identified are items that should be implemented if additional funding sources become available. Tables 60, 61, 62 & 63 summarize the complete implementation program.

Plan Review

The planning process culminated with the completion of the draft plan which was approved by the BCWD's Board of Managers and then distributed to individuals, communities, Plan Review Authorities and other stakeholders on April 20, 2016 for the required 60-day review and comment period. Written comments were received, considered and responded to by the BCWD. The BCWD held a public hearing on July 11, 2016 as required with no additional comments being brought forth. The final draft Plan and all required materials were submitted and officially received by the Board on July 19, 2016 for the final 90-day plan approval period. All local and state comments received in regards to the Plan have been addressed and the Plan is in conformance with the requirements of Minnesota Statutes Section 103B.231.

Recommendation

The Central Region Committee met on September 8, 2016 to review the Plan, comments received and the BWSR staff recommendation. Staff recommended approval of the Brown's Creek Watershed District 2017-2026 Watershed Management Plan. The Central Region Committee unanimously voted to recommend approval of the Plan to the full Board per the attached draft Order.

Attachments

1. Board Order for approval of the Brown's Creek WD 2017-2026 Watershed Management Plan
2. BCWD 2017-2026 Plan Executive Summary
3. Map of the BCWD

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

In the Matter of the review of the Watershed Management Plan for the **Brown's Creek Watershed District**, pursuant to Minnesota Statutes Section 103B.231, Subdivision 9.

ORDER APPROVING A WATERSHED MANAGEMENT PLAN

Whereas, the Board of Managers of the Brown's Creek Watershed District (BCWD) submitted a Watershed Management Plan (Plan) dated August 2016 to the Minnesota Board of Water and Soil Resources (Board) pursuant to Minnesota Statutes Section 103B.231, Subd. 9, and;

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

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

FINDINGS OF FACT

1. **Watershed District Establishment.** The Brown's Creek Watershed District (BCWD) was established in October of 1997 due to a petition to the State of Minnesota from Washington County. The County petition was a result of after the Brown's Creek Watershed Management Organization had been found non-functional as a result of being unable to resolve flooding issues in Goggins Lake, Plaisted Lake, School Section Lake and Kismet Basin.

   The BCWD Mission Statement is that *"The BCWD works with the community to: Preserve and improve the quality of the District's water and natural resources; Educate residents about the value of this ecosystem and advise residents of their potential impacts on the functions and values of the District's water and natural resources; Implement acceptable solutions to water-related issues; Sustainably accommodate development; and Assure that the integrity of the watershed is preserved for future generations".*

2. **Authority of Plan.** The Metropolitan Surface Water Management Act requires the preparation of a watershed management plan for the subject watershed area which meets the requirements of Minnesota Statutes Sections 103B.201 to 103B.251. The BCWD adopted its current third generation Plan in 2007. In 2012 that plan was amended to update the Implementation Program. The BCWD initiated the planning process for this fourth generation Plan on January 26, 2015.

3. **Nature of the Watershed.** The BCWD is located exclusively in Washington County in the east-central portion of the Metropolitan Area encompassing portions of the City of Grant, the City of Hugo, the City of Lake Elmo, May Township, the City of Oak Park Heights, the City of Stillwater and Stillwater Township. It is bound by the Valley Branch Watershed District to the south, the Middle St. Croix Watershed Management Organization to the southeast, the Carnelian-Marine–St. Croix Watershed District to the northeast, and the Rice Creek Watershed District to the west. The watershed includes many wetlands, lakes, streams and groundwater dependent natural resources. However, the main feature of this watershed is Brown's Creek, which is a natural reproducing trout stream that flows from the upland portions of the watershed southeast to the St. Croix River. Per the recent

Unique Species Inventory there are a significant number of quality plant communities, macroinvertebrates, fish, amphibians, birds and mammals that rely on the Brown's Creek corridor for a portion of their life-cycle. The entire watershed is approximately 29.9 square miles with the prominent land covers consisting of Forest/Woodland at 46% of the watershed and Wetland at 16% of the watershed. Impervious surfaces occupy a total of 8 % of the watershed and developed areas with imperviousness greater than 10 % cover approximately 13 % of the watershed, with the majority of the development located in the southeast portion of the watershed.

4. **Plan Development and Review.** The BCWD, in accordance with the requirements in MR 8410, initiated the plan-development process for the 2017-2026 Plan on January 26, 2015 by notifying the designated state plan-review agencies, Washington County, adjacent watershed management organizations, watershed communities and other identified stakeholders that it was starting the plan-update process and soliciting each plan review agency's priority issues, summaries of relevant water management goals, and water resource information. The BCWD made a concerted effort to engage as many participants as possible in the plan development process. The stakeholder and public involvement effort was officially kicked off on June 16, 2015 with and ice cream social held in conjunction with the grand opening of the Brown's Creek State Trail. The engagement efforts continued with outreach to the Development Community, Property Management Groups, and Rural Residents meeting them in their neighborhoods. In addition to these stakeholder groups the BCWD Citizens Advisory (CAC) and Technical Advisory Committee (TAC) input was obtained to both identify issues and help with development of the draft plan. Included early in the process a comprehensive review of the existing plan issues, policies, goals, implementation activities, water quality trends and progress made was conducted to establish a starting point for the 2017-2026 Plan. Much of the feedback received supports the issues, policies and goals brought forward from previous plans, new information was brought to light that resulted in the development of new issues, policies and goals or allowed for the further refinement of existing issues, policies and goals. Recreation, Climate Change Adaption, and Ecological Health are examples of new issues which will be addressed by the BCWD over the next ten years. This work culminated with the completion of the draft plan which was approved by the BCWD's Board of Managers and then distributed to individuals, communities, Plan Review Authorities and other stakeholders on April 20, 2016 for the required 60-day review and comment period. Written comments were received, considered and responded to by the BCWD. The BCWD held a public hearing on July 11, 2016 as required with no additional comments being brought forth. The final draft Plan and all required materials were submitted and officially received by the Board on July 19, 2016.

5. **Local Review.** The BCWD sought and received input from local units of government throughout the plan development process. For the 60-dayf review the BCWD distributed copies of the draft Plan to local units of government for their review pursuant to Minnesota Statutes Section 103B132, Subd. 7. Local written comments were received from City of Oak Park Heights, expressing a concern that the BCWD was requiring cities to implement certain requirements and BCWD Rules and the need to wait for BCWD approval of their Local WMP. The BCWD responded to all comments clarifying the plan language and identifying the Minnesota Statutes and Rules on which the plan language was based.

6. **Metropolitan Council Review.** The Council provided early input into the planning process and participated in TAC meetings. During the 60-day review, the Council commended BCWD for preparation of a comprehensive and thorough plan. Council provided minor edits to the Plan and provided links to additional information and tools available from the Council. They stated that the BCWD Plan was consistent with Council policies and the Council's Water Resources Policy Plan. The BCWD responded to all comments and added links to its website to the additional Council information and tools. The Council notified BWSR during the 90-day review period that they had no additional comments.

7. **Department of Agriculture (MDA) Review.** MDA provided early input to the planning process. During the 60 day review MDA provided minor edits and information on assistance MDA can provide with groundwater protection and other water quality issues. The BCWD responded to all comments received. MDA notified BWSR during the 90-day review period that they had no additional comments.

8. **Department of Health (MDH) Review.** MDH notified BWSR during the 60-day and 90-day review periods that they had no comments.

9. **Department of Natural Resources (DNR) Review.** The DNR provided early input into the planning process and participated in TAC meetings. During the 60 day review, DNR noted that the BCWD had done a superb job of incorporating public input into the WMP update process and also incorporating DNR's upfront input. The DNR provided general editorial content comments, technical language comments and requested a clarification on one of the implementation activities. The BCWD responded to all comments received. DNR notified BWSR during the 90-day review period that they had no additional comments.

10. **Pollution Control Agency (PCA) Review.** PCA provided early input to the planning process and participated in TAC meetings. During the 60-day review the PCA noted that the BCWD had adequately incorporated PCA informal comments during the plan development process and they only had a few minor additional suggestions. PCA identified a couple editorial comments, suggested that more information be added describing the current water quality conditions and encouraged inclusion of hyperlinks to relevant reports and programs making them easier to find. -The BCWD responded to all comments received. PCA notified BWSR during the 90-day review period that they were satisfied with the changes made based on their 60-day comments and had no additional comments.

11. **Department of Transportation (DOT) Review.** MDH notified BWSR during the 60-day review period that they had no comments.

12. **Board Review.** Board staff initially met with BCWD Staff on January 29, 2015 to discuss the plan update process and content per the soon to be revised MR 8410. This meeting was followed with additional correspondence on May 25, 2015 of additional upfront information further identifying BWSR expectations of the key components of Metro Watershed Plans to include: an inclusive and interactive development process; goals that produce measurable results addressing prioritized issues; and a comprehensive prioritized implementation section. BWSR staff participated in TAC meetings and provided assistance during the Plan development meeting with BCWD staff to discuss key points of the Plan being developed at the time. BWSR staff also took advantage of opportunity to attend several of the unique public involvement activities held by the BCWD. The extensive efforts by the BCWD at an inclusive and interactive plan development process paid off with the completion of a 60-day review draft that for the most part resulted in minimum amount of comments pertaining primarily to editorial comments and those requesting clarification or provision of additional information from the commenter. During the 60-day review BWSR staff commended the BCWD finding their plan strong in its inclusive planning, issues identification, logical prioritization processes, the well-organized implementation section, and overall clean appearance of the plan. BWSR staff comments included several editorial type comments and requests for clarifications intended to make the plan stronger and clearer. Detailed citations were requested for all reference documents especially those critical to the implementation plan actions. A need for clarifications of the BCWD Incentive Programs, and a need to be consistent with how the programs are presented on the BCWD website were identified. Additional detail was requested on how the BCWD intends to conduct its required Biennial Evaluation program. BWSR staff requested additional detail on the BCWD's required process for evaluating local government implementation of their LWMP and the identification of procedures the District will use to address local government implementing all or portions of its local water management plan per MN Rules 8410.0105 Subp. 1.C. During the 90-day final plan approval period BWSR staff identified a couple of the 60-day comment items that would benefit from some additional revision. BWSR staff met with BCWD staff on August 29, 2016 to discuss these items and BCWD made the necessary updates to the final draft Plan to address the concerns. BCWD has sufficiently addressed all comments received.

13. **Plan Summary.**

- The plan provides a comprehensive "Table of Contents"; a "Glossary of Terms" and a list of "Acronyms," both with definitions; and a list of "Referenced Documents".

- The Executive Summary is concise but informative and also works as a separate handout on the Plan. It includes the required information, nicely summarizing the Primary Issues, Major Goals and the resulting Major Actions in the Plan.

- An introductory letter from the BCWD President is provided laying out the Board of Managers commitment to the community to manage the water resources placed in their charge.

- The main body of the Plan starts with Section 1 - Introduction and Plan Requirements and provides a brief history of the BCWD its accomplishments since the 1997 inception and other background information on the BCWD.

- Section 2 - Assessment and Priority Concerns documents the process that the BCWD undertook to identify its priority concerns. This section also describes a robust, innovative "Stakeholder and Public Involvement" effort to solicit valuable input from area residents and other stakeholders. One of the primary actions the BCWD Board of Managers made from the initial stages of the planning effort was the establishment of a realistic Implementation Plan that was obtainable within the expected 10-yr life of the Watershed Management Plan. As part of that effort the BCWD Managers defined what an annual budget affordable to their residents was. They also established about how much of the annual budget should be allocated to the District's programs determining that 25% of the annual budget would be allocated to construction projects (CIP) that have a direct benefit to the Brown's Creek watershed's surface water or groundwater resources.

- The assessment process identified 15 primary issue categories/concerns that are addressed in the 2017 – 2026 Watershed Management Plan. These issues were then broken down into sub-issue areas and the resulting policies, goals and objectives for addressing the priority categories. A total of 97 goals were developed to support the identified issue categories. Section 3 – Issues, Policies, Goals and Objectives for Addressing Priority Concerns describes in detail this effort and implementation items (with projected expenditures) the BCWD will pursue to achieve each goal needed to address the identified issues.

- The implementation items identified in Section 3 are incorporated into the BCWD Implementation Program described in Section 4 – Implementation. Plan goals are achieved by implementing both structural (capital improvement) and programmatic elements. Identified implementation activities were evaluated against criteria developed to determine which activities should be eliminated, implemented first, or implemented later in the 10-yr timeframe of the plan. Also identified are items that should be implemented if additional funding sources become available. A detailed summary of the complete implementation program is provided in table format.

14. **Central Region Committee Meeting.** On September 8, 2016, the Board's Central Region Committee and staff met in St. Paul to review and discuss the Plan. Those in attendance from the Board's Committee were Joe Collins, WD; Jack Ditmore, CIT; Terry McDill, PCA; and Paige Winebarger, CIT. Jill Crafton, WD; Faye Sleeper, UM/Extension; and Patty Acomb, MC joined by conference call. Board staff in attendance were Central Region Supervisor Kevin Bigalke and Board Conservationists Dan Fabian and Mary Peterson. The BCWD representatives included Administrator Karen Kill, Washington Conservation District, and BCWD President Craig Leiser. Following a presentation by the BCWD, Board staff recommended approval of the Plan. After discussion, the Committee unanimously voted to recommend approval of the Amendment to the full Board.

CONCLUSIONS

1. All relevant substantive and procedural requirements of law and rule have been fulfilled.

2. The Board has proper jurisdiction in the matter of approving the Watershed Management Plan for the Brown's Creek Watershed District (BCWD) pursuant to Minnesota Statutes Section 103B.231, Subd. 9.

3. The BCWD Watershed Management Plan, attached to this Order, defines the water and water-related problems within the Watershed District's boundaries, possible solutions thereto, and an implementation program.

4. The attached Plan is in conformance with the requirements of Minnesota Statutes Sections 103B.201 to 103B.251.

ORDER

The Board hereby approves the attached Brown's Creek Watershed District Watershed Management Plan dated August 2016.

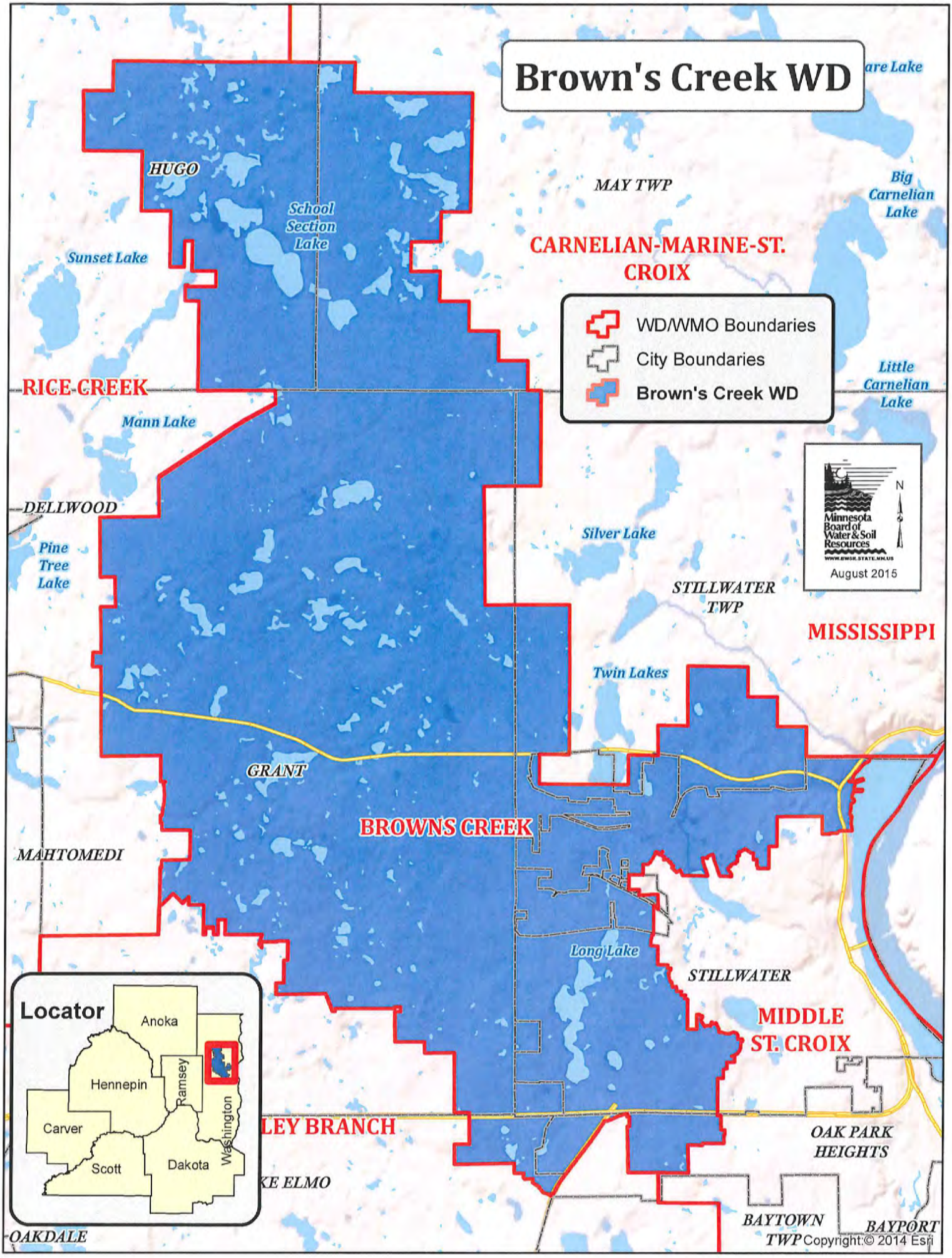
Dated at Saint Paul, Minnesota this 28th day of September 2016.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

_____

BY: Brian Napstad, Chair

DRAFT


Brown's Creek WD
HUGO
School Section Lake
Sunset Lake
MAY TWP
Big Carnelian Lake
CARNELIAN-MARINE-ST. CROIX
WD/WMO Boundaries
City Boundaries
Brown's Creek WD
RICE CREEK
Mann Lake
Little Carnelian Lake
DELLWOOD
Pine Tree Lake
Silver Lake
Minnesota Board of Water & Soil Resources
August 2015
STILLWATER TWP
MISSISSIPPI
Twin Lakes
GRANT
BROWNS CREEK
MAHTOMEDI
Long Lake
STILLWATER
MIDDLE ST. CROIX
Locator
Anoka
Hennepin
Ramsey
Washington
Carver
Scott
Dakota
LEY BRANCH
OAK PARK HEIGHTS
KE ELMO
OAKDALE
BAYTOWN TWP
BAYPORT
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EXECUTIVE SUMMARY

Purpose of the Watershed Management Organization

Recognizing the need to manage water on a broader basis than municipal or county boundaries, the Minnesota Legislature passed and the governor signed the Watershed Act in 1955. This act provided the means to create watershed districts in the state. As stated in statute, the purposes of watershed districts are:

> *To conserve the natural resources of the state by land use planning, flood control, and other conservation projects by using sound scientific principles for the protection of the public health and welfare and the provident use of the natural resources.*

The Brown's Creek Watershed District was established in 1997 when the Brown's Creek Watershed Management Organization was unable to resolve flooding issues in Goggins Lake, Plaisted Lake, School Section Lake and Kismet Basin. Since these flooding issues were addressed in the early 2000's, the BCWD has taken an active role in protecting and restoring Brown's Creek, one of the few remaining designated trout streams in the Twin Cities Metropolitan Area. Over the course of the last 15 years, the BCWD has transitioned from being an organization focused on the protection of a single species to one that is focused on the ecological health of the entire Brown's Creek corridor and the lakes, ponds and wetlands that support the constant source of groundwater to this cold water fishery. In addition, the BCWD recognizes the contributions it has on the St. Croix River, which is designated as a National Scenic Riverway.

Location

The BCWD is located in Washington County, Minnesota. It encompasses portions of the City of Grant, the City of Hugo, the City of Lake Elmo, May Township, the City of Oak Park Heights, the City of Stillwater and Stillwater Township. Figure 1 identifies the city and township boundaries located within the District. Table 1 identifies each city and township, its total population and how much of its area is located in the BCWD. These areas were determined using the legal boundary of the District (published October 2015).

Table 1. Communities located in the Brown's Creek Watershed District

City/Township	Total Population (2010 Census)	Area in BCWD [Acres]	Area in BCWD [Square Miles]	Percentage of Total BCWD Area [%]
Grant	4,096	9,906	15.5	52%
Hugo	13,332	2,409	3.8	13%
Lake Elmo	8,069	172	0.3	1%
May Township	2,928 (2000)	2,051	3.2	11%
Oak Park Heights	4,339	318	0.5	2%
Stillwater	18,225	3,120	4.9	16%
Stillwater Township	2,553 (2000)	1,128	1.8	6%
TOTAL	41,833	19,104	29.9	100%

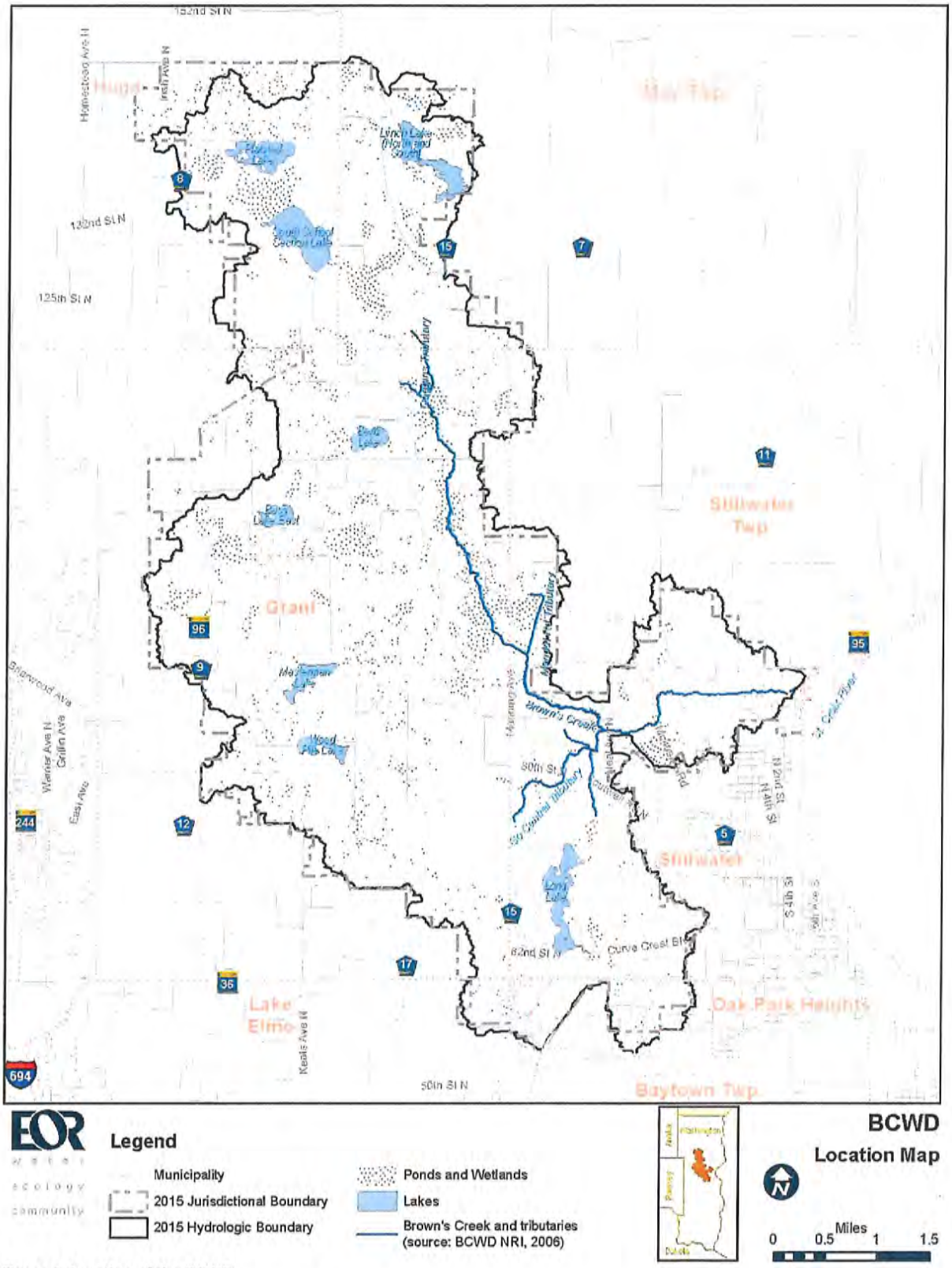

Figure 1. Location of the BCWD

Primary issues addressed in the Plan

There are 15 issue categories identified in the 2017-2026 Watershed Management Plan. A brief summary of each issue category is provided below. The issues are broken down into sub-issue areas and are described in more detail in section 3 *Issues, Policies, Goals and Objectives for Addressing Priority Concerns* (see reference to sub-section after each issue category). As section 2 *Assessment of Priority Concerns* describes, many of the issue categories and sub-issue areas are the same as those identified in previous watershed management plans. Of the 15 issue categories addressed in the Plan, three of them are new to the 2017-2026 Watershed Management Plan. The new categories are highlighted below:

1. **Stormwater Runoff Management (Section 3.1.1)**

   Proper management of runoff from impervious surfaces can reduce common environmental impacts, such as increased runoff rates, decreased water quality, and reduced groundwater recharge. Urbanization and land-use changes often involve an increase in imperviousness, compaction of native soils, and removal of existing vegetation. Unless land-use changes are properly managed, these activities will increase the rate and volume of stormwater runoff generated in the watershed and will decrease the quality of surface water resources and the quantity of groundwater resources. These urbanized areas contribute additional runoff volume and increased runoff rates to local water bodies, compared with presettlement conditions.

2. **Erosion Prevention and Sediment Control (Section 3.1.2)**

   Unless properly managed, land-disturbing activities can intensify erosion and lead to increased transport of sediment into surface waters. Increased erosion can also cause the formation of gullies in areas with unstable soils. Sedimentation in waterways can lead to fish kills, clogged streams, reduced storage volume of reservoirs and reductions in stormwater infiltration by sealing permeable soils.

3. **Stream Management (Section 3.1.3)**

   Alterations in land use disrupt the hydrology and ecology of stream ecosystems. For example, increased imperviousness in the contributing drainage area to a resource results in inhibited infiltration of rainfall and snowmelt. This reduction in infiltration results in reduced baseflow, larger and more frequent stormwater discharges, and increased temperature and pollutant loads. These factors contribute to channel enlargement, changes to instream habitat, decreased aquatic diversity and, in general, degradation of the resource. A portion of Brown's Creek does not meet the State's water quality standards and is impaired for aquatic life due to a lack of cold water fish assemblage and high turbidity.

4. **Lake Management (Section 3.1.4)**

   The Brown's Creek watershed is home to a few small, shallow lakes and several large open-water wetlands/ponds that are locally regarded as lakes. A number of lakes in the watershed have been impacted by land-use changes that have resulted in degraded water quality, changes in water level, and/or the spread of aquatic invasive species. Other lakes have not seen dramatic changes in land use, but are at risk of having impacts to water quality, water level, fisheries, and recreational use if current or future land-use practices are not managed properly.

5. **Wetland Management (Section 3.1.5)**

   The District's wetland resources are at risk of encroachment from development and conversion to agricultural use. They are also at risk of degradation from land use practices that increase stormwater input and decrease groundwater contributions thereby decreasing wetland water quality, altering hydrologic patterns, and limiting wildlife habitat within and adjacent to wetlands.

6. **Floodplain Management (Section 3.1.6)**

   The BCWD risks losing flood storage areas through land and basin alterations. The loss of flood storage areas can increase the frequency, elevation, and duration of flooding and can result in increased impacts to infrastructure, property, and the natural environment.

7. **Groundwater Management (Section 3.1.7)**

   Land-altering activities have the potential to impact groundwater resources as well as groundwater dependent natural resources. Without proper land-use and water resource management, the following impacts may occur: reduced groundwater recharge, reduced groundwater quality, alterations to drinking water supply, and alterations to the functions and values of groundwater dependent natural resources.

8. **Ecological Health (Section 3.1.8) - *NEW to 2017-2026 WMP***

   The ecological integrity of Brown's Creek and many watershed lakes and wetlands has degraded to a point where the resources are not providing their original level of function or value. There are many high quality and high functioning natural resources in the watershed. However the majority of these resources lack adequate protection from disturbances.

9. **Monitoring and Data Collection (Section 3.1.9)**

   Monitoring and research data are needed to understand the watershed, evaluate issues, and determine appropriate watershed-management approaches. In addition, long-term monitoring provides the District with the information needed to demonstrate performance towards meeting the goals and objectives of the Watershed Management Plan as well as the Brown's Creek TMDL Implementation Plan. The BCWD will continue to ensure that collected data and assessments are in a format that is understandable to the public.

10. **Regulations (Section 3.1.10)**

    Under Minnesota Statutes section 103D.341, subdivision 1, watershed districts must adopt rules "to accomplish the purposes of [the watershed act] and to implement the powers of the managers." These purposes include, among others, conservation of water for public uses; controlling erosion and siltation of lakes, streams and wetlands; and protecting water quality in these water bodies. Presenting rules in a clear, understandable fashion facilitates compliance by permit applicants. Coordination with District partners on regulatory issues is needed for more efficient and effective stormwater regulation across the watershed.

11. **Climate Change Adaptation (Section 3.1.11) - *NEW to 2017-2026 WMP***

    Rising global temperatures have been accompanied by changes in weather and climate. As a result, many areas are seeing changes in precipitation patterns including more floods, droughts and/or intense rainfall events. A trend analysis of local climate data indicates that the Brown's Creek watershed is experiencing changes in precipitation and temperature which presents challenges to watershed management decision-making.

12. **Recreation (Section 3.1.12) - *NEW to 2017-2026 WMP***

    The Brown's Creek corridor and other natural areas within the watershed provide opportunities, which are underutilized relative to their capacity, for fishing, wildlife viewing, and outdoor learning.

13. **Education, Outreach and Stewardship (Section 3.1.13)**

    Successful efforts to achieve the BCWD's goals will require the involvement of residents, businesses, and municipalities. These groups will be most interested in active participation in District projects, and in water and natural resource protection in general, if they understand the issues and the benefits of water resource management.

14. **Land Conservation (Section 3.1.14)**

    Changes in land use threaten to degrade the quality of water resources and limit wildlife habitat. Land use practices can reduce the area of land covered with native vegetation, increase erosion and stormwater runoff, and break wildlife habitat into small, disconnected areas unable to support high quality, diverse

populations. The development of a land conservation program allows entities to set aside critical parts of the landscape for the protection and restoration of downstream waterbodies.

15. **Funding (Section 3.1.15)**

    Funding is necessary to operate the programs and to complete the projects that protect and improve the resources of the Brown's Creek watershed.

Main goals in the Plan

A total of 97 goals were developed to support the 15 issue categories identified above. The primary goal of the Brown's Creek Watershed District is to restore and protect the surface water resources located in the watershed. Because of the watershed's geologic setting, many of the resources are groundwater dependent. As a result, the BCWD is very interested in managing land use in a manner that mimics the natural hydrology of the system thereby protecting both the surface water and groundwater resources. The main goal for each of the issue categories can be synthesized as follows:

1. **Stormwater Runoff Management** - Improve the quality and quantity of stormwater runoff to reduce impacts (e.g. pollutant loadings, loss of groundwater recharge, alterations to wetland hydrology) to downstream waterbodies.
2. **Erosion Prevention and Sediment Control** - Protect the District's water bodies from the impacts of sedimentation, excessive streambank and shoreline erosion, and adjacent upland erosion.
3. **Stream Management** - Improve the water quality and ecological integrity of Brown's Creek and its tributaries.
4. **Lake Management** - Restore the water quality of degraded lakes and protect the water quality in lakes that meet state water quality standards.
5. **Wetland Management** - Maintain or improve the quality of the watershed's wetland systems.
6. **Floodplain Management** Protect and manage flood storage areas to reduce impacts of flooding and promote groundwater recharge.
7. **Groundwater Management** - Protect the quantity and quality of groundwater to maintain baseflow to the Brown's Creek watershed's groundwater dependent natural resources.
8. **Ecological Health** - Promote the ecological integrity and connectivity of the Brown's Creek watershed's ecosystems.
9. **Monitoring & Data Collection** - Collect high quality monitoring data that can be used to support cost-effective management decisions & evaluate performance in achieving the goals of this Plan.
10. **Regulations** - Maintain a clear and effective permitting program to protect the District's surface water and groundwater resources.
11. **Climate Change Adaptation** - Develop a better understanding of climate change, its impact to the District's land and water resources, and adaptive management strategies to address this emerging issue.
12. **Recreation** - Manage the watershed's natural resources to enhance their recreational value.
13. **Education, Outreach and Stewardship** - Provide education and outreach services to all audiences to promote good stewardship of the water and natural resources.
14. **Land Conservation** - Identify and pursue opportunities to preserve and restore land in the watershed to protect the quality of downstream resources.
15. **Funding** - Maintain a tax levy that is adequate to conduct the activities of the District but minimizes impact to taxpayers.

Major actions in the Plan

One of the primary actions of the Plan is the establishment of a realistic and attainable Implementation Plan. The BCWD Board of Managers were very conscious about the establishment of an annual budget that results in a moderate annual tax levy increase and they were equally conscious about how much of the annual budget should be allocated to the District's programs. It was decided that approximately 25% of the annual budget should be allocated to the District's Capital Improvement Program which means that a quarter of its budget goes to construction projects that have a direct benefit to the Brown's Creek watershed's surface water or groundwater resources. In addition, it was decided that the CIP budget should be allocated to the District's impaired resources in the following manner (as described in more detail in section 2.1.4):

- 70% to Brown's Creek
- 15% to Long Lake
- 5% to South School Section Lake
- 10% to all of the other waterbodies

The following chart illustrates the percentage of the annual budget allocated to each issue category on average over the 10-year timeframe of the Plan.

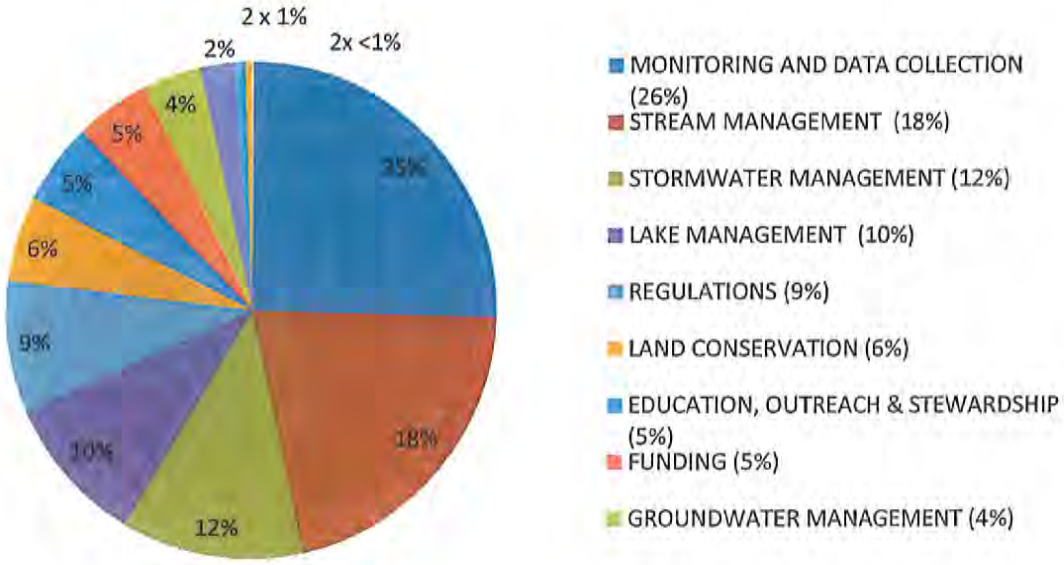

Figure 2. BCWD Annual Budget Percentage Allocation per Issue Category of WMP

Figure 2 illustrates, the majority of the BCWD's annual expenditures are for Monitoring and Data Collection, Stream Management, Stormwater Management, Lake Management and Regulations. These are the areas where the District is actively managing restoration and protection activities identified for the watershed's surface water resources. Capital improvement projects identified in the Brown's Creek TMDL Implementation Plan and the various lake management plans are included in these issue categories.

A smaller portion of the annual expenditures are allocated to Land Conservation, Education and Outreach, Funding, Groundwater Management, Wetland Management, Ecological Health, Erosion Prevention and Sediment Control, Climate Change Adaptation, Recreation and Floodplain Management. In the cases of Wetland Management, Erosion Prevention and Sediment Control and Flooding, many of the goals identified under these categories are addressed by the BCWD's regulatory standards and criteria. For the other issue categories, the total amount of budget identified for implementation is lower or implementation will rely more on partnerships with member communities, Washington County and/or state agencies. For example, the BCWD's contribution is small relative to the amount of education and outreach being conducted in the watershed because the District participates in a regional education program. Opportunities to coordinate shared services such as this reflect a lower cost for the issue category in the annual expenditures.

Responsibilities of local governments related to implementation of the Plan

The Watershed Management Plan includes a number of strategies and programs that the District may pursue in fulfilling its water resource mission. Many of these will involve local government participation (as described in more detail in section 4.1.14). Examples include:

- Inventory of local stormwater control standards
- Review of local land use ordinances for water resource impacts
- Education and outreach programs
- Monitoring and data acquisition programs

Virtually all of the programs identified in the Plan, however, do not compel local government involvement. In pursuing a specific activity under the Plan, the District will in virtually every case seek to develop a partnership with affected local governments, allowing each entity to contribute as befits its interests and objectives that can be cost-effectively pursued in common with the BCWD.

LETTER FROM THE BCWD PRESIDENT

Our connection to the land we live on and the water we use is an ongoing and often eventful journey. Too much water and it may be a flood, or washed out road or a very wet basement. Too little water and the lawns turn brown, crops don't grow and we go hungry and thirsty. We expect the water to be pure and in sufficient quantity for our needs.

We strive to balance regulation without becoming onerous while reducing downstream negative effects from agricultural and residential land usage. And, as we are more recently becoming aware of, the need to facilitate recreational interests, both in and adjacent to water.

The Minnesota State Legislature in 1955 approved the Minnesota Watershed Act, M.S. 103D in response to and in support of the 1953 Federal Watershed Protection and Flood Prevention Act. This has been further strengthened and enhanced through the subsequent Metropolitan Surface Water Management Act, M.S. Chapter 103B.235 to more directly focus on problems in the Metropolitan area of Minnesota. Taken together, along with clarifying and extending actions of the legislature, Minnesota has perhaps the most unique and well thought out plan of all 50 states in managing its' water resources. Watershed Districts are guided by appointment of local citizens willing to serve their communities by managing the resources through scientific assessment, identifying community needs – specific to water problems and opportunities, applying budgetary analysis and restraint to prioritize the application of tax assets and initiating rules, which when properly enforced, protect and preserve our valuable water resources. The following 2017-2026 Watershed Management Plan is our Fourth Generation of this endeavor.

But, why do we as private citizen managers willingly participate in this endeavor? We are all involved in both community and family activities that utilize the water and land resources we refer to. We are all taxpayers in the District so we do have "skin in the game." We all live within the District we serve. And we all have a unique dedication to the protection and preservation of our natural resources. We are committed to leaving our homes and neighborhoods a better place from our efforts. We believe we are entrusted with a great responsibility to leave this world no worse for our "time in transit" and able to continue supporting the needs and expectations of future generations, including our own children and grandchildren. And, we all serve our communities in doing so. This document and the Plan it represents is actually a commitment on our behalf towards the community (home, neighborhood, town, township, city, county, state and country) that we live in to continue to manage the water resources in our charge and the land we live on.

Craig Leiser,
Brown's Creek Watershed District's President

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Vadnais Lake Area Watershed Management Organization (VLAWMO) Watershed Management Plan – 2017-2026

Meeting Date: September 28, 2016

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☐ Decision ☐ Discussion ☐ Information

Section/Region: Central Region

Contact: Kevin Bigalke

Prepared by: Mary Peterson

Reviewed by: Central Region Committee(s)

Presented by: Mary Peterson

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

Attachments: ☐ Resolution ☒ Order ☒ Map ☒ Other Supporting Information

Fiscal/Policy Impact

☒ None
☐ Amended Policy Requested
☐ New Policy Requested
☐ Other:

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

ACTION REQUESTED

Approval of the Vadnais Lake Area Watershed Management Organization Watershed Management Plan

LINKS TO ADDITIONAL INFORMATION

http://www.vlawmo.org/files/5614/7258/7899/VLAWMO_Plan_-_Final_BWSR_Review_Draft_08-30-2016.pdf

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

Background Information

The VLAWMO was organized in 1983 using a Joint Powers Agreement (JPA) developed under authority conferred by Minnesota Statues, Sections 471.59 and 103B.201. The 24.2 square mile watershed is located in the northeast metro area within Ramsey and Anoka counties. This is VLAWMO's fourth generation Plan. During the 2007 Plan implementation VLAWMO added staff, instituted cost share programs, enhanced education and outreach programs, installed numerous capital projects and expanded its monitoring program. A funding mechanism (a storm sewer utility fee) was established in 2008 with special permission from the legislature which ensures financial stability for the watershed. VLAWMO has greatly expanded its abilities and looks forward to carrying on with its mission through this next planning cycle.

"VLAWMO's mission is to protect and enhance the water and natural resources within the watershed through water quality monitoring, education and outreach projects, wetland protection, and water quality enhancement projects and programs."

Since the adoption of the last Plan, an assessment of VLAWMO's lakes and streams resulted in the inclusion of several waterbodies onto the Minnesota Impaired Waters List. Over the next 10 years, efforts will be made to address the impairments. Additionally, groundwater aquifer concerns, fluctuating lake levels, new sources of potable water, and climate change are all issues that have risen in concern.

This final draft Plan and all required materials were officially received by the Board on July 5, 2016. The Board Order describes the Plan development and local review process, highlights state agency's 60 day and 90 day review comments, and includes a Plan Summary. All local and state comments received in regard to the Plan have been adequately addressed and the Plan is in conformance with the requirements of the Minnesota Statutes Section 103B.231.

VLAWMO Board and staff were commended for their thorough and accelerated work on the boundary change petition which the BWSR Board approved at the August 2016 board meeting, for clarifying the drainage authority delegation language so stakeholders are aware of the roles and responsibilities related to the public ditches and the State Buffer Law within the watershed boundary, and for updating the JPA (Appendix A of the Plan) to accurately reflect current information on the WMO authorities and operation. All these efforts were completed concurrent with this Plan Update process.

Plan Highlights

This Plan includes the following priority issues: 1) Threaten and impaired surface water and natural resources; 2) Threaten and impaired groundwater quality and quantity; 3) Need for education and involvement from citizens and stakeholders; 4) Need for adequate data, analysis, financing, and staff capacity in order to meet goals and accomplish strategies; 5) Aquatic invasive species (AIS) management; and 6) Localized flooding.

The Plan is well organized, includes an Executive Summary that can be used alone or as part of the Plan. The Plan Framework Chapter shows the connection of the strategies to specific goals which are in turn connected to the priority issues. VLAWMO has core activities that are implemented on a watershed-wide basis each year and expands on specific activities to be conducted in sub-watersheds in conjunction with these core activities. Chapter 5, the Implementation Section, includes roles and responsibilities of VLAWMO and partners, a process for annually evaluating progress towards goals with a sample 2018 report card, and an implementation budget and schedule for the life of the Plan. Focus for the first 3-5 years will be on projects to reduce nutrients in East and West Goose Lake and Wilkinson Lake with emphasis placed on the impact of load reductions on the priority resource.

Committee Recommendation:

The Board's Central Region Committee met on September 8, 2016 in St. Paul to review and discuss the Plan. The Committee unanimously voted to recommend approval of the Vadnais Area Lake Watershed Management Organization (VLAWMO) Watershed Management Plan – 2017-2026 to the full Board.

Attachments:

1.) Board Order for approval of the Vadnais Lake's Area WMO 2017-2026 Watershed Management Plan
2.) VLAWMO 2017-2026 Plan Executive Summary
3.) Map of the VLAWMO

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

In the Matter of the review of the Watershed Management Plan for the Vadnais Area Lake Watershed Management Organization, pursuant to Minnesota Statutes Section 103B.231, Subdivision 9.	**ORDER APPROVING A WATERSHED MANAGEMENT PLAN**

Whereas, the Board of Commissioners of the Vadnais Area Lake Watershed Management Organization (VLAWMO) submitted a Watershed Management Plan (Plan) dated July 2016 to the Minnesota Board of Water and Soil Resources (Board) pursuant to Minnesota Statutes Section 103B.231, Subd. 9, and;

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

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

FINDINGS OF FACT

1. **WMO Establishment.** The VLAWMO was organized in 1983 using a Joint Powers Agreement (JPA) developed under authority conferred by Minnesota Statues, Sections 471.59 and 103B.201. The 24.2 square mile watershed is located in the northeast metro area with Ramsey and Anoka counties. The watershed encompasses the City of North Oaks, along with portions of the Cities of White Bear Lake, Gem Lake, Vadnais Heights, Lino Lakes, and White Bear Township, and include 17 lakes, 1 creek, and over 1000 wetlands. The JPA established a 2 tier governance system consisting of a Board of Directors and a Technical Commission (TEC).

2. **Authority of Plan.** The Metropolitan Surface Water Management Act requires the preparation of a watershed management plan for the subject watershed area which meets the requirements of Minnesota Statutes Sections 103B.201 to 103B.251. The VLAWMO adopted its first Plan in 1985. The VLAWMO initiated the planning process for this fourth generation Plan on April 22, 2015.

3. **Nature of the Watershed.** The 24.2 square mile watershed is mostly developed with a mixture of residential, commercial, institutional and industrial development. It has a population of just over 29,000, according to 2013 data. VLAWMO is unique in that the watershed receives water continuously from the Mississippi river which is pumped into Charley Lake and then moves along a chain of lakes on the western side of the watershed, through Pleasant Lake, Sucker Lake, and finally into East Vadnais Lake . This water is managed by the St. Paul Regional Water Service (SPRWS). East Vadnais Lake is the drinking water reservoir for approximately 400,000 customers in the St. Paul area.

4. **Plan Development and Review.** The VLAWMO initiated the planning process for the 2017-2026 Plan in April of 2015. As required by MR 8410, a specific process was followed to identify and assess priority issues. Stakeholders were identified, notices were sent to municipal, regional, and state agencies, to solicit input for the upcoming Plan. Print and electronic information pieces were developed around "Why Water Matters" and distributed through multiple media channels to gather public input. The VLAWMO also conducted surveys, facilitated discussions and provided opportunities for feedback on the priority issues. A comprehensive assessment of the success of the 2007 Plan and 2014-2016 Strategic Plan was completed and existing data, studies, and water quality trends were evaluated and considered. The technical advisory committee (TAC) convened a couple times through this process and several stakeholder's meetings were conducted. The VLAWMO staff, Board and TEC discussed issues and ranked them through a paired weighting analysis. Updates were posted to the Water Plan webpage for public review and comment. The draft Plan was submitted to the Board, plan review agencies, and local governments for the required 60-day review on March 1, 2016. Written comments were received, considered and responded to by the VLAWMO. As required, a public hearing was held on June 22, 2016, with no additional comments being brought forth. The final draft Plan and all required materials were submitted and officially received by the Board on July 5, 2016.

5. **Local Review.** The VLAWMO distributed copies of the draft Plan to local units of government for their review pursuant to Minnesota Statutes Section 103B132, Subd. 7. Local written comments and edits were received from City of North Oaks, City of White Bear Lake, and Ramsey County Public Works. The VLAWMO responded to all comments. No additional comments were received.

6. **Metropolitan Council Review.** During the 60-day review, the Council provided minor edits to the Plan and stated it was consistent with Council policies and the Council's Water Resources Policy Plan. The VLAWMO responded to all comments. No additional comments were received during the 90-day review period.

7. **Department of Agriculture (MDA) Review.** No comments were received during the 60 day review. MDA notified BWSR that they had no comments on the VLAWMO draft plan.

8. **Department of Health (MDH) Review.** No comments were received during the 60 day or 90 day final review period.

9. **Department of Natural Resources (DNR) Review.** The DNR provided early input into the planning process and participated in TAC meetings. During the 60 day review, DNR provided comments on editorial and technical language, requested clarification of plan content, provided additional resource information and suggested changes to plan format. The VLAWMO responded to all comments. During the 90 day review, DNR commented that the Plan is now well organized, includes more plain language and detailed descriptions in the narratives making the document easier to read and understand. They recommended that the Plan include a summary of the role that VLAWMO will have as a ditch authority under the Governor's buffer initiative. VALWMO responded and made revisions to the final draft Plan.

10. **Pollution Control Agency (PCA) Review.** PCA participated in TAC meetings and provided feedback throughout the plan development process. During the 60-day review, PCA provided comments on editorial and technical language clarification, and provided additional resource content information relating to state standards for various pollutants. The PCA commended the VLAWMO for prioritizing implementation based on science, cost-benefit effectiveness, and input from partners and stakeholders and noted their appreciation of incorporating the findings and strategies from the VLAWMO TMDL and Protection Study and Implementation Plan. The VLAWMO responded to all of the 60 day comments received. During the 90 day review, PCA provided additional comments and requested the inclusion of waste load allocations for Lambert Creek, updated links to both TMDL and Implementation Plan and provided the updated link to final EPA approved TMDL plan, and provided corrections

for Appendix B-Inventory and Assessment. The VLAWMO responded and made the revisions to the final draft Plan. All comments have been sufficiently addressed.

11. **Department of Transportation (DOT) Review.** DOT requested the VLAWMO to note in the Plan that DOT was the WCA LGU within their ROW in five locations. VLAWMO responded and incorporated this into the Plan. No additional comments were received during the final review period.

12. **Board Review.** Board staff meet with VLAWMO staff in April 2015 to review the revised MR 8410, provide BWSR expectations for the public participation and agency involvement and to review timelines relating to the Plan review process. BWSR staff participated in TAC meetings and provided assistance during Plan development. During the 60 day review, BWSR Staff commended the VLAWMO board and staff on their completion of the boundary change petition that was approved by the Board in August 2016, their work in clarifying the drainage authority delegation language so stakeholders know the roles and responsibilities related to the Chapter 103E Ditch Law, and for updating their joint powers agreement to current information on the WMO authorities and operation. BWSR staff; 1) provided various editorial comments on plan format for increased clarity of content, 2) required Executive Summary changes to meet MR810.0050, 3) recommended combining "About the Plan" with the "Introduction" content to better acclimate the reader to the plan, 4) recommended breaking out goals/strategies content to a separate section, 5) suggested core activities and subwatershed targeted activities be clarified and incorporated into a Plan Implementation section, and 6) provided corrections throughout the Plan to further to meet revised MR 8410. VLAWMO provided a summary of all the changes made to the final draft Plan based on plan review comments. VLAWMO has sufficiently addressed all comments received.

13. **Plan Summary.**

- The Executive Summary can be used alone or as part of the Plan. It clearly summarizes the Plan content and includes the requirement information. The comprehensive "Table of Contents" and "Introduction" chapters of the Plan is well organized and format is explained to the reader.
- This Plan Framework chapter shows the connection of the strategies to specific goals which are in turn connected to the following priority issues: 1) Threaten and impaired surface water and natural resources; 2)Threatened and impaired groundwater quality and quantity; 3) Need for education and involvement from citizens and stakeholders; 4) Need for adequate data, analysis, financing, and staff capacity in order to meet goals and accomplish strategies; 5) Aquatic invasive species (AIS) management; and 5) Localized flooding.
- VLAWMO core activities include five areas: administration, monitoring, education and outreach, capital improvement projects and programs, and a regulatory program. These Core activities are implemented on a watershed-wide basis each year.
- VLAWMO Plan expands on specific activities to be conducted in sub-watersheds in conjunction with core activities. Each sub-watershed section includes a table which identifies the water resource actively being managed, the management classification (restore, protect, or monitor), issues or constraints and potential partners for programs and projects.
- Capital projects will be implemented according to the priority issues and goals set in the Plan and are listed in the implementation schedule located in Chapter 5 Implementation and Roles. Focus for the first 3-5 years will be on projects to reduce nutrients in East and West Goose Lake and Wilkinson Lake with emphasis placed on the impact of load reductions on the priority resource. This chapter includes roles and responsibilities of VLAWMO and partners, a process for annually evaluating progress towards goals with a sample 2018 report card, and an implementation budget and schedule for the life of the Plan. Grants funds will be pursued to fully implement this Plan.

14. **Central Region Committee Meeting.** On September 8, 2016, the Board's Central Region Committee and staff met in St. Paul to review and discuss the final Plan. Those in attendance from the Board's committee were Joe Collins, WD; Jack Ditmore, CIT; Terry McDill, PCA; and Paige Winebarger, CIT. Jill Crafton, WD; Faye Sleeper, UM/Extension; and Patty Acomb, MC joined by conference call. Board staff in attendance were Central Region Supervisor Kevin Bigalke and Board Conservationists Mary Peterson and Dan Fabian. Stephanie McNamara, Administrator and Kristine Jenson, Program Manager were in attendance representing the VLAWMO and presented highlights of the Plan. Board staff recommended approval of the Plan. After presentation and discussion, the committee unanimously voted to recommend the approval of the Plan to the full board.

CONCLUSIONS

1. All relevant substantive and procedural requirements of law and rule have been fulfilled.

2. The Board has proper jurisdiction in the matter of approving the Watershed Management Plan for the Vadnais Area Lake Watershed Management Organization (VLAWMO) pursuant to Minnesota Statutes Section 103B.231, Subd. 9.

3. The VLAWMO Watershed Management Plan, attached to this Order, defines the water and water-related problems within the WMO's boundaries, possible solutions thereto, and an implementation program.

4. The attached Plan is in conformance with the requirements of Minnesota Statutes Sections 103B.201 to 103B.251.

ORDER

The Board hereby approves the attached Vadnais Area Lake Watershed Management Organization Watershed Management Plan dated August 2016.

Dated at Saint Paul, Minnesota this 28th day of September 2016.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

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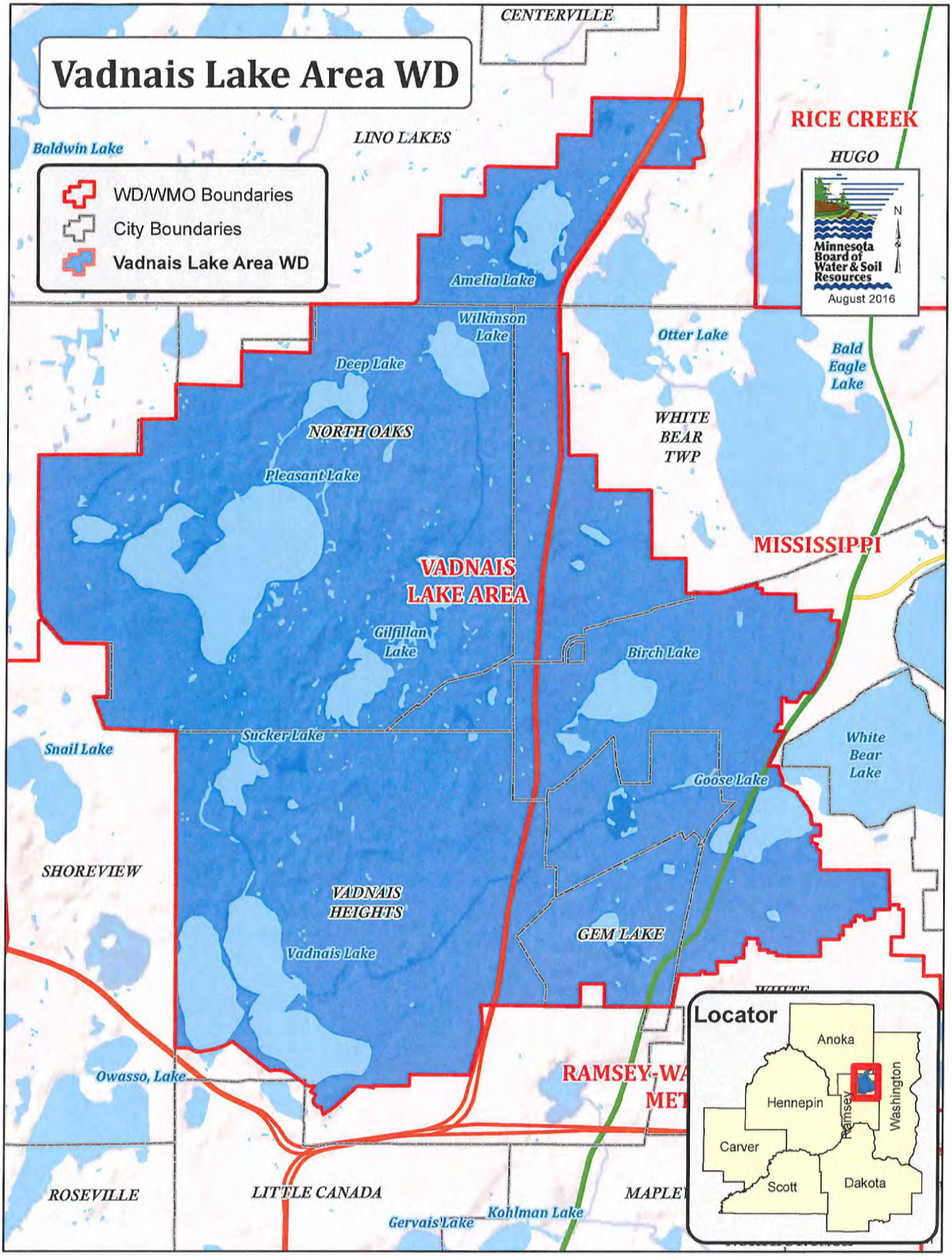
BY: Brian Napstad, Chair


Vadnais Lake Area WD
WD/WMO Boundaries
City Boundaries
Vadnais Lake Area WD
CENTERVILLE
LINO LAKES
Baldwin Lake
RICE CREEK
HUGO
Minnesota Board of Water & Soil Resources
August 2016
N
Amelia Lake
Wilkinson Lake
Deep Lake
Otter Lake
Bald Eagle Lake
NORTH OAKS
Pleasant Lake
WHITE BEAR TWP
MISSISSIPPI
VADNAIS LAKE AREA
Gilfillan Lake
Birch Lake
Sucker Lake
Snail Lake
White Bear Lake
Goose Lake
SHOREVIEW
VADNAIS HEIGHTS
GEM LAKE
Vadnais Lake
Owasso, Lake
RAMSEY-WA
MET
ROSEVILLE
LITTLE CANADA
MAPLE
Gervais Lake
Kohlman Lake
Locator
Anoka
Hennepin
Ramsey
Washington
Carver
Scott
Dakota

VLAWMO
Vadnais Lake Area
Water Management Organization

Vadnais Lake Area Water Management Organization

Executive Summary of the Comprehensive Watershed Management Plan 2017-2026

WENCK ASSOCIATES

Responsive partner. Exceptional outcomes.

VADNAIS LAKE AREA WATER MANAGEMENT ORGANIZATION
COMPREHENSIVE WATERSHED MANAGEMENT PLAN
EXECUTIVE SUMMARY
JULY 2016

VLAWMO Board of Directors
Director Marc Johannsen, Chair (City of Vadnais Heights)
Director Dan Jones, Vice-Chair (City of White Bear Lake)
Director Bob Uzpen, Secretary/Treasurer (City of Gem Lake)
Director Marty Long (City of North Oaks)
Director Rick Rafferty (City of Lino Lakes)
Director Ed Prudhon (White Bear Township)

VLAWMO Technical Commission
Paul Peterson, Chair (White Bear Township)
Mark Graham, Vice-Chair (City of Vadnais Heights)
Jim Lindner, Treasurer (City of Gem Lake)
Chris Mann (City of North Oaks)
Jim Grisim (City of White Bear Lake)
Marty Asleson (City of Lino Lakes)

Vadnais Lake Area Water Management Organization
800 East County Road E
Vadnais Heights, MN 55127
651-204-6070
www.vlawmo.org

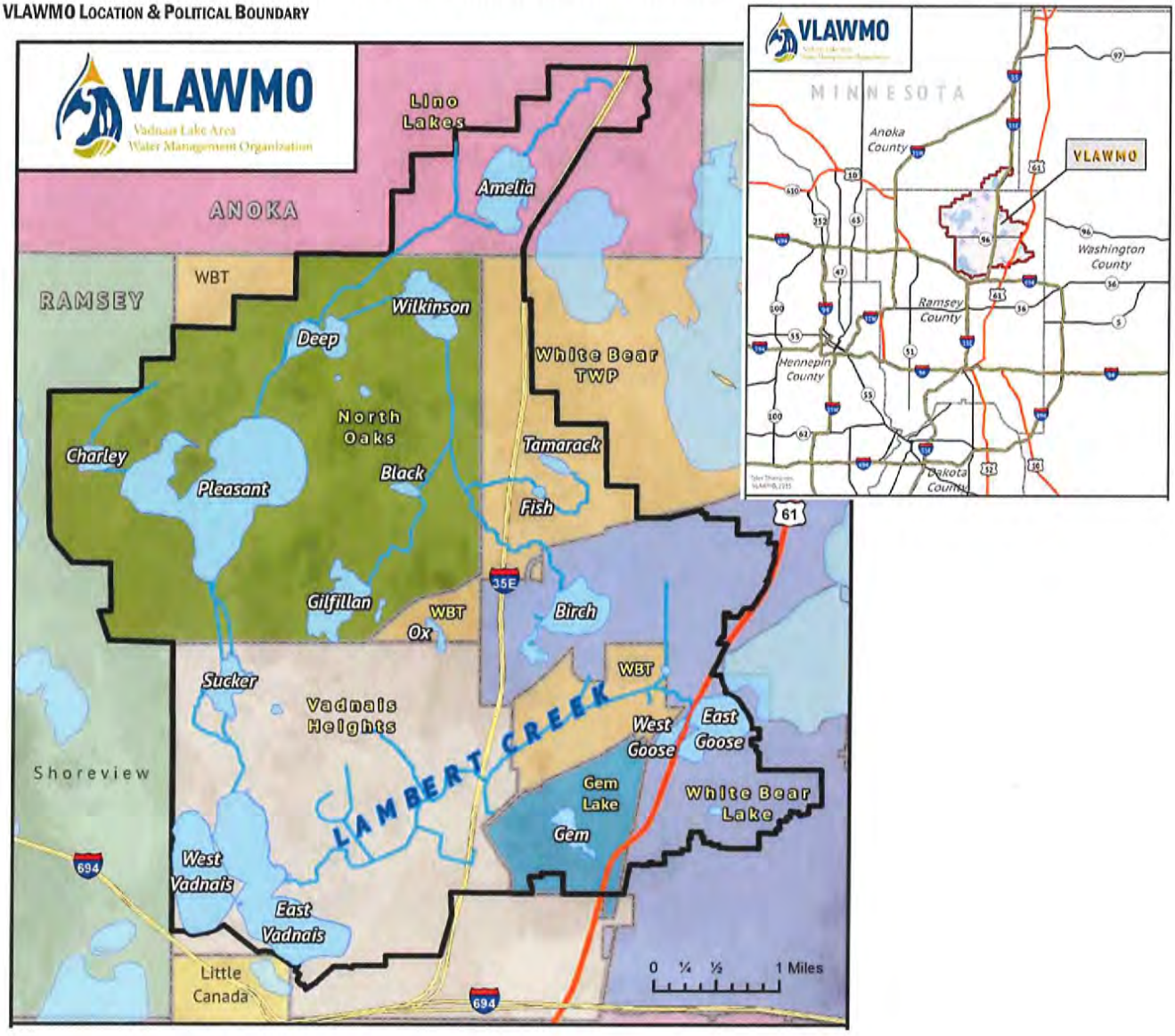
Executive Summary

The Comprehensive Watershed Management Plan (Plan) describes how the Vadnais Lake Area Water Management Organization (VLAWMO) will manage activities in the watershed from the years 2017 through 2026. The Plan describes the natural resources and core activities of the watershed, the issues and goals that VLAWMO will focus on for the next ten years, and the implementation strategies and subwatershed activities which will be utilized to meet those goals. This Executive Summary provides an overview of the Plan.

INTRODUCTION

VLAWMO was organized in 1983 using a Joint Powers Agreement (JPA) developed under authority conferred by Minnesota Statues, Sections 471.59 and 103B.201. The 24.2 square mile watershed is located in the northeast metro area within Ramsey and Anoka counties. The watershed encompasses the City of North Oaks, along with portions of the Cities of White Bear Lake, Gem Lake, Vadnais Heights, Lino Lakes, and White Bear Township, and includes 17 lakes, 1 creek, and over 1000 wetlands.

VLAWMO LOCATION & POLITICAL BOUNDARY



EXECUTIVE SUMMARY

PURPOSE

The purpose of water management organizations is described in Minnesota Statues 103B.201, Metropolitan Surface Water Planning, which codified the Metropolitan Surface Water Management Act of 1982:

1. *protect, preserve, and use natural surface and groundwater storage and retention systems;*
2. *minimize public capital expenditures needed to correct flooding and water quality problems;*
3. *identify and plan for means to effectively protect and improve surface and groundwater quality;*
4. *establish more uniform local policies and official controls for surface and groundwater management;*
5. *prevent erosion of soil into surface water systems;*
6. *promote groundwater recharge;*
7. *protect and enhance fish and wildlife habitat and water recreational facilities; and*
8. *secure the other benefits associated with the proper management of surface and groundwater.*

Water management organizations are required to develop a Plan at least every 10 years under State Statute 103B.231 and Minnesota Rules 8410. In general, these plans must contain information which describe the natural resources within the watershed, establish measurable goals which address priority issues, devise and implement strategies to reach the goals, and a procedure to evaluate progress. VLAWMO's fourth generation Plan will cover the years 2017 through 2026.

WATER PLAN STRUCTURE

VLAWMO's mission is **"to protect and enhance the water and natural resources within the watershed through water quality monitoring, education and outreach projects, wetland protection, and water quality enhancement projects and programs."** With this updated Water Plan, VLAWMO aims to demonstrate the connection and relationship of its mission statement with the priority issues, goals and strategies developed through the planning process.

PRIORITY ISSUES

To develop the list of priority issues, VLAWMO conducted a vigorous stakeholder process which included numerous stakeholder meetings, public engagement efforts via different avenues (community fairs, open houses and surveys), and the development of a Plan webpage. VLAWMO also convened a TAC comprised of municipal, regional, and state agencies and the St. Paul Regional Water Service (SPRWS) to provide guidance and input throughout the planning process. Once the priority issues were established, a paired weighting analysis activity was conducted with the VLAWMO Board of Directors and Technical Commission to rank the six identified issues.

GOALS

The goals established for the Plan are associated with each of the priority issues and were developed through an evaluation of watershed data and studies, as well as input from staff and stakeholders. Gaps in essential information were assessed, and staff capacity and partnerships were considered to make certain the goals were measurable and that they were manageable yet aggressive. Goals will be measured yearly through an assessment of the implementation strategies as part of the annual reporting process.

MAJOR ACTIONS

The Plan's priority issues and the supporting measurable goals provide direction for the work of VLAWMO. Numerous strategies have been developed to reach each goal. These strategies will be implemented through the five core activities: Administration, Monitoring and Studies, Education and Outreach, Capital Projects and Programs and Regulatory Programs. Throughout the planning process all of the major activities of the Plan, including the core activities, strategies, and goals, have continuously been evaluated and adjusted to better address the priority issues of the watershed. Specific core activities have been expanded for implementation in a variety of the subwatersheds. These subwatershed activities provide focus on the priority issues and are done along with core actions.

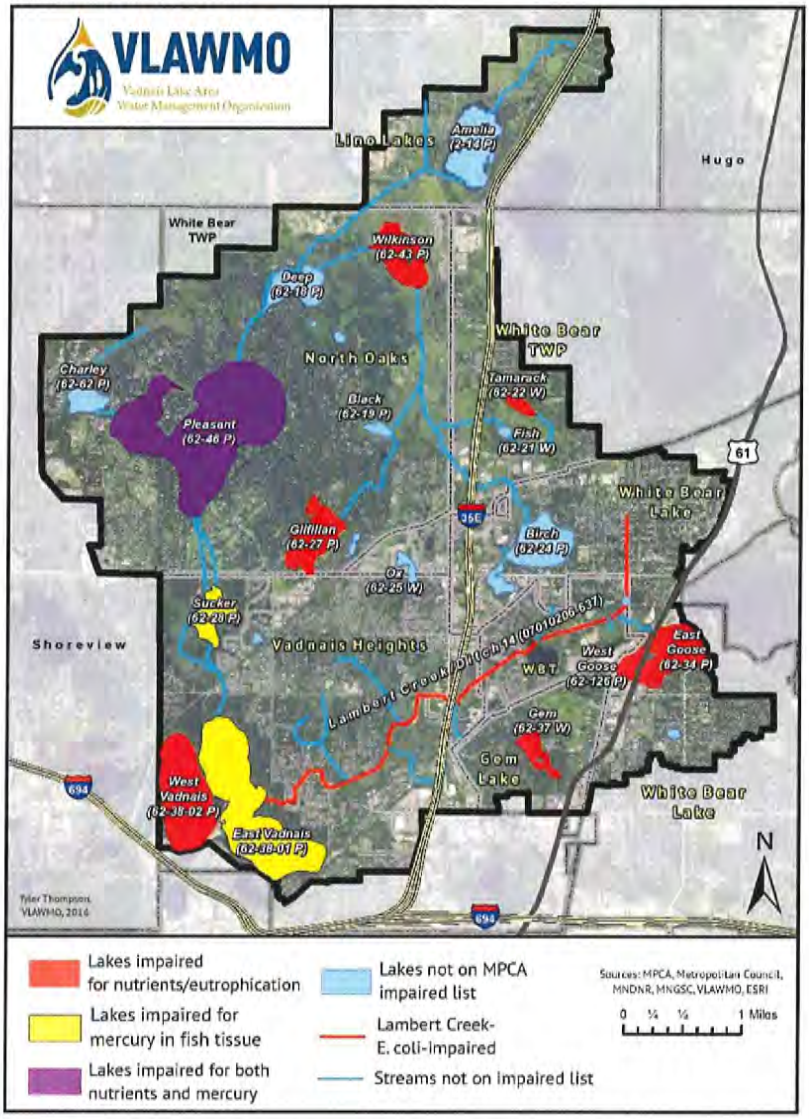
VLAWMO Core Activities

VLAWMO frequently teams up with partners to reach its goals. Partnerships are common with municipal storm sewer system (MS4) agencies. MS4s include the six communities within VLAWMO as well as Anoka County, Ramsey County and the Minnesota Department of Transportation (MnDOT). Other partners may include the SPRWS, other state agencies, and local groups such as the Birch Lake Improvement District (BLID) and the North Oaks Homeowners Association (NOHOA), among others. Because of these vital partnerships, VLAWMO's function in some strategies may be more of a supporting role, while others will require a major role and responsibility.

PLAN FRAMEWORK

All of the priority issues and goals developed for the Plan are included with this Executive Summary, along with an abbreviated list of strategies. Strategies are discussed in full within the Plan as well as details regarding VLAWMO's core activities and planned subwatershed activities.

Priority Issue 1: Threatened and impaired surface water and natural resources.



Threatened or impaired surface waters refers to those waterbodies which have been included on the Minnesota Pollution Control Agency (MPCA)'s Section 303d Impaired Waters List. A Total Maximum Daily Load (TMDL) study and implementation plan has been completed which provides guidance towards actions that can be taken by VLAWMO and its partners to restore these water bodies. VLAWMO plans to focus efforts in the first few years of the Plan on selected lakes to ascertain the best projects that could be implemented to aid in better water quality. These actions are described in more detail within the goals and strategies in the Plan.

Goal 1-1: Work to delist all waters within VLAWMO currently on the 303d Impaired Waters list.

Strategy 1-1-1: Show measurable in-lake nutrient reductions in targeted impaired waters (Goose Lake, Wilkinson Lake, Gem Lake, and Gilfillan Lake) within the first 5 years of Plan implementation.

Strategy 1-1-2: For lakes in which studies indicate internal loading as a primary source of nutrients, complete an internal load management feasibility study to identify projects with the best potential for nutrient reduction.

Strategy 1-1-3: Use an annual evaluation process to organize funding, along with technical and staff resources in line with the implementation schedule. Identify gaps in funding, technical and staff resources and set a plan to fill those gaps.

Strategy 1-1-4: Support watershed load reductions prescribed in Total Maximum Daily Load (TMDL) studies by providing stormwater management program assistance for MS4s to meet their regulatory requirements under the National Pollutant Discharge Elimination System (NPDES) and their Storm Water Pollution Prevention Program (SWPPP), as well as the goals identified in their Local Water Management Plans (LWMP). Communicate with MS4s on a regular basis to identify opportunities and gaps where VLAWMO can provide support through education programs, cost share, and technical support.

Goal 1-2: Demonstrate stable or improving water quality trends in all of VLAWMO lakes and streams by 2026.

Strategy 1-2-1: Conduct an annual monitoring program that tracks trends in the waters VLAWMO manages. Report data annually to the Minnesota Pollution Control Agency's (MPCA) database and create an annual monitoring report which will be available on VLAWMO website. Share monitoring results with MS4s to identify opportunities for achieving waste load allocations (WLAs) assigned through the TMDL. Annually evaluate monitoring program and make adjustments to the program as necessary.

Strategy 1-2-2: Develop and implement Sustainable Lake Management Plans (SLMPs) for each major lake within VLAWMO by 2026. Update SLMPs every 10 years.

Strategy 1-2-3: In addition to water quality monitoring, VLAWMO will track and document progress by reporting the number of public projects implemented, along with documenting the volume of runoff reduced, the amount of total phosphorus and total suspended solids reduced, and the acres converted from standard turf grass or impervious surface to native landscaping. The information will be provided in the Annual Report and made available to the MS4s.

Goal 1-3: Minimize loss of major wetland function and value within the watershed.

Strategy 1-3-1: Continue to administer the WCA rules as the local government unit (LGU) for the watershed.

Strategy 1-3-2: Establish a wetland monitoring program to determine condition of major wetland complexes. Monitor the watersheds major wetland complexes on a five year rotational schedule. Conduct a map review to prioritize and schedule monitoring by January 1, 2018.

Strategy 1-3-3: Locate potential wetland restoration sites, assess with WCA technical evaluation panel, and develop a plan for sustainable restoration of degraded wetland functions. Pursue partnerships to assist with funding, monitoring, maintenance or other activities. Restoration of mitigation sites may be considered.

Strategy 1-3-4: Continue to follow VLAWMO wetland standards as established in the Water Policy.

Priority Issue 2: Threatened or impaired groundwater quality or quantity.

Goal 2-1: Support projects and programs which provide shallow groundwater recharge and deep groundwater conservation.

Strategy 2-1-1: To promote shallow groundwater recharge, VLAWMO will maintain cost share and technical support programs to promote infiltration projects exceeding minimum infiltration rates identified in VLAWMO's adopted Water Policy.

Strategy 2-1-2: To conserve deep groundwater, VLAWMO will continue to implement cost share and technical assistance programs to reduce the need for irrigation by promoting conversion from turf grass or impervious surface to native prairie, and stormwater capture or reuse projects.

Strategy 2-1-3: Groundwater sensitivity will be considered for all cost share projects.

Goal 2-2: Support public water suppliers within VLAWMO in developing and implementing water use and protection goals.

Strategy 2-2-1: Coordinate with partner organizations to establish conservation and water use goals and strategies which may include metering, sprinkling bans, tiered fees, etc.

Strategy 2-2-2: Encourage water suppliers within VLAWMO to develop and implement a consistent testing method for private drinking water wells.

Strategy 2-2-3: Support North and East Metro Groundwater Management Areas to implement identified protection strategies. Develop task list as necessary and assign roles.

Goal 2-3: Enhance education and communication on the use of groundwater and increase the focus on water conservation. Improve the understanding and management of water use for both citizens and MS4s.

Strategy 2-3-1: Coordinate with partner organizations to develop a posting schedule and publish groundwater education materials through social media, community events, and other venues, multiple times per year.

Strategy 2-3-2: Promote available cost share programs which support water conservation through social media, community events, and other venues, multiple times per year.

Priority Issue 3: Need for education and involvement from citizens and stakeholders.

Goal 3-1: Support MS4 partners in the implementation of their MS4 permits through VLAWMO's Education and Outreach Program.

Strategy 3-1-1: Improve stormwater guidance and information. Develop and implement NPDES and MS4 information and documents to assist municipal compliance. Assist MS4s with regulatory questions and information. Collaborate with local governments in achieving a consistent and streamlined municipal education program for various target audiences to meet MS4 requirements. Develop and facilitate MS4 staff trainings for best practices and compliance as required, including knowledge and implementation of best management practices (BMPs).

Strategy 3-1-2: Regularly communicate with MS4 stakeholders to assess their needs and opportunities for collaboration on water resource management.

Goal 3-2: Implement the 2016 Education and Outreach Plan.

Strategy 3-2-1: Build on existing and pursue new partnerships with governmental entities and diverse stakeholders to maximize effectiveness and eliminate gaps in water resource communication. This will be addressed through regular communications with our MS4s, partnering with coordinated metro-wide efforts, and timely communication with other stakeholders.

Strategy 3-2-2: Use effective marketing techniques, including social media, brand recognition and regular, timely communications. The annual report, electronic newsletters, website, print, and other communications will use a cohesive brand.

Strategy 3-2-3: Be a resource to residents, business owners, and developers by providing an easy to use website, responsive staff and useful print material. Requests for how the watershed may better help its public will be added to the communications program as appropriate.

Goal 3-3: Implement education and outreach programs and activities that engage adult and school age residents in the watershed.

Strategy 3-3-1: Continue to implement citizen-based science programs and volunteer opportunities such as the Citizen Lake Monitoring Program (CLMP), Watershed Action Volunteers (WAV - VLAWMO's Citizen Advisory Committee), Community Blue grant program, and/or others as opportunities are identified. Programs will focus primarily on water resource benefits and public understanding of those resources.

Strategy 3-3-2: Develop at least one ongoing program targeting school age children through either schools, scouts, local nature centers or other organized groups. Target reaching 10% of the school age population per year though programs.

Priority Issue 4: Need for adequate data, analysis, financing, and staff capacity in order to meet goals and accomplish strategies

Goal 4-1: VLAWMO will have adequate resources to address our priority issues.

Strategy 4-1-1: Continue to operate a robust data collection program to support assessment of progress towards goals by taking a broad-based approach to assessing water quality and water quantity conditions and trends in the lakes and streams of the watershed over time. Prioritize baseline monitoring. VLAWMO will publish an annual water quality monitoring report by January 31st of each year.

Strategy 4-1-2: Sustainable Lake Management Plans (SLMPs) will be written and updated per the schedule in Table 2 of the Plan to assess lake and drainage area conditions and include information regarding land use and vegetative cover, as well as water quality, and other ecological assessment data.

Strategy 4-1-3: VLAWMO may, from time to time, retain consultants to provide data and analysis. Staff and Board will evaluate when it is most efficient to use existing staff vs. consultants.

Strategy 4-1-4: Minimize overlap with other agencies and evaluate the potential for collaboration of services. Partnership with lake associations, schools, businesses, and individuals will also be sought to implement practices, programs and various education efforts. Collaboration with MS4s and other groups will also be documented on annually.

Strategy 4-1-5: Evaluate job descriptions and needed qualifications and training for staff every 5 years or at employee turnover to ensure consistency with VLAWMO's needs. A market assessment will be reviewed on a regular basis to assure VLAWMO's capacity to acquire and retain well qualified staff. Potential modifications would be brought to the Board for consideration.

Strategy 4-1-6: The financial capacity identified in the budget will be reviewed yearly through the annual report process with fiscal needs identified for short term and long term projects and programs.

Priority Issue 5: Aquatic invasive species (AIS) management

Goal 5-1: In cases where AIS management overlaps with water quality improvement efforts, especially in shallow lakes (for example rough fish and curly leaf pondweed management), VLAWMO will look for opportunities to improve water quality as they align with the priorities of the VLAWMO Capital Improvements and Programs Plan.

Strategy 5-1-1: Implement rough fish management (such as harvesting or fish migration barriers), and curly leaf pondweed treatment, where applicable.

Goal 5-2: Support other LGUs and partners in AIS management.

Strategy 5-2-1: Where appropriate, VLAWMO may act as a partner and fiscal agent to lake associations or other interest groups to manage AIS.

Strategy 5-2-2: Where appropriate, VLAWMO may partner with other agencies or lake associations to provide education on AIS. These partnerships will be described and approved by the Board and each opportunity will be evaluated to ensure consistency with VLAWMO's priorities, goals, strategies and statutory responsibilities.

Priority Issue 6: Localized flooding

Goal 6-1: Minimize flood damage to private and public property within VLAWMO.

Strategy 6-1-1: Communicate regularly with member cities and road authorities to assess what they need to address new flooding concerns and support floodplain management in accordance with city, state, and federal regulations.

Strategy 6-1-2: In the event of localized flooding that crosses municipal boundaries but is within the watershed, VLAWMO may collect hydrologic and hydraulic (H&H) data to support municipal modeling efforts which address flooding and water quality issues. Limit modeling support to only those instances where VLAWMO can use its unique abilities and authorities to address its priority issues.

Strategy 6-1-3: Support floodplain management in accordance with city, state, and federal regulations.

Strategy 6-1-4: Facilitate the management of intercommunity stormwater flows if necessary. No MS4s report issues related to flooding currently, however if flooding issues arise that cross municipal boundaries, VLAWMO may mediate and coordinate the necessary modeling and implementation solutions. This can include convening meetings, providing technical support, or implementation support.

Strategy 6-1-5: Use cost share programs and technical support to encourage local partners with land use authority to promote infiltration and minimize flooding issues.

Responsibilities of Local Governments

All municipalities within VLAWMO are required to complete and adopt a Local Water Management Plan (LWMP) that conforms to Minnesota Statutes 103B.235 and Minnesota Rules 8410.0160 by December 31, 2018. The LWMPs must become part of the local comprehensive plan for the municipality. The LWMPs must be consistent with VLAWMO's Plan and address the priority issues identified in the Plan as it pertains to their community. Each municipality must consider the VLAWMO water management policy in the development of their LWMPs. Prior to adoption of a LWMP, a municipality must prepare their local water plan, distribute it for comment, and have it approved by VLAWMO.

VLAWMO does not operate a regulatory program for development review. Each of the municipalities, along with Anoka County, Ramsey County and the Minnesota Department of Transportation (MNDOT) has an MS4 permit and is responsible for stormwater management associated with those permits. The MS4s will be responsible for ensuring that development, redevelopment, and construction meets National Pollutant Discharge Elimination System (NPDES) requirements. Each municipality is required to operate a permitting program and have local controls consistent with the VLAWMO water management policy.

Additionally, for the waterbodies that have a completed TMDL study and implementation plan, the MS4s have Total Phosphorus (TP) waste load allocations (WLAs) for which they are responsible. Further discussion regarding the TMDL and WLAs is located in Appendix B of the Plan.

ASSIGNED WLAS FOR WATERBODIES WITH COMPLETED TMDL STUDY

			MS4s								
Lake	WLA (lbs/yr)	M-Foods Dairy	Anoka County	City of Gem Lake	City of Lino Lakes	MN DOT	City of North Oaks	Ramsey County	City of Vadnais Heights	City of White Bear Lake	White Bear Township
Gem	47.0	-	-	23.9	-	5.2	-	9.0	-	8.9	-
Goose – East	78.7	-	-	2.2	-	7.9	-	3.9	-	64.7	-
Goose – West	40.0	24.7	-	2.8	-	3.6	-	1.6	-	7.3	-
Gilfillan	17.0	-	-	-	-	-	14.7	0.5	0.1	-	1.7
Wilkinson	179.4	-	0.1	-	1.2	47.2	26.4	1.8	-	35.1	67.6

VLAWMO looks forward to continuing its strong partnerships with the MS4s as we work together to accomplish the goals of this Plan.

COMMITTEE RECOMMENDATIONS

Administrative Advisory Committee

1. Watershed District Model Buffer Enforcement Rule – Dave Weirens – ***DECISION ITEM***

2. SWCD Technology Capacity Survey & Report Grant – John Jaschke – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: **Watershed District Model Buffer Enforcement Rule**

Meeting Date: September 27, 2016

Agenda Category: X Committee Recommendation ☐ New Business ☐ Old Business

Item Type: X Decision ☐ Discussion ☐ Information

Section/Region:

Contact: Dave Weirens

Prepared by: Dave Weirens

Reviewed by: Administrative Advisory Committee Committee(s)

Presented by: Dave Weirens

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

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

Fiscal/Policy Impact

☐ None
☐ Amended Policy Requested
☐ New Policy Requested
☐ Other:

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☒ Clean Water Fund Budget

ACTION REQUESTED

The Board is requested to approve amending the FY2016 grant agreement with the Red River Watershed Management Board to add up to $30,000 for the purpose of developing a model watershed district buffer enforcement rule.

LINKS TO ADDITIONAL INFORMATION

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

The Buffer Law allows counties and watershed districts to elect to enforce the requirements under this law. Having a consistent local approach to enforcing this law will be a benefit to landowners and the resources affected. To develop this consistent approach, staff are proposing to provide a grant to the Red River Watershed Management Board to convene an advisory committee and contract for the necessary legal counsel to ensure the model rule watershed district and meets Buffer Law requirements. The goal is to have this model rule completed in November of this year.

Board Resolution #_____

Watershed District Model Buffer Enforcement Rule

WHEREAS, Minnesota Statutes Section 103F.48 establishes a riparian protection and water quality practices program; and

WHEREAS, Minnesota Statutes 103F.48, subdivisions 1(j) and 7 provide authority for watershed districts to elect to enforce the riparian protection requirements of this law using existing rule authority or administrative penalty orders; and

WHEREAS, it is in the interest of the Board of Water and Soil Resources to facilitate consideration by watershed districts of this voluntary enforcement authority through the development of model rule language; and

WHEREAS, the Board Resolution #15-80 authorized staff to enter into a grant agreement with the Red River Watershed Management Board to undertake several tasks related to drainage management; and

WHEREAS, staff are proposing to amend the grant agreement authorized by Board Resolution #15-80 to fund the development of model rule, administrative penalty and related enforcement language and guidance for consideration by watershed districts; and

WHEREAS, Administrative Advisory Committee reviewed the staff proposal on September 28, 2016 and recommends approval by the Board.

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources authorizes staff to amend the grant agreement authorized under Board Resolution #15-80 to provide up to $30,000 to the Red River Management Board to support enforcement of the Buffer Law by watershed districts by developing model rule, administrative penalty and related compliance and enforcement language and guidance.

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

BWSR Buffer and Soil Erosion Programs
Enforcement & Compliance Preliminary Schedule

Program Development

August 31, 2016

DRAFT

DRAFT

September-October 2016
Drafting and Development

Buffers Team and BC's may be involved in development and or review of various documents

November-December 2016
Review and Potential Public Feedback

Review of model ord/rule with associations and other stakeholders for comments and feedback

January 2017
Final Approval Potential Board Action

Training for BWSR Field Staff in anticipation of involvement at LGU meetings to discuss election of jurisdiction

1) **Administrative Penalty Order Plan** for BWSR enforcement and an option for local enforcement.
When: January 2017

2) **Model Ordinance/ Rule** for County/ Watershed District election of jurisdiction and enforcement.
When: November 2016

3) **Process for Election of Local Jurisdiction** (Incd. template resolution and notification letters)
When: November 2016

4) Staff Information and training/overview
When: Nov/Dec 2016

5) Communications
When: Nov/Dec 2016

6) Enforcement Funding
When: ONGOING

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: SWCD Technology Capacity Survey & Report Grant

Meeting Date: September 28, 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: Administrative Advisory Committee 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

Authorize a grant, in the amount of $18,494, with the Becker SWCD, on behalf of SWCDs state-wide, to provide conservation delivery funds for development of a state-wide SWCD technology capacity survey and report. The survey will provide data to assess and formulate a plan of action (report) that will address both current shortcoming in the current operational agreements which provide technology services to SWCDs and recommend future models for how SWCD technology capacity needs can be met.

LINKS TO ADDITIONAL INFORMATION

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

Over the past six months agency staff have been actively engaged with the MN Association of Soil and Water Conservation Districts (MASWCD) in a number of projects designed to look at how SWCDs can address current issues and shortcomings of their current information and technology systems as well as looking ahead to future needs in partnership with NRCS and BWSR. In summary that work has resulted in the need to formulate options and solutions for SWCD technology and future capacity and that there is a need for a systematic way to collect, assess, and develop written recommendations to chart a path forward. The outcomes from this have a direct benefit to BWSR as SWCDs implement many BWSR programs.

Staff is recommending that the Board authorize the use of $18,494 of unallocated SWCD Conservation Delivery funds to be granted to the Becker SWCD, on behalf of all SWCDs, to support the development and implementation, in partnership with MASWCD and BWSR, a state-wide survey and assessment of SWCD technology capacity and needs.

Minnesota Board of Water & Soil Resources

Board Resolution # _____

FISCAL YEAR '17 SWCD TECHNOLOGY CAPACITY SURVEY & REPORT GRANT

WHEREAS, Fiscal Year '17 Soil and Water Conservation District (SWCD) Programs and Operations Grants, administered by the Board of Water and Soil Resources (BWSR), provide Conservation Delivery Grants to SWCDs; and,

WHEREAS, Laws of Minnesota 2015, 1st Special Session, in Chapter 4, Article 3, Section 4, appropriated Conservation Delivery Grant funds to BWSR for services that may benefit SWCDs; and,

WHEREAS, the Minnesota Association of Soil and Water Conservation Districts (MASWCD), the Natural Resources Conservation Services (NRCS), and BWSR, created an operational agreement work group, which requests a state wide assessment of SWCD technology needs; and,

WHEREAS, the Administrative Advisory Committee, based on the operational work group request, is recommending Board allocation of Conservation Delivery Grant funds to conduct a survey and assessment of SWCD technology capacity and needs to benefit all SWCDs; and,

WHEREAS, the Becker SWCD has agreed to serve as grantee, in partnership with MASWCD and BWSR, to facilitate a survey, assessment, and report, of SWCD technology capacity and needs to benefit all SWCDs.

NOW THEREFORE BE IT RESOLVED, the Board authorizes a Conservation Delivery Grant allocation of $18,494 to the Becker SWCD upon approval of a work plan, to conduct, in partnership with MASWCD and BWSR, a survey, assessment, and report, of SWCD technology capacity and needs to benefit all SWCDs.

_____ Date: _____

Brian Napstad, Chair
Board of Water and Soil Resources

Minnesota Board of Water & Soil Resources

September 10, 2016

TO: Administrative Advisory Committee

FROM: Doug Thomas, Assistant Director of Regional Operations

SUBJECT: SWCD Technology Capacity Survey & Report Grant

Over the past six months agency staff have been actively engaged with the MN Association of Soil and Water Conservation Districts (MASWCD) in a number of projects designed to look at how SWCD can address current issues and shortcomings of their current information and technology systems as well as looking ahead to future needs in partnership with NRCS and BWSR.

In summary that work which is outlined below in more detailed has resulted in the need to formulate options and solutions for SWCD technology and future capacity and that there is a need for a systematic way to collect, assess, and develop written recommendations to chart a path forward. The outcomes from this have a direct benefit to BWSR as SWCDs implement many of BWSR programs.

Recommendation: Staff is recommending that the Board authorize the use of $18,494 of unallocated SWCD Conservation Delivery funds to be granted to the Becker SWCD, on behalf of all SWCDs, to support the development and implementation, in partnership with MASWCD and BWSR, a state-wide survey and assessment of SWCD technology capacity and needs.

Statement of the Situation – SWCD Technology and IT

The MASWCD Board and staff determined in 2016 that the Soil and Water Conservation Districts in Minnesota would benefit from an analysis and recommendations about the future of technology for districts. Having a statewide Technology Vision Framework to guide future decision making about infrastructure, field office operations, and landowner services could be of value to autonomous districts. Every SWCD uses some form of information technology to handle business operations. SWCD resource professionals use technology to process grants and contracts, assess and monitor resource data, design conservation practices, maintain financial records and communicate with customers and partners. Forecasting SWCDs' future technology operations requires assessment, planning and policy recommendations. For many SWCDs, their current technology infrastructure is dependent on a USDA framework. Since federal security requirements are increasing and limiting non-federal access, it is anticipated that SWCDs may need additional technology options or a plan in place to transition to a separate framework.

Without a MASWCD statewide strategy there is no overarching guidance for SWCDs. In addition, there is no central tech information source within the budget or jurisdiction of the SWCDs or MASWCD. Now, the majority of equipment, data and/or programs are sourced via interagency relationships. NRCS

provides computers to approximately two-thirds of the Districts and other Districts cooperate with counties or are independent.
As NRCS, a federal agency with statewide leadership has constraints on their budget and changes to their policies and practices, there are more questions about the reliance of SWCD's on NRCS for their technology and IT needs. It is timely to consider this matter and provide recommendations.

Current Computing/Technology Environment
NRCS established a Common Computing Environment (CCE) in 2000. Since its deployment, the NRCS CCE has been available to SWCDs to work on federal farm bill programs and outreach. The typical CCE seat includes a telephone, computer, monitor, internet connection, mailbox, software and technical support and is currently valued at $4,015 per CCE seat per year. Currently Minnesota NRCS is providing approximately $1.2 million to support CCE seats for SWCDs.

Until March 2017, there will be no *additional* CCE seats available to SWCDs. During the next six months, an operational agreement work group made up of SWCD and NRCS staff is developing criteria to ensure CCE seats are shared throughout the state with local SWCDs in a predictable, equitable and legal manner to support the conservation work implemented by the state conservation partnership.

Progress to Date
Operational Agreement Work Group
Efficient staffing, operations and services are essential for both the NRCS and SWCD field offices. To this end, MASWCD, NRCS and BWSR created an operational agreement work group to provide recommendations to Minnesota NRCS and SWCDs state level partnership to enhanced operations and locally led conservation delivery.

As part of the discussion members of the operational workgroup requested a state wide assessment of SWCD technology needs and items related to the NRCS Common Computer Environment.

MASWCD Leadership Instituted
The Leadership Institute class of 2016-2017 is developing a policy and a framework to support technology strategies that are independent, but complimentary, of the USDA and BWSR systems to meet the SWCD needs. The timeline is March, 2016 - March, 2017. A written report will be developed for the MASWCD State Board.

As they are starting to formulate options and solutions for SWCD technology and future capacity, they too realized that they would like more information and one way to accomplish this is via a district survey.

MASWCD Board

The MASWCD Board of Directors supports the Association working with BWSR and a lead SWCD for a grant application to conduct a technology survey of our district members. The grant would provide funding to contract with a consultant to work with SWCDs and the Association on the development of the survey questions. The survey will provide data to formulate an assessment of SWCD technology capacity (current and future)

COMMITTEE RECOMMENDATIONS

Dispute Resolution Committee

1. Hearing on a Wetland Conservation Act (WCA) Appeal of a Replacement Plan Decision, Crow Wing County, File 15-9 – Travis Germundson – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: WCA Appeal of a Replacement Plan
Crow Wing County File 15-9

Meeting Date: September 28, 2016

Agenda Category: ☒ Committee Recommendation ☐ New Business ☐ Old Business

Item Type: ☒ Decision ☐ Discussion ☐ Information

Section/Region: Dispute Resolution Committee

Contact: Travis Germundson

Prepared by: Leah Hedman, Attorney General's Office

Reviewed by: _____ Committee(s)

Presented by: Gerald VanAmburg, Travis Germundson, and Leah Hedman

☐ **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 decision to approve the Findings of Fact, Conclusion of Law and Recommendation that affirms Crow Wing County's August 21, 2015 Wetland Conservation Act (WCA) decision that denies Patrick Schmeichel's replacement plan application.

LINKS TO ADDITIONAL INFORMATION

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

The appeal was filed on behalf of Patrick Schmeichel (appellant) relating to Crow Wing County's Wetland Conservation Act (WCA) replacement plan decision made on August 21, 2015. The August 21, 2015 decision was to deny the 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. Whereas, Crow Wing County concluded that the basic project purpose can be reasonably accomplished by using one or more other sites within that general area that would avoid wetland impacts.

The Dispute Resolution Committee heard oral arguments from the parties to the appeal on August 21, 2016. After review of the record, written briefs, and oral arguments, voted 4 to 1 to recommend that Crow Wing County's August 21, 2015 decision be affirmed. Concluding that the County's findings of fact are not clearly erroneous, that the County correctly applied the law to the facts, and that the local government unit made no procedural errors prejudicial to the party.

Additional details and basis for the recommendation is included in the attached Findings of Fact, Conclusions of Law, and Recommendation.

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

In The Matter Of Crow Wing County's August 21, 2016 Denial Of Patrick Schmeichel's Application For A Wetland Replacement Plan

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

BWSR File No. 15-9

On September 15, 2015, Patrick Schmeichel appealed the Minnesota Wetland Conservation Act Notice of Decision issued on August 21, 2015 by Crow Wing County, in which the County denied Mr. Schmeichel's application for a Wetland Replacement Plan to the Dispute Resolution Committee ("DRC") of the Board of Water and Soil Resources ("BWSR").

On August 22, 2016, the DRC heard oral arguments. Mr. Schmeichel and his wife appeared with Mr. Schmeichel's counsel, John C. Kolb, Rinke Noonan, Suite 300 US Bank Plaza Building, 1015 W. St. Germain St., P.O. Box 1497, Saint Cloud, Minnesota. Amy E. Mace and John P. Edison, Rupp, Anderson, Squires & Waldspurger, P.A., 333 South Seventh St., Suite 2800, Minneapolis, Minnesota, appeared on behalf of Crow Wing County, along with Chris Pence with Crow Wing County.

Following Oral Argument, by a 4-1 vote, the DRC found that Crow Wing County properly denied Mr. Schmeichel's application for a wetland replacement plan.

Based upon the entire record of this proceeding, the DRC makes the following:

FINDINGS OF FACT

1. None of the parties objected to Crow Wing County's record, and the DRC finds the record consists of the following: a disc entitled *Schmeichel v Crow Wing County, Crow Wing County Record BWSR File No. 15-9* Record of Proceedings, and an *Index to the Record* prepared by Crow Wing County served on Mr. Schmeichel November 9, 2015. The DRC also reviewed the Appellant's *Arguments in Support of the Appeal of Denial of Wetland Conservation Act Replacement Plan* dated May 10, 2016, with attachments, the *County's Brief Supporting Denial of Replacement Plan Application*, dated June 9, 2016, with attachments, and *Appellant's Reply to County's Brief*, dated June 24, 2016. In addition, the DRC heard oral arguments by both counsel at the hearing.

2. Pursuant to the Wetland Conservation Act ("WCA"), this matter involves property located on South Long Lake in Crow Wing County, Minnesota, legally described as the Mogensen Shore West 100 Feet of Lot 53, Property ID No. 75105000053B009, Section 23, Township 44 North, Range 30 West (the "Property"). (R. at CWC 1, 6.)[1]

3. Approximately 99.9% of the Property is comprised of wetlands. (R. at CWC 46.)

4. After the Property had been sitting in tax forfeit, Crow Wing County put it up for sale and Mr. Schmeichel purchased the Property for less than $10,000. (*See e.g.*, R. at CWC 40, CWC 434.)

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[1] "R. at CWC ___" refers to the particular Bates-labeled document within the Record. Superfluous zeroes in the record citation are omitted for ease of reference.

5. Mr. Schmeichel is in the business of building and developing land. (R. at CWC 46.) Prior to purchasing the Property, Mr. Schmeichel met with the Crow Wing County Technical Evaluation Panel ("TEP") in February 2015 to discuss the possibility of constructing a family cabin on the Property. (R. at CWC 47.) The TEP meeting minutes state that Mr. Schmeichel "was intending to purchase [the Property] regardless [of whether he could build on it] and would use it as a recreational lot if needed." (*Id.*) The TEP meeting minutes also state that "[m]ore info would be needed before any type of decision could be reached." (*Id.*)

6. At the DRC hearing, Mr. Schmeichel claimed that his decision to purchase the Property was based on indications from the TEP at the February 2015 meeting that a wetland replacement plan could be approved for impacts resulting from the construction of a cabin on the Property.

7. Sometime after Mr. Schmeichel purchased the Property, he applied to Crow Wing County for a Wetland Replacement Plan. (R. at CWC 1-25.) Mr. Schmeichel completed and included a purchase agreement to withdrawal wetland credits from the Minnesota Wetland Bank with his application. (R. at CWC 20.)

8. Crow Wing County designated its Environmental Services Division to act as the County's designee[2] and to make decisions on wetland replacement applications under WCA. (R. at CWC 360.)

9. Mr. Schmeichel's initial application proposed "a small family cabin" with "a handicapped access ramp leading to the cabin and a separate turnaround area for vehicles." (R. at CWC 15.) Mr. Schmeichel's application listed a total wetland impact of 2,789 square feet. (R. at CWC 7.)

[2] Hereinafter, "Crow Wing County" will refer to the County, its designees and subdivisions.

10. The "Avoidance" section of the Schmeichel application states:

> Considering the entire [Property] is wetland, a no build alternative is the only on-site option to avoid all impacts to wetlands. The other option to avoid wetland impacts on [the Property] would be to explore other properties in the area with adequate space to build without impacting wetlands. This option was explored, however, only one other lake property was available. This property was far outside the limits of [Mr. Schmeichel's] budget.

(R. at CWC 10.) Mr. Schmeichel's application included a listing for 17325 Pleasant Lane, a lot on South Long Lake, with a list price of $169,500, as an example of another property in the area. (R. at CWC 10)

11. Crow Wing County's TEP considered Mr. Schmeichel's application at its meeting on April 7, 2015. (R. at CWC 48.) The TEP members present recommended that Crow Wing County approve Mr. Schmeichel's Wetland Replacement Plan. (*Id.*)

12. On April 12, 2015, David Bear, a landowning neighbor to the Property, wrote to Crow Wing County stating:

> I do not believe you can have an honest opinion of what this property looks like unless you visit it yourself. Until then, I would urge any members to vote against the approval of Mr. Schmeichel's request.

(R. at CWC 82.) Mr. Bear also sent several photographs. (R. at CWC 83-93.) Mr. Bear's family owns several lots adjacent to the Property. (R. at CWC 80-93.)

13. On April 19, 2015, Susan Howell, another landowning neighbor to the Property expressed her "deep concerns and objections related to this project" and questioned "[s]hould this be allowed, what are the guarantees that further development will not be allowed which would have an even more adverse impact in the future?" (R. at CWC 162.)

14. On April 27, 2015, Crow Wing County TEP staff conducted a site visit of the Property. (R. at CWC 338.)

15. In a WCA Notice of Decision dated April 30, 2015, Crow Wing County, approved Mr. Schmeichel's application with certain conditions. (R. at CWC 147-150, 368.)

16. On May 25, 2015, Mr. Bear appealed the County's decision, as a member of the public who requested in accordance with Minn. R. 8420.0905, subpart 3, to BWSR through a WCA petition. (R. at CWC 212-218, 241.) Mr. Bear's appeal cited several claims, including: (i) that the TEP failed to fully consider the proposed family cabin's impact on neighboring properties; (ii) that the TEP failed to fully evaluate the feasibility of the proposed project; and (iii) that the TEP failed to fully consider the physical state of the Property and the project's potential impact on wildlife. (R. at CWC 212-218.)

17. On June 25, 2015, BWSR remanded Mr. Bear's WCA petition back to Crow Wing County for further proceedings. (R. at CWC 242-244.) BWSR's remand order stated that Mr. Schmeichel's application "failed to provide documentation describing a minimum of two alternatives to avoid wetland impacts." (R. at CWC 243.) The remand order required Crow Wing County to:

a. instruct the TEP to produce a revised written report adequately addressing impact avoidance, including a no build alternative;
b. develop an adequate record that considers the revised TEP report;
c. make a determination whether any feasible and prudent alternatives are available that would avoid impacts to wetlands;
d. include written findings of fact that support the decision and address any disagreement with the TEP report;
e. notice the decision as required by WCA; and
f. consider conducting a public hearing on the replacement plan application.

(R. at CWC 244.)

18. On July 24, 2015, Mr. Schmeichel submitted additional information describing his plans to minimize or avoid the proposed wetland impacts and included six alternatives to the proposed project. (R. at CWC 251-260, 368.)

a. The first alternative was to purchase the $169,000 lot included in Mr. Schmeichel's original application and use it as an alternate site.

b. The second alternative was to purchase 8814 Morgenson Shore Road, a property on South Long Lake with an existing cabin listed at $119,000.

c. The third alternative was to purchase 10875 Rognaldson Road, a property on Upper South Long Lake with an existing cabin listed at $295,000.

d. The fourth alternative was to purchase 17150 Paradise Shores Road a property with an existing cabin which sold for $134,000.

e. The fifth alternative was to purchase property adjacent to the Property on which to build the cabin and to use the Property for lake access. The landowner of the adjacent property indicated she would not sell her property.

f. The sixth alternative involved purchasing a lot or a cabin on a different lake.

19. On August 10, 2015, the Crow Wing County TEP considered Mr. Schmeichel's revised application for approval of a Wetland Restoration Plan, but this time the TEP concluded the wetland impacts were avoidable and recommended Crow Wing County deny Mr. Schmeichel's application. (R. at CWC 336-340.) The majority of TEP members found that the impacts were avoidable because four of the properties he provided as alternatives would be feasible and prudent alternatives to his proposed project on the Property, under Minn. R. 8420.0520, subp. 3.C.(3). (R. at CWC 338.) The TEP findings state:

> [Mr. Schmeichel's] basic purpose of having a cabin on the lake near family friends can be reasonably accomplished and is more environmentally suitable under these options with reasonable modifications and reasonable costs typical for development/property on the lake ([Minn. R.] 8420.0520, subp. 3.C.(3)). The cost increase is not considered a truly unusual problem. ([Minn. R.] 8420.0520, subp. 3.C.(2)(e)).

Id. The TEP recommendation reads:

> Based on this evaluation, the majority of the TEP members recommend to the LGU that the proposed impact is avoidable and thereby must be denied per 8420.0520, Subp. 3.C.(4) which states *"If the local government unit determines that a feasible and prudent alternative exists that would avoid impacts to wetlands, it must deny the replacement plan."*

(R. at CWC 340.) (emphasis in original.)

20. On August 17, 2015, on the date of the close of the public comment period, Rian Reed, a DNR TEP representative for Crow Wing County filed a comment letter with Crow Wing County recommending denial of Mr. Schmeichel's application because there existed feasible and prudent avoidance alternatives:

> ...[Mr. Schmeichel] has provided information that the alternative sites are available. From what I understand, the sites are higher priced, however, item (e) indicates economic considerations alone do not make an alternative not feasible and prudent. Also, riparian lakeshore wetlands provide important ecological and hydrologic functions. Item (f), the [Property] is 100% wetland in a riparian area and very near the shoreline, placing a dwelling and associated infrastructure makes it difficult or impossible to limit impacts to wetland functions and other sites in the area may have more buildable upland. I also considered the potential to perpetuate the problem if similar sites are proposed for development.

(R. at CWC 501-502.)

21. On August 21, 2015, Crow Wing County issued its Notice of Decision, in which it denied Mr. Schmeichel's Wetland Replacement Plan. (R. at CWC 364.) Crow Wing County also filed a "Findings of Fact, Conclusions, and Decision Denying Wetland Replacement Plan," in which it concluded that:

> In regard to Rule 8420.0520, subpart 3(B), the project is not wetland dependent and thus is not exempt from the analysis of avoidance alternatives in Rule 8420.0502, subpart 3(C). . . .
>
> In accordance with Minnesota Rule 8420.0520, subpart 3(C)(3)(a), the County considered whether the basic project purpose can be reasonably accomplished using one or more other sites in the same general area that would avoid wetland impacts. The County concludes that Options 1-4 would allow the basic project purpose to be reasonably accomplished in the same general area and would avoid wetland impacts.

(R. at CWC 367, 369.)

22. Crow Wing County considered each of the factors in Minn. R. 8420.0520, subpart 3(C)(3) and determined, as the TEP did, that options 1-4 of the alternatives listed by Mr. Schmeichel in his supplemental information submitted on July 24, 2015, would be feasible and prudent alternatives that would avoid wetland impacts on the Property. (R. at CWC 369-371.)

23. Crow Wing County also considered whether "no truly unusual problems" were created by the alternatives and concluded that it is not a truly unusual problem for an applicant to have to pay more money to obtain and possibly remodel a different lakeshore property. (R. at CWC 371.) Crow Wing County further noted that under Minn. R. 8420.0500, subp. 2 (C)(3)(e), economic considerations alone do not make an alternative not feasible and prudent. (R. at CWC 371.) Based upon these conclusions, Crow Wing County denied Mr. Schmeichel's application on August 21, 2015, and on September 15, 2015, Mr. Schmeichel appealed Crow Wing County's wetland replacement plan denial to the BWSR. (R. at CWC 493-498.)

24. On October 9, 2015 the BWSR Executive Director made the decision to grant and hear the appeal. (R. at CWC 499.)

25. On August 22, 2016, the DRC heard the arguments of counsel for Mr. Schmeichel and Crow Wing County and considered the matter on open record.

26. Mr. Schmeichel's counsel argued that the concept of "[f]easible and prudent relate[s] to the ability of an alternative to achieve the project purpose" and that "[t]he project purpose cannot be reasonably accomplished using the alternative sites" because those "sites are 10 to 20 times the cost of the [P]roperty. . . ." (R. at CWC 495.) Further, Mr. Schmeichel's counsel argued that if Crow Wing County's interpretation of Minn. R. 8420.0520, subp. 3(C)(3)(f) was how WCA operated, every project with a replacement plan would be denied. Mr. Schmeichel's counsel argued that "[i]t is always possible to find other property for a project where there are no wetland impacts, yet if those properties are outside of a project's budget, then those properties are not reasonable alternatives to a project." *Id.* Therefore, Mr. Schmeichel's counsel argued that alternative options 1-4 were not feasible alternatives due to the additional cost required for the proposed project, the accessibility issues, and the requirement that the lot be low lying. Accordingly, Mr. Schmeichel's counsel asked whether the proposed project could be deemed a wetland dependent project.

27. The DRC found that 99% or more of the Property consists of wetlands.

28. The DRC specifically found that WCA has a primary goal of conservation and the protection of Minnesota's wetlands.

29. The DRC found that Mr. Schmeichel paid less than $10,000 for the Property. The DRC noted that other lots on South Long Lake are priced significantly higher than the amount Mr. Schmeichel paid for the Property.

30. The DRC found that the proposed project was not wetland dependent under Rule 8420.0520, subpart 3(B), because wetland features or functions are not essential to fulfill the basic purpose of the project, i.e., to build an accessible cabin. Indeed, the DRC noted, the mitigation and site plan for the proposed project were in response to the Property consisting mostly of wetlands and not because the wetlands were a feature of the project.

31. The DRC also found that because the project is not wetland dependent, it is not exempt from the analysis of avoidance alternatives in Minn. R. 8420.0502, subpart 3(C).

32. The DRC noted the project purpose was to provide an accessible family cabin.

33. The DRC considered Sequencing Rule, Minn. R. 8420.0502, and specifically each of the impact avoidance alternatives contained in subpart 3(C).

34. The DRC majority found that Mr. Schmeichel's supplemental alternatives, options 1-4, would accommodate Mr. Schmeichel's basic project purpose (i.e., having an accessible family cabin) despite the increase in cost.

35. The DRC majority also found that the handicapped accessibility of the proposed project was not a "truly unusual problem" under Minn. R. 8420.0520, subp. 3(C)(2)(e), as many persons have accessibility issues, including those due to age or infirmity.

36. The DRC majority found that under Minn. R. 8420.0520, subp. 3(C)(3)(e), economic considerations that the alternative sites were more expensive than the Property did not alone make options 1-4 not feasible and not prudent alternatives.

37. The DRC majority found that if Mr. Schmeichel's wetland replacement project were to be allowed, other applicants would be encouraged to present unique family circumstances, such as those requiring a lift for a steep slope, as a basis to seek to develop wetland property.

38. The 4-to-1 majority of the DRC found that Crow Wing County's denial of Mr. Schmeichel's application for a wetland replacement plan was correct in accordance with Minn. R. 8420.0520, Subp. 3. C.

CONCLUSIONS OF LAW

1. BWSR's has jurisdiction to hear this appeal pursuant to Minn. Stat. § 103G.2242, subd. 9 (2014).

2. Crow Wing County correctly applied the law to the facts when it determined that the proposed project was not wetland dependent under Minn. R. 8420.0502, subpart 3(B).

3. Crow Wing County correctly applied the law to the facts when it determined that because the proposed project was not wetland dependent under Minn. R. 8420.0502, subpart 3(B), it was not exempt from the alternatives analysis found in Minn. R. 8420.0502, subpart 3(C).

4. Crow Wing County correctly applied the law to the facts when it determined that under Minn. R. 8420.0502, subpart 3(C) (2) (e), there were no "truly unusual problems" created by any of the proposed feasible and prudent alternatives presented by Mr. Schmeichel.

5. Crow Wing County correctly applied the law to the facts when it determined that Mr. Schmeichel's presentation of solely economic considerations do not make the alternatives neither feasible nor prudent under Minn. R. 8420.0520, subp. 3(C)(3)(e).

6. Crow Wing County correctly applied the law to the facts when it determined that alternative options 1-4 were feasible and prudent alternatives preferable to the proposed project on the Property, as options 1-4 avoid wetland impacts under Minn. R. 8420.0502, subpart 3(C).

7. Crow Wing County correctly applied the law to the facts when it determined that feasible and prudent alternatives exist that would avoid wetland impacts.

8. Crow Wing County's denial of Mr. Schmeichel's application for a Wetland Replacement Plan was not clearly erroneous.

9. The parties did not claim and Crow Wing County did not make any procedural errors prejudicial to either party.

10. Any Finding of Fact more appropriately deemed a Conclusion of Law, or the reverse, should be deemed as such.

ORDER

The August 21, 2015, decision of Crow Wing County denying Patrick Schemichel's application for a Wetland Replacement Plan is affirmed.

Dated: _____

By: _____
Brian Napstad, Chair

NEW BUSINESS

1. Minnesota Public Drainage Manual Update – Al Kean and Tim Gillette – ***INFORMATION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Minnesota Public Drainage Manual Update Project

Meeting Date: September 28, 2016

Agenda Category: ☐ Committee Recommendation ☒ New Business ☐ Old Business

Item Type: ☐ Decision ☐ Discussion X Information

Section/Region: Technical Services

Contact: Tim Gillette

Prepared by: Tim Gillette

Reviewed by: Al Kean Committee(s)

Presented by: Al Kean and Tim Gillette

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

Attachments: ☐ Resolution ☐ Order ☐ Map X Other Supporting Information

Fiscal/Policy Impact

X None
☐ Amended Policy Requested
☐ New Policy Requested
☐ Other:

☐ General Fund Budget
☐ Capital Budget
☐ Outdoor Heritage Fund Budget
☐ Clean Water Fund Budget

ACTION REQUESTED

Information only.

LINKS TO ADDITIONAL INFORMATION

Attached Fact Sheet

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

In the FY14-15 biennium BWSR received a legislative Clean Water Fund appropriation ($235,000) and direction to update the Minnesota Public Drainage Manual (MPDM) and the Understanding Minnesota Public Drainage Law (UMPDL) document.

The MPDM was first developed in 1991 to provide guidance to drainage authorities as they administrate Chapter 103E drainage systems. The Manual has multiple audiences: drainage authorities, their engineers, attorneys and inspectors; landowner's; regulatory agencies; and other interested parties. It is a guidance document and is not rule or law.

The updated manual will be available in a wiki format in October 2016.

This item is coming to the Board as information only.

Minnesota Public Drainage Manual Update

Background

The Minnesota Public Drainage Manual was first developed in 1991 to provide guidance to drainage authorities as they administrate Chapter 103E drainage systems. The Manual has multiple audiences: drainage authorities, their engineers, attorneys and inspectors; landowners; regulatory agencies; and other interested parties. It is a guidance document, not rule or law.

In the FY14-15 biennium BWSR received a legislative Clean Water Fund appropriation ($235,000) and direction to update the Minnesota Public Drainage Manual (MPDM) and the Understanding Minnesota Public Drainage Law (UMPDL) document.

Project Objectives:

- Create a web-based, user-friendly and easily updatable version of the manual;
- Reflect changes in drainage law and pertinent case law
- Promote uniformity in the interpretation of Minnesota drainage law, without speculating as to what drainage law ought to say;
- Inform on the interaction between drainage law and other state and federal laws;
- Suggest procedures for consistent implementation state drainage law;
- Provide standardized forms for use in drainage proceedings;
- Provide enhanced guidance related to multipurpose water management considerations and authorities in drainage law;
- Provide guidance in a new chapter regarding implementation of BMPs for drainage projects and systems. (New Chapter 5)

Updated Manual Chapters:

- Chapter 1: Introduction and Definitions
- Chapter 2: Administration and Legal Issues
- Chapter 3: Engineering and Environmental Review
- Chapter 4: Viewing/Appraising
- Chapter 5: Drainage System Best Management Practices *(New)*
- Chapter 6: Supporting Information/Appendices

Process:

- Through an RFP process, BWSR contracted with the team of Houston Engineering, Inc. and Rinke Noonan Attorneys to update the MPDM and integrate the UMPDL document.
- A Project Advisory Committee (PAC) was established to help provide broad stakeholder perspective in the MPDM update process. The 38 member PAC included representatives from BWSR, the Minnesota Pollution Control Agency, US Fish and Wildlife Service, Fish & Wildlife Legislative Alliance, Minnesota Conservation Federation, Minnesota Association of Watershed Districts, Natural Resources Conservation Service, Association of Minnesota Counties, Minnesota Department of Natural Resources, Minnesota Department of Transportation, Faribault County Auditor, Minnesota Center for Environmental Advocacy, Red River Watershed Management Board, Sauk River Watershed District, Bolton Menk, Wenck Associates, Minnesota Association of Drainage Inspectors, University of Minnesota Water Resources Center, Minnesota Department of Agriculture, Wright County Auditor, Minnesota Viewers Association, I&S Group, and Lake Pepin Legacy Alliance LPLA.

  The PAC has had three key tasks:

  - Help shape the outline of Chapters 2, 3, 4 and new Chapter 5.
  - Review and comment on the content of the Chapters 2, 3, 4 and 5 through the subcommittees. As the full PAC, review and comment on the draft chapters for consistency from chapter to chapter.
  - Beta test the manual in the wiki.
- Four Focus Groups were held early in the process; three outstate and one in the metro area.
- The updated manual will be internet accessible and searchable via the BWSR website, where it will reside in a wiki format.
- The final product will be available in early October 2016.
- The plan is to include an informational item on the September Board meeting agenda about the project.

Post-Project

BWSR will continue to be responsible for the manual including maintaining the content, web support, and future updates.

The Drainage Work Group will serve as the advisory committee for any updates required due to changes in drainage law or other state and federal laws.