

## **Drainage Work Group Meeting Notes January 12, 2017**

12:30 - 3:30 p.m., Minnesota Farmer Union Building, St. Paul, MN

### **Attendance**

Tom Loveall, BWSR Brd.; Craig Austinson, Blue Earth Co., MADI; Mark Morreim, MNLICA; John Kolb, Rinke Noonan; Chris Otterness, HEI; Alan Perish, MFU, MVA; Mark Dittrich, MDA; Kale Van Bruggen, Rinke Noonan; Rob Sip, MDA; Barb Huberty, LWC; Steve Colvin, DNR; Mark Ten Eyck, MCEA; Goeff Kramer, RESPEC; Ed Lenz, BWSR; Wayne Anderson, MPCA; Jennifer Berquam, AMC; Ron Ringquist, MVA; John Jaschke, BWSR; Dan Wilkens, RRWMB; Mark Hiles, BWSR; Ruth Simpson, MAT; Laura Nehl-Trueman, MnDOT; Michelle Ulrich, CCWD; Tim Gillette, BWSR; Al Kean, BWSR

### **Handouts prior to or during the meeting**

- 1) DWG Meeting logistics and agenda for 1-12-17
- 2) DWG Meeting Notes for 12-8-16
- 3) Drainage Work Group Fact Sheet 12-12-16
- 4) DWG - Prioritized Discussion Topics List - Draft 1-7-17 (with status information)
- 5) DWG - HF-2011 HF-2365 SF-2451 Summary of Discussions - Draft 12-16-16
- 6) RSDCO - GIS Runoff and Sediment Charge Method FINAL Report December 2016
- 7) DWG - RSDCO – Chapter 103E Revisions - Draft 1-6-17
- 8) DWG - Section 103E315 Revisions - Draft 1-6-17

### **Introductions and agenda overview**

All in attendance introduced themselves. Al provided extra copies and an overview of the agenda, including the addition of a topic about drainage system acquisition of ditch buffer strips requested by John Jaschke.

### **Drainage System Acquisition of Ditch Buffer Strips**

Discussion about drainage authorities using existing provisions of drainage law for drainage systems to acquire and establish ditch buffer strips, and impediments. Redetermination of benefits and damages is the primary provision used, where benefited lands and benefits on record are outdated and repair costs unfairly allocated, but some landowners and drainage authorities reluctant due to cost. Drainage authority staff, landowner meetings and viewers necessary. Viewer shortage. Some use of 103E.021, Subd. 6 incremental buffer strips provision, where legal counsel and drainage authority awareness. However, doing as a repair distributes costs based on benefits on record, which are often outdated, and one problematic unpublished appeals court opinion about jurisdiction. Anticipation that landowners will want their drainage system to acquire, compensate and maintain buffer strips required by the Buffer Law, as the Buffer Law is accepted and advances. Discussion about how best to increase drainage authority and landowner knowledge of applicable drainage law provisions. Suggestion that DWG Communication Subgroup might help.

### **Approval of 12-8-16 meeting notes**

Extra copies of meeting notes were distributed. Corrections or additions were invited. None were identified.

### **Share information about recent and upcoming drainage related events**

- *MNLICA Annual Conference*, Jan. 5-6, 2017, New Ulm, MN
- *RRBC 34th Red R. Basin Land & Water Int'l. Conf.*, Jan. 17-19, 2017, Ramada Plaza, Fargo, ND
- MN Viewers Association, *Training Seminars*, Jan. ?, April 6, 2017, Jackpot Junction, Morton, MN
- Rinke Noonan, *Wetlands and Drainage Seminar*, Feb. 13, 2017, Convention Center, St. Cloud
- *RRWMB-FDRWG Annual Conference*, March 22-23, 2017, Marriot, Moorhead, MN
- ISG et al., *Drainage Workshop*, March 27, 2017, Willmar, MN

### **Updated Drainage Work Group Fact Sheet**

Briefly reviewed the updated DWG fact sheet dated 12-12-16, which includes a change of the heading “Membership” to “Stakeholders” as discussed at the 12-8-16 meeting.

### **Updated DWG Prioritized Discussion Topics List**

Briefly reviewed and discussed the updated DWG discussion topics list dated 1-7-17, which includes brief status information. Agreed to make “Tiered Aquatic Life Use (TALU) classification system” a separate bullet under Information Topics. Agreed to add reference to multipurpose drainage management in the sub-bullet under the Information Topic: “LCCMR and LSOHC priorities and projects related to drainage”.

### **Brief status of DNR policy guidance regarding public waters and drainage**

DNR staff team continues to review the comments by several DWG Public Waters and Drainage Subgroup members on the first draft of the guidance document to develop responses. Limited discussion.

### **Brief status of DWG Exploratory Communication Subgroup**

The subgroup met on 1-3-17 and discussed a general direction to serve as a sounding board for DWG member communications regarding drainage topics, and associated coordination. Discussion about the DWG not being a sponsor of documents or activities, but rather a sounding board for input regarding documents or activities of DWG stakeholder organizations.

### **Drainage Records Database and Minnesota Public Drainage Manual (MPDM) outreach information**

BWSR, MnGeo and the Houston Engineering, Inc. subcontractor held a webinar about the Drainage Records Database on 12-19-16 that is also available on the BWSR website, Drainage page. BWSR is planning for MPDM outreach meetings in the spring.

### **DWG Summary of Discussions & Conclusions for HF-2011/SF-2029, HF-2365/SF-2380 and SF-2451/HF-3956**

The draft document dated 12-16-16 was reviewed and discussed. It is intended that Al Kean will send this document as a report from the DWG to the chief authors of these bills and the chairs of the House and Senate Ag Policy and Environment and Natural Resources Policy ... committees. It was discussed and agreed that for SF-2451/HF-3956, the Summary of DWG Discussions and Conclusions, 4) will be revised to read: “Some DWG members have strong concern about requiring flowage easement(s) from downstream landowner(s) and the effect on any new drainage and the reasonable use doctrine in Minnesota, which is based on a long history of common law and case law. However, it is recognized that unless private drainage is addressed through other local controls, and/or landowners coordinate with their neighbors, legal action by affected landowners may be their only recourse.”

### **Runoff and Sediment-based Drainage Charge Option (RSDCO) in drainage law**

It was noted that the final report from the International Water Institute was completed in December and distributed to DWG members electronically as an attachment to the email for this meeting. Because the DWG is not ready to make consensus recommendations for revisions of drainage law for this option, further discussion will be deferred until the DWG starts meeting again in June 2017.

### **Draft revisions of Section 103E.315 Assessing Drainage Benefits and Damages**

This section was separated out from the RSDCO draft revisions, because past DWG discussions and the update of the MPDM identified needs for clarifications within this section. Some discussion about concerns and reasons regarding some of the proposed draft revisions. A subgroup was identified, including: Ron Ringquist, Kale Van Bruggen, Laura Nehl-Trueman, Ruth Simpson, Mark Ten Eyck, and John Kolb. Al will try to coordinate some work on this topic in the coming months.

### **Next DWG meeting**

After the 2017 legislative session, Thursday, June 8, 2017, and monthly thereafter through at least the end of the calendar year.