

## **Drainage Work Group Meeting Notes October 11, 2018**

11:00 a.m. - 2:00 p.m., Minnesota Farmers Union Building, St. Paul, MN

### **Attendance**

Jim Sehl, DNR; Tom Loveall, BWSR Brd.; Craig Austinson, MADI, Blue Earth Co.; Alan Perish, MFU, MVA; Chris Otterness, HEI; John Kolb, Rinke Noonan; Ruth Simpson, MAT; Emily Javens, MAWD; Allen Wold, BdSWD; Julie Ekman, DNR; Elise Larson, MCEA; Tim Dritz, MAWD; Kurt Deter, Rinke Noonan; Greg Knopff, MN Senate Analyst; Rob Sip, RRWMB; Randy Kramer, AMC; Jerome Deal, RRWMB; Dan Wilkens, SHRWD; Leif Fixen, TNC; Hannah Mathews, IWL; Thom Peterson, MFU; John Jaschke, BWSR; Lindsey Hanson, MNDOT; Fatema Haji-Taki, MNDOT; Ed Lenz, BWSR; Tom Gile, BWSR; Mark Hiles, BWSR; Ron Ringquist, MVA; Harvey Kruger, HLWD; Elizabeth Henley, Smith Partners; Dave Weirens, BWSR; Bill Thompson, MASWCD; Stu Frazeur, MNLICA; Lisa Frenette, RRWMB; Gloria Johnson, MNDOT; Al Kean, BWSR

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

- 1) Meeting logistics and agenda for 10-11-18
- 2) Meeting notes for 9-13-18
- 3) Reestablishment of Drainage System Records - DNR Concerns 8-3-18
- 4) DWG - Process - Alternative 1 Draft 10-8-18
- 5) DWG - Process - Alternative 2 Draft 10-8-18
- 6) DWG - Process Summary - Alternative 3 Draft 10-8-18
- 7) DWG - Process Summary - Alternative 4 Draft 10-8-18
- 8) DWG - Process Summary - Alternative 5 Draft 10-10-18
- 9) MAWD Pre-Conference MN Drainage Seminar 11-29-18 Agenda

### **Introductions and agenda overview**

All in attendance introduced themselves. Al K. provided extra copies and an overview of the agenda.

### **Approval of 9-13-18 meeting notes**

Extra copies of the notes were distributed. Corrections or additions were invited. It was noted that the 9-13-18 meeting was held at the MCIT, rather than MFU as indicated on the draft notes. Al Kean will revise the meeting notes accordingly before posting on the BWSR Drainage webpage.

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

- UMN Water Resources Conference, Tues. - Wed., Oct. 16-17, 2018, RiverCentre, St. Paul
- Minnesota Viewers Association, Training Seminar, Thurs., Nov. 1, 2018, Jackpot Junction, Morton, MN; primary topic separable maintenance
- MAWD Pre-Conference Drainage Seminar, Thurs., Nov. 29, 2018, Arrowwood, Alexandria (agenda handout from MAWD)

### **Reestablishment of drainage system records (Section 103E.101, Subd. 4a.)**

Section 103E.101, Subd. 4a was recommended by the DWG and adopted into drainage law in 2013 to provide a consistent procedure in drainage law. Chris Otterness, HEI, and Jim Sehl, DNR, provided information via PowerPoint and discussion about a recent reestablishment of records for Lac Qui Parle County Ditch 24, which was constructed in 1909 and involves public waters (Mud Lake, Boehnke Slough and an unnamed basin). A key reason for reestablishing drainage system records can be to correlate a past design elevation benchmark or datum to a current elevation datum to define the current design profile. This typically involves a weight of evidence approach based on available information, such as current surveys, borings in the bottom of a ditch through sediment to the interface with undisturbed

soil, past bridge and/or culvert drawings and surveys, and aerial photos, to help determine the as-constructed or subsequently improved condition (ACSIC) bottom profile elevations.

DNR disagrees with the reestablished ditch profile recommended by HEI for CD-24, because it's lower than the existing profile and some key existing culverts, so that a repair to the reestablished profile would lower water levels in the public water basins. The disagreement is primarily about locations and interpretation of test borings in the ditch and interpretation of aerial photos. Section 103E.101, Subd. 4a. **Reestablishing Records** does not provide for DNR involvement on a team to help reestablish drainage system records like DNR and SWCDs can be involved for certain repairs via Section 103E.701 **Repairs**, Subd. 2. **Repairs affecting public waters.**

On October 2, 2018, the Minnesota Supreme Court heard an appeal by DNR about Chippewa-Swift JD-9 reestablishment of drainage system records. A key question appears to be whether or not DNR can appeal a reestablishment of drainage system records decision by a drainage authority, or must wait until a proposed repair to challenge a repair depth.

The DWG agreed to further investigate the issue and potential ways to address it.

#### **Plain language information about RSDO and ADSABS recommendations**

The DWG Communications Committee met on 10-3-18 to discuss plain language information about the subject DWG recommendations to better inform drainage stakeholder groups about what these recommendations are and are not, in light of the misunderstandings during the 2018 legislative session. Key drainage stakeholder organizations to better inform include drainage authorities, agricultural organizations, environmental organizations, and legislators. The DWG Communications Committee will meet again on 11-2-18 to help bring final draft plain language information to the full DWG at its November 8 meeting.

#### **DWG Process**

What was previously called a charter was renamed "process" to avoid a perception that the DWG was being re-chartered. This topic is focused on documenting past and current DWG process and understandings, and adding a way for the DWG to proceed when full consensus cannot be achieved. Five alternative DWG process outlines and summaries were further reviewed and discussed. The fifth alternative (DWG Process Summary), which includes a consensus and non-consensus report option, with limitations, when full consensus cannot be achieved, was adopted by the DWG, with one member not in consensus. Full consensus recommendations and other products of the DWG will remain a goal. Al Kean agreed to remove "draft" and email the DWG Process Summary adopted on 10-11-18 to all DWG members and others on the DWG email list. This was done on 10-12-18.

#### **Next DWG meeting**

Thursday, November 8, 2018, Minnesota Farmers Union building, St. Paul.