

**BOARD OF WATER AND SOIL RESOURCES  
520 LAFAYETTE ROAD NORTH  
LOWER LEVEL BOARD ROOM  
ST. PAUL, MN 55155  
WEDNESDAY, JANUARY 27, 2021**

**BOARD MEMBERS PRESENT:**

Jill Crafton, Kathryn Kelly, Rich Sve, Andrea Date, Jayne Hager Dee, Ted Winter, Tom Loveall, Nathan Redalen, Tom Schulz, Gerald Van Amburg, Joe Collins, Harvey Kruger, Neil Peterson, Sarah Strommen, DNR; Thom Peterson, MDA; Joel Larson, University of Minnesota Extension; Steve Robertson, MDH; Katrina Kessler, MPCA

**BOARD MEMBERS ABSENT:**

**STAFF PRESENT:**

John Jaschke, Angie Becker Kudelka, Rachel Mueller, Kevin Bigalke, Tom Gile, Travis Germundson, Pete Waller, Ryan Hughes, Sharon Doucette, Dale Krystosek, Brett Arne, Dan Shaw, Suzanne Rhees, David Weirens, Karli Tyma, Jenny Gieseke, Jon Voz

**OTHERS PRESENT:**

Jeff Berg, MDA; Brian Martinson, AMC; Emily Javens, MAWD; Jamie Beyer, Stephanie Hatzenbihler, Judy Sventek, Hadley Mensing

Chair Gerald VanAmburg called the meeting to order at 9:03 AM

**PLEDGE OF ALLEGIANCE**

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21-01 **ADOPTION OF AGENDA** - Moved by Jill Crafton, seconded by Harvey Kruger, to adopt the agenda as presented. *Motion passed on a voice vote.*

**Roll Call Vote: Adoption of the agenda**

Name of Board member	Affirmative	Opposed	Abstained	Absent
Joe Collins	X			
Jill Crafton	X			
Andrea Date	X			
Jayne Hager Dee	X			
Steve Robertson (MDH)	X			
Katrina Kessler (MPCA)	X			
Kathryn Kelly	X			
Harvey Kruger	X			
Sarah Strommen (DNR)	X			
Joel Larson	X			
Neil Peterson	X			
Nathan Redalen				X
Tom Schulz	X			
Thom Petersen	X			
Rich Sve	X			
Ted Winter	X			
Gerald Van Amburg, Chair	X			
<b>TOTALS</b>	16			1

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21-02 **MINUTES OF DECEMBER 17, 2020 BOARD MEETING** – Moved by Jill Crafton, seconded by Rich Sve, to approve the minutes of December 17, 2020, as amended. *Motion passed on a voice vote.*

**Roll Call Vote: Approval of the Minutes of December 17, 2020 Board Meeting**

Name of Board member	Affirmative	Opposed	Abstained	Absent
Joe Collins	X			
Jill Crafton	X			
Andrea Date	X			
Jayne Hager Dee	X			
Steven Robertson (MDH)	X			
Katrina Kessler (MPCA)	X			
Kathryn Kelly	X			
Harvey Kruger	X			
Sarah Strommen (DNR)	X			
Joel Larson	X			
Neil Peterson	X			

Nathan Redalen				X
Tom Schulz	X			
Thom Petersen	X			
Rich Sve	X			
Ted Winter	X			
Gerald Van Amburg, Chair	X			
<b>TOTALS</b>	16			1

### **PUBLIC ACCESS FORUM**

No members of the public provided comments to the board.

### **REPORTS**

**Chair & Administrative Advisory Committee** – Chair Gerald Van Amburg reported the committee has not met.

On January 20 Chair Van Amburg attend the Minnesota Climate Adaptation Conference. Keynote speaker Sam Grant, Executive Director of MN350, gave a presentation on environmental justice. There was a panel that Katrina Kessler was a part of that offered perspectives on climate adaptation. Also attended the EQB retreat where board members had an opportunity to interact.

January 21 attended Red River Basin Conference. Numerous good topics were prerecorded and available for viewing. The Leadership Award was presented to Linda Kingery, Executive Director of the Northwest Regional Partnership. BWSR staff Tara Perriello and Dan Shaw presented the Lawns to Legumes Pilot Project update.

New committee assignments were sent out and Chair Van Amburg thanked members for serving on committees.

Performance evaluation of the Executive Director is done annually. An email will be sent to complete the evaluation form and a report will be brought back to the board at a future meeting.

Kathryn Kelly thanked staff for their presentations at both events.

**Audit and Oversight Committee** – Joe Collins reported the committee met on January 25. The PRAP report will be presented later in the agenda.

**Executive Director’s Report** - John Jaschke reported the survey for Executive Director evaluation will be sent to all Board Members and the BWSR Senior Management Team through Survey Monkey.

Governor announced budget recommendations for state government and will receive another update to the budget forecast in late February. In the BWSR budget there were no adjustments to existing programs. As recommended by the Governor’s office via the Climate Subcabinet, BWSR will be working to develop a water storage initiative and soil health initiative. Governor put forth the recommendations from Clean Water Council on the Legacy Amendment Funds. There is a policy bill BWSR is seeking to allow the two dedicated conservation easement funds the ability to fix a structure if needed on those easements.

Received staffing exemption for two Easement Processing Specialists and the Central Region Manager position. A Financial Services position is being announced again. BWSR chose not to participate in the early retirement incentive. BWSR is attending training and connecting through virtual means when possible.

Reviewed the day-of packet that included supplemental documents, Snapshots, org chart, phone list, and an expense form.

**Dispute Resolution and Compliance Report** – Travis Germundson reported there are presently six appeals pending. All the appeals involve the Wetland Conservation Act (WCA). There has been one new appeal filed since the last Board Meeting (December 17, 2020).

File 20-13 (12-21-2020) This is an appeal of a restoration order in Washington County. The appeal regards the alleged placement of fill in wetlands associated with development of a residential property. No decision has been made on the appeal.

File 20-12 (12-1-2020) This is an appeal of Administrative Penalty Order (APO) issued under the Buffer Law in Pennington County. The APO requires the placement of a 16.5' vegetated buffer along a public drainage system. The appeal was denied and the APO affirmed.

File 20-08 (8-12-2020) This is an appeal of a WCA restoration order in St. Louis County. The appeal regards the alleged placement of 8,000 sq. ft. of fill in a wetland. The petitioner intends to submit after-the-fact applications for exemption and no-loss to the LGU. The appeal was denied, and the restoration order affirmed.

Buffer Compliance Status Update: BWSR has received Notifications of Noncompliance (NONs) on 99 parcels from the 12 counties BWSR is responsible for enforcement. Currently there are 26 Corrective Action Notices (CANs) and 8 Administrative Penalty Orders (APOs) issued by BWSR that are still active. Of the actions being tracked over 64 of those have been resolved.

Statewide 29 counties are fully compliant, and 46 counties have enforcement cases in progress. Of those counties (with enforcement cases in progress) there are currently 987 CANs and 40 APOs actively in place. Of the actions being tracked over 1,231 of those have been resolved.

Jill Crafton asked if the buffers have diversity. Travis stated perennial vegetation needs to be natural without invasive species or noxious weeds. Resources are available online to build better buffers.

**Grants Program & Policy Committee** – Tom Schulz reported the committee has not met.

**RIM Reserve Committee** – Jayne Hager Dee reported the committee has not met.

**Water Management & Strategic Planning Committee** – Andrea Date reported the committee has not met.

**Wetland Conservation Committee** – Jill Crafton reported the committee has not met.

**Buffers, Soils & Drainage Committee** - Kathryn Kelly reported the committee has not met.

**Drainage Work Group (DWG)** - Tom Gile reported they met on January 14. This meeting was the last of this year's DWG meetings.

The DWG had a discussion on the use of MDM/CWF dollars for Drainage related activities. Of particular interest to this discussion is the dismissal due to an inadequate outlet and dismissal due to benefits of the proposed drainage project being less than the total cost, including damages awarded.

If a proposed drainage project does not meet the cost benefits or does not have an adequate outlet the project is dismissed. Clean Water Fund dollars can clearly be used for water quality projects within the provisions of the drainage law and CWF. The question up for discussion is eligibility to use CWF dollars to provide for an adequate outlet or to buy down the cost benefits in order to make a project feasible if it would otherwise be dismissed for these reasons. CWF is intended to supplement traditional funding sources and is not a substitute. Similarly, infrastructure and aspects of storm water projects which are required to meet minimum regulatory standards are not eligible. However, supplemental aspects that go above and beyond required minimums are eligible. How do these aspects of 103E reconcile with the CWF? Some future discussion may be warranted.

The DWG had a very good discussion on the use of MDM/CWF The Drainage Management Team returned to provide further discussion on the “Watershed Hydrology: Considerations in Watershed Planning” document from the previous meeting. A one page overview document was provided to DWG membership which helped clarify the purpose/scope and intent and seemed to alleviate most concerns from the previous discussion.

BWSR staff provided a status update on the Drainage Maintenance Policy document which was discussed earlier in the year. An anticipated timeline of sharing final versions with the DWG and a future agenda topic to provide one last brief discussion on the purpose is intended.

Group think/discussion for topics to consider in 2021. BWSR staff will generate an online survey for DWG members this spring to rank and prioritize anticipated activities for the next DWG season. Meetings for next year are anticipated to start in June or July of 2021 and go through Dec/January.

Currently anticipating that the next DWG meetings will begin in a virtual format in June/July of 2021.

Tom Gile thanked Emily Javens for her suggestions on virtual meetings.

Gerald Van Amburg asked if Drainage Viewers take part in the drainage work group routinely. Tom stated that Membership from the State Viewers Association has been an active participant in the group.

## **AGENCY REPORTS**

**Minnesota Department of Agriculture** – Thom Petersen reported the Governor is recommending a onetime fund appropriation to establish the Climate Smart Farms Project through the Minnesota Water Quality Certification Program. Governor is also requesting additional \$2 million for the Ag BMP Loan Program.

**Minnesota Department of Health** – Steve Robertson reported COVID caseloads have been declining. Supply and distribution have had some problems.

New rule from EPA, the lead and copper rule revision affects public drinking water systems across the country. Changes to rule were remedies to strengthen the rule and will roll out in the next several months.

National Source Water Collaborative has a new learning exchange on forestry. Adding this exchange and focusing on the critical role of well managed forests in watershed health and insuring safe and reliable supplies in drinking water.

**Minnesota Department of Natural Resources** – Sarah Strommen reported they held their annual Minnesota DNR Roundtable virtually. Theme focused on the intersections between public health, social equity, and natural resources management.

Gave overview of the budget proposals for DNR. Need to maintain critical service, there is a new forestry initiative on climate change, fee increase proposals for state park vehicles, and watercraft permit fees. In the new climate change proposal, the Governor has recommended a general fund investment to expand tree growing capacity at the Badoura State Forest Nursery. The proposed Reinvest in Minnesota Critical Habitat Program policy changes to the match ratio dollars from critical habitat license plates and other private donations and funding sources to invest dollars in land protection and management to improve critical habitat.

Jill Crafton stated she attended the Roundtable and enjoyed the panel. Jill asked about the tree project and if there would be a diversity in the trees. Commissioner Strommen said they will plant a variety of trees and the climate proposal is not just about density but also enhancing resiliency on the landscape.

**Minnesota Pollution Control Agency** – Katrina Kessler gave an overview of the Governor’s budget. Working on addressing the high level of mercury in the St. Louis River. MPCA is working with agency partners on a PFAS workplan. Working on establishing a climate adaptation fund to provide resources to local government partners. Will be attending the House Legacy Committee with Clean Water Council Administrator Paul Gardner to talk about the impacts to clean water fund work from the COVID pandemic.

Jill Crafton asked if the agency has been considering labeling PFAS products so consumers know. Katrina stated that is one of their policy proposals they are working on.

Chair Van Amburg asked with shutting down coal plants and electrical generation will it have a measurable impact on the mercury problem? Katrina stated 90% of mercury in Minnesota comes from outside of Minnesota. Most sources are air sources that get deposited into water. Need to continue working with federal partners and other states.

**Minnesota Extension** – Joel Larson reported they held their Climate Adaptation conference. Keynote speaker was Sam Grant from MN350. He spoke of the importance of addressing racial justice alongside climate change. There was a panel lead by the new Climate Extension Specialist Heidi Roop. Joel stated they will be restarting monthly webinar series and will send information out once available. One of the projects they are looking into is continuing a team that developed a detailed down-scaled climate projection data for the state.

Nitrogen Conference is on February 9 and the Nutrient Management Conference is on February 16. The Water Resources Conference is being planned for next fall.

## **ADVISORY COMMENTS**

**Association of Minnesota Counties** – Brian Martinson reported they appreciate that there are no general fund reductions to the appropriations that support local government environmental work or the work with partners in the state. Glad to see in the BWSR budget an investment in the water storage initiative. Appreciates the investment in the Ag BMP loan program.

One of the topics AMC is working on this year is the Public Waters Inventory work the DNR has undertaken. Local government and the public was given an opportunity to offer comments and are engaging in the process. Comment period closed on November 30. Also working on the ordinary high water mark issue that was started last year but was slowed due to the pandemic. AMC is working closely with BWSR to get an extension for the 404 Assumption and that it's a priority for AMC.

**Minnesota Association of Conservation District Employees** – No report was provided.

**Minnesota Association of Soil & Water Conservation Districts** – No report was provided.

**Minnesota Association of Townships** – Nathan Redalen reported the Minnesota Association of Townships ED David Hann has resigned and they are in the process of finding new ED.

**Minnesota Association of Watershed Districts** – Emily Javens reported Harvey Kruger was not reappointed on the Heron Lake Board and this will be his last BWSR Board meeting. Emily thanked Harvey for his work.

Minnesota Association of Watershed Administrators want to get more involved and work on state issues. The first committee put together is the Education Committee where their first task is to make sure they understand the different components of their training programs.

Jill Crafton and Chair Van Amburg thanked Harvey Kruger for his work.

**Natural Resources Conservation Service** – No report was provided.

Chair Van Amburg recessed the meeting at 10:42 a.m. and called the meeting back to order at 10:50 a.m.

## **COMMITTEE RECOMMENDATIONS**

### **Northern Region Committee**

**Bois de Sioux - Mustinka Comprehensive Watershed Management Plan** – Neil Peterson, Pete Waller, and Ryan Hughes presented Bois de Sioux - Mustinka Comprehensive Watershed Management Plan.

The Bois de Sioux - Mustinka Comprehensive Watershed Management Plan (Plan) planning area is in west-central Minnesota encompassing portions of Big Stone, Grant, Otter Tail, Stevens, Traverse, and Wilkin counties. The planning area is the same as the political boundary of the Bois de Sioux Watershed District. The Plan was developed as part of the One Watershed, One Plan program.

On December 4, 2020, BWSR received the Plan, a recording of the public hearing, and copies of all written comments pertaining to the Plan for final State review. The planning partnership has responded to all comments received during the 60-day review period and incorporated appropriate revisions to the final Plan.

BWSR staff completed its review and subsequently found the Plan meets the requirements of Minnesota Statutes and BWSR Policy.

On January 6, 2021, the Northern Regional Committee met to review and discuss the Plan. The Committee's decision was to recommend approval of the Bois de Sioux - Mustinka Watershed Comprehensive Watershed Management Plan as submitted to the full Board per the attached draft Order.

Jill Crafton thanked them for their work.

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21-03 Moved by Neil Peterson, seconded by Rich Sve, to approve the Bois de Sioux - Mustinka Comprehensive Watershed Management Plan. **Motion passed on a voice vote.**

**Roll Call Vote: Bois de Sioux - Mustinka Comprehensive Watershed Management Plan**

Name of Board member	Affirmative	Opposed	Abstained	Absent
Joe Collins	X			
Jill Crafton	X			
Andrea Date	X			
Jayne Hager Dee	X			
Steven Robertson (MDH)	X			
Katrina Kessler (MPCA)				X
Kathryn Kelly	X			
Harvey Kruger	X			
Sarah Strommen (DNR)	X			
Joel Larson	X			
Neil Peterson	X			
Nathan Redalen	X			
Tom Schulz	X			
Thom Petersen	X			
Rich Sve	X			
Ted Winter	X			
Gerald Van Amburg, Chair	X			
<b>TOTALS</b>	16			1

**RIM Reserve Committee**

**Working Lands RIM Easement Pilot Program** – Sharon Doucette presented Working Lands RIM Easement Pilot Program.

Minnesota Session Laws 2019, Chapter 2, Article 1, Section 4(a) appropriated \$10,000,000 to BWSR with the following language:

(a) To the Board of Water and Soil Resources to acquire conservation easements from landowners to preserve, restore, create, and enhance wetlands and associated uplands of prairie and grasslands, and restore and enhance rivers and streams, riparian lands, and associated uplands of prairie and grasslands in order to protect soil and water quality, support fish and wildlife habitat, reduce flood damage, and provide other public benefits. The provisions of Minnesota Statutes, section 103F.515, apply to this program.

(d) Of this appropriation, up to five percent may be used for restoration, rehabilitation, and enhancement, and no more than \$1,000,000 may be used to acquire working lands easements.

Easement staff have been working with The Nature Conservancy to develop a Working Lands Easement pilot program to utilize \$1M of bonding in the Redeye, Crow Wing and Pine River watersheds. Program



materials, including program description, scoresheet and revised agreement and easement documents have been developed for the pilot program. The working lands perpetual easement would allow for haying and grazing of lands through an approved conservation plan as well as solar installations and would prevent conversion of land to row-crop agricultural uses.

Members of the RIM committee reviewed and discussed the program without recommendation on December 16, 2020 because open meeting law provisions could not be met for the meeting that was held. Members of the Committee that were present are in support of this item being considered by the Board.

Jill Crafton stated she appreciates the haying and grazing option and asked if they will be monitoring soil organic matter or assessing the progress on how well its performing. Sharon stated they have not discussed that as an option but could look into some monitoring through conservation plans.

Chair Van Amburg stated that it's an important pilot project that moves us in the direction of using RIM in another way adding a lot of benefit.

Tom Schulz stated it's a good step to getting perennial cover on the ground that will work into the future.

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21-04 Moved by Tom Schulz, seconded by Kathryn Kelly, to approve the Working Lands RIM Easement Pilot Program. **Motion passed on a voice vote.**

**Roll Call Vote: Working Lands RIM Easement Pilot Program**

Name of Board member	Affirmative	Opposed	Abstained	Absent
Joe Collins	X			
Jill Crafton	X			
Andrea Date	X			
Jayne Hager Dee	X			
Steven Robertson (MDH)	X			
Katrina Kessler (MPCA)				X
Kathryn Kelly	X			
Harvey Kruger	X			
Sarah Strommen (DNR)	X			
Joel Larson	X			
Neil Peterson	X			
Nathan Redalen	X			
Tom Schulz	X			
Thom Petersen	X			
Rich Sve	X			
Ted Winter	X			
Gerald Van Amburg, Chair	X			
<b>TOTALS</b>	16			1

**Audit and Oversight Committee**

**2020 Performance Review and Assistance Program Legislative Report** – Dale Krystosek and Brett Arne presented 2020 Performance Review and Assistance Program Legislative Report.

BWSR staff have prepared the 2020 Performance Review and Assistance Program (PRAP) Legislative Report which presents a summary of PRAP reviews and activities conducted in 2020. The report also contains a list of planned program objectives including three focused items for 2021: Continue updating protocols for PRAP Level I and Level II reviews for performance-based funding for implementation of watershed-based One Watershed-One Plans and work with BWSR Water Planning Team to develop protocol for tracking, assessment, evaluation and reporting for One Watershed, One Plans.

Kathryn Kelly thanked Dale for his work.

Joe Collins thanked Dale for his work. Joe noted the high compliance on the level one assessments and stated part of that was Dale preparing the report early in preparation for his retirement. Joe stated at the Audit and Oversight Committee meeting Chair Van Amburg mentioned the need to have local government agencies update their website and was a good recommendation from this report.

Jayne Hager Dee noted a correction in number one of page 24. At the December 17, 2020 board meeting the Dakota County Ground Water Plan was approved and the report should reflect this. Dale stated he would make the correction in the final report. Jayne Hager also stated she would like to see the WMO and the Watershed Districts at higher compliance level.

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21-05 Moved by Joe Collins, seconded by Kathryn Kelly, to approve the 2020 Performance Review and Assistance Program Legislative Report. ***Motion passed on a voice vote.***

***Roll Call Vote: 2020 Performance Review and Assistance Program Legislative Report***

<b>Name of Board member</b>	<b>Affirmative</b>	<b>Opposed</b>	<b>Abstained</b>	<b>Absent</b>
Joe Collins	X			
Jill Crafton	X			
Andrea Date	X			
Jayne Hager Dee	X			
Steven Robertson (MDH)	X			
Katrina Kessler (MPCA)	X			
Kathryn Kelly	X			
Harvey Kruger	X			
Sarah Strommen (DNR)	X			
Joel Larson	X			
Neil Peterson	X			
Nathan Redalen	X			
Tom Schulz	X			
Thom Petersen	X			
Rich Sve	X			
Ted Winter	X			
Gerald Van Amburg, Chair	X			
<b>TOTALS</b>	17			

## **NEW BUSINESS**

**BWSR's Climate Change Trends and Action Plan and State Climate Initiatives** – Dan Shaw and Suzanne Rhees presented BWSR's Climate Change Trends and Action Plan and State Climate Initiatives.

BWSR's programs have always supported local partners' adaptation and resilience to climate change. With new state initiatives, our climate-related activities have expanded, both internally and in partnership with other agencies.

Jill Crafton stated she appreciates the work they've put into this. There are a lot of opportunities and think the Lawns to Legumes program is one of the best things to come along to help. Jill stated there is a GreenStep Cities program under MPCA that is having a soil health workshop in February.

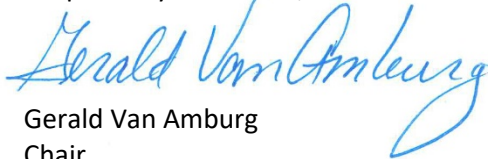
Joe Collins asked with the water storage will there be some way to inventory how much will eventually be stored. Suzanne stated it is ultimately one of their goals. Governor's budget would provide funding for grants to do multipurpose storage.

## **UPCOMING MEETINGS**

- Next BWSR meeting is scheduled for 9:00 AM, March 24, 2021 in St. Paul and by WebEx.

Chair VanAmburg adjourned the meeting at 11:55 AM

Respectfully submitted,



Gerald Van Amburg  
Chair