

**BOARD OF WATER AND SOIL RESOURCES  
520 LAFAYETTE ROAD NORTH  
LOWER-LEVEL BOARD ROOM  
ST. PAUL, MN 55155  
WEDNESDAY, JANUARY 24, 2024**

**BOARD MEMBERS PRESENT:**

Joe Collins, Jill Crafton, Jayne Hager Dee, Mike Runk, Neil Peterson, Rich Sve, Lori Cox, Ted Winter, LeRoy Ose, Kelly Kirkpatrick, Eunice Biel, Todd Holman, Ron Staples, Mark Zabel, Glenn Skuta, MPCA; Joel Larson, University of Minnesota Extension; Peder Kjeseth, MDA; Steve Robertson, MDH; Katie Smith, DNR

**BOARD MEMBERS ABSENT:**

Kurt Beckstrom

**STAFF PRESENT:**

John Jaschke, Rachel Mueller, Tom Gile, Travis Germundson, Jennifer Hahn, Andrea Fish, Amie Wunderlich, Wendy Murphy, Luke Olson, Ed Lenz, Dave Weirens, Brett Arne, Don Bajumpaa, Dave Copeland, Craig Engwall, Jenny Gieseke, Mike Nelson, Sara Reagan, John Shea, Rita Weaver, Ryan Hughes, Rita Weaver, Sara Reagan, Julie Westerlund

**OTHERS PRESENT:**

Jeff Berg, MDA; Brian Martinson, AMC; Jan Voit, Minnesota Watersheds; Ray Bohn, Minnesota Watersheds; LeAnn Buck, MASWCD; Sheila Vanney, MASWCD; Troy Daniell, NRCS; Skip Langer, Olmsted County; Angela White, Olmsted County; Nicole Bernd, West Polk SWCD; Graham Berg, MAT; Sam Walseth, Sarah Boser

Chair Todd Holman called the meeting to order at 9:02 AM

#### PLEDGE OF ALLEGIANCE

\*\*  
24-01 **ADOPTION OF AGENDA** - Moved by Rich Sve, seconded by Ted Winter, to adopt the agenda as presented. *Motion passed on a roll call vote.*

\*\*  
24-02 **MINUTES OF DECEMBER 14, 2023 BOARD MEETING** – Moved by Joe Collins, seconded by Rich Sve, to approve the minutes of December 14, 2023, as circulated. *Motion passed on a roll call vote.*

#### PUBLIC ACCESS FORUM

#### INTRODUCTION OF NEW STAFF

Andrea Fish introduced Amie Wunderlich, Chief Financial Officer. Amie Wunderlich introduced Wendy Murphy, Senior Financial Analyst. Dave Weirens introduced Jennifer Hahn, Federal Conservation Programs Coordinator. Ed Lenz introduced Luke Olson, Board Conservationist.

#### CONFLICT OF INTEREST DECLARATION

##### Chair Holman 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. Any member who declares an actual conflict of interest must not vote on that agenda item. All actual, potential, and perceived conflicts of interest will be announced to the board by members or staff before any vote.”*

#### REPORTS

**Chair & Administrative Advisory Committee** – Chair Todd Holman reported he attended the Grants Program and Policy, and the Audit and Oversight committee meetings. He also attended the Environmental Quality Board meeting where they are continuing to work on their Strategic Plan. Attended a policy committee meeting of the Long Prairie River 1W1P.

**Executive Director’s Report** - John Jaschke reported they will work on getting committee meeting information to members 4 days prior to meetings. Lori Cox stated she would like information ahead of time to make educated votes.

John reported they are preparing for the legislative session. Reviewed the Day of Packet that included the vice chair nomination form, updated board orders, updated policy documents, an update on the Strategic Plan, Snapshot articles, and Minnesota Campaign Finance reporting documents.

**Audit and Oversight Committee** – Joe Collins reported the Audit and Oversight met in January with an item on the agenda today.

**Dispute Resolution and Compliance Report** – Rich Sve reported they have not met. Travis Germundson reported there are presently four appeals pending. There has been one new appeal filed since last report.

File 23-15 is an appeal of a WCA notice of decision in Morrison County. The appeal regards a decision made under remand (Appeal file 23-8) of a wetland boundary/type. The initial decision was remanded back to the local unit of government to develop an adequate record and now that new decision is being

appealed. This appeal has been put in abeyance for the appellant to have more time to put together additional documentation pertaining to an access of an easement area file 23-14.

File 23-14 is an appeal of a WCA Restoration Order for property located in Pope County. The appeal regards the alleged wetland impacts associated with the placement agricultural drain tile. It has been denied and the restoration order affirmed.

Stated they've received eight new appeals and five of those have been decided upon so there's been a fair amount of activity.

File 23-6 is in the process of rescheduling the prehearing conference, this is the third attempt.

Travis stated the Buffer and Compliance numbers are fairly stable and consistent across the state.

Lori Cox asked for clarification on the numbers being reported. Travis stated the data is being pulled from what they receive in the database.

**Grants Program & Policy Committee** – Mark Zabel reported they met January 10<sup>th</sup> and have one item on the agenda for today. Stated there were a couple information items that came to the committee.

**RIM Reserve Committee** – Jayne Hager Dee reported they are planning a committee meeting in February.

**Water Management & Strategic Planning Committee** – Joe Collins reported they have been updating the Strategic Plan and stated the results are in the Day of Packet. They will do one more 30-day review period starting today to see if there are any comments from the results. The committee will meet in March for one more review and will come to the board in March.

**Wetland Conservation Committee** – Jill Crafton reported they have not met. John Jaschke stated the inter-agency group working on the assessment of the impact in Minnesota on the Federal Supreme Court case *Sackett vs EPA* has completed that effort.

**Buffers, Soils & Drainage Committee** – LeRoy Ose reported they met Monday, and the Drainage Work Group Report to the Legislature was approved.

**Drainage Work Group (DWG)** – Neil Peterson reported the Drainage Work Group Report to the Legislature will be on the agenda today. Tom Gile reported the last workgroup meeting was held in January they typically meet June or July through December or January depending on the legislative session and the topics that they're working through.

#### **AGENCY REPORTS**

**Minnesota Department of Agriculture** – Peder Kjeseth reported on January 12<sup>th</sup> they submitted a workplan with the MDH and MPCA to the EPA regarding the nitrates in southeast Minnesota.

Lori Cox asked if the workplan they're putting together would differ or complement from what is already a nutrient reduction strategy, plan, or management period. Peder stated he thinks it would complement it and help identify other strategies they might not be implementing.

**Minnesota Department of Health** – Steve Robertson reported more information on nitrates in southeast Minnesota is available on their website. The Health Risk Assessment group at MDH released new health-based guidance values for a couple of key PFOA and PFOS compounds. Additional



information is available on their website. Stated grants are available for local units of government for private well testing and financial assistance to eligible households for mitigation. Applications are due February 16<sup>th</sup>.

**Minnesota Department of Natural Resources** – Katie Smith reported their legislative proposal for the Native Prairie Bank is to increase the easement payment rates to be more competitive. Stated they are in the process of interviewing for a Drainage Engineer position in the southern portion of the state.

Mark Zabel asked if there were any outcomes from this year's DNR Roundtable to be updated on. Katie stated the first two plenaries were about climate. Invasive carp was also a focus. Stated they had good conversations and attendance.

Lori Cox asked if the Roundtable is invitation only. Katie stated there are some invitational only and then they open it up on a first come first serve basis.

Jill Crafton stated the Roundtable was excellent this year.

**Minnesota Extension** – Joel Larson congratulated Jennifer Hahn in her new role at BWSR. Stated they have hired two new extension educators focusing on water quality and soil health. They are hosting two upcoming conferences. The first is the Nitrogen Conference on February 13<sup>th</sup> in St. Cloud and there is an in-person or virtual option to register for. The second is the Nutrient Management Conference February 20<sup>th</sup> in Mankato also with an in-person and virtual option.

**Minnesota Pollution Control Agency** – Glenn Skuta reported general permits for feedlots are getting towards the end of their term. They will be having a public meeting to talk about the proposed changes next Monday. Stated they will be releasing a wastewater nitrogen strategy soon. A report was submitted to legislature with recommendations on how to prevent fish kills in southeast Minnesota and is available on their website. Glenn stated there are implementation grants for stormwater resilience available with an application deadline of April 11<sup>th</sup>. Information is available on their website.

#### **ADVISORY COMMENTS**

**Association of Minnesota Counties** – Brian Martinson reported they are getting ready for the start of the legislative session on February 12<sup>th</sup>. Stated county leaders are meeting with state agencies to talk about AMC's priorities for the upcoming session.

As a member of DWG, Brian would encourage support for the Drainage Work Group Legislative Report that's on the agenda for today. Stated the Outlet Adequacy Technical Report was discussed at the DWG meeting in December and will be going on public notice.

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

**Minnesota Watersheds** – Jan Voit reported they have been working on their legislative priorities, their board will meet Friday to adopt those. Ray Bohn will be retiring at the end of 2024 as their lobbyist. Jan stated she would encourage approval of the Drainage Work Group Report on the agenda today.

Jill Crafton thanked Jan and Brian for the work they've done.

**Minnesota Association of Soil & Water Conservation Districts** – LeAnn Buck reported the Water Quality and Storage Grant Program item on the agenda today is supportive of resolutions by their members. Stated there is another item on the agenda with Olmsted County and thanked them for the work they

do. Stated they are working with partners and at how they can leverage for federal dollars for reforestation work. They are also in the process of adopting their legislative platform and their legislative advocacy.

Glenn Skuta thanked LeAnn for their partnership.

Jill Crafton commented there is a need for project maintenance and thought it might be a good fit to partner with SWCDs.

**Minnesota Association of Townships** – Eunice Biel reported March 5<sup>th</sup> is the primary election. The 2<sup>nd</sup> Tuesday is township elections and the annual meetings. There will be short courses in the spring for new and experienced Township Officers. There will be a Township Day at the Capitol in April.

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

## COMMITTEE RECOMMENDATIONS

### Grants Program and Policy Committee

**FY 24 Updated Documents - Water Quality and Storage Grant Program** – Rita Weaver presented the FY 24 Updated Documents - Water Quality and Storage Grant Program.

The Water Quality and Storage Pilot Program provided grants (approx. \$2M) to our local partners in FY22-23. The program received a \$17M appropriation for FY24-25. Based on experience with the pilot program and feedback from our partners during outreach meetings, changes have been proposed by BWSR staff for the FY24 program. The more significant changes include reducing match to 10% to be consistent with our other programs, allowing projects associated with 103E Improvements, and providing funding for modeling and conceptual design. These changes were incorporated into the FY 24 Policy and the FY 24 RFP document. The scoring criteria has had minor revisions for the final design and construction funds and new scoring criteria has been developed for the modeling and conceptual design funds.

BWSR staff proposes that a total of \$3M be available for the FY24 application period, with up to \$500,000 available for modeling and conceptual design work. BWSR staff would like to further propose that this grant program be open for applications twice a year so that grant recipients of the modeling and conceptual design funds will more quickly be able to access final design and construction funds.

BWSR staff are asking to issue the RFP and score and rank responses. Projects proposed for funding will be brought to the board for approval at the May 2024 meeting.

Glenn Skuta asked if there were particular models they have in mind. Rita stated they laid out a few standard models in their proposed RFP and noted that other types can be approved by BWSR.

Lori Cox asked for clarification in the eligible and ineligible activities. Rita provided more details on eligibility.

Jill Crafton asked what we're trying to accomplish in terms of climate mitigation. Rita stated they aren't focusing as much on it as this has a 25-year requirement. Stated perennial vegetation changes are covered under this program. Jill asked if we would consider lowering the number of years to get more projects. Rita stated its something they could consider.

Board Members discussed the potential connection to soil health practices.



Lori Cox asked what staff would be funded with the \$500,000. Rita stated it would be the SWCD or Watershed Districts if they are taking on the modeling or for the consultants. It would be set aside to do the modeling, prepare conceptual designs, and a feasibility study.

\*\*  
24-03 Moved by LeRoy Ose, seconded by Mike Runk, to approve the FY 24 Updated Documents - Water Quality and Storage Grant Program. ***Motion passed on a roll call vote.***

Chair Holman called a recess at 10:47 a.m. and called the meeting back to order at 10:56 a.m.

#### **NEW BUSINESS**

**Olmsted County Groundwater Protection and Soil Health Initiative** – Skip Langer and Angela White presented the Olmsted County Groundwater Protection and Soil Health Initiative.

The Olmsted Soil and Water Conservation District and the Olmsted County Board of Commissioners, in partnership with local landowners and farmers, are leading innovative solutions to groundwater protection in Olmsted County. Using federal funds from the American Rescue Plan Act, the new Groundwater Protection and Soil Health Program promotes soil health management practices to help reduce nitrogen input on agricultural land and prevent groundwater contamination. The program started with a cover crop cost-share pilot in 2022. It expanded in 2023 to include small grain and alternative crops, haying, and grazing opportunities. So far, 82 producers are participating and adopting more soil health practices across the landscape, and almost 7,000 acres are enrolled in a component of the program.

Joe Collins commended their website, thought it was very informative.

Lori Cox asked if any of these areas that were mapped are Drinking Water Supply Management Areas (DWSMAs). Skip stated those areas would be eligible. Angela stated there were some DWSMAs in the Rochester area.

Kelly Kirkpatrick stated as a resident of Rochester she is proud of everything they do.

Jill Crafton asked if they are getting small farms with less acreage in addition to larger ones. Skip stated it's a nice blend of both.

**Vice Chair Nomination** – John Jaschke presented the Vice Chair Nomination.

According to bylaws, the Vice Chair will be elected to a two-year term by the members of the Board. Nominations will be made at the meeting. After the vote to close nominations if there is more than one nomination voting ballots will be mailed to board members along with a prepaid envelope to return their ballot by March 1, 2024. The Vice Chair will be announced by the March board meeting if a ballot is required.

Joe Collins nominated Rich Sve for Vice Chair. Neil Peterson seconded the nomination for Rich Sve.

Moved by Ted Winter, seconded by Mike Runk, to close nominations for Vice Chair. ***Motion passed on a roll call vote.***

\*\*  
24-04 Moved by Joe Collins, seconded by Ron Staples, to elect Rich Sve as the Vice Chair. ***Motion passed on a roll call vote.***

#### **COMMITTEE RECOMMENDATIONS cont.**

**Northern Region Committee**

**Boundary Change for the Bois de Sioux Watershed District and Upper Minnesota River Watershed District** – Ron Staples, Ryan Hughes, and Pete Waller presented the Boundary Change for the Bois de Sioux Watershed District and Upper Minnesota River Watershed District.

The Bois de Sioux Watershed District (BdSWD) and the Upper Minnesota River Watershed District (UMRWD) submitted a joint petition for boundary change which was received by the Board on July 31, 2023. The petition was submitted pursuant to Minn. Stat. § 103D.251. Board staff reviewed the petition for conformance with state law and rule and determined the petition is valid. The proposed boundary change would correct the watershed assessment designation of three parcels along the common boundaries of the watershed districts and would result in the transfer of 120 acres of land (in Traverse County) from the UMRWD to the BdSWD. The boundary petition and maps illustrating the proposed boundary changes are attached.

Statute allows the Board to make a decision on the petition at a future meeting without holding a hearing, after proper notice and if no written request for hearing is submitted to the Board within 30 days from the last publication of the notice. The legal notice of filing was published in three newspapers in October 2023:

- the Ortonville Independent on October 3, 2023 and October 10, 2023;
- the Traverse County Gazette News on October 4, 2023 and October 11, 2023; and
- the Northern Star on October 5, 2023 and October 12, 2023.

The Board has the statutory authority to change the boundary of a watershed district. The petition is not controversial. No written requests for public hearing, nor any questions or comments have been received. The Northern Region Committee met on January 3, 2024 to discuss the petition. After discussion, the Committee voted to recommend to the full Board that the boundary change be approved as proposed in the petition per the attached Board Order.

Ted Winter asked what the reason is behind the landowner's request to move. Ryan stated they've had conversations with watershed districts, the hydrology supports this request, and it's supported by landowners.

Jayne Hager Dee asked if we approved a boundary change for Bois de Sioux about a year ago. Ryan stated there was a boundary change in January 2022.

\*\*  
24-05 Moved by Neil Petersen, seconded by Ron Staples, to approve the Boundary Change for the Bois de Sioux Watershed District and Upper Minnesota River Watershed District. ***Motion passed on a roll call vote.***

**Sand Hill River Comprehensive Watershed Management Plan** – LeRoy Ose, Brett Arne, and Ryan Hughes presented Sand Hill River Comprehensive Watershed Management Plan.

The Sand Hill River Comprehensive Watershed Management Plan (Plan) planning area is in Northwest Minnesota encompassing portions of Norman, Mahnomen, and Polk counties and shares its boundary with the Sand Hill River Watershed District.

On November 29, 2023, BWSR received the Plan, a record 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 3, 2024, the Northern Regional Committee met to review and discuss the Plan. The Committee's decision was to recommend approval of the Sand Hill River Comprehensive Watershed Management Plan as submitted to the full Board per the attached draft Order.

Lori Cox stated on page five and six of the Executive Summary it states to improve habitat of 145 acres of wetland and also calls for an increase in water storage. Lori asked if those are different or if they are linked together. Brett Arne stated those are different priorities.

\*\*  
24-06

Moved by LeRoy Ose, seconded by Joe Collins, to approve the **Sand Hill River Comprehensive Watershed Management Plan. Motion passed on a roll call vote.**

**Buffers, Soils and Drainage Committee**

**Drainage Work Group Legislative Report** – Tom Gile presented the Drainage Work Group Legislative Report.

During the 2023 legislative session the following language was enacted (Laws 2023, Chapter 60, Article 5, section 21):

*The Board of Water and Soil Resources (BWSR) and the Drainage Work Group (DWG) established under Minnesota Statutes, section 103B.101, subdivision 13, must evaluate and develop recommendations on the following subjects:*

- *the definition and application of outlet adequacy as provided in Minnesota Statutes, section 103E.261; and*
- *public notice requirements for proposed public drainage activities, including a drainage registry portal.*

*The Board must submit the report to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over environment and natural resources by February 1, 2024.*

The DWG was also directed to complete another task as provided in Laws of Minnesota Chapter 60, Article 1, Section 4d):

*The Drainage Work Group must review a drainage authority's power under Minnesota Statutes, Chapter 103E, to consider the abandonment or dismantling of drainage systems; to re-meander, restore, or reconstruct a natural waterway that has been modified by drainage; or to deconstruct dikes, dams, or other water-control structures.*

This report addresses each of the specific directives identified above and also addresses the DWG consideration of the sunset language in 103E.729 relating to the sediment and runoff control option for assessing repair costs.

It is important to note that there is not a consensus recommendation for legislative action on 103E related policy at this time for outlet adequacy or public notice requirements including for the drainage registry. There is broad unanimity among the DWG membership that those tasks have the potential to include significant burdens in the administration of 103E and more time is needed to effectively bring forward any detailed policy recommendations.

Neil Peterson stated Tom did an excellent job overall of managing this group.



Katie Smith stated the DNR thinks the report seems to be missing a path forward on the next steps.

Lori Cox asked when referencing “goal” earlier if that is a statutory requirement. Tom stated it’s not required.

\*\*  
24-07 Moved by Mark Zabel, seconded by Joe Collins, to approve the Drainage Work Group Legislative Report.  
***Motion passed on a roll call vote.***

Neil Peterson left the meeting at 12:34 p.m.

**Audit and Oversight Committee**

**2023 Performance Review and Assistance Program Legislative Report** – Don Bajumpaa presented the 2023 Performance Review and Assistance Program Legislative Report.

BWSR is required to provide a report annually to the legislature on Performance Review and Assistance Program activities as prescribed by Minnesota Statutes Chapter 103B.102, Subdivision 3, effective February 1, 2008. BWSR staff have prepared a report that describes the program activities for 2023, including summaries of the activities of BWSRs local government partners, and goals and objectives for future PRAP activities. The report was presented to and has a recommendation from the BWSR Audit and Oversight Committee for BWSR Board approval.

Lori Cox left the meeting at 12:40 p.m.

\*\*  
24-08 Moved by Ted Winter, seconded by Mike Runk, to approve the 2023 Performance Review and Assistance Program Legislative Report. ***Motion passed on a roll call vote.***

**UPCOMING MEETINGS**

- RIM Committee is scheduled for February 23<sup>rd</sup> at 9:00 in St. Paul and by MS Teams.
- Next BWSR Meeting is scheduled for 9:00 AM, March 27, 2024 in St. Paul and by MS Teams.

Chair Holman adjourned the meeting at 12:45 PM

Respectfully submitted,



Rich Sve  
Vice Chair