



**Date: April 10, 2018**

**To: Minnesota Ag Partners**

**Fr: John Jaschke, Executive Director**

**Re: Public Notice – Draft Buffers APO**

On April 2<sup>nd</sup> the Board of Water and Soil Resources (BWSR) published a public notice seeking comments on a draft potential additional option, known as an Administrative Penalty Order (APO), for local governments to use in achieving Buffer Law compliance.

BWSR has received significant feedback from your organizations and others expressing concerns related to the draft provisions in the April 2<sup>nd</sup> announcement.

The Buffer Law was set up to support farmers reaching compliance and to avoid penalties. For instance, if found out of compliance, a landowner has eleven months to implement a buffer or alternative practice. We are not aware of any APOs that have been issued to-date. Further, all non-compliance penalties may be forgiven when a landowner brings their land into compliance even after an APO has been issued. It is to the credit of farmers and local governments that Minnesota is now at 98 percent compliance for buffers on public waters and on track for compliance with public ditches this November.

The intent of this proposed additional APO was to give local governments more options. Hearing your concerns and the concerns of farmers, I now realize that the draft APO we put out for public comment is not in the spirit of the law. We acted with haste and did not consult with the relevant stakeholders. When we put this in front of our Board, we did not highlight the potential concerns or give full consideration to the potential impacts to farmers. We also did not consult with or inform the Governor of our proposal.

We believe that the existing options are fully sufficient going forward. Based on the response we have received from your organization and others, we realize that the proposed approach was a mistake. We are sorry for the concerns we raised with your members and Minnesota farmers.

The BWSR Board Committee is scheduled to meet this Thursday. Given the public response we expect the proposal to be rejected and not considered further.

Please feel free to contact me anytime at:

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