

Drainage Work Group Meeting Notes February 1, 2018

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

Attendance

Tom Loveall, BWSR Brd.; Craig Austinson, MADI, Blue Earth Co.; Stu Frazier, MNLICA; Kale Van Bruggen, Rinke Noonan; Alan Perish, MFU, MVA; Mark Ten Eyck, MCEA; Allen Wold, BDSWD; Jennifer Berquam, AMC; Dan Larson, MRCC; Greg Knopff, Senate Analyst; Doug Krueger, McLeod Co., MRCC; Randy Kramer, Renville Co., AMC; Emily Javens, MAWD; Jerome Deal, RRWMB; Rob Sip, RRWMB; Gloria Johnson, MNDOT; Tim Dritz, MAWD; Nathan Zacharias, Conservation Strategies, Inc.; Brian Martinson, SMBSC; Amanda Bilek, MCGA; Ron Harnack; Ray Bohn, MAWD; Ruth Simpson, MAT; Matt McDevitt, MDA; Dwight Wilcox, MDA; Michelle Ulrich, CCWD; Dave Weirens, BWSR; Mark Dittrich, MDA; Bill Thompson, MPCA; Darrell Gerber, MCEA; Ben Stanley, Senate Counsel; Warren Formo, MAWRC; Tim Gillette, BWSR; Don Buckhout, BWSR; Al Kean, BWSR

Handouts prior to or during the meeting

- 1) Meeting logistics and agenda for 2-1-18
- 2) Meeting notes for 1-11-18
- 3) [Recommendations for Accelerating Public Drainage System Acquisition and Establishment of Buffer Strips and Alternative Practices](#), Final Report, Feb. 1, 2018
- 4) DWG - Accelerating Drainage System Acquisition of Buffer Strips Legislation for Recs S1, S2, S3, S6, F1, O1, Draft 1-26-18
- 5) Runoff and Sediment Delivery Option (RSDO) for Repair Cost Apportionment, Draft Chapter 103E Revisions, 1-28-18 and 1-31-18

Introductions and agenda overview

All in attendance introduced themselves, including those who participated via conference call. Al K. provided extra copies and an overview of the agenda. It was requested to add discussion about the state AgBMP Loan Program as a source of financing for Chapter 103E ditch buffer strips.

Approval of 1-11-18 meeting notes

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

Share information about recent and upcoming drainage related events

- Interagency-UMN Drainage Management Team meeting Jan. 18, 2018 (side inlets, bioreactors)
- Drainage Summit, 2018 Red River Basin Commission Annual Conf., Jan. 23, 2018, Winnipeg, MB
- January 24, 2018 BWSR Board acceptance of [Recommendations for Accelerating Public Drainage System Acquisition and Establishment of Buffer Strips and Alternative Practices](#): A Report to the Legislature from the Board of Water and Soil Resources in Coordination with the Drainage Work Group, February 1, 2018.
- Rinke Noonan, Drainage and Waters Conference, Feb. 15, 2018, River Center, St. Cloud, MN
- Tile Drainage Research Forum, North Dakota State University, Mar. 6, 2018, Fargo, ND
- Tile Drainage Design Workshop, North Dakota State University, Mar. 7, 2018, Fargo, ND
- The Ditching Dilemma Workshop, DNR River Ecology Unit, Mar. 19-21, 2018, Blue Earth, MN

Acceleration of drainage system acquisition of ditch buffer strips and alternative practices

Don Buckhout, Project Manager, provided an overview of the status of the report to the legislature dated Feb. 1, 2018 (Handout 3)). The report was accepted by the BWSR Board at its meeting on Jan. 24, 2018 and will be sent to the required House and Senate committees by Feb. 1, 2018. Al and the DWG thanked Don for leading development of the report to help make it valuable and get it done before the

deadline. Al indicated that the associated DWG Legislation Subgroup met on Jan. 25, 2018 to discuss the draft legislation for Recommendations S1, S2, S3, S6, F1 and O1. Subgroup discussions are reflected in Handout 4), dated 1-26-18. DWG discussions about the draft legislation resulted in the following:

S1: Draft session law clarifying authority for drainage authorities to plant and maintain ditch buffer strips, with landowner consent, prior to Chapter 103E proceedings to acquire and compensate. It was noted that the sunset date for this provision was set as June 30, 2019 to be compatible with BWSR guidance regarding a planting deadline for native vegetation for best success. – All OK.

S2: Drafted to strengthen drainage authority jurisdiction for use of Section 103E.021, Subd. 6 in light of the Zimmerman case appeals court decision. – All OK.

S3: Revisions of Section 103E.351 to enable 26% or more of benefited landowners to petition for a redetermination of benefits, to update outdated language about original benefits and to make hearing provisions consistent with related provisions of Chapter 103E. – All OK.

S6: Revision of Section 103E.071 to clarify authorization for county drainage authorities to use outside legal counsel. – All OK

F1: Discussed potential need and source of additional Buffer Cost-Share. BWSR is evaluating reporting from SWCDs. Recommendation S1 legislation could increase need for Buffer C-S, but difficult to estimate. Fiscal year 2019 should be 2018. An effective date should be added, like S1. – OK as amended.

O1: MAWD and AMC reps have requested including update of the “Understanding Minnesota Public Drainage Law” document in information and outreach, which is needed sooner than later, due to the Nov. 1, 2018 Buffer Law deadline for public drainage ditches. BWSR will try to lead this update internally. Chapters 2 and 4 of the updated Minnesota Public Drainage Manual are key references. A project plan and project team will be needed, involving BWSR, AMC, MAWD, MASWCD and others.

P4: The DWG recommended adding this recommendation to draft legislation. This is about eligibility policies and increased loan funding for drainage ditch buffer strip financing. Dwight Wilcox, MDA AgBMP Loan Program Mgr., provided pertinent program information, as well as MDA discussions about potential legislation to streamline drainage authorities serving as a borrower on behalf of landowners for ditch buffer strip land rights acquisition and establishment. – This will need further discussion.

Runoff and Sediment Delivery Option for drainage system repairs

Al K. distributed the most current version of draft Chapter 103E revisions dated 1-31-18. All of the changes in and since the 1-7-18 version are shown in green text, with Al’s changes in italics.

Changes in Sections 103E.005, 103E.095, 103E.615 and 103E.728, Subd. 1, Subd. 1a (a) and Subd. 1a (d) were all OK.

In Sec. 103E.728, Subd. 1a, para. (b), it was agreed to replace “field on-the-ground verification” with “appropriate on-site verification”.

In Sec. 103E.728, Subd. 1a, para. (h), it was agreed to eliminate Alternative 1 and use Alternative 2 language, with the elimination of the phrase “if the report reasonably reflects current land use, relative runoff and relative sediment delivery” in the first sentence, and it was agreed to replace the word “order” with “approval” in the fourth sentence.

For Sec. 103E.728, Subd. 1a, para. (i), concern was expressed that Alternative 1, which was drafted to reflect DWG subgroup discussions, does not provide adequate flexibility for drainage authorities to adequately consider various site and runoff conditions for property with permanent conservation restrictions; and concern was expressed that Alternative 2 provides too much discretion to drainage authorities. Meeting time ran out for further discussion of para. (i).

Next DWG meeting:

Thursday, Feb. 22, 2018, 11:00 a.m. - 2:00 p.m. at the MN Farmers Union, St. Paul.