

Drainage Work Group Meeting Notes September 21, 2006

Attendance

Ron Ringquist, MVA; Craig Austinson, Blue Earth Co.; Jim Mulder, AMC; Gerald Amiot, MACO; Larry Gunderson, MPCA; Jim Tunheim, MFU; David Musielewicz, MN House Staff; Mark Ten Eyck, MCEA; Bob Meier, MDNR, Joe Martin, MDA; Kurt Deter, Rinke-Noonan; Allan Kuseske, MADI, NFCRWD; Dan Wilkens, MADI, SHRWD, RRWMB, RRBC; Ray Bohn, MAWD; Marilyn Brick, MN House Ag/Env Finance Cmte.; Doug Thomas, BWSR; Al Kean, BWSR

Handouts Prior to or During Meeting:

1. Drainage Work Group Meeting Logistics and Agenda for 9-21-06
2. Drainage Work Group Meeting Notes for 8-17-06
3. Copy of RIM/CREP easement form
4. Final draft, Drainage Work Group Recommendations for Drainage Records Modernization topic, dated 9-12-06
5. Discussion paper for subtopics a), b) and c) of Enhance Authority to Establish and Maintain Buffers general topic, including draft Drainage Work Group recommendations, dated 9-13-06
6. Discussion paper for subtopic a) Clarify the point of beginning for measuring required grass buffer strips” of Technical general topic, including draft Drainage Work Group recommendations, dated 9-13-06
7. Drainage Work Group Schedule for Discussion Topics, Draft, 9-12-06
8. Map of Metro Area 103E Drainage Systems and Land Use (at end of meeting)

Introductions and Agenda Overview

People in attendance introduced themselves. Doug Thomas provided an overview of the meeting agenda and objectives. He suggested a focus of this and subsequent meetings on what the Drainage Work Group can get done by the end of November and delaying discussion of some topics into the future. The October meeting is expected to include a focus on questions and concerns related to CRP and drainage systems.

Review of Meeting Notes for 8-17-06

No additions or corrections requested.

BWSR Communications with DNR – Forest Legacy Easements and Con-Con Lands Topics

BWSR recently provided DNR a copy of the RIM/CREP easement form, which acknowledges the rights of public and legal private drainage systems for installation, repair and improvements (item 10), while identifying landowner responsibilities to restore the easement area if conservation cover is disturbed. BWSR has begun informal communications with the DNR about discussing drainage system issues on con-con lands with the Drainage Work Group. Doug Thomas suggested that this is one of the potential discussion topics that the Drainage Work Group might address after November or December. Bob Meier indicated that he is willing to help discuss DNR interest in using the Drainage Work Group forum for this topic. It was suggested that if DNR is interested in having this topic discussed by the Drainage Work Group, a

subcommittee could be established to work with the DNR and develop draft recommendations to the full Drainage Work Group and DNR. Other points raised:

- DNR has designated land use classifications for con-con lands in response to Legislative directive.
- DNR has been developing related rules for some time.
- MCEA has not agreed with all DNR land use classifications.
- Viewing process for redetermination of benefits is based on designated land uses.
- Redeterminations to date use a mass appraisal process with set criteria and categories.

Drainage Records Modernization

Al Kean overviewed final draft recommendations for this topic dated 9-12-06, which reflect Drainage Work Group discussions at the 8-17-06 meeting. He indicated that the basis for estimating the recommended additional state cost-share for drainage records modernization was the average cost-share (approximately \$25K) provided by BWSR via the Local Water Management Challenge Grant Program for 25 of these projects since 1997 (maximum 50% cost-share), times the number of drainage authorities that have not yet pursued drainage records modernization, or have not received state cost-share for this purpose. This results in a recommendation of \$1.7 - \$2M of additional cost-share. Eight drainage authorities have pursued drainage records modernization without state cost-share. A question was asked about drainage authority responsibility to modernize records without state cost-share. It was suggested that without state incentive, this will not be a priority activity for all drainage authorities within a reasonable timeframe.

In response to a question about who would develop the recommended guidelines for drainage records modernization, it was suggested that BWSR do this in consultation with other state agencies and stakeholders. It was noted that even electronic data should have a preservation plan. A related comment was the need for clarification of county responsibilities for drainage records when a drainage system is turned over to a watershed district.

Review of Discussion Paper for “Enhance Authority to Establish and Maintain Buffer”

Al Kean overviewed the revised draft discussion paper and statute clarifications dated 9-13-06, which reflects DWG discussions at the 8-17-06 meeting and further thinking. Following are DWG comments on the 9-13-06 draft proposed *103E.021 Subdivision 6. Incremental implementation of vegetated ditch buffer strips and side inlet controls.*

- Should the language specify that these actions would be a repair (for which ditch repair/maintenance funds could be used)?
- The reference to *103E.715 Procedure for repair by petition* for due process procedures seems awkward.

Following are DWG comments on draft clarifications of *103E.315 Assessment of drainage benefits and damages, Subd. 8 Extent of damages (5) and 103E.701 Repairs, Subd. 7 Restoration of conservation practice damaged by a repair.*

- Concern about the definitions of a “conservation practice” and “conservation program”. Shouldn’t depend on federal and/or state program definitions.
- Concern about requirement to restore to condition immediately prior to the repair, such as for mature trees.

Review of Discussion Paper for Clarify Point of Beginning for Measuring Grass Strips

Al Kean overviewed the revised discussion paper dated 9-13-06, which reflects DWG discussions at the 8-17-06 meeting and further thinking. Discussion by the DWG included review of example drainage ditch cross sections over time for establishment, repair and improvement, and locations of the top edge of the channel, crown of spoil and grass strips required by 103E.021. Comments included:

- Ditch establishment typically only acquired land rights to the top of the channel at the natural ground elevation(s) (where ditch side slopes intersect the natural ground surface).
- The edge of spoil has often been placed somewhat back from the top edge of the channel (feet or inches). However, the Buffer Study questionnaire indicated that many drainage authorities (via the design of their engineers) continue new or improved ditch side slopes to the top of the spoil, which is also the crown of the spoil.
- If an engineer's report and ditch design is not involved in a drainage proceeding, such as for a redetermination of benefits, there is no new definition of the ditch cross section and top of the channel bank for viewers to use to define additional land rights needs.
- Many, if not most, drainage systems do not have easements recorded.
- The word "banks" is used in 103E.021 in reference to both the ditch channel banks and spoil banks, which can be confusing.

Following are DWG comments on draft clarifications of 103E to enable permanent vegetated buffer strips in accordance with 103E.021 that have perennial vegetation other than grass or noxious weed.

- Should enable the drainage authority to define what's acceptable for perennial vegetation, rather than the landowner.
- Concern about a potential need to limit the width of ditch buffer that drainage authorities could acquire, to help achieve support from county commissioners.

Revised Schedule for Discussion Topics

Al Kean overviewed the revised draft DWG Schedule for Discussion Topics, including moving some topics into the future and potentially adding two additional technical subtopics suggested by BWSR staff in regard to wetland restoration projects. These potential topics include maintenance of a rerouted tile or ditch under *103E.277 Impounding and diversion of drainage system waters*, and partial abandonment of a portion of a drainage system under *103E.805 Removal of property from and partial abandonment of a drainage system*.

Map of Metro Area 103E Drainage Systems and Land Use

In response to a request from BWSR, the Minnesota State University - Mankato, Water Resources Center prepared the subject GIS map, which was handed out to meeting attendees for future reference and discussion in regard to the abandonment and transfer of public drainage ditches subtopic under the Technical general topic.

Next Meeting

October 19, 2006

Minnesota Farm Bureau

9:00 a.m. – 1:00 p.m.