Drainage Work Group Meeting Notes

December 14, 2023

11:00AM -2:00PM

MN Farmers Union

305 Roselawn Ave E

St. Paul, MN

*Attendees (in person): Tom Gile, Travis Germundson, Dave Weirens, and Rita Weaver BWSR, Chris Otterness Houston Engineering, Doug Krueger MRC-McLoed Co., Bill Petersen RRWMB, Jan Voit MW, Allen Perish MFU, Ted Suss FMV-IWLA, Mark Dettere MDA, , Craig Austinson and Ryan Hinker Blue Earth Co., Chuck Holtman Smith Partners, Alex Trunnell MN Cron Growers, , Carly Griffith MCEA, Randall Doneen DNR, Kevin Paap and Brian Martinson AMC, Julie Blackburn JSG Inc, Kale Van Bruggen RN, Mark Ten Eych and Suzanne Jiwani Izaak Walton, Ron Staples BWSR Board, Stu Frazer MN LICA, Allen Wold BdSWD, Myron Jesme WS, and Jim Stark Legislative Water Policy. (online attendees)*, *Don Arnosti FMU, Ashlee Ricci RCWD, Paul Gardner and Scott Maclean MPCA, Tim Gieseke DNR, Greg Homvik RRWMB, Mark Hiles, Ed Lenz BWSR, Jamie Beyer BdSWD, Linda Vara MW, Lukas Croaker BdSWD, Neal Peterson BWSR Board, Philip Solseng, Ray Bohn, Randy Kramer AMC.*

Agenda

Tom Gile provided an overview on the agenda items and asked specifically for direction on the Outlet Adequacy and Notification of 103E Drainage Actions. Would like consensus, if possible, if not a report to the legislature will still be going out. It was clarified that there would need to be consensus in order to change statute or the drainage manual.

Sharing of Information on upcoming drainage related events:

* MN Watersheds Annual Conference Nov 28-Dec 1, Arrowwood Conf Center Alexandria
* Drainage Workshop Nov 29th, Arrowwood Conf Center Alexandria
* AMC Annual Conference Dec 4th -6th Hyatt Regency Minneapolis
* Drainage Conference Feb 7th and 8th, Arrowwood Conf Center Alexandria

Consensus Recommendation Refresher

Tom G. provided a refresher on what is consensus to the DWG, which includes active participation. The group needs to collectively work through topics. What that is a consensus? It basically means “can we live with it” or no we can’t live with it. If no, then the DWG needs to articulate why they can’t live with it. A diagram of the core consensus parties was shared with the group, those that have a voice at the table. There is a need to understand the why to move towards consensus. It’s all or none on the consensus by the core parties. Concerns were raised why MCEA was representing all environmental groups. The history of how we got to this point was discussed, including agreement by the DWG on current decision-making format/model. It was mentioned by several members that that was developed a while ago (2017?) and the format/model should be reconsidered. Dave Weirens mentioned that BWSR can certainly look at the decision model again. It was also mentioned that what the legislature asked for was ambiguous. Tom G. indicated that the goal is to focus on what a report will look like. There was a lot of discussion from the group that the DWG is not at a point to make recommendation. There’s a desire to continue to work on developing a report but not to submit anything to the legislature at this time.

Runoff and Sediment Repair Cost Apportionment

Tom G. provided a brief refresher on this option (103E.729). There was a recommendation to the legislature from the DWG on this concept when it was proposed. The intension was to provide a drainage authority an option. The presentation from Rice Creek WD was mentioned and at that time there was no opposition to extending the sunset date for another 5 years (set to expire July 1, 2025). (Discussion) At the time this was approved there was no consensus from the DWG. This is just a tool, and a drainage authority can decide if they want to use it. Allen Wold stated that he’s opposed and can’t live with it. It changes traditional drainage on its head, and no one has used it for 5 years. Randy Kramer stated that AMC is in support for renewing the sunset date for another 5 years. Do not have full consensus as a group, need core consensus. Tom G. read through the list of core parties, those at the meeting were okay with extending the sunset date another five years. MNDOT and Soybean Growers were not present.

Next Steps: Tom G. will reach out to MNDOT and Soybean Growers on renewing the sunset date and also verify if they’ve been an active participate in conversations. Will proceed to draft a report for the meeting in January if there is consensus.

Outlet Adequacy

Tom Gile discussed outlet adequacy and where the report sits today. The final report was sent out on 12/13/22. It was mentioned that the DWG is not in agreement with the entire report. Special meetings were held over the past month to talk about consensus topics in the report. Those topics are best suited to live with the Drainage Manual, not proposing legislative changes. Draft language would be proposed, reviewed by the DWG and changes would be made to the Drainage Manual if consensus is obtained. Are things we want to continue to discuss and work on? 1. MN River peak flow/low flow – support to do a basin wide approach to manage base flow verse peak flow. 2. Training Concept -review standards/regional training. (Discussion) This needs further vetting and there is some disagreement on these considerations. There needs to be more consistent standards in place. The consensus column in the report is very misleading and shows that there is more consensus on these topics then really exist. It was clarified that the report is to drive deliberations not legislation. Need more clarification of topics and consistent review and then would consider changes to drainage manual. Rita W. stated that we need to get something to the legislature. We started were there was agreement, and those items took eight months. There was some dissatisfaction expressed by a few members that the difficult issues just got put in the parking lot to keep avoiding them. This is just a start of a process, no consensus to the legislature. We need to show some urgency to improve drainage and that this group should meet year around to address these parking lot issues. Dave W. mentioned that BWSR would have to allocate a full-time person to manage this group if that was to happen. It was mentioned that if there is a technical consensus in the report then it has some value. The legislature didn’t ask us to make any decisions, nor did we have enough time to get this done. Based on the number of hours we have into this, we need to get something accomplished, should move forward with some of these enhancements. We can’t write a report that we can’t agree to. Currently not in a place to reach consensus. Need to form a new group on water quality considerations.

Next steps. Tom will draft a report for the DWG to provide some feedback on. It will explain the deliberation, path forward, where work needs to be done. We need to stop wordsmithing the technical subcommittee. The DWG will need to think about what the next steps are. We can grind through this as a group or consider forming small groups to get this done. February 1st is the report due date, this was not just a one-year effort.

Notification of 103E Drainage Actions

* Notification of 103E Actions

Tom G. discussed comments from the last meeting, broader notification pieces to make it more streamline. Shared some draft mockups creating a section in 103E for notifications. Try to lay out a framework. The idea is to identify the notification types in the definition section and address procedural items elsewhere in statute. This still needs to go through a lot of vetting. The question was asked, are folks comfortable with this? Discussion- can the framework be modified to create a process that is more streamline. The framework make sense should work on writing up. Tom G. asked for some legal assistance to look through these changes. This still needs some work and would welcome some help in getting this included in a report.

* Drainage Registry

There have been two meeting so far from the Drainage Registry subgroup and will plan to have language for the DWG to respond to. No consensus on early notice. Local approach vs state approach, looking at a process for drainage authority level vs. state level. Next meeting is tomorrow.

Next Steps: Tom G. will draft a report by January 2nd to share with the DWG for comment and feedback and then will spend time at the January 11th meeting to discuss further. This is not likely going to be a large report. Would like comments and feedback on first draft by January 5th in order to make changes before the January 11th DWG meeting. Primary topic for that meeting will be the legislative report review. Will schedule BWSR Committee meeting to move the DWG recommendation to the full BWSR Board (Committee meeting dates January 19th or 22nd). January 24, 2024 is when the BWSR Board meets, at which time they will consider a final report. February 1, the report is do to the Legislature as prescribed by our directive. Tom asked if folks are comfortable with the timeline on getting this out before the next meeting? December 21 and January 4th are dates set aside for focus meetings if needed, no agenda at this time and if not needed will be canceled.

Next DWG Meeting Date

Next DWG meeting, 11:00 a.m. - 2:00 p.m., Thursday January 11, 2024

IN PERSON @ ST Cloud. MN DOT Training Facility

Calendar holds for Virtual check in on specific topics Dec 21 and Jan 4

2:00 Adjourn