

BOARD DECISION #24-20

**Minnesota Board of Water and Soil Resources
Dispute Resolution Committee
520 Lafayette Road North
St. Paul, Minnesota 55155**

In re Approval of the Mille Lacs Meadows North
Wetland Bank

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER**

BWSR File No. 23-4

This matter came to the Board of Soil and Water Resources for a final order from an appeal concerning Aitkin County’s decision (the “Decision”) to approve a wetland banking plan for a project known as Mille Lacs Meadows North (the “Project”). The Project applicant is David Urban, on behalf of Ecosystem Investment Partners (“EIP”). The Decision was appealed to BWSR by Eric Trelstad.

The Decision was issued on May 22, 2023. This appeal was filed on June 16, 2023. The appeal was timely under to Minn. R. 8420.0905. Aitkin County, EIP, and Mr. Trelstad submitted briefs. The matter was referred to BWSR’s Dispute Resolution Committee for hearing, which was held on March 7, 2024.

STATEMENT OF ISSUES AND RESOLUTION

1. The County approved EIP’s application for a wetland banking plan over objections that portions of the Project site were ineligible to receive banking credits because those portions of the site had been illegally drained after the passage of the Wetland Conservation Act.

Should the County’s decision to approve approximately 433 acres of wetland banking credits at the completion of the Project be affirmed?

- a. The County determined that , the record did not establish that any drainage or ditching work had been performed illegally after 1991. The Project site had been used intermittently for farming during periods prior to 1991, and the Wetland Conservation Act does not prohibit maintenance of existing drainage features. The County concluded the evidence failed to establish illegal drainage activities after 1991.

- b. The Dispute Resolution Committee voted 5-0 to recommend that BWSR affirm the County's approval of the Project, finding that it was not clearly erroneous.
 - c. The BWSR Board unanimously adopted the Dispute Resolution Committee's March 7, 2024 recommendation by roll call vote, approving this Order that affirms the Aitkin County's wetland banking plan decision, finding that it was not clearly erroneous.
2. After this appeal was filed, Mr. Trelstad proposed that the record be expanded to include materials concerning the history of the site. Mr. Trelstad alleges the additional documents are relevant to show portions of the Project site had been illegally drained after 1991. The County and EIP object to the inclusion of the additional materials.

Should the materials additional materials submitted by Mr. Trelstad be admitted into the record?

- a. The County did not consider the additional materials, which were not submitted prior to its decision, and opposes inclusion of the materials into the record.
- b. The Dispute Resolution Committee voted 5-0 to not to include the additional materials from Mr. Trelstad, finding that they were not part of the record of decision and would not materially impact the resolution of the appeal even if admitted.
- c. The BWSR Board unanimously adopted the Dispute Resolution Committee's March 7, 2024 recommendation by roll call vote, not to include the additional materials into the record.

FINDINGS OF FACT

1. On March 3, 2022, EIP submitted an application dated March 2, 2022 to the U.S. Army Corps of Engineers and Aitkin County to establish a wetland bank in Aitkin County. (Ex. 77.) Upon completion of the Project, EIP would be able to use or sell wetland bank mitigation credits to offset the loss of wetlands. The Project covers approximately 617 acres and was approved for approximately 433 acres of proposed wetland credits. (Ex. 4 at 36, Ex. 53 at 277.)

2. Aitkin County received comment letters from BWSR on March 3, 2022 and the law firm Larkin Hoffman (the “Larkin Letter”) on April 8, 2022. (Exs. 70, 74.) The Larkin Letter was sent on behalf of an unidentified group of “concerned environmentalists.”¹ (Ex. 70 at 520.)

3. The Larkin Letter took the position that some or all of the site covered by the Project was not eligible for wetland banking credits because those portions of the site had previously been illegally drained and converted from wetland into farmland. (Ex. 70.)

4. Between March 2, 2023 and May 22, 2023, there were extensive communications among EIP, the Project engineers (Short Elliott Hendrickson Inc.), the County, the Corps of Engineers, the Technical Evaluation Panel (“TEP”), and Larkin Hoffman. (Exs. 2-67) The correspondence covered a wide variety of subject matters. (*Id.*) Larkin Hoffman continued to take the position that some or all of the project site was ineligible for wetland banking because of prior illegal drainage activities. (*See, e.g.*, Ex. 13.)

5. As part of the review process, the County and TEP considered the significance of a 2015 agreement reached between the County and a prior owner of the Project site to resolve “concerns” over compliance with the Wetlands Conservation Act (“the 2015 Agreement”). (*See* Exs. 1, 82.) The 2015 Agreement resolved the concerns with the owner agreeing to engage in various best management practices. (*Id.*)

CONCLUSIONS

1. BWSR’s has jurisdiction to hear this appeal pursuant to Minn. Stat. § 103G.2242, subd. 9 and Minn. R. 8420.0905, subp. 4.

¹ The record does not establish whether Mr. Trelstad was one of the “concerned environmentalists” represented by Larkin Hoffman. Mr. Trelstad also manages a potentially competing wetland bank. Mr. Trelstad’s motives in taking this appeal are not relevant, and BWSR makes no findings concerning his motives.

2. BWSR's role in hearing appeals from wetland banking decisions is limited, generally consisting of an on-the-record review. Minn. R. 8420.905, subp. 4(F). BWSR may remand an appeal back to the local unit of government if it determines that the record is insufficient to allow a decision for the submission of additional evidence. *Id.*

3. BWSR is required to affirm the decision of a local unit of government unless the decision is clearly erroneous, contrary to law, or made pursuant to procedural errors that prejudiced a party. Minn. R. 8420.905, subp. 4(G).

4. BWSR determines that the record is sufficient to support the decision made by the County.

5. BWSR determines that the County's decision was not clearly erroneous.

6. The primary issue raised by Mr. Trelstad is that some portions of the Project site are ineligible for wetland banking credits because those portions of the Project site were illegally ditched and drained after the passage of the Wetlands Conservation Act in 1991.

7. The administrative rules implementing the Wetland Conservation Act provide that the restoration "of wetlands drained or filled in violation of this chapter" are not eligible for replacement credits. Minn. R. 8420.0526, subp. D.

8. The record clearly shows that the Project site as a whole has had a varied history, with portions of the site existing as both farmland and wetlands before and after the passage of the Wetland Conservation Act in 1991.

9. There is evidence in the record suggesting that portions of the Project site may have been impacted through ditching or drainage after 1991, but the evidence is conflicting and inconclusive on the issue of whether there were violations of the Wetlands Conservation Act. The record does not clearly establish that the ditching or drainage identified by Mr. Trelstad occurred

after 1991. 3 The record also does not clearly exclude that such drainage work, if it occurred after 1991, was exempt maintenance under the Wetland Conservation Act. There also clearly is evidence that would support a determination that the work was excluded maintenance. (*See e.g.*, Exs. 82-83.)

10. The County argues that the 2015 Agreement is dispositive of whether there was illegal drainage at the Project site. BWSR declines to take up the issue of whether the 2015 Agreement is dispositive, but concludes that it can serve as evidence that the County investigated the issue in 2015 and was able to reach a conclusion that ditching or drainage that occurred was not determined to be a violation. The 2015 Agreement, in turn, is evidence that the County could rely on in 2023 that the Project site was eligible for wetland credits.

11. The additional materials Mr. Trelstad seeks to add to the record of decision in this case are not sufficiently material to change the result here. BWSR's role in hearing an appeal is to determine whether the County's decision was "clearly erroneous." The additional materials Mr. Trelstad seeks to admit into the record would not lead BWSR to conclude that the County's decision was clearly erroneous. Simply put, even with the additional materials, the record on the issue of prior ditching or drainage of the Project site is conflicting, and the decision the County reached to approve the Project is not clearly erroneous. BWSR declines to admit the additional materials as part of the record.²

12. Mr. Trelstad also argues that the County failed to consider the evidence presented on the issue of illegal drainage, and failed to properly explain its decision. While the decision

² The County argues that Mr. Trelstad failed to demonstrate good cause that he could not have provided these materials to the County prior to its decision. *See* Minn. R. 8420.0905, subp. 4(F). Having found the additional materials would not alter its decision, BWSR does not resolve this issue.

documents from the County and the TEP are admittedly thin, the record in fact shows extensive consideration by the County and the TEP of Mr. Trelstad’s concerns in the months leading up to the final decision. Having reviewed the record as a whole, BWSR also concludes that sufficient evidence exists in the record to support the County’s decision.

13. Mr. Trelstad argues that there were other procedural errors made by the County, but fails to demonstrate that any alleged procedural error was prejudicial to his appeal. BWSR’s authority to remand matters back to the local unit of government for certain procedural errors – for example, the lack of a verbatim transcript is also discretionary. Here, BWSR concludes that if there were procedural errors, they are not sufficient to merit a remand of the decision to the County.

14. In sum, the authority to weigh evidence and reach conclusions concerning conflicting evidence of prior violations of the Wetland Conservation Act at the Project site rests with the County. Here, the evidence is conflicting. While some evidence exists that supports Mr. Trelstad’s arguments, the evidence is not so clear that BWSR can conclude the County’s resolution of the issue is “clearly erroneous.”

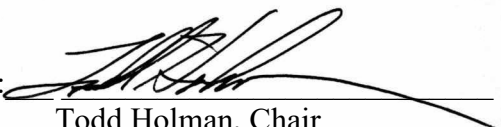
ORDER

The May 22, 2023 decision of Aitkin County concerning EIP’s wetland banking application is affirmed.

Dated at St. Paul, Minnesota, this April 24, 2024

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

Dated: April 24, 2024

By: 
Todd Holman, Chair
Board of Water and Soil Resource

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
St. Paul, Minnesota 55155

In the Matter of the review of the Comprehensive Watershed Management Plan for the Rainy Headwaters-Vermilion Watershed, pursuant to Minnesota Statutes, Sections 103B.101, Subdivision 14 and 103B.801.

**ORDER
APPROVING
COMPREHENSIVE
WATERSHED
MANAGEMENT PLAN**

Whereas, the Policy Committee of the Rainy Headwaters-Vermilion Watershed submitted a Comprehensive Watershed Management Plan (Plan) to the Minnesota Board of Water and Soil Resources (Board) on February 5, 2024, pursuant to Minnesota Statutes, Sections 103B.101, Subdivision 14 and 103B.801 and Board Resolution #21-08, and;

Whereas, the Board has completed its review of the Plan;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. **Partnership Establishment.** The Rainy Headwaters-Vermilion Watershed Partnership (Partnership) was established through adoption of a Memorandum of Agreement for the purposes of developing a Comprehensive Watershed Management Plan. The membership of the Partnership includes Cook County, Cook Soil and Water Conservation District (SWCD), Lake County, Lake SWCD, St. Louis County, and North St. Louis SWCD.
2. **Authority to Plan.** Minnesota Statutes, Sections 103B.101, Subdivision 14 allows the Board to adopt resolutions, policies or orders that allow a comprehensive plan, local water management plan, or watershed management plan, developed or amended, approved and adopted, according to Chapter 103B, 103C, or 103D to serve as substitutes for one another or be replaced with a comprehensive watershed management plan. Minnesota Statutes, Sections 103B.801, established the Comprehensive Watershed Management Planning Program; also known as the One Watershed, One Plan (1W1P) program. And, Board Decision #21-08 adopted the One Watershed, One Plan Operating Procedures Version 2.1 and Board Decision #19-41 adopted the One Watershed, One Plan Plan Content Requirements Version 2.1 policies.
3. **Nature of the Watershed.** The Rainy Headwaters-Vermilion Watershed is renowned for its abundant clear waters and glacially scoured lakes surrounded by boreal forest and dark night skies. The watershed is full of wilderness; the Boundary Waters Canoe Area Wilderness (BWCAW) is the largest federal wilderness area east of the Mississippi River; it is flanked by Voyageurs National Park (VNP) to the west and Quetico Provincial Park to the north on the Canadian side. The planning area totals 3,989 square miles (10,331 sq km) and covers four counties. There are 1,691 lakes including 103 lakes over 500 acres.

4. **Plan Development.** The Plan was developed as a single, concise, and coordinated approach to watershed management. The Plan consolidates policies, programs, and implementation strategies from existing data, studies and plans, and incorporates input from multiple planning partners to provide a single plan for management of the watershed. The Plan focuses on prioritized, targeted, and measurable implementation efforts and lays out specific actions to manage water quantity, protect and restore water quality, natural habitat, recreational uses and drinking water sources in the watershed.

5. **Plan Review.** On February 5, 2024, the Board received the Plan, a record of the public hearing, and copies of all written comments pertaining to the Plan for final State review pursuant to Board Resolution #21-08. During the development of the Plan, State agency representatives attended and provided input at advisory committee meetings. The following state review comments were received during the comment period.
 - A. Minnesota Department of Health (MDH): MDH staff thanked the partnership for addressing MDH's comments and noted that the plan was well written and thoughtful. MDH recommends approval of the plan.
 - B. Minnesota Department of Natural Resources (DNR): DNR staff is satisfied with the responses to issues raised during the 60-day review of the draft plan. DNR recommends approval of the plan.
 - C. Minnesota Pollution Control Agency (MPCA): MPCA staff noted that they appreciated the opportunity to participate and provide input and that the plan is well written, concise, and thorough. MPCA recommends approval of the plan.
 - D. Minnesota Environmental Quality Board (EQB): EQB acknowledged receipt of the plan.
 - E. Minnesota Department of Agriculture (MDA): MDA did not provide comments for the final plan.
 - F. Minnesota Board of Water and Soil Resources regional staff: BWSR staff provided comments throughout the planning process and had no suggested or required changes to the Plan submitted for the final review. We commend the partners for their trust level and commitment to the resources of the Plan area. BWSR staff recommend approval of the Plan and look forward to working with the Partnership during implementation.

6. **Plan Summary and Highlights.** The highlights of the Plan include:
 - Approximately 72% of the land is publicly owned, with federal (54%), private (27%) and state (18%) being the largest landholders.
 - The Planning area includes both the Rainy River Headwaters and Vermilion River major watersheds (HUC-8 scale). Both watersheds flow west towards Lake of the Woods.
 - It is within the larger 1854 Ceded Territory, and the Bois Forte Reservation is within the watershed, on the shore of Lake Vermilion.
 - High quality resource protection was an issue addressed in this plan, with thorough measurable goals established using a RAQ (Riparian, Adjacency, Quality) index identifying high scores for the most valued protection areas.
 - A Landscape Stewardship Plan was developed to complement the watershed plan and provided information on forest resources and their relationship to priority water resources.
 - Thirteen priority issues were selected for the Plan from existing documents, studies, data sets, public input, local knowledge as well as comment letters from state agencies, lake associations, and other local interest groups.

- The planning partners set 8 goals during the planning process from the priority issues. Each goal has short-term and long-term measurables and identifies priority areas. The targeted implementation for this plan will be focused on private land, particularly adjacent to priority streams and lakes. These waterbodies were selected due to their location, developmental pressure, or nutrient loads.
 - Specific “lenses” such as Climate Change and Resilience, Cultural Resources, Equity, Inclusion and Diversity, and Social Capacity were used to uncover potential overlooked opportunities throughout the plan area rather than being identified as a specific issue.
7. **Planning Boundary Adjustment.** The Board maintains a suggested planning boundary map for the One Watershed, One Plan program. The Rainy Headwaters-Vermilion Watershed partnership proposed a boundary adjustment in the application for funding. The Partnerships provided documentation for local concurrence, rationale, and justification of the adjusted boundary. The adjusted boundary was approved by Board staff per the One Watershed, One Plan Operating Procedures. The adjusted boundary is included as Figure 1.1 on page 2 in the Plan.
 8. **Northern Regional Committee.** On April 3, 2024, the Northern Regional Committee met to review and discuss the Plan. Those in attendance were Committee Chair Rich Sve, LeRoy Ose, Todd Holman, Theresa Ebbenga, Jeff Berg, Neil Peterson and Ron Staples. BWSR staff in attendance were Ryan Hughes, Northern Region Manager; Chad Severts, Board Conservationist; Melanie Bomier, Board Conservationist; Jeff Hrubes, Clean Water Specialist; and Carrie Moline-Rust, Office & Administrative Specialist. The representatives from the Partnership were Becca Reiss, North St. Louis SWCD; Illena Hansel, Cook SWCD; Tara Solem, Lake SWCD; Ade Tse, St. Louis County; Anita Provinzio, North St. Louis SWCD; Ann Sullivan, Cook County; Beth Hippert, Lake SWCD; Chuck Bainter, North St. Louis SWCD; Joe Baltich, Lake County; Phil Norvitch, North St. Louis SWCD; Hilary Freeman, Cook SWCD; Moriya Rufer, Houston Engineering; and Aaron Frankle, Houston Engineering. Becca Reiss, Illena Hansel, and Tara Solem presented the Plan on behalf of the partnership. Board regional staff provided its recommendation of Plan approval to the Committee. After discussion, the Committee’s decision was to present a recommendation of approval of the Plan to the full Board.
 9. This Plan will be in effect for a ten-year period until April 24, 2034.

CONCLUSIONS

1. All relevant substantive and procedural requirements of law have been fulfilled.
2. The Board has proper jurisdiction in the matter of approving a Comprehensive Watershed Management Plan for the Rainy Headwaters-Vermilion Watershed pursuant to Minnesota Statutes, Sections 103B.101, Subd. 14 and 103B.801 and Board Resolution #21-08.
3. The Rainy Headwaters-Vermilion Comprehensive Watershed Management Plan attached to this Order states water and water-related problems within the planning area; priority resource issues and possible solutions thereto; goals, objectives, and actions of the Partnership; and an implementation program.
4. The attached Plan is in conformance with the requirements of Minnesota Statutes Section 103B.101, Subd. 14 and 103B.801 and Board Resolution #21-08.
5. The One Watershed, One Plan Suggested Boundary Map is adjusted to reflect the boundary identified in the Plan.

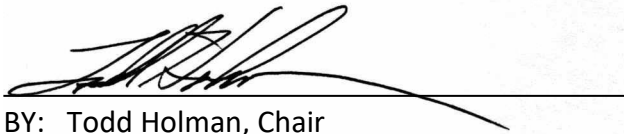
6. The attached Plan when adopted through local resolution by the members of the Partnership will replace the comprehensive plan, local water management plan, or watershed management plan, developed or amended, approved and adopted, according to Chapter 103B, 103C, or 103D, but only to the geographic area of the Plan.

ORDER

The Board hereby approves the attached Comprehensive Watershed Management Plan of the Rainy Headwaters-Vermilion Watershed, submitted February 5, 2024.

Dated at St. Paul, Minnesota, this twenty-fourth day of April 2024.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES



A handwritten signature in black ink, appearing to read 'Todd Holman', is written over a horizontal line. The signature is fluid and cursive.

BY: Todd Holman, Chair

BOARD ORDER

Fiscal Year 2024 and 2025 Cooperative Weed Management Area Grant Awards

PURPOSE

Authorize the grant awards for fiscal year 2024 and 2025 General Fund Cooperative Weed Management Area (CWMA) grants.

FINDINGS OF FACT / RECITALS

- A. The Laws of Minnesota 2023, Chapter 60, Article 1, Section 4c(2), appropriated fiscal year 2024 and 2025 funds for county cooperative weed management cost-share programs; \$100,000 each year for fiscal year 2024 and 2025.
- B. The CWMA program provides financial assistance to SWCDs, Counties, and tribal governments to develop and sustain Cooperative Weed Management Areas that control emerging weed threats and manage natural areas and conservation lands through an integrated pest management and ecosystem approach.
- C. On October 25th 2023, by Board Order #23-58, the Board authorized a CWMA Grant Program for FY2024 and FY2025 to provide funds to existing, and newly establishing CWMA's through a competitive process.
- D. A Request for Proposals was available to applicants from November 1, 2023 through February 21, 2024.
- E. The inter-agency CWMA Advisory Team reviewed and ranked the applications on March 12th, 2024 and recommended that 13 of 17 applications be funded.
- F. The Grants Program and Policy Committee, at their April 15, 2024 meeting, reviewed the proposed grant awards and recommended approval to the Board.


ORDER

The Board hereby:

- 1. Approves the recommended allocation of funds as listed in the FY2024 & FY2025 Cooperative Weed Management Area Program Funding Recommendations. (*Attachment A*)
- 2. Authorizes staff to enter into individual grant agreements.
- 3. Authorizes staff to fund additional applications or provide added funding for this purpose if funds become available.
- 4. Establishes that the grants awarded pursuant to this order will conform to the BWSR Conservation Contracts Policy except for the eligibility criteria.

Dated at St. Paul, Minnesota, this April 24, 2024

MINNESOTA BOARD OF WATER AND SOIL RESOURCES



Todd Holman, Chair
Board of Water and Soil Resources

Date: April 24, 2024

<i>FY2024 & FY2025 Cooperative Weed Management Area Program Funding Recommendations</i>	
Organization	Request
North St. Louis Soil and Water Conservation District	20,000
Washington Conservation District	15,000
Anoka Conservation District	15,000
Lake Soil and Water Conservation District	15,000
Stearns Soil and Water Conservation District	15,000
Winona Soil and Water Conservation District	15,000
Wright Soil and Water Conservation District	15,000
Chisago Soil and Water Conservation District	15,000
Koochiching Soil and Water Conservation District	15,000
Becker Soil and Water Conservation District	15,000
Scott Soil and Water Conservation District	15,000
Ramsey County Soil and Water Conservation	15,000
Red Lake Soil and Water Conservation District	15,000
Total	\$200,000

BOARD ORDER

Fiscal Year 2024 and 2025 Habitat-Friendly Utilities Program

PURPOSE

Authorize the Fiscal Year 2024 and 2025 Habitat-Friendly Utilities Program and delegate funding mechanisms to staff.

FINDINGS OF FACT / RECITALS

- A. The Laws of Minnesota 2023, Chapter 60, Article 1, Section 4, paragraph (v) appropriated \$500,000 in Fiscal Year 2024 and \$500,000 in Fiscal Year 2025 to the Board for the Habitat-Friendly Utility Program.
- B. The Laws of Minnesota 2023, Chapter 60, Article 5, Section 7 provides the statutory authority for the Habitat-Friendly Utility Program (Minn. Stat. 103B.105), includes the purpose of the program to “provide financial and technical assistance to promote the successful establishment of native vegetation as part of utility projects, including solar and wind projects, pipelines, and electrical transmission corridors”, and requires that the Board establish criteria for grants or payments, and allows the Board to collaborate with and enter into agreements with “Federal, State, and local agencies; Tribal Nations; utility companies; nonprofit organizations; and contractors to implement and promote the program”.
- C. The Board has authorities under Minnesota Statutes §103B.101 to award grants and contracts to accomplish water and related land resources management.
- D. The Grants Program and Policy Committee, at their April 15, 2024 meeting, reviewed the proposed Habitat Enhancement Landscape Program criteria and recommended approval to the Board.

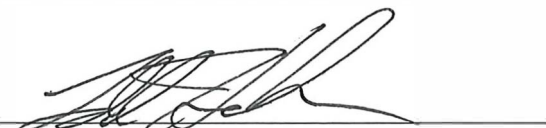
ORDER

The Board hereby directs and authorizes staff to:

1. Develop program criteria that increases collaboration with partners, protects habitat and water resources, provides landscape integrity and resilience, and ensures long-term program success.
2. Enter into agreements to implement the Habitat-Friendly Utility Program as allowed in statute 103B.105
3. Issue solicitations for participation in the Habitat-Friendly Utility Program.
4. Approve Habitat-Friendly Utility Program awards based on responses to solicitations and available funds.
5. Enter into agreements to implement the program as provided for in Minn. Stat. 103B.105 and other related statutory provisions.
6. Regularly report to the Board on the status of Habitat-Friendly Utility Program awards.

Dated at St. Paul, Minnesota, this April 24, 2024.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES



Todd Holman, Chair
Board of Water and Soil Resources

Date: _____

4/24/2024



BOARD ORDER

FY25 Conservation Reserve Program State Incentives Grant Program

PURPOSE

Authorize the Fiscal Year 2025 Conservation Reserve Program State Incentive Grant Program.

RECITALS /FINDINGS OF FACT

- A. Laws of Minnesota 2023, Chapter 60, Article 1, Section 4, paragraph (s) appropriated funds to provide onetime state incentive payments to enrollees in the federal Conservation Reserve Program (CRP) during the continuous enrollment period and to enroll land in conservation easements consistent with Minnesota Statutes, section 103F.515.
- B. The BWSR Senior Management Team (SMT) reviewed and discussed recommendations from BWSR staff on the FY25 Conservation Reserve Program State Incentives Grant eligible activities and watershed eligibility criteria, and watershed allocation list.
- C. The Board has authorities under Minnesota Statutes §103B.101 to approve comprehensive watershed management plans, Minnesota Statutes §103B.255 to approve county groundwater plans, Minnesota Statutes §103C.401 to approve soil and water conservation district plans, and Minnesota Statutes §103B.231 to approve watershed management plans.
- D. Eligible Comprehensive Watershed Management Plan partnerships authorized under Minnesota statute §103B.801 and authorized under Minnesota Statute §103B.231, Minnesota Statute §103B.255, and Minnesota Statutes §103C.401 will provide onetime incentive payments to landowners enrolling or re-enrolling into the Continuous Conservation Reserve Program.
- E. The Board has authorities under Minnesota Statutes §103B.3369 and 103B.101 to award grants and contracts to accomplish water and related land resources management.
- F. The Grants Program and Policy Committee, at their April 15, 2024 meeting, reviewed and recommended approval of the FY25 Conservation Reserve Program State Incentives Grant Program eligible activities and watershed eligibility criteria, and watershed allocation list.

ORDER

The Board hereby:

1. Approves the FY25 Conservation Reserve Program State Incentives Grant Program eligible activities and watershed eligibility criteria. (*Attachment A*)
2. Approves incentive payments for practices available through a Continuous CRP enrollment period.

3. Approves the allocation of up to \$2,900,000 for eligible activities to eligible Comprehensive Watershed Management Plan partnerships authorized under Minnesota statute §103B.801 and eligible Watershed Management planning areas. (*Attachment B and Attachment C*)
4. Authorizes staff to reallocate funds to eligible program participants should grant awards not be accepted, or full grant awards not utilized.
5. Authorizes staff to enter into grant agreements for this purpose.

Dated at St. Paul, Minnesota, this April 24, 2024.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES



Todd Holman, Chair
Board of Water and Soil Resources

Date: April 24, 2024

Attached:

Attachment A - FY25 Conservation Reserve Program State Incentives Grant Program eligible activities and watershed eligibility criteria

Attachment B - FY25 Conservation Reserve Program State Incentives Grant Program - Watershed Allocation List

Attachment C- Twin Cities Metropolitan Area Allocation Boundaries

Board Resolution # 24-25

Easement Alteration Request - RIM Easement #46-17-99-01

WHEREAS, the Board of Water and Soil Resources (BWSR) acquired Perpetual RIM Easement #46-17-99-01 on 27 acres in Martin County on March 26, 2001; and

WHEREAS, the current landowners, Lawrence and Diane Sukalski, also being the original easement grantors, have submitted an easement alteration request to release 1.75 acres from the current easement for the purposes of constructing a machine shed and additional grain storage adjacent to an existing bin site; and

WHEREAS, the 1.75 acres proposed for release are located between existing building sites and are prone to disturbance due to their location among the grain operation; and

WHEREAS, the landowner is unable to identify an alternative location to build the increased storage without causing erosion concerns; and

WHEREAS, the landowners are proposing to add an additional 3.5 acres of adjacent crop land to the easement in return for the acres released; and

WHEREAS, the easement alteration would result in a more manageable, and less irregularly shaped easement boundary; and

WHEREAS, the 3.5 acres of cropland to be added to the easement will be seeded to a native prairie seed mix at the landowner's expense; and

WHEREAS, the proposal meets the required 2:1 replacement ratio according to BWSR's Easement Alteration Policy; and

WHEREAS, MN Rule 8400.3610 states that the board may alter a conservation easement if the board determines that the public interest and general welfare are better served by the alteration; and

WHEREAS, the State's natural resource interest would be benefitted by the easement alteration by increasing and enhancing wildlife habitat and the wetland buffer area, and would result in a net gain of restored and permanently protected acres; and

WHEREAS, the Martin County SWCD Board and DNR Area Wildlife Supervisor have submitted letters in support of the easement alteration, and the request meets all other conditions of the Easement Alteration Policy; and

WHEREAS, the Martin County SWCD will post the revised easement boundary upon recording of the easement amendment; and

WHEREAS, the RIM Reserve Committee voted to recommend approval of this easement alteration at their April 10, 2024 meeting.

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources (BWSR) approves the alteration of RIM Easement #46-17-99-01, as proposed, releasing 1.75 acres of upland and replacing it with 3.5 acres of adjacent crop land and authorizes staff to work with Martin SWCD to officially amend the necessary RIM easement documents; and

BE IT FURTHER RESOLVED THAT, the landowner shall be responsible for removing or correcting any objectionable title defects, liens, or encumbrances, as specified by BWSR, prior to amending this easement; and shall pay any necessary title insurance, recording fees and restoration costs, if any, within the replacement area.

Dated at Saint Paul, Minnesota this 24th Day of April, 2024

MINNESOTA BOARD OF WATER AND SOIL RESOURCES



Todd Holman, Chair

Board of Water and Soil Resources

Date: 4/24/2024

Board Resolution # 24-26

Rock County Easement Alteration Request – RIM Easement #67-01-07-04

WHEREAS, BWSR acquired a perpetual 103.7-acre sensitive groundwater protection easement in Clinton Township, Rock County on April 24, 2007, being RIM easement #67-01-07-04; and

WHEREAS, Rock County Rural Water purchased 2.87 acres of the easement lands in 2012 for the purpose of drinking water well installation and maintenance; and

WHEREAS, permanent gravel access roads are necessary for year-round access and maintenance of the wells, which conflicts with permanent vegetative cover required under the RIM easement; and

WHEREAS, Rock County Rural Water is requesting the release of 2.87 acres from the RIM easement; and

WHEREAS MN Rule 8400.3610 states that the board may alter or release an easement only if the state board determines that the public interests and general welfare are better served by the alteration; and

WHEREAS the public interest and general welfare will be better served as the wells will provide vital clean drinking water to the citizens of Rock County; and

WHEREAS MN Rule 8400.3610 states that BWSR reserves the right to require special provisions to ensure at least equal resource value as a result of the alteration; and

WHEREAS Rock Rural Water has agreed to compensate BWSR \$34,415.40 for the release, which is an amount equal to what BWSR would pay to acquire these acres using the 2023 RIM payment rates; and

WHEREAS, the RIM Reserve Committee voted to recommend approval of this easement alteration at their April 10, 2024 meeting.

NOW, THEREFORE, BE IT RESOLVED THAT, the Minnesota Board of Water and Soil Resources (BWSR) approves the alteration of RIM Easement #67-01-07-04, as proposed, to release 2.87 acres for public drinking water well and maintenance purposes; and authorizes staff to work with Rock SWCD to officially amend the necessary RIM easement documents upon receipt of the agreed upon payment.

Dated at Saint Paul, Minnesota this 24th day of April, 2024

MINNESOTA BOARD OF WATER AND SOIL RESOURCES



Todd Holman, Chair
Board of Water and Soil Resources

Date: 4/24/2024