

**BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD NORTH
LOWER-LEVEL BOARD ROOM
ST. PAUL, MN 55155
WEDNESDAY, JUNE 26, 2024**

BOARD MEMBERS PRESENT:

Joe Collins, Jill Crafton, Jayne Hager Dee, Mike Runk, Neil Peterson, Lori Cox, Ted Winter, LeRoy Ose, Eunice Biel, Todd Holman, Ron Staples, Mark Zabel, Melissa Lewis, MPCA; Joel Larson, University of Minnesota Extension; Jeff Berg, MDA; Steve Robertson, MDH; Sarah Strommen, DNR

BOARD MEMBERS ABSENT:

Kelly Kirkpatrick, Rich Sve

STAFF PRESENT:

John Jaschke, Rachel Mueller, Tom Gile, Travis Germundson, Julie Westerlund, Marcey Westrick, Laura Godfrey, Melanie Bomier, David Plagge, Annie Felix-Gerth, Les Lemm, Lewis Brockette, Ryan Hughes, Melissa King, Craig Engwall, Dave Weirens, Luke Olson, Lucy Dahl, Barb Peichel

OTHERS PRESENT:

LeAnn Buck, MASWCD; Paul Swanson, Pine SWCD; Jamie Beyer, Sarah Boser, Graham Berg-Moberg, Amos Briggs, Ray Bohn

Chair Todd Holman called the meeting to order at 9:01 AM

PLEDGE OF ALLEGIANCE

**** 24-31** **ADOPTION OF AGENDA** - Moved by Joe Collins, seconded by Ron Staples, to adopt the agenda as presented. ***Motion passed on a roll call vote.***

**** 24-32** **MINUTES OF MAY 22, 2024 BOARD MEETING** – Moved by Joe Collins, seconded by Ted Winter, to approve the minutes of May 22, 2024, as circulated. ***Motion passed on a roll call vote.***

PUBLIC ACCESS FORUM

No members of the public provided comments to the board.

INTRODUCTION OF NEW STAFF

Marcey Westrick introduced Laura Godfrey, Grants Compliance Specialist; Ryan Hughes introduced Melanie Bomier, Board Conservationist; and Lucy Dahl introduced David Plagge, Easement Acquisition Specialist.

CONFLICT OF INTEREST DECLARATION

Chair Holman read the statement:

“A conflict of interest, whether actual, potential, or perceived, occurs when someone in a position of trust has competing professional or personal interests, and these competing interests make it difficult to fulfill professional duties impartially. At this time, members are requested to declare conflicts of interest they may have regarding today’s business. Any member who declares an actual conflict of interest must not vote on that agenda item. All actual, potential, and perceived conflicts of interest will be announced to the board by members or staff before any vote.”

REPORTS

Chair & Administrative Advisory Committee – Chair Todd Holman reported the committee has not met. Stated he has empathy statewide for the flooding that is taking place.

Executive Director’s Report - John Jaschke reported there is a statute that was passed 10-12 years ago, Chapter 12A and an Executive Order established in 2019 that guide state agency disaster response and recovery. There is a fund account managed by DPS-HSEM for disaster recovery that can be tapped without having to have a special legislative session. Stated the legislative session ended last month and they are sharing information with others on the changes that occurred. The Local Water Roundtable group will be meeting on July 10th.

John reviewed the day of packet that included the Snapshots, an Org Chart, and an Expense Report. John stated we have not heard anything on board appointments.

Audit and Oversight Committee – Joe Collins reported the committee has not met.

Dispute Resolution and Compliance Report – Travis Germundson reported there are presently three appeals pending. There has been one new appeal since last report.

File 24-3 This is an appeal of a WCA notice of decision in Crow Wing County. The appeal regards the denial of an after-the-fact forestry exemption application for wetland impacts identified in a Restoration

Order that was appealed (Appeal File 23-9). The appeal contends that the alterations are necessary for sustainable timber management. No decision has been made on the appeal.

File 23-15 a settlement agreement has been signed by all parties resolving the controversy to the easement conditions along several properties. It's associated with a proposed township cartway. As a result, the appeal has been remanded back to the LGU to conduct an on-site assessment of the entire project area and issue a new decision on the wetland boundary and type application.

Grants Program & Policy Committee – Mark Zabel reported they have two decision items on the agenda for today.

RIM Reserve Committee – Jayne Hager Dee reported the committee has not met.

Water Management & Strategic Planning Committee – Joe Collins reported they met June 17th on an informational update on the Nonpoint Priority Funding Plan that will be presented today.

Wetland Conservation Committee – Jill Crafton reported they met on June 4th and discussed rulemaking.

Buffers, Soils & Drainage Committee – LeRoy Ose reported the committee has not met.

Drainage Work Group (DWG) – Tom Gile reported they met in June and prioritized topics to have conversations on in the upcoming year. Next meeting is scheduled for July 11th in St. Cloud.

AGENCY REPORTS

Minnesota Department of Agriculture – Jeff Berg reported Commissioner Petersen was with the Governor and Senator Klobuchar in central Minnesota and viewed the flooding. Stated they will be opening the Continuous Living Cover Marketing Grants. The Soil Health Equipment Grants will also open soon. Flooding resources are available on their website.

Minnesota Department of Health – Steve Robertson reported high water across the state has had little impact to the public water system infrastructure. Flooding resources are available on their website.

Minnesota Department of Natural Resources – Sarah Strommen reported they are seeing widespread impacts from flooding to public lands, facilities, and infrastructure.

Joe Collins asked if this is something they'll have to budget in over the next several years. Sarah stated public infrastructure is eligible for FEMA reimbursement and they could also be eligible for some funds from the State Disaster account.

John Jaschke stated the State or others may have reasons to find some resources to supplement the FEMA funding to upgrade damaged infrastructure.

Minnesota Extension – Joel Larson reported they are posting information on their website on how to respond to flooding. Their annual Field School for Ag Professionals is on July 30th and 31st. They will also be having their year-long Cover Crop Academy. Registration will open soon for their annual Water Resources Conference October 16th and 17th.

Minnesota Pollution Control Agency – Melissa Lewis reported due to the flooding they are working on overflowing manure storage facilities. Reported the NPDES and SDS permit is on public comment

through August 9th. Wastewater staff are looking for overflow of wastewater treatment areas. Solid waste staff are preparing for disposal of debris from flooding. The Climate Resiliency Grant Program recently had a grant open where they funded a total of 25 projects for just over \$1.6 million.

Jill Crafton asked about the Minnesota River PFAS and if testing is being impacted by the flooding. Melissa stated with the high levels right now they won't be able to get samples.

ADVISORY COMMENTS

Association of Minnesota Counties – John Jaschke reported from an email note from Brian Martinson. Stated Brian was glad to see the BWSR Board is moving forward with a request for comments on the Wetland Conservation Act Rulemaking and that AMC is interested in getting a greater understanding of the recent statute changes.

Minnesota Association of Conservation District Employees – No report was provided.

Minnesota Association of Soil & Water Conservation Districts – No report was provided.

Minnesota Association of Townships – Eunice Biel reported many townships have been grappling with flooding in the rural roads and fields. There has also been infrastructure damage with bridges and roads washed out. Eunice stated news and training is available online. District meetings have been scheduled throughout the state in August.

Minnesota Watersheds – No report provided.

Natural Resources Conservation Service – No report provided.

Chair Holman called a recess at 10:01 a.m. and called the meeting back to order at 10:08 a.m.

COMMITTEE RECOMMENDATIONS

Grants Program and Policy Committee

FY 2025 CWF Competitive Grant Program and RFP Criteria – Annie Felix-Gerth presented FY 2025 CWF Competitive Grant Program and RFP Criteria.

There will no longer be any policy for this program. All program requirements are contained in the RFP. The FY25 Program includes funding for Accelerated implementation grants. The board order authorizes the fiscal year 2025 Clean Water Fund Competitive Grants Program and authorizes staff to finalize and issue a Request for Proposals. The Grants Program and Policy Committee reviewed these recommendations on May 23, 2024 and recommends the attached order to the board.

Lori Cox asked about the heading Projects and Practices Ranking Criteria, under the Measurable Outcomes and Project Impact points allocation as to whether it was a requirement for clean water fund projects. Annie stated it is part of the statute and it's a chance for them to layout their plan in more detail. John Jaschke stated it's a quantifiable aspect and that's why a scoring component is tied to it.

Steve Robertson asked about accelerated implementation grant opportunities. Annie stated if interested in doing projects that will help develop a project or expand a project, develop outreach, etc. those types of things would be applicable for that type of work.

Jill Crafton asked about a chart that showed ranking, amount, and entity. John Jaschke stated that list will be provided down the road. Chair Holman offered an example of a past project funded via this program that led to large and long-term results in Central/North-Central Minnesota.

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24-33 Moved by Ted Winter, seconded by LeRoy Ose, to approve the FY 2025 CWF Competitive Grant Program and RFP Criteria. ***Motion passed on a roll call vote.***

Grant Monitoring and Financial Reconciliation Policy – Marcey Westrick presented Grant Monitoring and Financial Reconciliation Policy.

BWSR has a fiduciary responsibility to ensure public funds are used for their program intent and legislative purpose. Minnesota Statutes §16B.97 provides that the Commissioner of Administration shall create general grants management policies and procedures that are applicable to all executive agencies. This includes policies on Pre-Award Risk Assessment for Potential Grantees (08-06), Grant Payments (08-08) and Grant Monitoring (08-10) developed by the Office of Grants Management.

The Board currently has a Grants Monitoring and Financial Reconciliation Policy which documents the Board’s compliance with these Office of Grants Management policies. The Grants Monitoring and Financial Reconciliation Policy has been found to be unnecessary as the Board utilizes internal procedures developed and implemented by staff to document how the requirements of the Office of Grants Management policies are being met. Staff are therefore recommending that the policy be rescinded and will discuss with the committee.

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24-34 Moved by Ted Winter, seconded by Mike Runk, to approve the Grant Monitoring and Financial Reconciliation Policy. ***Motion passed on a roll call vote.***

Wetland Conservation Committee

Wetland Conservation Act Rulemaking – Request for Comments – Les Lemm and Lewis Brockett presented Wetland Conservation Act Rulemaking – Request for Comments.

The process to amend the Wetland Conservation Act (WCA) rule was initiated with two requests for comments published in the State Register, the most recent of which closed on March 19, 2022. The publications also defined the scope of the current rulemaking. However, multiple amendments to WCA statutes occurred during the 2024 legislative session. These amendments represent a substantial increase in rulemaking scope, such that conducting another public comment period is desirable and appropriate. The Board’s Wetland Conservation Committee met on June 4, 2024 and are recommending approval to expand the scope of the current WCA rulemaking to address the 2024 statutory amendments and to initiate a new public comment period via publication of a notice in the State Register.

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24-35 Moved by Jayne Hager Dee, seconded by Ron Staples, to approve the Wetland Conservation Act Rulemaking – Request for Comments. ***Motion passed on a roll call vote.***

Northern Region Committee

Kettle River & Upper St. Croix Watershed Comprehensive Watershed Management Plan – Ryan Hughes, Melanie Bomier, and Paul Swanson presented Kettle River & Upper St. Croix Watershed Comprehensive Watershed Management Plan.

The Kettle River & Upper St. Croix Watershed planning area was approved for a One Watershed, One Plan planning grant at the regularly scheduled meeting of the BWSR on August 26, 2021. The planning partners established a Memorandum of Agreement (MOA) for the purposes of writing a Comprehensive Watershed Management Plan. The organizations signing the MOA included Carlton County, Carlton Soil and Water Conservation District (SWCD), Kanabec SWCD, Pine County and Pine SWCD. Aitkin County, Aitkin SWCD and Kanabec County did not sign the Planning MOA due to the small area of their jurisdiction within the planning area.

The Partnership held a 60-day plan review process that ended on January 16, 2024, and held the required public hearing on February 20, 2024, and February 26, 2024. The final draft of the Plan, a record of the public hearing, and copies of all written comments and responses were submitted to the state review agencies on April 26, 2024. The Partnership has addressed and documented agency and public comments received throughout the Plan review process.

On June 5, 2024, the Northern Regional Committee met to review and discuss the Plan. 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.

Jill Crafton stated she appreciated the attention put on the karst.

Joe Collins liked how they had meetings with experts specifically for land uses.

Ted Winter asked what the population is. Melanie stated its rural, not a very big population.

Lori Cox asked if there was other discussion with Tribal Leaders. Melanie stated they incorporated their concerns.

Mark Zabel asked how much of the watershed is in Wisconsin. Paul Swanson stated the majority of the watershed is in Wisconsin.

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24-36 Moved by LeRoy Ose, seconded by Jill Crafton, to approve the Kettle River & Upper St. Croix Watershed Comprehensive Watershed Management Plan. ***Motion passed on a roll call vote.***

Water Management and Strategic Planning Committee

Nonpoint Priority Funding Plan Update – Julie Westerlund and Annie Felix-Gerth presented Nonpoint Priority Funding Plan Update.

The original Nonpoint Priority Funding Plan (NPPF) was written in 2014 and updated in 2016 and 2018 as required by statute. A change to statute in 2019 allows BWSR to establish alternative content and timelines for updating the NPPF. In 2021, BWSR established a framework for updating the NPPF; and in 2023, the Board directed staff to revise the NPPF and to provide an update to the Board in June 2024. Staff have been working with an interagency team and are making good progress on the NPPF revision. Staff presented an update on the revision status and a proposed timeline for completion. A draft will be made available for comments from partners prior to completion of the final document and approval by the Board. Their goal is to bring the final revision of the plan back to the board this fall or by the end of the year.

Jill Crafton asked for a link to the website with the draft plan. Julie stated she will get it sent out.

Joe Collins thanked Julie for her work.

Lori Cox asked if this was linked with partners implementing the Nutrient Management Strategy. Julie stated it's a subset of the activities that would be working towards the goals of the Nutrient Management Strategy.

Audit and Oversight Committee

Draft Agency Tribal Consultation Policy– Melissa King presented Draft Agency Tribal Consultation Policy.

The state and Tribal Governments share geography, history, people, natural resources, and have shared priorities for the protection of waters. State actions and policies have impacts on Tribal Governments, their citizens, and Indigenous peoples living across the state – and we significantly benefit from working together when possible.

In 2021 a new state law was enacted that codified government-to-government relations with Tribal Governments (Minn. Stat. §10.65). This law affirmed the unique and legal relationship between the State of Minnesota and Tribal Governments and ensures that this relationship is founded on understanding and respect for sovereignty, which also includes meaningful and timely consultation. The role of State agencies, including the Board of Water and Soil Resources (BWSR), in the continuous improvement of Tribal-State relations is described in this law.

BWSR must develop and implement a Tribal Consultation Policy to comply with Minn. Stat. §10.65 and to guide the agency's work to maintain a respectful and collaborative relationship between BWSR and each Tribal Government. The policy guides the protocols by which BWSR will communicate, cooperate, and consult with Tribal Governments on matters that may impact their interests to ensure that a Tribal Government has been provided the opportunity to be meaningfully engaged and contribute continuous input prior to BWSR decisions on the matter under consideration.

The policy must be developed in coordination with representative of each Tribal Government, must be submitted to the Governor and Lieutenant Governor, and must be updated no less once every two years, or as often as required to facilitate timely and meaningful consultation.

The draft BWSR Tribal Consultation Policy was reviewed by BWSR's Senior Management and Executive staff teams; and was distributed to the Governor's office and state agency Tribal Liaisons (including the departments of natural resources, agriculture, and health) for preliminary review. BWSR's Tribal Liaison will be working with representatives for each Tribal Government to solicit and incorporate any input on the draft policy. The final BWSR Tribal Consultation Policy will be shared with the BWSR Board.

Ted Winter asked if they'll have a different plan for each Tribal Nation. Melissa stated they will be under the same general guidance policy.

Todd Holman asked if Melissa is the sole representative to communicate and build relationships or if there are other staff involved. Melissa stated agency Tribal Liaisons are the main contact with Tribal Governments. John Jaschke also has a role as the Executive Director. Stated it's a small group while they're trying to build relationships.

Jill Crafton asked if this is a first step to start establishing relationships. Melissa stated it will help to build a framework.

Ted Winter asked if the Board would get a yearly update. Melissa stated they will have regular updates but would come to the Board sooner if needed for decision making. John Jaschke stated if it comes back to a decision, it would be presented to the board as part of the decision-making background.

Ted Winter asked about upcoming Tribal State Relations Training. Melissa stated trainings are being held monthly and dates have been shared through Rachel.

Mark Zabel asked if there is a significant difference in training presentations based on location. Melissa stated there is general history of base content covered at each training. The questions and panel makeup are unique to each location.

UPCOMING MEETINGS

- Grants Program and Policy Committee Meeting, July 15 in St. Paul and by MS Teams.
- BWSR Board Tour and Meeting, August 28-29, 2024

Chair Holman adjourned the meeting at 11:17 AM.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Todd Holman', is written over a light blue grid background. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Todd Holman
Chair