

**BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD NORTH
LOWER-LEVEL BOARD ROOM
ST. PAUL, MN 55155
THURSDAY, DECEMBER 15, 2022**

BOARD MEMBERS PRESENT:

Joe Collins, Jill Crafton, Jayne Hager Dee, Kurt Beckstrom, Neil Peterson, Rich Sve, Gerald Van Amburg, Ted Winter, LeRoy Ose, Kelly Kirkpatrick, Eunice Biel, Todd Holman, Ronald Staples, Mark Zabel, Katrina Kessler, MPCA; John Bilotta, University of Minnesota Extension; Peder Kjeseth, MDA; Steve Robertson, MDH; Katie Smith, DNR

BOARD MEMBERS ABSENT: Carly Johnson

STAFF PRESENT:

John Jaschke, Andrea Fish, Rachel Mueller, Tom Gile, Travis Germundson, Anne Sawyer, Marcey Westrick, Julie Westerlund, Annie Felix-Gerth, Karli Swenson, Bill Penning, Sharon Doucette, Jenny Gieseke, Dave Weirens

OTHERS PRESENT:

Jeff Berg, MDA; Brian Martinson, AMC; Jan Voit, MAWD, Alex Trunnell, Sheila Harmes, Jacob Rischmiller, Sarah Boser, Beau Kennedy

Chair Gerald VanAmburg called the meeting to order at 9:02 AM

PLEDGE OF ALLEGIANCE

**
22-52 **ADOPTION OF AGENDA** - Moved by Neil Peterson, seconded by Jill Crafton, to adopt the agenda as amended. *Motion passed on a roll call vote.*

**
22-53 **MINUTES OF OCTOBER 26, 2022 BOARD MEETING** – Moved by Kurt Beckstrom, seconded by LeRoy Ose, to approve the minutes of October 26, 2022, 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

John Jaschke introduced Andrea Fish, Assistant Director of Strategy and Operations. Marcey Westrick introduced Anne Sawyer, Central Region Board Conservationist.

CONFLICT OF INTEREST DECLARATION

Chair Van Amburg 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 Gerald Van Amburg reported the Administrative Advisory Committee met on November 17 and reviewed a draft of the Diversity, Equity, and Inclusion Plan for BWSR.

Jill Crafton asked if the board would receive the report. Chair Van Amburg stated the report will be going to the board. John Jaschke stated there will be a presentation at the January board.

Chair Van Amburg stated the Environmental Quality Board met and a resolution was approved to support the Chair of EQB in replacing the July 2013 Environmental Assessment Worksheet Form with the December 2022 Environmental Assessment Worksheet Form. It will now include new questions that prompt consideration of greenhouse gas quantification along with climate adaptation and resiliency information.

Jill Crafton asked who they could engage with to learn more about this. Chair Van Amburg stated information is available on the EQB website and stated Denise Wilson could also provide additional information.

Executive Director’s Report - John Jaschke reported they spent the last few weeks attending various associations annual meetings. Awards that were presented at the meetings will be posted on the association’s websites with information.

Agencies are preparing for the Governor's budget process including climate ideas. Stated they worked with the Clean Water Council (CWC) earlier in the year and that the Clean Water Fund had a projected or required decrease. Agencies are working with the CWC to make reductions from the recommendations this summer. Stated the Outdoor Heritage Council is recommending their additional funding to be allocated across all projects that received funding.

Audit and Oversight Committee – Joe Collins reported they have not met. Next meeting is scheduled for January 12, 2023.

Dispute Resolution and Compliance Report – Rich Sve stated the committee has not met. Travis Germundson reported there are currently five appeals pending. All the appeals involve the Wetland Conservation Act (WCA). There have been two new appeals filed since the last report.

File 22-7 This is an appeal of a WCA notice of decision involving a replacement plan in Brown County. The appeal regards the approval of an after the fact replacement plan for wetland impacts associated with a road and turn around area located in a campground facility. No decision has been made on the appeal.

File 22-6 (11-16-2022) This is an appeal of a WCA Restoration Order in Wright County. The appeal regards the alleged drainage impacts to wetlands associated with the installation of new drain tile. The petition request that that the appeal be placed in abeyance to allow further investigation and submittal of an after-the-fact application. No decision has been made on the appeal. The other three appeals are still in abeyance at the request of the applicant/LGU.

Travis stated not much has changed for the overall buffer compliance. Over 400 parcels have been resolved. The annual buffer compliance reporting deadline is January 1st. In January they should have additional information on compliance and maps across the state.

Grants Program & Policy Committee – Todd Holman reported there are two action items on the agenda. There was no meeting in December, the next meeting is January 23rd.

RIM Reserve Committee – Jayne Hager Dee reported there are three action items on the agenda today.

Water Management & Strategic Planning Committee – Joe Collins reported the Water Management & Strategic Plan Committee met with the Grants Program and Policy Committee for an action item on the agenda today.

Wetland Conservation Committee – Jill Crafton reported they met and discussed where they're going with the rule making on WCA. Stated she was impressed with how transparent they're trying to make the policy.

Buffers, Soils & Drainage Committee – Mark Zabel reported the committee has not met and are planning to meet January 24th.

Drainage Work Group (DWG) – Neil Peterson and Tom Gile reported the drainage workgroup has met and are still talking about outlet adequacy. Had a conversation on the drainage registry portal concepts and are seeing what might be workable between all groups. Had a presentation at the last meeting on DNR early coordination concepts and their proposed policy language.

Neil thanked Tom Gile for his work.

AGENCY REPORTS

Minnesota Department of Agriculture – Peder Kjeseth reported they are continuing to work on their Soil Health Financial Assistance Program. Optimistic they will have it up and running in January or February 2023. Stated the deadline for the cost-share program to help upgrade irrigation systems is December 16th.

Minnesota Department of Health – Steve Robertson reported later this year or early next year the EPA is going to be releasing new draft MCLs and MCLGs for two PFAS compounds, PFOA and PFAS. The MCL is going to be an enforceable standard for a PFAS compound, while the MCLG is going to be an advisory level.

Stated they are working on a new project called the Future of Drinking Water. They'll be working with the University of Minnesota's Water Resource Center to help develop a statewide drinking water plan that incorporates input and feedback from water professionals, subject matter experts, public water system users, as well as private well users. The goal is to have a statewide drinking water plan representing the interested stakeholders by June 2024.

Mark Zabel asked if the Department of Health issues health risk limits in conjunction with the release of EPA maximum containment levels. Steve stated they are assessing it now.

Minnesota Department of Natural Resources – Katie Smith reported the DNR attended MAWD and MASWCD's annual meetings where they presented awards. The DNR Roundtable will be taking place on January 20th in Bloomington. DNR is working with BWSR on the WCA rule revision.

Stated at the October Drainage Work Group meeting DNR shared that a drainage proposal was being developed and that they plan to engage and talk with individuals and groups from the Drainage Work Group.

Joe Collins asked if the drainage proposal is just for DNR land. Katie stated it would apply to all lands.

Jill Crafton stated it sounded like there was a process in place and is glad they are open to input.

Neil Peterson stated they have good working relationships with DNR and do their best to keep everyone in the loop. Suggested to get this in front of the AMC Committees. Stated Minnesota Rural Counties Caucus would like a presentation on this and asked if DNR reps could attend northern county meetings.

LeRoy Ose stated it sounds like something we're already doing and to add something new for Northern Minnesota doesn't seem necessary.

Ron Staples asked if there is a timeline and if they are taking it to legislature this session. Katie stated they are considering taking it to the legislature this session and would like it to be a collaborative proposal.

Minnesota Extension – John Bilotta reported there is a new position open until January 15th for an Irrigation Extension Educator. The Soil Management Summit is taking place today in Waite Park. The Onsite Sewage Treatment Program's 2023 schedule of training has been launched.

They are continuing to look at ways to make their septic systems more effective. They received their second year of research funding to look at the performance of septic systems with iron enhanced sand and biochar.

John stated they hired Dan Wheeler as a new program manager for the Onsite Sewage Treatment Program.

The Stormwater Program Extension is seeking research proposals on urban stormwater ponds; proposals are due next week. Stated they appointed a new Advisory Board for 2023 through 2025 for the Storm Water Research Council.

John stated they piloted a training program for water quality education called Clean Sweep through implementation grants. It's a pilot program for training city professionals across the state on street sweeping strategies that will improve water quality.

John spoke with Jennifer Hahn, the Extension Educator in the Lower St. Croix Watershed and was impressed with the accomplishments she relayed.

Minnesota Pollution Control Agency – Katrina Kessler reported she had a meeting in Washington, DC with the Gulf of Mexico Hypoxia Task Force. She gave a presentation on the work plan that was put together to accelerate the implementation of the nutrient reduction strategy.

Commissioner Kessler stated they are working through the interagency budget development process.

Joe Collins stated this is very important work and have talked to staff about record keeping for projects for sediment reduction etc. Stated we are doing a lot and need to show what we've done.

Jill Crafton stated they are looking at their 10-year plan to figure out what they can do better.

ADVISORY COMMENTS

Association of Minnesota Counties – Brian Martinson reported they had their annual conference last week. A conservation award was presented to Dakota County for the reintroduction of bison at Spring Lake Park. Brian stated they have been engaged at the DWG meetings and is upset to hear the comments from DNR that they will be pursuing legislation this session.

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 their annual meeting normally held in October will be held in December 2023. There was a webinar in December on Culvert Installation and will have another webinar on January 12th on Traffic Best Practices and Traffic Sign Maintenance and Management. Stated scholarship applications are being accepted through June 1st. Township day at the Capitol will be February 1st and 2nd. November 22 through 2023 Minnesota Association of Township University will be free to every township for training. More information is available at www.MNtownships.org/news.

Minnesota Association of Watershed Districts – Jan Voit reported their annual conference was held December 1-3 in Alexandria. Thanked Tom Gile, Justin Hanson, and Julie Westerlund for helping with the workshops. Stated the organization will be changing their name to Minnesota Watersheds. Jan stated “acting” has been removed from her title and is now the Executive Director for Minnesota Watersheds. Jan concurs with Brian Martinson’s comments on the DNR pursuing legislation this session.

Chair Van Amburg congratulated Jan on her appointment as Executive Director. Congratulated Minnehaha Creek Watershed for the Watershed District of the Year and Bob Fossum for the Watershed District Employee of the Year and to others who received awards.

Natural Resources Conservation Service – No report was provided. John Jaschke stated Troy Daniell was at the MASWCD annual meeting and provided a summary of the Federal Inflation Reduction Act components that includes climate-related conservation acceleration.

Jill Crafton asked if she could get a copy of Troy’s summary of the presentation. John stated he could get a summary of the dollar amounts but how it will work is not yet known.

Chair Van Amburg called a recess at 10:44 a.m. and called the meeting back to order at 10:50 a.m.

COMMITTEE RECOMMENDATIONS

Grants Program and Policy Committee

One Watershed, One Plan Mid-Point Grants – Julie Westerlund presented One Watershed, One Plan Mid-Point Grants.

The earliest comprehensive watershed management plans have reached the mid-point of their 10-year plan life. The One Watershed-One Plan policy requires plans to include a “five-year” evaluation and to consider plan amendments at this time. BWSR learned from the One Watershed, One Plan program evaluation that partnerships were looking for guidance and financial support for this process. BWSR staff developed guidance for plan evaluations; mid-point grants are to carry out the recommendations in the “evaluation” section of that guidance and for potentially amending plans if warranted.

Mark Zabel asked if watersheds that have plans approved within seven county metro area would be able to apply for these funds? Julie stated these funds are exclusively available for groups that have Comprehensive Watershed Management Plans developed under 103B.801 so they would not apply to the plans developed only under the Metro Surface Water Management Act.

**
22-54 Moved by Jill Crafton, seconded by Neil Peterson, to approve the One Watershed, One Plan Mid-Point Grants. ***Motion passed on a roll call vote.***

CWF FY 23 competitive grant application recommendations – Annie Felix-Gerth presented CWF FY 23 competitive grant application recommendations.

The purpose of this agenda item is to allocate FY23 Clean Water Competitive Grants. On June 22, 2022 the Board adopted Board Order #22-31 which authorized staff to conduct a request for proposals from eligible local governments for Clean Water Fund projects in the following program categories: Projects and Practices, Projects and Practices Drinking Water, Soil Health and Multipurpose Drainage Management. Applications for the FY2022 Clean Water Fund Competitive Grants were accepted from June 27 through August 22, 2022. Local governments submitted 68 applications requesting \$27,018,389 in Clean Water Funds. BWSR staff conducted multiple processes to review and score applications and

involved staff from other agencies to develop the proposed recommendations for grant awards per the attached spreadsheets. On November 28, the Grants Program and Policy Committee made a recommendation to the full Board. A draft Order is attached based on that recommendation of the Grants Program and Policy Committee.

**
22-55 Moved by Jill Crafton, seconded by Ted Winter, to approve the CWF FY 23 competitive grant application recommendations. ***Motion passed on a roll call vote.***

Katie Smith responded to Brian Martinson and Jan Voit's comments on drainage policy efforts. Stated when she talked about the process moving forward and working with groups on language and collaboration, the Drainage Work Group is key, and they intend to continue conversations. Goal is to bring a bill that everyone can support, particularly the Drainage Work Group. Stated they can have more conversation on it with Brian and Jan. Neil Peterson asked that Katie include Minnesota Rural Counties Caucus along with AMC, Watershed Districts, and SWCDs.

Neil Peterson left the meeting at 11:20 a.m.

RIM Reserve Committee

Easement Alteration Request for Conservation Easement #81-04-92-01 (Hanson) – Karli Swenson presented Easement Alteration Request for Conservation Easement #81-04-92-01 (Hanson)

BWSR acquired the 47.5-acre Permanent Wetland Preserve Easement in Waseca County on November 4, 1994, and an adjacent 28.2-acre RIM Reserve Easement on the same parcel on May 5, 1997. In November of 2019, ownership of the parcel was transferred to Scott and Ashley Hanson, who are the current fee owners of the property. The Hanson's also own an additional 5-acre parcel that abuts both conservation easements.

The Hanson's are requesting to release 0.45-acres from Easement #81-04-92-01 for a building site for their future home. The 0.45-acre site sits on the edge of easement, adjacent to an existing field road for access. The proposed building site, though within the existing easement boundary, does not currently provide high quality habitat or native vegetation. The current cover is introduced grasses and legumes with poor establishment.

The landowners propose to add 1.85-acres of adjacent land to the easement, to compensate for the area released and add additional value and quality habitat to the easement. The land proposed to be added to the easement currently supports a diversity of vegetation including mature trees, existing wetland vegetation and native grasses and forbs, which buffer a wetland previously restored via the RIM program and lies adjacent to the perpetual RIM easement. The proposed added land includes hydric soils and currently supports hydrophytic vegetation. This land was cropped up to the mid-1990s.

The only alternative building site on this property would be on the same lands proposed to be added to the RIM easement. Construction of a home and septic on the presently excluded area would result in the loss of existing habitat, removal of existing trees and native vegetation, reduction of the wetland buffer zone, and make the area more vulnerable to human impacts. For this reason, the 0.45-acres proposed for release seem like a more suitable building site from a natural resource protection perspective.

The proposal would result in a 4:1 replacement ratio of added lands to released lands. The proposal meets or exceeds all requirements and conditions of BWSR's board approved Easement Alteration

Policy. Both the Waseca County SWCD and the DNR Area Wildlife Supervisor have submitted letters of support and recommend approval of the easement alteration.

The landowners have submitted the required \$500 application fee and understand that they will be responsible for additional title insurance costs and amendment recording fees, will be responsible for providing clear title, and will be responsible for restoration costs on the additional lands, if any.

Recommendation

BWSR Easement Staff recommend approval of this request. The proposal demonstrates how the State's natural resource interest will be better served as a result of the alteration. The proposal would result in a net gain of permanently protected land with existing habitat value and water quality benefits, that would alternatively be reduced or degraded.

Joe Collins stated he thought the easement alteration policy ratio was 2:1 and this a 4:1 replacement. Karli stated the 2:1 ratio would apply if the acres submitted for replacement have a crop history. Since this area is currently considered non crop land, the ratio goes up to 4:1.

**
22-56 Moved by Jayne Hager Dee, seconded by Kelly Kirkpatrick, to approve the Easement Alteration Request for Conservation Easement #81-04-92-01 (Hanson). ***Motion passed on a roll call vote.***

Easement Alteration Request - RIM Easement #81-09-95-01 – Karli Swenson presented Easement Alteration Request - RIM Easement #81-09-95-01

BWSR acquired the 111.4-acre RIM Reserve Easement, adjacent to the Le Sueur River in Waseca County on October 30, 1996. The current landowners, Tom and Melissa Bauman, purchased the property in 2015.

The landowners are requesting to release 2.6 acres from the 111.4-acre easement, for the purposes of storing firewood, cooking maple sap, storing other equipment and occasionally parking vehicles. The landowner does not intend to build any structures or remove existing trees within the release area. The area requested for removal did not have crop history prior to enrollment in the RIM Easement.

The landowner has offered to add 5.2 acres to the RIM easement as replacement, which fulfills the required 2:1 replacement ratio of the Easement Alteration Policy. The replacement areas are immediately adjacent to the Le Sueur River and would add all remaining land within the parcel into the easement. The replacement areas also abut neighboring RIM easements and would fill in existing gaps between the neighboring easements and the riverbank, resulting in more contiguous protection of the wildlife habitat and water quality in the riparian area.

The landowner has demonstrated that the State's natural resource interest would be benefitted by this easement alteration. Both the Waseca SWCD and the MN DNR Area Wildlife Supervisor have submitted letters in support of this easement alteration request.

Recommendation

Staff recommend approval of this request. The request meets all conditions of BWSR's Easement Alteration Policy, and the intended use of the release area would have minimal impacts to the environment. The lands proposed for replacement have habitat and water quality benefits that exceed those of the release area and would be valuable additions to the easement.

**
22-57 Moved by Jayne Hager Dee, seconded by Kurt Beckstrom, to approve the Easement Alteration Request - RIM Easement #81-09-95-01. ***Motion passed on a roll call vote.***

Resolution Authorizing the Reinvest in Minnesota (RIM) Reserve – One Watershed, One Plan Implementation – Bill Penning presented Resolution Authorizing the Reinvest in Minnesota (RIM) Reserve – One Watershed, One Plan Implementation.

ML 2022, Ch. 77, Art. 1, Sec. 2, subd. 5(b) designated funds “to acquire permanent conservation easements and restore and enhance wildlife habitat identified in One Watershed, One Plan for stacked benefit to wildlife and clean water.” This program will utilize RIM easements to protect priority parcels identified in watershed plans developed through BWSR’s One Watershed, One Plan program, in which local governments strategically set priorities for clean water and habitat, target implementation, and set measurable goals. BWSR currently distributes CWF dollars to partnerships with approved plans for water quality projects. This program will provide additional value by using Outdoor Heritage Funds to implement habitat protection as identified in Comprehensive Local Watershed Management Plans. This resolution authorizes staff to utilize these funds and future funds provided to the agency for similar purposes to develop and implement this program.

Peder Kjeseth left the meeting at 11:35 a.m.

Jill Crafton asked if landowners would come to BWSR with an easement that they want to enroll. Bill stated it would need to go through the standard process where they would work with SWCDs. Stated they are asking technical work groups to provide input.

Chair Van Amburg asked how this is being promoted with SWCDs. Bill stated they’ve had some preliminary discussions with SWCDs. They will do a training and a program rollout in January or February. Stated they will advertise it to all districts, this will be a statewide program and any place that has an approved Comprehensive Watershed Management Plan will be eligible to apply. They’ll notify all the districts that this program is coming and provide them with training.

Ron Staples asked if this resolution does not change the RIM payment rates. Bill stated that was correct.

**
22-58 Moved by Jayne Hager Dee, seconded by LeRoy Ose, to approve the Resolution Authorizing the Reinvest in Minnesota (RIM) Reserve – One Watershed, One Plan Implementation. ***Motion passed on a roll call vote.***

UPCOMING MEETINGS

- Northern Region Committee is scheduled for 11:00 a.m., January 4, 2023, in Detroit Lakes.
- Central Region Committee is scheduled for 2:30 p.m. on January 5, 2023, in St. Paul.
- Audit and Oversight Committee is scheduled for 9:30 a.m. on January 12, 2023, in St. Paul and virtual.
- Administrative Advisory Committee is scheduled for 9:00 a.m. on January 24, 2022, in St. Paul and virtual.
- BWSR meeting is scheduled for 9:00 a.m., January 25, 2023, in St. Paul and virtual.

Chair VanAmburg adjourned the meeting at 11:52 AM

Respectfully submitted,



Gerald Van Amburg, Chair