

BOARD ORDER

Grant Noncompliance Policy Revision

PURPOSE

Adopt a revised Grant Noncompliance Policy.

FINDINGS OF FACT / RECITALS

- A. Minnesota Statutes §103B.101, §103B.3369, and §103C.401 require that the Board ensure compliance with statewide programs and policies.
- B. The current Grant Noncompliance Policy was adopted by the Board on May 28, 2025.
- C. The proposed revised Grant Noncompliance Policy reflects updates to Office of Grants Management Policy 08-05 on Managing Fraud Risk and Reporting Responsibilities, addresses fraud and misuse in BWSR grants, and ensures the requirements of the Office of Grants Management are met.
- D. The Board’s Grants Program and Policy Committee reviewed the revised Grant Noncompliance Policy on May 18, 2026, and recommend approval to the Board.

ORDER

The Board hereby:

- 1. Adopts the revised Grant Noncompliance Policy dated May 27, 2026. This Policy will also apply retroactively to agency grant agreements.
- 2. Authorizes Executive Director to make updates to the Grant Noncompliance Policy when necessary to comply with State requirements and agency operations and publish as part of the Grants Administration Manual.
- 3. Directs staff to develop related procedures to carry out the Grant Noncompliance Policy.

Dated at St. Paul, Minnesota, this May 27, 2026.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES



Todd Holman, Chair
Board of Water and Soil Resources

Date: May 27, 2026

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

In WCA Appeal of a Notice of Decision for a No-Loss
Determination, Morrison County Soil and Water
Conservation District

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

BWSR File No. 25-9

This matter came to the Board of Soil and Water Resources (BWSR) for a final order from an appeal concerning the Morrison County Soil and Water Conservation District's decision (Decision) on July 25, 2025, to approve an application for a no-loss determination. The appellant is Marvin Stroschein (Stroschein). The respondent is the Morrison County Soil and Water Conservation District (District). Applicant Ellen Kalahar-Grissom (applicant) filed an amicus brief in support of the Decision and the District's brief.

Stroschein timely appealed the District's no-loss determination to BWSR pursuant to Minn. R. 8420.0905. The BWSR's Executive Director made the decision to grant and hear the appeal. *See Id.* at subpart 4. The parties submitted briefs, and the matter was referred to BWSR's Dispute Resolution Committee (DRC) for hearing, which was held on April 23, 2026.

STATEMENT OF ISSUES AND RESOLUTION

1. Stroschein contends that the District did not have jurisdiction to make its decision on the application for a no-loss determination because the cartway granted by Darling Township to the applicant did not confer upon her the rights to impact wetlands.

Did the District have jurisdiction to make its determination on the no-loss application?

- a. The DRC voted 5-0 to recommend that the BWSR Board determine that the District had jurisdiction to make its no-loss determination.
 - b. The BWSR Board adopted the DRC's April 23, 2026, recommendation by roll call vote on May 27, 2026.
2. Stroschein contends that the District's no-loss determination was made in error because the area to be filled does not qualify as incidental wetlands and the decision was not supported by substantial evidence.

Should the District's no-loss determination on the application be affirmed?

- a. The DRC voted 5-0 to recommend that the BWSR Board affirm the District's no-loss determination as it was not made in error and it was supported by substantial evidence.
 - b. The BWSR Board adopted the DRC's April 23, 2026, recommendation by roll call vote on May 27, 2026.
3. After this appeal was filed, Stroschein proposed that the record be expanded to include materials that are new and were not part of the administrative record upon which the District based its decision.

Should the new materials Stroschein submitted in this appeal be admitted into the record?

- a. The DRC voted 5-0 to recommend that the BWSR Board deny Stroschein's request to add the new materials into the record.
- b. The BWSR Board adopted the DRC's April 23, 2026, recommendation by roll call vote on May 27, 2026.

FINDINGS OF FACT

1. Ellen Kalahar-Grissom (applicant) applied to the District for an exemption to create an access road/Township established Cartway across wetland in Section 12 of Darling Township in Morrison County. Record at 0001-0004 (R1-R4).

2. Applicant had earlier obtained a cartway over appellant's property in May 2023, through a Darling Township Resolution (No. 2023-01). (R167-R190).

3. The District approved a no-loss and exemption decision on June 4, 2024. R1-R4; R56-R59.

4. The District found that a wetland existed in the area and that the established Cartway follows a pre-existing road through the wetland. R2. Further, the District found that a "site visit revealed that the most easterly 243 feet of the road through the wetland has reverted to a Type 2 wetland. Therefore, fill on that portion of the wetland will fall into the de minimus exemption of 4,860 square feet of fill." *Id.*

5. The District concluded that the access road/Cartway did qualify for the de minimus exemption under Minn. R. 8420.0420 and, consequently, "[f]ill on top of the existing roadbed is determined to be a no-loss (8420.0415 No-Loss Criteria-A.) as the activity will not affect a wetland." *Id.*

6. At the time of the Decision, the District did not notify Stroschein of its Decision. R45.

7. On October 15, 2024, BWSR sent Stroschein a letter informing him that the District should have notified him of the Decision and that BWSR requested that the District send him notice to trigger the 30-day appeal period. *Id.*

8. The District issued a notice of decision to Stroschein. R46. Stroschein appealed to the SWCD Board, which voted to support the Decision at its regular meeting on November 22, 2024. R56-R59. This triggered the 30-day appeal window to BWSR. *Id.* at 58.

9. Stroschein then filed a timely appeal with BWSR. R112.

10. By Order dated January 25, 2025, BWSR's Executive Director remanded the Decision and instructed the District to convene the Technical Evaluation Panel (TEP) to conduct a site review and produce a written report adequately addressing the no-loss and exemption decision, and to develop an adequate record. R125-R130.

11. On remand, the parties were permitted to submit additional evidence (R131) and the TEP conducted a site visit on May 7, 2025. R350.

12. The TEP issued its findings and recommendations on July 22, 2025. R350-R354. In its summary, the TEP stated that the wetlands on site "that have re-established in this manner are considered as incidental wetlands per MN Rules 8420.0105 D." *Id.* at R353.

13. The District Board held a public hearing on the appeal of the November 22, 2024 Decision on July 25, 2025, and issued its notice of the Decision on August 1, 2025. R447-R454.

14. Included in the Decision by the District were findings that:

- A. The applicant demonstrated avoidance and minimization requirements had been met as part of the township cartway process. R450.
- B. The access road was constructed through wetlands in the project area prior to the passage and effective date of WCA. *Id.*
- C. Certain "actions or lack of actions [over decades] have inadvertently resulted in the re-establishment of wetland in areas that were previously legally converted to upland." R451.

D. “The applicant proposes to re-establish the normal conditions (filled/impacted) on the existing roadbed and hence their proposal would qualify as a no-loss as incidental wetlands are not regulated by WCA. *Id.*”

15. The District adopted the analysis and reasoning of the TEP, approving “the placement of fill 20 feet in width within incidentally created wetlands per MN Rules 8420.0105 D. for the reconstruction/maintenance of an access road through wetlands identified in the TEP report” R452.

16. Stroschein timely appeal the Decision to BWSR.

CONCLUSIONS OF LAW

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

2. The District correctly applied the law to the facts when it determined that it had jurisdiction to make its decision on the application for a no-loss determination by Ellen Kalahar-Grissom concerning an access road in a wetland over a Cartway granted by Darling Township.

3. The District correctly applied the law to the facts when it determined that the access road/Cartway did qualify for the de minimus exemption under Minn. R. 8420.0420 and, consequently, “[f]ill on top of the existing roadbed is determined to be a no-loss (8420.0415 No-Loss Criteria-A.) as the activity will not affect a wetland.” R2. The District’s determination was not clearly erroneous as substantial evidence in the record (including the TEP findings and recommendations) supported the Decision.

4. The District correctly applied the law to the facts when it determined that the area to be filled as authorized by its Decision qualifies as incidental wetlands under Minn. R. 8420.0105, subp. 2.D. due to the substantial evidence in the record showing the existence of the old roadbed.

5. Stroschein has not shown that the additional evidence he proposes to submit on appeal that was not part of the administrative record “is material and that there were good reasons for failure to present it in the proceeding before the local government unit.” See Minn. R. 8420.0905, subp. 4.F. Consequently, the board will not add this evidence to the administrative record.

6. Any Finding of Fact more appropriately deemed a Conclusion of Law, or the reverse, should be deemed as such.

ORDER

The July 25, 2025, decision of the Morrison County Soil and Water Conservation District to approve an application for a no-loss determination is affirmed.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

Dated: May 27, 2026

By: 
Todd Holman, Chair