

Drainage Work Group Meeting Notes October 9, 2008

Attendance

Ron Ringquist, MVA; Allan Kuseske, MADI, NFCRWD; Larry Gunderson, MPCA; Dan Wilkens, MADI, RRWMB; Ron Harnack, RRWMB; Leonard Binstock, ADMC; Craig Austinson, Blue Earth Co.; Ray Bohn, MAWD; Greg Knopff, MN Senate Staff; Gerald Amiot, MACO; Henry Van Offelen, MCEA; Kurt Deter, Rinke-Noonan; Chris Radatz, MFB; Jon Bohn, MAWD; Joel Peterson, BWSR, Al Kean, BWSR

Handouts Prior to or During Meeting

1. DWG – Meeting Agenda 10-9-08
2. DWG – Meeting Notes 9-11-08
3. DWG – Discussion Topics for FY 09 Draft 9-29-08
4. DWG – Drainage System Repair Fund Limit Discussion Paper 9-30-08

Agenda Overview

Al Kean provided a brief overview of the agenda.

Approval of 9-11-08 Meeting Notes

Al distributed extra copies of the subject meeting notes and asked if there were any comments or corrections. No comments or corrections were offered.

Identification and Prioritization of DWG Discussion Topics

Al indicated that he had received feedback via email from about a half dozen DWG members, some of whom were in attendance. Al suggested that those in attendance define high priority discussion topics from their perspective to supplement the input provided via email.

Ron Harnack:

- Repair fund limits
- Redetermination of benefits with respect to incremental benefits, which acknowledge urban ditches
- Impaired waters, TMDLs, PCA's watershed approach, issue of lack of mandate for implementation
- Drainage records modernization and challenge grants. Seek more funding.
- Would like to keep informed on how DNR is dealing with con/con lands.

Chris Radatz:

- Redetermination of benefits
- Effectiveness of BMPs
- TMDLs, PCA stormwater steering committee
- Educating new property owners on drainage R/W

Ray Bohn:

- Types and effectiveness of drainage BMPs

Larry Gunderson:

- Consideration of 103E.015
- Types and effectiveness of drainage BMPs
- Clarify interaction of drainage law, Swampbuster, WCA and Section 404

Jerry Amiot:

- Repair fund limit

- Redetermination of benefits
- Keeping informed on drainage records modernization
- Inform new property owners of public drainage systems

Craig Austinson:

- TMDLs and water quality
- Keep informed of LCCMR activity
- Repair fund limits
- Redetermination of benefits

Kurt Deter:

- Separable maintenance, particularly with regard to tile lines and the definition of ‘out of repair’. The discussion on this topic focused on defining when a tile line has reached the end of its useful life, before a complete failure occurs. One approach would be to assign a design life to the tile, but it was noted that some tile can fail after 20 years or less while other tile installed 100 years ago is in very good shape. There was some thought that maybe the ‘out of repair’ definition ought to include the phrase ‘limited useful life’ to permit a drainage authority to apply separable maintenance to a tile that still functions to some degree, but will imminently fail.
- Suggested that the group be informed about WCA exemptions related to drainage.
- Mentioned that Dennis Distad and John Kolb have started putting a notice on deeds in Freeborn County that indicates the presence of drainage system right-of-way for new landowners.

Henry Van Offelen:

- Redetermination of benefits
- Types and effectiveness of BMPs

It was suggested that discussion topics be separated by action or information. The group identified preliminary definition for each topic.

There was a question about whether state legislators are sufficiently aware of the presence and activity of the DWG. AI explained that key committee members are on the email distribution list for DWG meetings and that he and other DWG members have testified at legislative committee hearings in regard to the DWG and its work.

Minnesota Public Drainage Manual Update

AI discussed the status of the drainage manual update, stating that the scope and approach for updating are being revisited in light of discussions with BWSR leadership and others. Issues include ensuring that the scope of the update and the perspective of the manual improve its usability and effectiveness. AI indicated that he and Joel would revisit defining the methods to seek input from users of the MPDM regarding the scope of the update and identification of lead writers. The approach used for development of the current version (1991) included stakeholder advisory committees for each the current three chapters of the manual, with separate lead writers for each chapter. A similar method has been envisioned for the update. However, further involvement of stakeholders in defining the scope is planned.

Dan Wilkens indicated that the Minnesota Association of Drainage Inspectors has done some work on developing a manual for drainage inspectors and would like to coordinate with the update of the MPDM. AI agreed to coordinate.

Ron Harnack suggested that BWSR staff develop a draft scope for updating the MPDM and coordinate with an advisory group. This approach was seconded by Kurt Deter. AI indicated that this is consistent with the planned outreach to key users of the MPDM for input regarding the scope of the update.

The AMC publication “Understanding Minnesota Public Drainage Law – An Overview for Decision-Makers” was also mentioned and it was indicated that something of that length would likely continue to be of use to drainage authorities.

Repair Fund Limit and Other \$ Limits in Chapter 103E

Consensus to recommend increasing the current repair fund limit of \$40,000 in Section 103E.735, Subd. 1 to \$100,000, as per 2008 HF3312 / SF3274.

Recommendation to remove the threshold dollar amount from 103E.065 Drainage Inspectors. AI to wordsmith and report back to the DWG.

Although the costs for evaluating drainage projects continues to increase, there was consensus to not recommend changing 103E.202, Subd. 5 Petitioner’s bond (\$10,000).

Section 103E.241 Engineer, Subd. 2 Oath; bond. Consensus to not recommend changing engineer’s bond (\$5,000).

Consensus to recommend striking the last sentence in Section 103E.401 Use of Drainage System as an Outlet, Subd. 3. Petition. (i.e. strike “The auditor must be paid a fee of \$5 plus 30 cents for each notice mailed in excess of ten.”)

It was agreed to ask AI to research with Greg Knopff the history of the \$3,000 threshold in Section 103E.505 Awarding the Construction Contract, Subd. 3. Notice of Contracting Award and report back to the DWG.

Consensus to not recommend changing the \$50,000 threshold amount in Section 103E.535 Partial Payment of Retained Contract Amounts, Subd. 1. Petition for partial payment of retained value.

Section 103E.611 Payment of Drainage Liens and Interest, Subd. 1. Payment of drainage lien principal. Consensus to not recommend changing the \$50 threshold amount at this time, but to investigate the history of the number and consult MACO Drainage Committee members.

Section 103E.705 Repair Procedure, Subd. 5, 6 and 7. Consensus to not recommend changing the \$1,000 threshold amount at this time.

Next Meeting

Because the MFB conference rooms are not available on the second Thursday of November, an alternate day was identified, as follows: November 24th, Minnesota Farm Bureau, 12:30 – 3:30 p.m.