

## **Drainage Work Group Meeting Notes November 9, 2017**

12:30 - 3:30 p.m., Minnesota Farmers Union Building, St. Paul, MN

### **Attendance**

Tim Gillette, BWSR; Tom Loveall, BWSR Brd.; Craig Austinson, MADI, Blue Earth Co.; John Kolb, Rinke Noonan; Ron Ringquist, MVA; Alan Perish, MFU, MVA; Ron Harnack, RRWMB; Mark Dittrich, MDA; Rob Sip, MDA; Bill Thompson, MASWCD; Allen Wold, BDSWD; Ruth Simpson, MAT; Darrell Gerber, MCEA; Warren Formo, MAWRC; John Jaschke, BWSR; Janelle Taylor, House Research; Barb Huberty, LWC; Gloria Johnson, MnDOT; Mark Ten Eyck, MCEA; Kurt Deter, Rinke Noonan; Greg Knopff, Senate Analyst; Jennifer Berquam, AMC; Emily Javens, MAWD; Ray Bohn, MAWD; Jerome Deal, MAWD; Dan Wilkens, RRWMB; Bruce Kleven, Ag Lobbyist; Dan Larson, MRCC; Dave Weirens, BWSR, Don Buckhout, BWSR; Al Kean, BWSR

### **Handouts prior to or during the meeting**

- 1) Meeting logistics and agenda for 11-9-17
- 2) Meeting notes for 10-12-17
- 3) DWG - CWC Policy Committee Request - Responses - Draft 11-5-17
- 4) DWG - RSDCO - Chapter 103E Revisions - Draft 11-5-17
- 5) Proposed revisions dated 11-9-17 on pp. 1 and 5 of DWG responses to CWC Policy Committee, provided at the DWG meeting.
- 6) Smith Partners Memorandum dated Nov. 3, 2017 about RSDCO, provided at the DWG meeting.
- 7) Draft Additional Revisions of Sec. 103E.728 and Sec. 103E.095, and provided at the DWG meeting to address most of the Smith Partners comments.

### **Introductions and agenda overview**

All in attendance introduced themselves. Al K. provided extra copies and an overview of the agenda. Dan Wilkens asked to add a discussion about the DWG meeting time, due to his long distance from St. Paul.

### **Approval of 10-12-17 meeting notes**

Extra copies of meeting notes were distributed. Corrections or additions were invited. None were identified.

### **Share information about recent and upcoming drainage related events**

- UMN Water Resources Conference, Oct. 17-18, RiverCentre, St. Paul, MN
- MN Viewers Association seminar re: Improvements, Nov. 2, 2017, Jackpot Junction, Morton, MN
- 2017 Drainage Research Forum, Nov. 15, 2017, Iowa State University, Ames, IA
- MN Association of Townships, Annual Conf., Nov. 16-18, 2017, Rochester, MN (Sustainable Water)
- MAWD Drainage Workshop, Nov. 30, 2017, Arrowwood Conference Center, Alexandria, MN
- Rinke Noonan, Drainage and Waters Conference, Feb. 15, 2018, St. Cloud, MN
- Interagency-UMN Drainage Management Team meeting 11-16-17
- BWSR Drainage Listservs – new, with descriptions and signup on BWSR Website, Drainage page
- BWSR ENRTF Drainage Records Modernization grants and CWF Multipurpose Drainage Management grants – applications recently ranked, recommendations to BWSR Board in December
- Interagency Water Reuse Report due out soon
- Fargo-Moorhead Area Flood Diversion Task Force meetings, to make recommendations by 12-15-17

### **Update regarding DNR Guidance for Public Waters and Drainage**

DNR staff are revising the previous draft guidance. A DWG Public Waters and Drainage Subgroup meeting has been scheduled for Monday, Nov. 20, 2017 at the MN Farmers Union building. Concern was expressed about subgroup members receiving the current draft guidance with adequate time to review before the subgroup meeting.

### **Drainage system acquisition of ditch buffer strips and alternative practices**

Don Buckhout, project manager, distributed a draft prioritized list of 15 impediments that were identified by the Project Advisory Committee (PAC) at its first meeting on 10-31-17. Concerns were expressed about the implications of some of the language in the impediments. It was noted that the language of the impediments is as initially drafted by PAC members and has not yet been refined by Don B., Al K. and the PAC. Discussion included a suggestion to modify language to reflect a more positive tone and consideration of landowner motivations after the Buffer Law. Equity of cost apportionment for ditch buffer strip land rights acquisition and establishment, which redetermination of benefits and damages does, was identified as a key concern for landowners and drainage authorities. The next PAC meeting is scheduled for Thursday, 11-16-17 at the MN Farmers Union building.

### **CWC Policy Committee request to the DWG regarding storage and drainage**

Al K. provided an overview of the draft DWG discussion paper dated 11-5-17 (Handout 3), which reflects DWG discussions at its 10-12-17 meeting. Reminder that the Policy Committee request was for comments on its 2016 Draft Policy Statement and recommendations regarding alignment of drainage law and watershed planning objectives of 1W1P. Support expressed for the revised DWG response document layout. Remaining concerns included adding LCCMR/ENRTF to the list of state funding sources for recommended coordination (Recommendation 11 on page 7). Also a concern that Recommendation 10 on page 7 regarding “fund the plan” clearly recognizes the specific purposes and limitations of the state funding sources. Al suggested adding “consistent with the requirements of the funding sources” to Recommendation 10. Al will make these revisions and email the final document and a draft transmittal message to DWG members for final review. Al will copy the DWG on the final response to the CWC Policy Committee. DWG consensus for this process.

### **Rep. Backer request to consider draft language regarding petitioned repairs and benefit/cost test**

Al K. indicated that he is still investigating experience of drainage authorities and drainage attorneys regarding use of Section 103E.714, Subd. 4, (a)(1) when there is a drainage system repair petition by 26% or more of the benefited landowners.

### **DWG meeting time change**

Dan Wilkens requested that DWG meetings occur earlier in the day on second Thursdays, due to his long distance and time to return to Fertile, MN. Discussion led to agreement to hold DWG meetings from 11:00 a.m. to 2:00 p.m. starting with the 12-14-17 meeting.

### **Runoff and Sediment Delivery Charge Option for drainage system repairs**

Smith Partners attorneys Chuck Holtman and Louis Smith reviewed and commented on the 10-8-17 version of the draft statute revisions for this repair cost apportionment option and the alternative condensed version for only Sec. 103E.728 produced by John Kolb and Kale Van Bruggen of Rinke Noonan, at the request of Ron Harnack, Project Coordinator, RRWMB. Copies of the memo (Handout 6), which Al Kean received on 11-7-17, were provided to meeting participants, as well as Handout 7, which addresses many of the Smith Partners comments. Points noted include: A sentence was added at the end of Sec. 103E.728, Subd. 1 to clarify RSDCO charges are to be considered (treated as) assessments in 103E. Separable repairs done with an improvement involve a redetermination of benefits that is an applicable basis for associated separable repair cost apportionment. Discussion about explicit reference to Sec. 103E.095 for appeals, but not resolved.

Post-meeting, it was agreed that Mark Ten Eyck, John Kolb, Greg Knopff and Al Kean would meet before the Public Waters and Drainage Subgroup meeting on 11-20-17 at the MN Farmers Union building to discuss Mark’s proposal regarding conservation lands and RSDCO repair cost charges/assessments.

**Next DWG meeting:** Thursday, Dec. 14, 2017, 11:00 a.m. - 2:00 p.m. at the MN Farmers Union, St. Paul.