

## Drainage Work Group Meeting Notes

April 5, 2013

12:30 – 3:30 p.m.

Minnesota Farm Bureau Building, Eagan, MN

### Attendance

Ron Ringquist, MVA; Tom Loveall, BWSR Brd.; Steven Colvin, DNR; Mark Dittrich, MDA; Craig Austinson, Blue Earth Co.; Mark Morriem, MNLICA; Larry Kuseske, MAWD; Andrea Hendrickson, MnDOT; Laura Nehl-Trueeman, MnDOT; Larry Gunderson, MPCA; Rob Sip, MDA; Les Everett, UMN WRC; Chris Radatz, MFB; Thom Peterson, MFU; Phil Hunsicker, MCEA; Kurt Deter, Rinke-Noonan; Jerome Deal, MAWD; Dan Wilkens, RRWMB; Lance Ness, FWLA; LeAnn Buck, MASWCD; Kevin Paap, MFB; Ben Cox, USACE; Tim Smith, USACE; Phil Belfiori, RCWD; Geoffrie Kramer, UMN; Tim Gillette, BWSR; Al Kean, BWSR

### Handouts prior to or during meeting:

1. DWG – Meeting Logistics and Agenda for 4-5-13
2. DWG – Meeting Notes for 12-13-12
3. Corps of Engineers Regional General Permit No. 2 Public Notice 3-13-13
4. Links to pertinent legislative bills:
  - a. HF66/SF113 <http://wdoc.house.leg.state.mn.us/leg/LS88/HF0066.1.pdf>
  - b. HF1021 <http://wdoc.house.leg.state.mn.us/leg/LS88/HF1021.0.pdf>
  - c. HF949/SF1496 <http://wdoc.house.leg.state.mn.us/leg/LS88/HF0949.0.pdf>
  - d. HF971/SF1244 <http://wdoc.house.leg.state.mn.us/leg/LS88/HF0971.0.pdf>

### Introductions and agenda overview

All in attendance introduced themselves. Al Kean provided extra copies and an overview of the agenda.

### Approval of 12-13-12 Meeting Notes

Extra copies of the meeting notes were distributed. Corrections or additions were requested. None were indicated.

### Overview and discussion of questions around HF66/SF113 during the legislative process

Al Kean summarized associated questions he received and responded to during session.

1. A DNR staff question about proposed Section 103E.101, Subd. 4a. Reestablishment of drainage system records, asking if this provision could be abused by a drainage system claiming a deeper or larger ditch than was originally constructed. Al responded that the type of information required in Subd. 4a to be used to reestablish records is similar and more extensive than required in 103E.701, Subd. 2 for public waters when there is a disagreement by DNR about a repair depth. The reestablishment of records via Subd. 4a requires a report and determination by a Professional Engineer licensed in Minnesota. DNR and BWSR are required to be notified of the associated hearing that is required. DWG members were satisfied with the resolution of this question.
2. The update of the definition of “director” and the reference in Section 103E.525 Construction and Maintenance of Bridges and Culverts, triggered a question by MnDOT about the amounts and what appears to be inconsistency of drainage system assessments to road authorities for replacement or repair of culverts and bridges. Although the DWG recommendations in HF66/SF113 did not change anything about bridge and culvert assessments, Al agreed to bring this concern to the DWG. The DWG agreed to establish a subgroup to investigate this concern and report back to the DWG. Ron Ringquist, Laura Nehl-Trueeman and Al Kean agreed to participate.
3. The Rice Creek Watershed District had questions about the DWG recommendations for revising the definition of “drainage” (replace “condition” with “hydraulic capacity”) that might be interpreted to require filling of a ditch that was wider than originally constructed or subsequently improved to repair it to the original or as improved cross section. Al noted that the definition of repair continues to include the provision “as nearly as practicable”, which would address this concern under the existing and revised definition of “repair”. Another concern was the provisions in 103E.715, Subd. 6 regarding removal of trees, which is an important authority for Rice Creek WD where drainage ditch capacity is significantly compromised by trees. Al noted that the reference to removal of trees in 103E.715, Subd. 6 is only in regard to a test of a potential benefit that could require the appointment of viewers. The proposed DWG

clarifications of Subd. 6 do not change the authority for the removal of trees as a component of a repair. Al recently received a letter from the RCWD Administrator about these concerns and will respond in writing.

#### **Overview and discussion of other bills regarding drainage at the Legislature**

- HF1021 (Rep. Fabian chief author) – It was noted that this bill, which proposed to exempt “minor ditch repairs” from the Minnesota Environmental Rights Act (MERA) does not have a Senate companion and was held over in the House Environment and Natural Resources Policy Committee.
- HF949/SF1496 (Rep. Fabian, Sen. Skoe chief authors) – This bill would amend Section 84A. 55 Commissioner’s Control of Conservation Lands, Subd. 9 Drainage, to require the DNR to participate and pay assessments on con-con land for drainage projects undertaken by local drainage authorities. This would also supersede MN Rules Chapter 6115.1530 Determining Benefit and Participation (regarding drainage on state-owned lands).
- HF971/SF1244 (Rep. Hansen, Sen. Koenen chief authors) – Would provide funding to BWSR for update of the MN Public Drainage Manual (MPDM) and the MN Public Drainage Law Overview for Decision-Makers document. It was noted that update of the MPDM was first recommended by the DWG in 2006. BWSR had received funding for this in 2008 that was later cancelled due to state budget shortfalls and had unsuccessfully sought funding through the LCCMR in recent years.
- HF1700 (Rep. Hansen chief author) – This bill was introduced on 4-4-13 and did not have a Senate companion at the time of the DWG meeting. It was noted that the proposed licensing of commercial installers of private drainage systems appears to be modeled at least in part on provisions in 18C.430 Commercial Animal Waste Technician, 18.433 Manure Applicator Education and Training, and 18C.435 Commercial Animal Waste Application requirements through the MDA. There was substantial discussion about the implications of this bill.

#### **Update regarding Corps of Engineers Regional General Permit No. 2**

Tim Smith, Corps of Engineers, provided a presentation and handout about the revised draft RGP No. 2, which the Corps revised based on comments received during the twice-extended public comment period between May and August 2012. Questions and discussion focused on eligibility, applicability and anticipated process for use of this general permit.

#### **Share information about upcoming drainage presentations and workshops.**

Brief information was shared about several conferences, workshops and training sessions since the first of the year involving tile drainage and drainage water management, including:

- 30<sup>th</sup> Annual Red River Basin Land and Water Summit, Grand Forks, ND, Jan. 22-24, 2013
- ADMC Drainage Water Mgmt. Technical Service Provider training, Moorhead, MN, Feb. 14-15, 2013
- MN Environmental Congress, Bloomington, MN, March 15, 2013
- UMN-NDSU-SDSU 2013 Drainage Design and Water Mgmt. Workshop, Mankato, MN, Mar. 26-27, 2013
- It was mentioned that Mankato State Univ., Water Resource Center is discussing organizing a water storage conference.

#### **Status of LCCMR Project “Conservation-based Approach for Assessing Public Drainage Benefits”**

Goeffrie Kramer, UMN Research Assistant, provided an overview of work to date on this project under contract with BWSR. Prof. Bruce Wilson is the Principal Investigator for this project. Goeff and others have conducted a substantial literature search to try to identify pertinent drainage benefits approaches in other states (or countries). A handout was provided showing an overview of benefit assessment methods used in Ohio, which involves various methods and variables. No great examples of a conservation-based assessment method have been identified. Modeling is also being conducted.

#### **Status of Section 319 Project “Side Inlets to Improve Water Quality”**

Goeffrie Kramer also provided brief information about work to date on this project, which involves use of LiDAR digital elevation data and terrain analysis, as well as research at the UMN Southwest Research and Outreach Center, on identifying side inlet needs and the effectiveness of various types of side inlets to drainage ditches.

#### **Next Meeting**

It was agreed that the next DWG meeting will be held on the second Thursday, June 13, 2013 at the Minnesota Farm Bureau, if the training room is available.