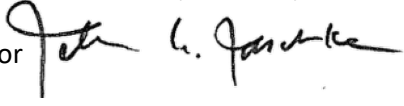




DATE: June 20, 2023

TO: Board of Water and Soil Resources' Members, Advisors, and Staff

FROM: John Jaschke, Executive Director 

SUBJECT: BWSR Board Meeting Notice – June 28, 2023

The Board of Water and Soil Resources (BWSR) will meet on Wednesday, June 28, 2023, beginning at 9:00 a.m. The meeting will be held in the lower-level Board Room, at 520 Lafayette Road North, St. Paul and by Microsoft Teams. Individuals interested in attending the meeting through Teams should do so by either 1) logging into Teams by [clicking here to join the meeting](#) or 2) join by audio only conference call by calling telephone number: 651-395-7448 and entering the conference ID: 293 933 020#.

The following information pertains to agenda items:

NEW BUSINESS

1. **Historical Context: Tribes** – As part of continuous learning, a summary will be shared of historical events that have shaped and impacted Tribal Nations that share geography with Minnesota. **INFORMATION ITEM**

COMMITTEE RECOMMENDATIONS

Administrative Advisory Committee

1. **Bylaws Update** – Proposed bylaws updates were reviewed by the Administrative Advisory committee on May 15, 2023 and reviewed by the Board on May 24, 2023. **DECISION ITEM**

Grants Program and Policy Committee

1. **Rock County Soil and Water Conservation District – Watershed Project Tracking Grant** – In December of 2022, MASWCD passed a resolution that asked BWSR to create a “Tracking Tool” that would support local watershed partnerships and help them track their work. In response, BWSR assembled a work group that would assess the local watershed partnership needs of SWCD’s and WD’s. The work group met during the early part of 2023. The outcome from that meeting:
 - 1) The workgroup does not desire a uniform tracking tool for the entire state. Unless it is a program that could be directly integrated into ELINK and add efficiency values to their work.
 - 2) The workgroup identified the biggest need is uniform standards for tracking their work. Many are already using locally developed tools and want to continue with that process. However, standardized methods will help create a statewide consistency regarding how those activities are described across partnerships
 - 3) The workgroup recognized that many partnerships do not have any tracking mechanism in place. There are several partnerships that have already started working on a specific tool called “MS4Front” which is being developed by watershed partnerships in the Missouri and Des Moines watersheds. Collectively, it was decided that an example prototype tool could be developed, using the Missouri and Des Moines project tool as an option for those partnerships that wish to utilize a tool that ready to go.

BWSR is not in a position (in the near term) to develop a tool that will integrate ELINK into a statewide tool. It's not clear that BWSR would have the capability to integrate the needs of locals into the current ELINK program. ELINK has never been designed for project tracking. There are also proprietary challenges with how outside information is integrated into ELINK. The workgroup has expressed interest in having something in place that they can start using in the near term.

Rock SWCD has been out in front of this process and is currently developing a process that addresses the work group recommendations above (#2 and #3). In the interest of time and effectiveness, BWSR is proposing that we contract with Rock SWCD to support their local tracking process. By doing so, we can capture the progress that they have made. Then leverage their work to develop the work group priorities outlined in #2 and #3 above.

This project does not create a tool that BWSR will own. Therefore, there is no proprietary ownership of a product.

LGU partners will utilize local funding resources to support ongoing subscription fees or licenses available to manage any tracking tool that they elect to use. They may or may not use WBIF funding resources to support this administrative work. **DECISION ITEM**

2. **Approval of FY23 Water Quality and Storage Pilot Grant Program Funding Recommendations** – The purpose of this agenda item is to provide the Board with the FY23 Water Quality and Storage Pilot Grant Program funding recommendations. The RFP application period for this program closed on May 6th, and BWSR staff ranked and scored the six (6) applications received. Staff recommend fully funding two projects and partially funding one (1) additional project to fully utilize the FY22-23 funds. The BWSR Senior Management Team and the Grants Program and Policy Committee support this recommendation. **DECISION ITEM**
3. **FY 2024 CWF Competitive Grants Policy and RFP Criteria** – The Clean Water Fund Competitive Grant Policy is reviewed and approved annually. For FY 2024, the policy will apply to Projects and Practices and Projects and Practices Drinking Water grants.

The changes in this policy from the previous year include:

- Drinking Water grant only – public water suppliers and rural water systems are eligible to directly apply for the grant.
- Match changed from 25% to 10%
- Eligible practices section: 1) Practice Standards updated to include CWF statute language related to “demonstrated effectiveness and provide the greatest long-term positive impact on water quality. Innovative approaches may be incorporated on a case-by-case basis.” 2) Non-Structural Practices and Measures updated to include “Any projects proposing to provide cost share for installing or adopting non-structural land management practices for a duration longer than three years must be reviewed by BWSR staff and approved by the Assistant Director of Regional Operations prior to workplan approval.”
- Ineligible practices section: 1) Drainage law language simplified. 2) Permanent stormwater treatment activities added.

In addition to approving the policy, the board order also authorizes the fiscal year 2024 Clean Water Fund Competitive Grants Program and authorizes staff to finalize and issue a Request for Proposals. The Grants Program and Policy Committee reviewed these recommendations on May 22 and June 26, 2023 and recommends the attached policy and order to the board. **DECISION ITEM**

4. **Fiscal Year 2024 and 2025 Natural Resources Block Grants Authorization** – The purpose of this agenda item is to allocate Natural Resources Block Grants. The recommended grants reflect at 36.5%, one-time increase for the biennium, applied uniformly across all grants, using the existing allocation formula. The Grants Program & Policy Committee (GP&P) reviewed the recommendations at their May 22 meeting and recommended approval of the order to the board. **DECISION ITEM**
5. **Fiscal Year 2024 and 2025 Technical Service Area Grants Authorization** – The purpose of this agenda item is to allocate Technical Service Area (TSA) Grants. The recommended grants are consistent with allocations to each TSA except for the equipment funds which are rotated on an established schedule. The Grants Program & Policy Committee reviewed the recommendations at their May 22, 2023 meeting and recommended approval of the order to the board. **DECISION ITEM**

Central Region Committee

1. **North Fork Crow River Comprehensive Watershed Management Plan 2018-2028 Plan Amendment** – The North Fork Crow River Watershed Planning Partnership (Partnership) has developed an amendment to their Comprehensive Watershed Management Plan (Plan) to create a more usable document reflecting their priorities as well as update it to eliminate actions completed by those that are not directly implementing the Plan. This amendment will increase the efficiency as well as provide more transparency in the implementation efforts by the Partnership. **DECISION ITEM**

If you have any questions regarding the agenda, please feel free to call me at 651-539-2587. We look forward to seeing you on June 28th.

**BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD NORTH
ST. PAUL, MN 55155
WEDNESDAY, JUNE 28, 2023**

PRELIMINARY AGENDA

9:00 AM CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

ADOPTION OF AGENDA

MINUTES OF MAY 24, 2023 BOARD MEETING

PUBLIC ACCESS FORUM (10-minute agenda time, two-minute limit/person)

CONFLICT OF INTEREST DECLARATION

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 – Gerald Van Amburg
- Executive Director – John Jaschke
- Audit & Oversight Committee – Joe Collins
- Dispute Resolution and Compliance Report – Travis Germundson/Rich Sve
- Grants Program & Policy Committee – Todd Holman
- RIM Reserve Committee – Jayne Hager Dee
- Water Management & Strategic Planning Committee – Joe Collins
- Wetland Conservation Committee – Jill Crafton
- Buffers, Soils & Drainage Committee – Mark Zabel
- Drainage Work Group – Neil Peterson/Tom Gile

AGENCY REPORTS

- Minnesota Department of Agriculture – Thom Petersen
- Minnesota Department of Health – Steve Robertson
- Minnesota Department of Natural Resources – Sarah Strommen
- Minnesota Extension – Joel Larson
- Minnesota Pollution Control Agency – Katrina Kessler

ADVISORY COMMENTS

- Association of Minnesota Counties – Brian Martinson
- Minnesota Association of Conservation District Employees – Mike Schultz
- Minnesota Association of Soil & Water Conservation Districts – LeAnn Buck

- Minnesota Association of Townships – Eunice Biel
- Minnesota Watersheds – Jan Voit
- Natural Resources Conservation Service – Troy Daniell

NEW BUSINESS

1. Historical Context: Tribes – Melissa King and Craig Engwall – ***INFORMATION ITEM***

COMMITTEE RECOMMENDATIONS

Administrative Advisory Committee

1. Bylaws Update – John Jaschke – ***DECISION ITEM***

Grants Program and Policy Committee

1. Rock County Soil and Water Conservation District – Watershed Project Tracking Grant – Justin Hanson – ***DECISION ITEM***
2. Approval of FY23 Water Quality and Storage Pilot Grant Program Funding Recommendations – Rita Weaver – ***DECISION ITEM***
3. FY 2024 CWF Competitive Grants Policy and RFP Criteria – Annie Felix-Gerth – ***DECISION ITEM***
4. Fiscal Year 2024 and 2025 Natural Resources Block Grants Authorization – James Adkinson – ***DECISION ITEM***
5. Fiscal Year 2024 and 2025 Technical Service Area Grants Authorization – James Adkinson – ***DECISION ITEM***

Central Region Committee

1. North Fork Crow River Comprehensive Watershed Management Plan 2018-2028 Plan Amendment – Steve Christopher – ***DECISION ITEM***

UPCOMING MEETINGS

- Joint summer tour and meeting, August 23-24, 2023.

ADJOURN

**BOARD OF WATER AND SOIL RESOURCES
520 LAFAYETTE ROAD NORTH
LOWER-LEVEL BOARD ROOM
ST. PAUL, MN 55155
WEDNESDAY, MAY 24, 2023**

BOARD MEMBERS PRESENT:

Joe Collins, Jill Crafton, Jayne Hager Dee, Kurt Beckstrom, Rich Sve, Gerald Van Amburg, Ted Winter, LeRoy Ose, Kelly Kirkpatrick, Eunice Biel, Todd Holman, Ronald Staples, Mark Zabel, Katrina Kessler, MPCA; Jeff Berg, MDA; Steve Robertson, MDH; Katie Smith, DNR

BOARD MEMBERS ABSENT:

Joel Larson, University of Minnesota Extension; Neil Peterson, Carly Johnson

STAFF PRESENT:

John Jaschke, Rachel Mueller, Tom Gile, Travis Germundson, Henry Van Offelen, Chad Severts, Andrea Fish, Craig Engwall, Marcey Westrick

OTHERS PRESENT:

Jeff Berg, MDA; Mike Schultz, MACD; LeAnn Buck, MASWCD; Troy Daniell, NRCS; Mike Hirst, Keith Mykleseth, Jamie Beyer

Chair Gerald VanAmburg called the meeting to order at 9:00 AM

PLEDGE OF ALLEGIANCE

Jill Crafton requested to add the Rock County Soil and Water Conservation District Tracking Tool Grant item back on the agenda for discussion. John Jaschke suggested discussion take place during the Committee update.

23-30 **ADOPTION OF AGENDA** - Moved by Kurt Beckstrom, seconded by Joe Collins, to adopt the agenda as presented. ***Motion passed on a roll call vote.***

23-31 **MINUTES OF APRIL 26, 2023 BOARD MEETING** – Moved by Joe Collins, seconded by Kurt Beckstrom, to approve the minutes of April 26, 2023, 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

Tom Gile introduced Laura DeBeer, Southern Region Buffer and Soil Loss Specialist and Ethan Dahl, Northern Region Buffer and Soil Loss Specialist

ADMINISTRATIVE ITEM

Andrea Fish, Assistant Director for Strategy and Operations and Mike Nelson, Legislative Coordinator provided a 2023 Legislative Summary Overview.

Jill Crafton asked if the Tribal Liaison position will be working with the DNR Tribal Liaison. John Jaschke stated each agency has a Tribal Liaison and that they work together with MIAC and others. Jill stated she is appreciative of what came out of the Tax Committee with the increasing capacity funding for outstate watershed districts. Jill asked if the bonding money would help wetland replacement and if we could get some feedback on how the money is spent. John stated the new funding items will be brought to the respective committees and then to the board.

Kelly Kirkpatrick asked if they could speak more on the Climate Habitat Friendly Utilities Initiative. Andrea Fish stated the goal is for solar arrays and utility corridors to provide pollinator habitat through a grant and technical assistance process. John Jaschke stated a presentation can be provided to the board when more details are ready. Jill Crafton stated it would be nice to hear from Xcel Energy on what they're doing.

Chair Van Amburg noted it was decided that the Environment and Natural Resources Trust Fund will be brought to a ballot vote for renewal next year.

John stated that the Governor is signing several bills today at an event on the Capitol steps.

REPORTS

Chair & Administrative Advisory Committee – Chair Gerald Van Amburg reported EQB met last Wednesday. Stated the board received an update on the role of EQB in permitting genetically engineered organisms. The board heard an update from staff and consultants on the continuous improvement efforts for the Environmental Review Program. Stated the Administrative Advisory Committee met on May 15th to update the Per Diem Policy and the Bylaws on the agenda today.

Executive Director's Report - John Jaschke reported the process for the Strategic Plan input is underway; members will be contacted to schedule a meeting. Stated Patty Sweep HR Director has been delegated authorities by MMB.

John reviewed the Day of Packet that included Snap Shots, the Per Diem Policy and Bylaws with track changes versions.

Audit and Oversight Committee – Joe Collins reported the committee has not met.

Dispute Resolution and Compliance Report – Rich Sve reported the committee has not met. Travis Germundson reported there are presently four appeals pending. There have been no new appeals filed since last report. Travis noted that two of the previous decisions on restoration orders involving a landowner in Ottertail County has recently been appealed to the Court of Appeals under Statute 14.63. That involves the denial of their applications that were submitted to the LGUs. The appeals were placed in abeyance for the LGUs to decide on a no loss and exemption application. Those applications were denied by the LGU and notice was sent out electronically. Those two restoration orders were denied by BWSR since no additional information was submitted. There was no appeal of the LGUs decisions. The grounds for the petition for appeal is that BWSR improperly denied the petitioners appeals because the LGUs decisions were not properly noticed. Stated it will take about 8 months until a decision has been made.

Travis gave a Buffer Compliance Status Update.

Grants Program & Policy Committee – Todd Holman reported the committee met and the Rock County Soil and Water Conservation District Tracking Tool Grant item was tabled. Committee had questions and thought it warranted more discussion.

Jill Crafton stated it would be nice if someone from Rock County would have been there to speak on the importance of it and would have liked to have been in the conversations earlier.

Kelly Kirkpatrick asked why the item was tabled instead of moved to a certain date so they could get the components pulled together. Todd Holman stated the next meeting is scheduled for June 26th where the item will be brought back.

LeRoy Ose stated he didn't see a reason to table it.

Mark Zabel stated they wanted to have it be more specific that this was a developing model and a one-time funded project that others could incorporate and develop for their own use.

RIM Reserve Committee – Jayne Hager Dee reported the committee has not met.

Water Management & Strategic Planning Committee – Joe Collins reported the committee has not met.

Wetland Conservation Committee – Jill Crafton reported the committee has not met. At the last workshop it was stated there was going to be opportunities for input on what's being developed with Wetland Conservation Act (WCA) Rules. Jill would like to see more outreach be done.

Buffers, Soils & Drainage Committee – Mark Zabel reported the committee met on May 3rd in St. Cloud. There was a discussion around Multipurpose Drainage Management in particular its delivery to entities

that would use those funds and implement programs. They also talked about the relationship between the Buffer Soils and Drainage Committee and the Drainage Work Group and how they communicate and interact with the Drainage Authorities.

Tom Gile stated they brought the Multipurpose Drainage Management program to the committee to start conversations early.

Drainage Work Group (DWG) – Tom Gile reported the work group has not met and is planning to meet in June. The drainage registry portal that was proposed in the legislative session was not passed. The Legislature gave the work group a directive to work on notice requirements including the concepts of the drainage registry portal and to continue conversations on outlet adequacy.

AGENCY REPORTS

Minnesota Department of Agriculture – Jeff Berg reported Commissioner Petersen is at the Governor's bill signing. Stated they received \$7 million in funding for Forever Green, \$5 million in funding for soil health equipment, and \$9 million in funding for BMP loans. Through the CWF they received \$3 million to put towards Ag weather stations. They also received \$7 million for the Minnesota Ag Water Quality Certification Program. They will have funding for a new Climate Coordinator position.

Minnesota Department of Health – Steve Robertson reported the Legacy bill was signed with support for several key health department initiatives related to water. There will be support for private well testing. They received support to establish a beach monitoring portal to see if the places to go swimming are safe. Received a safe drinking water plan that is broad enough to encompass both public water systems and private well owners and users. Stated there is an increase in support for the Contaminants of Emerging Concern Program. There is support for lead service line work that includes a state match for federal dollars. Stated they have been interested in trying to advance solar installations and drinking water supply management areas.

Jill Crafton asked if there will be money to look at septic systems that are leaking or contaminating creeks etc. Steve stated there would have to be a concern with the drinking water. John Jaschke stated the Nutrient Reduction Strategy with the MPCA is being updated and is a statewide plan that has a potential cross connection.

Kelly Kirkpatrick stated she thinks the drinking water piece is key and there is much more we can do.

Minnesota Department of Natural Resources – Katie Smith reported significant investments in their water resource work. Received one-time general fund dollars as well as some increased permit fees in the areas of public water works with increased surcharges on water usage fees for water appropriation work. Stated they will be adding a Drainage Coordinator position to better assist with early coordination work. They will receive a portion of the increased water recreation fees that will be utilized for their water programs. They received \$10 million toward DNR managed lands to improve outdoor recreation and fish and wildlife habitat. They received \$1.7 million for invasive carp prevention and management. Stated DNR was given new enforcement authority.

Jill Crafton stated she would like to continue to have conversations with DNR on the Navigation and Ecosystem Sustainability Plan (NESP).

Steve Robertson asked with the additional enforcement authority they were given, if it's for violations on the appropriations front alone or if its broader. Katie stated it is broader.

Minnesota Extension – No report was provided.

Minnesota Pollution Control Agency – Katrina Kessler reported she was at the Governor’s bill signing this morning. Pleased with the outcome of the Environment Natural Resource Climate bills. Stated there is \$100 million in climate resiliency grants coming to the agency. A ban on PFAS was passed. Stated they can now integrate environmental justice into the programs of the agency.

ADVISORY COMMENTS

Association of Minnesota Counties – No report provided.

Minnesota Association of Conservation District Employees – No report provided.

Minnesota Association of Soil & Water Conservation Districts – LeAnn Buck reported SWCD Aid was achieved at Legislature. Stated that it’s not new money but new general fund revenue. \$79 million for watershed-based implementation funding was included in the CWF appropriations. Stated their Board of Directors supports the tracking tool. They are also supportive of the SWCD Erosion Control and Water Quality Program statutory changes. LeAnn stated they will continue looking at how to leverage federal dollars.

Minnesota Association of Townships – Eunice Biel reported the Township Tuesday call is on the first and third Tuesday of the month. There was a webinar May 22nd on USDOT grants. Minnesota Association of Township Town Law Review will be held June 14th. June 1st is the scholarship application deadline from Minnesota Association of Townships. Eunice shared Township 101 information.

Minnesota Watersheds – Jan Voit was unable to attend the meeting today. John stated their Summer Tour is in June and if any board members would like to attend to let Rachel know and she’ll work on registration.

Natural Resources Conservation Service – John Jaschke stated he met with LeAnn Buck and Troy Daniell where they spent time discussing the pathways available with the Inflation Reduction Act funding. Stated it was announced that the RCPP Regional Conservation Partnership Program application period started and is the first since the Federal Inflation Reduction Act was passed.

Chair Van Amburg called a recess at 10:55 a.m. and called the meeting back to order at 11:06 a.m.

COMMITTEE RECOMMENDATIONS

Northern Region Committee

Rainy-Rapid Comprehensive Watershed Management Plan – LeRoy Ose and Chad Severts presented Rainy-Rapid Comprehensive Watershed Management Plan.

The Rainy-Rapid Watershed Planning Partnership was approved for a One Watershed, One Plan planning grant in August of 2021 and established a Memorandum of Agreement between the planning partners for the purposes of writing a Comprehensive Watershed Management Plan in September of 2021. The partners include Lake of the Woods County and the Lake of the Woods Soil and Water Conservation District (SWCD).

The partnership held a 60-day review process that ended on March 24, 2023, and the required public hearing on April 11, 2023. The final draft of the updated Plan, a record of the public hearing, and copies

of all written comments were submitted to the state review agencies on April 18, 2023. The partnership has incorporated all of the agency and public comments received throughout the Plan development process. Final state review agency comments were submitted by May 2, 2023, and all agencies that submitted comments recommended approval.

The Northern Regional Committee met on May 3, 2023, to review the content of the Plan, State agency comments on the Plan, and to make a recommendation. The Committee recommends approval of the submitted Plan by the full Board.

**
23-32 Moved by LeRoy Ose, seconded by Jill Crafton, to approve the Rainy-Rapid Comprehensive Watershed Management Plan. ***Motion passed on a roll call vote.***

Red River Basin Commission Supplemental Grant Funding – Henry Van Offelen presented Red River Basin Commission Supplemental Grant Funding.

In 2021 the Legislature appropriated funds to the Board for grants to the Red River Basin Commission (RRBC) for water quality and floodplain management, including administration of programs. The RRBC has secured additional annual funding from the Province of Manitoba in an amount of \$50,000/year to address inflation. The RRBC has submitted a request to BWSR for supplemental funding to match the funding received from the Province of Manitoba.

The Northern Regional Committee (Committee) met May 3, 2023, to review and discuss the RRBC supplemental funding request and to make a recommendation of the Order authorizing supplemental grant funding to the Red River Basin Commission. The Committee recommends approval of the Order providing supplemental grant funding to the Red River Basin Commission by the full Board.

Jill Crafton stated the work in the Red River basin has been successful and recommends we pass this.

Chair Van Amburg stated they did a great job of education and bringing entities together.

**
23-33 Moved by Rich Sve, seconded by Kurt Beckstrom, to approve the Red River Basin Commission Supplemental Grant Funding. ***Motion passed on a roll call vote.***

Commissioner Kessler joined the meeting at 11:25 a.m.

Administrative Advisory Committee

Board Per Diem Policy Update – John Jaschke presented Board Per Diem Policy Update.

The current per diem policy was implemented in October 2018. A few changes to the policy have been proposed to ensure judicious use of state resources and provide clarity to board members about when claiming per diems.

Mark Zabel asked when this would go into effect. John stated it would take effect July 1, 2023.

Rich Sve asked if there were any changes to meal reimbursements. John stated reimbursement is driven by bargaining unit agreements and will be updated periodically in a separate process.

**
23-34 Moved by Rich Sve, seconded by Ted Winter, to approve the Board Per Diem Policy Update. ***Motion passed on a roll call vote.***

Bylaws Update – John Jaschke presented the Bylaws Update.

Proposed bylaws updates were reviewed by the Administrative Advisory committee on May 15, 2023.

Board members reviewed and discussed proposed changes.

Updates will be made and brought back to the June meeting.

Moved by Kelly Kirkpatrick, seconded by LeRoy Ose, to approve and adopt articles 1, 2, 3 of the bylaws and to bring back Article 4 for approval and adoption at the next meeting. ***Motion failed on a roll call vote.***

UPCOMING MEETINGS

- Central Region Committee meeting is scheduled for 2:30 PM, June 1, 2023 in St. Paul and by MS Teams.
- Next BWSR Meeting is scheduled for 9:00 AM, June 28, 2023 in St. Paul and by MS Teams.

Chair VanAmburg adjourned the meeting at 12:29 PM

Respectfully submitted,

Gerald Van Amburg
Chair

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Dispute Resolution/Compliance Report

Meeting Date: June 28, 2023

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Keywords for Electronic Searchability: Wetland Conservation Act Appeals/Buffer Compliance

Section/Region: Central

Contact: Travis Germundson

Prepared by: Travis Germundson

Reviewed by: _____ Committee(s)

Presented by: Rich Sve DRC Chair/Travis Germundson

Time requested: 5 minutes

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

None

LINKS TO ADDITIONAL INFORMATION

See attached report.

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

The report provides a monthly update on the number of appeals filed with the Board of Water and Soil Resources and summary on buffer compliance/enforcement actions statewide.

Dispute Resolution and Compliance Report

June 13, 2023

By: Travis Germundson

There are presently **four** appeals pending. There have been **no** new appeals filed since last report.

Format note: New appeals that have been filed since last report to the Board.
~~Appeals that have been decided since last report to the Board.~~

File 23-1 (2-27-23) This is an appeal of a WCA Restoration Order in Olmsted County. The appeal regards the impact of approximately 6,000 sq. ft. of wetland associated with a parking lot expansion project. *The appeal has been placed in abeyance and the Restoration Order stayed until the LGU makes a final decision on an after-the-fact replacement plan application.*

File 22-7 (12-6-2022) 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 turnaround areas located in a campground facility. The appeal has been remanded back to the Brown County to develop an adequate record that considers the written Technical Evaluation Panel Report. The 60-day deadline for remand proceedings has been extended.

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. The appeal has been placed in abeyance and the Restoration Order stayed for the submittal of a complete application. The time period to submit a complete application has been extended.

File 21-8 (12-17-21) This is an appeal of a WCA Restoration Order in Rock County. The appeal regards the alleged placement of tile lines through wetlands and DNR Public Waters. The petition request that the appeal be placed in abeyance for the submittal of an after-the-fact wetland application. *The appeal was placed in abeyance and the Restoration Order stayed for further investigation and submittal of an after-the-fact wetland application. An after-the-fact application for a no-loss was approved, which allows for the installation of non-perforated tile. The restoration/placement of this tile has yet to occur do to do DNR Public Waters permitting/approval. The time period on the stay of the Restoration Order has been extended.*

Summary Table for Appeals

Type of Decision	Total for Calendar Year 2022	Total for Calendar Year 2023
Order in favor of appellant		
Order not in favor of appellant	3	2
Order Modified	1	
Order Remanded	2	1
Order Place Appeal in Abeyance	5	
Negotiated Settlement		
Withdrawn/Dismissed	1	

Buffer Compliance Status Update: BWSR has received Notifications of Noncompliance (NONs) on 103 parcels from the 12 counties BWSR is responsible for enforcement. Currently there are five active Corrective Action Notices (CANs) and 3 Administrative Penalty Orders (APOs) issued by BWSR that are still active. Of the actions being tracked over 95 of those have been resolved.

*Statewide 35 counties are fully compliant, and 51 counties have enforcement cases in progress. Of those counties (with enforcement cases in progress) there are currently 424 CANs and 77 APOs actively in place. Of the actions being tracked over 2,459 of those have been resolved.

**Disclaimer: These numbers are generated monthly from BWSR's Access database. The information is obtained through notifications from LGUs on actions taken to bring about compliance and may not reflect the current status of compliance numbers.*

NEW BUSINESS

1. Historical Context: Tribes – Melissa King and Craig Engwall – ***INFORMATION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Historical Context: Tribes

Meeting Date: June 28, 2023

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information Non-Public Data

Keywords for Electronic Searchability: Tribal Nations, Sovereignty, History

Section/Region: Regional Operations, Central

Contact: Melissa King

Prepared by: Melissa King

Reviewed by: None Committee(s)

Presented by: Melissa King, Craig Engwall

Time requested: 30 minutes

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

None

LINKS TO ADDITIONAL INFORMATION

- [MnDOT Indian Country Guidance](#)
- [American Indians, Indian Tribes, and State Government](#)
- [Tribal-State Relations Training Classroom Recommended Resources](#)

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

As part of continuous learning, a summary will be shared of historical events that have shaped and impacted Tribal Nations that share geography with Minnesota.

Indian Country Guidance

Guidance for MnDOT's work in Indian country

Last revised February 24, 2020

Version 3.0

Tribal Affairs

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Introduction

This guidance is a resource for MnDOT employees whose work responsibilities involve actual or potential actions that may affect tribes or tribal interests. This document offers technical guidance and information to MnDOT staff on MnDOT policy, procedures, and requirements for work that impacts Indian country. The purpose of this manual is to ensure that MnDOT employees conduct their work in a consistent and uniform manner that follows [MnDOT’s Tribal Nations policy](#).

This guidance document is divided into four sections: 1) Technical Guidance, 2) Jurisdiction in Indian country, 3) History and Identity of Minnesota Indian Tribes, and 4) Glossary.

Technical Guidance	Jurisdiction in Indian Country	History and Identity of Minnesota Indian Tribes
The Technical section provides guidance for day-to-day work impacting Indian country, information on how to coordinate with tribes, and contacts and resources to help with questions. If the document doesn’t provide guidance in a particular area, contact MnDOT’s Director of Tribal Affairs or Office of Chief Counsel for assistance.	This section provides background information about jurisdiction in Indian country (i.e., which government entities have the power to make and enforce law in Indian country). This section also covers terms for land ownership in Indian country.	This section covers the following topics: the history of the federal government’s Indian policy; Indian Tribes in Minnesota; State of Minnesota and MnDOT policies, trainings, and coordination efforts with tribes.

We encourage you to review the History and Identity of Minnesota Indian Tribes section as it provides context to the Technical and Jurisdiction Guidance sections.

Note that this guidance document uses the term “Indian” rather than “Native American.” “Indian” is generally the term used in the law. Use of the term “Indian” is also common on Minnesota’s reservations. Generally, you can feel comfortable using either the term “Indian,” “American Indian,” or “Native American.” If an individual expresses a preference for one term over the other, you should respect that preference.

Technical Guidance (Section I)

The information in this section is technical in nature and reflects specific policy decisions made by MnDOT’s leadership. Technical guidance may change over time and new information will be added as it becomes

available. Please refer to the [Contacts and Resources](#) section of this document for any unanswered questions and/or further specifics.

Maps

How do I know when I'm working in Indian country?

MnDOT has a tri-party map that can show you where reservation boundaries and some off-reservation tribal trust land is located. The map is a planning level document. It is not a substitute for title work.

The map does *not* show off-reservation restricted allotments or allotted trust land even though this type of land is Indian country. This is the data set that we have available right now, but if you become aware that you are working on an off-reservation restricted allotment or allotted trust land you are in Indian country and you should contact MnDOT's Director of Tribal Affairs and Office of Chief Counsel with any questions.

Which map do I use?

You can use MnDOT's [map on iHUB](#), but it is also okay to use other maps to get information. Remember that a map is never a substitute for title work; the only way to know for sure what type of land you are looking at is to do title work. MnDOT's Office of Land Management does title work for MnDOT.

How do I know for certain that land is tribal land?

Only title work tell you for sure how land is owned. MnDOT's Office of Land Management does title work for MnDOT. Be aware that different laws define "tribal lands" differently for different purposes; some laws may use words such "Indian country" or "Indian lands" rather than the word "tribal lands."


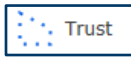
Which boundaries (federal, state, tribal) do I use?

There are very few differences between the federal, state, and tribal boundaries; most of the differences are a result of minor mismatching mapping data. With the exception of White Earth, there are no substantial differences between the three sets of boundaries. The largest of all the boundaries is used for purposes of coordinating with the tribe. If you have a question about which boundaries to use for a particular purpose please ask MnDOT's Director of Tribal Affairs and Office of Chief Counsel.


Permits

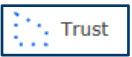
When should outdoor advertising permits be issued in Indian country?

Use the table below to help determine if a permit may or may not be issued.

Type of Land	Description of Land	What to do	How to locate this type of land
Reservation	Areas managed by tribal governments; land that was “reserved” for a tribe when other land was given away by treaty.	Do not issue outdoor advertising permits	Use the map on iHUB. 
Tribal Trust Land outside a reservation	The federal government through the Bureau of Indian Affairs holds title to the land for the benefit of the tribe.	Do not issue outdoor advertising permits	Use the map on iHUB. 
Fee land owned by a tribe outside a reservation	Land can be freely sold and transferred. The federal government is not involved. This is the most common type of land ownership in the United States.	Issue outdoor advertising permits	Does not appear on iHUB map . Location would require title search.
Tribal Restricted Fee Land outside a reservation	Tribe owns the land, but the federal government places certain restrictions on the land (restrictions against alienation and encumbrance – sale, easements, etc.).	Do not issue outdoor advertising permit. Contact Director of Tribal Affairs and/or Office of Chief Counsel	Does not appear on iHUB map . Location would require title search.
Restricted Allotment outside a reservation	An individual Indian owns the land, but the federal government places certain restrictions on the land (restrictions against alienation and encumbrance – sale, easements, etc.).	Do not issue outdoor advertising permit. Contact Tribal Liaison and/or Office of Chief Counsel	Does not appear on iHUB map . Location would require title search.
Allotted Trust Land outside a reservation	The federal government through the Bureau of Indian Affairs holds title to the land for the benefit of an individual Indian.	Do not issue outdoor advertising permit. Contact Director of Tribal Affairs and/or Office of Chief Counsel	Does not appear on iHUB map . Location would require title search.

When should event permits be issued in Indian country?

Type of Land	Description of Land	What to do	How to locate this type of land
Reservation	Areas managed by tribal governments; land that was “reserved” for a tribe when other land was given away by treaty.	First coordinate with tribe. Okay to issue permit when requested by tribe. Director of Tribal Affairs if coordination not successful.	Use the map on iHUB. 

Type of Land	Description of Land	What to do	How to locate this type of land
Tribal Trust Land outside a reservation	The federal government through the Bureau of Indian Affairs holds title to the land for the benefit of the tribe.	First coordinate with tribe. Okay to issue permit when requested by tribe. Contact Director of Tribal Affairs if coordination not successful.	Use the map on iHUB. 
Fee land owned by a tribe outside a reservation	Land can be freely sold and transferred. The federal government is not involved. This is the most common type of land ownership in the United States.	Process permit using normal procedures.	Does not appear on iHUB map . Location would require title search.
Tribal Restricted Fee Land outside a reservation	Tribe owns the land, but the federal government places certain restrictions on the land (restrictions against alienation and encumbrance – sale, easements, etc.).	First coordinate with tribe. Okay to issue permit when requested by tribe. Director of Tribal Affairs if coordination not successful.	Does not appear on iHUB map . Location would require title search.
Restricted Allotment outside a reservation	An individual Indian owns the land, but the federal government places certain restrictions on the land (restrictions against alienation and encumbrance – sale, easements, etc.).	First coordinate with tribe. Okay to issue permit when requested by tribe. Contact Director of Tribal Affairs if coordination not successful.	Does not appear on iHUB map . Location would require title search.
Allotted Trust Land outside a reservation	The federal government through the Bureau of Indian Affairs holds title to the land for the benefit of an individual Indian.	First coordinate with tribe. Okay to issue permit when requested by tribe. Contact Director of Tribal Affairs if coordination not successful.	Does not appear on iHUB map . Location would require title search.

How does MnDOT handle the Junkyard Act in Indian country?

Enforcement of the Junkyard Act is complex and dependent on particular facts and circumstances. If you encounter a Junkyard Act issue within reservation boundaries, on an off-reservation allotment, or on off-reservation trust land, before taking any action to enforce the Junkyard Act contact MnDOT’s Director of Tribal Affairs and Office of Chief Counsel.

How does MnDOT handle campaign signage in the right-of-way in Indian country?

Please coordinate with the tribe prior to the election cycle to discuss how campaign signage in the right-of-way will be handled. If coordination is unsuccessful please contact MnDOT's Director of Tribal Affairs.

Working with the Tribes

MnDOT employees are responsible for integrating the [Tribal Nations policy](#) into their programs, projects and planning as it relates to their work. The purpose of the policy is to develop, improve, and maintain collaborative relationships between MnDOT and Tribal Nations. MnDOT's Tribal Nations Policy defines three important terms for purposes of working with tribes: "consultation," "collaboration," and "coordination."

- "Consultation" means "Government-to-government communication in a timely manner by all parties, about a proposed or contemplated decision in order to: secure meaningful tribal input and involvement in the decision-making process; and advise the tribe of the final decision and provide an explanation."
- "Collaboration" means "All parties involved in carrying out planning and project development work together in a timely manner to achieve a common goal or objective."
- "Coordination" means "Each party: shares and compares in a timely manner its transportation plans, programs, projects and schedules with related plans, programs, projects, and schedules of the other parties; and adjusts its plans, programs, projects, and schedules to optimize the efficient and consistent delivery of transportation projects and services."

For day-to-day activities, collaborating and coordinating with a tribe is often as simple as making a phone call to discuss something with your counterpart in a tribal government. Larger or more complex issues may involve consultation between MnDOT's Commissioner and elected officials of a tribe.

The table below offers guidance on how to start the coordination or consultation process. If you still aren't sure how to proceed in working with a tribe, or who to contact at a tribe, you can contact MnDOT's Director of Tribal Affairs for guidance.

	COORDINATION ON OR NEAR TRIBAL LANDS	CONSULTATION
WORK TOPIC	Routine matters which may involve work such as mowing, haying, right-of-way, permits, signs, cultural resources, pesticide use, and billboards.	Urgent matters, e.g. governor or legislative inquiry
ACTION	<ol style="list-style-type: none"> Contact tribal staff who work in the relevant area. If you're not sure who that is, then contact the tribe's ACTT (Advocacy Council for Tribal Transportation) representative. If concerns arise, contact MnDOT's Director of Tribal Affairs. <p><i>NOTE: When coordinating with tribes please work with the MnDOT subject matter expert as necessary.</i></p>	<ol style="list-style-type: none"> Contact District Engineer Contact MnDOT's Director of Tribal Affairs

Contacts and Resources

MnDOT Contacts

Tribal Affairs

[Levi Brown](#)

MnDOT Director of Tribal Affairs

Office of Tribal Affairs

(651) 236-7048

Contact for coordination with a tribe on a current or ongoing project, specific concerns on projects, or for consultation matters.

Chief Counsel's Office

[Lindsey Hanson](#)

MnDOT Associate Legal Counsel

(651) 366-3144

Contact for legal questions.

Tribal Transportation Contacts

Working with the tribes requires knowing the appropriate tribal transportation contact for each tribe. Refer to tribal government websites to find contact information. Additionally, you can find information at MnDOT's Tribes and Transportation website [here](#).

If you need to coordinate with the Ho-Chunk Nation you should contact MnDOT's Director of Tribal Affairs.

Jurisdiction in Indian Country (Section II)

This section provides background information about what kinds of laws apply on reservations and in Indian country outside of reservations. This section should not be used to make a determination about how a specific

law or program that you work with applies or doesn't apply on a reservation or in Indian country generally. If your question is not addressed in the Technical Guidance section of this document, then these types of specific questions need to be brought to the attention of MnDOT's Director of Tribal Affairs and/or Office of Chief Counsel for specific research, analysis, and guidance.

Concepts necessary to understand jurisdiction in Indian country

To understand jurisdiction in Indian country, there are a few basic concepts that you need to know about first. To that end, this section will explain that tribes are sovereign nations and that "Indian" is a legal status, not just a race. This section will also explore the definitions of the terms "jurisdiction" and "Indian country," as well as how jurisdiction in Indian country impacts MnDOT's work.

This background information is necessary to understand that this guidance does not describe different rules for people based on membership in a particular racial group. Rather, it describes how laws apply differently to Indians and/or tribal members based on the tribe's political status as a sovereign nation and the legal status of being Indian and/or a tribal member.

Tribes are sovereign nations

Tribes are sovereign nations. Sovereignty is the authority of a political entity to govern itself. A tribe determines its own government structures and laws. Most tribes in Minnesota have two branches of government, a legislative branch that enacts the tribal code (law) – often led by an executive who might be called a chairperson, chief, or executive director – and a judicial branch called tribal court. The Mille Lacs Band of Ojibwe also has an executive branch, so the Mille Lacs Band has three branches of government. It is important to remember that there are 12 tribes in Minnesota and no two are exactly the same; tribes may share common characteristics but each tribe is an independent sovereign government. You can learn more about a particular tribe's government structure by visiting the tribe's website. See the [Indian Tribes in Minnesota](#) section of this document for more information and links to these websites.

"Indian" is a legal status, not simply a race

You might think of "Indian" as a race. It is true that individuals can self-identify as belonging to the race "American Indian" on Census Bureau surveys. However, "Indian" is also a legal status. Statutes and case law (decisions made by courts) define "Indian" in different ways for different purposes. For example, the Indian Child Welfare Act defines "Indian Child" as someone who is (1) unmarried, (2) under 18, and (3) a tribal member, or eligible for tribal membership and the biological child of a tribal member. If a person meets this definition of "Indian Child," then the Indian Child Welfare Act law applies to that person. An individual might meet the definition of "Indian" in some laws, but not others.

Some Indians are eligible for membership in a tribe. This is called being a tribal member, being enrolled, or being an enrollee. All these terms mean the same thing. Each tribe decides what the requirements for membership are. Common requirements for tribal membership include being a descendant of a tribal member or having a

certain tribal blood quantum (a certain percentage of ancestors who belong to the tribe). Tribal members have a tribal ID card which looks similar to a state ID card. Not all Indians are a member of a tribe. Simply because an Indian lives on a reservation does not mean that they are a member of a tribe. Tribal members live on reservations and outside of reservations.

Just like meeting the definition of “Indian” in a law changes how that law applies to an individual, being a tribal member is a legal status that changes how state law, federal law, and tribal code apply to an individual.

What is jurisdiction?

Jurisdiction is the power and authority of a government or court to make or enforce law. The federal government, state government, and tribal governments all have different jurisdiction (i.e., different powers to make and enforce law). When determining what kind of jurisdiction a government has, where you are located geographically is important. This concept is already familiar to you. For example, you know that when you are in Minnesota the laws of the State of Minnesota – rather than the laws of Wisconsin – apply because of where you are. In a similar manner, when we talk about a tribe or a state’s authority to make or enforce law (jurisdiction) it is important to consider whether you are on a reservation, outside a reservation boundary in Indian country, or outside Indian country.

What is Indian country?

State and federal law do not always apply in Indian country. Indian country includes reservations, but it also extends beyond reservation boundaries.

Here is a simplified version of the most commonly used definition of Indian country: reservations, allotments, and “dependent Indian communities.”¹

To understand this definition of Indian country, you need to know a little bit about different types of land ownership in Indian country.

- *Trust land*: A trust exists when one party – the trustee – has legal ownership of something of value (like land) for the benefit of another party (the beneficiary). The trustee has certain responsibilities to the beneficiary, including acting in the beneficiary’s interest. The federal government has legal title over trust land and carries out its responsibilities as trustee through the Bureau of Indian Affairs (BIA). Individual Indians or tribes are the beneficiaries in this trust relationship. Trust land can be held in trust for an individual Indian (this is called allotted trust land), or it can be held in trust for a tribe (this is called tribal trust land). Most trust land is inside reservation boundaries, but it can also be found outside of reservations.
- *Restricted fee land*: Restricted fee land is not held in trust by the federal government, but the BIA still has to give permission to encumber (e.g., place a lien or easement on it) or alienate (sell or transfer) the

¹ You can find the complete – more nuanced – definition of Indian country at 18 U.S.C. § 1151.

land. Restricted fee land owned by an individual Indian is called a restricted allotment. Restricted fee land can also be owned by a tribe. Most restricted fee land is inside reservation boundaries, but it can also be found outside of reservations.

- *Dependent Indian communities:* This is land that is not a reservation or allotment but is federally supervised and set aside for the use of Indians. When a court decides whether land is a dependent Indian community it looks at things like whether the land is trust land, whether government agencies treat the area like Indian country when making and enforcing law, and whether the area is cohesive (e.g., there are common economic pursuits in the area, common interests, or common needs of the people who live there). Most dependent Indian communities are found on tribal trust land.
- *Unrestricted fee land:* This is the most common type of land ownership in the United States. This land can be freely sold and transferred and passed down to heirs. No permission is needed from the BIA. Individual Indians and tribes can own unrestricted fee land. Non-Indian can also own unrestricted fee land. Unrestricted fee land outside a reservation is not Indian country. Unrestricted fee land inside a reservation is Indian country.

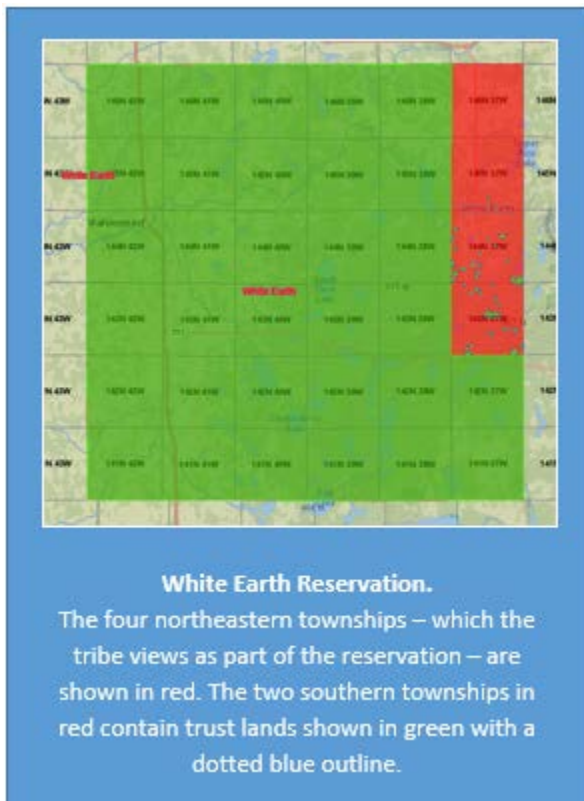
In summary, when you are working on a reservation and when you are working outside a reservation on any trust land or restricted fee land, you should have questions about whether or not State law applies. MnDOT's Director of Tribal Affairs and Office of Chief Counsel are resources to help you answer these questions.

Reservation Boundaries

A reservation is land that is managed by a tribe. Reservations can have a "checkerboard" of land ownership that can include all of the types of land discussed above. The term "reservation" comes from tribes "reserving" land for themselves after larger portions of land were ceded (given) to the federal government through treaties; although modern usage of the word is broader. Some reservations were created by treaties, while others were created by federal statutes or federal executive orders.

It is important to know where the boundaries of a reservation are because – as this document discusses in the coming sections – the state and tribe have different powers to make and enforce law inside reservation boundaries and outside reservation boundaries. The federal government, state government, and tribal governments sometimes have different beliefs about where the boundaries of a reservation are. These differing beliefs sometimes complicate MnDOT's work.

MnDOT staff in District 2 should be aware that there are different views about the boundaries of the White Earth Reservation. The tribe's position is that the reservation includes four northeastern townships. The State of Minnesota and federal government take the position that– with the exception of trust land in this area – the four northeastern townships are not part of the reservation. If any issues arises in this area, please contact MnDOT's Director of Tribal Affairs.



MnDOT staff in District 3 and 1 should be aware that there is a disagreement about boundaries between Mille Lacs County and the tribe. If you have questions about this, or if an issue arises, please contact MnDOT’s Director of Tribal Affairs.

Where does MnDOT fit into all this?

MnDOT is a government agency in the State of Minnesota’s executive branch. As a government agency, MnDOT carries out the laws of the State of Minnesota. MnDOT’s authority to do its work only extends as far as the State of Minnesota’s authority to make and enforce laws. As a MnDOT employee you would not want to act outside MnDOT’s legal authority and try to enforce Minnesota laws in Wisconsin. In a similar way you would not want to act outside MnDOT’s legal authority to try to enforce a Minnesota law in Indian country if that Minnesota law does not apply in Indian country. Maybe you don’t think of your authority to do your everyday job as coming from the law, but the authority of executive branch agencies, like MnDOT, always stems from the law. So chances are that – at least in some ways – the authority you need to do your job also comes from the law. Therefore, when you are doing work in Indian country it is important for you to ask: Which law(s) give MnDOT authority to do this work? Do these law(s) apply in Indian country? These are questions that MnDOT’s Office of Chief Counsel can help you answer.

With this background understanding we can now begin to discuss jurisdiction in Indian country

State jurisdiction in Indian country

State laws do not apply in Indian country to the same extent they apply outside Indian country. However, there are some State laws that do apply in Indian country. On most reservations, the State of Minnesota has much broader power to enforce criminal-prohibitory laws than it does to enforce civil-regulatory laws.

- Civil-regulatory laws are laws that regulate conduct; these laws tell you that if you are going to do something you have to do it a certain way.
- Criminal-prohibitory laws tell you that you can't do something at all.

For example, Minnesota has laws that tell you that if you drive you must have a license and you must wear your seat belt. These are civil-regulatory laws. Minnesota also has laws that tell you that you can't assault someone. These laws do not tell you what rules to follow if you are going to assault someone – they tell you that you cannot assault someone – so they are criminal-prohibitory laws.

The table below provides some examples of criminal-prohibitory laws and civil-regulatory laws.

Criminal-Prohibitory	Civil-Regulatory
Marijuana possession (more than a small amount)	Driving after suspension (suspended for failure to pay child support)
Obstruction of legal process	No proof of insurance/no insurance
Driving after cancellation as inimical to public safety (cancelled due to multiple DWI offenses)	Driving after revocation (revoked for failure to provide proof of insurance)
Driving after revocation (revoked because of DWI)	Expired registration
Fifth-degree assault	No driver's license/expired driver's license
Disorderly conduct	Speeding (petty misdemeanor)
Underage drinking	Failure to wear seatbelt
Predatory offender registration	No child restraint seat
	Failure to yield to an emergency vehicle

Table reproduced from MN House Research Department, [Indians, Indian Tribes, and State Government](#) (January 2017).

Most laws that impact MnDOT's work are civil-regulatory laws. State civil-regulatory laws only apply within reservation boundaries in two circumstances:

1. Where the U.S. Congress has specifically given the state(s) authority to make and enforce that law, or that type of law, within reservation boundaries; OR
2. Where the state law in question is **not federally preempted** and where the state law in question **does not unlawfully infringe** on the right of Indians living on reservations to make their own laws and be ruled by them.

- A state civil-regulatory law can be **federally preempted** in three ways:
 - (1) When a federal law expressly says the state law is preempted;
 - (2) When the federal government so heavily regulates a particular topic that there is no room for the state law; or
 - (3) Where the state law conflicts with federal policies or congress's purpose in making a specific law. When a court decides whether this type of preemption exists the court compares the federal government and tribal interests to the state's interest and decides which set of interests is stronger. Both tribes and the federal government have a shared interest in promoting tribal sovereignty, self-sufficiency, and economic development that the court will consider. If the federal government and tribal interests are stronger than the state's interests, then the law is federally preempted.

- Even if a state law is not federally preempted it still cannot be applied on a reservation if it **unlawfully infringes** on the right of Indians living on reservations to make their own laws and be ruled by them. Courts decide what laws do or do not "unlawfully infringe" in this way. If a civil-regulatory law is being enforced against a tribal member on their reservation then there is a good chance that it unlawfully infringes.

In summary, the available set of court cases gives us some general practical guidance about this:

- Minnesota's civil-regulatory laws can almost never be enforced against a tribal member on their reservation, but these laws are often enforceable against non-Indians on reservations.
- There are not many court decisions that tell us how civil-regulatory laws apply to non-member Indians on reservations, but state civil-regulatory laws are more likely to apply to non-member Indians on reservations than tribal members on the reservation in which they are enrolled.

But what about Indian country that goes beyond reservation boundaries? Remember, our definition of Indian country includes not just reservations but also allotments and dependent Indian communities. The law is not as clear about what limits there are on a state's civil-regulatory jurisdiction in Indian country outside reservation boundaries, but there are likely some limits to state civil-regulatory jurisdiction in off-reservation Indian country.

Outside Indian country, state civil-regulatory laws fully apply to Indians with very few exceptions. The few exceptions relate to off-reservation hunting and fishing rights that come from treaties (treaties are federal law).

Federal jurisdiction in Indian country

The U.S. Congress has the power to apply any law in Indian country. In enacting laws that apply to Indian country Congress must not violate the Constitution and the laws it enacts must be rationally related to its unique trust obligations to tribes, but these are the only limits on Congress's power over Indian affairs.

Therefore, in determining whether a federal regulatory law applies in Indian country the question is not “Can Congress apply this federal law in Indian Country?” Rather, the question is, “Has Congress chosen to apply this federal law in Indian country?” While most federal laws apply on reservations and in Indian country generally, there are some limited exceptions. This topic is complex. If a question on this topic arises, please contact MnDOT’s Office of Chief Counsel.

Tribal jurisdiction in Indian country

Each tribe has its own set of laws. It is possible for both the tribe and the state and/or federal government to have jurisdiction over the same thing. This is called concurrent jurisdiction. A tribe has jurisdiction over its tribal members on its reservation except in areas where Congress specifically says otherwise.

A tribe has jurisdiction over non-Indians on a reservation when Congress says it does. For example, in the Clean Air Act, Congress gives authority to tribes to regulate air quality on reservations. A tribe also has jurisdiction over non-Indians in both of the following instances:

- (1) If the non-Indian has entered a **consensual relationship with the tribe or tribal members**, then the tribe can regulate some conduct of the non-Indian. A consensual relationship exists when the non-Indian engages in commercial dealings, contracts, leases, or other similar arrangements with a tribe or tribal members. For example, one federal appeals court said that a non-Indian company entered a consensual relationship with a tribe when it entered a contract with the tribe to lease land for mineral production. The consensual relationship must be private; this might mean that a state agency like MnDOT is not legally capable of having this kind of consensual relationship with a tribe. Additionally, the conduct of the non-Indian that the tribe regulates must be connected to the consensual relationship. For example, if a non-Indian rents a house on a reservation from a tribe, the non-Indian may be subject to the tribe’s landlord-tenant laws, but not necessarily the tribe’s other laws.
- (2) When the non-Indian’s **conduct threatens or has some direct effect** on the political integrity, the economic security, or the health or welfare of the tribe, then the tribe has jurisdiction over the non-Indian. Based on the U.S. Supreme Court’s decisions so far, this exception is narrow, meaning that it will rarely exist.

If either one of these instances exists, then the tribe has jurisdiction over the non-Indian which means that at least some of the tribe’s regulatory laws apply to the non-Indian. For the most part, tribes cannot make and enforce law outside Indian country. One exception to this general rule is that tribes may regulate tribal members exercising treaty-based hunting and fishing rights outside Indian country.

Summary: Jurisdiction in Indian country

Here are some key points to take away:

- Minnesota’s civil-regulatory laws (laws that regulate, but do not prohibit conduct) very rarely apply to a tribal member when the tribal member is on the reservation in which they are enrolled.
- Minnesota’s civil-regulatory laws often apply to non-Indians on reservations.
- In some circumstances local governments and tribal governments may have agreed to govern in a certain manner as to their role in jurisdiction in their common geographical areas.
- Federal laws usually apply to Indians and non-Indians on reservations, but there are some exceptions.
- Sometimes both state law and tribal code on the same issue apply at the same time.
- Tribal code sometimes, but rarely, applies to a non-Indian on a reservation. Tribal code applies to tribal members on reservations.
- There are some limits on the application of state civil-regulatory law in Indian country outside reservations (restricted allotments and allotted trust land, and dependent Indian communities which are usually found on trust land).
- Figuring out whether a state or federal law applies on reservations and in Indian country is complicated. This makes coordinating with tribes very important. Coordinating with tribes helps avoid confusion and costly, time-consuming litigation. MnDOT’s Director of Tribal Affairs is an important resource for coordinating with tribes.
- Do not use this manual or summary to decide whether or not a particular law applies on a reservation or in Indian country generally. Questions about how a law applies in Indian country should be addressed with MnDOT’s Office of Chief Counsel.

History and Identity of Minnesota Indian Tribes (Section III)

This section covers the history of the federal government’s Indian policy, and Indian tribes in Minnesota. This information provides context that will help you understand the first two sections of the guidance document. It might also prompt questions. Ask MnDOT’s Director of Tribal Affairs and Office of Chief Counsel about any question you have.

History of the federal government’s Indian policy

The federal government’s overall policy towards Indian tribes has shifted numerous times since European settlers first came to what is now the United States. This section provides a broad outline of these policy changes. Knowing a little bit about this history makes it easier to understand land ownership and jurisdiction in Indian country today.

Pre-1789

When European settlers came to what is now the United States, Indian tribes were already present. These tribes were sovereign nations.

Treaties between sovereign nations (c. 1789-1828)

When the United States was founded, Indians were not citizens of the United States. Therefore, the United States interacted with tribes as foreign nations and reached agreements with tribes by making treaties. Treaties are still federal law today.

Visit the online exhibit [Why Treaties Matter](#) to learn more about treaties in Minnesota.



Dakota/Ojibwe Land Cession Treaties

(affecting present-day Minnesota)

- 1805: Dakota
- 1825 & 1830: Multinational
- 1837: Ojibwe; Dakota
- 1847: Ojibwe
- 1851: Dakota
- 1854: Ojibwe
- 1855: Ojibwe
- 1858: Dakota
- 1863 & 1864: Ojibwe (Mississippi)
- 1863 & 1864: Ojibwe (Red Lake)
- 1866: Ojibwe (Bois Forte)
- 1867: Ojibwe

Removal and relocation (c. 1828-1887)

As the number of settlers increased and settlement expanded westward, the federal government implemented a policy of removing and relocating Indian tribes. A major driver of this policy was The Indian Removal Act (1830). This Act gave the President authority to give unsettled lands west of the Mississippi River to tribes in exchange for land further east that had already been settled by non-Indians. The federal government entered into many treaties with tribes during this time to accomplish its goal of removal and relocation. The areas that were “reserved” for Indians in treaties came to be known as reservations. Some tribes agreed to move west, but others were unwillingly removed. The federal government also broke numerous treaties; as a result, many tribes were moved several times. The Trail of Tears is a well-known example of forced removal.

Allotment and assimilation (c. 1887-1934)

The federal government's policy towards Indians began to change in the late 1800s from removal and relocation to allotment and assimilation. Congress passed the General Allotment Act (GAA) – also known as the Dawes Act – in 1887. Prior to the GAA, land on reservations was owned by the tribe rather than individual Indians. The GAA authorized the President to divide tribal land into “allotments” (parcels of land) for individual Indians. Any “leftover” land was then opened up for settlement by non-Indians. The GAA specified that land allotted to individual Indians was held in trust (i.e., the federal government owned the land and managed it for individual Indians) for 25 years, and then the individual Indian was given a deed to the land. The end result was that – in addition to the loss of the “leftover” land – many tribes lost land after the 25 year time period when it was sold to non-Indians or lost to tax forfeiture. The Nelson Act of 1889 is an allotment era policy specific to Minnesota. The federal Nelson Act relocated Anishinabe (Ojibwe/Chippewa) tribes in Minnesota to the White Earth Reservation so that additional Indian lands could be given to settlers. In 1924 by an act of Congress all Indians became citizens of the United States.

Reorganization (c. 1934-1953)

In 1934, the federal government's Indian policy changed again with the passage of the Indian Reorganization Act (IRA). The IRA stopped the allotment process, returned unsold “leftover” land to tribes, extended the 25 year trust period for allotted land indefinitely, authorized the addition of land to reservations, and created reservations for tribes that had lost all of their land during the era of allotment and assimilation.

Termination (c. 1953-1968)

In 1953, the federal government began adopting a policy of termination toward Indian tribes. Congress ended its trust relationship with over one-hundred tribes; these tribes were told to stop exercising sovereign powers and to give tribal land to individual members. Many reservations were eliminated completely and the federal government got full power over the land. During this time Congress also passed [Public Law 280](#) which gave some states – including Minnesota – criminal jurisdiction on some reservations and jurisdiction over civil court cases involving Indians on some reservations. (Note that Public Law 280 never gave Minnesota any jurisdiction on the Red Lake Reservation. Public Law 280 also does not give the State of Minnesota criminal jurisdiction on the Bois Forte Reservation.) Public Law 280 also gave additional states the option to get this jurisdiction by passing a state law. During the era of termination, the federal government also encouraged Indians to move off of reservations and to urban areas with offers of job training and housing assistance.

Self-determination (c. 1968-Present)

From the late 1960s to the present the federal government's Indian policy has shifted away from termination and towards tribal self-determination and an affirmation of tribal sovereignty. The policy of tribal self-determination has been recognized by numerous Republican and Democratic Presidents. In 1968, the federal government began requiring states to get consent from tribes if the state wanted to get additional jurisdiction over reservations under Public Law 280. The federal government has restored the federal recognition of most tribes that were terminated during the termination era. Congress has also passed numerous laws recognizing

tribal self-determination. One well-known example of this is the Indian Child Welfare Act (1978) which – in most cases – requires a state to transfer a foster care placement or adoption case involving an Indian child to the tribe when the tribe or a parent requests the case transfer.

Indian tribes in Minnesota

MnDOT District	Reservations/Tribal Lands
1	Bois Forte, Leech Lake, Fond du Lac, Grand Portage, Mille Lacs
2	Leech Lake, Red Lake, White Earth
3	Leech Lake, Mille Lacs
4	White Earth
6	Prairie Island, Ho-Chunk
7	None (However, note that the annual Dakota 38 Memorial Ride occurs in District 7.)
8	Lower Sioux, Upper Sioux
Metro	Shakopee Mdewakanton

There are twelve federally recognized tribes with eleven reservations in Minnesota. Chippewa tribes, also called Ojibwe or Anishinabe tribes, are located in the northern part of the State. Minnesota’s Dakota Sioux tribes are located in the southern portion of the State. Minnesota is also home to the Minnesota Chippewa Tribe (MCT). The Minnesota Chippewa tribe is a federally recognized tribal government for its member tribes (Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs, and White Earth). In addition, Minnesota contains lands owned by the Ho-Chunk Nation which does not have a reservation. The Ho-Chunk Nation’s lands are primarily located in Wisconsin.

The table above illustrates that all of MnDOT’s districts contain tribal lands, with the exception of District 7. However, the [Dakota 38 Memorial Ride](#) occurs in District 7 during December of each year. The annual ride is a memorial for a mass hanging of 38 Dakota that took place in Mankato on December 26, 1862. The event is organized to raise awareness of the hangings, bring Dakota people together, and encourage reconciliation. This impacts MnDOT because the annual event involves horseback riders crossing Highway 169.

The following sections provide some information on Indian tribes in Minnesota. The information in this section is by no means exhaustive, so links to each tribe’s website – where available – are also provided to allow each tribal government to share its story in its own words.



Bois Forte Band of Chippewa

The Bois Forte Reservation is located in MnDOT District 1 in Koochiching and St. Louis counties. To learn more, you can visit the [tribe’s website](#).

Fond du Lac Band of Lake Superior Chippewa

The Fond du Lac Reservation is located in MnDOT District 1 in Carlton and St. Louis Counties. To learn more, you can visit the [tribe’s website](#).

Grand Portage Band of Chippewa

The Grand Portage Reservation is located in MnDOT District 1 in Cook County. To learn more, you can visit the [tribe’s website](#).

Ho-Chunk Nation (of Wisconsin)

The Ho-Chunk Nation has tribal lands located in MnDOT District 6. The Ho-Chunk Nation does not have a reservation. Its tribal lands are primarily located in Wisconsin. If you need to coordinate with the Ho-Chunk nation you should [contact MnDOT’s tribal liason](#). To learn more, you can visit the [tribe’s website](#).

Leech Lake Band of Ojibwe

The Leech Lake Reservation is located in MnDOT Districts 1, 2, and 3. To learn more, you can visit the [tribe’s website](#).

Lower Sioux Community

The Lower Sioux Community is located in MnDOT District 8 in Redwood County. To learn more, you can visit the [tribe’s website](#).

Mille Lacs Band of Ojibwe

The Mille Lacs Reservation is located in Mille Lacs County mostly in MnDOT District 3 with a small portion of the reservation in MnDOT District 1. To learn more, you can visit the [tribe's website](#).

Prairie Island Indian Community

The Prairie Island Indian Community is located in MnDOT District 6 in Goodhue County. To learn more, you can visit the [tribe's website](#).

Red Lake Nation

The Red Lake Reservation is located in MnDOT District 2 and is primarily located in Beltrami County with a small portion in Clearwater County. In addition to the Reservation, the tribe owns the majority of the land in the Northwest angle and additional land scattered between the reservation and the Northwest angle (Lake of the Woods County, Roseau County, Koochiching County, Marshall County, and Pennington County). To learn more, you can visit the [tribe's website](#).

Shakopee Mdewakanton Sioux Community

The Shakopee Mdewakanton Sioux Community (SMSC) is located in MnDOT's Metro District in Scott County. To learn more, you can visit the [tribe's website](#).

Upper Sioux Community

The Upper Sioux Community is located in MnDOT District 8 in Yellow Medicine County. To learn more, you can visit the [tribe's website](#).

White Earth Nation

The White Earth Reservation is located in MnDOT Districts 2 and 4. The Reservation covers all of Mahnomen County and portions of Becker and Clearwater Counties. To learn more, you can visit the [tribe's website](#)

Glossary

This glossary provides basic definitions for some of the terms in this manual that might be unfamiliar to you. Many of these terms are also defined in slightly different ways in various laws and court cases.

Advocacy Council for Tribal Transportation (ACTT): This council discusses policies and issues involving roadways on or near reservations. MnDOT is a member of this council along with Minnesota tribes, the Bureau of Indian Affairs, FHWA, MIAC, and a representative from one county and city.

Allotment: Land that is restricted fee land or trust land that is owned by an individual Indian.

Allotted trust land: The federal government holds title to the land for an individual Indian. The beneficial interest (any profits or advantages that come from ownership of the land) belongs to the individual Indian. See also, definition of “trust.”

Anishinabe: Anishinabe is the Ojibwe/Chippewa’s name for themselves. It means “the people.” This word can also be correctly spelled as Anishinaabe. The terms Anishinabe, Ojibwe, and Chippewa are generally used interchangeably to refer to the same people group.

Bureau of Indian Affairs (BIA): The Bureau of Indian Affairs is an agency within the U.S. Department of the Interior. It is responsible for the majority of the federal government’s Indian programs. The BIA is the agency that carries out the federal government’s trust responsibilities for tribal trust land and allotted trust land. The BIA regulates the sale and lease of trust land and restricted fee land.

Chippewa: The terms Anishinabe, Ojibwe, and Chippewa are generally used interchangeably to refer to the same people group.

Civil-regulatory law: A civil-regulatory law permits, but regulates conduct, while a criminal-prohibitory law prohibits conduct. A criminal-prohibitory law tells you that you can’t do something, while a civil-regulatory law tells you that if you do something you must do it a certain way.

Closed reservation: The Red Lake Reservation is called a closed reservation because all of the land on the reservation is tribal trust land. The Red Lake Reservation is a rare exception to the typical “checkboard” pattern of land ownership on reservations.

Community: The Dakota tribes in Minnesota use the word “community” in the same way that the word tribe, nation, or band is used. Today these words mean the same thing. The word “community” comes from the original Dakota community which was created by an 1851 treaty.

Collaboration: “All parties involved in carrying out planning and project development work together in a timely manner to achieve a common goal or objective.”

Consultation: “Government-to-government communication in a timely manner by all parties, about a proposed or contemplated decision in order to: secure meaningful tribal input and involvement in the decision-making process; and advise the tribe of the final decision and provide an explanation.”

Coordination: “Each party shares and compares in a timely manner its transportation plans, programs, projects and schedules with the related plans, programs, projects, and schedules of the other parties and adjusts its

plans, programs, projects, and schedules to optimize the efficient and consistent delivery of transportation projects and services.”

Criminal-prohibitory law: A criminal-prohibitory law prohibits conduct, while a civil-regulatory law permits, but regulates conduct. A criminal-prohibitory law tells you that you can’t do something, while a civil-regulatory law tells you that if you do something you must do it a certain way.

Dakota: The Dakota are the largest dialect group within the Sioux tribes. Dakota means “ally” in the Dakota language.

Dependent Indian Communities: Dependent Indian communities are part of Indian country. A dependent Indian community is land that is not a reservation or allotment but that is federally supervised and set aside for the use of Indians. When deciding whether land is a dependent Indian community courts look at a number of factors including: whether the land is trust land, whether government agencies treat the area like Indian country for jurisdictional purposes, and whether the area is cohesive (e.g., there are common economic pursuits in the area, common interests, or common needs of the people who live there).

Enrolled: See definition for tribal member.

Enrolled member: See definition for tribal member.

Fee land: Fee land is land that is not held in trust by the federal government. There are two broad categories of fee land, restricted and unrestricted.

Federal recognition: When a tribe is federally recognized it means that the federal government recognizes the sovereignty of the tribe and has a government-to-government relationship with the tribe. Most federally recognized tribes have that status because of treaties, laws passed by Congress, executive orders, or court decisions. Today there are laws and federal regulations that explain when a tribe can be federally recognized and how the process for seeking federal recognition works.

Indian Affairs Council: The Minnesota Indian Affairs Council (MIAC) is the official liaison between Minnesota’s State Government and Minnesota’s eleven federally recognized tribes. [MIAC Website](#).

Indian country: The most commonly used definition of Indian country comes from federal criminal law, but courts often use the same definition in civil (non-criminal) court cases. Indian country includes more than just reservations. Here is a simplified version of the most commonly used definition of Indian country: reservations; allotments; and “dependent Indian communities” (i.e., land that is federally supervised and set aside for the use of Indians, this is usually found on trust land). You can find the complete – more nuanced – definition of Indian country at 18 U.S.C. § 1151.

Jurisdiction: The power and authority of a government or court to make or enforce law.

Ojibwe: The terms Anishinabe, Ojibwe, and Chippewa are generally used interchangeably to refer to the same people. Ojibway, Ojibwe, and Ojibwa are different spellings that refer to the same people group.

Public Law 280: Public Law 280 is a federal law that gives some states, including Minnesota, criminal jurisdiction and jurisdiction over civil court cases in Indian country. Public Law 280 did not take away jurisdiction from tribes, so the State of Minnesota and tribes both have criminal jurisdiction and jurisdiction over civil court cases on

most of Minnesota's reservations. This is called concurrent jurisdiction. Public Law 280 does not give Minnesota any jurisdiction on the Red Lake Reservation and no longer gives Minnesota criminal jurisdiction on the Bois Forte Reservation. Public Law 280 only gives Minnesota – and other states – criminal jurisdiction and jurisdiction over civil court cases in Indian country. Most of the laws you apply and use as a MnDOT employee are civil-regulatory laws and Public Law 280 doesn't have anything to do with civil-regulatory laws. Public Law 280 does not give the State of Minnesota civil-regulatory jurisdiction on reservations or Indian country.

Reservation: A reservation is land that is managed by tribes. The term “reservation” comes from tribes “reserving” land for themselves after larger portions of land were ceded (given) to the federal government through treaties. There are eleven federal reservations in Minnesota.

Restricted allotment: Restricted fee land owned by an individual Indian, meaning that the individual Indian has legal title to the land, but there are legal restrictions against encumbrance (e.g., liens, easements) and alienation (selling or transferring land). The Bureau of Indian Affairs (BIA) has to give its approval for this type of land to be encumbered or alienated.

Restricted fee land: Restricted fee land is owned by an individual Indian or a tribe, it can be found on reservations and outside reservations. Restricted fee land owned by an individual Indian is called a restricted allotment; in this type of land ownership an individual Indian has title to the land, but there are legal restrictions against encumbrance (e.g., liens, easements) and alienation (selling or transferring land). The Bureau of Indian Affairs (BIA) has to give approval for this type of land to be encumbered or alienated. Restricted fee land can also be owned by a tribe; in this type of land ownership the tribe holds title, but there are legal restrictions against encumbrance (e.g., liens, easements) or alienation (selling or transferring land). The BIA has to give approval for this type of land to be encumbered or alienated.

Sioux: The Sioux are a group of tribes in North America. Within the Sioux tribes are three main groups, the Dakota, Lakota, and Nakota.

Sovereign: The authority of a political entity (such as a tribe, state, or nation) to govern itself.

TERO: The acronym TERO stands for Tribal Employment Rights Ordinance or Tribal Employment Rights Office. A Tribal Employment Rights Ordinance is a law that is passed by a tribal government to ensure that employers operating on a reservation have a hiring preference for Indians qualified for employment. The Tribal Employment Rights Ordinance can also impose a tax (sometimes called a “fee”) on entities doing business on a reservation to finance the cost of running a Tribal Employment Rights Office. A Tribal Employment Rights Office is a division of a tribal government that monitors and enforces the tribe's Tribal Employment Rights Ordinance.

Tribal member: Some Indians are eligible for membership in a tribe. This is called being a tribal member, being enrolled, or being an enrollee. Each tribe decides what the requirements for membership are. Common requirements for membership include being a descendant of a tribal member or having a certain tribal blood quantum (a certain percentage of ancestors who belong to the tribe). Tribal members have a tribal ID card. These cards look similar to state ID cards. Not all Indians are members of a tribe. Some tribal members live on

reservations and some live off of reservations. Not all Indians who are members of a tribe live on a reservation. Being a tribal member is a legal status that changes how state laws and tribal code apply to an individual.

Tribal trust land: The federal government holds title to the land for a tribe. The beneficial interest (any profits or advantages that come from ownership of the land) belongs to the tribe. See also, definition of “trust.”

Trust: A trust exists when one party – the trustee – has legal ownership of something of value (like land) for the benefit of another party (the beneficiary). The trustee has certain responsibilities to the beneficiary, including acting in the beneficiary’s interest.

Trust land: A trust exists when one party – the trustee – has legal ownership of something of value (like land) for the benefit of another party (the beneficiary). The trustee has certain responsibilities to the beneficiary, including acting in the beneficiary’s interest. The federal government has legal title over trust land and it carries out its responsibilities as trustee through the Bureau of Indian Affairs (BIA). Individual Indians or tribes are the beneficiaries in this trust relationship. Trust land includes the following: (1) land held in trust for an individual Indian (also called allotted trust land), which is land the federal government holds title to for an individual Indian while the beneficial interest -- any profits or advantages that come from ownership of the land – belongs to the individual Indian; and (2) land held in trust for a tribe, which is land the federal government holds title to for a tribe while the beneficial interest – any profits or advantages that come from ownership of the land – belongs to the tribe. Trust land can also be found on reservations and outside reservation boundaries.

Unrestricted fee land: This is the most common type of land ownership in the United States. Individual Indians and non-Indians can own unrestricted fee land on reservations. Tribes can own unrestricted fee land. Unrestricted fee land on a reservation is Indian country. Unrestricted fee land outside a reservation is not Indian country.



TSRT Classroom Recommended Resources

BOOKS

American Indian Politics and the American Political System

David E. Wilkins, Lumbee Tribe and Heidi Stark, Turtle Mountain Ojibwe present an abundantly readable overview of how tribes function in relation to the U.S. federalist system of state governments and the federal government (2002).

Cohen's Handbook of Federal Indian Law

Felix S. Cohen. For those wishing to take a deeper dive into relevant law and policy. Originally crafted by Felix Cohen, this is routinely updated by some of the brightest minds in federal Indian law. "Cohen's Handbook of Federal Indian Law is the modern comprehensive guide to federal Indian law, evolved from the historical compilations of Felix Cohen (1942)."

Do All Indians Live in Tipis?

The National Museum of the American Indian offers a question and answer style book about Indians. "How much do you really know about totem poles, tipis, and Tonto? There are hundreds of Native tribes in the Americas, and there may be thousands of misconceptions about Native customs, culture, and history. In this illustrated guide, experts from Smithsonian's National Museum of the American Indian debunk common myths and answer frequently asked questions about Native Americans past and present (2018)."

Everything You Wanted to Know About Indians But Were Afraid to Ask

Anton Treuer provides a casual and illuminating exploration and explanation of frequently asked questions about tribes and Native Americans. "What have you always wanted to know about Indians? Do you think you should already know the answers—or suspect that your questions may be offensive? In matter-of-fact responses to over 120 questions, both thoughtful and outrageous, modern and historical, Ojibwe scholar and cultural preservationist Anton Treuer gives a frank, funny, and sometimes personal tour of what's up with Indians, anyway (2012)."

Introduction to Tribal Legal Studies

Justin Blake Richland and Sarah Deer, Muscogee (Creek) Nation. "How tribes function with an emphasis on the duties, functions, and operations of tribal governments (2015)."



TSRT Classroom Recommended Resources

The Rights of Indians and Tribes

This book provides a comprehensive and accessible explanation of the major political and legal factors involved in Indian Affairs. "The Rights of Indians and Tribes, first published in 1983, has sold over 100,000 copies and is the most popular resource in the field of federal Indian Law. The book, which explains this complex subject in a clear and easy-to-understand way, is particularly useful way for tribal advocates, government officials, students, practitioners of Indian Law, and the general public. Numerous tribal leaders highly recommend this book... (2012)."

PODCAST

This Land

"An 1839 assassination of a Cherokee leader. A 1999 small town murder. Two crimes collide in a Supreme Court case that will decide the fate of one man and nearly half of the land in Oklahoma. Hosted by Rebecca Nagle, Oklahoma journalist and citizen of Cherokee Nation, This Land traces how a cut and dry homicide opened up an investigation into the treaty rights of five Native American tribes. Tune in to Crooked Media's 8-episode series to find out how this unique case resulted in the largest restoration of tribal land in U.S. history.

WEBSITES

Carlisle Indian School Digital Resource Center

"The Carlisle Indian Industrial School is a major site of memory for many Native peoples, as well as a source of study for students and scholars around the globe. This website represents an effort to aid the research process by bringing together, in digital format, a variety of resources that are physically preserved in various locations around the country. Through these resources, we seek to increase knowledge and understanding of the school and its complex legacy, while also facilitating efforts to tell the stories of the many thousands of students who were sent there."

<http://carlisleindian.dickinson.edu/>



TSRT Classroom Recommended Resources

Minnesota Indian Affairs Council (MIAC)

"Established in 1963, the MIAC's mission is to protect the sovereignty of the eleven Minnesota tribes and ensure the well-being of all American Indian citizens throughout the state of Minnesota."

<https://mn.gov/indianaffairs/>

Why Treaties Matter

A partnership between the Minnesota Humanities Center, the Minnesota Indian Affairs Council, and the Smithsonian National Museum of the American Indian. This traveling exhibit and website explores relationships between Dakota and Ojibwe Indian Nations and the U.S. government in this place we now call Minnesota. Learn how treaties affected the lands and lifeways of the indigenous people of Minnesota, and why treaties still matter today. "We have always been sovereign nations...Today, treaties continue to affirm the inherent sovereignty of American Indian nations. Tribal governments maintain nation-to-nation relationships with the United States government. Tribal nations manage lands, resources, and economies, protect people, and build more secure futures for generations to come."

<http://treatiesmatter.org/exhibit/>

YouTube

Into the West

A 2005 TNT Drama "Tales from the American West in the 19th century, told from the perspective of two families, one of white settlers and one of Native Americans."

Tribal Nations: The Story of Federal Indian Law

A 2006 Tanana Chiefs Conference and Signature Media Production LLC production. "This documentary is a beautifully illustrated introductory history of how federal Indian law has developed in the United States, from the arrival of Columbus through the current era of tribal self-determination. It is an excellent educational tool on basic federal Indian law for tribes, those who work with tribes, judges, attorneys, agencies, grades 11 through college, and the general public."

COMMITTEE RECOMMENDATIONS

Administrative Advisory Committee

1. Bylaws Update – John Jaschke – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Bylaws Update

Meeting Date: June 28, 2023

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information Non-Public Data

Keywords for Electronic Searchability: Bylaws, update

Section/Region: _____

Contact: John Jaschke

Prepared by: Rachel Mueller

Reviewed by: Administrative Advisory Committee Committee(s)

Presented by: John Jaschke

Time requested: 10 minutes

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|--|---|
| <input type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input checked="" type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

Approve updates to bylaws.

LINKS TO ADDITIONAL INFORMATION

The current policy is located on the website: [Board of Water and Soil Resources Bylaws \(state.mn.us\)](http://www.state.mn.us/bwsr/Bylaws)

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

Proposed bylaws updates were reviewed by the Administrative Advisory committee on May 15, 2023 and reviewed by the Board on May 24, 2023.

Board Resolution # 23 - _____

UPDATED BOARD OF WATER AND SOIL RESOURCES BYLAWS

WHEREAS, consistent with Minnesota statute section 103B.101, Subd. 8a, the Board of Water and Soil Resources establishes bylaws to conduct its business and perform all of its responsibilities and duties in an orderly, efficient, fair and lawful manner; and

WHEREAS, the most recent version of the Board Bylaws is dated October 24, 2018; and

WHEREAS, board members and staff have proposed updates to the bylaws to ensure that the bylaws clearly state how the board operates; and

WHEREAS, the updated bylaws were reviewed by the Administrative Advisory Committee on May 15, 2023 and reviewed by the board on May 24, 2023.

NOW THEREFORE BE IT RESOLVED, the Board hereby:

1. Rescinds the Board of Water and Soil Resources Bylaws dated October 24, 2018.
2. Adopts the updated Board of Water and Soil Resources Bylaws, dated June 28, 2023.

Date: _____

Gerald Van Amburg, Chair
Board of Water and Soil Resources

Attachment: Board of Water and Soil Resources Bylaws, dated June 28, 2023.

**BOARD OF WATER AND SOIL RESOURCES
BYLAWS**

~~October 24, 2018~~ June MONTH 28XX, 2023
(effective July 1, 2023)

ARTICLE I. Introduction

1. Purpose
The Board of Water and Soil Resources (BWSR) desires to conduct its business and perform ~~all of~~ its responsibilities and duties in an orderly, efficient, transparent, fair and lawful manner. These Bylaws are established for that purpose.
2. Application of Bylaws
Unless otherwise specifically indicated, these Bylaws shall apply to the transaction of all BWSR business and the conduct of all BWSR meetings and hearings.
3. Compliance with Applicable Law
It is the specific intent of the BWSR to perform ~~all of~~ its responsibilities and conduct ~~all of~~ its hearings and meetings in accordance with all applicable federal law and state statutes and regulations. The provisions of all such applicable law shall have control over anything to the contrary in these Bylaws.

ARTICLE II. Membership, Officers, Duties and Committees

1. Membership
The Board of Water and Soil Resources shall be composed of ~~20 voting~~ members appointed ~~by the Governor~~ according to MN Statutes §103B.101.

Individual members shall not act to represent the Board on any given subject unless specific Board action/position has been determined/ruled and the individual action thus represents the Board as a whole.

MN Statutes §15.0575, subd. 4, provides that "[t]he chair of the board shall inform the appointing authority [i.e., the Governor] of a member missing three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the chair of the board shall notify the member in writing that the member may be removed for missing the next meeting."
2. Officers Designated
The officers of the BWSR shall be the Chair and the Vice-Chair. The Chair is appointed by the Governor from the members of the Board. The Vice-Chair shall be elected to a two-year term by the members of the Board. The Vice-Chair shall be elected by majority vote at the first regularly scheduled meeting of every EVEN calendar year.

The Board shall employ an Executive Director, who is a salaried officer, consistent with MN Statutes § 103B.101, subd. 4.

The Executive Director is responsible for the administrative and general operations of the BWSR. All ~~additional~~ other staff shall report to the Executive Director.

3. Duties of Officers

a) Chair

The Chair shall have the following responsibilities:

- 1) Supervise the affairs of the Board and communicate such affairs to all board members.
- 2) Preside at all Board meetings.
- 3) Preside at Dispute Resolution Committee proceedings or appoint a presiding member.
- ~~4) May vote on all issues with the exception of the Dispute Resolution Committee unless as provided by MN Statutes § 1038.101 Subd. 10.~~
- ~~5)4) May schedule special meetings.~~
- ~~6)5) Approves board meeting agendas.~~
- ~~6) Establishes committee structure and appoints committee members.~~
- 7) Serve on the Environmental Quality Board per MN Statutes Chapter 116C.

b) Vice-Chair

The Vice-Chair shall have the following responsibilities:

- 1) Perform those duties delegated by the Chair.
- 2) Act as Chair in the event of the Chair's illness, disability, absence from a meeting or not being readily able to function as Chair.

c) Executive Director

The Executive Director shall be responsible to the Board and communicate/report regularly to the Chair. The Executive Director or designee shall attend all Board meetings but shall not vote. The Executive Director shall have the following responsibilities:

- 1) To see that all resolutions, rules, regulations and orders of the Board are carried out.
- 2) To present to the Board program plans, studies and reports prepared for Board purposes and action and recommend to the Board for adoption those measures deemed necessary and prudent to carry out the programs and duties of the Board or for the efficient administration of the affairs of the Board. The Executive Director shall have the authority to execute or officially sign on behalf of the Board on all actions approved, ~~r~~ruled or delegated by the Board.
- 3) To communicate and interact with the Governor's office, state and federal agencies, local governments, special districts, joint powers authorities, the legislature, and to participate in relevant meetings as well as provide such meeting knowledge to the Board.

- 4) — To keep the Board fully advised as to its financial condition and to prepare and submit ~~an annual~~ Board budgets through the
- 5)4) processes established by the Governor's office or Minnesota Management and Budget (MMB).
- 6)5) — To represent and implement the Board's orders, resolutions, and policies.
- 7)6) — To record and maintain a record and minutes of the meetings and process and maintain all information relating to Board business.
- 8)7) — To develop the proposed agenda for Board meetings, provide for meeting notices and handle all other administrative affairs.
- 9)8) — To sign documents as designated by the Board.
- 10)9) — To participate in an ~~annual-regular~~ Personnel Review as directed by the Chair.

4. Vacancies and absences of Officers

- a) Chair: In the absence of the Chair, the Vice-Chair shall preside.
- b) In the event of a Chair vacancy the Vice-Chair will become the acting Chair.
- b)c) Vice-Chair: If a vacancy occurs in the office of Vice-Chair, the regular members shall elect an individual-acting Vice-Chair to fill the remaining term~~-time~~.
- e)d) Chair, Vice-Chair: If at a Board meeting, neither the Chair nor Vice-Chair are present but a quorum exists, the members shall elect from within the membership an acting Chair to run the meeting.

5. Committees

- a) The Board chair may establish committees. The Board Chair shall appoint committee members and shall be an ex-officio member of all committees to which the Board Chair is not appointed.
- b) Unless otherwise prescribed by statute or rule, committees shall consist of three or more members of the Board for the purpose of gathering information, presiding over public hearings, making findings and bringing recommendations to the Board.
- c) Certain duties may be delegated to committees by a majority vote of the board members.
- d) When a member of the Dispute Resolution Committee or another committee has a conflict of interest or is otherwise unable to fully participate in consideration of a matter, the Board Chair may appoint a substitute to serve in place of that member with respect to that matter.
- e) The Board Chair shall appoint committee chairpersons.
- f) The Executive Director shall assign staff to facilitate and support the work of committees.
- g) The membership of all committees shall be posted on the BWSR website or made available in alternate formats upon request.

ARTICLE III. Meetings and Hearings

1. Notice
Notices of all meetings and hearings of the BWSR shall be made in a manner in accordance with MN Statutes Chapter 13D (*Open Meeting Law*). ~~Notice shall be posted at the BWSR main office, posted on the BWSR website and reasonable effort shall be made to inform BWSR clientele by mail, electronic mail, delivery, telephone or other means of communication. Board meetings will be scheduled according to the current Board policy.~~

2. Open Meetings and Records
All meetings of the Board shall be open to the public as provided by law. The votes of the members shall be recorded by voice vote or by roll call if so called. The minutes shall be available to the public ~~during all normal business hours at the BWSR central office upon request made to the Executive Director.~~ Minutes of Board meetings shall be preserved for at least ten years. Minutes of recent Board meetings shall be posted on the BWSR website once approved by the Board.

3. Closed Meetings
The Chair may call a closed meeting or close a meeting if the closure is authorized by statute or permitted by the attorney-client privilege. ~~Specific applicable statutes in the Open Meeting Laws in Minnesota Statutes Chapter 13D include:
Preliminary consideration of allegations or charges against an individual subject to its authority, per Section 13D.05, subd. 2 or
Evaluating the performance of the Executive Director, per requirement in Section 13D.05, subd. 3, or
Exercising quasi-judicial functions involving disciplinary proceedings per Section 13D.01, subd. 2.~~

In all cases where a meeting is closed, the Board shall abide by the requirements for closed meetings in Chapter 13D.

4. Hearing Records
 - a) When a public hearing on a matter has been held, whether by delegated committee that is to decide or recommend to the Board or by the Board, and the hearing record has been closed, the hearing record will not be reopened to receive additional written or oral submissions except by majority vote of the body considering the matter.
 - b) All information submitted to BWSR for hearing purposes becomes the property of the BWSR.
 - c) The BWSR shall maintain all records gathered during public hearings. The Executive Director shall not be required to maintain the records for more than three years after the close of a hearing.

5. Quorum
A majority of the Board or the majority of the committee is a quorum.
6. Voting
Each member shall have one (1) vote in the transaction of business of the Board. Agency members may designate an alternate to attend and vote on their behalf by notifying the Chair or Executive Director (or Committee Chair or lead staff for Committee meetings) in writing or via electronic communication-mail prior to the meeting. In order to vote, the member or designated alternate must be in attendance for the meeting. A vote will be recorded by voice vote unless a roll call vote is requested. A roll call vote may be requested by any member and a roll call vote will be used for teleconference meetings, per MN Statute Chapter 13D.015, subd. 2(4).
7. Meeting Arrangements
The Board shall normally meet the fourth Wednesday of the month so designated by action of the Board no earlier than 8:00 AM until agenda business is complete. The Chair may call for recess for appropriate breaks or for purposes of furthering the agenda orders of business.

The chair of the Board shall select a meeting location that is convenient and suitable for the members, staff and general public.

8. General Order of Business Elements
The general order of business for regular of BWSR Board meetings typically includes:
 - a) ~~Approval of agenda~~
 - b) ~~Approval of minutes of previous meeting~~
 - c) ~~Public Access Forum~~
 - d) ~~Chair's, Executive Director's, and Committee Reports~~
 - ~~Agency Reports~~
 - ~~Advisory Member Reports~~
 - e) ~~Committee Recommendations~~
 - f) ~~Old Business~~
 - g) ~~New Business~~
 - h) ~~Board issues and information~~
 - i) ~~Agency Reports~~
 - j) ~~Advisory Member Reports~~
 - k) ~~Upcoming Meetings~~
 - l) ~~Adjournment~~

Commented [JJ(1)]: To be posted as informative on website.

A consent agenda may be developed at the discretion of the Chair. Items on a consent agenda may be removed for individual consideration upon the request of any board member and placed on a logical place on the regular agenda as determined by the chair.

9-8. Parliamentary Procedure

The most current version of Robert's Rules of Order, Revised, shall govern the conduct of the meeting except when state statute, policies, and these bylaws state otherwise. The Chair shall make all parliamentary rulings. The Executive Director or ~~meeting~~-designee shall serve as the parliamentarian advisor to BWSR.

40-9. ~~Board Meeting~~ Agenda ~~Application~~Development

All matters for preliminary agenda consideration with pertinent information included shall be submitted to the Executive Director and reviewed by the Chair prior to the Board meeting. Placement of items on the proposed agenda will be at the discretion of the Chair and the Executive Director. ~~The proposed agenda must have the approval of the Chair.~~

44-10. Conflicts of Interest

Each board member is obligated to determine whether he/she has a perceived, potential, or actual conflict of interest with respect to any matter before the BWSR and to comply with all requirements of law regarding any potential conflict. Board members who disclose an actual conflict of interest will not be allowed to participate in and vote on the agenda item for which they declared an actual conflict.

ARTICLE IV. Adoption and Amendments

1. Adoption

~~These Bylaws shall become effective immediately after approved by a majority vote of the Board. The effective date of bylaw changes shall be no sooner than the next regular meeting of the Board.~~

2. Amendments

These Bylaws may be amended by a two-thirds vote of the board members. All proposed amendments shall be presented in writing. The Board shall review the proposed changes at least one meeting prior to adoption.

Gerald Van Amburg, Board Chair

Date

COMMITTEE RECOMMENDATIONS

Grants Program and Policy Committee

1. Rock County Soil and Water Conservation District – Watershed Project Tracking Grant – Justin Hanson – ***DECISION ITEM***
2. Approval of FY23 Water Quality and Storage Pilot Grant Program Funding Recommendations – Rita Weaver – ***DECISION ITEM***
3. FY 2024 CWF Competitive Grants Policy and RFP Criteria – Annie Felix-Gerth – ***DECISION ITEM***
4. Fiscal Year 2024 and 2025 Natural Resources Block Grants Authorization – James Adkinson – ***DECISION ITEM***
5. Fiscal Year 2024 and 2025 Technical Service Area Grants Authorization – James Adkinson – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Rock County Soil and Water Conservation District – Watershed Project Tracking Grant

Meeting Date: June 28, 2023

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information Non-Public Data

Keywords for Electronic Searchability: Rock SWCD Tracking Tool Grant

Section/Region: Regional Operations

Contact: Justin Hanson

Prepared by: Justin Hanson

Reviewed by: Grants Program and Policy Committee(s)

Presented by: Justin Hanson

Time requested: 20 minutes

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input type="checkbox"/> None | <input checked="" type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

Approval of Grant to Rock Soil and Water Conservation District

LINKS TO ADDITIONAL INFORMATION

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

- In December of 2022, MASWCD passed a resolution that asked BWSR to create a “Tracking Tool” that would support local watershed partnerships and help them track their work.
- In response, BWSR assembled a work group that would assess the local watershed partnership needs of SWCD’s and WD’s.
- The work group met during the early part of 2023. The outcome from that meeting:
 - 1) The workgroup does not desire a uniform tracking tool for the entire state. Unless it is a program that could be directly integrated into ELINK and add efficiency values to their work.

- 2) The workgroup identified the biggest need is uniform standards for tracking their work. Many are already using locally developed tools and want to continue with that process. However, standardized methods will help create a statewide consistency regarding how those activities are described across partnerships
 - 3) The workgroup recognized that many partnerships do not have any tracking mechanism in place. There are several partnerships that have already started working on a specific tool called "MS4Front" which is being developed by watershed partnerships in the Missouri and Des Moines watersheds. Collectively, it was decided that an example prototype tool could be developed, using the Missouri and Des Moines project tool as an option for those partnerships that wish to utilize a tool that is ready to go.
- BWSR is not in a position (in the near term) to develop a tool that will integrate ELINK into a statewide tool. It's not clear that BWSR would have the capability to integrate the needs of locals into the current ELINK program. ELINK has never been designed for project tracking. There are also proprietary challenges with how outside information is integrated into ELINK. The workgroup has expressed interest in having something in place that they can start using in the near term.
 - Rock SWCD has been out in front of this process and is currently developing a process that addresses the work group recommendations above (#2 and #3). In the interest of time and effectiveness, BWSR is proposing that we contract with Rock SWCD to support their local tracking process. By doing so, we can capture the progress that they have made. Then leverage their work to develop the work group priorities outlined in #2 and #3 above.

This project does not create a tool that BWSR will own. Therefore, there is no proprietary ownership of a product.

LGU partners will utilize local funding resources to support ongoing subscription fees or licenses available to manage any tracking tool that they elect to use. They may or may not use WBIF funding resources to support this administrative work.



BOARD ORDER

Rock County Soil and Water Conservation District – Watershed Project Tracking Grant

PURPOSE

Create effective and efficient access to a localized program tracking tool. The program tracking tool will be used to centralize data and projects related to the implementation of watershed plan activity.

RECITALS /FINDINGS OF FACT

- A. In December 2022 the Minnesota Association of Soil and Water Conservation Districts (MASWCD) approved a Resolution stating that MASWCD “Work with Minnesota Board of Water and Soil Resources and interested SWCDs to consider and share tracking tool options for implementing Comprehensive Watershed Management Plans. The tracking tool options should be designed to track projects, pollution reductions and progress reports.”
- B. In response to this resolution, BWSR staff commissioned an ad hoc work group consisting of staff from MASWCD and Minnesota Watersheds to assess tracking tool options and make recommendations to BWSR regarding consistent local needs.
- C. The work group recommended that BWSR support a locally led initiative to develop and support a standardized process for recording projects and tracking activities that could be utilized across the state, regardless of the adopted tool development or subscriptions.
- D. MASWCD membership has requested that BWSR assist with the development of a project tracking prototype tool that may be used by watershed partners that choose to utilize a tool that is already developed.
- E. The Rock County Soil and Water Conservation District has requested funding to support development of a statewide watershed project tracking tool and standardized processes for tracking activity.
- F. A grant to the Rock County SWCD would satisfy the request from the work group, while also addressing the specific project requests for developing a prototype tool. This grant would provide one-time financial resources for Rock SWCD to develop a standardized process for tracking projects.
- G. The Grants Program and Policy Committee reviewed this item at their May 22 and June 26, 2023 meetings.

ORDER

The Board hereby:

1. Approves the allocation of currently unallocated FY2022/2023 general funds for an amount up to \$110,000 to financially support and execute the “Watershed Tracking Tool Grant” project.
2. Authorizes staff to execute new grant agreements or amend existing grant agreements and associated workplans to provide funding to execute the “Watershed Tracking Tool Grant” project.

Dated at St. Paul, Minnesota, this 28th day of June, 2023.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

Gerald Van Amburg, Chair
Board of Water and Soil Resources

Date: _____

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Approval of FY23 Water Quality and Storage Pilot Grant Program Funding Recommendations

Meeting Date: June 28, 2023

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Keywords for Electronic Searchability: Storage, Grant Approvals

Section/Region: Engineering

Contact: Rita Weaver

Prepared by: Rita Weaver

Reviewed by: SMT, Grants Program and Policy Committee(s)

Presented by: Rita Weaver

Time requested: 20 Minutes

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input type="checkbox"/> None | <input checked="" type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

Approval of the proposed FY23 awards for the Water Quality and Storage Pilot Grant Program, as outlined in the attached board order.

LINKS TO ADDITIONAL INFORMATION

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

The Water Quality and Storage Pilot Grant program was passed into law by the MN Legislature in 2021. The intent of the program is to fund projects that will reduce runoff volume or peak flow rates by implementing storage practices. This is the second year of the pilot program.

On January 25, 2023, the Board adopted Board Order #23-05, which authorized staff to conduct a request for proposals for the FY23 Water Quality and Storage Pilot Program grants. An application period was open from March 13, 2023 to May 4, 2023. Six (6) applications were received requesting a total of approximately \$3.075M. Grants were scored and ranked by a team of BWSR staff and the scoring team recommends that two projects be fully funded and that one additional projects be partially funded with the remaining FY22-23 funds.

The staff recommendations were presented to the BWSR SMT June 13, 2023 and the Grants Program and Policy Committee on June 26, 2023. The funding recommendations included in the board order are a result of those meetings.

BOARD ORDER

Fiscal Year 2023 Water Quality and Storage Pilot Grant Program Awards

PURPOSE

Authorize the FY23 grant awards for the Water Quality and Storage Pilot Grant Program.

RECITALS /FINDINGS OF FACT

- A. Laws of Minnesota 2021, 1st Special Session, Chapter 6, Article 1, Sec. 4(l), appropriated \$2 million in Fiscal Years 22-23 to a water quality and storage program. The remaining funds in the FY22-23 appropriation at an approximate amount of \$1,143,854.
- B. Laws of Minnesota 2021, 1st Special Session, Chapter 6, Article 2, Sec. 80 provides the statutory authority for the Water Quality and Storage Program (Minn. Stat. 103F.05), and includes the purposes of the Program that are “to control water volume and rates to protect infrastructure, improve water quality and related public benefits, and mitigate climate change impacts”, identifies eligible practices, and establishes that the priority areas for the program are the Minnesota River basin and the lower Mississippi River basin.
- C. Based on board order #23-05, staff opened the application period for the Water Quality and Storage Pilot Grant Program in April 2023. The application period closed May 4, 2023.
- D. Six (6) applications were received requesting \$3,075,027. Board Staff reviewed the applications for eligibility and determined that five (5) applications are eligible. After ranking and scoring the applications Board staff recommend that two (2) projects be fully funded and one (1) project be partially funded, which will utilize the remaining funds in the FY22-23 appropriation.
- E. The BWSR Senior Management Team, at their June 13, 2023 meeting, reviewed the proposed grant awards and recommended approval to the Grants Program and Policy Committee.
- F. The Grants Program and Policy Committee, at their June 26, 2023 meeting, reviewed the proposed grant awards and recommended approval to the Board.

ORDER

The Board hereby:

1. Approves the allocation of funds to three applicants in the amounts listed as follows:
 - Area II (C23-0019): \$140,214.00 – full funding
 - Area II (C23-0018): \$584,813.00 – full funding
 - Bois de Sioux Watershed District (C23-0011): partial funding with the remaining FY22-23 funds
2. Authorizes staff to enter into grant agreements for these funds.

Dated at St. Paul, Minnesota, June 28, 2023.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

Gerald Van Amburg, Chair
Board of Water and Soil Resources

Date: _____

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: FY 2024 CWF Competitive Grants Policy and RFP Criteria

Meeting Date: June 28, 2023

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Keywords for Electronic Searchability: Competitive, grants, policy, request for proposals, RFP, clean water fund, 2024

Section/Region: Land and Water, Central Region

Contact: Annie Felix-Gerth

Prepared by: Annie Felix-Gerth

Reviewed by: Grants Program and Policy Committee(s)

Presented by: Annie Felix-Gerth

Time requested: 15 minutes

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|--|---|
| <input type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input checked="" type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input checked="" type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

In June, the BWSR Board will make a decision to authorize the FY24 CWF Competitive Grants, including the associated policy and RFP criteria. The RFP will open on June 29 and close August 24. The Board will be asked to make a funding decision on eligible applications on December 14, 2023.

LINKS TO ADDITIONAL INFORMATION

Attached draft board order, policy and RFP criteria.

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

The Clean Water Fund Competitive Grant Policy is reviewed and approved annually. For FY 2024, the policy will apply to Projects and Practices and Projects and Practices Drinking Water grants.

The changes in this policy from the previous year include:

- Drinking Water grant only – public water suppliers and rural water systems are eligible to directly apply for the grant.
- Match changed from 25% to 10%
- Eligible practices section: 1) Practice Standards updated to include CWF statute language related to “demonstrated effectiveness and provide the greatest long-term positive impact on water quality. Innovative approaches may be incorporated on a case-by-case basis.” 2) Non-Structural Practices and Measures updated to include “Any projects proposing to provide cost share for installing or adopting non-structural land management practices for a duration longer than three years must be reviewed by BWSR staff and approved by the Assistant Director of Regional Operations prior to workplan approval.”
- Ineligible practices section: 1) Drainage law language simplified. 2) Permanent stormwater treatment activities added.

In addition to approving the policy, the board order also authorizes the fiscal year 2024 Clean Water Fund Competitive Grants Program and authorizes staff to finalize and issue a Request for Proposals. The Grants Program and Policy Committee reviewed these recommendations on May 22 and June 26, 2023 and recommends the attached policy and order to the board.

BOARD ORDER

Fiscal Year 2024 Clean Water Fund Competitive Grants Program

PURPOSE

Authorize the fiscal year 2024 Clean Water Fund Competitive Grants Program and adopt fiscal year 2024 Clean Water Fund Competitive Grant Policy

FINDINGS OF FACT / RECITALS

- A. The Laws of Minnesota 2023, Chapter 40, Article 2, Section 6 (b) appropriated \$8,500,000 for the fiscal year 2023 Clean Water Fund Projects and Practices Competitive Grants Program with up to 20 percent available for land-treatment projects and practices that benefit drinking water.
- B. BWSR has received prior appropriations consistent with the criteria for this competitive grant program.
- C. The Board has authorities under Minnesota Statutes §103B.3369 and 103B.101 to award grants and contracts to accomplish water and related land resources management.
- D. On May 22 and June 26, 2024, the Grants Program and Policy Committee reviewed the proposed fiscal year 2024 Clean Water Fund Competitive Grants Request for Proposals criteria and Competitive Grant Policy, and recommended approval to the Board.

ORDER

The Board hereby:

- 1. Adopts the attached fiscal year 2024 Clean Water Fund Competitive Grant Policy.
- 2. Authorizes the fiscal year 2024 Clean Water Fund Competitive Grants Program according to the attached ranking criteria for the FY 2024 Clean Water Fund Competitive Grants Request for Proposal. The program consists of Projects and Practices and the Projects and Practices – Drinking Water Subgrant.
- 3. Authorizes staff to shift and otherwise utilize unallocated funds from prior Clean Water Fund fiscal years to the fiscal year 2024 Clean Water Fund Projects and Practices Competitive Grant Program.
- 4. Authorizes staff to finalize and issue a Request for Proposals based on the amounts available for each of the programs listed including any remaining funds that have not been allocated from prior fiscal years.

Dated at St. Paul, Minnesota, this June 28, 2023.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

Gerald Van Amburg, Chair
Board of Water and Soil Resources

Date: _____

Attachments: FY 2024 Clean Water Fund Competitive Grants Request for Proposal Criteria
FY 2024 Clean Water Fund Competitive Grant Program Policy

FY 2024 Clean Water Fund Competitive Grants Request for Proposal Criteria

Projects and Practices Ranking Criteria	
Ranking Criteria	Maximum Points Possible
<u>Project Abstract</u> : The project abstract succinctly describes what results the applicant is trying to achieve and how they intend to achieve those results.	5
<u>Prioritization (Relationship to Plans)</u> : The proposal is based on priority protection or restoration actions listed in or derived from the current state approved and locally adopted plan for the project area (see plans listed in 'Applicant Eligibility' of this RFP) and is linked to statewide Clean Water Fund priorities and public benefits.	20
<u>Targeting</u> : The proposed project addresses identified critical pollution sources or risks impacting the water resource(s).	25
<u>Measurable Outcomes and Project Impact</u> : The proposed project has a quantifiable reduction in pollution for restoration projects or measurable outputs for protection projects and directly addresses the water quality concern identified in the application.	20
<u>Cost Effectiveness and Feasibility</u> : The application identifies a cost effective and feasible solution to address the non-point pollution concern(s).	15
<u>Project Readiness</u> : The application has a set of specific activities that can be implemented soon after grant award.	15
Total Points Available	100



Drinking Water Protection Ranking Criteria

Ranking Criteria	Maximum Points Possible
<u>Project Abstract</u> : The project abstract succinctly describes what results the applicant is trying to achieve and how they intend to achieve those results.	5
<u>Prioritization (Relationship to Plans)</u> : The proposal is based on priority actions listed in an approved local water management plan or a state approved plan (Minnesota Department of Health approved drinking water (source water) protection plan such as a wellhead protection plan, wellhead protection action plan and surface water intake plan.	20
<u>Targeting</u> : The proposed project addresses pollution sources or risks directly impacting drinking water sources. The project is either in an area designated as a Drinking Water Supply Management Area, vulnerable to groundwater contamination, high groundwater sensitivity, or in an area with elevated levels of contamination that pose a risk to human health.	35
<u>Project Impact</u> : The proposed project reduces pollution sources posing the greatest risk to drinking water sources.	30
<u>Project Readiness</u> : The application has a set of specific activities that can be implemented soon after grant award.	10
Total Points Available	100

FY 2024 Clean Water Fund Competitive Grant Policy

From the Board of Water and Soil Resources, State of Minnesota

Effective Date: June 28, 2023
Approval: Board Order #23-##



Policy Statement

This policy provides expectations for implementation activities conducted via the Board of Water and Soil Resources (BWSR) competitive grants program as defined by the Clean Water Fund appropriation under Laws of Minnesota 2023, Chapter 40, Article 2, Section 6 (b).

The Clean Water Fund was established to implement part of Article XI, Section 15, of the Minnesota Constitution, and Minnesota Statutes §114D with the purpose of protecting, enhancing, and restoring water quality in lakes, rivers, and streams and to protect groundwater and drinking water sources from degradation.

Reason for the policy

The purpose of this policy is to provide expectations for implementation activities conducted via the Board of Water and Soil Resources (BWSR) Clean Water Fund (CWF) competitive grant program.

BWSR will use grant agreements for assurance of deliverables and compliance with appropriate statutes, rules and established policies. Willful or negligent disregard of relevant statutes, rules and policies may lead to imposition of financial penalties or future sanctions on the grant recipient.

The Clean Water Fund Grants Request for Proposals (RFPs) may identify more specific requirements or criteria when specified by statute, rule or appropriation language. BWSR's Grants Administration Manual (<http://www.bwsr.state.mn.us/grants/manual/>) provides the primary framework for local management of all state grants administered by BWSR.

Program Requirements

1. Eligible Applicants

Eligible applicants for competitive grants include:

- a) Local governments (counties, watershed districts, watershed management organizations, and soil and water conservation districts or local government joint power boards) working under a current State approved and locally adopted local water management plan, comprehensive watershed management plan or soil and water conservation district comprehensive plan.
- b) Municipalities are eligible if they: 1) have a water plan that has been approved by a watershed district or a watershed management organization as provided under Minn. Stat. 103B.235; or 2) adopted an approved comprehensive watershed management plan developed under Minn. Stat. 103B.801
- c) Counties in the seven-county metropolitan area are eligible if they have adopted a county groundwater plan under Minn Stat. 103B.255 or county comprehensive plan that has been approved by the Metropolitan Council under Minn. Stat. Chapter 473.
- d) DRINKING WATER GRANT ONLY: Eligible entities include those listed in a) and c) above, as well as, municipalities if they have a state approved Minnesota Department of Health approved source water (drinking water) protection plan such as a wellhead protection plan, wellhead protection action plan or surface water intake protection plan (public water suppliers and rural water systems defined by Minn. Stat. 116A.01 Public Water Systems).

Applicable plans must be current when the Board approves awards to be eligible to receive grant funds as defined under the Board's *Local Water Plan Status and Grant Eligibility Policy*. Applicants must also be in compliance with all applicable federal, State, and local laws, policies, ordinances, rules, and regulations.

2. Match Requirements

All grants require a non-state match equal to at least 10 % of the amount of Clean Water Funds requested and/or received, unless specified otherwise by Board action. Activities listed as ineligible under Section 4 (Ineligible Activities) may not be counted towards match. Match can be provided by a landowner, land occupier, private organization, local government or other non-state source and can be in the form of cash or the cash value of services or materials contributed to the accomplishment of grant objectives.

3. Eligible Activities

The primary purpose of activities funded through this program is to restore, protect, and enhance water quality in lakes, rivers and streams; protect groundwater from degradation; and protect drinking water sources. Eligible activities must be consistent with a comprehensive watershed management plan, county comprehensive local water management plan, soil and water conservation district comprehensive plan, metropolitan local water plan or metropolitan groundwater plan that has been State approved and locally adopted or an approved total maximum daily load study (TMDL), watershed restoration and protection strategy (WRAPS) document,

groundwater restoration and protection strategy (GRAPS) document, surface water intake plan, or wellhead protection plan. Local governments may include programs and projects in their grant application that are derived from an eligible plan of another local government. BWSR may request documentation outlining the cooperation between the local government submitting the grant application and the local government that has adopted the plan.

Eligible activities can consist of structural practices and projects; non-structural practices and measures, project support, grant management and reporting. Technical and engineering assistance necessary to implement these activities are considered essential and are to be included in the total project or practice cost.

Structural and Non-Structural Activities

The BWSR website provides a list of the practices available for users to select within eLINK, see <https://bwsr.state.mn.us/elink-guidance-practices>. It is not an inclusive list. The following activities have specific definitions and specifications.

Non-structural Activities: Non-structural activities that supplement or exceed current minimum state standards or procedures for protection, enhancement, and restoration of water quality in lakes, rivers, and streams and to protect groundwater and drinking water sources from degradation are eligible. Any projects proposing to provide financial assistance for installing or adopting non-structural land management practices for a duration longer than three years must be reviewed by BWSR staff and approved by the Assistant Director of Regional Operations prior to workplan approval. Non-structural vegetative practices must follow the Native Vegetation Establishment and Enhancement Guidelines, see <https://bwsr.state.mn.us/node/8806>.

Drinking Water: Both surface water (streams, rivers, and lakes) and ground water (aquifers) can serve as sources of drinking water. Drinking water projects must be consistent with wellhead protection plans, protection plans for surface water intakes, groundwater restoration and protection strategies (GRAPS), or local water management plans or their equivalents.

Feedlots: Eligible practices are limited to: livestock management systems that were constructed before October 23, 2000, and livestock operations registered with the Minnesota Pollution Control Agency Database or its equivalent, and that are not classified as a Concentrated Animal Feeding Operation (CAFO) and have less than 500 animal units (AUs), in accordance with Minnesota Rule Chapter 7020. BWSR reserves the right to deny, postpone or cancel funding where financial penalties related to livestock waste management violations have been imposed on the operator.

- a. Funded projects must be in compliance with standards in MN Rule Chapter 7020 upon completion.
- b. Eligible practices are limited to best management practices listed by the Minnesota NRCS and permitting requirements.
- c. Eligible practices and project components must meet all applicable local, State, and federal standards and permitting requirements.
- d. Feedlot roof structures are eligible up to \$100,000 per project with state grant funds and not to exceed 100% of construction costs.
- e. Feedlot relocations are eligible up to \$100,000 per project with state grant funds and not to exceed 100% of the construction costs. The existing eligible feedlot must be permanently closed in accordance

with local and State requirements. The existing and relocated livestock waste management systems sites are considered one project for grant funding.

Subsurface Sewage Treatment Systems (SSTS)

- a. Local governments should first exhaust primary source of SSTS grant funding from the Minnesota Pollution Control Agency.
- b. Eligible activities are limited to identified imminent threat to public health systems (ITPHS) and systems that fail to protect groundwater. Project landowners must meet low income thresholds. Low income guidelines from U.S Rural Development are strongly encouraged as the basis for the definition of low income.
- c. Proposed community wastewater treatment systems involving multiple landowners are eligible for funding but must be listed on the MPCA's Project Priority List (PPL) and have a Community Assessment Report (CAR) or facilities plan [Minn. Rule 7077.0272] developed prior to the application deadline. For community wastewater system applications that include ITPHS, systems that fail to protect groundwater are also eligible.
- d. In an unsewered area that is connecting into a sewer line to a municipal wastewater treatment plant (WWTP), the costs associated with connecting the home to the sewer line is eligible for funding if the criteria in b. and c. above are met.

In-lake or in-channel treatment: Best management practices such as rough fish management, vegetation management, lake draw-down and alum treatments that have been identified as an implementation activity are eligible. A feasibility study that meets minimal requirements as defined by BWSR must be completed prior to applying for funding and the report uploaded to eLINK as part of the grant application. Eligible costs apply only to initial costs for design and implementation. All subsequent applications and treatments under this subsection are considered to be Operations and Maintenance expenses that are a local responsibility.

Conditions that apply to all structural and non-structural activities

Practice Standards: The grantee must use methods and practices consistent with the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG), Minnesota Stormwater Manual, or be a professionally accepted engineering or ecological practice that have a demonstrated effectiveness and provide the greatest long-term positive impact on water quality. Innovative approaches may be incorporated on a case-by-case basis. Design standards for all practices must include specifications for operation and maintenance for the effective life of the given practice, including an inspection schedule and procedure.

Incentives: Incentives to install or adopt best management practices that improve or protect water quality are an eligible use of funds. Incentive payments should be reasonable and justifiable, supported by grant recipient policy, consistent with prevailing local conditions, and must be based on established standards. BWSR reserves the right to review and approve incentive payment rates established by grant recipient policy. Incentives to install or adopt best management practices can have a maximum duration of three 3 years with a goal of ongoing landowner adoption unless otherwise approved by the Assistant Director of Regional Operations prior to work plan approval.

Effective Life: All structural practices must be designed and maintained for a minimum effective life of ten years for best management practices and 25 years for capital improvement practices. The beginning date for a practice's effective life is the same date final payment is approved and the project is considered complete. Where questions arise under this section, the effective lifespan of structural practices and projects shall be defined by current and acceptable design standards or criteria as defined in Section 3.8.

Project Assurances: The grantee must provide assurances that the landowner or land occupier will keep the practice in place for its intended use for the expected lifespan of the practice. Such assurances may include easements, deed recordings, enforceable contracts, performance bonds, letters of credit, and termination or performance penalties. BWSR may allow replacement of a practice or project that does not comply with expected lifespan requirements with a practice or project that provides equivalent water quality benefits. See also the Projects Assurances section of the Grants Administration Manual.

Operation, Maintenance and Inspections: Identifying operation and maintenance activities specific to the installed practices is critical to ongoing performance of installed practices as well as to planning and scheduling those activities. An operation and maintenance plan must be prepared by designated technical staff for the life of the practice and be included with the design standards. An inspection schedule, procedure, and assured access to the practice site shall be included as a component of maintaining the effectiveness of the practice.

Technical and Administrative Assistance

Clean Water Funds may be used for actual technical and administrative expenses to advance project implementation. Eligible expenses include the following activities: grant administration, site investigations and assessments, design and cost estimates, construction supervision, and construction inspections. Technical and administrative expenditures must be appropriately documented according to the Grants Administration Manual.

Project Support

Eligible activities include public participation and engagement, equipment, and other activities necessary for the implementation of water quality practices consistent with the purposes of these funds. Refer to guidance within the Grants Administration Manual for Capital Equipment Purchases.

Grant Management and Reporting

All grant recipients are required to report on the outcomes, activities, and accomplishments of Clean Water Fund grants. The grant funds may be used for local grant management and reporting that are directly related to and necessary for implementing the project or activity. Applicants who have previously received a grant from BWSR must be in compliance with BWSR requirements for grantee website and eLINK reporting before grant execution and payment.

4. Ineligible Activities

The following activities are ineligible for these funds. The Clean Water Fund Competitive RFP may identify program specific ineligible activities.

4.1 Activities that do not have a primary benefit of water quality.

- 4.2 Water quality monitoring such as, but not limited to, routine, baseline, diagnostic, or effectiveness monitoring. This includes both surface and groundwater monitoring activities.
- 4.3 Household water conservation appliances and water fixtures.
- 4.4 Wastewater treatment with the exception of Subsurface Sewage Treatment Systems (SSTS).
- 4.5 Municipal drinking water supply facilities or individual drinking water treatment systems.
- 4.6 Storm water conveyances that collect and move runoff, but do not provide water quality treatment benefit.
- 4.7 Activities that outlet landlocked basins.
- 4.8 Development and delivery of educational activities and curriculum that do not support or lead to the implementation of prioritized and targeted water quality practices.
- 4.9 Replacement, realignment or creation of bridges, trails or roads.
- 4.10 Aquatic plant harvesting.
- 4.11 Routine maintenance or repair of best management practices, capital equipment and infrastructure within the effective life of existing practices or projects.
- 4.12 Feedlots: a). Feedlot expansions beyond state registered number of animal units, and b). Slats placed on top of manure storage structures.
- 4.13 Subsurface Sewage Treatment Systems (SSTS): a. Small community wastewater treatment systems serving over 10,000 gallons per day with a soil treatment system, and b. A small community wastewater treatment system that discharges treated sewage effluent directly to surface waters without land treatment.
- 4.14 Any project that contributes to, or otherwise is used to replace wetlands impacted under the Wetland Conservation Act (per Minn. Rules. 8420).
- 4.15 Fee title land acquisition or easement costs, unless specifically allowed. If not specifically allowed, land acquisition and easement costs can count toward the required match if directly associated with the project and incurred within the grant period.
- 4.16 Buffers that are required by law (including Drainage Law and Buffer Law).
- 4.17 Activities required under the Groundwater Protection Rule.
- 4.18 Components required by 103E Drainage Law.
- 4.19 Permanent stormwater treatment activities required to only meet the minimum requirements in Section 15 (Permanent Stormwater Treatment System) of the NPDES Construction Stormwater Permit, which addresses development projects that creates a net increase of one or more acres of cumulative impervious surface.

5. Technical Expertise

The grantee has the responsibility to ensure that the designated technical staff have the appropriate technical expertise, skills and training for their assigned role(s). See also the Technical Quality Assurances section of the Grants Administration Manual.

Grantees must identify the technical assistance provider(s) for the practice or project and their credentials for providing this assistance. The technical assistance provider(s) must have appropriate credentials for practice investigation, design, and construction. Credentials can include conservation partnership Job Approval Authority (JAA), also known as technical approval authority; applicable professional licensure; reputable vendor with applicable expertise and liability coverage; or other applicable credentials, training, and/or experience.

BWSR reserves the right to review the qualifications of all persons providing technical assistance and review the technical project design if a recognized standard is not available.

6. Practice or Project Construction and Sign-off

Grant recipients shall verify that the practice or project was properly installed and completed according to the plans and specifications, including technically approved modifications, prior to authorization for payment.

7. BWSR Grant Work Plan, Reporting and Reconciliation Requirements

BWSR staff is authorized to develop grant agreements, requirements and processes for work plans and project outcomes reporting, closeouts, and fiscal reconciliations. In the event there is a violation of the terms of the grant agreement, BWSR will enforce the grant agreement and evaluate appropriate actions, up to and including repayment of grant funds at a rate up to 100% of the grant agreement.

Important information below:

- All grantees must follow the Grants Administration Manual policy and guidance.
- Funds repaid to a grantee from a landowner or other land occupier who has failed to maintain a practice for its effective life must be reallocated to a local cost share program or project account consistent with MN Statutes Chapter 114D.50, less the administrative cost of the grantee.
- The grantee board is the authority and has the responsibility to approve the expenditure of funds within their own organization. The approval or denial of expenditures of funds must be documented in the Grantee Board's meeting minutes.
- BWSR recommends all contracts be reviewed by the grant recipient's legal counsel.
- Grant reporting, fiscal management, and administration requirements are the responsibility of the grant recipient.

History

This policy was originally created in 2010 and is updated annually for each fiscal year of funding.

Contact

For Clean Water Programs: Annie Felix-Gerth, Clean Water Coordinator

DRAFT

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Fiscal Year 2024 and 2025 Natural Resources Block Grants Authorization

Meeting Date: June 28, 2023

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Regional Operations

Contact: James Adkinson

Prepared by: James Adkinson

Reviewed by: Grants Program & Policy Committee(s)

Presented by: James Adkinson

Time requested: 10 minutes

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input type="checkbox"/> None | <input checked="" type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

Board approval of the Fiscal Year 2024 and 2025 Natural Resources Block Grants.

LINKS TO ADDITIONAL INFORMATION

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

The purpose of this agenda item is to allocate Natural Resources Block Grants. The recommended grants reflect at 36.5%, one-time increase for the biennium, applied uniformly across all grants, using the existing allocation formula. The Grants Program & Policy Committee (GP&P) reviewed the recommendations at their May 22 meeting and recommended approval of the order to the board.

BOARD ORDER

Fiscal Year 2024 and Fiscal Year 2025 Natural Resources Block Grant Grants Authorization

PURPOSE

Provide fiscal years 2024 and 2025 Natural Resources Block Grants to MN Counties.

FINDINGS OF FACT / RECITALS

- A. The Natural Resources Block Grant (NRBG) program provides assistance to local governments to implement statutory natural resource programs of Comprehensive Local Water Management (LWM), the Wetland Conservation Act (WCA), the Minnesota Department of Natural Resources (DNR) Shoreland Management.
- B. The Laws of Minnesota 2023, Regular Session, Chapter 60 Article 1, Section 4 appropriated fiscal year (FY) 2024 and 2025 LWM, WCA and DNR Shoreland Natural Resources Block Grant funds to BWSR.
- C. The proposed allocations in this order were developed consistent with this appropriation. Proposed distributions represent a one-time biennium increase of 36.5% from the previous biennium distributions and have been applied uniformly across all for FY 2024 and 2025.
- D. The Grants Program and Policy Committee, at their May, 22 2023 meeting, reviewed the proposed allocations and recommended approval to the Board.

ORDER

The Board hereby:

- 1. Authorizes staff to enter into individual grant agreements with counties meeting the NRBG Program requirements and consistent with the attached table *Proposed FY2024 and 2025 Natural Resources Block Grant allocations*, for grant programs funded by BWSR appropriations, as determined by the BWSR and DNR, and totaling:

Grant	FY 2024	FY 2025
LWM	\$1,555,144	\$1,555,144
WCA	\$2,602,681	\$2,602,681
DNR Shoreland	\$515,175	\$515,175

2. Resolves that for LWM, WCA and DNR Shoreland programs, grantees have the flexibility to shift the amount of grant funds between these three programs consistent with local program needs.
3. Authorizes staff to enter into grant agreements for these purposes and to coordinate with MPCA to deliver SSTS implementation funding that may be available through other appropriations.

Dated at St. Paul, Minnesota, this June 28, 2023.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

Gerald Van Amburg, Chair
Board of Water and Soil Resources

Date: _____

Attachments: Proposed FY2024 and 2025 Natural Resources Block Grant allocation

Proposed FY2024 and 2025 Natural Resources Block Grants			
COUNTY	LWM	WCA	SHORELAND
AITKIN	\$18,960	\$45,378	\$14,725
ANOKA SWCD	\$11,050	\$86,267	\$3,570
BECKER	\$17,844	\$33,088	\$14,661
BELTRAMI	\$18,687	\$88,190	\$7,515
BENTON	\$18,117	\$43,137	\$4,486
BIG STONE	\$21,448	\$11,982	\$3,672
BLUE EARTH	\$13,683	\$24,816	\$4,427
BROWN	\$18,611	\$11,984	\$3,652
CARLTON	\$18,224	\$30,726	\$5,361
CARVER	\$11,050	\$43,138	\$3,570
CASS	\$14,337	\$61,113	\$14,606
CHIPPEWA	\$20,315	\$11,984	\$3,584
CHISAGO	\$15,349	\$37,815	\$6,748
CLAY	\$17,301	\$22,453	\$4,019
CLEARWATER	\$20,827	\$27,179	\$4,318
COOK	\$20,248	\$17,727	\$5,728
COTTONWOOD	\$20,265	\$11,984	\$3,784
CROW WING	\$11,050	\$51,997	\$26,113
DAKOTA	\$11,050	\$72,087	\$3,570
DODGE	\$19,773	\$22,449	\$3,652
DOUGLAS	\$16,487	\$29,544	\$11,664
FARIBAULT	\$19,863	\$11,984	\$3,734
FILLMORE	\$19,492	\$11,984	\$3,675
FREEBORN	\$17,911	\$11,984	\$4,285
GOODHUE	\$12,878	\$22,453	\$3,784
GRANT	\$21,164	\$18,908	\$4,172
HENNEPIN	\$11,050	\$77,997	\$0
HOUSTON	\$20,067	\$17,727	\$3,720
HUBBARD	\$18,082	\$34,270	\$11,514
ISANTI	\$18,090	\$34,270	\$5,466
ITASCA	\$14,262	\$60,270	\$13,798
JACKSON	\$20,091	\$11,984	\$4,111
KANABEC	\$20,575	\$34,270	\$5,584
KANDIYOHI	\$16,414	\$29,544	\$9,219

KITTSON	\$20,859	\$22,453	\$3,614
KOOCHICHING	\$20,512	\$39,471	\$3,716
LAC QUI PARLE	\$21,096	\$11,984	\$3,589
LAKE	\$20,117	\$22,453	\$6,299
LAKE OF THE WOODS	\$21,582	\$46,088	\$4,767
LE SUEUR	\$18,431	\$22,453	\$6,714
LINCOLN	\$21,144	\$11,984	\$3,779
LYON	\$18,688	\$11,984	\$3,738
MAHNOMEN	\$21,622	\$17,727	\$4,587
MARSHALL	\$20,468	\$27,724	\$3,570
MARTIN	\$18,699	\$11,984	\$4,128
MCLEOD	\$17,259	\$22,453	\$4,079
MEEKER	\$19,099	\$25,998	\$6,464
MILLE LACS	\$19,605	\$30,726	\$6,564
MORRISON	\$18,579	\$41,362	\$5,386
MOWER	\$17,811	\$17,727	\$4,456
MURRAY	\$20,546	\$11,984	\$4,397
NICOLLET	\$17,960	\$22,453	\$3,661
NOBLES	\$19,661	\$11,984	\$3,633
NORMAN	\$21,216	\$17,727	\$3,582
OLMSTED	\$11,050	\$34,270	\$4,299
OTTER TAIL	\$13,411	\$81,541	\$24,228
PENNINGTON	\$20,943	\$22,453	\$3,868
PINE	\$18,915	\$47,271	\$8,053
PIPESTONE	\$20,815	\$11,984	\$3,570
POLK	\$18,386	\$29,544	\$4,719
POPE	\$20,607	\$21,271	\$5,802
RAMSEY	\$11,050	\$22,767	\$0
RED LAKE	\$21,648	\$17,727	\$3,922
REDWOOD	\$19,757	\$14,180	\$3,570
RENVILLE	\$19,177	\$11,984	\$3,634
RICE	\$14,276	\$33,089	\$5,719
ROCK	\$20,717	\$11,984	\$3,570
ROSEAU	\$20,656	\$33,089	\$3,682
SCOTT	\$11,050	\$56,724	\$3,570

SHERBURNE	\$11,050	\$43,138	\$6,651
SIBLEY	\$19,952	\$18,364	\$3,686
ST. LOUIS	\$11,050	\$103,285	\$27,216
STEARNS	\$11,050	\$62,633	\$12,291
STEELE	\$17,010	\$16,543	\$3,914
STEVENS	\$20,894	\$11,984	\$3,724
SWIFT	\$20,547	\$16,543	\$3,746
TODD	\$20,035	\$29,544	\$6,734
TRAVERSE	\$21,276	\$11,984	\$3,828
WABASHA	\$19,354	\$16,543	\$4,803
WADENA	\$21,010	\$27,179	\$4,210
WASECA	\$19,482	\$16,543	\$4,104
WASHINGTON	\$11,050	\$56,724	\$3,570
WATONWAN	\$20,625	\$11,984	\$3,731
WILKIN	\$20,794	\$11,984	\$3,593
WINONA	\$16,173	\$16,543	\$3,620
WRIGHT	\$11,050	\$57,905	\$12,749
YELLOW MEDICINE	\$20,717	\$11,984	\$3,589
TOTALS	\$1,555,144	\$2,602,681	\$515,175

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: Fiscal Year 2024 and 2025 Technical Service Area Grants Authorization

Meeting Date: June 28, 2023

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Regional Operations

Contact: James Adkinson

Prepared by: James Adkinson

Reviewed by: Grants Program & Policy Committee(s)

Presented by: James Adkinson

Time requested: 10 minutes

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input type="checkbox"/> None | <input checked="" type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input checked="" type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

Board approval of the 2024 and 2025 Technical Service Area Grants

LINKS TO ADDITIONAL INFORMATION

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

The purpose of this agenda item is to allocate Technical Service Area (TSA) Grants. The recommended grants are consistent with allocations to each TSA except for the equipment funds which are rotated on an established schedule. The Grants Program & Policy Committee reviewed the recommendations at their May 22, 2023 meeting and recommended approval of the order to the board.



BOARD ORDER

Fiscal Year 2024 and Fiscal Year 2025 Technical Service Area Grants Authorization

PURPOSE

Provide Fiscal Year 2024 and Fiscal Year 2025 Technical Service Area Program Grants to the eight SWCD Technical Service Areas.

FINDINGS OF FACT / RECITALS

- A. The Laws of Minnesota 2023, Regular Session, Chapter 60, Article 1, Section 4 appropriated fiscal year (FY) 2024 and 2025 funding for Nonpoint Engineering Assistance grants.
- B. The Laws of Minnesota 2023, Regular Session, Chapter 40, Article 2, Section 6 appropriated funding for Accelerated Implementation and Enhancement Grants.
- C. The allocations in this order were developed in combination consistent with these appropriations.
- D. The Grants Program and Policy Committee, at their May 22, 2023 meeting, reviewed the provisional allocations and recommended approval to the Board.

ORDER

The Board hereby:

1. Approves the provisional allocation of TSA Program Grants to eligible TSAs in the amounts listed in the attached table.
2. Authorizes both fiscal year 2024 and fiscal year 2025 Enhanced Technical Assistance grant allocations, recognizing that funds for the fiscal year 2025 grants will not be available until the start of that fiscal year and will be processed only after July 1, 2024.
3. Establishes that the grants awarded pursuant to this resolution will conform to the Technical Service Area Grants Program Policy effective on July 1, 2017.
4. Authorizes staff to enter into grant agreements for this purpose.

Dated at St. Paul, Minnesota, this June 28, 2023.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

Date: _____

Gerald Van Amburg, Chair
Board of Water and Soil Resources

Attachments: *Provisional FY2024 and 2025 Technical Service Area Program Grant Allocation*

FY2024 and 2025 Technical Service Area Program Grant Allocation Table

TSA	Nonpoint Engineering Assistance Program				Clean Water Fund Supplement		FY 2024 Total	FY 2025 Total
	FY24 Equipment	FY25 Equipment	FY 2024 Total NPEA Grant	FY 2025 Total NPEA Grant	FY24 Enhanced Technical Assistance	FY25 Enhanced Technical Assistance		
1	\$20,000	\$0	\$127,500	\$127,500	\$242,500	\$242,500	\$390,000	\$370,000
2	\$0	\$20,000	\$127,500	\$127,500	\$242,500	\$242,500	\$370,000	\$390,000
3	\$0	\$0	\$127,500	\$127,500	\$242,500	\$242,500	\$370,000	\$370,000
4	\$0	\$0	\$127,500	\$127,500	\$242,500	\$242,500	\$370,000	\$370,000
5	\$0	\$20,000	\$127,500	\$127,500	\$242,500	\$242,500	\$370,000	\$390,000
6	\$20,000	\$0	\$127,500	\$127,500	\$242,500	\$242,500	\$390,000	\$370,000
7	\$0	\$0	\$127,500	\$127,500	\$242,500	\$242,500	\$370,000	\$370,000
8	\$0	\$0	\$127,500	\$127,500	\$242,500	\$242,500	\$370,000	\$370,000
	\$40,000	\$40,000	\$1,020,000	\$1,020,000	\$1,940,000	\$1,940,000	\$3,000,000	\$3,000,000

COMMITTEE RECOMMENDATIONS

Central Region Committee

1. North Fork Crow River Comprehensive Watershed Management Plan 2018-2028 Plan Amendment – Steve Christopher – ***DECISION ITEM***

BOARD MEETING AGENDA ITEM

AGENDA ITEM TITLE: North Fork Crow River Comprehensive Watershed Management Plan
2018-2028 Plan Amendment

Meeting Date: June 28, 2023

Agenda Category: Committee Recommendation New Business Old Business

Item Type: Decision Discussion Information

Section/Region: Central Region

Contact: Steve Christopher

Prepared by: Steve Christopher

Reviewed by: Central Region Committee(s)

Presented by: Steve Christopher

Time requested: 5 minutes

Audio/Visual Equipment Needed for Agenda Item Presentation

Attachments: Resolution Order Map Other Supporting Information

Fiscal/Policy Impact

- | | |
|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> General Fund Budget |
| <input type="checkbox"/> Amended Policy Requested | <input type="checkbox"/> Capital Budget |
| <input type="checkbox"/> New Policy Requested | <input type="checkbox"/> Outdoor Heritage Fund Budget |
| <input type="checkbox"/> Other: | <input type="checkbox"/> Clean Water Fund Budget |

ACTION REQUESTED

Approval of the North Fork Crow River Comprehensive Watershed Management Plan 2018-2028 Plan Amendment

LINKS TO ADDITIONAL INFORMATION

North Fork Crow River Comprehensive Watershed Management Plan Amended Pages

Link here: https://bwsr.state.mn.us/sites/default/files/2023-06/NFCR_CWMP_Plan%20Amendment_FINAL_20230428.pdf

SUMMARY *(Consider: history, reason for consideration now, alternatives evaluated, basis for recommendation)*

Background:

The current North Fork Crow River Comprehensive Watershed Management Plan (Plan) was approved on June 27, 2018 and expires on June 27, 2028. The Plan partners of the North Fork Crow River Watershed Planning Partnership (NFCRWPP) include McLeod County, McLeod Soil and Water Conservation District (SWCD), Meeker County, Meeker SWCD, Kandiyohi County, Kandiyohi SWCD, Pope County, Pope SWCD, Stearns County, Stearns SWCD, Wright County, Wright SWCD, Middle Fork Crow River Watershed District, and North Fork Crow River Watershed District.

Plan Amendment:

Following approval from each of the NFCRWPP respective boards and concurrence with the partnerships Policy Committee, the Wright SWCD submitted a draft amendment to the Plan on their behalf on September 29, 2022. The NFCRWPP received initial input on the draft in fall 2022, then held a 60-day review that ended on April 23, 2023. The Wright SWCD held a public hearing on the Plan amendment on May 8, 2023. The 90-day review began on May 17, 2023.

The purpose for the Plan amendment is to make the Plan more usable for the NFCRWPP, provide clarity on implementation actions and goals, and make clerical revisions. A significant portion of the implementation tables in the Plan included items that local government units were not the lead entity. The tables have been revised in the amended draft to include only those actions undertaken by the "Local Leads". The implementation tables have also been simplified to only include actions relevant to the highest priorities as identified for each of the seven planning regions. Maps have been provided to highlight areas where the NFCRWPP will focus their efforts and create priority areas geographically that align with their resource goals. Lastly, since the Plan was approved, the Crow River Organization of Water (CROW) has discontinued its operations. All references to the CROW in the Plan have been removed and the action items within the implementation section have been reassigned.

Comments on the draft amendment were received from BWSR, Metropolitan Council, Minnesota Department of Health, Minnesota Department of Natural Resources, and the City of Otsego. The NFCRWPP provided a written response to all comments and made edits to the draft amendment as needed. BWSR staff worked closely with the NFCRWPP in the development of the Amendment and through the review process. BWSR staff has completed its review and recommends approval of the North Fork Crow River Comprehensive Watershed Management Plan Amendment.

Attachments:

1. Draft Board Order for approval of the North Fork Crow River Comprehensive Watershed Management Plan Amendment

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

In the Matter of the review of the Comprehensive Watershed Management Plan Amendment for the North Fork Crow Watershed, pursuant to Minnesota Statutes Sections 103B.101, Subdivision 14 and 103B.801.

**ORDER
APPROVING
COMPREHENSIVE
WATERSHED
MANAGEMENT PLAN
AMENDMENT**

Whereas, on June 27, 2018, the Minnesota Board of Water and Soil Resources (Board), by Board Order, approved the North Fork Crow River Comprehensive Watershed Management Plan (Plan); and

Whereas, the North Fork Crow River Watershed Planning Partnership (NFCRWPP) submitted a Comprehensive Watershed Management Plan Amendment (Amendment) to the Board on May 11, 2023, pursuant to Minnesota Statutes Sections 103B.101, Subdivision 14 and 103B.801 and Board Resolution #21-08; and

Whereas, the Board has completed its review of the Amendment;

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

- A. On February 22, 2023, the NFCRWPP submitted the proposed Amendment to the plan review authorities for a 60-day review process that ended on April 23, 2023, pursuant to Minnesota Statutes Sections 103B.101, Subdivision 14 and 103B.801 and Board Resolution #21-08.
- B. On May 8, 2023, the NFCRWPP held the required public hearing in Buffalo, Minnesota as part of the Wright Soil and Water Conservation District Board Meeting.
- C. On May 11, 2023, the Board received the Amendment, a record of the public hearing, copies of all written comments pertaining to the Amendment, and a summary of changes incorporated as a result for final State review pursuant to Board Resolution #18-14. The following state review comments were received during the comment period.

Local Review: The City of Otsego requested clarification on several items as well as recommended opportunities for partnership. The Plan Amendment was updated to include all recommended changes.

Minnesota Department of Agriculture (MDA): MDA did not comment on the Amendment.

Minnesota Department of Health (MDH): MDH raised concern about the existing levels of arsenic in portions of the watershed and recommended adding an education activity. The Amendment has been updated to include the watershed-wide activity.

Minnesota Department of Natural Resources (DNR): DNR commented that the Amendment will streamline and focus the implementation efforts. DNR also suggested reviewing information provided within the ditch systems referenced with possible corrections needed as well as suggested revisions to multiple Action Descriptions. Changes to the Amendment were made as necessary.

Minnesota Pollution Control Agency (MPCA): MPCA did not comment on the Amendment.

Minnesota Environmental Quality Board (EQB): EQB confirmed receipt of the Amendment and had no comments.

Metropolitan Council: Metropolitan Council made several recommendations including adding the Upper Mississippi River Source Water Protection Project as a partner. Metropolitan Council recommended changes to add detail on irrigation management as well as adjustments to the Plan goals. Metropolitan Council acknowledged that this Amendment would strengthen the work of the NFCRWPP. The NFCRWPP made clarifications and additions as needed. They also noted that some of the changes recommended will be addressed when the plan undergoes the 10-year update.

Minnesota Board of Water and Soil Resources (BWSR): BWSR staff provided numerous comments regarding typographical corrections and requests for clarifications and additions. BWSR staff worked with local staff to address all the comments and the necessary changes were made to the Amendment prior to final submittal.

- D. **Central Region Committee.** On June 1, 2023, the Board’s Central Region Committee and staff met in St. Paul and via teleconference to review and discuss the final Plan. Those in attendance from the Board’s committee were Joe Collins (chair), Jill Crafton, Jayne Hager Dee, Mark Zabel, Steve Robertson, and Grant Wilson. Board staff in attendance were Marcey Westrick and Steve Christopher. Board staff provided a summary of the Plan Amendment and recommended approval of the Plan Amendment. After presentation and discussion, the committee unanimously voted to recommend the approval of the Amendment to the full board.
- E. This Amendment will be in effect until June 27, 2028.

CONCLUSIONS

1. All relevant substantive and procedural requirements of law have been fulfilled.
2. The Board has proper jurisdiction in the matter of approving a Comprehensive Watershed Management Plan Amendment pursuant to Minnesota Statutes Sections 103B.101, Subdivision 14 and 103B.801 and Board Resolution #21-08.
3. The Amendment attached to this Order is in conformance with the requirements of Minnesota Statutes Sections 103B.101, Subdivision 14 and 103B.801 and Board Resolution #21-08.

ORDER

The Board hereby approves the attached Amendment of the North Fork Crow River Comprehensive Watershed Management Plan. The Amendment will be in effect until June 27, 2028.

Dated at St. Paul, Minnesota, this 28th day of June 2023.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Gerald Van Amburg, Chair

June 28, 2023

Wright Soil and Water Conservation District Board
c/o Luke Johnson, Wright SWCD Manager
311 Brighton Ave S, Suite C
Buffalo, MN 55313

RE: Approval of the North Fork Crow River Comprehensive Watershed Management Plan Amendment

Dear Wright SWCD Board:

The Minnesota Board of Water and Soil Resources (BWSR) is pleased to inform you the North Fork Crow River Comprehensive Watershed Management Plan Amendment was approved on June 28, 2023. Attached is the signed Board Order that documents approval of the Amendment and indicates the Amendment meets all relevant requirements of law and rule.

This Amendment of the Plan is effective until June 27, 2028. Please be advised, the partners must adopt and begin implementing the amended Plan within 120 days of the date of the Order in accordance with Minnesota Statute 103B.101, Subd. 14 and 103B.801, and the One Watershed, One Plan Operating Procedures.

Please contact your Board Conservationist, Steve Christopher, at 651-249-7519 or steve.christopher@state.mn.us for further assistance on this matter.

Sincerely,

Gerald Van Amburg, Chair
Minnesota Board of Water and Soil Resources

Enclosure: BWSR Board Order

CC: Judy Sventek, Met Council (via email)
Ryan Lemickson, MDA (via email)
Margaret Wagner, MDA (via email)
Chad Anderson, MDH (via email)
Carrie Raber, MDH (via email)
Ethan Jenzen, DNR (via email)
Korey Woodley, DNR (via email)
Barbara Weisman, DNR (via email)
Catherine Neuschler, EQB (via email)
Scott Lucas, MPCA (via email)
Jeff Risberg, MPCA (via email)
Marcey Westrick, BWSR Regional Manager (via email)
Steve Christopher, BWSR Board Conservationist (via email)
Julie Westerlund, BWSR One Watershed, One Plan Program Coordinator (via email)