

Board of Water and Soil Resources (BWSR) Board Meeting

March 23, 2022

Actions of particular interest to watershed organizations are highlighted in gray.

Gerald Van Amburg called the meeting to order at 9:04 a.m. The Pledge of Allegiance was recited. The agenda was adopted. The minutes of the January 26, 2022 BWR Board (Board) meeting were approved. No one was present to address the board in the Public Access Forum. New staff were introduced. The Conflict-of-Interest Declaration was read.

REPORTS

Chair & Administrative Advisory Committee

Chair Van Amburg stated that the Administrative Advisory Committee has not met.

Executive Director Review

He reported on the performance review of Executive Director Jaschke. The survey results were compiled and sent to Executive Director Jaschke, Vice Chair Collins, and Chair Van Amburg on February 28. They met via Microsoft Teams to review the survey results. There were 48 questions regarding work performance. In 81% of the responses, he ranked very good to outstanding. There were a few responses of need improvement or unacceptable behavior. Responses to the survey were anonymous. The survey provided a good look at what people think of his performance and shows that he is very highly thought of. Most compelling were the positive comments about his leadership by the Board and senior staff. The performance review provides confirmation that Executive Director Jaschke is an astute, effective leader who is respected by those who work with him.

Chair Van Amburg reported on the joint meeting of the Climate Change Subcabinet and the Environmental Quality Board (EQB). The recording of the Climate Action Framework Community Conversation can be found by [clicking here](#). At the meeting, [Minnesota's Climate Action Framework](#) was presented.

He attended the Minnesota Association of Watershed Districts (MAWD) legislative event on March 16. He also attended the first day of the Red River Watershed Management Board (RRWMB) and the Flood Damage Reduction Work Group's 23rd Annual Meeting on March 22.

Angie Becker-Kudelka thanked the BWSR Board and Executive Director Jaschke for their work and leadership with local units of government (LGUs) and state agencies. She has accepted a job at the University of Minnesota (UM), which she will start soon. Several Board members thanked her for the work she has done, let her know that she will be missed, and wished her the best in her new job. There will be a farewell party on April 6 farewell.

Executive Director

Executive Director Jaschke reported on staffing vacancies. He is currently acting in five positions. They have brought on part-time staff to assist. BWSR has interviewed for the Legislative Coordinator position and a candidate has been selected. The announcement may be made by the end of the week. The Human Resources Director position is also vacant. He thanked the Department of Natural Resources (DNR) for their assistance with these services during the vacancy. Hopefully by early summer BWSR will have people in these positions.

Regarding his performance evaluation, he thanked the Board and staff for participating in this process. He plans to have the summary document mailed to the homes of the Board members. If there are questions regarding the evaluation, he encouraged contacting him directly.

The legislative session is underway, and the governor's recommendations have been introduced. There is currently an effort to conduct outreach efforts to Minnesotans to get input on the Climate Action Framework. To follow what is happening with this project, [click here](#).

The bill to provide capacity funds to Soil and Water Conservation Districts (SWCDs) has had a hearing and is being well received. There are other bills that have been introduced that BWSR staff are watching and providing information to committees as needed.

Events have been held in St. Paul for the Association of Minnesota Counties (AMC), Minnesota Association of SWCDs, and MAWD. All were done partially in person.

BWSR is working with the Minnesota Pollution Control Agency (MPCA) on an interagency transfer of a grant program for pipeline mitigation. This will be done through an administrative process. They are also working on developing a process for returning to work, with options for teleworking, to meet the needs of the agency, their clientele, and partners.

Metro Watershed-Based Implementation Funding (WBIF) Update – Using the Watershed Amendment Process

Regarding WBIF, within existing statute, there is an opportunity for consideration of a plan amendment. This language has been added to the guidance document.

Metro WBIF – BWSR Watershed Representative Comments

Vice Chair Collins stated that he appreciated the work of BWSR and MAWD on WBIF guidelines. Those efforts will ensure that prioritized, targeted, and measurable projects will be implemented by all LGUs. It has been a long journey that resulted in a better working document.

Clean Water Council (CWC) Update – BWSR Recommendations for the One Watershed, One Plan (1W1P)

The CWC is holding meetings to get ideas, suggestions, and recommendations from state agencies for next year's legislative session. BWSR staff have presented information regarding 1W1P to the CWC.

BWSR Summer Tour to be held in conjunction with MAWD and Red River Partners

The Board summer meeting and tour will be in the East Grand Forks area. This year, the tour will be led by partner entities and the Board will attend. The date has been coordinated with the scheduled date for the BWSR Board tour. The event will be done in conjunction with MAWD, RRWMB, Red River Basin Commission, and MASWCD. He thanked those organizations for working with BWSR on this joint tour.

Audit & Oversight Committee

Vice Chair Collins reported that the committee has not met since January. No meetings are scheduled.

Dispute Resolution and Compliance Report

Travis Germundson explained the appeals that are pending. Only one new appeal has been filed since the last meeting.

- File-22-2 (2-16-22) This is an appeal of a WCA Restoration Order in Kanabec County. The appeal regards the excavation of a ditch and placement of spoil material in a wetland. The project and alleged wetland impacts affects multiple property owners. No decision has been made on the appeal.

Buffer Compliance Status Update: BWSR has received Notifications of Noncompliance (NONs) on 93 parcels from the 12 counties BWSR is responsible for enforcement. Currently there are no active Corrective Action Notices (CANs) and 6 Administrative Penalty Orders (APOs) issued by BWSR that are still active. Of the actions being tracked over 86 of those have been resolved. *Statewide 31 counties are fully compliant, and 51 counties have enforcement cases in progress. Of those counties (with enforcement cases in progress) there are currently 672 CANs and 57 APOs actively in place. Of the actions being tracked over 2,076 of those have been resolved.

Grants Program and Policy Committee

Todd Holman said that the Grants Program and Policy Committee met on February 14 and March 7. They are scheduled to meet March 28. In addition to action items later on the agenda, he wanted to recognize the work of BWSR staff in committee work, 1W1P, and the Climate Initiative Report.

Reinvest In Minnesota (RIM) Reserve Committee

Jayne Hager Dee reported that the RIM Reserve Committee met in early February. There are two items on the agenda for which the RIM Reserve Committee has requested action.

Water Management and Strategic Planning Committee

Vice Chair Collins reported that the Water Management and Strategic Planning Committee has not met since January. No meetings are scheduled.

Wetland Conservation Committee

Jill Crafton informed the Wetland Conservation Committee has not met. They are in the process of scheduling a meeting in April.

Buffers, Soils, and Drainage Committee

Mark Zabel stated that the Buffers, Soils, and Drainage Committee has not met. No meeting is scheduled.

Drainage Work Group (DWG) – Legislation introduced impacting 103E Drainage Authorities

Tom Gile reported that the DWG has not met. Legislation has been introduced (HF4274) that establishes a drainage registry and portal. While not required, the bill was not vetted through the DWG. AMC did testify and recommended that the bill be discussed by the DWG. An email will be sent to DWG members at the end of March to get their feedback on this topic. While the bill has been laid over for inclusion in an Omnibus Bill, there is currently no companion bill in the Senate. Note: MAWD and AMC also submitted a letter urging the committee to hold off on this legislation until it can be reviewed by the DWG.

AGENCY REPORTS

Minnesota Department of Agriculture (MDA)

Jeff Berg gave an update on the Minnesota Ag Water Quality Certification Program. There are currently 1,200 producers and 835,000 acres enrolled in the program. In legislative activities, the drought relief bill for farmers passed the House. It is scheduled to be heard in the Senate. There are differences in those bills, and they will likely go to conference committee. Hopefully there will be good news for farmers in the next couple weeks. The MDA's bill was heard in the Agriculture Committee and will be heard in the House. There are many components in the bill including soil health and the Forever Green program.

Minnesota Department of Health (MDH)

Steve Robertson informed the Board about the MDH accelerated implementation grants for groundwater projects across the state. Detailed information regarding the groundwater program can be found by [clicking here](#). They have been made aware of federal infrastructure funding based on the lead/copper rule from the Environmental Protection Agency (EPA). Details are slowly emerging on how the funds will be distributed and the rules. Funding will be for general infrastructure, lead service line replacement, and unregulated contaminants through a revolving loan program. He also reported that EPA organized a workshop that happened in early March on nitrogen reduction solutions for groundwater.

DNR

Sarah Strommen said that she facilitated a panel discussion during the Climate Action Framework Community Conversation. She appreciated the opportunity for a conversation with leadership working from different perspectives. There is a desire to ensure that we are making this conversation relative to everyone.

She attended sessions at the North American Natural Resources Conference regarding the decline in hunters and anglers. There are on-going conversations at DNR and across state agencies about equity, inclusion, and

relevancy. After attending the sessions, she was pleased that Minnesota is ahead of colleagues across the country. We are talking about the right issues to foster the next generation's interest in water, soil, wildlife, and other natural resources.

Drought relief for farmers is getting a lot of attention. Unfortunately, the resources for water and tree impacts in the governor's recommendation are getting less attention. The DNR's legislative fact sheets can be found [here](#). The DNR has released notice of a completed investigation of three aquifer breaches. Information can be found by [clicking here](#).

On March 22, a wild deer tested positive for Chronic Wasting Disease (CWD) in the City of Grand Rapids. The doe was killed in a vehicle accident. When deer/vehicle accidents happen, the DNR uses those opportunities to test for CWD. They do not know exactly what this means, other than the number of positive cases is low. They do not believe they have a statewide problem. They are updating the CWD plan, investigating hunter service self-mailing, and expanding our taxidermist sampling.

Another version of DNR Commissioner's office hours was held on March 23. In this episode, DNR volunteers and available opportunities will be highlighted. Commissioner office hours can be found by [clicking here](#). Comments were made regarding concerns about deer farms, concentrated feeding sites, and CWD response protocol.

Minnesota Extension

Joel Larson said that Minnesota Extension and the UM are excited about the addition of Angie Becker-Kudelka to their staff. He gave an update on two programs. The Nitrogen Smart program focuses on providing information on how farmers and ag professionals can reduce the implications of nitrogen fertilizer, focusing on how farmers and crop advisors can better manage nitrogen under changing climate conditions. Part of the curriculum and work focuses on how to incorporate nitrogen-fixing plants. They hope to roll this program out within the next six months. Carbon Smart is modeled after the nitrogen program. The goal is to understand how carbon moves through the agricultural environment and how to manage carbon as a potential resource, as well as providing information on carbon markets and payment potential. They are in the process of searching for a Climate Resilience staff person. They hope to have interviews in the next month or so.

MPCA

Katrina Kessler reported on the Climate Action Framework, as well as MPCA legislation. Fact sheets regarding their legislative proposals can be found [here](#). Several of the federal allocations require a state match. MPCA's budget proposal is asking for \$13M that would unlock almost \$40M in federal funding. The supplemental budget request is intended to leverage federal dollars. On March 22, an update on Minnesota's PFAs Blueprint was released. Information can be found by [clicking here](#). It is the one-year anniversary since the statewide monitoring program for PFAs was introduced. They are working on a return-to-work process that will be the "new normal". MPCA received a briefing on the proposed carbon pipeline. She has reached out to other state agencies to determine if the current regulatory structure has the right tools to handle this. MPCA will keep following this project.

ADVISORY COMMENTS

Association of Minnesota Counties (AMC)

Brian Martinson provided an email update which Executive Director Jaschke will distribute.

Minnesota Association of Conservation District Employees

No report was given.

MASWCD

No report was given.

Minnesota Association of Townships (MAT)

Eunice Biel informed the Board that March 8 was Township Day. Each township held an audit meeting, election for township officers, and an annual meeting. Following elections, MAT offered training to townships. In 2021, all townships received American Rescue Plan funds for which there were specified uses. The reporting date to the Department of the Treasury for the use of these funds is April 30. A training webinar was held to work through the reporting process. Bids for rock to be delivered and spread on township roads will be done in April. There will be a special election primary on May 21 in the 1st Congressional District and the primary in August. Election judge training will be conducted.

MAWD UPDATE by Executive Director Javens

MAWD Executive Director Javens thanked Assistant Director Becker-Kudelka for her work at BWSR. Ms. Javens appreciated her sharp mind, sunny disposition, and ability to work a tough crowd. She is someone that Ms. Javens looks up to when she thinks about how to be a better leader.

The MAWD legislative was held on March 16 and 17. It went well. During that event, MAWD made the biggest leap forward that with an effort that we had worked on in the previous five years. Our general fund levy bill passed out of the environment committee in the Senate and is headed to the tax committee. Originally the Subcommittee on Minnesota Water Policy had drafted a bill to increase our levy cap from \$250,000 to \$500,000. Senator Eaton offered an amendment to eliminate the \$250,000 cap altogether and base the maximum levy on the work that needs to be done in watershed plans. These plans are written and vetted by local government and citizens and approved by the Board. We used language like the language afforded the seven-county metropolitan area uses that allows the metro watershed districts to levy beyond the \$250,000 under the metropolitan surface water management act found in Minnesota Statute 103B. The language still has a cap of 0.048 percent of estimated market value which is appropriate. If enacted, whether a watershed is 24 square miles or 5,990 square miles, the rural watershed districts are treated equally and equitably. It makes sense to base the cap on a metric that can be measured in each watershed.

Ms. Javens was asked if this legislation was supported by BWSR. She said that was a question that would best be answered by someone from BWSR. Executive Director Jaschke said that the bill is not part of the governor's recommendation or part of an agency package, but it is a good bill. Ms. Javens stated that Executive Director Jaschke did assist with language to make this a workable bill.

The bill, to our surprise, did not split down party lines. It passed unanimously. As always, thank you in advance for letting your legislators know this bill SF3046 and HF3029 is important for the restoration and protection of our water resources.

Ms. Javens provided comments on the relationship between MAWD and BWSR - looking back one year and looking forward. It was one year ago that she reported that the MAWD members she represents didn't feel heard, understood, or valued by the Board or the staff. Some good things have happened in the last year, but there is still work to do to bring us to a point where we have a solid working relationship built on mutual trust, recognition, and understanding.

In looking back, we requested a few things that were acted upon quickly by BWSR staff. We requested that more website stories feature watershed districts efforts. The base line presented a year ago was that only about 5% of the stories that were published about the work we were doing. We quickly saw a more well-rounded collection of stories that highlighted our work, as well as that of counties, SWCDs, state staff, and partners. She thanked them. We also requested that the "Day of" meeting packets be posted on the website, as well as the complete BWSR Board orders because often the attachments were missing. That was completed in less than a week upon our request. She thanked BWSR for increasing their media efforts on all of us who are doing restoration and protection work and for increasing transparency. And as Executive

Director Jaschke indicated, we are so thankful that you will join us in our summer tour. That will be a great opportunity for us to talk and better understand each other.

We are making progress in some areas, and she next addressed looking forward. First, we challenge the agency to reduce the amount of front-end outreach to allow for more review and comment once policies are actually drafted. BWSR staff seems to spend about six months gathering input and then pushing policy through the Board in less than six weeks. We would appreciate the opportunity to help you build better policies. One thing that is frustrating is that there are very few BWSR employees who have implemented the programs that are built. MAWD can offer input that will streamline several aspects of the programs that are developed. If we could help once details are put on paper, we would feel valued. When our review and comment is not allowed, as is happening now, this contributes to part of the divide that exists between this agency and MAWD members.

Second, we are asking that you review some of your policies and delegated authorities this year. We spent a significant investment of resources engaging our attorney to point out that some of your decisions were not in line with the law. We did this not only because we do not want our state agency to get a black eye, but because we feel decisions are going in the wrong direction to restore and protect our natural resources effectively and efficiently. She does not understand how it happens that when a state association submits a legal petition, that the petition is answered without consultation or discussion by the Board. She asked if the Board really delegated all authority to their executive director to answer legal opinions. Even if they did, she asked if they were certain that is the way they would like to operate. We did find the response we received to be legally inaccurate and requested that even though the 60-day timeline had passed, that the BWSR Board take this issue up and that request was denied. This type of decision erodes trust and respect.

Lastly, when we say that we don't feel understood, it's because there seems to be a lack of knowledge among BWSR staff and possibly even the Board, about the roles and responsibilities of watersheds. We would ask that you prioritize the training of your staff on the basics of watershed management so that our board conservationists (BCs) and the BWSR leadership staff can be a stronger resource for us.

There are three areas where we would like to sit down and talk about finding solutions.

- First, we are struggling in some of the 1W1P partnerships. Often, we will have 10 county-based government entities and one watershed-based government. Watersheds get run over in the voting process. She was not sure how to fix that but would like to talk about it.
- We would also like to determine how to improve our working relationship. She noted that the MAWD Board did direct her to draft some ideas how a third party might be able to help us smooth out the relationship between BWSR and MAWD.
- We would appreciate assistance in rewriting our watershed handbook. In conjunction with this, develop an effort for BWSR and MAWD and possibly MASWCD to look at building a comprehensive education plan. We have overlap in topics with teaching the same thing when we could use those resources to fill in some of the gaps in training.

This was a lot to cover, and she knows this can't all done overnight. Hopefully it paints a vision for where we would like to go, and it would be great if we can get there sooner rather than later.

She summarized by restating MAWD requests.

1. Support from BWSR on our levy modification legislation when and where you can.
2. Continue to increase transparency within the organization and continue highlighting the work watersheds do and telling our stories.
3. Think about how BWSR can provide meaningful review and comment periods, likely by reducing front-end outreach.
4. Review your policies that cover the roles of the Board versus staff.

5. In terms of education, we would like to work with BWSR on a comprehensive education program, including an effort to teach the Board and staff about watershed organizations.
6. Assistance with our handbook that serves as a resource for our watersheds.
7. And lastly, consider how we can sit down and work on the strained relationship that exists between us.

She knows the issues are resolvable and we look forward to working with you to make both of us stronger. Chair Van Amburg replied that Ms. Javens has given us a lot to think about. That will be done in the coming months.

Natural Resources Conservation Service (NRCS)

No report was given.

[A short break was taken.]

COMMITTEE RECOMMENDATIONS

Grants Program and Policy Committee

FY 22/23 Clean Water Fund (CWF) Soil Health Grants

Tom Gile presented background information on soil health. The funding for this program comes from the CWF, so it is focused on water quality.

Comments included:

- For those areas in an application where the BC and program manager need to concur on practices outside of normal, the practices should be highlighted and brought before the Board for consideration.
- Many farmers are more comfortable working with other farmer mentors. It was asked if that is something that can be done through this program. It is an eligible expense.
- This Request for Proposals (RFP) is not about climate change, even though it is related. Nutrient management is a water quality practice. There was great discussion about this at the committee level. Other practices besides the bulleted ones listed in the RFP that are eligible.
- A number of times pollutants is in the RFP. It was asked if this was to keep the focus on nonpoint pollution. To make progress around soil health, landowners need to adopt multiple soil health practices and implement for longer periods of time. For a water quality-based RFP, the emphasis is on water quality outcomes through soil health best management practices.

The FY 22/23 CWF Soil Health Grants were approved.

2022 RFP for 1W1P Planning Grants

Julie Westerlund asked for approval of the RFP for 1W1P. She explained the memo that was included in the packet. Comments were made about the need to have a more robust conversation about what we are trying to accomplish through 1W1P and the differences in expectations between metro-based watershed plans and those of Greater Minnesota. The 2022 RFP for 1W1P Planning Grants was approved.

Lawns to Legumes Phase 2 Demonstration Neighborhood Grant Program Funding

Dan Shaw presented grant awards and program components. The Lawns to Legumes Phase 2 Demonstration Neighborhood Grant Program Funding was approved.

Central Region Committee

Carnelian-Marine-St. Croix Watershed (CMSCWD) Management Plan (WMP)

Michelle Jordan, BWSR presented the CMSCWD WMP. Comments included that it was exciting to see the number of people involved in the plan development, that the memo was well written, and the plan represents the area well. The CMSCWD WMP was approved.

Reinvest In Minnesota (RIM) Reserve Committee

RIM Easement #08-09-93-02 Alteration for Public Road Project

Karli Tyma, BWSR presented a recommendation to approve a RIM alteration, requested by Brown County Highway Department to benefit public safety. Comments included that many are not willing to release RIM land, but this is good for the people and those using the highway. None of this is cropland. The RIM Easement #08-09-93-02 Alteration for Public Road Project was approved.

Resolution Authorizing the RIM Reserve – Working Lands Conservation Code and Cost Share Rates

Bill Penning, BWSR presented an overview of the conservation code and cost-share rates. This is considered a pilot program in Red Eye, Pine, and Crow Wing Watersheds. The program was authorized in 2021. Comments included hoping to see the project after it is implemented, whether deference was given to those already doing rotational grazing, and the disappointment that those already enrolled in RIM are not eligible. The work of the BWSR staff was commended. The RIM Reserve – Working Lands Conservation Code and Cost Share Rates was approved.

The Board Orders adopted at this meeting can be found [here](#).

NEW BUSINESS

Value of BWSR Storytelling

Mary Juhl and Ann Wessel, BWSR gave a PowerPoint presentation about the value of BWSR storytelling and communication activities. The slides can be found on page 12 of the [“Day of” packet](#). The presentation covered Snapshots, Conservation Stories, the role of social media, and provided an opportunity for questions. Links to social media accounts include [Instagram](#), [Twitter](#), and [Facebook](#).

UPCOMING MEETINGS

- **Grants Program and Policy Committee:** March 28
- **Northern Region Committee:** April 6
- **Grants Program and Policy Committee:** April 11
- **BWSR Board:** April 27

The meeting adjourned at 1:09 p.m.

Summary submitted by Jan Voit