

Drainage Work Group (DWG) Meeting

July 13, 2023

Following the welcome and introductions, Tom Gile, Board of Water and Soil Resources (BWSR) gave an overview of the agenda. Information was provided about the following drainage-related events.

- Minnesota Watersheds Summer Tour: June 20-21 in Albert Lea
- Drainage Research Forum
- Viewers meeting: July 20 at Jackpot Junction
- Minnesota Association of Drainage Inspectors (MADI)/Auditors fall meeting: August 16-18 at the Holiday Inn in St. Cloud

2023 DWG Prioritization List

Tom Gile summarized the prioritization list. There has been a request to add legislation for storage in 103E and storage in other waterbodies. A new idea presented was adding a drainage authority's ability to make incremental changes to viewers' reports based on conditional use permits and lifecycle changes of land use.

Comments:

- Environmental groups would like to see the 1W1P and TMDL/WRAPS processes moved to a high priority.
- AMC did not object to this, but cautioned against having so many high priorities that there are no priorities.
- Minnesota Watersheds did not object. From a watershed perspective, integrating grants into drainage management is what we are all about.

Outlet Adequacy Technical Group Status Update

Rita Weaver, BWSR gave an update on the outlet adequacy subcommittee meetings. The subcommittee meets in person monthly. To date, they have met four times. There is not uniform agreement about water quality and quantity issues. The group started their discussions in areas where there is agreement. They intend to suggest practices for how to view an adequate outlet, but are not going to be suggesting policy approaches. The draft report will be sent to the DWG for consideration and next steps.

Comments:

- "It depends" is the answer to many of the questions that have been raised during discussions.
- The focus of the discussions have been on subdivision four – flooding, outlet stability, and receiving drainage system. Water quality is addressed in subdivision six and addressing that may require another work group.
- The environmental groups believe that all nine considerations must be addressed to determine an adequate outlet.
- The criteria for a drainage authority to consider are the nine items in M.S. 103E.015, Subd. 1. If the goal is to get agreement that outlet adequacy and water quality are one and the same, agreement will never be reached.
- BWSR believes that a report on outlet adequacy must be presented before legal questions can be addressed. There is a separate directive to review drainage authority powers.
- Because of the perceived time crunch, the environmental groups want the subcommittee to focus on the "legal questions". They also want the report to contain the differences of opinion.

Notification Requirements and Recommendations Update

Tom Gile gave an overview of the document he developed that contains notification requirements in 103E. There are multiple references to publication options and timelines, as well as the intended audience. Tom will distribute the document for review and comment. After receiving comments, he will attempt to

categorize notification requirements by costs (high, medium, and low), stakeholders in the decision process, type of project, and public hearing requirements.

Comments:

- AMC and Minnesota Watersheds will be doing a survey of members to gather information about the work they are doing for notification and what they are doing that is above and beyond the statutory requirements.
- It is important to understand who the stakeholders are.
- There is a difference between soliciting information from the public and what is germane to the landowners in the drainage system.

Drainage Authority Powers Status Update/Next Steps

Lukas Croaker explained the document he drafted regarding drainage authority powers. This document is limited to 103E and does not include watershed district powers in 103D. Next steps would include adding real world context.

Comments:

- It would be helpful to understand the intent behind the statutory directive.
- The drainage authority makes decisions, but the system and structures are owned by landowners.
- The legislative language only directs review of drainage authority powers, not a report.
- Environmental groups would like drainage authorities to inform the DWG if there is a lack of authority or gaps in authority in drainage law. They want to know if the language works or if it is a barrier.
- The environmental groups intend to add more statutes to the document. They also want to know that if a drainage authority has the authority to construct dams or dikes, do they also have the authority to deconstruct.
- Additional comments should be submitted to Lukas Croaker within a week.

Storage Grants and 103E

Rita Weaver said that the funds for the storage grant pilot program have been awarded. Bois de Sioux WD received \$1M. BWSR is in the process of developing an RCPP grant application to match the \$17M in storage funds that were designated through the Clean Water Fund. The application is due April 18. The priority area for these funds is the Minnesota River basin and lower Mississippi River basin. Applicants can be statewide, but applications in the priority area receive an additional 10 points. If RCPP funds are received, they would only be available in the priority areas.

BWSR believes it would be worth exploring how the funds could be used in 103E projects. Through watershed planning, where a storage project could be done can be pinpointed. Landowners can be directly contacted. There is a 25 year requirement for practices to remain in place.

BWSR would like to see these funds used to incorporate storage and that an improvement not be done. Under the pilot program requirements, 103E improvements are not eligible, but repairs are eligible.

Comments:

- Who maintains and owns the storage project? If it is part of a 103E drainage system, it would be the system that is responsible for repair and maintenance. If it is not tied to a drainage project, it depends.
- BWSR has expressed concern that an improvement may offset the benefit of storage. That is not always the case. Storage criteria could be developed to eliminate that concern.
- The environmental groups want the watershed-based approach and moving 1W1P and TMDLs a higher priority so that they are not just considered, but that they are a stipulation for adequate outlet.

They want 1W1P and TMDLs information on water quality to be used to pinpoint locations for storage.

- AMC expressed concerns that it doesn't take much to trigger the need for an improvement. Money is needed for storage in 103E projects.
- BWSR believes that the opportunity to do storage could be a great time to stop the need for an improvement project.

Runoff and Sediment Repair Cost Apportionment Sunset

Tom Gile reported that the RDSO is scheduled to sunset in 2024. Information is needed to determine whether this should continue to be an option or if it should be allowed to sunset.

Next Meeting

August 10: In-person in St. Cloud Location TBD. There are conflicts with the September meeting date. A new date will be chosen.

The meeting adjourned at 2:00 p.m.

Meeting notes by Jan Voit