

**Clean Water Council Meeting Agenda**  
**Monday, January 24, 2011**  
**9:00 a.m. – 2:00 p.m.**  
**Freeman Building, Room B145**  
**625 Robert Street North, St. Paul**  
*Revised 1-24-2011*

9:00-9:15	<b>Convene Full Council</b> <ul style="list-style-type: none"><li>• Comments/additions to the agenda</li><li>• Approve 11-15-10 meeting minutes</li><li>• Council introductions and updates</li></ul>	
9:15-9:40	<b>Steering Committee Report</b>	Information item
9:40-9:50	<b>Council Officer Election</b>	Decision item
9:50-10:30	<b>2011 Legislative Preview</b> <i>Craig Johnson, League of Minnesota Cities</i>	Information item
10:30-10:45	<b>Break</b>	
10:45-11:15	<b>Minnesota Water Sustainability Framework</b> <i>Discussion on report recommendations</i>	Information item
11:15-12:00	<b>Draft 2011-12 work plan development</b>	Information / decision item
12:00-12:30	<b>Lunch</b>	
12:30-1:30	<b>Continuation of draft 2011-12 CWC work plan development</b>	
1:30-2:00	<b>February meeting agenda review and Council adjournment</b> <i>Tentative items:</i> <ol style="list-style-type: none"><li>1. <i>BOC schedule</i></li><li>2. <i>Draft 2011-12 CWC work plan development continued</i></li><li>3. <i>New tools for precision conservation targeting presentation; LiDAR, BASINs model, terrain analysis modeling: Tim Larson / Dave Leuthe / Adam Birr</i></li></ol>	

***Next Meeting: February 28, 2011***

## Clean Water Council Meeting Minutes

Monday, January 24, 2011

9:00 a.m. – 2:00 p.m.

Freeman Building, Room B145

625 Robert Street North, St. Paul

*Revised 2-28-2011*

**Council members present:** Dave Bennett, Marilyn Bernhardson, Pam Blixt, Keith Buttleman, Keith Hanson, Scott Hoese, Mark Knoff, Larry Kramka, Mike McKay, Gene Merriam, Rob Sip, Deb Swackhamer, Gary Pedersen, Steve Pedersen, Gaylen Reetz, Victoria Reinhardt, Todd Renville, Louis Smith, Paul Torkelson, Steve Woods.

**Absent:** None.

### 1. Convene Full Council

- Comments/additions to the agenda
  - Approve 11-15-10 meeting minutes
  - Council introductions and updates
- 
- Council Chair Marilyn Bernhardson called the meeting to order. The January agenda was revised to extend the time for the Steering Committee Report. The revised January 24, 2011 agenda and the November 15, 2010 meeting minutes were both approved.
  - Council introductions and updates:
  - Keith Hanson gave a presentation to the Association of Townships on the Council's budget recommendations in November. Discussion with the DNR Roundtable; Marilyn and Keith ran through the Council's budget recommendations. Keith Hanson, Steve Pedersen and Dave Bennett attended the Lessard-Sams Outdoor Heritage Council event in December. There was some discussion at the event about the CWC taking the same approach as the Lessard-Sams Council as far as funding projects rather than programs.
  - Dave - discussion about why we are funding TMDLs when we can be funding projects. Suggestion that BWSR should be in charge of spending all the CWF money because they are good at funding projects. DNR Roundtable – also some comments/discussion about funding projects.
  - Rep. Torkelson – discussion this session in Legislature regarding Legacy funds. CWC recommendations will continue to be important.
  - Steve P. – Council needs to get its identity defined, get out there.
  - Keith H. – Mary Robison from Minnesota Management and Budget (MMB) requested the budget tables, which were finalized and sent to her (changed BOC to CWC). Request from Senator Ingebritzen's committee to present background information and the Council's recommendations on February 8th. Keith H. and Victoria will attend.
  - Rep. Torkelson – we will try to set something up for the House Committee on the same day, February 8<sup>th</sup>. They meet at 8:15 am.
  - Gary Pedersen thanked Keith H. for making a presentation to his group.

- Scott Hoese said he can attend on February 8<sup>th</sup> also.
- Steve Woods – handout on BWSR's [FY2010-11 Clean Water Fund Summary](#). BWSR set up their own web site with information on all the [CWF projects](#). The web site should be live tomorrow. They will add the CWLA projects (pre-FY10-11) to the web site, as well as future projects.
- Rep. Torkelson – he has been appointed to three House committees and is Vice-chair of the Environment and Natural Resources Committee. He will work on water issues. He is also on the Legacy Committee and will work on water issues. He will put a bill together to tweak the structure of the Council and its role in water quality by mid-February. Any thoughts on this, please give them to him.
- Mike McKay is Executive Director of the Lake Pepin Legacy Alliance, which won a \$25,000 Bush grant with partners CURE, and others.
- Rob Sip – Matthew Wohlman has been appointed Assistant Commissioner of MDA. He will probably be on the Council. Rob described the Fall 2010 Nutrient Management Newsletter handout included in the members' packet.
- Larry Kramka – DNR has a new Commissioner and Deputy Commissioner. Introduced Julie Westerlund; hired as a coordinator for the Clean Water Fund for all the divisions, agency executive team. Echo Dave Bennett's comments on the Roundtable meeting. Backing away from monitoring and assessment – more into project work.
- Jen Maleitzke – [MCEA](#) and [Conservation Minnesota](#) each released a report on the efficiency of the Legacy funds over the weekend. We will send members links to the documents.
- Marilyn attended the Pheasants Forever meeting and talked with Senator Lessard. Gary Leaf argued that the only part of the Clean Water Fund that had a Council is the part the Lessard-Sams Outdoor Heritage Council is involved with. There is a belief that 85% of the Clean Water funding is being spent on monitoring and assessment.
- Victoria Reinhardt – the Greater Minnesota representative on the CWC is open. She announced that opening spot (Earl Bukowski's position on the Council).
- Audience introductions.

## 2. Steering Committee Report

- Marilyn - Del Haag's term of office on the Council has ended and he did not reapply for his position. Del represented cities on the Council.
- The 2010 Biennial Report to the Legislature was sent to the former and new chairs of the Legislative environmental committees.
- Encourage members to point people to the recommendations in [2010 Biennial Report](#) on the Council's website so they don't think that 85% of the Clean Water Funds are going to monitoring and assessment activities.
- Budget and Outcomes Committee (BOC) – Steve Pedersen is preparing a process flow chart for the next biennial report and for the interim report, especially to allow enough time for public input. We will have both flow charts for the next meeting.
- Steve P. – he can send it out for members to review before the next meeting.

- Marilyn – there can be up to 8 Council members on the BOC. Currently there are five members, so we are looking for more. Get in touch with one of the BOC members if you are interested.
- Keith H. – the BOC met about 6 times to develop the 2010 report and met with the agencies. The interim report will take less time.
- Rep. Torkelson – WDs, counties, SWCDs are meeting to discuss restructuring. This could affect how they do water planning. Put this topic on the CWC agenda.
- Contact Annalee Garletz at the Minnesota Association of Counties for more information.
- Marilyn – draft work plan; without work groups, what is the best way to move forward on the work plan? Put together process on agencies; their roles, responsibilities, process, etc. for clean water. Develop an ad hoc committee before the February meeting to put together draft. Rob Sip, can you help put together that document? Rob said he could help.
- Keith – document can help educate on why we fund programs not projects.
- Victoria – Framework will give an overview, show who's involved, where the primary responsibility is.
- Marilyn – this will help frame up the work plan. If you are interested in the ad hoc committee, see Marilyn at the break.
- Keith H. – try to identify barriers to implementation, local capacity – also inform work plan.
- Marilyn – work plan is on the agenda. We will work on the first 3 areas on work plan (targeted implementation, groundwater and drinking water, accountability and research).
  - BWSR and DNR will sit in on the targeted implementation small group.
  - MDH and MDA sit in on the groundwater and drinking water group.
  - MPCA sit in on the accountability and research group. Set up ad hoc work groups to work on the 3 sections of the work plan.
- Keith H. – a lot of work plan development can be done as a committee of the whole.
- Steve P. – what's in the work plan now can be changed if the group decides that.
- Marilyn – right before the break, get volunteers.

### **3. Council Officer Election**

- There are two nominations for Council Chair; Victoria Reinhardt and Keith Hanson.
- Any further nominations? There were none. Motion for nominations to cease. Motion was made and passed. We will have a show of hands for Chair. Nominees have an opportunity to speak to the members.
- Victoria Reinhardt – enjoyed being vice-chair, will serve in any capacity, exciting year for the Council, will be happy to support Keith Hanson as well.
- Keith Hanson – either Victoria or I will serve you well.
- Votes: Victoria 2 and Keith 12. Keith Hanson is elected the new Chair of the Clean Water Council.
- Vice chair nominations – Scott Hoese.
- Steve Pedersen nominates Victoria Reinhardt for Vice Chair. Call for more nominations. There were none.
- Votes: Scott 8 and Victoria 6. Scott Hoese is the new Vice Chair of the Clean Water Council.
- Keith Hanson thanked Marilyn for her 2 years of service as Council Chair.

## Break

### 4. 2011 Legislative Preview; *Craig Johnson, League of Minnesota Cities*

- Craig Johnson – lobbyist with the League of Minnesota Cities. Highlights of the upcoming Legislative Session. Change in leadership in the House and Senate, change in party in the Governor's office. Don't really know what will happen.
- HF1 and SF1 – environmental review decisions changes – put together by the Chamber, endorsed by the League of Cities.
- Allow some cities to move forward on project before permit is issued??
- Legislative auditor's report coming out in mid to late February. Environmental groups not endorsing this.
- Keith H. – provision in bill to allow project proposer to do the EIS? Craig – yes, proposer could hire contractor to do the EIS – someone with more familiarity with the project.
- Steve W. – any conflicts with 1599? Craig – a section of the law that requires decisions to be made in 60 days; feedlot permits fall under 1599. Asked to have an amendment stating this does not change 1599.
- Gene – you mentioned going directly to Court of Appeals, appeal of a decision on environmental review? Craig – yes to appeal an elected body's ruling on environmental review. Right now MPCA Board decisions on environmental review go right to the Court of Appeals.
- Craig – there's a bill that if environmental review is not made in 15 days, it automatically goes into effect. Too short a time for local government to adequately review the review.
- Cities provide variances – SF13/HF 52
- Bill to reinstate municipal zoning authority. Law wasn't drafted correctly – fix the language.
- Confusion between county/city variance authority – sync up 2 sections so they agree with each other.
- Appeal of state statute setting up critical corridor on the Mississippi River. Rules not completed in required timeframe. Remove specific authority for agencies to do those rules.
- Cities meet with MDH to discuss well drilling. Legislation to remove all city authority to prevent drilling wells. Large users of water should pay higher rates. Ended up with more water users; fewer paying for it. Not the intended result.
- Environmental funding – major changes.
- Anticipate that the Legislature will look at the consolidation of agencies doing water.
- Changes to CWC – the statute needs to be corrected so the Council has authority for the Clean Water Fund. The G16 supports that.
- CWF budget and Council recommendations – haven't worked on that yet. People will look closely at the CWF budget because there is a lot of money there - not project by project.
- Steve P. – any idea on how the Legislature views the way the Lessard-Sams Council does funding project by project vs. the Council funding programs? Craig – he will say that's okay if Lessard-Sams funds projects – that's their constituency, whereas the CWF is set up to fund existing programs.

- Marilyn – any work the G16 can do to educate individuals and educate their members to get the word on this. Craig – yes, we will set up something with the new Council Chair and one more member to meet with the G16 to go over the Council's recommendations in their report.
- Gene – 3 days of DNR Roundtable/Lessard-Sams event we heard this discussion more and more. It's important to show what's effective. We should be funding what's effective. How do we demonstrate what's effective? Need to demonstrate effective investment.
- Craig agrees with that. The Annandale/Maple Lake decision was the precursor to the Clean Water Legacy Act (CWLA) and it shut down permitting. Fund projects through existing prioritization. We want the State to be able to move forward with wastewater, stormwater, and still demonstrate that we're making changes.
- Rep. Torkelson – accountability issues will extend to all four funds.
- Louis thinks earmarking CWF is a bad approach. Concentrate on what the outcomes are for CWF.
- Victoria – there is more competition for the CWF funds now because of the budget issues. We need to make our arguments clear, concise.
- Marilyn – we will break into three small groups to discuss the work plan; targeted implementation, groundwater and drinking water, accountability. We need some members for each group.
- Scott – Jean Coleman will present the Framework Executive Summary.

**5. Minnesota Water Sustainability Framework; Discussion on report recommendations, Jean Coleman, U of MN Water Resources Center**

- Jean – the [whole Framework document](http://wrc.umn.edu) and supporting documentation is available online at; [wrc.umn.edu](http://wrc.umn.edu).
- Table of Contents – 10 issues, teams identified 90 issues and aggregated them into 10; grouped into three categories - environmental, economic, and social. Problem statement, desired Minnesota future, strategies (high level) to get from where we are now to where we want to be in 25 years.
- 90 recommendations – dashboard with summary of them.

**Questions:**

- Steve P. – where are we today? Is that in the report? I don't see it on the dashboard.
- Jean – that's a great idea for the dashboard. In the report are outcomes and benchmarks that give you a sense of where we are today and where we hope to be. Cost information.
- Steve W. – things going right; things the state is doing well, also in the report.
- Dave – question on recommendation B.1.a – what does *all sectors* mean? Deb – it means all contributors, all sources of a TMDL – a given waterbody for a TMDL. Including regulated sources.
- Pam – what is the overall process for the Framework? Jean – February 8<sup>th</sup> presenting the Framework to the legislative environment committee. Deb – printing some copies and CDs,

presentations at various venues. Report has been given to the Legislature.

Recommendations that can be implemented by the Legislature/Council/cities/others.

- Role of the University is to explain and educate on the report. This is not a spending plan. It's about moving the state to sustainable resources.
- What does non-regulated/non-permitted sources mean?
- Deb – TMDL implementation plans will be required and required to be implemented. Load reductions for all sources – agriculture land handled as a source collectively. Enforce after developing field specific monitoring. Equity between point and nonpoint sources. Self determined by agriculture community. 10 years to implement this.
- Gary – what was the charge of the Legislature for this? Deb – the Legislature defined sustainable and gave us our charge. It's on page 2 of the report.
- Mike – is there a chart with high impact, low cost. Deb – not for everything. There's graph for each issue, so there's 10 of those graphs.
- Jean – hard copies for the Council will be available Wednesday. Deb – we will provide MPCA with hard copies and CDs to distribute to the Council members.
- Question about printing costs. Deb – printing costs are part of the grant.
- What about the costs of sharing information on the Framework? Deb – those costs are also included in the grant. We will return some of the grant funds to the Legislature.

#### **6. Draft 2011-12 work plan development**

- Marilyn (*sitting in as chair for Keith Hanson who has a phone call*) – handout priority discussion notes; break up into 3 groups. What do you want this Council to do?
- Steve P. – add column about barriers to implementation to the work plan.
- Also look at Framework recommendations to see how they fit into the work plan. Maybe activities listed are not the ones the group wants.
- Marilyn – each group report back. In groups, have everyone brainstorm on what you're thinking.
- Keith Hanson – in groups until lunch at noon. Back in groups at 12:30. Leave 20-30 minutes at the end to report back to the whole Council.
- Members will break up into 3 work plan groups and meet until 12:00, then lunch and continue meeting over lunch until 12:30. Back to larger group.

#### **Lunch**

#### **7. Continuation of draft 2011-12 CWC work plan development**

- Keith H. – break out groups report out.
- **Targeted implementation** – Steve Woods; Problem statement
  - Prioritize recommendations based on sound science.
  - Strategies: #1 how data drives priority or sequencing of strategies.
  - Activities – b. Have a dialogue.....
  - How we can achieve success
- **GWDW** – Mark Knoff;
- Strategy #1 Understanding what is known about groundwater.

- Activities – presentation by agencies
  - Breakdown by Metropolitan Council on metro water plan
- #2 Strategy – roles and responsibilities of each agency
  - Presentation from each agency/LGUs.
  - Presentation on collaboration between agencies.
  - Conservation drainage
- #3 Strategy – understand state of water re-use, water re-use barriers (Mankato, Mystic Lake, etc.)
  - Perspectives of agencies (MPCA, MDH) on water reuse.
- Gene – there is a local resource on this topic, Pentair, they are going around the world. Good idea for a presentation.
- Deb – strategy #1, demographics of drinking water – MDH has all of that information. Also in 3 whitepapers for Framework.
- **Accountability and Outcomes** – Steve Pedersen;
- We need information from Rob's group (road map).
- Outcomes – BWSR handout, other agencies doing similar things, review outcomes report from interagency group. Outcomes has gotten a lot of attention – is it the way we want it?
- TMDL enforcement – tie to the sustainability framework – we need more enforcement
- Nonregulatory part – how to move peer pressure; tying cost share into the watershed – it goes away if implementation doesn't happen. What's happening in the regulatory arena.
- Mike – big public component to that; reasonable assurance.
- Steve P. – public participation part of TMDL needs to be upfront; buy in from the public at the beginning.
- Keith H. – how to get around these barriers?
- Steve P. – yes, it may be compliance; options to not have to go down the regulation side of things.
- Gary – we need to discuss what enforcement is available on non-regulated side.
- Keith H. – send written comments to Jen. M. Did this work out well? We have three more categories to flesh out.
- Gaylen – hot topic right now is category 4b, which is part of the assessment process. Waterbodies listed as 4b don't have to develop a TMDL; information and some misinformation about this. Not sure where to fit this in on work plan.
- Keith H. – Governance ad hoc group
- Show how we get from the Legislative budget process to the implementation process. Set up meeting of that group next week.
- Keith H. – Jen's developing a presentation for the Legislative environmental committees. Once it's complete, we will share it with the Council. We will also give them the background budget tables.
- What about the Open Meeting Law? We can distribute information through staff.
- The Council was asked to give this presentation. Question was asked about the Council's costs. First show who we are, then get into the budget recommendations.



- Gaylen – with so much focus on the CWLA amendment, people forget that the Clean Water Council was created in Clean Water Legacy Act. The amendment came later.
- Jen – he asked for a general overview of the Council, then the budget recommendations. We already sent them the Council's costs. The monthly Council meeting costs for FY2010 are about \$28,000.
- Keith H. – at the Roundtable folks had questions about how many state positions would result from the Council's recommendations; three for Civic Engagement work; \$600,000 local capacity – how many positions?
- Marilyn – how many staff will state agencies be adding with the budget recommendations.
- Gaylen – advise you to defer to state agency budgets on these questions.
- Keith H. – yes, stick to the Council's Civic Engagement and local capacity recommendations.

## 8. February meeting agenda review and Council adjournment

*Tentative items:*

1. *BOC schedule*
2. *Draft 2011-12 CWC work plan development continued*
3. *New tools for precision conservation targeting presentation; LiDAR, BASINs model, terrain analysis modeling: Tim Larson / Dave Leuthe / Adam Birr*

- **February meeting agenda** – Keith Hanson;
- Local government recommendations – not agenda item for February.
- BOC – new members. Current members: Steve P., Marilyn, Gene, Dave, Keith H. will participate as he can. See Keith, Marilyn or Jen if you are interested in being on the BOC.
- February agenda;
  1. Process flow charts
  2. Governance discussion
  3. Work plan – last 3 areas
  4. LiDAR, etc. presentation
- Deb – Measures and outcomes report, Suzanne Hanson, MPCA. The Council should see what's proposed and comment on it while it's still draft.
- Louis – a meeting with the G16 would be good and have a discussion about the Council's recommendations; Council members could sit in on the G16 meeting. Also, the civic engagement area will see different proposals to our budget recommendations, one from U of MN Extension. Maybe invite them here for a dialogue.
- Scott – do you want a monthly update on what's happening on the hill? Yes, at least while there's a lot of activity.
- Keith H. – what about extending the meeting time to 2:30 or 3:00 for February?
- We also have the Steering Committee meeting. It's okay to go to 3 p.m.

## Council adjournment

***Next Meeting: February 28, 2011***

**Clean Water Council Meeting Agenda**  
**Monday, February 28, 2011**  
**9:00 a.m. – 3:00 p.m.**  
**Freeman Building, Room B145**  
**625 Robert Street North, St. Paul**

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|--------------------|--|-------------------------|
| <b>9:00-9:15</b>   | <b>Convene Full Council</b> <ul style="list-style-type: none"><li>• Comments/additions to the agenda</li><li>• Approve 1-24-11 meeting minutes</li><li>• Council introductions and updates</li></ul>   |                         |
| <b>9:15-9:30</b>   | <b>Steering Committee report</b>   | <b>Information item</b> |
| <b>9:30-10:00</b>  | <b>Clean Water draft legislation</b><br><i>Representative Paul Torkelson</i>   | <b>Information item</b> |
| <b>10:00-10:30</b> | <b>BOC schedule discussion</b>   | <b>Decision item</b>    |
| <b>10:30-10:45</b> | <b>Break</b>   |                         |
| <b>10:45-12:00</b> | <b>Interagency Draft Measures and Outcomes Report</b><br><i>Suzanne Hanson, MPCA</i>   | <b>Information item</b> |
| <b>12:00-12:30</b> | <b>Lunch</b>   |                         |
| <b>12:30-2:30</b>  | <b>Work plan development</b>   | <b>Information item</b> |
|                    | <b>12:30-1:00</b><br>Review: Targeted implementation, groundwater and drinking water, and accountability and outcomes  |                         |
|                    | <b>1:00-2:00</b><br>Subteam breakout groups to discuss: 1) public participation and education, 2) applied research and tool development, 3) local capacity   |                         |
|                    | <b>2:00-2:30</b><br>Subteam reports  |                         |
| <b>2:30-3:00</b>   | <b>March meeting agenda review and Council adjournment</b> <ul style="list-style-type: none"><li>• <i>2011-12 CWC work plan approval</i></li><li>• <i>Precision conservation tools presentation</i></li><li>• <i>Governance and Funding matrices</i></li><li>• <i>4B</i></li></ul> |                         |

***Next Meeting: March 21, 2011***

**Clean Water Council Meeting Minutes**  
**Monday, February 28, 2011**  
**9:00 a.m. – 2:00 p.m.**  
**Freeman Building, Room B145**  
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**Council members present:** Dave Bennett, Marilyn Bernhardson, Pam Blixt, Keith Buttleman, Keith Hanson, Scott Hoese, Mark Knoff, Dave Leuthe, Mike McKay, Gene Merriam, Gary Pedersen, Gaylen Reetz, Todd Renville, Louis Smith, Deb Swackhamer, Paul Torkelson, Matthew Wohlman, Steve Woods.

**Absent:** Steve Pedersen, Victoria Reinhardt.

**1. Convene Full Council**

- Comments/additions to the agenda
  - Approve 1-24-11 meeting minutes
  - Council introductions and updates
- 
- Council Chair Keith Hanson called the meeting to order. The January meeting minutes were revised by Louis Smith. The February 28, 2011 agenda and revised January 24, 2011 meeting minutes were both approved.
  - Council introductions and updates:
  - Marilyn Bernhardson will be at the State Capitol promoting the Clean Water Council Budget recommendations.
  - Gayle Reetz: There will be a formal request at a near future meeting for the MPCA to give an update of the watershed approach for the 81 watersheds. Tremendous progress has been made with some good outcomes. It's important for the Council to get an update and know where the MPCA is going with current information. Thursday night, the Freshwater Society and the U of M are sponsoring a lecture by [Craig Cox about agriculture and water quality](#). Look at this on the Freshwater Society website, it's very informative.
  - Dave Leuthe from DNR introduced himself. He will be on March meeting agenda.
  - Louis Smith will be participating in the annual summit meeting of the Isaak Walton League and other Council members are participating, too.
  - Matt Wohlman from MDA introduced himself.
  - Representative Paul Torkelson introduced Kirstin Beach. She is the committee administrator for the Legacy Funding Division committee and has been working closely with Rep. Torkelson on the Legacy material.
  - Keith Buttleman is awaiting the appointment of new Metropolitan Council members which will be soon – new chair, administrator, etc. Will need to bring them up to speed.
  - Steve Woods received notification that the legislative auditor will be in to review Clean Water funds in March. Also, as a way to show where the money is being spent, go to the [BWSR web page](#) and click on the [multi color logo](#). You can get full project descriptions. The

non-colorful side gives a recap of what BWSR's been doing. You can also go to the web site and look at everything, the easements, etc.

- Keith Hanson presented a plaque to Marilyn Bernhardson for her service as Chair of the Clean Water Council.
- Audience introductions.

## **2. Steering Committee Report**

- Keith H. reviewed notes from recent meetings.
- Use of other programs for Clean Water purposes is an item.
- Question on the first bullet; "need to know the dollars leveraged by agency programs". Keith H said the cost-share type dollars are included; receive monies from other areas to cover the total program cost.
- Question about private dollars and public dollars. Keith H: Just wanted to acknowledge dollars leveraged to whatever. Scott: those dollars can be federal, state, or local dollars.
- Jen has information from all agencies. We will need to draft how much we've been able to leverage. Keith handed out the side by side comparison.

## **3. Clean Water draft legislation, Representative Paul Torkelson**

- Rep. Torkelson - [House File 656](#) is his bill. He will present a slightly revised bill in early March and hopes to have it passed.
- Kirsten Beach: There will be an omnibus bill which will move to the Environmental Committee no later than the 23rd.
- Rep. Torkelson hasn't presented this bill to the Senate. He will take this bill to the leader of the Senate to review.
- Keith's recent presentation was beneficial for the Senate. Trying to get the Senate to see the value of our approach. The 16th is the drop dead date.
- Differences between Clean Water Council and his bill – he took the Clean Water Council recommendations and inserted them into bill form. He tried to make sure that the language works. The big difference is that he's taking out the line items for civic engagement. He gets a lot of push back from groups saying they want money spent on projects on the ground.
- The bill proposes any and all projects would include civic engagement as part of their work. Not a certain percentage; not necessarily spending a line item of dollars. If you have ideas, submit them to Paul.
- Gene: It's a tough nut because there's demonstrated need for education on civic engagement. Just a couple weeks ago he made a presentation and was very impressed with all the young people who were there. He talked about the Council's budget numbers and they were unhappy with the amount allocated to civic engagement. They wanted to get more money for public education and civic engagement. Your argument suggests taking away the specific allocation. This group wouldn't be happy with that.
- Rep. Torkelson: Thanks for your comments. I believe this approach is good. He doesn't think it needs to be a part of Clean Water spending line items.

- Louis is concerned if we only attach civic engagement dollars to projects. We need to motivate people to volunteer to do projects. If we don't put some muscle behind that kind of civic engagement work, we'll spend a lot more dollars for the cure.
- Rep. Torkelson understands what he's saying, however he is married to his bill. He has struggled with the civic engagement piece. He gets a lot of pushback about whether it's a wise use of our dollars.
- Marilyn: this past week our watershed picked a watershed population and invited them to a meeting to talk about water quality concerns. Civic engagement doable as long as you have a local government to make it happen.
- Rep. Torkelson agrees it can and should be done. He just doesn't think it should be done as a line item. It can be incorporated into all of our activities.
- The bill makes a number of changes tying the Clean Water Council to Clean Water Fund dollars. It adds groundwater language throughout and replaces point and nonpoint with regulated and unregulated. The Minnesota Department of Health is added to the agencies on the Council, and non-voting legislators are added to the Council; two from the House of Representatives and two from the Senate. Proposal allows Council to remain part of the executive branch rather than a part of the legislative branch like Lessard-Sams. Council has been nonpartisan, but it's important that the Legislature has some communication with the Council. Since Rep. Torkelson was elected, he has not turned in any per diem or travel expenses because he wants to avoid any conflicts. He hopes these four legislators will take responsibility and be the "water people" at the Legislature. He thinks the Council size has worked pretty well. We should continue to avoid lobbyists on the Council.
- Page 19 is first attempt at accountability language. Spend time talking about accountability from various aspects; using percentages, etc. It's very important, but it will not be specific percentages. Rep. Torkelson is open to suggestions about re-wording it to fit all the agencies and the wide variety of projects we're working on.

#### Questions:

- Deb Swackhamer: Did you discuss a hybrid legislative process with both the executive and legislative branches? Keith H: Yes, we discussed it last year. It's very difficult to have something that crosses those branch lines. Deb: That would address the complaint that it's a tool of either branch. Maybe still consider that model. It might be a better organization.
- Rep. Torkelson appreciates that point. Legislators tend to be pretty parochial in their approach to legislation, however, and they look out for their region's interests so their approach is different. It's hard to keep it at a higher level.
- Deb: Accountability – didn't see changes much on page 19. The Water Sustainability Framework wanted a body like this to be truly accountable. That could be a role for this body; review land plans and so on. Consider increasing the role that this body could play in terms of accountability to plan.
- Rep. Torkelson: There has been discussion about water plans, but we haven't gotten any suggestions yet. Marilyn: It's coming. She has seen a draft. She doesn't know their timeline, but will be making some recommendations.

- Rep. Torkelson: Given the 81 watershed approach and others, we could coordinate all these planning approaches. Deb: Exactly. So this body could be responsible for making sure that this is done state wide. Rep. Torkelson: Waiting for ideas on this.
- Louis: BWSR has a role in planning and accountability. Has the G16 reviewed and commented on this bill? Rep. Torkelson: Yes, it was more like a G10, and they were supportive of your efforts.
- Louis: Thanks for the thoughtful legislation. Have you heard any discussion or anything introduced about anything different? Rep. Torkelson: Not really – nothing real solid. He thinks we have a good model.
- Keith H: When we presented to the Senate, we had a lot of questions about how the Council functions, especially organizational aspects of it. Victoria presented it well. Senator Ingebrigtsen said that was very helpful.
- Question: Where did section 18 that come from? Is it supposed to cure a problem or prevent a problem? Rep. Torkelson: It came from one of the agencies. It's going to change pretty dramatically. Is intended to change anything? Rep. Torkelson: Not really. It just says we have expectations of accountability.
- Question on your reference to 4b. Rep. Torkelson: It's one of the EPA's water classifications.
- Gaylen: Impaired waters are put into category 5 of five assessment categories. Category 4b are impaired waterbodies that do not have to write a TMDL. For category 4b waterbodies, there are requirements already in place for the waterbody to reach standards within a certain amount of time. The EPA will be at MPCA on March 10<sup>th</sup> to present some background on what they would and wouldn't approve for Category 4b. There is currently one waterbody in Category 4b. The next listing cycle is 2012 and more could be listed then.
- Rep. Torkelson: Can avoid doing a TMDL twice.
- Mike: Would the bill accommodate a civic engagement project that was accountable as a stand-alone project? If it could, it might be one way to do it. Rep. Torkelson: Yes, I was thinking about that earlier. Could have some type of process in place.
- Steve W.: There are several divisions that would fund those types of activities. The answer isn't a flat out no.
- Deb: Page 16 of the bill lists the voting members of the Council. There have been discussions that members are conflicted because they have knowledge of the group they represent or are coming here as a stakeholder and protecting their turf. Consider lessening the stakeholder concept. Reflect that members are coming with certain expertise, but not as a stakeholder for a vested interest. Rep. Torkelson: How? Deb: Language can say a lot. The Council has had this discussion before, and needs to clarify the language. The Council should function to protect the water of the state (and not just a part of that).
- Mike: Do we have a fiduciary responsibility statement? What is it?
- Gary: He's the only one that's not representing his unit (referring to the language in the bill)
- Rep. Torkelson: We're going to change that.
- Deb suggests taking "represent" out of all lines.
- Gaylen: To respond to Mike, it's under creation of duties.

- Dave: Very perplexed by your request because it relates to what I represent. (Deb's comments about stakeholders etc.) He doesn't see where representing doesn't include Clean Water.
- Deb: Maybe not for your organization, but many members of this group don't come to this group with a broader perspective; shouldn't represent a vested interest.
- Mark: Like 17-2 in the bill. Deb: That's the language I'd like to see changed.
- Keith H: Agrees with Deb. We need to define our individual roles as we sit here and deal with programs and waters of the state as a whole. It's covered both ways, but the word "representing" can be misconstrued. We should think about it.
- Another question: House File 501-60, Paul, anything the Council should be looking at or should we make a recommendation? How should we handle those things? Rep. Torkelson: There's nothing we can do to prevent Legislature from submitting a bill. And they may or may not get a hearing.
- The Council needs to make it very clear about the pathway for making application to the appropriate funding source. That may help the Council redesign some programs down the road.
- Dave Leuthe: line 16.26 is about appointments. The power of this group is that people come from different backgrounds. That maybe better than changing the appointment language.
- Louis: deleting "representing" may be a concern to the G16. There's general language about expectations of members and maybe that's a better place to make a change.
- Deb: People don't come here saying how can I advocate for my organization, so what Louis just said would alleviate my concerns.
- Gene: Comment – Deb shouldn't back away from her original position. He takes umbrage that members of the G16 might have issues. There are some in that group who oppose the Clean Water Legacy. Mike's point is good.
- Rep. Torkelson: Any and all can draft language and submit it to me. Let's shift to the other document, the side by side analysis. I'm not an expert on the SSTS issue. We have a complicated mess of programs and efforts to deal with subsurface sewage treatment systems (SSTS). On one hand we've got MPCA, a regulatory agency and then we have citizens of MN, who have failing systems. How do we deal with it? He would like direction from the Council on this.
- Keith H. would like to get the Budget and Outcomes Committee together, maybe this week to tackle that issue. Would that help you if we could do it this week? Rep. Torkelson: Yes. He intends to stick with original recommendations until he gets others from the Council.
- Keith H: Is this something that we do as a request from you or as a Governor's recommendation? Rep. Torkelson spoke with the Governor's legislative aide. He's not up to speed on this. This is a major discrepancy and he looks to the Council for what to do.
- Rebecca Flood, MPCA: There has been a lot of concern from local units of government about our SSTS regulations. The MPCA develops the regulations and local partners implement them through ordinances. As far as our relationship with our local partners, there's a law that we set up implementation and the task force sets up local enforcement tools, and improve our communication with local partners, so we developed a taskforce.

She traveled the state meeting with county planning and zoning representatives. That process continued through October, past when Clean Water Council developed its budget recommendations, so that's why we were out of sync. Thus the differences between our requests. Among many issues, they feel dramatically underfunded so this budget request reflects that.

- Thank you. Prior to Clean Water dollars, how was this supposed to be funded? Rebecca: We currently have a small amount of money from the Environmental Trust Fund.
- If the money is allocated, are they ready to handle that? Rebecca believes the dollars can be used in this biennium.
- Hearing that they needed more money to operate programs? Will the money go to programs or to new septic systems? Rebecca: The money would go to expedite local inspections, etc. To operate their programs then.
- Deb: Although she didn't have the benefit of hearing about these sessions, this was a major area. 200 some people felt that this was an issue – finding who is out of compliance and fixing.
- Is this money to hire people? Rebecca: Part would be to enhance the county's programs (thru a block grant) and part would be to hire 2 staff to help the counties.
- What all is included in the description of SSTs? Deb: Individual septic systems. Rebecca: Septic tanks 10,000 gallons or less in size.
- There are laws that govern them? Rebecca: Yes, the laws just changed recently.
- Is it correct that 40% are not in compliance?
- Rebecca: The money can be used for local inventories and to find where these problems are located.
- So all this money would be used. Rebecca: Part of implementation goes to enhancing local county databases that track these issues; implementation is about enforcing the rules themselves.
- Gary: Be careful when you talk about a compliance system and a system that's failing. When I talk about septic, I prefer to talk about failing vs. working. We need to know how many systems are failing. Rebecca agrees with that. We're focused on straight pipe systems and want to work with the counties, how can they incorporate flexibility into their rules, and we want to work with their local circumstances.
- As with many categories of spending, they would change over time. If dealt with now, it would help in the future.
- What about the supplanting question? What is the role of government? Rebecca: The purpose of this money is to enhance their local programs.
- Keith H: We will set up a conference call to sort through our recommendation on this project and go back to the steering committee to gather that information.
- Rep. Torkelson: Has the interagency group talked about this issue? Rebecca: They've talked.
- Rep. Torkelson: It would be a good idea and would be a major change in approach – shifting a large amount of money from agency to agency. There are some dollars left. We're under some tight timelines.
- Should we do one year funding or two year? I'll suggest 2 year funding, it's easier to make comparisons etc., but it may still end up being one year.



- Asking Rebecca to put a little of meat on the bones of “enhancement” Do we need to define this before the conference call?
- Keith H: Should we have a special meeting to handle this issue?
- There is a law that says we can conduct this meeting by telephone and just post it as a meeting. It could be noticed and conducted by phone. Should we just have a special meeting? We could do the conference call and save on mileage.
- Keith H: We will need a motion from the Council as to how to address this issue. A motion that the Council is in favor of having a conference call to address this issue and then return with a recommendation for the Governor and Legislature. Does someone want to recommend that? Deb so moved, Scott seconded.
- Keith B: Is that really needed, or is it a continuation of this meeting? Louis: Continue this meeting to a date and time, certain. Deb: Motion so amended.
- Dave: The Clean Water Council is going to review a request for \$7½ million dollars.
- Keith H: We based our budget on the 2010 budget numbers. Paul said there’s more money there, so we’ll try to get a better estimate of total funds that are available. So it’s like what we did on the last biennium, but we’re just restricting it to this issue.
- Rep. Torkelson has to leave, but he is open to input both from the Council and from individuals. Thank you for hearing me out today.
- Can we e-mail him directly with comments? Keith H: Yes
- Motion carried.

#### **4. Interagency Draft Measures and Outcomes Report, Suzanne Hanson, MPCA**

- This is a draft report. The Interagency Team will decide when and if to release this report.
- Gaylen: Comment – Suzanne and the team have done a tremendous job. It’s extremely complex and hard to do. Anyone who looks at this thinks, does it answer the question I have. But you have to look at the whole system. It’s being recognized nationally as a step forward. It will be serving as a national model. A consultant from EPA also helped. It’s a huge step forward.
- Keith H: Have you talked about timelines associated with each of these actions?
- Suzanne: We will have a chart of each measure and when we will have the data (doesn’t mean it will be automated). Some are this summer, 2012, 2013 and a few beyond.
- Keith H: It would be valuable to have some information available as the Council develops a progress report, that’s key. How do we show effectiveness? Suzanne: The exercise of putting in the dates is a good idea.
- Keith H: When would the timeline be available? Suzanne: Probably a couple weeks, end of March, after the interagency team looks at it.
- Gene: Some of us struggle with budget recommendations with the lack of relative effectiveness. In this endeavor we don’t have ways of measuring effectiveness. Suzanne: It is a challenge but we’re getting better at understanding what we’re getting for the dollars. As we get a few more case studies, we’ll have a better sense. You’re right; right now it’s a challenge.
- Gene: We’ll find out also about the things that aren’t working. Suzanne: People are struggling to see how this will pay off.

- Steve W.: The one caution from BWSR is that a lot of measures deal with impaired or not. That's almost always something that's important to MPCA but not the rest of the world. It's more important to see how many waterbodies are getting better. That's how lake associations would look at it. Suzanne: Many conservation districts have that terminology, so we still need to use it, but we are broadening it out to a wider audience.
- From a timing standpoint, can you tell us when this process started? Started in 2007. Why has it taken so long? Suzanne: Because it's really hard. This work is not what people are used to doing.
- Is there a prioritization system as to which pieces are going to move forward quicker? Suzanne: We tried to do that in the report. Some data doesn't exist yet. That's a couple years away or longer.
- Keith H: When you give a grant or whatever, is there a feedback mechanism to show progress within each of those contracts? What's the timeline?
- Steve W: Most have a contract period of 2½ years. Some of the work that's being conducted goes for finding other projects in the future. Check in at least twice a year – it's uploaded into the eLink system so you can see the results.
- Gaylen: There are certain measures that come back short term, some medium term, and some long term. The shorter term ones are the social measures usually.
- Keith H: There is an article that talks about lag time and water quality response. This is a good reference item. (Lag Time in Water Quality Response to Best Management Practices: A Review, Donald W. Meals and Steven A. Dressing Tetra Tech, Inc., Thomas E. Davenport U.S. Environmental Protection Agency)
- Dave: What Steve is talking about is picking a small enough area to do enough things to show outcomes. When you move water - you take a system out of balance – a whole bunch of things take time to re-equilibrate. We could have a lot of discussion about this.
- Comment about the budget difference – when you were doing the CWC budget and we were debating if it should go through DNR or PCA – look at Suzanne's map of watersheds. Explained the process, especially additional flow information to tie with the other parameters that they're measuring, which would enable them to determine which parts of the watershed are contributing problems to the watershed.
- This could help us target better.
- Keith H: Talk about budget recommendations for database development. Can you or anyone speak about that? People are seeing the need and want to have the investment made for a system that makes it easy for everyone to manage this data. It's a critical component to getting this done.
- Gaylen: The MPCA is looking at watershed data management system, and the interagency team has had discussions on how we move forward on integration across the agencies.
- Gene: It's a good start, and it's really critical.
- Looking at the Executive Summary...some Clean Water outcomes...framework should (change to must) include...
- Keith H: the BOC meeting will be this Thursday at 3 p.m. The full Council is invited. Mainly to cover SSTs. We will get MPCA there with Rebecca and/or Lisa. How many can make it? It will work for most people, so we will send out an announcement.

- Gary: Is this something we really want to do? Our report is already done, so it differs from this report. Now we're scurrying to look at this information. I'm not so sure we want to go there. Keith H: That's worth discussing, and it's a possible outcome.
- He agrees and a couple of people have expressed the same thing. Any other questions?

## 5. Work plan development

- a. **12:30-1:00** Review: Targeted implementation, groundwater and drinking water, and accountability and outcomes
- b. **1:00-2:00** Subteam breakout groups to discuss: 1) public participation and education, 2) applied research and tool development, 3) local capacity
- c. **2:00-2:30** Subteam reports
- Work plan Development - to guide discussions at full Council meetings.
- Any comments on; Groundwater/Drinking Water, Targeted Implementation, or Public Participation and Education?
- Steve W: Groundwater/drinking water – missing anything for the Council to do. Scott: What do you want the Council to do? Steve W: Make recommendations for adjustments, groundwater sounds too passive. Give us an active verb for us to do something.
- Keith H: One action item is what Representative Wagenius pounded home. What is an adequate level of funding for groundwater? We need to look at 5%, we're at 8% now.
- Pam: Another thought, we could look at what is the extent of the geography to determine what groundwater areas we're talking about. It's a murky thing.
- Keith H: That's another point from Rep. Wagenius. That fits in with what we heard there. Scott: She wants everything done in 10 years, not 25. Keith H: She saw a lack of funding from the DNR perspective. Dave Leuthe: we need a lot more information on chemistry and how it's changing. His resistance to increasing the budget was "if you don't spend it, don't ask for it." We don't need it right now. Groundwater needs a lot more attention.
- Keith H: we can incorporate more action items.
- Steve W: Look under Strategy and Purpose #2 ... each agency... the questions is who does what in the system. Do we want to get into the subject of quantity at all? Dave: You can't unlink quantity and quality issues.
- Keith H: There are also links between groundwater and surface water, and contamination issues. If groundwater is contaminated, then the water supply needs to come from elsewhere. Steve W: Clearly we need to do both.
- Deb: A problem statement is useful but not what we currently have.
- Mark: How do we make those decisions without this background? There is no framework done. It was a look at how do we make a good decision. What is the right amount?
- Mike: Yes, if you're going to have that discussion (about 5% or 8%) you need the background.
- Keith H: That's why activities are geared more toward getting more information and once it becomes better understood, then we'll be able to make a recommendation.
- Mark: the Department of Health hasn't really had a seat on this Council. How many presentations have been made on this? Keith H: DNR did, but not Health.
- Deb: There is an interagency workgroup on this issue.

- Pam: Recommended BMPs for surface water and where they conflict with drinking water catchment areas. There is a potential conflict in statute.
- Keith H: Let's move away from groundwater
- Deb: (Revised the problem statement – see her note). We have 3 background papers on groundwater on their web site; water use, water quality and water supply.
- Keith H: Let's turn these into action items. Mike: It should be an activity to read that.
- Deb: Still some editing could be done with accountability and outcomes. She is marking it up and will give to Jen.
- Keith H: If you have other ideas, send them to Jen or Keith. We will finalize these 3 and the other 3 or 4 we didn't look at today at our meeting in March.

Today workgroups are:

1. Public Participation
2. Applied Research and Tool Development
3. Local Capacity

#### Public Participation, Louis Smith:

KEY HIGHLIGHTS: Discussion about cutting out explicit funding for civic engagement. Perhaps the Council and the efforts can best be justified by going back to our original charge. If there's not good community/stakeholder interest in the TMDL, you won't succeed in getting it implemented.

- Make sure resources are ready and used in an appropriate way. Information on best practices and also any failures in the TMDL and what might the Council learn from that. A few tweaks to the original work plan, otherwise, relatively on track.
- Steve W: There's a struggle to find out how many people we're connecting with. Maybe your group can. How do you figure that out.

#### Applied Research, Deb Swackhamer:

- Overall questions: what tools and research are needed. What prevents Clean Water Fund goals? How do the right tools get used? How do we get those tools to users?
- Overall;
  - 1) Research / review Water Sustainability Framework
  - 2) Review ongoing research
  - 3) Provide recommendations on what research gaps there are. What's being addressed? Give recommendations back to the Council and use to form future budget recommendations.
  - 4) Review what tools are available, and based on reviewing tools, make investment recommendations

#### Local Capacity, Steve Woods:

- 1) \$ = projects, practices, or behaviors
- 2) Define local capacity and what it does (feds, state, regulated, local, citizen, NGO)
- 3) Capacity = f(tax base population)

4) Swiss cheese - you will see variability of capacity whether human or financial. You won't see equal results everywhere. Mostly talking non regulated activities here.

- Keith H: Question on number one, is that governance? Steve W: It's slightly different. Think in terms of a few agencies at the top of the pyramid, how that money works its way down. Understanding how that works is just as important at the bottom as it is at the agency level.
- Pam: re Swiss cheese – could look for successes in models in other areas.
- Gary: what about a local government with a small population and they have a project, is there any way of providing them more money than you could with other areas with better tax capabilities? Steve W: Yes, however, they don't have much money to produce matching dollars. Gary: So how does that get balanced? Steve W: Good question! When you talked about a legislature asking what's the split between metro and outstate, that's probably a local legislator talking. We need to strive for a happy medium, but over time your recommendations will influence that.
- Gaylen: Minnesota is fortunate to have such a well developed local delivery system. Yet we have such a complex, fragmented system, too. Is it time to look at where we could gain some efficiency?
- Steve W: Look at #2, define local capacity, that's why we moved that definition out to an area code basis. Keith H: Are you saying that you could have different scoring criteria for different areas of the state? Steve W: That would be an interesting conversation.
- Scott: Do we recommend to BWSR or what? Steve W: It's a discussion. They like what comes out of here, and will have discussions along the way too.

#### Outcomes, Deb Swackhamer:

- Under accountability and outcomes, we scratched 1 and 3, and kept 2. Look at activity 2 which we kept, accountability activity. The mission of this group would be to review the measures report that comes back from the agencies. The CWC should review those reports to see if they're on track in terms of outcomes. Inform CWC on off year an accomplishments report as to how things are going.
- Mike: When you said you are reviewing agency reports, are we looking for duplication or??
- Deb: The intent of the outcome strategy is that there would be one report to the Legislature annually comprised of various data from different agencies.
- Keith H: We would try to look at all those things that you mentioned.
- Pam: Our group talked about a need to determine what's the role of the Council in sharing the outcomes with the public? Public education. Who has the responsibility to get the information out to the public as to how the funds
- Jen: Projects from all funds are being tracked by the LCC website. If the Council wanted to do something additionally, you could. Pam: A web site is pretty passive. What do we want to do. Should there be a more active role?
- Deb: Is that a role for the Clean Water Council? Pam: Doesn't know. Just saying it should be discussed.
- Maybe there's a way for the Council to foster more of that activity.

## 6. BOC schedule discussion

- Keith H: Look at BOC schedule discussion; we laid out the process that we used. We wanted to document how that process went. The only real change to what we did last year, our public involvement piece was inadequate, so we set the process up so that once a draft recommendation is made, people can go back to their organizations for feedback, then go outstate for some public meetings (1-2 meetings) and present our recommendations to the public. Can talk about how we arrived at the budget numbers.
- One deals with budget year recommendations and the other deals with the progress report that was submitted in 2009.
- It can be an accomplishment report, a progress report, whatever, but we would put it on our website (rather than give to Governor). Put it out there as a roadmap to follow. This would come under BOC. We're looking for general feedback.
- Deb: Two suggestions: on the budget recommendations, soften the wording and just say; get feedback from the council (#5).
- We were waiting for agencies to develop their budgets (which they can't share even with other agencies) so the timing didn't work well. Now, after 2 budget rounds, we know where the agencies are in terms of their requirements. We could come up with our own, broad budget - don't need agency spreadsheets, just get agency's priorities. Then we could make our adjustments based on what we think. We need to work in parallel with the agencies.
- Keith H: We used the first part of August as a cutoff point communicating with the agencies. We got caught on the backend this year. Then we can defend what we've done to the general public. We have a good starting point for where we want to go in 2012.
- Marilyn: Then when the governor or legislature makes a change, they accept what we put in. Why do we have to discuss the \$7.5 million, if it's our budget. It's our budget, it's our recommendation, and we should stick with it.
- Gaylen thinks that fine. The agencies have always seen a difference between the agencies' budget and the Governor's budget.
- Representative Torkelson asked for a recommendation on this new information, stating he would go with the Council's recommendation rather than the Governor's.
- We're better off saying that "we're not going to render an opinion".
- Marilyn: Yes, let's say "no opinion". If we do it for one issue, we'll end up doing it for all.
- Mike wants to reinforce what Deb said. By the time we voted, everything was pretty well baked in the cake. If we followed what Deb said, we would follow our own priorities. Then have the discussion with the agencies.
- Deb: We say we'll involve the agency before we put it out for public comments. Do we also want to interact with others, like the G16?
- Keith H: We are, indirectly. Louis: Yes, with a few exceptions. This is a huge improvement. If there were a way to build even more input early in the process, so much the better.
- Gene: You're putting a template together for Feb 20, 2012 while it's fresh in our minds.
- Keith H: We would still do a biennium, the way the legislation is, we'd do it every two years.
- Deb: The Governor does it every 2 years and we would want to do the same, since we report to the Governor.
- Gene: There isn't anything making Clean Water Council more unique than the Legislature

- Deb: Our recommendations are going to agencies which operate on a two-year cycle.
- Keith H: If they change it, we can address it.
- Marilyn: What Louis said, are you saying to expand outside, asking for more input? Louis: I think this is fine.
- Keith H: We provided the straight budget recommendations before. The intent here is when we do the public comment and meetings to explain in detail what that report is going to look like.
- We need to add outstate meetings back in here. Deb: Just wanted to be sure that we got as much outside input early on.
- Marilyn: When would the hearings be done? Keith H: Between August 4<sup>th</sup> and 20<sup>th</sup>.
- Keith B: Are we inviting a situation which will confuse people when we go out for a public meeting? Keith H: we need to make sure expectations are very clear as we do this.
- Steve W: Earmarks, we need to show them the pathway for the money. Show people the process so the pathway is clear to them.
- Louis: It's people's real live projects that inform the programs, so he doesn't mind people coming with their local needs and projects, so long as they don't think we're going to manage their project.
- Steve W: the Council needs to hear if people are having trouble navigating the process.
- Keith H: This set the future for 2011. Keith has a couple other comments. We will discuss the spreadsheet at the March meeting. If you're looking for CDs with Deb's report, you can pick them up here.
- Gary made a motion that we as a Council do not take action on Rep. Torkelson's question on the \$7.5 million to the Governor because we have not gotten detailed information. He also said there is money available in the budget they can use if they want to.
- Marilyn seconds it, but our budget stands as presented. Something like "we submitted our budget and it stands as presented".
- Keith H: We would not do a conference call on this issue. We need a show of hands in favor of the motion (3); all those opposed (majority) – motion fails.
- Anyone want to make any other motions?
- Louis: let's hear more information from MDA. Let's have the agencies come in and have them involved for the first part, excuse the agency, and then discuss how to proceed.
- Discussion:
- Deb: We can simply endorse more money going to Paul's project. We could do nothing, or we could amend our recommendations to the Legislature. Paul asked for our opinion, and she suggests we provide that opinion.
- Mike: I would support the motion, the only caveat, Gary, is just because there is extra money. We still don't know what the money is to be spent for.
- Gene: Speaks against the motion. We've been asked by a representative who is a member of this Council as to what we think about it. It's \$7½ million above what we've already spent in our budget, but we would like to hear more about it.
- Gaylen: We identified local capacity as a topic. That's what this is all about – local capacity. We're asking for the opportunity to be able to explain what's included in the Governor's budget.

- Gary thinks we can consider a number of options. We could give an opinion, however, concerned that it should be included – in essence we're changing our report, and every time someone comes in with a request, do we have to change our report.
- Louis: I'm with Gene. It's a good thing when a Legislator is asking for the Clean Water Council's opinion.
- We need to see if it's a good fit for the Council. It's a good role for the Council.
- Gaylen wants to make the distinction that this is in the Governor's budget. It's another process, but you should be interested in what the Governor's opinion was.
- Keith H: The CWC...
- Marilyn: Do we just take up this issue, or will we take up all the other issues? Concerned that if we take up one, are we going to address all of them?
- Keith H: It's a tough decision because Paul is a current member of the Council. Each one of us could respond to Paul, but it wouldn't be Council feedback.
- Gary: Would we make that recommendation solely for Paul's benefit then?
- Keith H: That's a logical question – leave that up to Louis and Gene vs. trying to make a budget recommendation change. That gets a little dicier because we haven't been asked for that.
- Scott is in favor of the motion. Those numbers will eventually change. Let's stick with our timeline and go on with it. The numbers will change.
- Mark: We just circumvented the public on this issue.
- Keith H: It's easier to say to the Governor and Legislature that it's too late in the game, but it's a Council member's request.
- Mike is torn because he was wearing his Legislative hat this morning – either individually or as a group – he knows he can do this without us. I personally don't have enough information to act on it. If another Legislator asked for a recommendation, what would we do?
- Deb: We would ask to have this gap of \$7 million dollars explained to us. If the guy that wrote the funding bill is coming to us, we can't shut the door on this. The vote is not to have this conversation.
- Dave's perspective is that SSTs is a challenge and there's nothing in the CWC budget that speaks to that.
- Scott: Rep. Wagenius also asked for groundwater dollars.
- Deb doesn't see that as a problem at all.
- He's not asking us to amend our budget. He wanted to know if his bill should include it.
- We, as a Council, can make our recommendation – but
- Deb: We can write Paul a letter that this concept is valid to consider funding. Keep it general.
- Marilyn: If we say we think this has merit, then we're changing our budget.
- Deb doesn't see it that way.
- Marilyn: Rep. Wagenius can make specific demands.
- Keith H: We can respond to a Council member request. We've been asked for an opinion by one of our own, and we can offer it to him. And not make any budget changes.



- Keith B likes Deb's suggestion that we not specify funding. We could say; if additional funding becomes available, this would be a worthwhile project.
- Mark: They could find something else to take out in order to balance the budget.
- What happened to the money in last year's budget to do with SSTs? Steve W: Inventory work – a million or a million two that was available – offered to counties only. Did it all get spent? Steve W: Thinks there's still some left.
- We need information from Ag, too, on how much is available (ask Rob).
- Jen: We will gather more information before Thursday. The meeting will be at the MPCA.
- Questions: How was the \$7.5 million figure arrived at? Was any of that was included in our budget recommendation?

## **7. March meeting agenda review and Council adjournment**

*Tentative items:*

1. *2011-12 CWC work plan approval*
2. *Precision conservation tools presentation*
3. *Governance and Funding matrices*
4. *4B*

Agenda for March: 2 presentations; Gaylen 4b scenario

- Steve W: General comment. The discussion today has been fun. When we see a lot of presentations we're not at our best. Help the presenter who does 4b so s/he will know what it is the Council is looking for. Just not an hour straight of PowerPoint.

## **Council adjournment**

***Next Meeting: March 21, 2011***

**Clean Water Council Meeting Agenda**  
**Thursday, March 3**  
**3:00 – 4:00 p.m.**  
**MPCA, Room 6-1; conference call**  
**520 Lafayette Road North, St. Paul**

- 3:00-3:05**      **Convene Full Council**
- Comments/additions to the agenda
  - Council and guest introductions
- 3:05-4:00**      **MPCA SSTS Clean Water Fund**      **Decision item**  
**budget initiative proposal**  
*Lisa Thorvig, Rebecca Flood, MPCA*

***Next Meeting: March 21, 2011***

**Clean Water Council Meeting Minutes**  
**Thursday, March 3, 2011**  
**3:00 – 4:00 p.m.**  
**MPCA, Conference Room 6-1 & 6-2**  
**520 Lafayette Road North, St. Paul**

**Council members present:** *(all on the phone, except as noted)* Dave Bennett, Marilyn Bernhardson, Pam Blixt, Keith Buttleman, Keith Hanson, Scott Hoese, Mark Knoff, Mike McKay *(in conference room 6-1)*, Gene Merriam, Gary Pedersen, Steve Pedersen, Gaylen Reetz *(in conference room 6-1)*, Victoria Reinhardt.

**Absent:** Dave Leuthe, Matt Wohlman, Deb Swackhamer, Todd Renville, Louis Smith, Paul Torkelson, Steve Woods.

**1. Convene Full Council**

- Comments/additions to the agenda
- Council and guest introductions

**2. MPCA SSTS Clean Water Fund budget initiative proposal**

*Lisa Thorvig, Rebecca Flood, MPCA*

- Council Chair Keith Hanson called the special meeting to order. The purpose of this meeting is to come up with a response to the Subsurface Sewage Treatment Systems Program (SSTS) funding request.
- Rebecca Flood, MPCA – background is the information she presented at Monday's Council meeting about what's included in the Governor's budget.
- Lisa Thorvig, MPCA – thank you all for your time. Septics systems are an important issue. 23% of wastewater in Minnesota is treated and managed through septic systems. 20% of the septic systems are fully functioning and up to date. Of the 80% not fully functioning, it's important to address those with imminent health threats. There are 40-50 thousand that are imminent health threats in Minnesota. Septic systems regulated by the state under Statute 115.55 and 115.56. Both MPCA and counties are involved in regulation. Counties permit and regulate in their counties. New rules were adopted in 2008 which took the program from one chapter to four chapters covering cluster systems, county programs.
- In 2003, 2 stakeholder groups were legislatively mandated, one was the G16, and agencies and counties got together to do a 10 year plan to upgrade systems. The plan called for \$8.5 million per year. The state can't fund both impaired waters and septic systems, so we talked about funding septic systems through the impaired waters program.
- Funding from the Clean Water Legacy Act - one time funding in 2007, 2008-2009, and the first round of FY10-11 Clean Water Funds - all included funding for septic systems.
- Governor's Clean Water Fund (CWF) Proposal for SSTS table handout – Lisa went over the information in the handout.

- The reason the Council didn't hear about septic proposal earlier is because MPCA and BWSR hadn't decided which way to go yet.
- BWSR will continue to receive septic system fix-up funds; surface and drinking water protection.
- MPCA will receive funds for County Base Grant Program and County Challenge Grant Program in FY12-13. Higher rate in FY12-13 than FY10-11 for county base grants. MPCA will work with task force to determine how funds will be used.
- Challenge grants - BWSR was able to move money to fix systems with imminent health threats.
- 2 FTEs for MPCA needed; engineer and staff person for administration, outcomes.
- Spreadsheet handout shows appropriations from the Legislature for FY10, FY11, FY12, FY13.
- Representative Wagenius appropriated an additional \$700,000. In FY10-11, we spent close to \$2 million for this work.
- MPCA and BWSR had not come to an agreement on the SSTS funds, so it is currently not included in the Council's budget or in Representative Torkelson's bill. At this time, there is no money allocated for the county based grant program.

#### **Questions and discussion:**

- Victoria asked what gets dropped if the Council adds this?
- Jen Maleitzke said the Minnesota Management and Budget (MMB) estimate for the FY12-13 Clean Water Fund is now at \$180,793 million. The Council used an estimate of \$176,485 million for its budget recommendations in the December 2010 Council report.  
**(\$180,793M - \$176,485M = \$4,308M)**
- Keith H. - the Council had a lengthy discussion at the Council meeting about what does the Council do in these situations. Where do we stop? The Council is not ready to do a supplemental budget. This conference call is a response to a request from a Council member to hear the details of the SSTS proposal.
- Marilyn asked Lisa about why we should be using CWF money to fund something previously funded with general fund money.
- Lisa said CWF money has been used for this program in previous years, FY8-9, FY10.
- Marilyn – we want to make sure we supplement not supplant.
- Victoria said that's an issue for other budget recommendations too. The question is, how do we supplement not supplant. This is important for counties. SSTS is important to clean water. I think this should be funded. Not sure if something should come off the plate or if there are more funds than previously estimated in the CWF to do this. It sounds like there's additional money and this is something we should do.
- Lisa – Governor's recommendation for SSTS is \$7.5 million. BWSR received \$5.3 million in FY10-11. BWSR would have \$25 million for surface & drinking water activities, which includes some going for SSTS activities.
- Mark – the SONAR for the septic system rules says no increase in funding is needed for these rules.
- Lisa - the ten-year plan presented to the Legislature in 2004 articulates the need for this funding. If you think the counties don't need this money, you just need to ask them.

- Victoria – counties absolutely need more funds for septic systems. Is there enough in the higher MMB CWF estimate to cover this request?
- Lisa – there's a difference of over \$4 million.
- Keith H. said the scope of this discussion is not if we will revise our recommendations, but the request from Rep. Torkelson to find out what the Council thinks about the Governor's budget.
- Steve P. – it's not clear if this \$7.5 million is in the Governor's budget. Yes, the \$7.5 million is in the Governor's budget.
- Victoria – there is a difference between Rep. Torkelson's bill and the Governor's budget. SSTs is not included in the bill.
- Keith H. – there are other things in the Governor's budget that the Council did not recommend.
- Mike – not clear about what's in BWSR's \$25 million. Uncomfortable with the fact that there's a single option being considered separately. If this gets kicked back, then consider it.
- Victoria – we should say if we think this funding is a good idea.
- Marilyn – Rep. Torkelson didn't ask if we thought this was a good program or not.
- Mark – do we recommend all the changes or not? Why wouldn't we just recommend the Governor's budget?
- Gene – when Paul presented his bill he said there were some differences with the Governor's budget. Was there \$5.3 million spent by BWSR in FY10-11?
- Lisa – yes; \$1.8 million for imminent health threats.
- Victoria – issue is that funding to counties is not there at all except for imminent health threat funds. This is a big deal for counties.
- Mark – October budget – notes in budget sheets; assumed it was embedded in the \$25 million. Are there any block grants?
- Keith: You're right Mark.
- Mark: That's a huge increase and it's not in there.
- Victoria: The county grants are not in there.
- Lisa: They are not. There are 3 pots to BWSR, two would go to MPCA and BWSR would continue with their SSTs Funds.
- Mike – decide if we are prepared as a group to make a decision on a single proposal or not then decide if we support the SSTs proposal.
- Motion by Mike; second by Marilyn
- Dave, Marilyn, Keith H., Scott, Mark, Gene, Gary, Steve, Victoria, Mike - all present for a total of 10 Council members, which is a quorum.
- Motion: Consider any additional funds to be recommended after we consider a formal process for recommendations.
- Marilyn – what triggers the request to consider?
- Victoria – we already know we have over \$4 million in additional funds. We need to decide at our next meeting if we want to make additional recommendations.
- Keith H. – my understanding from Monday's meeting is that we are only addressing the request for information from Rep. Torkelson, not a request for additional

recommendations. Our recommendation is what it is until we receive a formal request from Rep. McNamara or the Governor or Senator Ingebrigtsen.

- Victoria: I thought we were having a discussion, because we know the money is there. We need this discussion.
- Gary asked about the timeliness of this, maybe it's too late.
- Steve P. - we are going way beyond the original request.
- Gaylen – Paul said it will move out of his committee into omnibus bill. There's not enough time to bring this to the March 21<sup>st</sup> Council meeting.
- Mike – we are not in a position to fully support this.
- Victoria – support motion to have discussion on March 21<sup>st</sup>.
- Marilyn – is the word formal in the motion?
- Gaylen – the Council is a creation of the Governor, not the Legislature.
- Keith H. – the Council will address this issue if we get a request from the Governor.
- Marilyn – will we let people know we are considering additional recommendations?
- Victoria – which is why I didn't want to include the word formal in the motion.
- Keith H. - we will respond to Paul's question that we believe SSTs is an important program.  
Motion: We the Council will respond to Rep. Torkelson's question and say that the SSTs is an important program.
- Dave – does that mean we think the CWF money should be used to fund SSTs?
- Keith H. - we've said that in the past because we've funded it.
- Randy Ellingboe, MDH – question on the motion; there are a number of items in the Governor's budget that are not in the Council's recommendations. Is the motion only dealing with the \$7.5 million for MPCA?
- Steve – the motion is not dealing with that. It just relates to whether we think the SSTs program is important.
- Keith H. – good clarification.
- Mike agreed to replace his motion with Keith's revised motion.
- Dave abstained from the vote. Marilyn, Keith H, Scott, Mark, Mike, Gene, Gary, Steve P., Victoria – all voted yes on the motion. Votes on the motion: 9 yes, 1 abstention.
- Keith will call Rep. Torkelson and tell him what was voted.
- Victoria - prefer to see it in writing.
- Send him minutes; call today, and send minutes later.
- Victoria – there is still the issue of additional funds. How does that get to our Council?
- Gary – if a question is brought up, we can consider it at the next meeting.
- Jen – if a question is asked we can let the Council know right away depending on the urgency.
- Dave – can Clean Water funds be carried over? Yes.

## **Council adjournment**

**Next Meeting: March 21, 2011**

**Clean Water Council Meeting Agenda**  
**Monday, March 21, 2011**  
**9:00 a.m. – 2:15 p.m.**  
**Freeman Building, Room B145**  
**625 Robert Street North, St. Paul**

- |                    |   |                         |
|--------------------|---|-------------------------|
| <b>9:00-9:15</b>   | <b>Convene Full Council</b> <ul style="list-style-type: none"><li>• Comments/additions to the agenda</li><li>• Approve 2-28-11 meeting minutes</li><li>• Approve 3-3-11 meeting minutes</li><li>• Council introductions and updates</li></ul>   |                         |
| <b>9:15-9:45</b>   | <b>Steering Committee Report</b> <ul style="list-style-type: none"><li>• Governance and funding matrices:<ul style="list-style-type: none"><li>a. Governance in Minnesota: Agencies, Authority, Programs</li><li>b. Clean Water Fund Implementation Team: Program Funding Matrix</li></ul></li><li>• Process flow for 2011 interim report</li><li>• Process flow for budget recommendation report</li></ul> | <b>Information item</b> |
| <b>9:45-10:30</b>  | <b>Water Quality Assessment Category 4b</b><br>Gaylen Reetz, MPCA   | <b>Information item</b> |
| <b>10:30-10:45</b> | <b>Break</b>  |                         |
| <b>10:45-11:45</b> | <b>2011-12 CWC work plan discussion</b>   | <b>Decision item</b>    |
| <b>11:45-12:15</b> | <b>Lunch</b>  |                         |
| <b>12:15-1:45</b>  | <b>Watershed Assessment and Conservation Targeting Tools</b><br>Dave Leuthe (DNR), Adam Birr (MDA), Aaron Spice (BWSR)  | <b>Information item</b> |
| <b>1:45-2:15</b>   | <b>April meeting agenda review and Council adjournment</b><br><i>Tentative items:</i> <ul style="list-style-type: none"><li>• <i>2011-12 CWC work plan approval</i></li></ul>   |                         |

***Next Meeting: April 18, 2011***

**Clean Water Council Meeting Minutes**  
**Monday, March 21, 2011**  
**9:00 a.m. – 2:00 p.m.**  
**Freeman Building, Room B145**  
**625 Robert Street North, St. Paul**

**Council members present:** Dave Bennett, Marilyn Bernhardson, Keith Buttleman, Keith Hanson, Scott Hoese, Mark Knoff, Dave Leuthe, Mike McKay, Gene Merriam, Gary Pedersen, Steve Pedersen, Gaylen Reetz, Todd Renville, Victoria Reinhardt, Paul Torkelson, Matthew Wohlman, Steve Woods.

**Absent:** Pam Blixt, Louis Smith, Deb Swackhamer.

**1. Convene Full Council**

- Comments/additions to the agenda
- Approve 2-28-11 meeting minutes
- Approve 3-3-11 meeting minutes
- Council introductions and updates

Council Chair Keith Hanson called the meeting to order. The March 21<sup>st</sup> agenda and the February 28<sup>th</sup> meeting minutes were approved. Chair Hanson said the primary focus of the March 3<sup>rd</sup> special meeting was to discuss Representative Torkelson's request about Subsurface Sewage Treatment Systems Program (SSTS) funding. The Council declined to recommend funding for SSTS. The March 3<sup>rd</sup> meeting minutes were approved. SSTS funding is an issue for the Budget and Outcomes Committee (BOC) to discuss.

Council introductions and updates:

- Steve Woods - BWSR has two reports out on the [BWSR website](#); [Annual Report on Clean Water Fund Appropriations](#) and [Performance Review and Assistance Program \(PRAP\)](#).
- Gary Pedersen - the townships recently had annual meetings and elections.
- Gaylen Reetz - the legislative auditor has started an audit of the Clean Water Legacy funds. It's mainly a fiscal audit. The audit should be available in 6 months.
- Keith Buttleman - the Met. Council is busy working on flood preparations.
- Dave Leuthe will be giving a presentation today. The DNR is also getting ready for the flooding.
- Mike McKay – the Lake Pepin Legacy Alliance is sponsoring a one day seminar on April 26<sup>th</sup> at the St. James Hotel in Red Wing to discuss the Lake Pepin South Metro Mississippi River TMDL Project.
- Mark Knoff – with the rain coming, the City of Mankato will be looking at stormwater BMPs.
- Jen Maleitzke will check on the status of the three Council vacancies.
- Victoria Reinhardt – Ramsey County is also doing flood preparations. And thanks to Rep. Torkelson, the SSTS issue was resolved.
- Audience introductions.



- Representative Torkelson gave a Legislative update. There was a presentation 2 weeks ago on his Clean Water Legacy Act bill [House File 656](#). There is good support for the bill. Senator Ingebrigtsen signed on as a Senate author. Some minor changes – a few projects were added; Red River Valley project. DE1 is not yet up on the web. It will be on the Legacy web page in the next few days.
- SSTS issue - language change to show some of the funding for BWSR goes for SSTS. Need to take a look at SSTS funding, all the various programs and see if there's a better way to coordinate funding. How do we prioritize the funding? Split out how much funding goes to groundwater (6.5%) and how much to surface water. 26% goes to work that benefits both surface and groundwater.
- Bill by Rep. Hanson to merge the CWC, Lessard-Sams Council, and LCCMR. Rep. Torkelson supports the current model with the CWC.

## 2. Steering Committee Report

- Governance and funding matrices:
  - a. Governance in Minnesota: Agencies, Authority, Programs
  - b. Clean Water Fund Implementation Team: Program Funding Matrix
- Process flow for 2011 interim report
- Process flow for budget recommendation report
- Chair Hanson - the next 3 items are informational. Water governance (put on webpage); send comments to Jen or Keith. Matrix: product of interagency CWF Implementation Team. Dave Leuthe is on the team and can answer questions.
- Rep. Torkelson changed language in the bill from regulated and nonregulated back to point and nonpoint sources because of issues related to federal language.
- Keith Hanson, Jen Maleitzke and Dave Leuthe will look at merging the Governance and funding matrix documents.
- The Budget and Outcomes Committee (BOC) members will meet to frame up the interim report. Not sure if we will include the public process in the interim report, like outstate meetings, but we have increased opportunity for public input.
- Rep. Torkelson said his next project is to change the EQB. They have clean water activities he would like to roll into the Clean Water Council, for example, the 10 year state water report. The bill is still under construction, but this would add more duties to the CWC.

## 3. Water Quality Assessment Category 4b, Gaylen Reetz, MPCA

- Category 4b is a listing option that would mean a TMDL does not have to be done. Category 4b is not an alternative to TMDLs. It is an option for various groups. Some thought that existing local water plans would be sufficient for a 4b category, but that's not the case. Water plans are not enough for a 4b category. There are six elements to addressing a 4b category. The 6 elements involve more than doing a TMDL. Once you've done the 6 elements, you've done a TMDL. The implementation plan requirements need to be very specifically defined in a 4b demonstration. The 4b category is usually used in situations with point sources that are addressed through wasteload allocations (WLAs); also for some pesticide situations. 4b demonstrations also need to define when the impaired waterbody

will be meeting standards – usually in the next permit cycle, 2-5 years. 4b demonstrations will also need documentation along the way on the progress being made to meet water quality standards. The 6 elements are more rigorous than doing a TMDL.

#### Questions:

- Why would EPA kick it back to a TMDL if doing a 4b is more rigorous? Maybe the allocations are not correct, or it needs more science, or it's not working.
- Is category 4b ever used? There are 400 waterbodies categorized as 4b across the country. Usually it's a situation where there is a single pollutant and a mechanism in place to deal with it. A very defined pollutant problem.
- What has to be done? Progress report needs to be done every 2 years for the listing process.
- It doesn't work for nonpoint? It will be difficult. There are two metro watersheds that will likely proceed with this.
- Category 4b summary – we view this as a separate category rather than an alternative to a TMDL.
- Do you see the Council being involved in the assessment process or review of these? Gaylen sees the Council's role in implementing TMDLs.
- Are accelerated TMDLs an option? There's always the option to move forward and solve problems rather than doing a TMDL. Example: do a TMDL for a downstream lake before upgrading a treatment plant so you know what needs to be done.
- Important conversation to talk about water plans; how to do water plans. Some things could be added to a water plan to bring it up to the level of a TMDL. It would take even more to add to meet the 4b requirements.
- What happens if a waterbody does a 4b demonstration? How does it get off the list? The waterbody has to meet water quality standards.
- Your 4b summary slide says existing plans likely won't meet requirements. Emphasize existing plans. It's possible a plan could be written that does meet requirements.
- If entities want to do a 4b, will that create more level of effort for MPCA? We can handle some of this. We may need to revisit if many do it.
- Is there an advantage in time to do a 4b? Some thought this would be faster track to implementation funding, but doing a TMDL may be a faster track.
- Federal regulations say if there's not a TMDL in place, there can be no new or expanded discharge. At the meeting at MPCA last week, EPA staff said they will have a conversation with EPA Headquarters about this issue. The issue is there is no reserve capacity or future growth in a 4b demonstration, so there's not an option for an expanding discharge.
- Category 4b is focused on a segment-based approach rather than a watershed approach. What about protection? This is about restoration. This won't replace what we're doing with the watershed approach.
- How do you see this affecting TMDLs? About 50 people were at the meeting last week ([webcast available on MPCA's website](#)). Some hoped that category 4b would be a shortcut.
- Where do you gauge the agricultural groups' understanding of this? It's not what some hoped to hear, but people at the meeting understand it better.

- Rep. Torkelson said he hoped we could use local assets more effectively and use MPCA assets for areas of the state where there aren't the local assets.
- Suggestion to take a look at local plans to see what is missing. Do a quick review to see if this could be viable. MPCA has a contract with a consulting firm to do a review of about 40 local plans to compare with TMDL requirements. Gaylen will report back to the Council when the report is done.
- Many people have an issue with TMDLs not requiring implementation. Should we consider looking at that? With the Clean Water Legacy Act, Minnesota is one of the few states that do an implementation plan for every TMDL.
- Ask South Washington WD to come in and talk to the Council about their 4b demonstration. They may not be ready to do that until June. South Washington and Minnehaha Creek Watershed Districts are both considering submitting a 4b demonstration.
- What is the role of the Council?
- Bottom line, we have to regulate nonpoint sources. Gather some information and provide some insights for the Council. What can be done to improve restoration and protection? Implementation doesn't have to be enforceable. You could have signed agreements from stakeholders that would meet the requirements.
- We need to have some connection between water plans and TMDLs/watershed approach.

#### 4. 2011-12 CWC work plan discussion

- Chair Hanson said the work plan will help the Council address budget recommendations and meeting agendas. The funding piece hasn't been addressed yet, but we will have that discussion next fall.
- **Groundwater/drinking water** work plan category. Any comments or questions on strategies or activities?
- We don't need #2 under activities. We may need to know about interagency teams. Dave Leuthe said the interagency group can give the packaged presentation rather than individual agencies. The Council can have a presentation from teams as needed.
- What was #3 about (state of water reuse)? An information item on the state of the practice.
- Conservation drainage, does it work? MDA works with BWSR on this. We could give a coordinated presentation. There is a drainage work group.
- Desired outcomes are missing in work plan. Add a column in the work plan for desired outcomes. We need to give presenters an idea of what we want out of a presentation and that will be part of the desired outcomes column.
- What is interconnectivity of groundwater and surface water? Dave Leuthe said we have reports on that issue. It depends on how much you want to read vs. presentations.
- What is 3c (purple pipe)? Sustainability issue of water over time. Water re-use, codes. The Sustainability Framework report talked a lot about water re-use.
- Get a listing of interagency reports; at least an abstract so the Council knows what works has been done. Dave Leuthe said that's not put together yet, but we could put it on the web site.
- What are the expectations for activities in the work plan for **Accountability and Outcomes**?

- What would it take to enhance enforcement for example? Are there ways we could improve implementation. Desired outcome – what it takes to get enforcement to take place.
- Pare down activities; focus on what we can do to make recommendations. The strategies/purposes are solid – focus activities on those.
- Specificity is missing from the Accountability and Outcomes section. Accountability has a dollar sign attached to it. Don't see it in here.
- No activity to support strategy #2.
- We need to establish milestones and attach some dollars to it.
- This is laid out in Minnesota Statutes [Chapter 114D.30](#) of the Clean Water Legacy Act. Agencies lay out outcomes. Council determines if that is appropriate.
  - Subd. 6; "The council must recommend methods of ensuring that awards of grants, loans, or other funds from the clean water legacy account specify the outcomes to be achieved as a result of the funding and specify standards to hold the recipient accountable for achieving the desired outcomes."
- **Targeted implementation work plan category** – activities
- **Public participation and education** – a concern on this one. Public participation has been embedded into programs. How does this get included in programs rather than a separate line item? We need to do both. It's an element of a specific TMDL, but we also need some overarching education.
- [MN Statute 114D.45](#) Clean Water Legacy Account. This is specifically identified in the statute and the agencies are supposed to be doing it. Agencies may need financial help.
- **Applied research and tool development** – good outcomes.
- **Local capacity**. What are we going to do to get to this end point? Discussion point is #4 - local capacity for smaller local governments that can't meet the match requirements.
- #1 crosses with accountability and outcomes. Understanding the process
- Suggestion that we vet everything with Minnesota Statutes. It may clarify our approach; give us a consistent approach.

## Lunch

### 5. Watershed Assessment and Conservation Targeting Tools - Dave Leuthe (DNR), Adam Birr (MDA), Aaron Spence (BWSR)

Watershed Assessment and Targeting Tools – Dave Leuthe, DNR

Precision Conservation, Adam Birr, MDA Impaired Waters Technical Coordinator

- LiDAR data across the state, weather permitting to be completed in 2010. Timeline from getting data to finishing processing data? Within a year approximately.
- No cost to use data, publically accessible. Website can give information on status.

Statewide Ecological Ranking of CRP – Aaron Spence, BWSR

- Where is the overlay in your systems approach? How does that approach begin to play out? Dave will answer that in the next segment.
- Does this show actual or potential conditions? Potential conditions.

- Local governments using this type of targeting for implementation projects are more likely to be funded.
- Availability; project is in the last phases. We will provide training, delivered over internet.
- Relative weighting of three 0 to 100 scores for Environmental Benefits Index (EBI).  
(Land enrolled in the Conservation Reserve Program (CRP) must have a minimum Environmental Benefits Index (EBI) score, which is based on a combination of wildlife habitat, water quality and soil erodibility indices.)
- How do you develop the criteria to use it? This is a methodology. You can use the tool in various ways. This is not meant to proscribe decisions.
- Changing the model needs to be done at local level. Need local GIS training. They need to rerun the model.

#### Urban Stormwater Management – Dave Leuthe

- Watershed Assessment Tool – helps you focus in on the system. Doesn't necessarily give you all the answers.
- Other efforts – areas needing restoration strategies. Identify Priority Management Zones (PMZs). Determine where to put efforts and funding for various programs.

#### Questions:

- Do people understand how the pieces fit together? Are we doing the right things individually for the right things collectively?
- Stressor ID process; how to define the stress areas and the stressors.
- Do we have enough tools now and the right tools? Use the tools we have now, practical applications with some watersheds needed.
- Stearns, Chisago, Washington County; ask them for feedback on these tools. What do you need from us to accomplish your goals?
- HSPF integrates nonpoint and point sources using the BASINs platform. We need to use HSPF and these tools to see if we are making reductions where the sources are.
- Are models used in an appropriate manner? Do we understand the assumptions of the model? You want people who really understand these tools. Regional targeting specialists are a recommendation of one of the work groups to help locals use these tools.
- How do you integrate the parts from Wisconsin vs. Minnesota? There is a Joint Powers group which includes land and water managers from both Minnesota and Wisconsin who talk about solving the problems. We have a good working relationship with Wisconsin.

#### **6. April meeting agenda review and Council adjournment**

##### *Tentative items:*

- 2011-12 CWC work plan approval
- Chair Hanson said the work plan is on the April agenda. What other topics would we like on the agenda?

- Follow-up discussion on targeting issue – how do we move from where we are today to following up with the 81 watersheds. Layout a schedule and costs. What resources are necessary to use targeted implementation in those areas?
- Lots of direction was given today for the 2011-12 work plan approval. The work plan can always be amended. Targeted implementation was our highest priority for the Council. We will need recommendations for that.
- Crossovers with local capacity.
- May agenda – Groundwater/drinking water; 2 watersheds doing 4b demonstrations.
- Bring in the Association of MN Counties, Townships and get feedback from them. We need to know more from the entities that are represented around the table. Who is responsible for implementation, funding, etc?
- What are the responsibilities/expectations of different organizations? What are your issues?
- Local government roundtable process. They may want to come here sometime and let us know what they are doing.
- Chair Hanson - for April, we would like to have a concept of what topics we want to address in the next 3-4 months. Want some concurrence in order to meet our long-term objectives.
- Maybe put something together based on statutory responsibilities.
- BOC meeting after Council meeting – elect a chair.
- Steering meeting after BOC.
- Motion to adjourn, seconded, motion passed.

## **Council adjournment**

***Next Meeting: April 18, 2011***

## **Clean Water Council Meeting Agenda**

**Monday, April 18, 2011**

**9:00 a.m. – 2:30 p.m.**

**Freeman Building, Room B145**

**625 Robert Street North, St. Paul**

*Revised 4-18-2011*

<b>9:00-9:15</b>	<b>Convene Full Council</b> <ul style="list-style-type: none"><li>• Comments/additions to the agenda</li><li>• Approve 3-21-11 meeting minutes</li><li>• Council introductions and updates</li></ul>	
<b>9:15-9:30</b>	<b>Steering Committee Report</b>	<b>Information item</b>
<b>9:30-10:15</b>	<b>20-year report on Minnesota River / USDA reassessment</b> Glenn Skuta, MPCA	
<b>10:15-10:30</b>	<b>Break</b>	
<b>10:30-12:15</b>	<b>Implementation: engaging landowners</b> Tabor Hoek, BWSR Jason Beckler, Pheasants Forever, Renville County Brian Watson, SWCD, Dakota County	
<b>11:30-12:00</b>	<b>Review of bills in the Legislature</b> Representative Torkelson	<b>Information item</b>
<b>12:15-12:45</b>	<b>Lunch</b>	
<b>12:45-1:15</b>	<b>Follow-up: Category 4b / local water plans</b> Gaylen Reetz, MPCA	<b>Information item</b>
<b>1:15-1:45</b>	<b>BOC discussion /review of Legacy Act</b>	<b>Information item</b>
<b>1:45-2:15</b>	<b>2011-12 CWC work plan</b> Scott Hoese	<b>Information item</b>
<b>2:15-2:30</b>	<b>May meeting agenda and Council adjournment</b> --lessons from the Lake Independence TMDL and implementation efforts	

***Next Meeting: May 16, 2011***

**Clean Water Council Meeting Minutes**  
**Monday, April 18, 2011**  
**9:00 a.m. – 2:00 p.m.**  
**Freeman Building, Room B145**  
**625 Robert Street North, St. Paul**

**Council members present:** Dave Bennett, Marilyn Bernhardson, Pam Blixt, Keith Buttleman, Keith Hanson, Scott Hoese, Mark Knoff, Dave Leuthe, Mike McKay, Gene Merriam, Steve Pedersen, Gaylen Reetz, Todd Renville, Victoria Reinhardt, Sandy Rummel, Louis Smith, Rob Sip (for Matthew Wohlman), Paul Torkelson, Steve Woods.

**Absent:** Gary Pedersen, Deb Swackhamer, Matthew Wohlman.

**1. Convene Full Council**

- Comments/additions to the agenda
- Approve 3-21-11 meeting minutes
- Council introductions and updates

Council Chair Keith Hanson called the meeting to order. Representative Torkelson will be here at 11:30-12:00 to go over his items (Legislative bills). This is a change to the agenda. The revised April 18<sup>th</sup> agenda and the March 21<sup>st</sup> meeting minutes were approved.

Council introductions and updates:

- Marilyn Bernhardson talked to a student from the Humphrey Institute who is doing a paper on civic engagement. She will send it to the Council when it's done.
- Steve Woods has a potential topic for the May Council meeting; input on BWSR's Request for Proposal (RFP).
- Gaylen Reetz said the MPCA has some proposed Clean Water Partnership (CWP) statute updates. They have not been updated since 1987. The goal is to create more flexibility, allow SWCDs to apply for CWP grants, and a few other changes.
- Keith Buttleman introduced Sandy Rummel, chair of the Metropolitan Council's Environment Committee. She will take over Keith's position as a Council member.
- Mike McKay said there will be a conference in Red Wing at the St. James Hotel on Tuesday, April 26<sup>th</sup> on the Lake Pepin and the Mississippi River. The keynote speaker is from the Chesapeake Bay project. He will send out a notice to Council members.
- Jen Maleitzke talked to the appointments staff person in the Governor's office status of the three Council vacancies. Applications have been received and the hope is to make the appointments by June.
- Audience introductions.

**2. Follow-up: Category 4b / local water plans Information item, Gaylen Reetz, MPCA**

- The issue is that local water plans may be duplicative of TMDLs. A study of 40 local water plans was done to see if they meet the TMDL requirements. The last sentence on page 8 of



the report notes that the inability of these plans to satisfy requirements in no way reflects on the quality of the water plans. These plans were not done with TMDL requirements in mind. The cost of the study was less than \$5,000.

#### Questions:

- Who will pursue a category 4b demonstration? Gaylen – there may be 3 watershed districts that try this; two in the metro area and one in northwestern Minnesota. They have a local water plan that they think meets the criteria for a category 4b demonstration, which means that a TMDL will not be required because a local plan is in place that meets criteria. They may be intending to add to the existing local plan.
- Gene Merriam - if we have a water planning process, created before there was a good understanding of the TMDL process, and we have a TMDL process that requires planning to be done – shouldn't we change what we're doing so we can dovetail those two requirements? Gaylen responded that they are already dovetailing, but point source requirements are not in a water plan. The Buffalo-Red WD presented their WD plan and they included information gathered as part of the TMDL process.
- Steve Pedersen – without load allocations (LAs) and requirements behind the LAs, how can a local plan meet TMDL requirements? Gaylen – plans are not likely to include wasteload allocations (WLAs), so they won't have all the components of a TMDL.
- Any rumblings at EPA about including implementation as a TMDL requirement? Gaylen – there are some rumblings in regards to Chesapeake Bay. We may see higher expectations in regards to reasonable assurance. Reasonable assurance refers to assurance that implementation activities will occur.
- Chair Hanson said he will give the Steering Committee report later. It fits better with Rep. Torkelson's discussion.

### **3. 20-year report on Minnesota River / USDA reassessment, Glenn Skuta, MPCA**

- Gaylen introduced Glenn Skuta to talk about the Minnesota River Assessment. Rep. Wagenius provided funds to do an assessment of 20 years of work on the Minnesota River.
- Glenn – Minnesota River Assessment Program (MRAP): Fish and Invertebrate Communities 20 years later. First study was 20 years ago; smaller study was done 10 years ago. First 10 years didn't see much change. 20 year comparisons – 20 year trend – slight improvement in basin. Summary: slight improvement in fish and indicator species return – more sensitive fish species in river. Other information [MSU Minnesota River Basin Trends report online](#).
- What is the trend on bacteria? The MN River Basin Trends report says; "Monitoring data show indicator bacteria (fecal coliform and E. coli) levels are elevated across the entire basin with greater than 90 percent of monitored streams exceeding health standards for bacteria."
- How many septic systems are out there? The slide says more than half of septic systems need to be addressed. From MN River Basin Trends report table on page 26;
  - Estimated Total Number of Septic Tanks in 2008: 77,155
  - Estimated Failing Systems: 24,720 (23%)
  - Estimated Imminent Threat to Public Health: 17,279 (22%)

- Mike McKay – is the total amount of nitrogen increasing? Yes. From MN River report: “[For Nitrate-N, the studies indicated no trends or found mixed results.](#)” Nitrogen is expensive, which you would expect to have an effect on the use, but crop prices are high too.
- Mark Knoff – it’s almost impossible to hold nitrogen on the land. If it’s not taken up by plants, it’s oxidized and released into the water.
- Dave Bennett asked what percent of the corn produced is for ethanol? Rob Sip can get that number for him.
- The question is whether the mixed results are good enough for the investment and time we’ve put into the system. If we want more significant change in the future, we need to make more significant changes from the overall system. Cropland erosion has decreased, but what about gullies and increased stream bank erosion? Better targeting of causes and sources/sites is needed. Targeting the right BMPs is critical.
- [Craig Cox presentation online](#); “Taking the Pollution out of Agricultural Production”. The slide on Corn Belt Water Erosion shows that it’s been flat in the last decade or so.
- Do we look at effectiveness of the BMPs? Glenn – there has not been a lot of effectiveness monitoring. There’s been more interest in getting BMPs on the ground. There are some reports on BMP effectiveness from the Red River Watershed, Hawk Creek. We’re starting to see more of that being done. We need to see if BMPs can do more than first used for.
- Victoria – Ramsey County is a member of the Minnesota River Board - one of 37 counties.
- Dave Leuthe – we won’t be able to seriously address this until we deal with the energy of the water. The hydrology of the system has been significantly changed. There is enough energy to de-stabilize. Until there are places to slow it down, it will keep trying to stabilize.
- Mark – overlay BMPs on the map on areas of degradation to see if BMPs are in those areas. Glenn – they looked at BMPs where the monitoring was done and there was no correlation.
- Is TSS more of an issue for invertebrates? Glenn – high flows can blow out the invertebrates and it’s hard for them to rebound. Dave B. – are fish acclimating to polluted water? Glenn – it’s hard to say, unknown.
- Steve W. – BMPs from eLink; there is much more funding at the federal level for BMPs. Glenn – we will look to see what was included in data. Is the AgBMP loan program in eLink? Don’t think so.

#### Break

- Pam Blixt - send her the electronic version of Gaylen’s report on water plans and TMDLs.
- Mike McKay will send the agenda for the April 26<sup>th</sup> Lake Pepin meeting to Council members.

#### 4. Implementation: engaging landowners

- a. Tabor Hoek, BWSR Marshall Office
- b. Jason Beckler, Pheasants Forever, Renville County
- c. Brian Watson, SWCD, Dakota County
- Steve W. – targeting; introduction for Tabor Hoek, BWSR. Local implementation is the topic. Also here are Jason Beckler from Pheasants Forever, Renville County and Brian Watson from Dakota SWCD.

- Tabor- we want to have a discussion with the Council. Why aren't we getting more out of our improvements? The landscape is squeezed more than ever – produce more, do more, etc. Orange handout – agriculture use is the most intensive use. If you want clean water it takes some grass, some buffers. Percent enrolled column is the percent of cropland enrolled in a conservation program.
- Tabor – who is providing the technical assistance? WD, SWCD, county, city, NGO (e.g., Pheasants Forever), NRCS, state agencies, private entities.
- Who is the landowner? Corporations, trusts, absentees, family farm, public – municipal, state, federal. How many landowner types? Renter, tenant.
- Project – BMPs or practices designed for a certain period of time. Easements – changing land use. Minnesota has a short construction season for projects.
- What about priorities? Brain Watson – we need someone who is willing. When counties develop their Capital Improvement Plan (CIP) process, we take the opportunity to prioritize their lands. Tabor – we depend on local priorities.
- Funding dollars – now we link funding sources together to get the desired result. CWF, USDA, bonding, local \$\$, state CWP, EPA funds, match. Steve W. – we looked at funding for feedlots in eLink and found 47 different funding sources.
- Reporting/tracking – understand where the funding is going and what the benefits are.
- Future – monitoring, maintenance (mandatory). Steve W. – maintenance is an issue in the SE. Sediment basins 30 years old fill up with sediment and flooding will blow out sediment. Should CWF funds be used to clean this out?
- Whose responsibility is the maintenance? Contractor/vendor – do the actual work to restore or plant or maintain something. Steve P. – maintenance needs to be mandatory. If we use public funds we have certain obligations.
- Jason Becker – Renville Co. has miles of ditches; rim buffer program. Enforcement now – financial incentives.
- Mike – push it down to local level as much as possible and allow for a lot of flexibility. Avoid duplication. Enforce what we have now and see what good we get from that.
- Marilyn – producers know we need to slow down the energy, they just don't know how to do it. They don't realize what the need is so the process may take years to achieve.
- Gene – we talk about the need for targeting, BMP implementation, hear Peter Nowak talk about random conservation acts. How do we connect the targeting that is needed to get the best bang for the buck?
- Tabor – what has changed with the intensity out there in 20 years (Glenn's presentation)? The fact that we're holding our own is a victory.
- Brian – we're using the subwatershed process, breaking it down, dealing with a smaller group of land owners to work with one on one. Some want local government to survey and design the practice. Later move to next subwatershed; ask landowner to contribute to the cost of survey and design.
- Challenge when the local government is regulating and providing incentives. Sometimes the activity on the land with the biggest impact to water quality gets the least attention from government, regulations, etc. (i.e. drainage).

- Jason – Renville Co. – money is the biggest incentive. As corn prices go up, we see fewer producers responding to incentives. Conservation in Renville County – take it wherever you can get it.
- Marilyn – taking land out of use, they want to use it as match.
- Brian – urban vs. rural; lots of fingers pointing at each other. People want to know what the monitoring is showing – statistics. Will this practice make a difference?
- Mark – how many landowners don't receive any federal funding? Farm bill is geared towards row crop agriculture. Brian – maybe 5 farmers in the county don't participate in the farm bill. They are not the best farms in terms of conservation practices.
- Dave B. – ethanol is energy production, not agriculture. It should be regulated as energy business is regulated. Gaylen – farm bill is focused on cheap food supplies but some production now is for energy.
- Todd – in ideal world what do you want to see? Tabor – without local buy in, we lose buffers without incentives.
- Gaylen – federal money dwarfs state money. Still doing upland conservation; mandatory buffers. Focus our money. Focus on public course of water body no one landowner will fix. Should we focus our limited time and money on the public sources of sediment? Can we identify the 3 biggest areas and focus on public areas? The causes of sediment have switched to mostly erosion.
- Marilyn – at our subwatershed meetings, they want those areas fixed, but funding programs say that's flood control (and not eligible for funding).
- Dave L. – what should we focus on? Brian – low hanging fruit is enforcement of existing regulations. If you are getting public funds for property tax break, you need to do these core conservation things.
- Victoria – energy subsidies are huge. How much money are we talking about? Tabor – CRP in Minnesota is \$105 million annually. Who will do this work? There is a cost to deliver conservation. It's a big challenge to continue funding this work.
- Keith H. – enforcement of buffers, is this a capacity issue? Tabor – capacity issue and philosophical issue. It stirs up passions. Rock County had the right person to deal with feedlot issues in the county. Sometimes it's about having the right person to do the work.
- Where are counties at with enforcement? Tabor – there are groups making progress. Steve W. – there are different community attitudes towards these practices; enforcement.
- Dave L. - education part so people realize the benefits of doing this. Gene – law on buffer strips is not as clear as it should be. Victoria – one size doesn't fit situations in all counties.
- Brian – balance to decide to spend grant funds in areas where we will be successful vs. priority areas but there are not enough willing landowners.
- Rob – priorities / set priorities. Jason – we are trying to shift prioritization. Trying to get an easement program implemented. Brian – we can't spend all the grant money because landowners won't buy it.
- Brian – use local water plans as they cycle through. Try to match them with priorities of the county.

- Mike – if the priority is truly there, it shouldn't shift depending on the landowners. You need to go after the best case scenario for clean water. Brian – it's costly to do that. You spend a lot of time trying to convince landowners.
- Steve P. – what can we do?
- Brian – it's hard to market voluntary conservation.
  1. to be flexible is key
  2. need time to market the higher priority areas
  3. set timelines if not in compliance. Don't continue to get incentives.
- Tabor – public policy issues. Legislation drives these issues; complexity of these issues. Changing that attitude – we're not here to represent the enforcement side of things. Maybe it's time to press for requirements.
- Marilyn – having the right people in the right place to do the marketing is key. We don't have enough people to do it. Brian sees less willingness to do projects on the ground in last few years because of economics. Marilyn – we don't have the luxury of an extra staff person to go one on one with landowners.
- Steve W. – highly erodible land is 2.5 million acres in Minnesota. Dave B. asked what is cost of that land. \$5000 per acre in some counties. \$7000 per acre in Carver County. How much would it cost to buy that land? We could have bought 30-40% of that land. But it's not for sale.

## Lunch

### 5. Steering Committee Report Information item, Keith Hanson

- Chair Hanson gave the Steering Committee report on the legislative bills.
- Jen Maleitzke – [HF1073](#) would eliminate the Council, Lessard-Sams Council and LCCMR. No hearing yet.
- Rep. Torkelson will walk through his bill, [HF1061](#) if he makes it here today. No hearing yet. The bill would change the Council's membership and responsibilities.
- Jen went through the budget bills and also went over highlights of [SF 657](#).
- Rep. Torkelson answered questions on Senate bill 657.
- Update on his bill; the biggest issue is MPCA's recommendation for \$700,000 on SSTs. Senate companion bill is identical except for Council structure and additional funding item.
- Recommends getting all players together on the SSTs issue and come up with a plan. We can't fix all the septs in one year. Do a better job of determining how to fix septic systems that are polluting our waterways.
- Victoria – the need is great even though not all the funds are spent. The issue of spending the money is complicated. Rep. Torkelson said the timeline for SSTs overview is about a year. Focused effort is needed.
- Keith H. – this fits with the overall charge for the BOC. Scott said a roundtable discussion on issue would be helpful. Annalee Garletz, people from associations; implementers. Keith H. – we will include this in our work plan discussion today.
- Rep. Torkelson – administrative costs are an issue; indirect costs – discussion on including those costs. Different agencies have different interpretations of indirect costs.

## **6. BOC discussion /review of Legacy Act Information item**

- Steve Pedersen gave the BOC report; the premise was that the Council agreed there should be an interim report. Question on why we are doing an interim report. Ask Council if we need to do interim report. Accountability to our Legislative charge – map our authorities against our work plan. Recommendation to not proceed with the interim report, but proceed with mapping authorities with our work plan. Mike – good idea, but if bills go through could change Council structure.
- Marilyn made a motion that we don't do an interim report. Mark and Todd seconded the motion. Motion passed.
- If the agencies are reporting to the Legislature that would be good information to have. A quarterly update would be good to give us an overview. Gaylen - reporting is on agency web sites and LCC web site.
  - [Legislative Coordinating Commission website: http://www.cdf.leg.mn/](http://www.cdf.leg.mn/).
  - [Minnesota's Legacy: Clean Water Fund web page](#).

## **7. CWC work plan Information item, Scott Hoes**

- Questions on 2011-12 work plan.
- Keith H. – do we need to accelerate schedules for some items, i.e. SSTs especially looking at funding priorities? Steering Committee will take a look at schedules to see when topics will occur.
- Pam – is it possible to get a report on gaps in local capacity? How many staff are out there, where are the gaps, what's the capacity?
- Marilyn - Steve Woods is on the roundtable. Associations are meeting to look at how to stretch the dollar. They are not looking at FTEs. Keith H. - targeted implementation and local capacity go together. Bring them together.
- Lake independence – many different reasons for projects not to work. Learn from projects that have problems. Rob – hearing what does work is important too. Marilyn – the change in economic climate in last couple of years has had an effect on why some things aren't working.
- Bob Patton – Executive Director of EQB; Governor's position is to move the administrative function for EQB from the Department of Administration to MPCA. Some efficiency is gained by moving staff. A report will be done to the next Legislature on the roles and responsibilities of EQB. Make sound recommendations based on that. This bill is premature.
- MPCA will be identifying additional concerns on impacts of changes – staffing issues, other costs.

## **8. May meeting agenda and Council adjournment --lessons from the Lake Independence TMDL and implementation efforts.**

- Keith H. – agenda for the May meeting;
- Glenn suggested bringing in Craig Cox to do his presentation. Gaylen – he makes a big tie to the farm bill; that we won't see change on the ground until we see a change in the farm bill.

- Rob – hearing a report on the state of agricultural economics would be good; precision agriculture and manure management - MDA.
- Marilyn – Steve Taft has spoken about agricultural economics and environmental benefits.
- Rob – there is an agency group meeting on the farm bill and putting together farm bill recommendations to be signed by governor and sent to the federal government.
- Scott – conservation part of farm bill presentation.
- Keith H. – follow-up discussion on what we did today. Lake Independence and the farm bill, and then we should be done with targeted implementation.
- [Craig Cox's presentation](#) is on the Freshwater Society's web page.
- Dave L. said we still have capacity issues in order to deliver conservation on the ground.
- Gaylen – Don Balone, NRCS can shed light on the issue. Keith H. – include general discussion on targeted implementation in the May meeting. The goal for these presentations is to get a feel for what funding changes might do for targeted implementation. Gaylen – it helps us understand that the state money pales in comparison to federal funds; to make sure we know what is going toward solving these problems.
- Steve W. - also talk about BWSR's RFP, which will take an hour and needs to happen in May. Lake Independence could wait until June.
- Scott asked about a summer field trip. Go to Duluth? Pam suggested the St. James Hotel and a tour of Lake Pepin.
- Motion to adjourn, seconded, motion passed.

Meeting adjourned at 2:25 p.m.

***Next Meeting: May 16, 2011***

**Clean Water Council Meeting Agenda**  
**Monday, May 16, 2011**  
**9:00 a.m. – 2:30 p.m.**  
**Freeman Building, Room B145**  
**625 Robert Street North, St. Paul**

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|--------------------|---|-------------------------|
| <b>9:00-9:15</b>   | <b>Convene Full Council</b> <ul style="list-style-type: none"><li>• Comments/additions to the agenda</li><li>• Approve 4-18-11 meeting minutes</li><li>• Council introductions and updates</li></ul>  |                         |
| <b>9:15-9:45</b>   | <b>Steering Committee Report</b> <ul style="list-style-type: none"><li>• Legislative update</li><li>• SSTS ad hoc team</li></ul>  | <b>Information item</b> |
| <b>9:45-10:45</b>  | <b>BWSR competitive grant process</b><br>Dave Weirens, BWSR   | <b>Information item</b> |
| <b>10:45-11:00</b> | <b>Break</b>  |                         |
| <b>11:00-11:45</b> | <b>Sustainability Framework recommendations:</b><br><i>Issue B -- Excess nutrients and other conventional pollutants</i><br>Deb Swackhamer, U of M  | <b>Information item</b> |
| <b>11:45-12:15</b> | <b>Lunch</b>  |                         |
| <b>12:15-1:45</b>  | <b>The NRCS and SWCD partnership:</b><br><i>Working cooperatively with farmers and landowners to meet water quality goals</i><br>Don Baloun, Minn. State Conservation Officer, NRCS<br>Dennis Fuchs, Stearns County   | <b>Information item</b> |
| <b>1:45-2:00</b>   | <b>Work plan check in: targeted implementation</b>  | <b>Information item</b> |
| <b>2:00-2:30</b>   | <b>Upcoming meeting planning</b> <ul style="list-style-type: none"><li>• <b>June meeting agenda:</b><ul style="list-style-type: none"><li>○ Legislative session recap</li><li>○ Lessons from implementation efforts (BWSR)</li><li>○ Taking the pollution out of agricultural production: Craig Cox</li><li>○ Council discussion: concluding targeted implementation topic</li></ul></li><li>• <b>Council field excursion</b></li></ul> |                         |

***Next Meeting: June 20, 2011***



**Clean Water Council Meeting Minutes**  
**Monday, May 16, 2011**  
**9:00 a.m. – 2:00 p.m.**  
**Freeman Building, Room B145**  
**625 Robert Street North, St. Paul**

**Council members present:** Dave Bennett, Marilyn Bernhardson, Pam Blixt, Keith Buttleman, Scott Hoese, Mark Knoff, Dave Leuthe, Mike McKay, Gene Merriam, Gary Pedersen, Gaylen Reetz, Victoria Reinhardt, Sandy Rummel, Louis Smith, Rob Sip, Deb Swackhamer, Paul Torkelson, Steve Woods.

**Absent:** Keith Hanson, Steve Pedersen, Todd Renville.

**1. Convene Full Council**

- Comments/additions to the agenda
- Approve 4-18-11 meeting minutes
- Council introductions and updates

Council Vice Chair Scott Hoese called the meeting to order and began the Council introductions and updates until a quorum was reached:

- Dave Leuthe – DNR is getting ready for Clean Water Funding this summer.
- Rob Sip – discussion on implementation this afternoon; talk about the Farm Bill – agencies are working together to develop comments on the farm bill. Barb Weisman is leading the effort. Rob is now the official MDA Council member.
- Dave Bennett – Poplar River issue; the ski hill (Lutsen Mountain) is withdrawing water from the Poplar River. There is legislation to stop it – it's beyond regulated amounts. Lake Superior is not far away and could be used as a water source instead of the river.
- Jen Maleitzke gave an update on Council appointments. The staff person in the Governor's office has more than 1800 appointments to deal with. Not sure if they will be done with the appointments before the end of the session. If members are not appointed by July 1<sup>st</sup>, they are automatically appointed.
- Audience introductions.
- The May 16th agenda and April 18th meeting minutes were approved.

**2. Steering Committee Report**

- Legislative update
- SSTS ad hoc team
- Representative Torkelson – the Legacy bill passed both Chambers last week (handout). We spent about 4-5 hours on the House floor debating the bill; about 2 hours on the Clean Water portion of the bill. Rep. Hanson's amendment would change Council membership so there would be 2 members from each Legislative District instead. There is concern about the influence of interest groups. Outlined differences with Senator Ingebritzen's bill. Conference committee is next. Discussion was on the makeup of the Council. Some

Legislators wanted more emphasis on groundwater. The Senate passed the bill without any changes to the financial structure.

- Dave Bennett – what about funding for the invasive species bill that was passed?
- Rep. Torkelson – the Senate did not vote to concur on the finance bill. It will go to conference.
- Vice Chair Hoese – SSTS (Subsurface Sewage Treatment Systems Program) ad hoc committee.
- Jen – the Council did not make a funding recommendation but agreed that SSTS is important. Chair Hanson wants to form an ad hoc team to look at SSTS issues. Victoria will chair the committee. They are looking for volunteers for the team. Contact Victoria or Jen if you are interested. This will be a short term committee.
- Dave Bennett read a statement from Trout Unlimited. Poplar River is a trout stream. Lutsen Resort has a permit for water withdrawal from the river. In 2001, Lutsen increased water withdrawals affecting last the 2 miles of the river. There concern is about withdrawals above the permit level and concern for fisheries in the river. Lake Superior is the alternative water supply. The House passed some bill that allows Lutsen to do this. The lower stretches of the Poplar River are impaired due to turbidity issues.
- Dave L. – DNR has been pushing Lutsen to go to Lake Superior for some time where the water withdrawal would not be restricted. The costs to do this would increase. Poplar River is restricted, especially in the winter.
- Dave B. – the concern should be with the fisheries. It seems that these north shore streams are so critical because there's not a lot of runoff area, and water flow in the winter is very important for fish to survive.
- Dave L. – one version of the bill allows unrestrictive withdrawal, another version allows 150,000 gallons. Both are going in the wrong direction.

### 3. [BWSR competitive grant process](#), Dave Weirens, BWSR

- Steve Woods' introduction – the Council used to have implementation work groups. Dave Weirens is in charge of the land and water section of BWSR. Marcey Westrick is also here.
- Dave Weirens, BWSR – 2 handouts; white and green. Dave went through the 7 categories for funding on the white sheet, FY2012-2013 Biennium Clean Water Fund Budget.
  - Timeline – June BWSR Board, July 27
  - August 1<sup>st</sup> to September 15th applications accepted.
  - December 14<sup>th</sup> – BWSR Board authorizes projects.
- Topics for Council discussion;
  1. Match/leverage
  2. Nongovernmental organizations – (i.e. Trout Unlimited, Pheasants Forever, Lake Associations).
    - Victoria asked if the Star Lake Program is through BWSR. Steve W. – BWSR helped them set up; don't believe they are receiving any money from BWSR anymore. Victoria is hoping there is some coordination there.
  3. Local government capacity - there is variable local capacity across the state. How do we deal with those issues.

- Match is required on 2 programs; silent on 2 programs. Leverage – nonstate money brought to the table. Do we consider leverage as additional scoring criteria? Question for the Council.
- Mike – you already have a priority. Leverage should just add to that priority. Dave W. - water quality outcome is the first consideration, in other words. Leverage adds to that. Pam – some LGUs have more of an ability to leverage, but may not be the ones that need the money the most. Dave W. – it's a challenging issue. The amount of wealth the LGU has and the willingness to bring that to the table. Gene – what does leverage have to do with it? What you want is outcomes. Victoria – agree it's about outcomes. Leverage speaks to the willingness to complete the project.
- Dave W. – purpose of match, we want to match the risk of these projects. It also shows commitment to do the job. Risk management. BWSR has discussed variable match to accommodate LGUs with a good project, but not an ability to generate match. Also concern about unintended consequences of having variable match.
- Marilyn – often match comes from the producer. Sometimes the local producer will only provide their land as match (to install buffers, etc.). Other producers are more willing to provide 25-30% for match. Dave W. – issue sometimes is where to find the dollars to do the work if the only match provided is land. Concern is about the effects of a free BMP; state and federal funds only.
- Louis – concern about long term interest in practices. It's helpful to have the landowners have some skin in the game; that it's in their own best interest to have better water outcomes. Dave W. – landowners need to maintain BMPs long term. We want to make sure there is some commitment from them.
- Victoria – variable match is a slippery slope. Flexibility should be about how much of the 25% has to be cash. Dave W. – cash can mean political will to raise property taxes or fees. We don't want to get into evaluating that.
- Dave L. – for flood funding, the Legislature looked at the community's ability to pay. Interagency implementation team; we looked at a comprehensive plan process for various funding sources.
- Gene – slippery slope is getting too focused on fairness. We are trying to affect an outcome, not trying to distribute funds equitably. Victoria – there doesn't need to be equal distribution of funds, but it should be based on need. Mike – priority outcome is important.
- Dave W. – we don't score on financial capacity, only need to show you can provide match. We look at outcomes, readiness, connection to local water plan, groundwater/drinking water protection. In past years we scored on leverage, but there were issues of fairness. Some areas more leverage is available, because of the farm bill for example.
- Scott – coordinating with MPCA watershed cycle.
- Dave W. /Steve W. – if watersheds are highlighting priorities to be done – more competitiveness for grants.
- Rob – AgBMP loan program plays an important role in match.
- Dave W. – we currently can't give grants to nongovernmental organizations (NGOs). Different standard of oversight for NGOs. Program #1 and #6 on the white handout - could fund the same activity under either program.

- How often do LGUs subcontract with NGOs? Marcey Westrick – some do that, more often in the metro area. Any issues with that? Dave W. – not that we know of. It shows a local commitment.
- Marilyn – why would a NGO want to apply for funds without a local government since the reporting requirements are getting more difficult? Dave B. – as you make the process more complicated, groups will be less likely to do the work; when you have more rules and regulations and documentation. There needs to be an element of trust that some of these groups know what they are doing.
- What if the NGOs have a good project in mind and the local government isn't interested? Dave W. – hopefully not everyone is not interested. NGOs can go to LGUs to find someone willing to be the front for projects.
- Victoria – one bad apple in the grant process can spoil it for others. But the grant process does come down to the relationships with grantees.
- Louis – recognize that NGOs have a capacity to bring to the table that LGUs don't have, which is to bring citizens to the table. There may be good stewardship projects that can deliver a project, but don't have a government partner, i.e., lake associations.
- Dave L. – the Legislative auditors are looking at every single detail. How do we build trust into system? Balance the review process with some trust.
- Steve W. – how far do you go with NGOs? Fund eagle scouts? Dave B. – we need to get eagle scouts, the next generation, involved in these projects.
- Rob – regional development commissions can partner with NGOs. How does BWSR's PRAP (Performance Review and Assistance Program) come into play? Steve W. – we have a performance review program to identify problems and help LGUs fix them.
- Rob – review requirements come from legislative requirements, auditors, etc. Dave W. – grantees get funding to cover costs of requirements, though it does reduce funds for on the ground work.
- Victoria – how you get the work done and accountability are what's important in a grant program. Communication is key.
- BWSR didn't spend all of the money they had last year for the SSTs program. Is that right? Dave W. – the first year BWSR received more requests than funds available. The second year we received fewer requests. What happens to funds if they are not used? Funds for counties doing inventories, for fix up, identifying problems that may not be able to fund in future.

#### Break

- Pam Blixt - send her the electronic version of Gaylen's report on water plans and TMDLs.
- Mike McKay will send the agenda for the April 26<sup>th</sup> Lake Pepin meeting to Council members.

#### 4. Sustainability Framework recommendations: *Issue B -- Excess nutrients and other conventional pollutants*, Deb Swackhamer, U of M

- Summary of issue B from the Sustainability Framework report; copies in members' packet.

- Recommendation: require that all TMDL studies also have implementation plans; accelerate watershed assessments; increase compliance.
- Strategy 2: accelerate improvements in water quality.
- Agricultural Management Areas (AMAs) – cooperatives to meet pollutant load reductions. Regulated; performance based.
- Based on two models – Florida Everglades Performance consent degree. AMAs in Florida. Nebraska NRDs – natural resource districts; performance based also.
- Question has been asked why not require permits for all farmers? Too onerous, only need to do it for areas out of compliance. Longer term process – complete watershed assessment process (6-7 years). Establish AMAs. We need to show landowners they are the problem at the individual scale. We need to develop finer scale model. This recommendation will take some time to implement.
- How small or how large would these areas be? Deb – all agriculture land in an 8-digit Hydrologic Unit Code (HUC or watershed). Not all watersheds have agricultural land, so there will be less than 81 AMAs.
- Would it be owners or renters in the AMA? Deb – it has to be the land owner for accountability. Gary - in reality, renters put land into programs, not owners. Deb – AMAs and others will have to work out these details to be fair and legally appropriate.
- Dave L. – this is not for all the landowners or land uses. Deb – it will be based on a TMDL with allocations showing the load allocations and sources.
- Deb – the context of this is targeted implementation. Those who are already doing voluntary BMPs are not the issue. Those 20% who are causing 80% of the problem is what this is for. Put some regulatory teeth into it.
- Sandy – how is this working in Florida? Deb – it's only been in place for 3 years so it's too early to tell.
- Mike – setting up a milestone. Deb – 2 years to evaluate. On large scale, that may not be the right timeframe. We need more data to give a good scientific answer.
- Mark – what about nitrates in drinking water? Deb – nitrates are regulated through the Drinking Water Act, not the Clean Water Act. There isn't a standard for nitrates in surface water yet. Interesting scenario.
- Dave L. – Lake Pepin is a large system and it takes longer to see progress. To see changes in nitrates in groundwater, we need to see reductions in additional inputs.
- Gaylen – the nitrate standard for surface waters will be driven by the toxicity to fish in streams, rather than hypoxia, though it will have an effect on hypoxia.
- Deb – will the state develop numeric goal for the basin? Gaylen – yes. Implementation will be based on TMDLs. We're developing a nutrient reduction strategy which will limit our contribution to the Gulf.
- Steve W. – what will be the mechanism for this? Would the Legislature mandate that landowners assemble somehow? Deb – this would require changes in legislation. MPCA would have authority for implementation. Single water management entity at the watershed scale would be responsible for collecting fines, responsible for implementing, etc., but MPCA is ultimately the legal authority.

- Pam – Minnehaha Creek Watershed District is one of many subwatersheds in their watershed. We're not sure if we can meet our implementation goals in 10 years much less 2 years. Deb – we've had the Clean Water Act (CWA) for 45 years. We're out of compliance with the CWA. We don't have the luxury to wait 10 years or just do voluntary measures. We are in a unique position with the Clean Water Fund to get it done.
- Louis – add drainage to discussion.
- Deb – strategy three, hydrologic integrity – move water off land more slowly. It's not possible to have a generalized hydrograph goal. It needs to be localized. Differences in hydrologic systems. We need to offset additional drainage with conservation measures.
- Dave L. – 103a, 205, 206 – conservation of rain water on land. Policy language has been there already. The energy of the water coming off the landscape is the issue. You have to figure out where you can hold water on the land. We have tools to figure this out; we have policies. We need acceptance of this.
- Rob – there is a drainage group in the Red River basin looking at this issue.
- Question for Deb, how did you look at the existing framework for watershed coverage in state? Deb – watershed districts don't fully cover state, SWCDs do have full coverage – we took the best of both for AMAs.
- Dave L. – the Red River group is flood based. The system is flowing year round; concern for all the smaller events too. We need to manage for floods and small events year round.
- Deb – there's the drainage working group at BWSR, good research at U of MN. The Framework recommendations are meant to assist and accelerate existing efforts.
- Scott – what about urban areas? Deb – there are recommendations in the Framework for stormwater.
- Pam – shift our allocations (grants) for future recommendations for conservation drainage projects that have good benefits. Now there's only \$2 million available in BWSR's conservation drainage. Scott – how much other funding is available for conservation drainage – federal, state, private? How much of our tile is in conservation drainage? Dave W. – not sure, may be as much as 10%.

## Lunch

5. **The NRCS and SWCD partnership:** *Working cooperatively with farmers and landowners to meet water quality goals;* **Don Baloun, Minn. State Conservation Officer, NRCS;** Dennis Fuchs, Stearns County
  - Rob Sip introduced Don Baloun – NRCS State Conservationist.
  - NRCS is a federal agency that has been around since the 1930s (originally the Soil Conservation Service). NRCS deals with the farm bill, currently the 2008 Farm Bill, and conservation issues. Voluntary – incentive based. Conservation works.
  - History of NRCS. We make progress by working with farmers at the kitchen table. Federal CEAP (Conservation Effects Assessment Project) - what are we seeing on the landscape as a result of conservation? We're not seeing sheet and rill erosion. We are seeing too much tillage. NRCS needs to re-emphasize some points, i.e. don't need to till a soybean field. NRCS has a guide for conservation practices; need to keep some flexibility for local goals.

- Precision Conservation – voluntary, incentive based conservation works if we have enough boots on the ground. Works better the closer the relationship of NRCS to the landowner.
- Gary P. – corn/hay is not practical in all areas of state. Don – diversity may become more acceptable in future; corn/wheat or switch grass.
- Room for every farmer to do some conservation practices.
- Marilyn – have you been in front of the State Legislature? Don – I've been to one hearing. Disconnect in Minnesota; more federal funds are available than state funds for conservation. That's too much money not to have a better relationship with the Council, Legislature, federal legislators.
- Dennis Fuchs – Stearns County SWCD
- Feedlots – 2400 in Stearns County (10 or more animal units). Explained the MinnFarm process for feedlots. Funding for feedlots comes 75% from EQUIP and 25% from 319 or AgBMP loans. His goal is to have every animal waste system fixed by 2020.
- Stressors in system – population increase in Stearns County around lakes and urban areas. Increase in crop productions, cows about the same.
- Trends: TP (total phosphorus) loads - increase with flow is less than in past years.
- Hoboken Creek Watershed concluded that the 65% phosphorus reduction required by the TMDL could not be achieved even if the entire watershed were to be planted in switch grass. MPCA is looking at a site-specific standard in parts of watershed.
- What is the biggest challenge in maintaining all those relationships with county, federal, local groups? Dennis – it's a lot of work and a lot of meetings. What are barriers? Dennis – grant programs can be cumbersome. New programs are a challenge. Maintaining relationships is important.
- Landowner cooperation is a barrier sometimes. Dennis – yes, some say we work with motivated operators. Lot of staff time can be spent on unmotivated landowners without achieving results.
- Don Baloun – a lot of farmers are age 55-65 and want to hold off on changes. They may not stay in business forever.
- Buffers – spend money putting in buffers that are great pheasant habitat, but not protecting water quality. Aging farmers – new farmers coming in.
- Louis – 75% cost share seems very high. How about lowering cost share? Don – food prices (milk) go up and down. Do we want to subsidize food production or not? Dairy production means more land in perennial crops. We don't want more land going to corn and soybeans.
- Victoria – funding is key. Resources are getting tighter, the easy stuff has been done. Where are we now? Where will resources come from? Don – there are more funds available for practices than for staff. Think about the distribution of dollars and partners better.
- Why does it take 20 years to get all the feedlots into compliance? Because we don't have enough staff.
- Private landowners are doing about 20% more conservation then what they are paid for.
- Dennis – summarize; Stearns County providing technical and financial assistance to increase conservation to protect resources in county and to provide more revenue in county.
- Mike – would it be better if you were given a total amount of dollars and then you could decide? Reduce cost share to 50% instead of 75%? What's the solution? What are barriers?

- Don – staff. We could argue for every \$1 we get out, we need 25% for staff funding. Dennis – we need maximum flexibility. Gary – you need to be careful when you reduce cost share. It helps with having the engineering.

#### **6. Work plan check in: targeted implementation**

- Jen went the annotated work plan. Craig Cox is confirmed for the June 20<sup>th</sup> Council meeting.
- Pam would like to hear about enforcement and regulations. We hear about carrots, but not about sticks. Are there groups at the local level that are effective? Gaylen – both are important. Feedlots, stormwater are good examples of enforcement. But rarely is it only enforcement. Pam – what are the options? Are we looking to increase options?
- Dave L. – Pope County regulations on lakes for shoreland. They looked at their own regulations and recognized the importance of that project. They did it themselves with local leadership and that model is moving around the state. It was driven by a regulation but they did it themselves. Steve W. – the right staff person in Grant County figured out how to do it.
- Jen – how will we conclude this topic area (targeted implementation)? Keith's vision is to write report as we go along.

#### **7. Upcoming meeting planning**

- **June meeting agenda:**
  - o Legislative session recap
  - o Lessons from implementation efforts (BWSR)
  - o Taking the pollution out of agricultural production: Craig Cox
  - o Council discussion: concluding targeted implementation topic
- **Council field excursion**
- Scott went over the June meeting agenda.
  - o Legislative recap – if they have concluded by then.
  - o BWSR implementation efforts – session local government had last year. Landowners' signups, what's working?
  - o Craig Cox presentation.
  - o Wrap up of targeted implementation topic.
- Gene – Minnesota River Assessment Project report shows no correlation between where we put our money for BMPs and outcomes. We need to discuss that sometime.
- Steve W. – also discuss if that statement is true.
- August meeting dates; August 15-16 or 16-17?
- Deb suggested adding the EPA lab to the August field trip. There is an EPA lab involved with Great Lakes activities. It's a top aquatic lab in the country. Jen said we will query members on dates and additional topic areas.
- Motion to adjourn, seconded, motion passed.

Meeting adjourned at 2:06 p.m.

***Next Meeting: June 20, 2011***



**Clean Water Council Meeting Agenda**  
**Monday, June 20, 2011**  
**9:00 a.m. – 2:30 p.m.**  
**Freeman Building, Room B145**  
**625 Robert Street North, St. Paul**

<b>9:00-9:15</b>	<b>Convene Full Council</b> <ul style="list-style-type: none"><li>• Comments/additions to the agenda</li><li>• Approve 5-16-11 meeting minutes</li><li>• Council introductions and updates</li></ul>	
<b>9:15-9:30</b>	<b>Steering Committee Report</b>	<b>Information item</b>
<b>9:30-10:00</b>	<b>Legislative recap</b> Craig Johnson, League of Minnesota Cities	<b>Information item</b>
<b>10:00-10:15</b>	<b>Break</b>	
<b>10:15-12:00</b>	<b>Taking the pollution out of agricultural production</b> Craig Cox, Environmental Working Group	<b>Information item</b>
<b>12:00-12:30</b>	<b>Lunch</b>	
<i>12:00-12:30</i>	<i>SSTS ad hoc committee meeting</i>	
<b>12:30-2:00</b>	<b>Lessons from implementation efforts</b> Jim Kujawa, Pioneer Sarah Creek WMO Paul Nelson, Scott County	<b>Information item</b>
<b>2:00-2:15</b>	<b>Comments / questions from audience</b>	
<b>2:15-2:30</b>	<b>Upcoming meeting planning:</b> <ul style="list-style-type: none"><li>• <b>July meeting agenda</b><ul style="list-style-type: none"><li>○ Legislative wrap-up (following special session)</li><li>○ Implementation enforcement activities</li><li>○ Council discussion: concluding implementation topic, direction to BOC</li><li>○ Introduction to groundwater topic</li></ul></li><li>• <b>Council field excursion</b></li></ul>	
<i>2:30-3:30</i>	<i>Steering Committee meeting</i>	

***Next Meeting: July 18, 2011***

**Clean Water Council Meeting Minutes**  
**Monday, June 20, 2011**  
**9:00 a.m. – 2:30 p.m.**  
**Freeman Building, Room B145**  
**625 Robert Street North, St. Paul**

**Council members present:** Dave Bennett, Marilyn Bernhardson, Keith Buttleman, Keith Hanson, Scott Hoese, Mark Knoff, Dave Leuthe, Mike McKay, Gene Merriam, Steve Pedersen, Gaylen Reetz, Victoria Reinhardt, Todd Renville, Sandy Rummel, Rob Sip, Paul Torkelson, Steve Woods.

**Absent:** Pam Blixt, Gary Pedersen, Louis Smith, Deb Swackhamer.

**1. Convene Full Council**

- Comments/additions to the agenda
- Approve 5-16-11 meeting minutes
- Council introductions and updates

Council Chair Keith Hanson called the meeting to order and asked for comments on the agenda or May 16<sup>th</sup> meeting minutes. There were none. He began the Council introductions and updates:

- Gaylen Reetz – there will be no Council meeting in July if the state agencies are furloughed.
- Dave Bennett – Legislature passed a bill to allow Lutsen to use water from the Poplar River.
- Steve Woods – grants for implementation projects would be suspended if there is a state shutdown.
- Victoria Reinhardt – state shutdown is a big concern; road projects would shutdown in the county.
- Dave Leuthe – DNR is getting ready for the shutdown also. Dave handed out a document titled "Conservation Targeting Tools".
- Jen Maleitzke – there will be an OLA (Office of the Legislative Auditor) meeting this Thursday, June 23 to discuss Clean Water Funds. Council members have been invited to the forum. Update on Council members' appointments; the appointment director is meeting with the Governor this morning to go over Council appointments. There are currently three vacancies on the Council for a representative of tribal governments, a representative of rural counties, and a representative of cities. Applications have been received for all three. There will also be new members if the Legislature passes the Legacy bill. If members are not appointed by July 1<sup>st</sup>, current members are automatically re-appointed.
- Audience introductions.
- Chair Hanson asked for a motion to approve the May 16<sup>th</sup> meeting minutes. Motion was made, seconded and passed. The May 16<sup>th</sup> meeting minutes were approved.

**2. Steering Committee Report**

- Keith Hanson will attend the OLA meeting on Thursday. Steve Pedersen, Mike McKay and Keith Buttleman will also attend the meeting.

- August field trip draft agenda; evening meeting with local projects presenting, boat tour in harbor on Tuesday afternoon, more project presentations. It didn't work out to travel to other sites, as was suggested at the last meeting. A clipboard for members to sign up for the field trip and carpooling was passed around.
  - Jen – Council's work plan; we will be concluding the implementation topic. Presentations and other materials will be posted on the Council's web page that can be used to prepare for the next meetings.
- 3. Legislative recap;** Craig Johnson, League of Minnesota Cities (LMC)
- Craig Johnson – not much got done. Cities lost authorities to give variances. A bill to fix that was passed in the last 2 weeks of the session.
  - Variances – the language was different between cities and counties. LMC fought to get language to match up. They can impose conditions to get a variance, but they have to be proportional to the impact of the variance. It was unanimously passed by the Legislature, signed by the Governor, and it went into effect the day after it was signed. Discussion with agencies about this. The bill on permits passed. Changes include; appeals go directly to the Court of Appeals, timing of permit issuing, and timing of local government review.
  - Things that didn't pass – Legacy bill/budget. Final version removed the requirement that Lessard-Sams Outdoor Heritage Council has to follow for the open meeting law.
  - Craig discussed some of the issues that came up in the Legislature with the [Legacy bill](#); the open meeting requirements for the Lessard-Sams Council were lessened. Debate on the bill continued until the session ended, so the bill was not passed. Senate has passed the bill. The Legacy bill will come up in Special Session. Rep. Torkelson based his bill on the Clean Water Council's recommendations.
  - Craig expects this bill to pass. They will have to address the open meeting law issue.

#### Questions:

- How did Lessard-Sams get established with open meeting law requirements?
- Craig – it started as a commission. There was concern that they were discussing funding decisions in private, so the open meeting requirements were strengthened.
- Senator Ingebrigtsen wanted the CWC to function like Lessard-Sams Council does; projects wanting funding could present to the Clean Water Council to try and get money, etc. League of Minnesota Counties convinced him that CWF is different and funds programs, not projects based on water priorities.
- State shutdown – Craig discussed different statutory requirements, appropriations, and potential legal actions by various groups. Gene – statutory appropriations; some functions of government have appropriations in statute.
- Craig – the issue will be coming up in legal challenges. Impacts of shutdown – most projects/contracts will shutdown. The bill that removes city authority on drilling private wells on city property was set aside, but it may be back next year. This has a significant impact on groundwater quality and quantity.

- Trailer parks – able to put in own water/sewer with no local oversight. Some issues were worked out, but not all. The bill was vetoed. It will be back next year. Property rights issues based on easement issues; a big issue for MnDOT and counties. The bill was not passed.

## Break

4. **Taking the pollution out of agricultural information item production;** Craig Cox, Environmental Working Group
- Chair Hanson introduces Craig Cox. **Presentation:** Fields to Streams: Policies for Improving Agriculture Watersheds.
  - Federal farm policy and its relationship to water quality and agriculture. Craig goes through the main points;
    1. Agriculture has profound effects on freshwater; we cannot protect freshwater without changing some of the ways we are farming the land.
    2. Good news: there are many, often simple and conventional conservation practices that can dramatically improve agriculture's impact on freshwater.
    3. We have made progress, but we are now facing unprecedented pressure on our land created by markets, public policy, land tenure and climate change.
    4. Voluntary programs alone can't stand up the growing pressures – we need to decide what farmers should do at their own cost and what taxpayers ought to pay for.
  - Agriculture's freshwater footprint is very large. The issue is not that agriculture is bad, but that agriculture is so big.
  - Agriculture land use has profound effects on hydrology. Progress on cutting erosion stalled after 1997. We are likely losing ground now. Changes that have occurred are;
    1. Grain prices have increased
    2. Grain prices more closely tied to oil price; changes – more volatility
    3. More land is rented now than in the past. There's not just one decision maker.
  - All-out production plus climate change (more severe storm events) in Corn Belt and losing ground on gully erosion – epidemic of ephemeral gullies. Erosion equals runoff. What is the public interest in private land? Are there practices that are unacceptable (speed limit)?
  - Some create disproportionate water quality problems.

## Questions:

- Will there definitely be a farm bill in 2012? Craig – no, may not get that done until 2013.
- Reducing subsidies might be good for conservation. Craig – yes, but the market is telling farmers to go all out.
- What are the real chances that a good policy discussion could take place? Craig – leaders of the agricultural community are having discussions on subsidies – remove direct payments. On the conservation side, the budget debate has overwhelmed everything. Time will tell.
- Dave B. - ethanol production is more like mining than food production. It should be more regulated. Craig – we would like to see the industry take more responsibility for how their crop is produced.

- Gene – on your slide titled “So....” the 3<sup>rd</sup> bullet #2; concerns about equity; equal access. Craig – funds need to be targeted in order to solve water quality problems, rather than an equal distribution of funds. We need to target those funds to particular producers and only fund those that have the biggest impact on water quality, rather than make sure everyone has equal access to federal dollars. Gene - federal funds only? Craig – some states are already doing some of this. Gene – you are talking about a speed limit; a euphemism for regulation. Craig – some states are already setting a speed limit. It means we don’t interfere with most farming operations, and level the playing field across the board.
- Marilyn asked about [NRCS’s Conservation Stewardship Program](#) (CSP). Why is it so hard to tie compliance to CSP with federal funds? CSP is not working. Some are paid for making very small changes. Craig - we worked to reform CSP in the 2008 Farm Bill (e.g., changed the name from security to stewardship). I’m sorry to hear its not working.
- How is the ethanol industry regulated in the state?
- Dave L. – how do we help people understand the system they live with, i.e., future effects, downstream effects, TMDLs, for example? Craig – not sure. When something has to happen, when there’s a problem and it has to be fixed, that usually moves people. We have to move aggressively to solve these problems.
- Steve W. – the era of crop surpluses is over. If the market is there for more food, where is the opportunity for conservation? Craig – starvation vs. conservation is a false dichotomy. Building soils increases productivity, for example. Focus on the risky practices doing the most damage. The notion that the U.S. will feed the world is not true. The way to keep people from starving is to increase incomes and develop agriculture in the developing world.
- Rep. Torkelson – hesitates to comment because he found the presentation to be biased and unfair. He agrees with the need for targeting. Your presentation ignores improvements agriculture has made in the last 25 years. Craig - he has seen improvements, but he sees them going away. We can’t ignore what we see.
- LeAnn Buck, MASWCD – agriculture is a business, and landowners are trying to make the best decisions. She is hearing from her members that the change from livestock to diversity isn’t profitable any more. Is there a way of looking at livestock vs. commodities? Craig – more diversification on the land is good. Not sure how to get that into the farm bill.
- Randy Ellingboe (MDH) – what are your thoughts of the implications of factors in drinking water in the future? Craig – implications are profound. It makes more sense to protect source water rather than water treatment.
- Steve W. – talk about buffers. Craig – 70 feet if on both sides.
- [Cultivating Clean Water: STATE-BASED REGULATION OF AGRICULTURAL RUNOFF POLLUTION](#)
- LeAnn – NRCS has lawsuits to be sure everyone has access to their programs, which goes against targeting. Craig – we should be able to divide the pie 50% targeted/50% equal access; prefer 60% targeted.
- Chris Radatz – question on the budget numbers on your 2012 Farm Bill slide. Craig – those are CBO baseline numbers.

- Chris – technical support is not what it was 20 years ago. Craig – it's best to have Congress increase funding for conservation, but there's no political will to do that or to use more of the funds for technical staff. Then less goes to farmers.
- Chris – talk about mandatory 35 foot buffers. Craig – would really like to see a mandatory 35 foot buffer which could drive people into voluntary programs. 35 ft. is too small.
- Mike – what is best scientific information on targeting? Craig – you have some of the best scientists at the U of MN. There's lots of information on the impact of practices. A system of practices is better than individual practices.
- Dave L. – local technical capacity is a high priority. Local capacity has eroded over time.
- LeAnn – a lot of work in field offices; balance infrastructure with project money.
- Rep. Torkelson – you need to compare and contrast what's happening in Minnesota and in other states. The Clean Water Legacy Act was passed in Minnesota. Craig – I'm not familiar with state efforts. The Clean Water Legacy Act is a great thing; to have funding for clean water. Rep. Torkelson - focus more on water quality rather than beating up on agriculture.

## **Lunch**

### *SSTS ad hoc committee meeting*

#### **5. Lessons from implementation efforts Information item**

- Jim Kujawa, Pioneer Sarah Creek WMO
- Paul Nelson, Scott County
- Introduction from Steve Woods. Marcey Westrick – policy issues/science issues with grants.
- Jim Kuyawa – Pioneer Sarah; Lake Independence TMDL Project – reductions in phosphorus needed to meet TMDL criteria.
  - Agriculture, urban, small farms all included in the TMDL.
  - Nutrient management funds for the watershed.
  - Visited all the larger livestock owners in the watershed.
  - 4 or 5 public meetings, lots of flyers, notices, news articles. Worked on trying to get livestock owners to take on nutrient management. Need full time staff to do this. Two people dropped out at the end. Tried to contact them, but no response.
  - We were offering to supplement the grant funds. Ended up we could not spend that money.
  - After 2007, we needed to switch gears. Asked BWSR look at other nutrient management techniques – shoreline stabilization projects – used the funds for that work.
  - Reduced nutrient input by about 65 pounds for those practices. Goal was to reduce nutrients by 150 lbs.
  - If we did it again, we would look at hiring someone who is good at marketing, someone who knows the area, someone trustworthy in the watershed. We needed more funds for administration, and needed more time to implement the program. Two and a half years is not long enough.
  - Successes – 65-68 lbs. reductions, good shoreline protection, having taken care of most of issues around the lake. Still working with land owners.
- Paul Nelson – presentation. What's working well and vice versa at the local level?

- We need money for staffing programs. We have policies for technical assistance, etc.
- 2009 Landowner interviews – we got 42 one-on-one interviews from 127 contacts. Sat down and talked to landowners, asked them what their plans for the property were. Relationship is important. Asking is key. People are more motivated when asked. Trust built with other staff was transferred to him. Start small, leads to other things. Build trust over time.
- Carl and McMahon Lake TMDL – public comment period begins today.
- Neighbors talking to neighbors helps when there is mistrust of government. Momentum contributes to momentum. Learning and adapting.
- Mailings don't work. Assign staff to develop relationships with large operators. Use funds to try and change behavior, but not to sustain.
- As a whole farm, what does society expect them to be – we haven't taught them that.
- What's not working well: how to market riparian zone management; understanding the true costs.
- Marcey – handout with summary of what we want to achieve today.

#### Questions:

- Keith H. – why do you think the impaired waters process isn't working? Craig – the process doesn't do a good job of communicating, which is key with landowners. Very technical; reasonable assurance doesn't convey to landowners that their actions will make a difference.
- Marcey – relationships are important. Change is hard. How many times do you go back to landowners before giving up? Jim – you need to know why you failed.
- Steve W. – timing of funds, we live biennium to biennium. How do we resolve this?
- Paul Nelson – give SWCDs taxing authority. Figure out a way SWCDs can maintain staff. Retaining staff for a long time is huge.
- Steve W. – there is a reluctance of LGUs to hire. It's good to see that you're using the resources of the University, etc.
- Dave L. – technical assistance, funding, stable watershed district type of authority.
- Rep. Torkelson – your watershed has a 10 year plan. Talk about that and other plans in the county and watershed. Paul N. – Scott WMO (Watershed Management Organization) replaced nonfunctioning WMOs in the county. County board is same for the county and the WMO. Helps to blend watershed plan and comprehensive plan.
- Gene – Lake Independence, there was a Star Tribune article on Lake Independence; poster child of failure for TMDL process. How do you view that?
- Jim – I don't view it that way. It took 100 years to create problem. It will take some time and more than just money to solve the problem. We need to keep on working.
- Gaylen agrees with Jim; it's not the failure of the TMDL process. The failure is willingness of landowners to adopt the practices and make the changes. Everything else was there in the TMDL process – identified, targeted, funding, etc. Until we bridge gap between process and willingness we won't make progress.

- Gene – outcomes are what matter. What are we doing this for? The Clean Water Act says we have too. Gaylen – it's not the TMDL process that failed. Lake Independence was a very well defined TMDL.
- LeAnn would like to see articles on successes. The problem with the TMDL process is that there is no local buy in. If you get local buy in, then you may begin to see solutions. LGUs don't have a citizen's board.
- Gaylen – the portion of the TMDL that locals have to do is voluntary. We need to get both done to get improvements in water quality.
- Steve P. – if Lake Independence is a failure of implementation, can local government step in and make it happen? Jim – they can, but not all want to push regulation. Some prefer the status quo.
- When will public expect to see clean water? Not sure. With the Clean Water Legacy, they may expect to see improvements in 25 years.
- Dave L. – if the problem is caused by a lot of other people, hydrologic disruptions, it's hard to convince individuals to spend money to fix the problem. Some of these are system-wide problems; upstream drainage problems.
- Paul Nelson agrees; can create issues of fairness for some problems.
- Victoria – frustration makes people point fingers at others.
- Marilyn – fixing a problem in a watershed, how big do you go? We try to target in small watersheds, doesn't work in large watersheds. But sometimes problems in one area are the result of others' practices and they should pay.
- Steve W. – we have many different types of LGUs, some more willing to regulate than others. Maybe we should look at rolling incentives, i.e., make voluntary changes now or you may face regulations later.
- Dave L. – not everyone is in the same place. Outreach, education may be needed first for some.
- Keith H. – someone has to be willing to pull the trigger that enough is enough. It may be locals, but it may go back to MPCA. Good discussion for the Council.
- Marcey – there is a lag time in TMDLs in seeing water quality improvements and a lag time in getting people on board in acceptance.
- Steve W. – we like to see that some community involvement has already been done before they apply for a grant. Civic engagement funds are an eligible cost.
- Gene – I'm not suggesting failure in agencies designing process, nor failure in local governments, rather failure in voluntary actions achieving the results needed. Putting money into something that's entirely dependent on voluntary action.
- Keith B. – definitions – Gene sees actually getting there as part of the definition.
- Keith H. – do we have the right technical tools? Marcey – yes, we have the right technical tools. Jim – yes, the tools are there. Issue with NRCS more of a regulatory agency (?) They don't have a buy in to TMDLs. It would help if they were pushing them along.
- Paul N. – tools are needed for marketing.

## **6. Comments / questions from audience**

- Keith H. – we want to allow some of our partners to comment on issues for the Council.



- LeAnn – no coordination between EPA and NRCS with TMDLs and implementation. There is more coordination at the state and local level. Regulatory creep will affect local government/elections. Thanks for continued work on coordination between state and local.
- Technical assistance is a big issue for them. The more we can think beyond a two year biennium would be helpful.

## 7. Upcoming meeting planning:

- **July meeting agenda:**
  - Legislative wrap-up (following special session)
  - Implementation enforcement activities
  - Council discussion: concluding implementation topic, direction to BOC
  - Introduction to groundwater topic
- **Council field excursion**
- Keith H. – work plan. July meeting – time to go through summary information in April, May and June meetings so we can give direction to the BOC for budget recommendations.
- Next topic we will do is groundwater. We may need to look at prioritization of topics, move things up.
- Rob – enforcement; what's working.
- Steve W. – one of the consistent themes at the U of MN listening sessions last year was no new rules, enforce existing rules.
- Gaylen – some explanation of MPCA's enforcement process; an overview of what some of the steps are might be useful.
- Mike – enforcement of buffer zone; who is ultimately responsible to enforce that? Not clear how to answer that. Dave L. – there are multiple authorities.
- Steve W. – could provide a short presentation of the Wetland Conservation Act if wanted and one on shoreland or whatever. Keith H. – the Steering Committee can narrow the boundaries of this topic.
- Scott – what's happening at the Legislature? Rep. Torkelson – agreement that the legacy bill will be part of a special session with a few tweaks. The role of a legislator on the Council depends on who they are. He sees them as a conduit between the Council and the Legislature.
- Rep. Torkelson – [Open Meeting Law](#) – more restrictive version for [Lessard-Sams Outdoor Heritage Council](#). May become issue for the Clean Water Council in the future.
- Keith H. – Victoria will chair the SSTS group. Meetings will start in September.
- Victoria – put documents for the SSTS on the Council web page.
- Steve W. – charter for group? One page with issues can be sent out (Lisa's handout?).
- Rep. Torkelson - are Council members going to the OLA meeting? Keith H. – yes.
- Motion to adjourn, seconded, motion passed.

Meeting adjourned.

Link to Freshwater Society's web site; [Craig A. Cox lectures on farm policy and farm pollution](#)

***Next Meeting: July 18, 2011***

## Clean Water Council August Meeting Agenda

*The purpose of this meeting is to help Clean Water Council members understand the complexities of water issues in the Lake Superior Basin and the St. Louis River. The meeting will highlight projects and partners that have been funded with Clean Water funds and reveal a plan for continuing to leverage federal dollars.*

### Monday, August 15

The MPCA carpool will leave the St. Paul office (520 Lafayette Road North, St. Paul) at 2:00 p.m. Carpool attendees may leave their cars in parking lot overnight; simply leave license plate number with guards inside main entrance to building. Please park in guest parking on the east side of the lot.

Council members should check in at the Comfort Suites (408 Canal Park Drive, Duluth); reservations have been made for participants and will be directly billed to the MPCA.

Dinner and meeting to be held in the **St. Croix Room, main floor.**

**6:00-6:30 Council dinner**

**6:30-6:45 Convene Full Council**

- Comments/additions to the agenda
- Approve 6-20-11 meeting minutes
- Council introductions and updates

**6:45-7:00 Steering Committee Report**

*Welcome new members, legislative wrap-up, work plan and upcoming meeting updates*

**7:00-7:20 Welcome and overview of the Lake Superior Basin**

Suzanne Hanson/Pat Carey, MPCA

**7:20-8:35 Lake Superior Basin projects**

- Poplar River Watershed: *Tom Rider, Poplar River Management Board*
- Knife River Watershed: *Kate Kubiak – South St. Louis SWCD; Craig Wilson, Lake Superior Steelhead Association (invited)*
- Amity Creek Watershed: *Rich Axler, University of Minnesota – Natural Resources Research Institute*

**8:35-8:45 Review agenda for Tuesday / meeting adjournment**

## Tuesday, August 16

Continental breakfast provided in lobby (by front desk), starting at 6 a.m. Council members check out of hotel; members to park at the MPCA office, bayside (a few blocks from hotel). Meeting held at MPCA Duluth office (525 Lake Ave., Suite 400).

- 8:30-8:35      Welcome**  
Suzanne Hanson/Nelson French, MPCA
- 8:35-8:50      Overview of Great Lakes Restoration Initiative**  
Great Lakes National Program Office (invited), Darrell Gerber, Clean Water Action
- 8:50-9:50      St. Louis River Area of Concern**
- **Overview of St. Louis River Area of Concern:** *Rick Gitar, Fond Du Lac; Marc Hershfield, MPCA; Nancy Larson, WI DNR; John Lindgren, MN DNR*
  - **Sediment Contaminant Bioavailability Assessment:** *Dr. Nate Johnson, UMD*
  - **Framework for the future:** *Hans Holmberg, Gini Breidenbach, LimnoTech*
- 9:50-10:00      Break**
- 10:00-11:15      Sediment characterization and remediation**
- 10:00-10:10      **Overview and introduction:** Doug Beckwith, MPCA
- 10:10-10:40      **Clean Water Legacy and Water Resource Development Act:** Dave Gerczak, US Army Corps of Engineers (invited)
- 10:40-11:15      **Clean Water Legacy and Great Lakes Legacy Act Funds:** Marc Tuchman, US Environmental Protection Agency
- 11:15-11:45      Discussion on opportunities**
- 11:45-12:30      Lunch at MPCA office**
- 12:45-3:00      St. Louis River Area of Concern tour of current and future projects**

Members will walk across the parking lot and over the small bridge to the boat for St. Louis River Area of Concern tour, which will last approximately 2 hours. The boat tour will conclude at 3 p.m. The MPCA carpool will leave immediately upon return to the harbor; carpool attendees can expect to arrive back in St. Paul by approximately 6:30 p.m., pending any traffic delays.

*Next Meeting: September 19, 2011*



**Clean Water Council Meeting Minutes**  
**Monday, August 15, 2011, 6:30-9:00 p.m.**  
**Comfort Suites St. Croix Room**  
**Tuesday, August 16, 2011, 8:30-3:30 p.m.**  
**MPCA Duluth office**  
**Duluth, Minnesota**

**Council members present:** Dave Bennett, Pam Blixt, Linda Bruemmer, Kent Eken, Keith Hanson, John Harren, Scott Hoese, Bradley Kalk, Mark Knoff, Dave Leuthe, Mike McKay, Steve Pedersen, Gaylen Reetz, Sandy Rummel, Rob Sip, Paul Torkelson.

**Absent:** Marilyn Bernhardson, Warren Formo, Gene Merriam, Gary Pedersen, Victoria Reinhardt, Todd Renville, Louis Smith, Deb Swackhamer, Steve Woods.

**Monday, August 15**

**1. Convene Full Council**

- Comments/additions to the agenda
- Approve 6-20-11 meeting minutes
- Council introductions and updates

Council Chair Keith Hanson called the meeting to order and introduced the new Council members; Bradley Kalk (Mille Lacs Band), John Harren (City of Melrose), Rep. Kent Eken, Rep. Paul Torkelson and Linda Bruemmer (MDH).

- Chair Hanson asked for comments on the agenda and the June 20th meeting minutes. The agenda and minutes were approved. Council members and audience members introduced themselves.
- Jen Maleitzke – updates; House members to be on the Council were named. The Senate members should be named in September. The Clean Water Council web site will be updated soon with meeting materials from past meetings.
- Rep. Torkelson – Legislative update (handout).
  - Highlighted changes – wild rice study is completely funded. One million from the Department of Agriculture to do the study.
  - I-94 groundwater study – fund with clean water funds.
  - Changes in the bill; give some authority to the Council, include Legislative members and MDH member. There was an effort by the Senate to make the Council more like the Lessard-Sams Council (fund project by project).

**Questions:**

- Why is there a decrease in funds for the web site? Rep. Torkelson – because they didn't need as much.
- Civic engagement funds - projects need to include civic engagement, but there is no specific pot of money for that work. Is that right? Rep. Torkelson – right.

- The plan was for BWSR to use clean water funds to fund resource specialists to help talk to citizens. Funding was also about building local capacity. We really need people in the field to answer questions.
  - Will you be looking at projects to make sure they include citizen involvement? Paul – yes.
- 2. Steering Committee Report** - Welcome new members, legislative wrap-up, work plan and upcoming meeting updates.
- Chair Hanson went over changes due to the state shutdown and the Council not meeting in July; work plan progress, steering committee meeting to be scheduled. The Council will have a meeting in December on December 12<sup>th</sup>. We will have new member orientation before the September Council meeting. Jen will contact new members about that.
  - Jen – with the new legislation that was passed, Council members are now appointed public officials and need to complete a Financial Disclosure form. Questions – what if members are already filling this form out for our other duties? Do voting members only need to do this? Jen will find out more about the form and who should fill it out.
- 3. Welcome and overview of the Lake Superior Basin** - Suzanne Hanson/Pat Carey, MPCA  
Suzanne Hanson, Regional Manager, MPCA Duluth. Welcome to Duluth. Some logistics; community members will be here to talk about their projects.

Question: What about erosion rate vs. erodible soils? Pat – I will talk about that later in the presentation.

Pat Carey provided an overview of the Lake Superior Basin, fun facts about Lake Superior and a description of the basin and watersheds.

- We need to protect the headwater wetlands which help maintain flow levels. There's a huge amount of legacy contamination. The Iron Range area needs attention as well. There's mercury contamination.
- We have a toxics TMDL for the St. Louis River. Civic engagement is critical. Our area is unique – these counties are huge – we end up with a lot of partners – how do we keep our partners involved. The public must also be involved in the planning work.
- Wetlands – there are more in the St. Louis County area than along the North Shore. We need to protect the headwater wetlands which help maintain flow levels.
- Lowest watershed summary scores – areas along the North Shore; fewer wetlands, steep slopes, more erodability. Usually have low flows and higher flows from snowmelt, etc. Now we are seeing lower low flows and flashier streams.
- St. Louis River area has legacy contamination issues.
- Iron Range – other issues there. There's mercury contamination.
- Civic engagement – we don't have a history of watershed districts; no watershed taxing authority. We have a lot of federal, state, and local partners. We need to get out to the public; imbed civic engagement in our watershed approach.

#### **4. Lake Superior Basin projects**

- Poplar River Watershed: *Tom Rider, Poplar River Management Board*

- Knife River Watershed: *Kate Kubiak – South St. Louis SWCD; Craig Wilson, Lake Superior Steelhead Association*
- Amity Creek Watershed: *Rich Axler, University of Minnesota – Natural Resources Research Institute*

Tom Rider, Poplar River Management Board and Lutsen Resort

- History of Lutsen. Tourism makes up 80% of economy in Cook County. No other county in Minnesota can say that. Gateway to the BWCAW. Poplar River – geomorphology; listed for turbidity, small watershed, smaller number of landowners. Poplar River Management Board was formed in 2006 shortly after the impairment was declared. Projects, investment by landowners. Tom provides an overview of privately funded projects. Also publicly funded projects leveraged with private projects. It's all about how the water moves to the river – reduction in sediment delivery – 42% reduction of median sediment load. Effective public/private partnerships.

#### Questions:

- Steve P. - are your projects closely tied to public funding? Yes, some may continue, but we need to leverage them with public funds. Gaylen – are there funds for maintenance? Tom – yes, landowners are committed to that.
- Chair Hanson – is the TMDL on the Poplar River completed? Pat Carey – we hope to complete it by the end of the year.
- Bradley – there are a small number of landowners in watershed so do you need to step up and take on the TMDL? Tom - yes, and we've done that. Some of these conditions were created many years ago. We're doing the best we can, and are definitely committed to it.

Kate Kubiak, South St. Louis SWCD, Knife River Watershed

- The Knife River is impaired for turbidity. The South St. Louis SWCD completed a TMDL for the Knife River. Some of the turbidity is natural from clay banks. Also from timber removal along the river. Strategies are to stabilize eroding banks; plant long lived conifers; use stormwater BMPs.
- Trees help shade the river, which is good for a trout stream. Also, they fall into the river and help slow the flows in river.
- Landowners loved having MCC ([Minnesota Conservation Corps](#)) members come out and plant trees. It really helped with civic engagement.
- Tree planting – good way to get to know the landowners.

#### Questions:

- Chair Hanson – how did you choose which landowners? Kate - we sent out 600 letters and got 10 landowners to be involved. Totally voluntary. 10 year commitment.
- John Harren – have additional landowners stepped forward to be involved? Kate – not yet.
- Gaylen – are you asking landowners to cost share stabilization banks? Kate – not yet. That would be ideal. Gaylen - Council should discuss if we are going to ask landowners to pay for stabilizing streambanks, especially if the problems are from past practices; long term. Chair Hanson – that's part of our work plan. We'll have to wrestle with it.

- Dave – how many trees have been planted? Craig Wilson, Lake Superior Steelhead Association – we were doing several thousand. We had 50 volunteers for some of them.
- Kate – maintenance is important for rain gardens.
- Scott – why potted plants vs. seedlings? Helps to get established if the trees are bigger.

#### Craig Wilson, Lake Superior Steelhead Association

- Lake Superior Steelhead Association organization has been around for 40 years working on the Knife River. Knife River has more habitat for trout than other rivers on the North Shore with steeper gradients. Steelhead trout planted 100 years ago. Logging changed the forest from piney woods to aspen and alder. Beavers came in and damaged the riparian vegetation. The hot sun affects the river and the trout.
- Beaver meadows are created when trees die off from beaver dams. Knife River doesn't have a lot of spring-fed groundwater to the cool river in the summer – low flows in summer. Fish leave the river to go to the lake to find habitat. In the heyday of steelhead, 5-10 thousand fish returned to the Knife River. Now it's more like a few hundred fish. The Knife River is the only steelhead resource in Minnesota. Population is now naturally reproducing. Valuable resource for locals/kids. Easy access to fishing without a lot of expensive equipment needed.

#### Rich Axler, Amity Creek Watershed Restoration Project

- Amity Creek is one of Duluth's 16 trout streams; impaired for turbidity and sedimentation; has a mix of urban and rural issues.
- Community partnerships/collaboration with many groups for stormwater issues. Pressure on communities with stormwater regulations to do something. Protection message as well as restoration resonates in the Northland.
- Seed money from Ron Weber for streams in the area was given to UMD and used for the [Weber Stream Restoration Initiative \(WSRI\)](#).
- Go to website to see how streams work up here at different times of the year; [duluthstreams.org](http://duluthstreams.org); [lakesuperiorstreams.org](http://lakesuperiorstreams.org).

#### **5. Review agenda for Tuesday / meeting adjournment**

- Chair Hanson – meet tomorrow morning at the MPCA Duluth office.
- Motion to adjourn. So moved. Meeting adjourned.

## Tuesday, August 16

Clean Water Council Duluth Meeting continued. MPCA Duluth Office

Scott Hoese, Vice Chair called the meeting to order. Members introduced themselves. Audience introductions.

### 1. **Welcome** - Suzanne Hanson/Nelson French, MPCA

Suzanne Hanson, MPCA Duluth office manager

Welcome to MPCA Duluth. We will have presentations on all the work/projects currently going on in this area; federal funding for St. Louis River Estuary Area of Concern.

### 2. **Overview of Great Lakes Restoration Initiative (GLRI)** - Great Lakes National Program Office, Darrell Gerber, Clean Water Action

Darrell Gerber, Clean Water Action

- GLRI – Action plan covers FY2010 through 2014
- Overview of funding for Great Lakes Programs
- Great Lakes Week: Detroit October 11-14
- Bring representatives of US and Canada together with public and private groups.

Matt Doss, Great Lakes Commission (GLC)

- Not just environmental clean-up, also economic development. Revitalized shoreline is important too.
- GLC advocates with Congress and Legislatures.
- 2 handouts. There's lots of support for Great Lakes issues – bipartisan issue.
- GLRI is a 5 year program. We're going into the third year. Great opportunity we have now, but will go away in the future. Minnesota is well positioned to leverage federal funding, especially with the 3/8ths sales tax funds for clean water.
- Representative Tom Huntley is Minnesota's representative on the Commission; Lieutenant governor, other reps., senators.

### 3. **St. Louis River Area of Concern (AOC)**

- **Overview of St. Louis River Area of Concern:** *Rick Gitar, Fond Du Lac; Marc Hershfield, MPCA; Nancy Larson, WI DNR; John Lindgren, MN DNR*
- **Sediment Contaminant Bioavailability Assessment:** *Dr. Nate Johnson, UMD*
- **Framework for the future:** *Hans Holmberg, Gini Breidenbach, LimnoTech*

Nancy Larsen, Wisconsin DNR - AOC Coordinator team

- Four main agencies work on area of concern; MDNR, WDNR, MPCA, Fond du Lac Tribe.
- Major impact of sources is in the lower area of concern. We need to deal with sources throughout watershed.
- Beneficial Use impairments (BUIs) – there are nine St. Louis River BUIs.

Marc Hirschfield, MPCA - AOC Coordinator team

- Mission statement – quality of water related to quality of life.



- Contaminated sediments in harbor/St. Louis River
- Challenge is to tie remediation to restoration. How sediment samples relate to biology. Goal is to restore 1700 acres (R2R; remediate to restore). R2R philosophy is you need good baseline data.
- Fond du Lac Band – headline in Duluth News Tribune today, Band acquires a sacred island; [Fond du Lac Band buys sacred Ojibwe island](#) - A sacred Ojibwe island on the St. Louis River is now in the hands of the Fond du Lac Band of Lake Superior Chippewa. The ancestors of the Fond du Lac Band stayed in the area. There is evidence that until the early 1900s the Ojibwe held ceremonies on the island. The band will use the island for conservation and cultural efforts. Tuesday, August, 16, 2011 - Duluth News Tribune.

Rick Gitar, Fond du Lac – AOC Coordinator team

- Chair of the habitat workgroup
- St. Louis River Alliance – habitat; sediment work group

John Lindgren, MDNR - AOC Coordinator team

- Built a bus with many partners. Wheels on the bus are Minnesota and Wisconsin committed to delisting. Dual fuel with state and federal funding. Driving the bus to delisting.
- Lake Sturgeon spawning success.
- Spirit Mountain development increased sedimentation in harbor. CWLA funds and Outdoor Heritage funds need to coordinate – clean water and habitat
- Restoration – remediate to restore, R2R

Dr. Nate Johnson, UMD – Sediment Contaminant Bioavailability Assessment

- Research is focused on water quality in natural systems.
- What is bioavailability? How “sticky” is sediment? Stickier the sediment, the less contaminants are able to leach off and get taken up by organisms. Natural variation in sediment properties. Bioavailability is the link between presence and absence of contamination and the effects (see handout) on organisms.

#### Questions:

- Dave B. – how much of contamination can be traced back to pulp and bleaching operations in Cloquet? Dr. Johnson – we don’t know for sure for an individual source. We do see a pulp layer down in the sediments. Nelson – there have been over 300 businesses in the area over the last 120 years. It’s hard to identify individual sources. That’s the reason for public and private partnership.

Hans Holberg, Limno Tech; Gini Breidenbach, Limno Tech

- Implementation Framework (Springboard) – pushes project ahead to achieve objectives. The roadmap to show us how to get where we want to go. It should enable local partners to move ahead in a well-thought out way to recovery, and ultimate delisting.
- Gini – BUI Blueprints; ID sources and stressors.
- Form BUI groups

#### Questions:

- Mike McKay – more priority R2R projects. What we struggle with are priority projects. Nelson – the Framework will inform future projects. Projects ongoing as long as funding is available. Mike – we want the Framework to identify projects. Nelson – current projects are connected to beneficial uses. Mike – we like measurable outcomes and prioritization.
- Pat Carey – funding cycles have various requirements. Mike – at some point, we want to have priorities for the funds we work with.

## Break

### 4. Sediment characterization and remediation

- **Overview and introduction:** Doug Beckwith, MPCA
- **Clean Water Legacy and Water Resource Development Act:** Dave Gerczak, US Army Corps of Engineers (invited)
- **Clean Water Legacy and Great Lakes Legacy Act Funds:** Marc Tuchman, US Environmental Protection Agency

Doug Beckwith, MPCA – Sediment Characterization and Remediation

- Risk-based assessment/clean-up. After remediation is done, there's still some contamination left on clean-up sites. Try to minimize impact on St. Louis River downstream. Three superfund sites near and in the waterbodies of the AOC that are in various stages of clean-up; St. Louis River Bay Interlake tar site, U.S. Steel site, paper plant.
- Water Resources Development Act.
- Minnesota's and Wisconsin's work complement each other in taking care of the BUIs.

Marc Tuchman, U.S. EPA Chicago GLMCO office

- Great Lakes Legacy Act (GLLA) – unique opportunity to take advantage of all these funding sources.
- Great Lakes Legacy fund – cost share.
- Focus is contaminated sediments in AOCs. Goal is to accelerate the pace. Highest priority is remediation.
- "The Match" - nonfederal cost share.
- 2 projects to highlight:
  1. Kinnickinnic River, Wisconsin - one half mile stretch of river - dredging; cleaned out area; laid down sand layer. Economic development increased, shipping and boating increased. Redevelopment potential, etc.
  2. West Branch Grand Calumet River Project – Indiana
- St. Louis River AOC – two site characterizations were done at federal expense. GLLA remedial investigation in Spirit Lake – cost share project with U.S. Steel. Trying to accelerate the pace of projects.
- Community involvement is important. We wouldn't do a project without community involvement.
- It is necessary to delist BUIs. Projects are tools to get the work done. We need cost share to do projects.

#### Questions:

- Matt Doss – this program is very popular with Congress. It gets stuff done on the ground relatively quickly; it's not litigious and has partnerships.
- Linda Bruemmer reviewed some of the things MDH does; Great Lakes Restoration funding used for fish consumption, biomonitoring project with Fond du Lac Tribe, MDH has taken over beach advisory work in Duluth.
- Mike McKay – explain more what R2R means. Nathan - contamination could be present at a site but may not pose a risk. If there's a site with high habitat value, we might be able to look at what areas have higher rates of contamination risk in order to inform the restoration design. Dr. Johnson – bioavailability. Contaminants may be present, but are not available to organisms. Risk-based targets set for superfund sites.
- Site with high habitat value – use risk posed by contamination to determine restoration goals.
- Mike Bares, MPCA – a lot of contamination is low level. Set goals based on availability. Look at sediment quality targets in estuary; levels where you see effects on organisms – gray area; (PAHs 5-23 ppb).

#### **5. Discussion on opportunities**

##### Comments:

- Steve Pedersen – the Clean Water Council is not a project funding group, we fund programs. Targeted implementation in the Council's work plan. We work with partners (MPCA, DNR, MDH, etc.), hear these presentations. Agencies come back to the Council with budget recommendations and can reference what was heard here today.
- Gaylen – CWC has made recommendations for funding in the Great Lakes and St. Louis River Area. Another potential role is to encourage funding for projects in this area by the Lessard-Sams Outdoor Heritage Council.
- John Lindgren – MDNR did submit projects in this area to the Lessard-Sams Council.

#### **6. St. Louis River Area of Concern tour of current and future projects**

- Nelson French – plans are to board the boat at 12:45 pm. Three stops with 3 presentations while on the boat.
- Council adjourned at 11:30 pm.

***Next Meeting: September 19, 2011***

**Clean Water Council Meeting Agenda  
Monday, September 19, 2011  
9:00 a.m. – 2:30 p.m.  
Freeman Building, Room B145  
625 Robert Street North, St. Paul**

***8:00-9:00 New member orientation***

<b>9:00-9:15</b>	<b>Convene Full Council</b> <ul style="list-style-type: none"><li>• Comments/additions to the agenda</li><li>• Approve 8-15/16-11 meeting minutes</li><li>• Council introductions and updates</li></ul>	
<b>9:15-9:30</b>	<b>Steering Committee Report</b>	<b>Information item</b>
<b>9:30-10:30</b>	<b>Clean Water Act TMDL requirements</b> Commissioner Paul Aasen, MPCA	<b>Information item</b>
<b>10:30-10:45</b>	<b>Break</b>	
<b>10:45-11:45</b>	<b>Concluding targeted implementation work plan topic</b> <ul style="list-style-type: none"><li>-Summary of past Council presentations</li><li>-Council discussion and recommendations</li><li>-Directions to BOC</li></ul>	<b>Decision item</b>
<b>11:45-12:15</b>	<b>Lunch</b>	
<b>12:15-2:15</b>	<b>Accountability and outcomes: regulatory tools</b> Agency representatives	<b>Information item</b>
<b>2:15-2:30</b>	<b>October meeting agenda / adjournment</b>	<b>Information item</b>

***2:30~4:00 SSTS ad hoc committee meeting***

***2:30~3:30 Council Steering Team***

***Next Meeting: October 17, 2011***

**Clean Water Council Meeting Minutes**  
**Monday, September 19, 2011**  
**9:00 a.m. – 2:30 p.m.**  
**Freeman Building, Room B145**  
**625 Robert Street North, St. Paul**

**Council members present:** Dave Bennett, Marilyn Bernhardson, Pam Blixt, Kent Eken, Randy Ellingboe (for Linda Bruemmer), Warren Formo, Keith Hanson, John Harren, Scott Hoese, Bradley Kalk, Mike McKay, Gene Merriam, Gary Pedersen, Steve Pedersen, John Pederson, Victoria Reinhardt, Todd Renville, Sandy Rummel, Louis Smith, Dan Sparks, Paul Torkelson, Julie Westerlund (for Dave Leuthe), Matthew Wohlman, Steve Woods.

**Absent:** Linda Bruemmer, Mark Knoff, Dave Leuthe, Gaylen Reetz, Deb Swackhamer.

**8:00-9:00 a.m. New member orientation**

**1. Convene Full Council**

- Comments/additions to the agenda
- Approve 8-15/16-11 meeting minutes
- Council introductions and updates

Council Chair Keith Hanson called the meeting to order and welcomed the new Council members; Senator John Pederson and Senator Dan Sparks.

- Chair Hanson asked for comments on the agenda and the August 15-16th meeting minutes. The agenda and minutes were approved. Council members introduced themselves.
- Jen Maleitzke – [Reflections 2010](#); MPCA Citizen Monitoring Program handout. The Clean Water Council is almost at full capacity with one vacancy for a rural representative. There are 2 or 3 applicants for the vacancy. Hopefully, the vacancy will be filled by October or November. The December Council meeting will be on December 12<sup>th</sup> at a different site, the MDH Snelling Office Park.

**2. Steering Committee Report**

- Chair Hanson – background on the Council and the G16.
- Audience introductions.
- Matt Wohlman had 2 handouts for the Council; one on the river tour and a Rochester Post-Bulletin editorial. Matt is replacing Rob Sip on the Council as the MDA representative.
- Follow-up from the August meeting; Chair Hanson will work with the LSOHC; contact with chair.
- Keith, Jen and Mary Reilly met with Office of the Legislative Auditor (OLA) staff Judy Randall and Jim Noble to discuss the audit of the Clean Water Fund, supplant vs. supplement, conflict of interest issues, and accountability issues. There will be a presentation from OLA at a future Council meeting.
- Jen – the Council has a field trip every year. In 2012 it will probably be a Metro tour. The group talked about the Duluth field tour; heard from local partners, had a boat tour, etc.

- Chair Hanson said there will be steering and SSTS committee meetings today following the Council meeting.
- 3. Clean Water Act TMDL requirements, Commissioner Paul Aasen, MPCA**
- Minnesota's Watershed Approach.
  - Clean Water Act (CWA) 101 – passed in the 1970s; result of a 20 year conversation since the late 40s; the burning of the Cuyahoga River in Cleveland lead to the Clean Water Act. Fishable, swimmable - basis for Clean Water Act standards, goals, etc.
  - Clean Water Legacy Act (CWLA 2006) added an implementation plan requirement at the state level. The 2008 Clean Water, Land and Legacy Constitutional Amendment provided the funding source that drove the 2006 CWLA.
  - Wastewater treatment model works for oxygen-depleting pollutants, but may not always work for pollutants that drop to the bottom and stay in sediments (nutrients) or for toxics.
  - Process – monitor and collect data. 40% impairment of waters across state. MPCA is using the watershed approach; citizen monitoring. We need to figure out what citizen monitoring data can be used for regulatory purposes.
  - Data assessment is based on water quality standards, which are numerical expressions of the fishable or swimmable goal. Permit limits are based on water quality standards, which are determined from ambient pollutant levels needed to meet fishable/swimmable goals.
  - Air standards are based on modeled pollutant levels.
  - Impaired waters are those waterbodies that don't meet the fishable/swimmable goals.
  - Non-impaired waters are still subject to nondegradation goals. Process to protect waters that are meeting standards. Anti-degradation rules in progress.
  - Priorities and strategies – deciding what to fix first. Targeted efforts, restoration strategies, TMDLs.

#### Questions:

- Mike McKay – how do you make the trade-off between protection vs. restoration?  
Commissioner Aasen – the decision is often made in other agencies, BWSR, etc., through implementation funds. We need a good public discussion on how to use the funds.
- Steve Pedersen – nondegradation is more policy than funding. It's harder to debate but...  
Commissioner Aasen – one tough interface will be for watersheds/subwatersheds that are meeting standards, but have intense development pressure.
- Implementation actions – wastewater history (point source process) is informative for nonpoint source stakeholders. Find the balance between fixing the problem and the cost to do that; how to manage that.

Voluntary-----Mandatory  
Agriculture, urban runoff, atmospheric deposition-----wastewater, stormwater

- The benefits.

#### Questions:

- Mike – it's smart to look back at what worked and didn't work in the mercury example. Struck by how much didn't work.

- Commissioner Aasen – the only way we can tell what we’re doing is to keep monitoring and assessing. Until the CWF, we weren’t able to do as much as needed. We need to have a feedback loop to see what’s working. Mike – true, also need to implement. Paul – yes.
- Gene Merriam – there’s growing skepticism this process will work. Four steps dependent upon implementation, which is largely dependent upon voluntary efforts. Why should we invest millions of dollars if we don’t know if it’s going to work? Is there any model that shows this will work?
- Commissioner Aasen – yes, the point sources proves this process works. There are mayflies in the Mississippi river in downtown St. Paul – proof of improved water quality.
- Gene – but that wasn’t dependent on voluntary actions. Paul – true, go back to the G16 spending vision. It was mostly about implementation. Baseline \$17 million investment in the first 3 steps (one fifth of the money), the rest is for implementation. We’re making a change in our TMDL process to the watershed approach, targeting implementation.
- Work that Warren Formo and the Discovery Farms are doing.
- Brad Kalk – smaller models of collection/analyzing data - 80% of funding. Over time will that turn into a smaller percentage with more on implementation? Paul – yes, there will be some efficiency over time. We will still need to maintain monitoring cycles.
- Steve P. – when do you initiate public dollars for prevention? In Europe, we’re seeing the precautionary principle – move risk from the public arena to the private arena. Initiator should have to prove the risk level.
- Commissioner Aasen – that conversation has been going on on the chemical side with sustainability, green chemistry. Hard discussion when it’s about land use, local control.
- Senator Pederson – shift in population with new owners of land. 250,000 fewer workers in next 15-20 years. Is that a positive or negative? Paul – mining sector example; the next generation of managers in mining come from environmental experience or they have experience closing mines and understand the need to do things differently from the beginning. Land pressure issue with retirements and more people moving to northern Minnesota.
- Rep. Torkelson – standards are more complicated. Talk about that. Commissioner Aasen – there is a 3 year cycle for [water quality standards](#) (obtaining public comments, revising them as needed). We haven’t met that for all standards. There is a technical process for standards. Rep. Torkelson – talk about how difficult it is to change a standard, i.e. lower the standard. Commissioner Aasen – some assume the standard is the same across the state. We have different standards for different classes of water. We also adjust some standards for the 7 ecoregions across the state. These two adjustments are built into our system. Also, we can ask for a site specific standard. Permit process – we can allow social and economic considerations through the permit process, i.e. wastewater treatment can’t get the mercury in the effluent down to zero. Sulfate standards.
- Louis Smith thanked Commissioner Aasen for all the time he has spent with the Council. Comment - implementation for nonpoint involves a lot of voluntary activity. We need to target implementation efforts that involve voluntary efforts; citizen civic engagement with broader population – not just the same group of people. Also, we need to include other agencies besides MPCA (BWSR, MDA, DNR).

## Break

- Members who came later introduced themselves (Gene, Louis, Victoria).
- Victoria Reinhardt was at a kick-off this morning for Ramsey County's prescription medicine collection. The first one in the metro; only one in metro that is a permanent year round collection. This should be the pharmaceutical industry's responsibility, but it's important for clean water, so county is doing it.

### 4. Concluding targeted implementation work plan topic

- Summary of past Council presentations
- Council discussion and recommendations
- Directions to BOC
- Concluding targeted implementation work plan topic – handout in packet. Targeted implementation – overview of summary on page 1; critical issues: targeting, staffing needed at local level, funding needs, engagement of landowners - sometimes it works, sometimes it doesn't, enforcement of existing regulations. Use this for funding recommendations; for BOC recommendations.
- Are we going to consider the policy issues behind some of these? Keith – what are the policy needs?
- Marilyn Bernhardson has a question about this sentence on the summary page; "Focus should be put on public lands." Where did that come from? Steve Woods – the issue is about problems in public waters that affect private lands, but are not caused by that landowner. Erosion issues that don't belong to any particular land owner. They are the result of past problems or previous landowners.
- Suggested change to the sentence; "Focus on public problems affecting private lands."
- Steve Pedersen – tools, LiDAR; do we now have them so we know how to use them, and do they give us the information we need? We need a response from DNR, PCA, Ag.
- Julie Westerlund (DNR) – we've been collecting LiDAR data. Question of scale and who will do the targeting needs to be done locally. This is reflected on the summary. We can empower locals to implement models, but DNR can't do it statewide. Not sure of the funding availability to customize this tool. Steve W. – CWF funded this tool and now it's available for use by locals. Good operations are using it.
- Rob Sip – there is a targeting brochure that was handed out with all the tools listed.
- Victoria – do you need a motion on this?
- Chair Hanson – we've heard that these tools are ready to be rolled out to a broader set of stakeholders, but there is a need for additional local capacity to implement and further refine the LiDAR data to target implementation on the landscape. Are there other tools we have not addressed or need to address?
- Gene – there are cultural pressures for anti-targeting. Perceived fairness – that everyone needs to get their piece of the pie. Page 12 of the summary; Lake Independence TMDL project couldn't spend funds on targeted areas, so they spent it elsewhere. We need to recognize the cultural phenomenon that runs counter to targeting.
- Warren Formo – education is missing in the summary. Agriculture is different in west and south than in Lake Independence. Scott – need to recognize the diversity of agriculture.



- Keith – is there a policy recommendation that gets at Gene's concern?
- Gene – also looking at agencies; make sure funds are going to targeted areas.
- Victoria – We've talked about the summary as a living document with changes made to this over time. The change made today ("Focus...") – move to accept this.
- Pam Blixt – should we add something about Julie's comment on LiDAR to the targeting tools section on page 1? Bullet #4 is that bullet okay? Julie – yes.
- Louis – is the motion for the summary and the notes attached or policy statement?
- Chair Hanson – I see this document as key points for the write-up for the next BOC budget.
- Louis – so this is an outline of a policy narrative that will be developed.
- Chair Hanson – if this moves forward, you'll see a more detailed recommendation for local capacity. How does that sit with Council members who are Legislators?
- Senator Peterson – the more decisions you can make locally the better.
- Senator Sparks – partnerships are important, the more we can work cooperatively the better.
- Rep. Torkelson – agree with others. Also, we need to be sure CWF dollars are being spent on targeted needs. There is some leeway in agencies to spend funds and combine with local dollars and I support that.
- Keith – re-word the bullet under resources; Money is an important tool.
- Marilyn – local capacity - trying to target at local level. It's difficult to target, not enough staff at local level to do targeting down to subwatershed. Local capacity needs to be increased to target conservation. We need local capacity to meet one on one with producers. Producers don't want to hear that they are the polluters at big meetings or in the newspaper. They think of themselves as stewards of the land.
- Dave B. – how do you define local capacity – as local government? Example – steelhead association - stewards of the land. They planted trees; they were boots on the ground before there were TMDLs. Kate/Craig Wilson - success 30-50%. We had a source of funding but that has been reduced. Now we have to stand in line for LSOHC. It seems more of LSOHC funds are going to agencies. Are we pushing away the enthusiasm for this work?
- Victoria – the discussion didn't include just local government. It also was about collaboration and cooperation. Local government needs to be accountable.
- Steve W. – local capacity is not local government only. NGOs need to work with local government to get on project teams. We need NGOs involved. Funds have to go through government for accountability and transparency reasons.
- Dan Stoddard – ability to transfer funds to DNR. Most DNR Clean Water funds are used to develop tools, help with training, build local technical capacity.
- Gene – several NGOs engaged in activities like that. NGOs are precluded from getting funding directly from BWSR and some others. Sometimes NGOs are unable to generate interest by the LGUs.
- Gary Pedersen – I'm a township officer and we've never been contacted (about involvement in a project). We're missing a lot of people. Victoria – usually communication is done through the associations.
- Keith – summarize - Marilyn's comment – what we are asking the BOC, funding for NGOs is something we should look at. Also address Gene's issue of fairness. Amend summary.

- Victoria – bullet says local delivery system add to bullet....including NGOs.
- Mike – is this our recommendation? Keith – this is our guidance to the BOC. Mike – not going to happen (building up staff at local level). Victoria – this is direction for the BOC. Mike – this is a summary of what we heard. Victoria – statement is we need resources. It's not about willingness to spend funds.
- Warren – is bullet #3 redundant? Victoria - #1 doesn't state what #3 does. Steve P. – call the question. Motion passed with three changes.
- Steve P. – if we start doing targeted implementation, will Legislators see that as legitimate on our part? There may be issues with constituents who don't get funds.
- Rep. Torkelson – program vs. project approach helps to insulate the Council from that.
- Senator Pederson – encouraged by Steve Woods saying BWSR is actively working to get NGOs involved.
- Senator Sparks – seeing these projects in place and working is helpful. We have to keep in mind accountability.
- Chair Hanson – we will have to address Gene's comments about fairness too. We will break for lunch until 12:30 p.m.

## Lunch

### 5. **Accountability and outcomes: regulatory tools**, Agency representatives

- Pam – watershed districts are not included in the list of regulatory tools. Suggest adding Louis Smith to the list of presenters.
- Chair Hanson – we can do that now or we will revisit this topic in December.
- Rebecca Flood, MPCA
- CWA-----pollution sources; waterbody health-----TMDL
- Regulatory tools and TMDLs presentation.

### Questions:

- Gene – how many point sources are there on the Minnesota River upstream of Shakopee? Rebecca - we will find out and let you know. {Follow-up: According to the Minnesota River Dissolved Oxygen TMDL, there are approximately 280 municipal and industrial point source dischargers in the Minnesota River Basin.}
- Rep. Torkelson – how well has trading worked in this example? Rebecca – trade phosphorus credits between municipalities based on overall load allowed. It has worked well looking at phosphorus reductions. Rep. Torkelson – has this process been challenged? Rebecca – I can't recall if a contested case hearing was requested. I don't think so.
- All municipal permits? Yes, with a few industrial permits. Facility has to meet its permit limits and go beyond that in order to use that in trade. This is point to point trading, not nonpoint to point.
- Does the facility they are trading with have to be upstream? Rebecca –how much phosphorus is traded, whether 1 to 1 or 1 to 15, etc., depends on the location of the facility.
- Point to nonpoint trading is a very time consuming process.
- How do you develop the load allocations? Rebecca – load allocations are not for individual landowners but are aggregated. Whose responsibility is it to see that load allocations are

being achieved? Rebecca – some of it may be BWSR's, some federal responsibility for programs they fund.

#### **DNR – Dale Homuth, Rob Collette, Julie Westerlund**

- Dale – Shoreland rules - required to be adopted by every county except Hennepin and Ramsey. Dale gave an overview of the shoreland rules (handout in packet). Public water permits/public ditch buffers.
- How is the public water course defined? Dale gave the definition. Public waters are mapped on the [Public Waters Inventory maps](#).
- Why are Hennepin and Ramsey Counties not included? In Hennepin and Ramsey the counties don't do zoning, the cities do.
- Mike – six SE Minnesota counties are in compliance and are enforcing the shoreland rules. Moving up the Minnesota River.
- Rob Collette; hydrologist in New Ulm – we're seeing more counties enforcing rules, some lawsuits. Renville Co. SWCD is working to help bring the county into compliance.
- County ditches are not included in the shoreland rules; other areas where there may be a gap. There are local communities where they are more restrictive.
- Agreement with agencies that buffers are great, but there is still an issue with hydrology. Volumes of water that blow out areas.
- Victoria – because authority is given to cities in Ramsey County, the county is not allowed to regulate that. Ramsey County has to go to the municipality to get a permit.
- Pam – withdrawal permits should be added to the list.
- Gene – 50 ft. buffer – model ordinance (for zoning?), but not a statewide regulation. Grandfathered nonconforming uses. Dale – wording was changed to be more vague. Some ordinances are written to say you can't plow the buffer.
- Rob – if we find them in violation, they may be unable to get BWSR funds. We don't want to mandate that it goes into the program or do any takings. We just want them to not mow it.
- Does DNR regulate this? Rob – administered locally through zoning ordinances.
- What is the compliance rate? Mike – less than 20% are out of compliance. Rob – it depends on where you are in the state. It's different throughout the state. Renville County has very high compliance. Marilyn – in Redwood County, the county is not pushing it. They see it as an unfunded mandate.
- Gary – Olmstead County, Planning Department walked the land and found most in compliance. They sent letters and got all but 3-4 to come into compliance. But what about cities not in compliance?
- Victoria – unfunded mandates are a real issues. One size fits all – hard to get some deviation from that. Maybe look at other options to achieve the goal. Build in some flexibility.
- Rob – option to include soil management plan, but SWCDs said they don't have the capacity to do that.
- Question on rip rap – where does it fall in shoreland rules, public water permit. Status of shoreland rules? Dale – shoreland rules are now dead. They need to be re-authorized by the Legislature.

#### **Dan Stoddard, MDA – Pesticides – handout**

- Stakeholder Advisory Groups
- Helpful to have interaction with other agencies.
- Education is huge part of implementation/prevention.
- Common detection is first step toward regulation under the Groundwater Protection Act.
- 2 impairments in Minnesota for registered pesticides – both are for acetochlor in south central Minnesota. Pre-TMDL response plans allowed because impairments were old.
- Agronomists, retailers – important. Amount of pesticide in water dependent on rainfall amounts after application.
- Metalochlor increased the year after everyone was told acetochlor was high. Maybe because everyone switched from acetochlor to metalochlor.
- Fertilizer
- Lessons from SWPA Nitrate Reduction
- Beyond BMPs

#### Questions:

- Gene – MDA registers each pesticide.....p. 1 third slide, explain that. Dan – product of concern – we may focus on that product if there's a reason for concern. i.e. may need more trainings and certification for the product. Very resource intensive.
- Pam – can't regulate fertilizer in surface water. Is there a need for us to regulate for surface water? Dan – that's a big policy question. We can regulate where surface water and groundwater interact.
- Gary – as a farmer, I can buy pesticides without a license. Dan – you only need a license for restricted use pesticides or if you will be applying the pesticides for others.
- Steve W. – Wetland Conservation Act (WCA) is meant to fit alongside other programs. Local governments issue permits, do inspections, do enforcement with DNR enforcement, partially funded mandate. BWSR Board is appellate; can file appeals with the BWSR Board.
- Chair Hanson - how are the grants handled? Steve W. – NRBG; block grants for various grant programs. They have to report into the computer reporting system called eLINK. We check a subset of that to see if the match is met. Field staff oversee how the program is working; subset is looked at more closely. Recently started to look more at problem areas.
- Rep. Torkelson – mitigation. Steve W. – WCA doesn't prohibit impacting a wetland. No Net Loss - avoid wetland impact, minimize, mitigate. Mitigation provided, follow up monitoring, or purchase mitigations from wetland bank.
- Pam – de minimis doesn't apply just once, so eventually it could get totally filled in.
- Steve W. – small impacts; de minimis {definition: so small or minimal in difference that it does not matter or the law does not take it into consideration.}
- Dave Weirens – 20 sq. ft. – 10,000 sq. ft. depending on where you are in the state.
- A given wetland can be filled in over time using de minimis. Dave Weirens – de minimis can be used only for a certain percent of the wetland. First come first served issues.
- Ability to oversee WCA. Steve W. – BWSR has the ability to pull back authority. Pine SWCD wants to suspend WCA over winter. BWSR notified Pine County to take over. Could have a wetland moratorium – can suspend all work impacting wetlands.
- What about MNDOT? MNDOT is the LGU for WCA.

- Is there follow-up by BWSR on grants? Steve W. – work plan with deliverables, review expenditures for eligibility, meet time frames, deliverables. All reviewed actively throughout the life of the grant.
- Chair Hanson asked Marilyn about QA/QC for grants. Marilyn – work plan is put into eLINK; expenditures and final report are all in eLINK. Is there a cross check on the quality of the work produced? Steve W. – there is a technical design manual; signed off by professional engineers. Financial and administrative checks. Marilyn – report goes into eLINK on estimated outcomes. Spot checks by local government; they do an as built and spot check every 3-5 years.
- Rep. Eken – question on the wetland bank; can you go outside the watershed?
- Steve W. – yes, but we prefer to see it in the same area. There are some provisions to go outside the area in certain parts of the state. If you go out of some areas, you need to replace more.

**6. October meeting agenda / adjournment; Chair Hanson**

- Pam – add WDs/SWCDs to regulatory controls; what regulatory controls the watershed districts have. Marilyn – also include counties. Victoria – invite Annalee Garletz from AMC for the counties.
- Chair Hanson – add to the October agenda.
- Incentives for implementation. Also Gene's issue of fairness.
- Is the outcome for the agenda item to develop policy? Keith – that's in the 1:30-2:30 agenda item. The 10:45 spot is intended to compare voluntary vs. regulatory activity. What are the steps to improve implementation? Presentations from agencies are a jumping off point. What can we do on a continuum from voluntary to regulatory to improve implementation? Then we'd have a wrap up session.
- Mike – ask the agencies to give us their priorities. Chair Hanson – today they told us what they are doing. Those are their priorities. Process to get better implementation.
- Scott Hoesle can't make the Wednesday BWSR meeting in Owatonna. Is there anyone else on the Council who can make it to the meeting? Steve will ask BWSR staff to contact Mark Knoff to see if he can make it.
- Chair Hanson – there's a call for a BOC meeting on Friday 9-11 a.m.
- Adjourn.

**2:30-4:00 p.m. SSTS ad hoc committee meeting**

**2:30-3:30 p.m. Council Steering Team**

***Next Meeting: October 17, 2011***

**Clean Water Council Meeting Agenda**  
**Monday, October 17, 2011**  
**9:00 a.m. – 2:30 p.m.**  
**Freeman Building, Room B145**  
**625 Robert Street North, St. Paul**

<b>9:00-9:15</b>	<b>Convene Full Council</b> <ul style="list-style-type: none"><li>• Comments/additions to the agenda</li><li>• Approve 9/19/11 meeting minutes</li><li>• Council introductions and updates</li></ul>	
<b>9:15-9:30</b>	<b>Steering Committee Report</b>	<b>Information item</b>
<b>9:30-10:45</b>	<b>Regulatory tools: local units of government</b> Cities: Craig Johnson, LMC Counties: Annalee Garletz, AMC Watershed districts: Louis Smith	<b>Information item</b>
<b>10:45-11:00</b>	<b>Break</b>	
<b>11:00-12:00</b>	<b>Interagency Measures and Outcomes reporting</b> Suzanne Hanson, MPCA and Andy Holdsworth, DNR	<b>Information item</b>
<b>12:00-12:30</b>	<b>Lunch</b>	
<b>12:30-1:00</b>	<b>Minnesota's Legacy website</b> Greg Hubinger and Sally Olson, Legislative Coordinating Commission	<b>Information item</b>
<b>1:00-2:15</b>	<b>Ideas to accelerate nonpoint source implementation</b> Concept examples for Council discussion	<b>Discussion item</b>
<b>2:15-2:30</b>	<b>November meeting agenda / adjournment</b>	

*2:30~3:30 Council Steering Team*

*2:30-4:30 SSTS ad hoc committee meeting*

*Next Meeting: November 21, 2011*

**Clean Water Council Meeting Minutes**  
**Monday, October 17, 2011**  
**9:00 a.m. – 2:30 p.m.**  
**Freeman Building, Room B145**  
**625 Robert Street North, St. Paul**

**Council members present:** Dave Bennett, Marilyn Bernhardson, Tannie Eshenaur (for Linda Bruemmer), Warren Formo, Keith Hanson, John Harren, Scott Hoese, Mark Knoff, Dave Leuthe, Mike McKay, Gene Merriam, Gary Pedersen, Gaylen Reetz, Victoria Reinhardt, Todd Renville, Sandy Rummel, Louis Smith, Dan Sparks, Deb Swackhamer, Paul Torkelson, Matthew Wohlman, Steve Woods.

**Absent:** Pam Blixt, Linda Bruemmer, Kent Eken, Bradley Kalk, Steve Pedersen, John Pederson.

**1. Convene Full Council**

- Comments/additions to the agenda
  - Approve 9/19/11 meeting minutes
  - Council introductions and updates
- Council convenes. Chair Hanson asked for comments on the agenda. There were none. Motion to accept the September 19th meeting minutes passed. Council members introduced themselves.
- Scott Hoese finished harvesting corn last night. He still has the soybeans to do. It's been a dry year so the corn is drier. Louis Smith is still growing tomatoes, broccoli, but no more green beans. Dave Leuthe said we're in a drought now.
- Steve Woods – next week is the BWSR Academy for county, city, SWCD staff. 3 day training. Request for proposal (RFP) for FY12 Clean Water Fund (CWF) grants is closed. We received \$40 million in requests for projects and \$16 million is available. 248 proposals were received with good distribution around the state and by type of government. Decisions will be made by the BWSR Board at their December meeting.
- Mike McKay – we held a Lake Pepin event to bring together upstream and downstream stakeholders. Matt Wohlman – Governor Dayton signed the Legacy bill which included an appropriation for MDA for research to investigate the relationship of agriculture drainage systems and impaired waters. An RFP process will be announced. Recommendations will be based on an interagency research team.
- Dave Bennett – Craig Wilson, LSFA received a grant from LSOHC. The Knife River advocacy group will work with St. Louis SWCD to work with private landowners.
- Marilyn Bernhardson – the SWCD held a two day environmental fair with 5<sup>th</sup> and 6<sup>th</sup> graders. It was the 20<sup>th</sup> anniversary of the event (news in AgriNews). Hoping to find a way to fund this in the future so we can continue to educate kids on soil and water.

**2. Steering Committee Report**

- Jen Maleitzke – applications are in Governor's office for the Council's vacancy for a member representing rural communities. The Office of Legislative Auditor (OLA) did a programmatic and financial audit of the Clean Water Fund (CWF). They hope to have a draft report by the

end of the month. Keith will be able to review it. They will come to the November Council meeting to review their findings. The December Council meeting will be on December 12<sup>th</sup> in the MPCA Board Room. BOC meeting – the Targeted Implementation section of the Council's work plan is done; now working on Outcomes and Accountability. There is still one spot available on the BOC. If anyone is interested, let Jen know.

- Victoria Reinhardt – SSTS Ad Hoc Committee is in the middle of three meetings. The second meeting is today. The first meeting was about background information. We hope to have something for the full Council in January.

### **3. Regulatory tools: local units of government**

- Cities: Craig Johnson, LMC
- Counties: Annalee Garletz, AMC
- Watershed districts: Louis Smith
- Annalee described what counties, cities and local government are doing. MN Statutes (394, 462) give authority to LGUs to do planning and zoning. Counties do local water planning for surface and groundwater. Rural counties and cities are the authority for shoreland ordinances. Counties are delegated for feedlot ordinances, septic. LGUs are the designated authority for the Wetland Conservation Act.

#### Questions:

- Talk about enforcement of statutory requirements. Developing, implementing, enforcement. If something is not in compliance, it's up to local government to go out and enforce. Annalee – there are a number of ways for LGUs to bring into compliance. Point of sale inspections are done; opportunity for LGUs to look at other things.
- How many counties are delegated for feedlots? 55. Counties not delegated are under the MPCA. Marilyn – cities and counties and townships can be more restrictive than agencies, but not less.
- Victoria – if LGUs opt in to something, it comes with set of rules and regulations and some funding. Annalee – feedlots, wind tower siting, beverage, lodging - counties can opt in. It provides a service for residents; provides a local contact. Craig – outside the metro, cities and counties can opt in on building code enforcement. Victoria – funding is a primary issue.
- Craig – most of what applies to counties, applies to cities. Cities have their own comprehensive plans. There was a change in how variances work during the last Legislative session based on a court case. Change in law so variances are tied to comprehensive plans and are at least in harmony with the ordinance.
- Craig – LGUs have a lot of authority. They have to balance things – how to move forward as a community and protect the rights of individuals. There already is a tremendous amount of regulatory pressure on local governments for septic issues, stormwater MS4 permits, groundwater use/appropriation, drinking water requirements (state and federal), wellhead protection, wastewater, solid waste. In statute, stormwater, wastewater and drinking water are services cities provide.
- More programs, more requirements, all getting more complicated to administer. How well do comprehensive plans work in integrating these requirements? Craig – comprehensive



plans get flavored by the politics of the community. They are meant to reflect the needs of the community, so it varies by community.

- Annalee – water and land environmental protection outcomes are secondary in comprehensive plans. Water plans address those issues. They should be reflected in comprehensive plans.
- Do you see capacity problems? Craig/Annalee – yes. Craig – it's stunning how bad it is for communities trying to run programs with limited staff. Some are looking at using city council members to help out occasionally. Legislative changes in property value taxes will have a big impact. Annalee – counties have to do a lot of triage on their programs. It's hard for limited staff to cover many programs and large areas. They can't always physically go out to see areas with problems. Craig – some cities no longer send someone out if a non property owner has a complaint.
- How much are stormwater permits really addressing local issues? Craig – that's a capacity issue. TMDLs are having an effect on stormwater permits. They need to be more specific. Communities can try and show the MPCA how what they are doing already meets requirements and try to get credit for what they are doing.
- How do we as the Clean Water Council try to get more dollars to LGUs to do the things required by the state? Craig – CWC budget recommendations for how CWF dollars are spent are critical and help keep the focus on getting the money on the ground. Some of the recommendations are for doing TMDLs, which is important. The rest focuses on getting work done on the ground. The way you're doing it is great and it's hard to quantify.
- There's a disconnect with mandates coming down and capacity is going away. Does the money we're recommending target that piece? Annalee – it's allowing LGUs to do more than they would have been able to do. We like to see funds go to programs, rather than projects. What assurances do we have that the money is getting to your priorities? Have we bought into your priorities? Craig – yes, because LGUs are the only ones who can deliver on those priorities. It's hard to measure results, it takes time, and we need water quality data to show that it's working. We can't get up to full speed until have more data. State agencies have said what they want, LGUs have said (what they need), and it's time to see if it works.
- Gaylen – LGUs - there is a huge capacity need for nonpoint. Cities have wastewater and stormwater responsibilities, which is the regulated segment. If we can't show progress on the nonpoint side, there is concern about further requirements on point sources and the tremendous costs for cities. What's the balance in the capacity to move forward? Craig – MPCA has to show EPA that they are making progress. Only way to do that now is to use the permitted community. The concern of the permitted community is that nonpoint is not doing as much because it's voluntary. We need to do a better job to target and drive actual land use changes. Example of a stormwater permit where the regulated community's contribution is less than 5% and non-regulated is 95%. Huge cost to address 5% of problems (\$843 million). It's not economically smart to focus that much money on 5% of the problem.
- Warren - BMP effectiveness, priorities, targeting of BMPs is what we struggle with. What if it doesn't work? We need more data. Craig – we need more specifics about which BMP works best in each area. Warren – how do you respond if it doesn't work? If you don't get

the reductions you're looking for? Craig - in cities it will likely mean a change in the stormwater permit to fix that.

- Annalee – counties have already done a lot of work to determine where the work needs to be done. Caution you not to make reporting too complex or too different for various programs or counties won't apply for grants (because of limited staff).
- Dave Bennett – question on Craig's example of stormwater permit allocations. Craig – that's a good reason to have trading. We don't have a functioning trading system yet. MPCA is working on developing system, but it's very complicated. There is a problem with excess nitrogen in the Gulf of Mexico. Minnesota is 1% of the nitrogen problem. It would make sense for Iowa to do some nitrogen trading to get work done in Minnesota, for example.
- Deb Swackhamer – the state of Minnesota contributes 7% of the nitrate that goes to the Gulf of Mexico. The Minnesota River is 80% of the 7%.
- **Louis Smith, Watershed Districts (WDs)** – Regulatory tools to deal with point and nonpoint. Handout – WDs cover about one third of the state. They exist because people locally wanted a special district to deal with water issues. Minnesota adopted watershed district authority in 1955. WDs have taxing authority. WDs are unique to Minnesota. WDs in general have adopted rules that overlay city or county authority. Gene Merriam sponsored legislation for water planning in the metro area in 1982. There are watershed organizations in the 7-county metro; WDs or WMOs (joint powers/cities). In general, WDs do a lot more regulating. Regulate the impact of land uses on water uses. WDs can develop rules and municipalities can adopt those rules. Most leave it to WDs. Relationship and tension between WDs and municipalities, between land uses and water uses. Best when they work together to develop rules and ordinances that work for both land and water uses. It is a complex process. Example, Minnehaha Creek Watershed District has several TMDLs. The watershed plan took account of the TMDLs and embraced the requirements of the TMDLs. They set a nondegradation standard for the watershed – no phosphorus from new development using volume control. Balance between what can be obtained from land use and what needs to be controlled. Brownie Lake TMDL achieved the TMDL reductions more as a result of partnerships with voluntary actions. Opportunities to achieve reductions through redevelopment and development that are not as costly.
- Craig – [League of Minnesota Cities web site](http://www.lmc.org) (LMC.org); Handbook for Cities, Chapter 14 is on comprehensive planning.

#### Questions:

- How far have watershed district plans evolved to deal with the challenges today of clean water? Louis – they do vary. Metro plans are generally better at addressing current issues. Steve W. – some districts were established for flood control issues and they want to continue with that, but most have gotten in the game.
- Chair Hanson – all three presenters have talked about TMDLs. How are we going to maintain the existing water quality? Louis – nondegradation standard needs to be embraced. Volume control for new development/redevelopment. Chair Hanson – is it a focus in management plans to address protection? Steve W. – most plans are addressing protection. With the 10 year monitoring and assessment plan, the statewide data is being

assessed and used by plans and they can consider protection. Craig – a base level of protection already exists in the regulatory requirements we have to meet.

- How do public drainage authorities integrate into this? Annalee - not certain of the level water plans deal with drainage. It all depends on what's going on. Louis – the public drainage authority is set up to achieve the drainage and assess property owners. We try to bring the watershed/subwatershed approach to drainage, and integrate planning to achieve multiple benefits. Up to now we haven't expected drainage systems to deal with water quality issues. Craig - municipalities have to deal with drainage. Any new development in a city has to not affect water quality in any way. We don't have that same expectation in a rural setting. We have to figure out how to address this. Warren – a lot of drainage areas drain a mixture of land uses, which makes it complicated. Dave L. – there's still a lot of drainage going on. Craig – rural drainage is now where we were 30 years ago with stormwater. It's all about getting water off the land. Mike – what is the percent of the pollutant load from rural drainage vs. stormwater, and the cost? Craig – MPCA can best answer that. The last budget cycle the mix of money was about \$2 for nonpoint, \$1 for point sources (to cities).
- Does the money match up with the level of the problem for nitrates? Gaylen – total suspended solids (TSS) report that will be published soon says the major source is from rural contributions; 60% from ravines, erosion. WWTP, stormwater are a small contribution. For phosphorus, agriculture is a large contributor. The point sources have reduced already. Nitrates and bacteria – more equal contributions (from point and nonpoint sources). Mike – it would be nice to have a scorecard. Shift resources to bigger sources of pollution, away from mandates. Gaylen – we can't continue to allocate money project by project. When we have the 81 watershed plans, we will be better able to determine where the loads are and focus on the priorities. Craig – urban areas are usually much more expensive to do. The problem is even though it's expensive it's mandated. It makes it tricky to shift the focus.

## Break

### 4. Interagency Measures and Outcomes reporting, Suzanne Hanson, MPCA and Andy Holdsworth, DNR

- Presentation slides; Clean Water, Land and Legacy Amendment
  - Legacy Amendment is a big investment.
  - The big question: How is it being spent and what is being accomplished?
- Accountability to results, develop a framework. Minnesota is the only state developing a framework. EPA is pleased with the work. 36 measures. This is focused on the clean water funds. It's not about all the money coming to the state for clean water.
- Andy – hierarchy of measures (triangle) seven criteria to rank; measures that come closest to answering the common questions in amendment that passed (clean water). Five common questions for Clean Water Performance Report: 2012.
- Dave B. – question on the bullet; how much money is being spent on the ground. Is there any way to micromanage that? Is there any way to break down costs to the project; capitol costs, administrative costs, etc.? Suzanne – we are working on getting that kind of data and roll it up into the process, to the higher level measures. Dave B. – we need to know if we are

- Mike – how do you prioritize and does the spending match the priorities? Suzanne – we have to tell a story about the context. It has to be part of the story we roll out. The communication team is looking at that. Sandy – what I want to know is what difference it makes to spend the money. Andy – there will be measures fact sheets.
- Question about the pyramid; do we need all those measures? Suzanne – the base measures are not included in the report, but they may be important measures for an agency or program. Gaylen – more detailed measures that may be critical in the future to answer questions. They will help answer questions brought up here today, and provide data for future questions. Andy – measure what we value, some say we value what we measure.
- Chair Hanson – what are we doing with measures #4 and 5? For example, the PCB method of detection level will change, so there will be many more polluted waters even though there's not more PCBs. Mercury makes sense for waters in a TMDL – already in an implementation plan. Deb reinforces what Keith is saying; the three bullets under measures #4 and 5 don't address the two measures the same way the bullets do for the other measures.

#### **Clean Water Performance Report: 2012**

##### **4. Can we eat fish caught in MN lakes?**

- Cumulative number of water bodies sampled annually for fish contaminant concentrations
- Still under development

##### **5. How are emerging issues being addressed?**

- Number of new health-based guidance values for contaminants of emerging concern
- Andy – helped address relevant questions. CWF won't have much of an effect on mercury contamination for example, but the trend is important, also it is regional. Minnesota has a lot of data on fish consumption. Much more than other states. (Canada also has a lot of data.) Develop a trend measure for the 40 years of data.
- Chair Hanson – we already have information on the number of impairments. We also need to focus on protection and that's not up there. Suzanne – it's hard to measure protection. We may add case stories for that.
- Deb – those three bullets are performance measures, not outcome measures. They will cause confusion if they are in this report.
- Question on including mercury in the measures, the Council didn't have anything to do with the mercury TMDL. Also it's a global issue. Chair Hanson – for PCBs, the problems are based on past practices. We can't do anything about it.
- Louis – report how much and where the money is spent and what are the results. But impairments will go up as more data collected. Will the public get the message about why impairments are going up? Andy – we are aware of that and it will be important in our messaging.

- How long does it take from time the waterbody is listed until it's delisted? That's something the public would want to know. Suzanne – we don't have a lot of trend data now, but we will include that in the stories. Steve W. – maybe the question is, is the trend going in the right direction? Delistings are more important for EPA reporting. Suzanne – fact sheets will be developed. There's lots of information in the more detailed work the group has done.
- Gaylen – the Measures and Outcomes presentation slide with the wastewater treatment plant (WWTP) trends for phosphorus is something we've been working on for many years. It tells the story that significant progress has been made to reduce phosphorus loads from WWTPs. We hope to be able to have trends like this for nonpoint pollutants in 10 years.
- There is a tension between spending funds on collecting more data and work on the ground.
- Deb – there are not very many outcome measures. They were very carefully thought through. The biggest problem will be communicating the measures. I stand by and defend the measures very strongly. Suzanne – we may need to develop some communication for some of these points first before we roll this report out. Keith – this is the type of information we need.

## Lunch

- Vice Chair Hoese – Jen will introduce our next guest. This is part of the accountability and outcomes portion of work plan, the Minnesota Legacy website.
- 5. **Minnesota's Legacy website Information item**, Greg Hubinger and Sally Olson, Legislative Coordinating Commission (LCC), [Clean Water Fund, Minnesota's Legacy](#)
- Greg Hubinger – the LCC is a joint House-Senate committee given the charge to develop the legacy website. Staff are working with an advisory group to develop the site. The website currently has information on about 1300 projects. This will increase over the years. Develop a tool to accommodate various agency databases. The site went live in January. Provisions were added in this year's legislation to increase the amount of project information on the site (handout). No appropriations for staffing the website.
- Sally Olson shows how the web site works. All legacy projects funded to date are listed. There are various search functions.
- Do you reconcile the total projects with the total appropriations? Greg – they get close but don't add up; don't include agency administration costs. Many projects are multi-year projects. We're still working on how to report and track those expenditures.
- Any statistics on usage of site? Sally – pretty good, but it's not advertised a lot. Steve W. – important to pay attention to who uses what to see if this kind of reporting is useful.
- MPCA web sites have clear links to this site. Rep. Torkelson – are other agencies coordinating with this? Greg – we have good cooperation with the agencies. Data is structured so the data is put in by agencies. Do projects always stay on there or do they come off? Greg – we're trying to figure out how to deal with old data. Projects listed by fiscal year shows the amount available for that fiscal year. Not sure how to deal with longer term monitoring funds. The website shows projects funded with the four legacy funds and the Environment and Natural Resources Trust fund.

## 6. Ideas to accelerate nonpoint source implementation

- Concept examples for Council discussion
- Handout; break into 2 groups. Jen goes over the process. Discuss the ideas in two separate groups, then come together in one group and compare notes.
- **Scott Hoese's group:** Dave Bennett, John Harren, Scott Hoese, Mark Knoff, Mike McKay, Gene Merriam, Gary Pedersen, Victoria Reinhardt, Paul Torkelson, Matthew Wohlman.

For Council discussion:

**How can the adoption of practices identified as necessary to improve water quality from nonpoint sources of pollution be accelerated?** Prioritize the top five ideas to better accelerate nonpoint source implementation from below or other new ideas can be generated by members.

### Ideas for discussion

1. Evaluate effectiveness of WMOs/WDs in metro area.
2. Measure current BMP adoption as a necessary first step for any decision making.
3. Seek better enforcement of existing regulations.
4. Provide funding for staff to work with landowners (either private, public or nonprofit).
5. Extend grant periods to better retain staff, support ongoing relationship with landowner.
6. Keep the adoption of practices as voluntary – but make disclosure of practices mandatory.
7. Pick a date to begin dialogue related to mandatory approaches if voluntary programs don't produce results.
8. Require water retention within watersheds: reestablish wetlands and create water retention in riparian corridors to reduce downstream flows.
9. Create Agricultural Management Areas (AMAs) to meet the agricultural sector pollutant load reduction allocated by the watersheds TMDL.
10. Establish an agricultural sustainable water certification program.
11. Shift focus of Clean Water Implementation Funds from cost share for private lands to “public problems” -- bluff and bank erosion.
12. Make property taxes reflect land use choices—higher taxes for contributing pollution and lower taxes for having BMPs in place.
13. Producers agree to develop and execute a conservation plan that addresses water quality issues on the operation, which includes a BMP implementation schedule that meets the objectives of state water quality programs (including TMDLs or other watershed implementation plans).
14. Establish special purpose districts with taxing authority.
15. Promote and fund widespread on-farm demonstrations of BMPs.
16. Provide financial support to counties to develop agricultural advisory committees of local farmers and farm groups to provide input on non-point water plans.
17. Work with existing ag technical resources (Certified Crop Advisors (CCAs) and Technical Service Providers (TSPs)) to enhance their environmental skills and to develop a water quality/environmental component that could be incorporated into consultations.
18. Create an economically viable market for environmentally friendly cropping systems in targeted high risk areas on the land.

### Discussion:

- Vice Chair Hoese read the list of ideas. Are there any we want to throw out or are not as high a priority? Victoria – it's more about what we want to advance. Explain the last bullet (#18). Matt – it's about making crops more economically viable. Can we do that? Funding for subsidies.
- The higher taxes one (idea #12) is ridiculous. It's like the Green Acres program. It's something that's not going to work. Incentives for farm programs – continue that. Who will measure contributing pollution?
- #13 – this is already going on. Scott – if we adopt this everyone will have to do it. Make it mandatory? It's hard to do that – each farm is different. You would need a BMP assessor like a tax assessor. Who would approve the plan? #13 Producers – change to landowners. Add incentivize. John Harren - informing landowners of the importance of BMPs. Scott – haven't we already done this with CRP, other programs?
- Mike - #8 – the practical issue is to slow down the flow of water. Incentivize, invest in technology for that. One of my top priorities. Target flows. Rep. Torkelson – add the word temporary in #8. Targeting – finding spots on the landscape where this is reasonable. John H. – cities are required to do this. Mike – targeting really is about agriculture.
- #8 re-establish wetlands – what does that mean? Remove re-establish wetlands. Add rate. Mike - incentivize and require temporary water retention within watersheds to reduce downstream flow rates.
- Question; is this about funding or policy? These are ideas for discussion. The problem is that the private sector is required to meet new air and water regulations, but agriculture is not. We understand the problems with the market. Gary – farmers can't set their own prices.
- Dave B. – only works if we do it on national basis. Scott – we are the headwaters for 3 major watersheds and we want it to be cleaner for those downstream. Rep. Torkelson – it's hard to know what works, what is cost effective for nonpoint. It's not as easy as it is for point source.
- Scott – opportunity to get new ideas for things that work. Mark – the goal is clean water. You can do it two ways, mandatory or voluntary. Even if it's mandatory, it take years to see results. Voluntary – all based on relationship with landowners. Accelerate by using existing groups to work with landowners.
- Idea #3 - we already have two laws; 50 ft. setback, 16 ft. for ditches. If we were in total compliance with these laws in the Minnesota River Basin, that would deal with one third of the sediment problem in the river. Six counties in SE MN figured out who is in compliance and who isn't. They're taking the technology up the Minnesota River Basin. Many come into compliance by just showing them the problem. Dave B. - #3 is the strongest idea.
- #4 add.....for enforcement of existing regulation, education and implementation (either....). Scott - programs for this are always underfunded.
- Matt – how can we target? Incentivize farmers. The best way is through some economic incentive – subsidy or other economic incentive. For example, marketing of sustainable farm products. Dave B. - how much of the market is organic? About 4%.

- Gene – private sector certification – biggest incentive. General Mills has someone in charge of sustainability. Gary – bigger picture work with agriculture owners incorporating their own farm into the plan. Scott – the presenters we had last year from Iowa created their own plan. Gary – it puts pressure on those who are not involved. Rep. Torkelson – that fits in with his suggested bullet on water planning. Gary – for example, 15 farms bordering a river would create a conservation plan for that river or subwatershed. Matt – if you meet a certification level, (there will be some advantage). Some have concerns with sustainable certification for farms.

The two groups came back together.

**Marilyn's group** categorized the list of ideas into these top five concepts (numbers in parenthesis are from the overall list of ideas above);

- A. Help landowner (3, 4, 5, 15, 17 18)
- B. Promote voluntary approach with BMPs (2, 6, 10, 12, 15, 18 19)
- C. Develop mechanism for local sector, implementation, ex. AMAs (8, 9, 13, 14, 16)
- D. Develop regulatory approach (7)
- E. Use CWF funds for cumulative (transferred) issues, ex. Ravines (11)

#### **Top 5 ideas from Scott's group;**

1. **Combine #3 and 4** - Provide funding for staff to work with landowners for enforcement of existing regulation, education and implementation (either private, public or nonprofit).
2. **#8 revised** - Incentivize/require temporary water retention within watersheds to reduce rate of downstream flows.
3. **#10** - Establish an agricultural sustainable water certification program.
4. **#11** - Shift focus of Clean Water Implementation funds from cost share for private lands to "public problems" – bluff and bank erosion.
5. New - Making our water planning process valuable. (Paul T). Add Gary's idea for conservation farm planning at the subwatershed level.

#### Discussion:

- The ideas in the list are not all equal; apples and oranges. This is a brainstorming list. So we grouped them together. Big ideas are more important than specifics.
- We're here to promote this by accelerating; get more dollars on the ground and get there faster. More dollars are a finite resource. If we spend more on these things, we spend less on something else. Put a percentage on the ideas. That's one way to deal with this.
- Do we go on this path or a new path? Gaylen – voluntary or mandatory is a continuum not a choice. What's new is the space in between. Warren – education is key. We have to educate. Voluntary is largely working. Victoria – help landowners; ideas for nonpoint source implementation; add specifics. There is a way to blend these two lists.
- Importance of civic engagement. Most expensive thing is to wait until the waters are impaired, and then retrofit to fix the problem. It's better to make adjustments beforehand.
- Dave L. – we need new concepts about A and B, and we need to develop C. Sandy – genesis of this is at the local level. The two lists are not that far apart.



- There are many parts of the idea bullets that I don't agree with and would want to clean up. Jen – these are ideas. This goes to the BOC for them to make recommendations.

**7. November meeting agenda / adjournment**

- Vice Chair Hoese reviewed next month's agenda.
- Jen - a summary of the discussion of accountability and outcomes will be prepared.
- Adjourned.

**2:30~4:00 p.m. SSTS ad hoc committee meeting**

**2:30~3:30 p.m. Council Steering Team**

***Next Meeting: November 21, 2011***

**Clean Water Council Meeting Agenda**  
**Monday, November 21, 2011**  
**9:00 a.m. – 2:30 p.m.**  
**Freeman Building, Room B145**  
**625 Robert Street North, St. Paul**

<b>9:00-9:15</b>	<b>Convene Full Council</b> <ul style="list-style-type: none"><li>• Comments/additions to the agenda</li><li>• Approve 10/17/11 meeting minutes</li><li>• Council introductions and updates</li></ul>	
<b>9:15-9:30</b>	<b>Steering Committee Report</b>	<b>Information item</b>
<b>9:30-10:00</b>	<b>Water governance study</b> John Linc Stine, MPCA	<b>Information item</b>
<b>10:00-10:30</b>	<b>Review of nonpoint acceleration ideas</b>	<b>Information item</b>
<b>10:30-10:45</b>	<b>Break</b>	
<b>10:45-11:45</b>	<b>Council discussion: concluding accountability and outcomes</b> Council recommendations, directions to BOC	<b>Information item</b>
<b>11:45-12:15</b>	<b>Lunch</b>	
<b>12:15-1:45</b>	<b>Introduction to Groundwater/Drinking water work plan topic</b> Interagency Team members: Jason Moeckel, DNR Glenn Skuta, MPCA, Dan Stoddard, MDA <ul style="list-style-type: none"><li>• Check in on work plan</li></ul>	<b>Information item</b>
<b>1:45-2:00</b>	<b>December meeting agenda / adjournment</b>	

***2:00~2:30 Council Steering Team***

***2:00~4:00 SSTs ad hoc committee meeting***

***Next Meeting: December 12, 2011***  
***Location: MPCA Board Room***



- What does long term mean? It's already been long term for some. Dave L. – 3 years for the permit. The Legislature gave them 5 years.
- Sen. Peterson – Senator Bakk sponsored the legislation. The goal is to retain jobs for business (LMC). The golf course is already using water from Lake Superior, but getting water up the ski hill is more difficult. LMC competes with Giants Ridge which is nonprofit, state-supported.
- Dave B. – they've already had 10 years.
- Suggestion was made that the Council write a resolution to support DNR - not sure if it's appropriate to do that.
- Louis Smith - impaired waters; the relationship between water quality and quantity may provide a link to this. Also, the Council's charge over groundwater may also provide a reason for our input.
- Scott - about a mile of pipeline would need to be built to get to Lake Superior. Concern that other groups might come to the Council asking for a resolution. Mike – some concerns, but it's worth consideration as Louis suggested.
- Dave B. – the underlying issue is people want permits to be enforced. This situation has dragged on too long and support for a private industry has gone on too long. Did LMC even support Poplar River impairment work?
- Frank Jewell – as someone who lives there and represents the area, there is concern about jobs, concern about costs for a pipeline. Residents in the area also have concerns about how long this has gone on, not enforcing the permit, possible draining the river dry, etc.
- Jen provided some history of Council resolutions - the Council has passed 4 resolutions; two were funding based and two were policy.
- Steve Pedersen presented a motion; CWC supports a position that Legislative stream standards be maintained without deviation except for human health impacts. Louis offered a friendly amendment to the motion to study and develop the issue further.
- Question about the Poplar River impairment. Gaylen – there is a [Poplar River TMDL for turbidity](#) project currently underway. The Clean Water Act (CWA) protects beneficial uses and the TSS standard is set for protection of fishable uses (probably the concern is for the high turbidity in the spring). Minimum flows in winter would create an oxygen impairment.
- Some members expressed concerns about whether the Council should be getting involved with permits and if the Council has any jurisdiction over permits.
- Steve P. - this motion is just to affirm that the Council supports minimum standards except when it affects human health issues. We already have standards we should support them. There shouldn't be deviations for economic reasons.
- Motion carries. FYI – Legislators and agency representatives are non-voting members of the Council.
- Council committee was formed to study this issue with these members; Sandy Rummel, Louis Smith, Dave Leuthe.
- Audience introductions.

## 2. Steering Committee Report, Jen Maleitzke

- FY13-14 report timeline. OLA audit – meeting date November 30<sup>th</sup> at 1:30 p.m. The [Clean Water Fund audit report](#) will be available on the OLA website that day. Keith Hanson reviewed the draft report and provided comments.
  - Council quorum: 19 voting members + 5 agency representatives + 4 legislators = 28 Council members. 10 members need to be present for a quorum.
- 3. Water governance study, John Linc Stine, MPCA**
- John Linc Stine, MPCA Assistance Commissioner introduced himself and went over his background in state government working for DNR, MDH and MPCA in water programs.
  - Water Governance Evaluation: Streamline, strengthen and improve sustainable water management.
  - 2011 Legislature, HF 196 ----did not pass. 2011 Special Session, Sec. 33 Evaluation required. Requires, by January 15, 2013, the PCA in conjunction with other water agencies and the University of Minnesota to evaluate water-related statutes, rules, and governing structures to streamline, strengthen, and improve sustainable water management.
  - [Chapter 103a](#) – water law policy – conserve water.
  - There's not a good unifying set of laws for water. Various laws enacted in response to events to address specific problems. Agencies – staff are very motivated to make water laws work for the state. But there are gaps and some inconsistencies. Nothing there to support how rules can work as a system.
  - Sustainable water management – submit study results to the Legislature by January 15, 2013. \$75,000 in funding for staff, etc. Water Governance Project timeline. We won't be doing extensive public involvement process, but we will be checking back. There may be areas where there are opportunities for streamlining programs, delegating to others, local government.
  - Will there be a formal role for the interagency task force? John S. – they will be a team. We will report back to them.
  - Senator Pederson - one of the reasons for legislation is to reduce number of inspections. Sometimes there are 6-8 inspections for some road projects just for water. John Stine – the challenge is for inspections to uphold mandates of programs. There may be too many programs, but that would have to be changed by legislation. The burden has already been reduced on compliance and enforcement. Some progress has already been made. Things are better than they have been in the past.
  - Linda –when you are looking at the governing structure, will you look at the Council? John S. – yes, we will look at the Council as part of that. Looking for opportunities for streamlining.
  - Rep. Torkelson – look at water planning and at watershed management. John S. – Chapter 103b (water planning) will be in the assessment but we may not drill down into detail. We will look at watershed, basin management – (make sure it is) watershed based.
  - Rep. Torkelson – will you coordinate with EQB who the Governor has asked to look at permitting and planning? John S. - the permitting side is below the level of governance structures. Yes, we will coordinate with EQB.

- Which agencies have compliance requirements? John – many state and local agencies have compliance requirements. Have you developed criteria for this? John S. – we will develop a matrix that will do an evaluation. How much has been pushed to local government?
- Rep. Torkelson – will you look at a rule-making moratorium? John – probably not. A moratorium can cut both ways. Prefer to have conversation about the outcomes of the rules; if they are ineffective, overlap, etc. More comprehensive conversation around outcomes.
- Victoria – shifting responsibilities to local government, pushing responsibilities to local governments is often done without funding, etc.
- Scott – state agencies examining state agencies; would like to see more public input. John S. – challenge for us is to identify areas for improvements. Are the Commissioners involved in this? John - yes, they are involved in the task force groups; have had conversations with Commissioners. John will come back to the Council probably in March 2012.

## Break

### 4. Review of nonpoint acceleration ideas, Jen Maleitzke

- Nonpoint acceleration ideas handout – members took a few minutes to review the handout.
- Jen – the targeted implementation work plan category has 3 strategies. Last meeting, two groups discussed the list of ideas. Combined the top 5 ideas from each group into mutual ideas for the BOC. Are these the right ideas to have the BOC further investigate?
- Victoria - good job combining the ideas. Suggestion for #3 is to take out the word sector.
- Louis – policy group just did something similar and came up with a similar list. Also add;
  - Targeting areas of the landscape, using LiDAR etc.
  - Help landowners market incentives
  - Under combined ideas #3 add integrating drainage system
- Scott – idea #10, agricultural sustainable water certification program - there are already some programs out there for this. Maybe take a look at those (River Friendly Farmer, farmer certification). Warren – Don Baloun at NRCS is taking a look at that.
- Pam - #1 in combined list is vague. Jen – that's something the BOC needs to look at further.
- Steve W. – part of research is to find where this is working, what are the ingredients.
- Linda – discussion on period of time to work on these ideas? All the ideas need to be framed more. Steve P. – we have a report to the Legislature in 2014, effectiveness report. Which programs allows us to continue.....#7 mandatory vs. voluntary – pick a time. Maybe by 2014. Look at programs that point towards decision.
- Sandy - #2 in combined list – what's to keep the erosion from occurring? Mark - the issue is you can't implement the solution because you can't always get on the farms to do the work, so you need the treatment process not just the prevention process. Sandy – we are responsible for how the funds are used. Dave L. – we need a systems solution to the problem. The challenge is you fix one area and the problem moves to another area in system. Pam – need to enforce laws and rules. Jen – that leads into the Accountability and Outcomes part of the work plan.

- Sandy – Duluth field trip presentation; repairs on one river were over one million. If that's the strategy we don't have enough funds. Dave L. – I assume #2 is not the only strategy. Matt – does #2 include BMPs? Steve W. – nearly all projects have multiple benefits. We had a separate proposal for projects relating to water retention. Marilyn – usually projects working on a ravine or bluff also have 80% of the work done on upland treatment. I think that is common. Frank – are the repairs you're talking about that were discussed at the Duluth field trip for Amity Creek in Duluth? Dave L. – they were for the Knife River.
- Scott – we will send the ideas on to the BOC. Steve P. – the BOC will meet sometime before December 12<sup>th</sup> somewhere west of the Twin cities. Pam is interested in participating in the BOC meeting. Jen will send out a notice of the BOC meeting to all Council members.

#### 5. Minnesota's Council discussion: concluding Information item accountability and outcomes

- Council recommendations, directions to BOC
- Jen reviewed the accountability and outcomes work plan topic and went over the presentations and discussions the Council has had on this topic for the past 2 months.
- Members reviewed the summary.
- Jen – the steering team is looking for input from the Council on where to go next. Thoughts about summary, also ideas for where you want BOC to go next.
- Marilyn – we need to put part of this information in our report to the Legislature. We're trying to figure out what are the topic areas to address in our report.
- Mike – the second bullet under overall would be my priority; ["Clean Water Fund programs need to be prioritized and the investment needs to match those priorities."](#) Trying to figure out what are the priorities and develop a tool to address that. Gene agrees strongly with what Mike said.
- Deb – the first two bullets are guiding principles. Is this supposed to track with the work plan, i.e., page 2 of the work plan?
- Warren – first bullet under Nonpoint Source – the CWA requires that. Are we just acknowledging that?
- Mike – develop a tool for bullet under nonpoint. Some of these are givens; we want to be efficient and cost effective. Determine our priorities; develop a tool.
- Steve W. – 1. Are we getting meaningful measures in place for accountability and outcomes; 2. Macro approach. The Council needs to develop some bullets to speak to micro approach. Blend of where things are going.
- Scott – what about Outcomes on the Summary page?
- Mike – agree with the sequence here about determining priorities before determining budget recommendations.
- Warren – outcomes bullet #3; we need more research to determine which BMPs work best.
- Deb – looking at work plan;
  - #2 TMDL provision for enforcement
  - Our outcomes are observations.
  - Work plan never said set priorities which it should.
- Louis – too complicated. TMDLs for state – how do we deal with impairments. Which are the most important? Where are we spending our money? Are we spending 80% on 20% of

the problem? We don't know. Gaylen said Lake Pepin is the best surrogate we have for TMDLs. Go back and look at that.

- Dave B. – for decades we've been spending on Lake Pepin; not a lot of progress on Minnesota River. Maybe money is better spent somewhere where we can get 50% improvement.
- Mike – some programs, i.e. SSTs, we can spend money to improve Lake Pepin. If you get that right, you can apply the lessons learned to the rest of the state.
- Victoria – agree with that. Setting priorities; give the best information to the Legislature. Lake Pepin – lessons learned, get best information to apply to the rest of the state.
- Dave L. – we will not see outcomes of the Lake Pepin scale until over the long term. We will see some changes sooner if we look at a smaller scale. We are still doing things that are keeping the system out of balance.
- Frank – it's hard to follow this summary. Louis gave me something I could follow.
- Scott – where does the watershed approach fit into this?
- Dave L. – if you want to see actual results, you need to go to a smaller scale. Different approaches in different areas of state. Intensive effort in smaller areas to see results.
- Rep. Torkelson – the Lake Pepin TMDL is a colossal failure because the scale is too big. \$2 million was spent on Lake Pepin TMDL, (but it) didn't do much. We need targeting to see results.
- Mike – Dave and Paul's comments not mutually exclusive. Lake Pepin is essentially a state TMDL. Debate will be the priorities. I'm pushing for some direction so first few priorities get funds.
- Mark – are we mixing priorities with outcomes? Priorities are important, but the topic is accountability and outcomes.
- Jen – the Steering Committee will have further discussion and come back to the Council. Tie this more to the work plan. Steve W. – there are various levels of accountability.
- Gaylen – this is a good discussion. Identify other things that need to be captured before we put it together for the report.
- Gene – more discussion about complicated but simple things Louis points out. How to appropriate funding for the next decade? How to use scarce resources for optimum results?
- Gaylen – should we be moving on to the next work plan topic before we finish this one?
- Dave L. – as part of the interagency teams we are always reminded that CWF is just a piece of the funding and effort being done. The work John Stine presented will help show that.

## **Lunch**

### **6. Introduction to Groundwater/Drinking water work plan topic**

- Interagency Team members: Jason Moeckel, DNR, Glenn Skuta, MPCA, Dan Stoddard, MDA
- Check in on work plan
- Jen introduced the next work plan topic, Groundwater and Drinking Water.
- Jason Moeckel, DNR – this is a collaborative effort among agencies. The purpose of the presentation is to address issues on the Council's work plan.



- Overview of Groundwater in Minnesota.
- Why Protect Groundwater? 75% of the drinking water in Minnesota comes from groundwater. We don't have reporting requirements for private wells so we don't know how much water they are pumping.
- Groundwater use in state – 200 billion gallons, which is equivalent to taking 5 feet of water off Lake Mille Lacs. This doesn't include what we don't know about private wells.
- Increasing demand – these are drought times, but also because of increasing population.
- Scott – why the fall off in groundwater use from 2007 to 2010? Jason – don't know for sure. Maybe it was a wetter year in 2010 or there was less construction. Dave L. – also less dewatering.
- Mark – where do you put groundwater under the influence of surface water (groundwater/surface water interface)? Jason – it would be considered groundwater if you're pulling it from the ground.
- Southwest Metro – 66 years of record (Mt. Simon-Hinckley aquifer). We might deplete the best source of groundwater in 140 years.
- Rep. Torkelson – how old is that groundwater? Jason – some areas it's 10,000 years, some 30,000 years. Dave L. – it's not just how old it is. It's how long the water has been down there.
- Jason – rare resources and groundwater. Fens, trout streams. Importance of groundwater to sustain these rare resources.
- Hydrogeology in Minnesota. Hydrologic cycle.
- Groundwater supply is different in different areas of the state. Impermeable layers, areas vulnerable to contamination (central Minnesota has sand aquifers). Areas of the state with limited groundwater availability. Karst areas – we can't rely on surface water geology to determine where the groundwater will go.
- Question on the slide on groundwater use in the state. Jason – we are well over 200 billion gallons per year for public water supply. Define public water supply. Does that include industrial? Jason - public water supply is not a private individual. Dave L. - it's what they actually use, what they file in their annual report. Don't always separate municipal and industrial. What is in other? Everything not in the other categories but not in private supply.
- Glenn Skuta – Groundwater concerns:
- Sources of groundwater contamination - there are many sources of groundwater contamination. What happens above the surface affects what happens below the surface. Concerns about infiltration through various sources.
- We have detected chlorine, arsenic, and nitrates in the groundwater. Most frequently detected VOC compound is chloroform, a by-product of water disinfection. Arsenic also detected in areas of the state – not always human induced – some is naturally occurring.
- Nitrate problems – agencies/locals looking at dealing with identified nitrate problems. Good example of targeting areas to get the most beneficial impact. PFCs detected in the east metro area.
- [Little Rock Creek](#) – increase in groundwater pumping, decrease in groundwater level, decrease in stream flow. ([Little Rock Creek Stressor ID Report](#)). Addressing what's being done in groundwater to address what's happening in the stream.

- Todd – are all of the municipal areas under wellhead protection? Randy Ellingboe, MDH – all municipal water supplies are required to have wellhead protection areas by 2019. One third have them to date.
- Dan Stoddard – Groundwater Protection Strategy
- The Clean Water Council endorsed the strategy and recommendations (included in members' meeting packet). There are 8 high level recommendations, intended to guide policy.
- Prevention is really important for groundwater because of the longtime it takes to develop groundwater. This is also the reason for the long term focus.
- Clean Water Fund activities for groundwater – handout in packet.

#### Questions:

- Dave Leuthe – how old is groundwater? Some is very old because it's down deep and hasn't been used. As we use it, it will be replaced by water higher up that is younger. What we're putting in the water now will be in that younger water. Prevention is so important. It is costly to treat groundwater later on if contaminated.
- Gene – question for Jason; how do you reconcile some of the slides? The well in Savage (SW Metro; 66 years of record) with a significant increase in depth leads him to conclude that the recharge rate is not keeping up with the withdrawal. The multicolored slide showed problems. How to reconcile that with areas of abundant groundwater/surface water? Dave L. – relative to other areas of the state. There's also the issue of the quality of the water. Jason – the Mt. Simon aquifer doesn't run very far west.
- Gene – why use groundwater? Groundwater is abundant relatively as long as we are not stressing the system. We don't want to stress the surface water systems. Also, there are more people. What is best strategy? Protect the supply so we can use it in the future.
- Jason – do we know enough to say we're using it sustainably? As a society, we want to drive as fast as we can to the edge of a cliff and stop just in time. As an agency, we are constantly challenged as to why we can't do something.
- Randy E. – evaluations about where to get water from; also determining what it will cost to supply that water. The cost of using surface water supply is higher because of treatment.
- Gene – groundwater is a scarce resource and it's free.
- Dave L. – SW metro slide – when the level goes down you're pulling water from different recharge areas.
- Steve W. – is there any rule about priority use? Dave L. – yes, domestic use is the first priority. We don't like to make these decisions. We have to change the way we manage the system.
- Victoria – this slide vs. slide that says abundant supply in metro area. So what if we have abundant supply if we're depleting it.
- Gaylen – water is almost free. The problem is not enough supply; it's how we use it. We have a problem with how we use water – watering lawns, waste management systems that use water, garbage disposals, the amount that we use for consumptive purposes is really small. We need to do something about management of use, along with protecting it.

- Glenn – there's a political and economic reason. St. Paul water utility has a surplus of water that they're trying to get communities to purchase, but they would rather drill their own wells. They can't sell it. Multifaceted problem.
- Mark – there's nothing in the report about water reuse. Dan Stoddard – that did get into the state conservation plan.
- Mark – what is the projected impact of permits on water usage? Dave L. – chasing of the cheap. They will drill their own well rather than having a permit requirement. People are still in denial about conservation. When there is a problem and supply is limited, then people respond. Mark – the systems approach, look beyond just water to air systems.
- Louis – balance of state expertise and local governance. With groundwater, the local entity is in the municipal supply business and the state has the concerns.
- Dave L. – the faster you get groundwater out of the system, the faster it goes down to the Gulf of Mexico. It doesn't go back into the system.
- Scott – go back to the work plan to see if we should change things or add things.
- Jen – are there other topics to add to the work plan? Mark – water re-use.
- Rep. Torkelson – Deb's report to the Legislature identified energy use as a major water user.
- Jen – the interagency team suggested great water systems, groundwater management areas, information on groundwater/surface water interaction.
- Rep. Torkelson – an article in the St. Paul Pioneer Press by Dennis Lien incorrectly stated that there is no entity in government that directly oversees Clean Water Funding. The Council should send a letter correcting that.

## **7. December meeting agenda / adjournment**

- Adjourned at 2 pm.

*2:00~2:30 Council Steering Team*

*2:00~4:00 SSTS ad hoc committee meeting*

*Next Meeting: December 12, 2011*

*Location: MPCA Board Room*