

Policy Committee Meeting Agenda

Clean Water Council

June 28, 2024

9:30 a.m. – 12:00 p.m.

[WebEx Only](#)

2024 *Policy Committee: John Barten, Rich Biske (Chair), Gail Cederberg, Kelly Gribauval-Hite, Peter Schwagerl, and Marcie Weinandt*

9:30 Regular Business

- Introductions
- Approve today's agenda
- Approve minutes of previous meeting(s)
- Chair update
- Staff update

9:45 Follow-up on Feedlot Inspection Discussion

- MPCA statistics

10:30 BREAK

11:00 Outline for a Groundwater Protection Policy Statement

11:30 Input to BWSR on Possible Extension of CREP Agreement

11:45 Public Comment

12:00 Adjourn

Next Meetings Options:

- Water storage pilot completion
- **New Report:** Minnesota's Vanishing Natural Shorelines: A Loss that Contributes to Degraded Lake Quality + lake water quality issues in general

Policy Committee Meeting Summary
Clean Water Council (Council)
May 17, 2024, 9:30 a.m. to 12:00 p.m.

Committee Members present: John Barten, Rich Biske (Chair), Gail Cederberg, Peter Schwagerl, Marcie Weinandt.
Members absent: Kelly Gribauval-Hite
Others Present: Glenn Skuta (MPCA), Jen Kader (Met Council), Jeff Berg (MDA), Carly Griffith (MCEA), Annie Felix-Gerth (BWSR), Stephanie Pinkalla (Nature Conservancy), and Anne Nelson (MDH)

To watch the WebEx video recording of this meeting, please go to <https://www.pca.state.mn.us/clean-water-council/policy-ad-hoc-committee>, or contact [Brianna Frisch](#).

Regular Business

- Introductions
- Approval of the May 17 meeting agenda, and March 22 meeting summary, motion by John Barten, seconded by Peter Schwagerl. Motion carries.

Chair Update (*Rich Biske*) – During travels I heard from colleagues and groups asking how Minnesota moved forward with the buffer policy and what type of tools were used to communicate that. It was good to hear that Minnesota is leading the way.

Staff Update (Paul Gardner)

- Brianna Frisch had a healthy baby boy.
- New Council member, Trista Martinson, Ramsey County Commissioner, will join in the next meeting.
- Currently, there are four candidates to fill the rural vacancy position.

Legislative Rundown

- Legacy Bill passed both houses and has 99.8% of the Policy Committees' recommendations in it, including a nitrate response, but funding for RiverWatch for the Minnesota Valley was added.
- Environment of Natural Resources Finance Bill: Details below.
- The Ag Finance Bill has considerable nitrate response items in it. Details below
- Bonding Bill: Details below.

Questions:

- John Barten: Do you know how much money they are allocating for private well mitigation that is in the Agricultural Bill and what the prospects are for passage of that program? *Answer from Paul Gardner:* It is roughly \$3.5 to \$4 million. Prospects are good; the energy provisions are slowing up the omnibus.
- Jeff Berg: The Speaker of the House, Melissa Hortman, stated at the press conference, "The Ag, Energy, and Commerce Bill was dangerously close to an agreement."
- Paul Gardner– The House also includes the use of the fee on fertilizer that now goes to Agricultural Fertilizer Research and Education Council (AFREC), check off program. The House wants to convert that into the drinking water account to help pay for mitigation.

Legacy Finance Bill (*Webex 00:20:15*)

- There is \$500,000 that is designated for stormwater best management practices through the Watershed Partners Legacy grant program as part of a one-time \$2 million increase to the program.

Environment and Natural Resources Omnibus Finance Bill (*Webex 00:26:39*)

- \$10 million is going towards trees and pollinators.
- \$850,000 for manure management grants.
- Report on States nitrogen fertilizer purchase and reduction goals.
- Report on State salt purchase and reductions goals.
- Requirements and report of PFAS analysis of sewage sludge for land application.
- DNR water quality monitoring for State fish hatcheries.

- Penalties of \$50,000 for violations of the buffer law that can be forgiven if the problem is resolved.
- Report on soil health appropriations.
- Items that were dropped from the final agreement include:
 - mandatory environmental impact statement for large feedlots
 - funding for drain tile disclosure system and seller disclosure requirement
 - funding for “Keep It Clean” grants

House Agricultural Omnibus Finance Bill (Webex 00:29:11)

- Funding for private well mitigations for nitrate
- Moving a fertilizer fee for research to \$.40 per ton to a drinking water account to fund private well mitigation due to nitrate contamination.

Tax Bill

- The Senate bill includes a \$2 million one-time funding towards Soil and Water Conservation Districts (SWCD).

Capital Investment Bills

- General obligation bonds for wastewater treatment and drinking water that has not come up for a floor vote.

Questions: (Webex: 00:30:44)

- *Marcie Weinandt:* Regarding the SWCDs, is the \$2 million in addition to the \$24 million passed last year for FY24-25? *Answer from Paul Gardner:* This would be a one-time addition to the \$24 million.
- *Marcie Weinandt:* Was the \$500,000 for Legacy Partners just designated for metro area rain gardens? *Answer from Paul Gardner:* No, it is for any watershed district. Of the \$2 million Water Legacy Partners Grant Program, the \$500,000 can reduce the costs to landowners for green infrastructure projects including: rain gardens, permeable pavement, rainwater harvesting and reuse, and other clean water practices. Priorities must be given to projects in low income and high pollution areas.
- *Rich Biske:* Regarding the nitrate fee and using it for mitigation versus research, was there a discussion about an increase? *Answer from Paul Gardner:* The original House proposal was \$0.99 per ton fee on nitrogen to pay for drinking water mitigation. The House did not want to increase the net fee to farmers, so they kept the existing fee at \$0.40 that goes to AFREC and converted it to drinking water. *Answer from Jeff Berg:* The AFREC fee going to drinking water is a House position only and they are still negotiating on this. Currently, the AFREC fee is toward research and the intention for the following year is to put it into the drinking water mitigation.
- *Carly Griffith:* The \$0.40 cent per ton fertilizer tax in the Ag bill would generate approx. \$1.3 million that would go to County Health Boards, not Minnesota Department of Health (MDH), for private well mitigation. Senate Ag bill also gives \$2 million to MDH and \$750,000 to Minnesota Department of Agriculture (MDA) for reverse osmosis systems.

Outline for Groundwater Protection Policy Statement (Webex 00:41:16)

Looking for a policy statement regarding (public/private) well owners specific to nitrates.

- *Rich Biske:* Maybe at the very beginning of the policy statement be more specific to state the drinking water goal for all. The CWC has a stated goal of reliable drinking water for all Minnesotans.
- *Gail Cederberg:* For the policy we may want to keep it flexible and incorporate issues in other areas of the State. We may want to keep it broader to contaminants of concerns. Wrapping into more than just nitrates.
- *Rich Biske:* Perhaps have a tiered approach about acknowledge differences in geography and local conditions would be the best way to go with this.
- *Gail Cederberg:* Tiered approach would be good.
- *John Barten:* We treat drinking water different for public systems than private (well) systems. Should we have a policy that “All” drinking water will be safe? How do we have this policy address private wells? What is the moral responsibility regarding drinking water in private wells?
- *Peter Schwagerl:* Are you suggesting that we should move private wells into regulatory and testing mitigation work and policy of the State? *Answer from John Barten:* I am not advocating either way, just posing the question. Should it be the policy of the State to move away from our existing management structure and be more supportive to private well systems? What is the policy of the State of Minnesota? Maybe there could be a financial incentive program to help private well owners.
- *Peter Schwagerl:* I think it is a critical question to answer/ask. We do need to be advocating for testing of private wells and find programs/resources that are needed when private well owners do identify problems.

- Marcie Weinandt: Looking at the outline for groundwater, are we protecting or treating the groundwater? To Peter's point, this is a complicated statement. Are the wells a source of pollution or is the water coming from the wells what is polluted?
- Rich Biske: The question of defining it is really important. How do all the programs contribute to the overall end goal of providing safe and secure drinking water for "All" Minnesotans?
- Paul Gardner: Do we need to ask the question of how much this would cost, and elements to consider? Possibly implement it into a template with 10-to-20-year plan.
- Peter Schwagerl: Maybe the focus is on protecting the ground water source, and the first piece is testing for contaminants. Is the well testing currently being tracked? *Answer from Anne Nelson, MDH:* The grantees do send us information with no names or identifications. We do have the data, but we don't have it on a dashboard, and it is not in the works right now.
- Peter Schwagerl: Can this be mapped? *Answer from Anne Nelson, MDH:* Yes, this can be mapped. We are really concerned about privacy issues.
- Jeff Berg: Well testing has privacy concerns. MDA tests on a township basis. Here is the MDA township testing webpage (note the individual reports toward the bottom) [Township Testing Program | Minnesota Department of Agriculture \(state.mn.us\)](https://www.mn.gov/MDA/Township-Testing-Program).
- Rich Biske: Are the MDA and MDH data combined and accessible? *Answer from Anne Nelson, MDH:* We share data, but the data is not combined.
- Rich Biske: What do we want for next steps on the next meeting? Maybe we need to focus on sequences and not the entirety.
- Marcie Weinandt: Do we need further information from the agencies? Who is the appropriate agency for groundwater? Is there an administrative discussion that must be done also? Do agencies staff have some ideas about that? How does it get administered?
- Rich Biske: Maybe that is some of the context that we can provide at the introduction of the policy, as to what the current statutory requirements are amongst the agencies.
- Paul Gardner will investigate the statutory context and possibly the EPA petition to help with the scope of this policy.

Conversation on Resources Needed for More Regular Feedlot Inspections (Webex 01:18:00)

- John Barten: In conversation with Representative Hanson, he feels like we are failing in not having funds toward feedlots. In discussion with the Minnesota Pollution Control Agency (MPCA) there is a lack of staff. We don't have enough inspections and I have personally seen poor manure management practices being done (e.g., manure spread close to lakes). Would it be part of CWC to add funds towards staffing?
- Glenn Skuta, MPCA: A bill was introduced this session that required the MPCA to inspect every facility under its jurisdiction and increase inspection frequency or percentage under the County program to 20%. We had to put together a fiscal note that included 1,500 permitted facilities, 37 non-delegated counties that cover 6,500 facilities for a total of 8,000 feedlots to inspect in a year. That would take millions of dollars to inspect all feedlots. Currently, the MPCA inspects 260 feedlots in a year and the county has 6% to 7% under their jurisdiction. The question is do we need to inspect all feedlots? The MPCA prioritizes the needs of inspections as the larger facilities have more resources to them. The MPCA is doing what they can with the funds available. Due to nitrate issues/heightened awareness of fish kills, it might be a good time to ask for more money. My opinion is that we are at the tail end of the 25 years of the Clean Water Fund and agencies have received the message to control your full-time equivalents (FTEs). We are talking to leadership about putting in a budget initiative next session for non-clean water funds to significantly increase the feedlot program, add more compliance and enforcement (C&E) staff, technical assistance on nutrient management planning, and implement new permits. The permits only address the large feedlot facilities, 1,000 animal units or higher. There are smaller feedlots that we need to address, and we are planning on initiating rulemaking to tighten and enhance the feedlot rules, or smaller facilities. The question regarding that is how low you go to address smaller feedlots as a whole.
- Peter Schwagerl: I share your concerns of FTEs. Rather than applying the funds for inspections maybe give more resources upfront to access nutrient management and/or technical support. Finding where the weak points are. Regarding this, how does the AG water quality certified program fit in with manure management and water quality regulations? *Answer from Glenn Skuta, MPCA:* Definite need for upfront tech assistance and

aid for C&E inspections, it is a balance between the two. Regarding Ag water quality certification, it depends on the nature of the operation.

- Jeff Berg: Yes, certified farms must be in compliance with all water quality issues. In regard to feedlots, do you want an inventory or inspections? Feedlot inspections is different than manure management. Are you interested in feedlot manure management plans? *Answer from Glenn Skuta, MPCA:* It would be everything related to manure management.
- Marcie Weinandt: Rice Creek authorized \$30,000 of our Clean Water Fund, that was leverage of a FCA Grant, to a dairy producer in Washington County to update the facility along with the producer's money for a midsize dairy manure storage space.
- John Barten : You are looking at revising the feedlot rules, what is the livestock number that you are looking to reduce towards? *Answer from Glenn Skuta, MPCA:* Currently, the permits are for 1,000 or more animal units. The question is how low would we go in terms of what requirements? Of those requirements that are currently in the permits for the larger animal units, what would be appropriate for the smaller facilities and how small do you go? There are management things that could be done in operations that could be beneficial.
- John Barten: What is the range that you think is too small or too large to address? *Answer from Glenn Skuta, MPCA:* We haven't even started that process so I can't say.
- Paul Gardner: Do we have anything like the subsurface sewage treatment system (SSTS) annual report for feedlots? Like number of feedlots inspected annually, number of compliant with permit, etc.? With a county-by-county breakdown? *Answer from Glenn Skuta, MPCA:* We don't have a report available to the public. We do annual reporting to U.S. EPA, and I can reach out to associates and see what we have available to share.
- Glenn Skuta: Let's remember that ¼ of application is manure and the remaining is fertilizer. We need to pay attention to nutrient management as a whole.
- Paul Gardner: How is the feedlot program funded? Is it the General Fund, Environmental Fund, and/or fees? Also how do counties fund their programs? *Answer from Glenn Skuta, MPCA:* The feedlot program is funded through the Environmental Fund. The fees that we receive from the permits are not enough to fund the program, so it is both Environmental Fund and fees. The counties get \$3 million a year from the General Fund.
- Rich Biske: Are there administrative penalties or fees? What are the compliance measures? *Answer from Glenn Skuta:* Depending on the severity and type of violation It can include a Notice of Violation that doesn't require a fee but requires corrective actions. It could be an Administrative Penalty Order that is forgivable without fees or non-forgivable with fees and the possibility of going to court.
- John Barten: How many FTEs are designated to the feedlot program? *Answer from Glenn Skuta:* 1 Program Manager, 2 Supervisors, and 21 staff. If we could add a unit, it would help.
- John Barten: Do you have a feel for larger size feedlots where the concentration is? *Answer from Glenn Skuta:* Generally, it is the southern part of the State. As shown on the Counties delegated map that is on the MPCA website: [County Feedlot Officers-Delegated Counties map \(state.mn.us\)](https://state.mn.us/mnrc/county-delegated-map).
- Rich Biske: What are the roles of the inspectors. Is there cost share work? *Answer from Glenn Skuta:* Yes, working with delegated county and looking for the cost share that is available through Natural Resources Conservation Services (NRCS) and/or SWCD. [MPCA Feedlot Program Inspection Follow-up Process - Compliant and Non-compliant Inspection Results \(state.mn.us\)](https://state.mn.us/mnrc/feedlot-program-inspection-follow-up-process-compliant-and-non-compliant-inspection-results).
- Rich Biske: Is there a way to facilitate the county percentage different throughout the State to shift concentration where needed? *Answer from Glenn Skuta:* What the Watershed and Feedlot programs do is look ahead at Total Maximum Daily Load (TMDL)/Watershed Restoration and Protection Strategy (WRAPS) reports to identify problematic areas and shift priorities. We do need to provide statewide coverage, but we can flex a little bit to prioritize.
- Rich Biske: One of the scenarios is more staff. Is there a place for revising systems or data collections or requirements to provide data? Could systems improvements be considered here? *Answer from Glenn Skuta:* We have an online permitting system and that has saved a lot of time on paperwork. There is a new manure management tool that will be coming soon. Yes, we are always trying to make those improvements.
- Marcie Weinandt: The locals know where the feedlots are. Annie, do you have any comments on what you are hearing from SWCDs regarding non-compliant feedlots? *Answer from Annie Felix-Gerth (BWSR):* No, I don't as I am too far removed. We are short on the funding to do the implementation that's needed whether it is on

the feedlot itself or the manure management plan. In the past the best source for funding is RCPP and that has worked well.

- Glenn Skuta, MPCA: Regarding funding for the 50 Counties, they were given \$2.3 million in 2002 and then dropped a little bit in 2010 and 2011. Then in 2012 the previous biennium it was just under \$2 million. The current biennium they were given \$3 million.
- Rich Biske: Any further discussion?
- John Barten: Would we support the MPCA initiative to modify the feedlot rules and reduce the animal units from 1,000 animal units? If there is an initiative to increase the MPCA staff, would we support the increase?
- Glenn Skuta, MPCA: I can keep you updated on the public notice of the permit, the initiative of the rule making process, and if we end up with a budget initiative.
- Rich Biske— Is there a way to show the number of inspections currently being done, the process, what the results are, and what that might look like on the proposed scenario. *Answer from Glenn Skuta:* Yes, thank you for supporting this initiative.

Adjournment (*Webex 02:17:15*)

Clean Water Council

FIRST DRAFT for Groundwater Protection Policy Statement

June 28, 2024

Policy Statement

The State of Minnesota should ensure that private well users have safe, sufficient, and equitable access to drinking water. The Clean Water Fund combined with other funding sources (including fees), and appropriate policy should be used to support actions should include understanding risks through well testing, providing information to well users to reduce their risk, supporting local capacity to manage the work, mitigating wells when necessary (especially for low-income households), publishing aggregate and anonymized well data, taking vulnerable lands out of production, providing adequate technical assistance for fertilizer management, irrigation education, and manure storage, and providing financial support of regulation of feedlots and the land application of manure.