

Policy Committee Meeting Agenda

Clean Water Council

October 25, 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 Water Storage Update

- Rita Weaver, BWSR

10:30 BREAK

10:45 Policy items from August 19th public input

- Continuing from last meeting

11:45 Public Comment

12:00 Adjourn

Policy Committee Meeting Summary
Clean Water Council (Council)
September 27, 2024, 9:30 a.m. to 12:00 p.m.

Committee Members present: John Barten, Rich Biske (Chair), Kelly Gribauval-Hite, Peter Schwagerl, Marcie Weinandt.

Members Absent: Gail Cederberg

Others Present: Judy Sventek (Met Council), Annie Felix-Gerth (BWSR), Frieda VanQualen (MDH), Glenn Skuta (MPCA), Jeff Berg (MDA), Tannie Eshenaur (MDH), Jason Moeckel (DNR), Brad Redlin (MDA), Margaret Wagner (MDA), Paul Gardner (CWC), Brianna Frisch (MPCA)

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
 - Peter Schwagerl: The [first Delta airplane flight with a blend of sustainable aviation fuel \(SAF\)](#) departed from MSP this week. Things are moving quickly in that area. It used winter camelina.
- Approval of the September 27th meeting agenda, and August 23rd meeting summary, motion by Marcie Weinandt, seconded by Peter Schwagerl. Motion carries.
- Chair update: Call for Vice-Chair
 - Marcie Weinandt nominated. No other nominations provided. Motion to have Marcie Weinandt as Committee Vice Chair by John Barten, seconded by Kelly Gribauval-Hite. Motion carries.
- Staff update: Policy items from August 19th public input
 - Paul Gardner, Clean Water Council Administrator, was invited to visit Ecolab Research and Development lab in Eagan. They touched on the SAF hub here. He was invited by the MN Department of Agriculture (MDA) to visit the Pine Tree Apple Orchard as part of their climate week. They are an Ag Water Quality Certified farm. They have been doing climate smart, wildlife, and integrated pest management. They received state funding for hail nets, which moves them to a zero-crop loss.

Minnesota Department of Natural Resources (DNR) Culvert Update, by Jason Moeckel, DNR (*Webex 00:17:00*)

- DNR is working on a potential culvert statute change. It doesn't make sense to replace culverts with the same design due to climate change. You need a permit to replace a culvert that drains more than five square miles. By aligning the statute with an existing rule, we can review the permits and talk with folks about design changes. The Clean Water Fund (CWFs) provides incentive funding for this already.
 - Marcie Weinandt: Those culverts, with high rainfall and slow drainage, are causing a lot of public comments. The culverts may be sized correctly, but they can only drain so quickly. Are all the culverts a part of it? The watersheds, counties, and road authorities may need assistance. *Response:* We are having those conversations. We look at the whole watershed when looking at culverts. If you replace what washed out, it will likely do that again in the future.
 - Peter Schwagerl: This makes sense, but do we have the capacity? *Answer:* There may be an increase in applications, but likely not too high. We process around 130-160 permits annually, so we might review 40.
 - Rich Biske: Who provides technical advice? *Answer:* We have training opportunities, but county engineers are not required to take them. Outreach has resulted in tremendous interest in the incentive program.
 - John Barten: How robust are the revised designs against catastrophic water events? *Answer:* These are floodplain culverts that help with water storage and water demands. They reduce the stress and velocity on the opening. They are designed to be more resilient to higher flows. They require fewer cleanouts. We have anecdotal input but not a lot of data.
 - Rich Biske: We are interested in following up. We'd also like an update on the public waters inventory. *Answer:* DNR is working on it and can present in October or later.

List of Policy Ideas in Public Input (*Webex 00:33:00*)

- Comments from the Policy Committee Chair are in green, yellow, and red for prioritizing topics. Kelly Gribauval-Hite and Gail Cederberg also made comments (in blue). This review is to see if there are any potential policy discussions the committee would like to pursue.
- Items:
 - Chloride Reduction would be no change as there is already a policy.
 - Statewide reuse policy and guidelines
 - Previously discussed with the Council. Funding was made available for reuse, and the Minnesota Department of Health (MDH) lead that effort. Those funds are now expired.
 - Rich Biske: Would this need a new policy statement? Response from John Barten: There were a lot health concerns over pathogenic transfer, so the Committee backed off from it.
 - Tannie Eshenaur, MDH: We had funding but COVID and staff turnover interrupted. A third-party facilitator worked with stakeholders. We reviewed the MDH report on the risk assessment. We found potential for exposure for pathogens. We talked about managing the risk but did not set a risk benchmark. The primary conclusions: MDH should remain in the role of risk assessment, but the risk management should be a shared decision involving other parties. We would like to hand it off to the MPCA and Met Council, because half the stormwater reuse projects are going on in the seven-county metro area. They want to move towards guidance and not regulation. The Stormwater Manual was identified as the most appropriate place to provide that guidance. MPCA would need funding continue their work on capture and reuse, as well as grants to implementors to look at cost effectiveness. The MPCA is requesting FY26-27 funding. The Met Council seeks funding for grants to subsidize treatment for stormwater capture and reuse. A report on water reuse work will be out in November, and the Council may want to follow up then.
 - Minnesota River groups seek to minimize/eliminate hydrologic changes in Minnesota River Basin because best management practices (BMPs) are not keeping up with growth in total suspended solids (TSS). This problem is due to land use changes, more drainage, and more precipitation.
 - Paul Gardner: Should we do more with tile drainage? *Response from Rich Biske:* We've made progress with water storage, but I don't know that we are ready to take this topic on. I would propose we stay with the drainage policy we already have and continue to explore water storage possibilities.
 - Marcie Weinandt: I agree with Rich.
 - Kelly Gribauval-Hite: I also agree. I think it should stay in the category it is in. However, it is a concern when you look at the effects downstream.
 - John Barten: More information would be good. We could have a policy to have someone do an assessment of the impact of cumulative tile drainage on the hydrology, especially smaller streams. That could give us an indication of how significant of a problem it is for destabilization of stream and river systems. *Response from Rich Biske:* I've made a note of that, the University of Minnesota biosystems and bioengineering may be able to investigate it.
 - Kelly Gribauval-Hite: Do we know when new tile drainage is being put in? *Answer:* Some watershed districts have reporting, but not all.
 - Buffer implementation: Some environmental groups would like to see administrative penalty order (APO) authority used to enforce buffer law for those not in compliance, rather than only using CWFs to help them get in compliance. Fines could also help fund the work.
 - \$2 million a year goes to Soil and Water Conservation Districts (SWCDs) to help landowners get back to compliance. CWFs are considered less expensive than enforcement actions.
 - Annie Felix-Gerth: The Buffers and Soil Committee of the Board of Water and Soil Resources (BWSR) board will discuss the administrative penalty order next week at their meeting. It might be something to get a debrief on afterwards.
 - One Watershed One Plan (1W1P) and Watershed Based Implementation Funds (WBIF) funding:
 - Scott County SWCD believes that 1W1P is redundant within metro area where conservation districts and watershed districts have done much of the planning already. This was the only comment received on this topic, and it is indicated as a low priority.
 - Targeted Wellhead/Drinking Water Protection Easements: An environmental group supports paying fair market value for easements within high-risk Drinking Water Supply Management Areas (DWSMAs). They feel it is cheaper than water plant de-nitrification.

- Tannie Eshenaur, MDH: There are about 1.2 million acres encompassed by DWSMAs. The 400,000 acres are the vulnerable acres, and they do change a little over time. They are the highest priority acres to protect. There are different ways to protect them. We find it is challenging, because those acres tend to be in cities or next to cities, so the value is higher than typical. Together in partnership with the Minnesota Rural Water Association, some of the staff have been working on these easements for five to ten years. When the compensation is not competitive, it is a frustrating process.
- Rich Biske: There are different ways to get at this issue. I think it is an important goal for the Council is to address the 400,000 acres in some form of compatible use, in some form of durability. I think easements will be an important tool in the toolbox. I'd welcome the discussion about BWSR to just do this, or if the Council needs to provide encouragement to do these actions.
- Marcie Weinandt: The Council and CWFs may be able to elevate the need for support, but this is a large dollar figure that the CWFs would not be able to cover. Is there something we can do to lay the groundwork for an eventual Legislative appropriation to help identify this as a higher priority.
- Rich Biske: Is it just the value of the land or it is also avoiding costs for water treatment in the future? For some it might be too late. Knowing where that interception point is, and having these vulnerable areas protected to avoid future infrastructure costs while achieving co-benefits is a worthwhile discussion to have at a future time. I would like to move this forward for future discussion.

Conversation on this topic returns at Webex 00:53:45

- Various grant programs: Bois de Sioux Watershed Districts asks that flood control be eligible since it impacts water quality since drainage management can reduce TSS and Phosphorus (P) at lower cost than cover crops. They ask the Council to evaluate grant portfolio by problem scale.
 - Paul Gardner: There would be big constitutionality concerns if we were to say flood control efforts are eligible. There are many projects that have clean water benefits that are designed to do something else first (like habitat, parks and trails, etc.). We can support things that have multiple benefits, but the main objective of a CWF project should fit in our lane about protection and restoration of surface waters.
 - Rich Biske: I think there is value in understanding those multiple benefits, but there is an opportunity to learn what has been done in the Red River Valley. I don't think investing in those practices is an appropriate use of CWFs, and I think we can remove it from our list.
 - Marcie Weinandt: I would agree with Paul. I think they have heard this response before as well.
- Culvert Replacement Incentives: Bois de Sioux asks the Council to recognize conflict between connectivity and flood control in Red River Basin.
 - Paul Gardner: I think the concern here is that the culvert replacement done in other parts of the state to improve connectivity is something the Red River Valley does not want to do because they want to slow water down. This issue solves itself since this is considered in watershed planning.
- Nonpoint Source Implementation Technical Assistance: Red River projects experience permit delays with DNR. Please encourage state agencies to standardize and streamline process.
 - Marcie Weinandt: I think we've had discussions with DNR about this. I think this is more of an internal state agency discussion than for the Council to do. I think it should be referred to DNR or MDA.
- Water Storage: The Red River is not getting CWFs for water storage. Funding is going to less organized parts of the state. Make the distribution uniform.
 - Paul Gardner: The Red River Valley has been working on their area for a long time. They may feel like they are not getting as much funding because other parts of the state have worse waters. I don't know if these comments apply to this program anymore because it is not in the recommendations anymore.
- Watershed Partners Legacy Grant Program: Nature Conservancy supports a significant increase and appreciates greater outreach to tribal government.
 - Paul Gardner: Margaret Wagner (MDA) is working on a meeting with tribal liaisons with Paul, to see how they can best consult with the Tribal Governments without taking up too much of their time.
 - Annie Felix-Gerth, BWSR: The Legislature added one change on the list of eligible entity types. \$500,000 are set aside within the \$2 million received in the supplemental, to provide grants to watershed districts for green infrastructure projects. The RFP will be released October 7th. BWSR is connecting with Tribal Governments to make sure they are providing adequate notice. *Response from Rich Biske:* Let us know how to promote it. We would like to learn from those that get funded, and those that don't get funded. The engagement process is important to review.

Review of Latest Draft of Groundwater Protection Policy Statement (Webex 01:16:00)

- The Committee asked for stronger language in certain areas and more generic language in other areas. Language on well testing at time of property transfer and renters have been re-inserted.

Questions/Comments/Discussion:

- Frieda Von Qualen, MDH: Is the Council interested in exploring local ordinances, rather than just county?
- Paul Gardner: Are people OK with the land use compatibility language? No vocal response but thumbs up.
- Brad Jordahl Redlin, MDA: Please note MAWQCP has the same guidelines as the University on nitrogen.
- Tannie Eshenaur, MDH: The FY25 appropriation language is being interpreted as only reverse osmosis and no drilling of new wells for low-income houses.
 - Margaret Wagner, MDA: The general fund appropriation of \$2.8 million is for in-home mitigation including reverse osmosis. We have not interpreted that it could be used for drilling for wells.
 - Rich Biske: Can we can be given some freedom to encourage more than that?
 - Margaret Wagner, MDA: I believe that is the case. There is a broader discussion about the need for more opportunities to mitigate a problem for these folks.
 - Rich Biske: I think we can make a more informative statement for these folks.
- Annie Felix-Gerth: We can refine the language a bit more. Rich Biske: I think that is a good idea.
- Tannie Eshenaur, MDH: For testing at time of property sale, in review of some ordinances, they require the landlord to test regularly and disclose those results to the renters. So, if you want to strengthen it, you could do that too.
- Tannie Eshenaur, MDH: Could you include "testing" as well as the test results? *Answer: Yes, it can be "Ordinances shall require property owners to test, and to inform any renters of their property of test results."*

Transmit Drainage Policy Statement and Groundwater Protection Policy Statement to Full Council (Webex 01:49:30)

- The Drainage policy statement has been approved at the committee level, but it was held onto. It could be moved to go to the full Council.
- *Motion to move the Drainage Policy Statement, along with the Groundwater Protection Policy Statement (as amended), to the full Council for approval by Kelly Gribauval-Hite, seconded by Marcie Weinandt. Motion carries.*

Adjournment (Webex 02:18:05)



Water Quality and Storage Grant Program

An Update for the Clean Water Council Policy Committee

Rita Weaver | State Drainage Engineer

Pilot Program

FY22 (\$1M available)

- Seven applications with \$3.8 million total requested
- Three projects were chosen to be funded, with a total award of \$843,851

FY23 (\$1M available)

- Six applications with a \$3.075M total requested
- Only two of the six applications were in the priority area
- Three applications fully funded, approximately 1.7M (using partial FY24-25 funding)

Projects funded:

- Wetland restoration
- 3 Grade Stabilization
- Terraces
- Part of a Large Retention Basin

FY25 Summary (\$3M total available)

FY25 Modeling and Conceptual Design (up to \$500,000 available)

- Nine applications with \$350k total requested
- Five projects were chosen to be funded, with a total award of \$213,250

FY25 Construction and Final Design (up to \$3M available)

- Fourteen applications with \$7.6M total requested
- Five projects were chosen to be funded with a total award of \$2,776,394

ALL projects are within the priority areas

Program Summary 2021-2024

- Approximately \$5.5 Million spent
- All but one project in the priority area
- 1,200+ acre-feet of storage added
- 10k+ tons total suspended solids captured
- 12k+ pounds of phosphorus retained
- 723 cfs reduced during the 10-year storm
- 198 cfs reduced during the 100-year storm

Project Type	# Installed
Wetland Restoration/ Storage Added	4
Grade Stabilization	3
Road Retention	3
Storage Basin	2
Terraces	1

Program Summary 2021-2024

- Approximately \$5.5 Million spent
- All but one project in the priority area
- 1,200+ acre-feet of storage added
- 10k+ tons total suspended solids captured
- 12k+ pounds of phosphorus retained
- ~~723 cfs reduced during the 10-year storm~~
- ~~198 cfs reduced during the 100-year storm~~

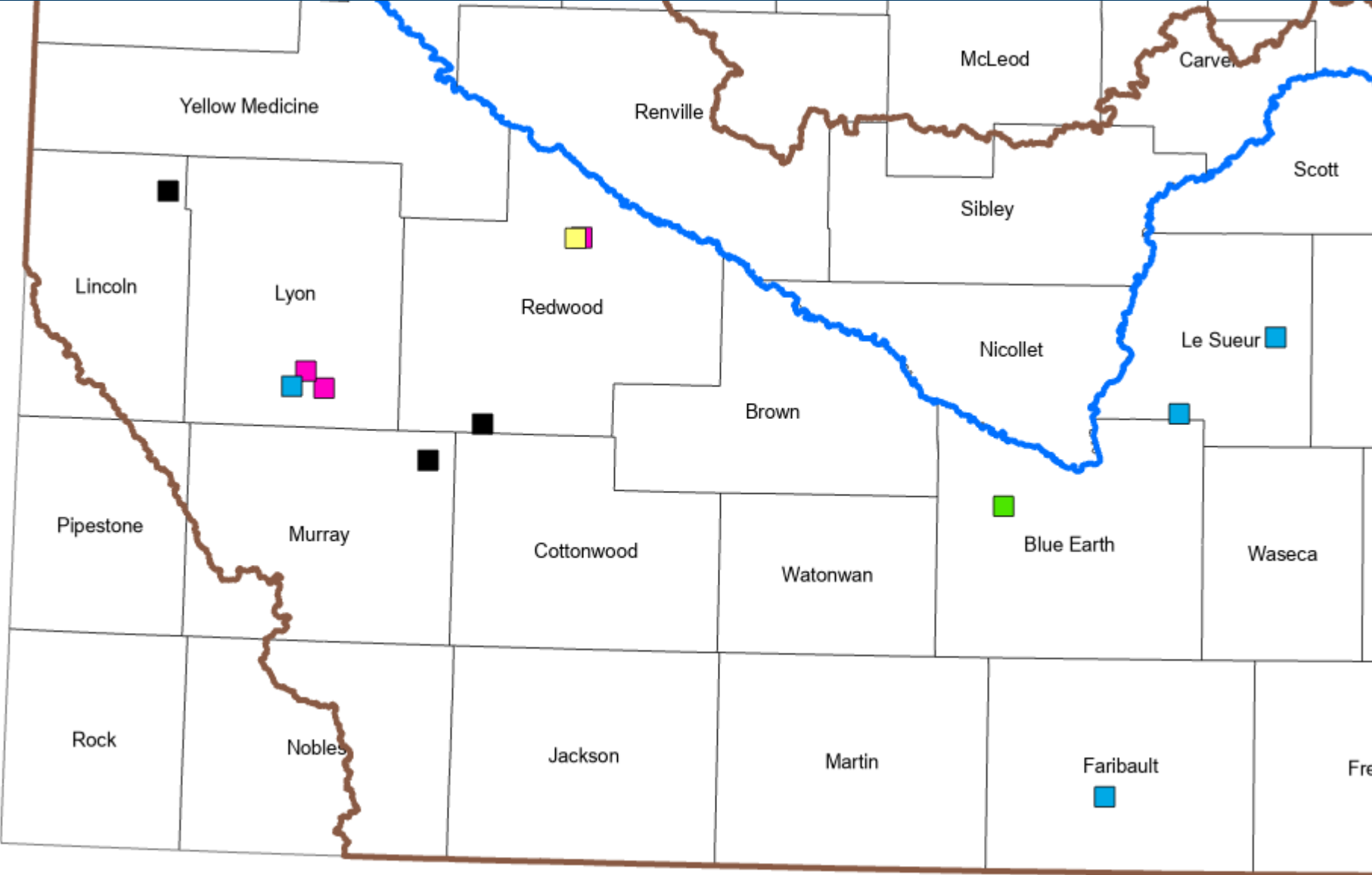
Project Type	# Installed
Wetland Restoration/ Storage Added	4
Grade Stabilization	3
Road Retention	3
Storage Basin	2
Terraces	1

If these slides are shared, please note that a summation of peak flow reduction is not an accurate way of showing overall flow reduction from the program and was used as satire in the presentation

Map of Project Sites

Practice

- Grade Stabilization
- Pond
- Road Retention
- Terraces
- Wetland



Selection Criteria

- Project or Practice must result in a reduction in peak flow rates and/or volumes
- Applicant must show how project improves flooding concerns, water quality issues, or addresses vulnerabilities to climate change
- For Final Design and Construction Projects:
 - Feasibility study required (planning must be done)
 - Project lifespan must be 25-years with a plan for maintenance
- For Modeling and Conceptual Design Projects:
 - Not looking for watershed-wide studies, we want to fund specific projects if possible.
 - Project readiness! Project will score much higher if landowner is already on board.

Current State of Funding

- \$19 Million appropriated to date with \$13 Million Remaining
- RCPP Application was awarded!
 - 21M was awarded as match for our work
 - Work will now include a batch and build effort – saturated buffers, bioreactors, drainage water management, reuse
- FY 25-26 State Appropriation?
- Average project cost: \$500,000

Additional Questions

- Program Evolution: what's gone well, what could be improved?
- How has the program related to 1W1P and storage goals?
- Is there a role for CWF policy or funding to address unmet needs or improvements?
- How has the program interacted with drainage authorities and drainage projects?
- How have the storage projects impacted stream erosion and sedimentation?

Clean Water Council

25 Oct 2024

List of Policy Ideas in Public Input

High Medium Low Kelly Gribauval-Hite Comments

Agency	Current Program	Comment	Staff comments	Response
HIGH PRIORITY (Near term action should be considered)				
BWSR	Targeted Wellhead/Drinking Water Protection Easements	Environmental group supports paying fair market value for easements within high risk DWSMAs. They feel it is cheaper than water plant de-nitrification.		Protecting 400,000 acres in vulnerable DWSMAs is a high priority for the Council.
MEDIUM PRIORITY (There is interest but more info is needed)				
DNR MDH Met Council	N/A	Funding needed for water reuse, especially capital improvement funds. State also needs a statewide reuse policy and guidelines. Incentives are needed for better irrigation.		MDH coming out with report in November. Await results. MDH would like to hand over to MPCA and MDH.
BWSR MDA DNR	N/A	MN River _____ group seeks to minimize/eliminate hydrologic changes in Minnesota River basin because BMPs are not keeping up with growth in TSS. Problem due to land use changes, more drainage, and more precipitation.		Current drainage policy statement is sufficient for now. Pursue water storage options. Not ready to take on tile drainage.
BWSR	Buffer Implementation	Environmental groups would like to see administrative penalty order (APO) authority used to enforce buffer law for those not in compliance, rather than only using CWFs to help them get in compliance. Fines could also help fund the work.		BWSR is discussing APO this fall and can report back.
DNR MDA	Nonpoint Source Implementation Technical Assistance	Red River projects experience permit delays with DNR. Please encourage state agencies to standardize and streamline process.		Refer to DNR and/or MDA

BWSR	Watershed Partners Legacy Grant Program	Nature Conservancy supports a significant increase and appreciates greater outreach to tribal government.		Stay in touch with BWSR on awardees in 2025. Track tribal government participation as part of the CWC's efforts to build ongoing communications.
LOW PRIORITY				
MPCA	Chloride Reduction	Chloride application liability protection for snow removal businesses with Smart Salting certification	Already in Council policy platform	Low priority
BWSR	One Watershed One Plan and Watershed Based Implementation Funding	A metro county SWCD believes that 1W1P is redundant within metro area where conservation districts and watershed districts have done much of the planning already.		This is something BWSR should be able to look into and elevate to the council if warranted.
BWSR	Various grant programs	Bois de Sioux Watershed Districts asks that flood control be eligible since it impacts water quality since drainage management can reduce TSS and P at lower cost than cover crops. They ask the Council to evaluate grant portfolio by problem scale.		Projects that have flood control as the main objective may not be constitutional under the Legacy Amendment.
DNR	Culvert Replacement Incentives	Bois de Sioux asks Council to recognize conflict between connectivity and flood control in Red River basin.		
DNR	Water Storage	The Red River is not getting CWFs for water storage. Funding is going to less organized parts of the state. Make the distribution uniform.	Water storage funding on a larger scale is being done via other funding sources than CWF.	However, the DNR water storage line item in FY24-25 was only for two projects on state owned land in SW MN. DNR is not asking for funding in FY26-27.
FOR CONSIDERATION 25 OCT 2024				
MDA	Agricultural Best Management Practices Loan Program	A lender suggests re-allocating unspent funds from some counties to counties with higher need and larger backlog.	<ul style="list-style-type: none"> Let's ask MDA if there are any counties that have unspent funds to see if there is an issue. MDA has usually indicated that these funds get committed pretty quickly statewide? 	•

MDA	Conservation Equipment Assistance	Ag stakeholders support ownership rather than a rental model and support the idea of those producers being able to do custom work for other farms.	<ul style="list-style-type: none"> The BOC has discussed this a little bit. There was some discomfort about free equipment that someone could use to set up a business. Advocates say we should want a producer to use the equipment on as many acres as possible no matter who owns it for maximum water quality benefits. 	<ul style="list-style-type: none"> It shouldn't be free, and if it's being fully paid for without a requirement of performance, then a policy should be put in place. Cost-share should be for no more than 25% and there should be a minimum annual acreage performance requirement for the life of the equipment. Agree with the BOC and with Chair Biske. This is not a program to set up ownership for free/low cost equipment. This is an easy route to set up a business with low startup costs. We need to remember that this is money coming from the taxpayers of MN.
MDA	Forever Green Initiative	Advocates ask for support to ensure a water-quality friendly policy for sustainable aviation fuel (SAF).	<ul style="list-style-type: none"> The Policy Committee heard a presentation on SAF on 8/23. Happy to follow up on this in whatever form the committee prefers. 	<ul style="list-style-type: none"> Yes, to considering a water policy statement for SAF and the council should consider a statement regarding the use of CWF to subsidize basic requirements SAF <p>Would need more information</p>
MDA	MN Agricultural Water Quality Certification Program	Use the program as a conduit for more soil health BMPs.	<ul style="list-style-type: none"> MAWQCP does provide up to \$5,000 grants to producers to support BMPs. A discussion is warranted about synchronizing multiple CWF programs that support soil health to make sure we are maximizing acreage and not leaving funds on the table in any one program. 	<ul style="list-style-type: none"> It would be good for MDA to quantify environmental outcomes at a watershed scale and to understand how the program is interacting with other programs for cumulative impact at a watershed scale
	MN Agricultural Water Quality Certification Program	Environmental groups support two policy changes: 1) Certified farms inside a DWSMA should not be exempted from Level 3 & 4 Groundwater Protection Rule mitigation requirements under the	<ul style="list-style-type: none"> Hastings DWSMA is very large and is among the first three DWSMAs that could reach Level 3 and 4 mitigation. With enough lead time, is it possible for a certified farm to 	<ul style="list-style-type: none"> This may be resolved with a statement from MDA

		10-year regulatory certainty period; 2) The certification period for farms inside DWSMAs with elevated nitrate levels should be reduced from 10 years to 5 years	<p>be exempted for ten years from any new requirements like the GPR?</p> <ul style="list-style-type: none"> • Certified farms must have nitrogen application levels well below what is in the U of M recommended rates, but advocates suggest that that still may be too high in some cases. • Is the GPR considered “new” regulation? If not, is this question moot? 	
MPCA (pass through)	National Park Water Quality Protection Program	Several organizations oppose earmarking funds in the CWF recommendations to avoid precedent. They also are concerned about this funding supporting additional development in a unique environment.	<ul style="list-style-type: none"> • The policy at work here is whether we earmark specific projects. 	<p>We should ask PFA and PCA how this would rank within other programs that also fund this work. And receive in writing how much of the funding is going to private businesses.</p> <p>Agree</p>
MDH MDA	Private well initiative Irrigation Water Quality Protection Monitoring for Pesticides in Surface Water and Groundwater Nitrate in Groundwater	Several environmental groups want these programs to be supported by the responsible parties through fees. These activities previously relied on other funding sources.	<ul style="list-style-type: none"> • It is always a good time to discuss what funding sources would be needed if the Legacy Amendment expires and isn’t renewed in its current form. • DNR charges groundwater fees but MDA runs the irrigation WQ protection program—would an additional fee be charged on the water and sent to MDA? • A modest fertilizer fee increase was proposed (\$0.99 per ton and then \$0.40 per ton) in the Legislature in 2024 but failed. It would have funded a limited amount of mitigation (\$5M?). • It would be good to model what the cost would be to carry these programs out and what it would cost per unit of product. 	<ul style="list-style-type: none"> • Identifying users, fee structures and the extent CWF supplements would be interesting and help inform potential rate increases. • I have a similar emerging concern with CWF paying for the carbon and environmental benefits of renewable energy like SAF when there’s a market or potential market that pays a premium • Agree as well.