COON CREEK WATERSHED DISTRICT
Request for Board Action

MEETING DATE: July 9, 2012
AGENDA NUMBER: 8
ITEM: NPDES Permit Comments

POLICY IMPACT: Policy
FISCAL IMPACT: Budgeted

REQUEST
Review and approve comments for forwarding to MPCA

BACKGROUND
At the May 29 meeting the Board was informed of the publication for public review of the new NPDES permit. Comments are due July 23.

The issues and concerns with the draft permit.

ISSUES/CONCERNS
1. **Coordination with Existing Comprehensive Planning Programs:** The Draft permit appears to have made no attempt to coordinate the planning and program requirements of the ‘storm water management program’ with the existing and more comprehensive requirements of the Metropolitan Water Management Act. This issue has been raised continuously since the inception of this program. The agency’s efforts to address this have been piece meal, half hearted and wholly wanting of a commitment by MPCA to collaboration with other State Agencies such as the BWSR to reduce or eliminate duplication of effort at the local level.

The responses from MPCA staff at the disbanding of the MPCA watershed work group and during the introduction of the current draft permit in 2011 were dismissive and showed a total lack of understanding of, or interest in comprehensive water management at the local level. The result is:

- Duplicated effort and additional costs for plan preparation.
- Creation of an environment where ‘format’ is more important than results, and
- A general trend where the concern of water quality has moved from dominating the local water management agenda to being the sole item on the agenda in some places. This ‘exclusiveness’ has shifted needed attention from interests and concerns for flood control, wildlife, recreation and other uses.

The 2011-12 effort (NPDES part deux) which resulted in the current draft permit has not been significantly different. It becomes clear that the MPCA has chosen to pursue and satisfy just the EPA requirements for the new permit and has no to little interest in Comprehensive Water Management as is evidenced by the
absence of the BWSR in the permit process and the less than robust manner in which they have addressed our concerns.

Request: We would like the agency to either provide a detailed reason before the legislature why the two programs can not be integrated, or commit to an authentic and concerted effort to bring the two programs together.

2. Over Reliance on Standard Operating Procedures (SOP) is Not Appropriate for a Rule: The rule currently requires the development of 9 separate SOPs. The rule does not clearly identify or define the desired outcome or objectives of these SOPs. Instead the rule quizzically states that the individual MS4 can develop the SOP as it sees fit as long the listed 3 to 7 items are addressed in the SOP. The result eliminates the ability of the MS4 to tailor SOPs to local conditions and traditions and further extends the reach of the MPCA into the day to day operations and priorities of local government.

Suggestion: If the Agency decides to leave the requirements for SOPs then the content requirements should be deferred to the guidance document. A guidance document would allow more space to recognize the continuum of MS4 abilities and needs and develop standard models/examples consistent with what MPCA/EPA wants

3. Inventory of Ponds, Lakes & Wetlands Receiving Stormwater: This requirement remains duplicative for MS4s within the Metropolitan Area and across most of the State of Minnesota. WMOs and Local units of government have been required to have a current inventory of their natural resources since the 1980’s.

If the intent of the inventory is to ensure that we all “understand (our) systems better”, then I would repeat the argument in our second comment and add that cooperation and collaboration are never achieved through patronization.

Suggestion: If there is essential information needed from an inventory for the MS4 and State to remain compliant with the Federal permit, then that should be stated in the rule. However, the current requirements could be addressed through a guidance document or the stormwater manual and provide more flexibility and assistance to MS4s.

4. Identifying Target Audiences and Assessing Measurable Outcomes of Social Change: At the December 2011 facilitated public input meeting, MPCA staff strongly indicated that they understood the unrealism of this requirement and indicated that it would be removed. The cost and effort to develop and implement a metric and survey system that would validly and reliably measure “social change” presumable as it relates to change not only in behavior but the goals, values and beliefs that drive behavior and the tastes and preferences stemming
from those motivators and driving social demand would be astronomical, always subject to question and divert significant resources away from the effort to clean up and protect the water resource.

**Suggestion:** This requirement should be removed from the permit altogether as indicated by MPCA staff. It is an expensive idea with low reliable results that diverts funding from other more beneficial projects and programs.

5. **Assessment Process for Determining TSS and TP Treatment on All Ponds owned by the MS4:** This requirement requires clarification as to intent and process.

**Suggestion:** Assessment of treatment capacity should be conducted as part of the 5 year inspection cycle. The purpose is to determine the performance of the BMP as it ages and depreciates so that maintenance and repair can be managed. The intent is to determine not if all the parts work (condition of the outlet, sides of the pond) but if it is working.

**RECOMMENDATION**
Review and approve comments for forwarding to MPCA