Oct. 30, 2017

TO: Watershed Districts

FROM: Barb Haake, MAWD Resolutions/Policy Committee Chair

Re: 2017 Proposed Resolutions Recommendations

Below are the recommendations of the MAWD Resolutions/Policy Committee to MAWD membership for the 2017 MAWD Annual Meeting. The committee will meet again at our Annual Meeting on Friday, December 1st at 7:30 am to entertain any questions regarding their recommendations from the proposing watershed district or other member districts and review any Board of Director’s Resolutions. Please watch for the location of this meeting on the Annual Meeting program.

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<th>Resolution#</th>
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<td>#1;</td>
<td>Capitol Region WD</td>
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Recommendation: The Committee recommends that MAWD work with the agencies involved through the Local Government Water Roundtable in attempts to solve this issue administratively instead of taking legislation to the capitol.

#2; Comfort Lake-Forest Lake WD Temporary Quarantine Authority to Control Spread of Aquatic Invasive Species

Recommendation: The Committee recommends that the Watershed District and MAWD work with DNR in a collaborative manner to explore these and other options to deal with AIS in local lakes before WD’s ask for this authority.

#3; Comfort Lake-Forest Lake WD Support for CRP in Federal Farm Bill

Recommendation: MAWD support the resolution as written. Further suggest that MAWD work with the other local governments through the Local Government Water Roundtable to pursue this resolution’s objectives.

#4; Nine Mile Creek WD Support Legislation to provide limited liability protection for commercial salt applicators who
Recommendation: The Committee recommends this resolution be presented to the membership for discussion and action without recommendation.

#5; Middle Fork Crow River WD Watershed District Funds: Statutory Correction

Recommendation: The Committee recommends this resolution be tabled because it is present policy. Legislation has been introduced in the House (HF2456) and it has a Senate author but not yet introduced.

#6; Middle Fork Crow River WD Allow WD managers Participation in Electronic Meeting Outside of Territorial Limits of the WD or state.

Recommendation: Committee recommends the tabling of this legislation. It is already a MAWD Policy position and legislation is drafted ready for introduction for the 2018 session.

#7; Middle Fork Crow River WD Lift MFCRWD’s General Fund Levy Limit

Recommendation: The Committee recommends this resolution be presented to the membership for discussion and action without recommendation.

#8; Rice Creek WD Aliening Commercial Carp fishing Regulations with clean water goals; and promoting markets for invasive carp

Recommendation: Committee recommends the tabling of this legislation. It is already a MAWD Policy position.

#9; Two Rivers WD Stable Funding for Flood Damage Reduction

Recommendation: Committee recommends that MAWD work with the Red River Watershed Management Board on this issue. Open to discussion and action at the membership meeting.
2017 MAWD Resolution Background Information

Proposing District: Capitol Region Watershed District

Contact Name: Mark Doneux

Phone Number: 651.644.8888

Email Address: mark@capitolregionwd.org

Resolution Title (brief subject statement): State Watershed Program Coordination and Integration with Local Watershed Implementation

Current implementation of both the One Watershed, One Plan and the WRAPS programs should better integrate into local watershed implementation efforts.

State Clean Water Funds should not be expended on state efforts that duplicate or do not advance local watershed implementation.

Factual points which provide background to, or a basis for, the issue addressed by Resolution:

One Watershed, One Plan was developed by the Local Government Water Roundtable (Association of Minnesota Counties, and the Minnesota Associations of Watershed Districts and Soil and Water Conservation Districts) which recommended that local governments charged with water management responsibilities should organize and develop focused implementation plans on a watershed scale.

The vision of One Watershed, One Plan is to align local water planning on major watershed boundaries with local strategies towards prioritized, targeted and measurable implementation plans.

Based upon the above facts, what is the proposed solution to the problem discussed above:

The Minnesota Association of Watershed Districts pursue legislation requiring state Clean Water Land and Legacy Funds for One Watershed, One Plan and the WRAPS programs to provide a direct linkage and alignment with each other as well as local watershed plan implementation.

Clean Water Land and Legacy funds for One Watershed, One Plan and the WRAPS programs must not duplicate local efforts and are focused towards local watershed implementation.

Likely Reaction by the Public or Other Governmental Units?

Favorable

This issue is of importance (Check one):

To just our District: 

To just our Region: 

To the entire State: X
Resolution
State Watershed Program Coordination and Integration with Local Watershed Implementation

Whereas, Minnesota has a long history of water management by local government units; and

Whereas, the Minnesota Legislature authorized the creation of watershed districts in 1955, through the Watershed Act, with the idea that water management policies should be developed on a watershed basis, because water does not follow political boundaries; and

Whereas, the statutory purposes of watershed districts are to conserve the natural resources of the state by land use planning, flood control, and other conservation projects by using sound scientific principles for the protection of public health and welfare and the provident use of natural resources; and

Whereas, the specific duties of Watershed Districts vary across the state -- some focus mainly on flood damage reduction, while others have a broad range of programs and services to protect and improve water quality; and

Whereas, One Watershed, One Plan was developed by the Local Government Water Roundtable (Association of Minnesota Counties, and the Minnesota Associations of Watershed Districts and Soil and Water Conservation Districts) which recommended that local governments charged with water management responsibilities should organize and develop focused implementation plans on a watershed scale; and

Whereas, the vision of One Watershed, One Plan is to align local water planning on major watershed boundaries with local strategies towards prioritized, targeted and measurable implementation plans; and

Whereas, BWSR’s vision for One Watershed, One Plan is that plans developed through this approach will address the need for focused watershed-based implementation plans that will be prioritized, targeted, and measurable; and

Whereas, the MPCA is charged with the State adopted “watershed approach” to address the state’s 81 “major” watersheds to develop Watershed Restoration and Protection Strategies (WRAPS); and

Whereas, current implementation of the both the One Watershed, One Plan and the WRAPS program needs to be better integrated into local watershed implementation efforts; and

Whereas, Clean Water Funds should not be expended on state efforts that duplicate or do not advance local watershed implementation;

Therefore, be it resolved that the Minnesota Association of Watershed Districts pursue legislation requiring state Clean Water Land and Legacy Funds for One Watershed, One Plan and the WRAPS programs to provide a direct linkage and alignment with each other as well as local watershed plan implementation; and

Be It Further Resolved that Clean Water Land and Legacy funds for One Watershed, One Plan and the WRAPS programs do not duplicate local efforts and are focused towards local watershed implementation.
2017 MAWD Resolutions
Background Information

Proposing District: Comfort Lake-Forest Lake Watershed District

Contact Name: Mike Kinney, District Administrator

Phone Number: (Day/Cell/Evening) 651-395-5855

Email Address: Michael.kinney@clflwd.org

Resolution Title (brief subject statement): Temporary Quarantine Authority to Control Spread of Aquatic Invasive Species

Factual points that provide background to, or a basis for, the issue addressed by the resolution:

Aquatic Invasive Species (plant, fish, invertebrate, and pathogen) continue to spread to more lakes. According to the Minnesota Department of Natural Resources (DNR), 48 new infestations have been listed in 2017. The spread of AIS may be assisted by boat transfer that occurs before measures to limit spread can be determined or implemented.

Based upon the above facts, what is the proposed solution to the problem discussed above:

Among other tools, and analogous to a land use moratorium, public agencies engaged in AIS control should have the authority to close public boat access points for a period of time appropriate to assess and institute active measures to prevent a threatened movement of an AIS species into or from the quarantined lake. After a public hearing and with adequate technical findings, a watershed district, with or without DNR oversight, should have the authority to impose a public access quarantine for motorized and non-motorized craft for an appropriate time, e.g., up to 24 months, while AIS response is being determined and implemented. The quarantine would not affect private access to the waterbody by riparian owners or through private marina entry.

Likely Reaction by the Public or Other Governmental Units?

We believe that at least several lakes in Minnesota have been temporarily quarantined, with DNR cooperation, in conjunction with AIS management actions without negative reaction. This would formalize and structure, but also expand, the ability to quarantine.

Riparian owners may be supportive. The DNR may express reservations about the potential to limit public lake access, as may recreational lake users and businesses that serve them. An open public process to make quarantine decisions is critical.

Counties and cities regulate water surface use under Chapter 86B and may view this as an incursion on that authority. However exercising authority over lake access is different from regulating boat size, speed, areas of use and similar surface use matters.

This issue is of importance (Check one):

To just our District: ___
To just our Region: ___
To the entire State: X
RESOLUTION to Authorize Temporary Lake Quarantine
to Control the Spread of Aquatic Invasive Species

WHEREAS Aquatic Invasive Species (AIS), including invasive plants, fish and invertebrates, continue to spread throughout Minnesota lakes, with the Minnesota Department of Natural Resources (DNR) reporting many new infestations in 2017;

WHEREAS the movement of a newly identified AIS infestation into or out of a lake may be assisted by boat transfer that occurs before measures to limit that movement can be decided or implemented;

WHEREAS a temporary quarantine can prevent the movement of newly identified AIS species into or out of a lake while measures to respond to the infestation can be decided and implemented;

WHEREAS while in several instances temporary public access quarantines have been applied in conjunction with AIS treatment measures, the authority for quarantines is not explicit in state statute;

WHEREAS all parties affected by a potential quarantine would benefit from a more formal and structured process of deciding on and instituting the quarantine;

THEREFORE BE IT RESOLVED that the Minnesota Association of Watershed Districts supports legislation granting to watershed districts, independently or under DNR oversight, the authority, after public hearing and technical findings, to impose a public access quarantine, for a defined period of time in conjunction with determining and instituting an AIS management response to an infestation.
2017 MAWD Resolutions
Background Information

Proposing District: Comfort Lake-Forest Lake Watershed District

Contact Name: Mike Kinney, District Administrator

Phone Number: (Day) 651-395-5855

Email Address: Michael.kinney@clfldw.org

Resolution Title (brief subject statement): Support for CRP in Federal Farm Bill

Factual points that provide background to, or a basis for, the issue addressed by the resolution:

Congress presently is developing the 2018 federal Farm Bill. The Farm Bill will contain a conservation title with appropriations for federal conservation programs for agricultural lands including the Conservation Reserve Program (CRP). The State of Minnesota has been a leader in developing and implementing approaches that maintain agricultural productivity while integrating conservation practices for water quality and habitat benefit. The State has shown its commitment through its constitutional mandate for conservation spending and other state and local appropriations for water quality and habitat purposes. CRP is a principal element of the array of federal/state conservation programs for agricultural lands but enrollments are presently at the federal acreage cap.

Based upon the above facts, what is the proposed solution to the problem discussed above:

MAWD should advocate for a strong CRP element in the Farm Bill conservation title including CRP reauthorization with an increased acreage cap, maintenance of continuous signup for high value environmental practices such as buffers and wetland restoration, maintenance or expansion of the grasslands program, and removal of restrictions on incorporation of drainage water quality management practices. Acreage increase and other elements with spending implications should not be at the expense of other successful conservation practices such as the Environmental Quality Incentives Program or the Conservation Stewardship Program. MAWD should coordinate with the Minnesota Board of Water and Soil Resources, Minnesota Department of Agriculture and others to advocate to and work with the State’s Congressional delegation and other federal representatives.

Likely Reaction by the Public or Other Governmental Units?

We believe there is general support for a strong conservation title among the agricultural, conservation and hunting/fishing communities generally and continuing support for CRP.

This issue is of importance (Check one):

To just our District: ___
To just our Region: ___
To the entire State: X
RESOLUTION to Support CRP in the 2018 Federal Farm Bill

WHEREAS Congress presently is preparing the 2018 federal Farm Bill, which will contain a conservation title with appropriations for federal conservation programs for agricultural lands including the Conservation Reserve Program (CRP);

WHEREAS the State of Minnesota has been a leader in developing and implementing approaches that maintain agricultural productivity while integrating conservation practices for water quality and habitat benefit, and has shown its commitment through its constitutional mandate for conservation spending and other state and local appropriations for water quality and habitat purposes;

WHEREAS the CRP is a principal federal/state conservation program for agricultural lands but enrollments are presently at the federal acreage cap;

THEREFORE BE IT RESOLVED that the Minnesota Association of Watershed Districts supports a strong CRP element in the Farm Bill conservation title, including but not limited to CRP reauthorization with an increased acreage cap, maintenance of continuous signup for high value environmental practices such as buffers and wetland restoration, maintenance or expansion of the grasslands program, and removal of restrictions on incorporation of drainage water quality management practices, while maintaining other successful federal conservation programs for agricultural lands such as EQIP and CSP;

THEREFORE BE IT FURTHER RESOLVED that MAWD will coordinate with the Minnesota Board of Water and Soil Resources, Minnesota Department of Agriculture and others to advocate to and work with the State’s Congressional delegation and other federal representatives to achieve this policy goal.
2017 MAWD Resolutions
Background Information

Proposing District:  Nine Mile Creek Watershed District
Contact Name:  Randy Anhorn, Administrator
Phone Number:  (day) 952.835.2078  (cell) 651.472.4061  (evening)
Email Address:  ranhorn@ninemilecreek.org

Resolution Title (brief subject Statement):

Watershed district support for amendment to state law providing limited liability protection to commercial salt applicators who are certified through an established voluntary salt applicator certification program.

Factual points which provide background to, or basis for, the issue addressed by Resolution:

Monitoring of our lakes, wetlands, streams and groundwater shows high chloride levels in urban areas across the state.

As of 2016, 39 waterbodies in the Twin Cities metro area had been listed by the Minnesota Pollution Control Agency as impaired for chloride. Total Maximum Daily Load studies have been completed for two waterbodies: Shingle Creek and Nine Mile Creek. This, while only about 10% of metro area surface waterbodies have been assessed for chlorides. The MPCA is developing TMDL studies for the remaining 37 impaired waterbodies through a metro-wide TMDL study.

A recent MPCA study found that 30% of monitoring wells tested in shallow sand and gravel aquifers in the Twin Cities metro area exceeded the state chronic standard for surface waters of 230 mg/L for chloride (MPCA 2013).

Once in the water, chloride becomes a permanent pollutant and continues to accumulate, with no feasible way to remove it. Excessive chloride in streams can harm aquatic life, including fish, invertebrates and aquatic plants and in drinking water is a human health concern.

The Nine Mile Creek TMDL study indicated that largest chloride source to our lakes and streams is through the application of chloride compounds on roads, parking lots, sidewalks and other hard surfaces for winter maintenance practices.

Municipal and county public works departments and the Minnesota Department of Transportation have long trained maintenance staff on proper use of salt. Many have adopted
and implemented chloride-management policies and best practices. (As a general matter, public road authorities are already statutorily protected from liability for snow and ice conditions on roads and sidewalks.)

Generally, property owners over-apply salt out of concern over liability for property damage and injuries resulting from accidents caused by snow and ice on sidewalks and other impervious surfaces. Many commercial property-maintenance contractors and property owners are reluctant to implement salt-reduction practices for fear of increased liability.

A bill introduced in 2016 (attached) would provide limited liability protection to commercial applicators (maintenance companies) who complete training and become certified, as well as to property owners who hire certified salt applicators to maintain their properties. The legislation requires maintenance in keeping with best practices and recordkeeping.

In short, providing limited liability to certified salt-applicators and property owners who use certified applicators would minimize the application of chloride compounds on roads, parking lots, sidewalks and other hard surfaces for winter maintenance practices and reduce chloride loading to water resources.

The Minnesota Pollution Control Agency currently oversees a Smart Salting Certification Program that provides training to public and commercial salt applicators, private property owners and managers and others on how to maintain safe surfaces using salt efficiently, because excess salt increases costs and pollutes water resources.

Based upon above facts, what is the proposed solution to the problem discussed above:

Pass legislation and enact a state law that would provide limited liability to commercial salt applicators that are certified through an established voluntary salt applicator certification program and follow best management practices through the certified training.

Likely Reaction by the Public or other Governmental Units:

While it is not clear that the public is generally aware of the damage caused to waterbodies by chloride, our conversations with those that more closely follow environmental issues, such as Master Water Stewards and the City of Edina water quality working group, indicate that they are well aware of the impact that the application of chloride compounds on roads, parking lots, sidewalks and other hard surfaces for winter maintenance practices has on our water resources and are very supportive of the limit liability legislation.

Governmental entities in Minnesota have adopted salt-use best practices, and may well support expansion of the practices to private properties. In limited conversations we have had with city, county and state public works and transportation representatives, they feel like they are doing their part and now the private sector needs to step up. Attorneys, on the other
hand, who represent persons with snow- and ice-related claims may oppose the liability exemption.

This issue is of importance (Check one):

To just our District: _______

To just our Region: _______

To the entire State: X
RESOLUTION

Watershed District support for state law that provides limited liability to commercial salt applicators that are certified through an established voluntary salt applicator certification program.

WHEREAS chloride contamination of water resources has been found in urban areas around the state;

WHEREAS the Minnesota Pollution Control Agency has listed 39 waterbodies in the Twin Cities metro area as impaired for chloride and has completed Total Maximum Daily Load studies on Nine Mile Creek and Shingle Creek and is currently developing TMDLs for the remaining impaired waterbodies through a metro-wide TMDL study; and

WHEREAS the TMDL studies have indicated that the largest chloride source to our lakes and streams is through the application of chloride compounds on roads, parking lots, sidewalks and other hard surfaces for winter maintenance practices; and

WHEREAS liability for property damage or personal injury as a result of snow or ice is one of the main reasons over-salting occurs and many private commercial contractors and property owners are reluctant to implement salt-reduction practices for fear of increased liability; and

WHEREAS the MPCA currently oversees a voluntary Smart Salting Certification Program that provides training to public and commercial salt applicators, private property owners and managers and others on how to maintain safe surfaces using salt efficiently;

NOW, THEREFORE BE IT RESOLVED, the Minnesota Association of Watershed Districts supports passage and enactment of state law that provides a limited liability exemption to commercial salt applicators and property owners using salt applicators who are certified through the established salt applicator certification program who follow best management practices.
1.1 A bill for an act
1.2 relating to environment; establishing certified salt applicator program; limiting
1.3 liability; authorizing rulemaking; proposing coding for new law in Minnesota
1.4 Statutes, chapter 116.
1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [116.2025] VOLUNTARY SALT APPLICATOR CERTIFICATION PROGRAM.

Subdivision 1. Definitions. For the purpose of this section, the following terms
have the meanings given:

(1) "commercial applicator" means an individual who applies or supervises others
who apply salt for hire, but does not include a municipal, state, or other government
employee; and

(2) "salt" means sodium chloride, calcium chloride, magnesium chloride, or any
other substance containing chloride.

Subd. 2. Voluntary certification program; best management practices. The
commissioner of the Pollution Control Agency shall establish a program to allow
commercial applicators of salt to obtain certification as a water-friendly applicator. The
commissioner shall develop a training program that promotes best management practices
that use the least amount of salt while ensuring safe conditions on surfaces traveled by
pedestrians and vehicles. The commissioner shall certify a commercial applicator that has
completed the program as a water-friendly applicator for a period of time to be determined
by the commissioner. The commissioner shall develop additional training or requirements
for renewing the certification. Notwithstanding section 16A.1283, the commissioner
may charge a fee to commercial applicators to recover the costs of developing and
administering this section. The commissioner shall post the best management practices
developed under this section on the agency's Web site.

Subd. 3. Liability. (a) A commercial applicator certified under this section or
the owner, occupant, or lessee of land maintained by a commercial applicator certified
under this section is not liable for damages arising from insufficiencies or hazards
on any premises owned, occupied, maintained, or operated by the applicator, owner,
occupant, or lessee, even with actual notice thereof, when the hazards are caused solely
by snow or ice, and the commercial applicator's, owner's, occupant's, or lessee's failure
or delay in removing or mitigating the hazards is the result of implementation, absent
gross negligence or reckless disregard of the hazard, of the best management practices
developed by the commissioner under this section. Commercial applicators certified under
this section and owners, occupants, or lessees of land maintained by a certified commercial
applicator who adopt the best management practices are presumed to be acting pursuant to
the best management practices in the absence of proof to the contrary.

(b) To receive the liability protection provided in paragraph (a), the commercial
applicator or the owner, occupant, or lessee of land must keep a written record describing
the road, parking lot, and property maintenance practices used. The written record must
include the type and rate of application of de-icing materials used, the dates of treatment,
and the weather conditions for each event requiring de-icing. The records must be kept
for three years.

Subd. 4. Penalty. The commissioner may revoke or decline to renew the certification
of a commercial applicator who violates this section or rules adopted under this section.

Subd. 5. Rulemaking. The commissioner may adopt rules necessary to implement
this section.