Section 103E.015 Updates and Relationship to 1 Watershed – 1 Plan

IWLA Watershed Summit
Normandale Community College 2-21-15
Al Kean, Chief Engineer, BWSR
Minnesota Drainage Law and Section 103E.015

- Water Law is in Minnesota Statutes Chapters 103A - 103I and Chapters 104 - 114B
- MN Drainage Law = Minnesota Statutes Chapter 103E DrainageMN
- Section 103E.015 Considerations Before Drainage Work is Done
### Drainage Work Group (DWG) Membership

<table>
<thead>
<tr>
<th>Drainage Authorities</th>
<th>AMC – Association of Minnesota Counties</th>
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<tbody>
<tr>
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<td>MAWD – Minnesota Association of Watershed Districts</td>
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<td>Farm Groups</td>
<td>MFB – Minnesota Farm Bureau</td>
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<td>MFU – Minnesota Farmers Union</td>
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<td>Reps. of other Ag and Producer Groups</td>
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<td>(MAWRC, MCGA, etc.)</td>
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<td>Environmental Groups</td>
<td>MCEA – Minnesota Center for Environmental Advocacy</td>
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<td>FWLA – Fish and Wildlife Legislative Alliance</td>
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<td>MCF – Minnesota Conservation Federation</td>
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<td>Other Associations</td>
<td>MASWCD – MN Assn. of Soil and Water Conservation Districts</td>
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<td>MVA – Minnesota Viewers Association</td>
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<td>MACATFO – MN Assn. of Co. Auditors Treasurers Financial Officers</td>
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<td>MADI – Minnesota Association of Drainage Inspectors</td>
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<td>RRWMB – Red River Watershed Management Board</td>
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<td>MAT – Minnesota Association of Townships</td>
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<td>State Agencies + Legislature</td>
<td>BWSR, DNR, MDA, MPCA, MnDOT + UMN, MSU-M</td>
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<td>Legislators and/or House and Senate committee staff</td>
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Brief History of Section 103E.015

- 1955 – Drainage Law first included what became Sec. 103E.015, Subd. 2. Determining Public Utility, Benefit, or Welfare (must give consideration to conservation of natural resources and other public interests)
- 1973 - 1975 – Drainage Law added what became Sec. 103E.015, Subd. 1. Environmental and Land Use Criteria (8 criteria)
- 1976 – a 9th criteria was added to Subd. 1.
- 1987 – Wording of Subd. 1 was revised somewhat
- 2014 – Subd. 1. and 2. were revised and Subd. 1a. added
Key Definitions

- **Section 103E.005 Definitions.**
- **Subd. 11. Drainage Project.** “Drainage project” means a new drainage system, an improvement of a drainage system, an improvement of and outlet, or a lateral.
- A repair is not a “drainage project”, by definition.
Key Addition to Drainage Law in 2000

- **Section 103E.011 Drainage Authority Powers.**
  
  Subd. 5. **Use of External Sources of Funding.** ... a drainage authority may accept and use funds from sources other than, or in addition to, those derived from assessments based on the benefits of the drainage system for the purposes of wetland preservation or restoration, or creation of water quality improvements, or flood control. ...
Section 103E.015 Considerations Before Drainage Work is Done

Subd. 1. Environmental, Land Use and Multipurpose Water Management Criteria

Before establishing a drainage project, the drainage authority must consider each of the following criteria:

(1) private and public benefits and costs of the proposed drainage project;
(2) alternative measures, including measures identified in applicable state approved and locally adopted water management plans, to:
   (i) conserve, allocate, and use drainage waters for agriculture, stream flow augmentation, or other beneficial uses;
   (ii) reduce downstream peak flows and flooding;
   (iii) provide adequate drainage system capacity;
   (iv) reduce erosion and sedimentation; and
   (v) protect or improve water quality;
Subd. 1. Environmental, Land Use and Multipurpose Water Management Criteria

Before establishing a drainage project, the drainage authority must consider each of the following criteria: (cont’d)

(3) the present and anticipated land use within the drainage project or system, including compatibility of the project with local land use plans;

(4) current and potential flooding characteristics of property in the drainage project or system and downstream for 5-, 10-, 25-, and 50-year flood events, including adequacy of the outlet for the drainage project;

(5) the effects of the proposed drainage project on wetlands;

(6) the effects of the proposed drainage project on water quality;

(7) the effects of the proposed drainage project on fish and wildlife resources;

(8) the effects of the proposed drainage project on shallow groundwater availability, distribution, and use; and

(9) the overall environmental impact of all the above criteria.
Section 103E.015, Subd. 1a. Investigating Potential Use of External Sources of Funding and Technical Assistance.

When planning a drainage project or a repair under section 103E.715, and prior to making an order on the engineer’s preliminary survey report for a drainage project or the engineer’s report for a repair, the drainage authority shall investigate the potential use of external sources of funding to facilitate the purposes indicated in section 103E.011, subdivision 5 and alternative measures in subdivision 1, clause (2). This investigation shall include early coordination with applicable soil and water conservation district, county, and watershed district water planning authorities about potential external sources of funding and technical assistance for these purposes and alternative measures. The drainage authority may request additional information about potential funding or technical assistance for these purposes and alternative measures from the executive director of the Board of Water and Soil Resources.
Section 103E.015, Subd. 2. Determining public utility, benefit, or welfare.

In any proceeding to establish a drainage project, or in the construction, repair or other work affecting a public drainage system under any law, the drainage authority or other authority having jurisdiction over the proceeding must give proper consideration to conservation of soil, water, wetlands, forests, wild animals, and related natural resources, and to other public interests affected, together with other material matters as provided by law in determining whether the project will be of public utility, benefit, or welfare.

These Section 103E.015 Drainage Law changes became effective 8-1-14.
1Watershed 1Plan Guiding Principles

- Build on a long history of local water planning in Minnesota to streamline plans
- Leverage streamlined plans to gain efficiency in implementation (particularly of Watershed Restoration And Protection Strategies (WRAPS))
- Build on the Watershed Approach
1Watershed 1Plan Guiding Principles

- Systematic & science-based
- Driven by local governments (and partnerships thereof)
- Prioritized & targeted actions
- Capable of achieving measurable results

PTM = Prioritized, Targeted and Measurable
Section 103E.015 Connection to 1Watershed 1Plan

- Drainage law is less of a single-purpose law now than in the past
- Local water planning involves multipurpose water management
- Drainage authorities (counties and WDs) are also local water planning authorities, but these authorities typically treated as different hats
- Local water planning and implementation need to be key drivers of multipurpose water management
- Drainage law can now work better with multipurpose water mgmt., 1Watershed 1Plan, and external funding for public purposes
Wetland Restoration – Nicollet Co.
Storage to Improve System Capacity & WQ
CD 58 Tile

12” County Tile Outlet

8” Private Tile Outlet

19-acre CREP and 27-acre RIM Easements

Water Level Control Structure
Questions?
Question

Where are the dollars and the leadership on the part of the state to answer the economic questions, so the word “consider” starts carrying more weight?
Question

Is BWSR devoting its resources to help us with our groundwater problems in Minnesota?
Question

I have a question about the 80% reduction in nitrogen in that wetland complex. That’s a terrific result.

How serious are we going to get about nitrogen coming out of drainage systems, particularly in light of that groundbreaking lawsuit that Des Moines is taking against upstream watershed districts?
Question

Is there going to be a push as a result of that lawsuit?
Questions?
Wetland Restoration Adjacent to Ditch