

Resolutions Packet

DATE: October 11, 2022
TO: MAWD Board of Directors
FROM: Linda Vavra, Resolutions Committee Chair
RE: **Resolutions Committee Recommendations**



Committee members present: Region 1 Manager Linda Vavra, Bois de Sioux WD (BDSWD) and MAWD Board; and Region 1 Administrators Jamie Beyer, BDWSD and Dan Money, Two Rivers WD.

Other meeting participants: Region 3 Administrators John Hanson, Valley Branch WD, Randy Anhorn, Nine Mile Creek WD, and Nick Tomczik, Rice Creek WD; and Ray Bohn and Jan Voit, MAWD.

Committee members absent: Region 3 Manager Sherry Davis White and Region 3 Administrator James Wisker, Minnehaha Creek WD and Region 2 Manager Ruth Schaefer, Middle Fork Crow River WD. The Region II administrator position is vacant.

The Resolutions Committee met on Tuesday, October 11, 2022 to review and discuss the resolutions submitted by MAWD members. Their recommendations are as follows.

Resolutions Committee Recommendations

#	Resolution Title	Committee Recommendation
1	Support Including at Least One MAWD Member on the Minnesota Department of Health's Workgroup to Move Forward, Prioritize, and Implement the Recommendations of the Interagency Report on Reuse of Stormwater and Rainwater in Minnesota	Recommends adoption with amendment
2	Support to Amend State Law to Provide Limited Liability Protection to Smart Salting-certified Commercial Salt Applicators and the Property Owners Who Employ Them	Recommends adopting Resolution 2022-02 in place of Resolution 2020-17
3	Increased Support and Participation for the Minnesota Drainage Work Group	Recommends adoption
4	Clarification of Watershed District Project Establishment with Government Aid or as Part of a Plan	Recommends adoption
5	Obtain Stable Funding for Projects that Provide Flood Damage Reduction and Natural Resources Enhancement	Recommends adoptions
6	Limit Wake Boat Activities that Cause Shoreline Erosion, Reduce the Efficacy of In-lake Phosphorus Control Practices, and Contribute to the Spread of Aquatic Invasive Species	Recommends support with contingency
7	Limit Excessive Use of Groundwater for the Purpose of Watering Urban and Suburban Landscapes During Summer Months	Does not recommend adoption
8	Increased Flexibility in Open Meeting Law to Utilize Interactive Technology	No recommendation

BACKGROUND INFO on MAWD RESOLUTION 2022-01

Resolution to Request MAWD Support Including at Least One MAWD Member on the Minnesota Department of Health’s Workgroup to Move Forward, Prioritize, and Implement the Recommendations of the Interagency Report on Reuse of Stormwater and Rainwater in Minnesota

Proposing District: Valley Branch Watershed District
Contact Name: John Hanson
Phone Number: 952-832-2622
Email Address: jhanson@barr.com

Background that led to submission of this resolution:

Stormwater runoff volume control is required through Minnesota’s MS4 program construction stormwater permits, and the rules of many watershed districts and watershed management organizations. Stormwater runoff volume control is typically achieved through infiltration. However, infiltration is prohibited in groundwater contamination and karst areas, including significant areas of the east metro. Stormwater reuse is the only mechanism to achieve volume control in these areas.

The Minnesota Department of health published “[Reuse of Stormwater and Rainwater in Minnesota](#): A Public Health Perspective” in January 2022. A conclusion of that report states, “We have secured funding through the Clean Water Fund to hire a facilitator to create an expanded workgroup to move the Interagency Report recommendations forward and to prioritize and implement research needs.” This resolution modifies the MAWD Resolution 2017-07 to ensure that at least one MAWD member is included in the workgroup.

Ideas for how this issue could be solved:

At least one MAWD member should be included in the workgroup.

Efforts to solve the problem:

Resolution 2017-07 has been in place for five years.

Anticipated support or opposition:

Cities and developers would likely support this effort.

This issue (check all that apply):

Applies only to our district:	_____	Requires legislative action:	_____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____ X _____
Applies to the entire state:	_____ X _____	Impacts MAWD bylaws or MOPP:	_____

MAWD RESOLUTION 2022-01

Resolution to Request MAWD Support Including at Least One MAWD Member on the Minnesota Department of Health’s Workgroup to Move Forward, Prioritize, and Implement the Recommendations of the Interagency Report on Reuse of Stormwater and Rainwater in Minnesota

WHEREAS, stormwater runoff volume control is required through Minnesota’s MS4 program, construction stormwater permits, and the rules of many watershed districts and watershed management organizations, including those of the District; and

WHEREAS, stormwater runoff volume control is typically achieved through infiltration; and

WHEREAS, infiltration of stormwater is prohibited in ground water contamination and karst areas, including significant areas of the east metro; and

WHEREAS, stormwater reuse is the only mechanism to achieve volume control when infiltration is prohibited; and

WHEREAS, the Minnesota Department of Health published “Reuse of Stormwater and Rainwater in Minnesota: A Public Health Perspective” in January 2022; and

WHEREAS, a conclusion of that report states, “We have secured funding through the Clean Water Fund to hire a facilitator to create an expanded workgroup to move the Interagency Report recommendations forward and to prioritize and implement research needs”.

NOW, THEREFORE, BE IT RESOLVED that the Minnesota Association of Watershed District supports administratively or legislatively including at least one MAWD member on the Minnesota Department of Health’s workgroup to move forward, prioritize, and implement the recommendations of the interagency report on reuse of stormwater and rainwater in Minnesota.

Notes: The Resolutions Committee recommends adoption of Resolution 2022-01 with the amendment shown above.

BACKGROUND INFO on MAWD RESOLUTION 2022-02

Resolution Seeking to Request MAWD Support the Passage and Enactment of a 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 Certification Program and Follow Best Management Practices

Proposing District: Nine Mile Creek WD
Contact Name: Randy Anhorn, Administrator
Phone Number: 952-835-2078; Cell: 651-472-4061
Email Address: ranhorn@ninemilecree.org

Background that led to submission of this resolution:

This resolution's purpose is to support amendment of state law to provide limited liability protection to commercial salt applicators who are certified through an established voluntary salt applicator certification program and who follow best management practices, as well as property owners who employ or hire certified commercial applicators.

In 2016, the Minnesota Pollution Control Agency (MPCA) completed the Twin Cities Metropolitan Area Chloride Total Maximum Load Study. The chloride TMDL identified 39 waterbodies that were impaired by chloride (i.e., chloride exceeded levels protective of their aquatic communities). At the time, a chloride TMDL had been completed for Nine Mile Creek, identifying winter maintenance practices – the application of chloride compounds on roads, parking lots, sidewalks and other hard surfaces – as the largest source of chloride in the creek.

According to the MPCA, more than 365,000 tons of road salt is applied in the metropolitan area each year, and approximately 78 percent of it finds its way into lakes, wetlands, or groundwater. One tablespoon of salt contaminates 5 gallons of water.

In 2017, Nine Mile Creek Watershed District submitted a resolution proposing support for certified applicators liability-limitation legislation. The Minnesota Association of Watershed Districts adopted the resolution.

Each year, Stop Over Salting, a community advocacy group has worked with the legislature to pass a such a bill. The concerns of the legal community opposing this legislation have been addressed and the program to provide the education is established. The salt bill needs continued MAWD support to encourage legislators to act.

2022 House File 2908 (unpassed) attached.

Ideas for how this issue could be solved:

Minnesota can significantly reduce overapplication of salt by providing liability limitation from snow and ice slip-and-fall suits to property owners and private property-maintenance professionals who are certified in and conduct their property maintenance in accordance with smart-salting practices.

Efforts to solve the problem:

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. Nine Mile Creek Watershed, along with other watershed districts and public entities, hosts and sponsors Smart Salting trainings for salt applicators. Nine Mile Creek Watershed was also the first watershed district to require implementation of smart-salting practices as part of permitting within the watershed. Other entities, such as Riley Purgatory Bluff Creek Watershed District, have since made similar requirements. The Stop Over Salting coalition continues to advocate for legislation providing liability limitations. Their members also educate property owners and others and sweep up excessive salt applications. The Mississippi Water Management Organization has created public education videos which explain best practices for snow shoveling and salt application. The Hennepin County Chloride Initiative is developing a "Low Salt, No Salt" campaign aimed at reducing salt use through educating homeowner associations, property managers, and communities of faith. Winter Salt Watch, a program of the Izaak Walton League of America, provides simple testing kits for community monitoring of salt levels to gather national data.

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, such as the use of liquid salt to prevent icing and reduce salt use. The liability-limiting legislation is needed to incentivize private salt applicators to receive education on how to implement best winter maintenance practices to reduce salt safely.

Anticipated support or opposition:

A broad array of interested parties worked together to develop the bill that was introduced in the last session (HF 2908) and points of contention have been resolved. The legislation is supported but both Republicans and Democrats but has yet to pass.

In addition, multiple organizations signed letters to support the 2022 limited-liability legislation, including:

- Bassett Creek Watershed Management Commission
- Capitol Region Watershed District
- Carnelian-Marine-St. Croix Watershed District
- Coon Creek Watershed District
- Elm Creek Watershed Management Commission
- Mississippi Watershed Management Organization
- Nine Mile Creek Watershed District
- Pioneer-Sarah Creek Watershed Management Commission
- Rice Creek Watershed District
- Riley Purgatory Bluff Creek Watershed District
- Shingle Creek Watershed Management Commission
- West Mississippi Watershed Management Commission
- Valley Branch Watershed District
- Audubon Minnesota
- City of Fridley
- Conservation Minnesota
- Clean River Partners
- CURE (Clean Up the River Environment)
- Clean Water Action Minnesota
- Freshwater Society
- Friends of the Mississippi River
- Friends of Minnesota Scientific and Natural Areas
- Minnesota Ornithologists Union
- Minnesota River Valley Audubon Chapter
- Pollinator Friendly Alliance
- Stop Over Salting
- Vote Climat

This issue (check all that apply):

Applies only to our district:	_____	Requires legislative action:	_____ X
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____ X
Applies to the entire state:	_____ X	Impacts MAWD bylaws or MOPP:	_____

MAWD RESOLUTION 2022-02

Resolution Requesting Support to Amend State Law to Provide Limited Liability Protection to Smart Salting-certified Commercial Salt Applicators and the Property Owners Who Employ Them

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

WHEREAS, the Minnesota Pollution Control Agency has designated 54 waterbodies in the state as impaired for chlorides;

WHEREAS, the Twin Cities Metro Area Chloride Management Plan and Total Maximum Daily Load studies on Nine Mile Creek and Shingle Creek 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;

WHEREAS, liability for 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 liability; and

WHEREAS, the MPCA currently administers 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 that the Minnesota Association of Watershed Districts supports enactment of state law that provides limited liability protection to commercial salt applicators and property owners using salt applicators who are certified through the established state salt-applicator certification program and follow best management practices.

Notes: The Resolutions Committee recommends adoption of Resolution 2022-02 in place of Resolution 2020-17.

BACKGROUND INFO on MAWD RESOLUTION 2022-03

Resolution Seeking Increased Support and Participation for the Minnesota Drainage Work Group

Proposing District: Bois de Sioux Watershed District
Contact Name: Jamie Beyer, Administrator
Phone Number: 320-563-4185
Email Address: bdswd@runestone.net

Background that led to submission of this resolution:

There have been recent efforts by special interest groups to enact changes to 103E drainage law without initiation or vetting by the Minnesota Drainage Work Group – despite special interest membership in the Minnesota Drainage Work Group. Bills that bypass referral to the Drainage Work Group erode the Drainage Work Group’s reputation and risk the passage of legislation that does not benefit drainage authorities across the state.

Ideas for how this issue could be solved:

Efforts must be made to elevate the reputation of the Drainage Work Group. This can be done by increasing MAWD member participation in meetings and increasing MAWD and MAWD member communications about the work the Drainage Work Group does.

Efforts to solve the problem:

Our district has a board manager, engineer, and attorney that participate in Drainage Work Group meetings. We strongly encourage all drainage authorities to be an active and vocal member of this group. Lately, the group has been working in a defensive mode, but the Drainage Work Group could also serve to make improvements to 103E drainage law and general drainage project proceedings.

Anticipated support or opposition from other governmental units?

BWSR, other Drainage Work Group members, watershed districts, AMC

This issue (check all that apply):

Applies only to our district:	_____	Requires legislative action:	_____ X _____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____
Applies to the entire state:	_____ X _____	Impacts MAWD bylaws or MOPP:	_____

MAWD RESOLUTION 2022-03

Resolution Seeking Increased Support and Participation for the Minnesota Drainage Work Group

WHEREAS, the Minnesota Drainage Work Group (DWG) provides consensus recommendations and evaluations in response to drainage related topics, including those related to Minnesota Statute Chapter 103E Drainage Law. The DWG also provides reports to the Legislature; and

WHEREAS, the Minnesota Board of Water and Soil Resources provides coordination and facilitation per Minnesota Statute 103D.101:

*Subd. 13. **Drainage stakeholder coordination.** The Board of Water and Soil Resources shall work with drainage stakeholders to foster mutual understanding and provide recommendations for drainage system management and related water management, including recommendations for updating the drainage law in chapter 103E and other related provisions. The board may convene informal working groups or work teams to develop information, education, and recommendations*

WHEREAS, membership on the DWG is open and voluntary; and

WHEREAS, recently several destructive drainage bills have been brought to the legislature without prior consideration, comment, or recommendation from the DWG;

NOW, THEREFORE, BE IT RESOLVED that:

1. MAWD communications increase awareness of the DWG (meeting dates and links, topics, minutes, reports) amongst MAWD members; and
2. MAWD training opportunities strongly encourage participation in the DWG by watershed staff and board managers (for watersheds that serve as ditch authorities or work on drainage projects) – for e.g., add agenda space for DWG member updates, host a DWG meeting as part of a regular MAWD event; and
3. In preparation for MAWD member legislative visits, MAWD staff add a standing reminder for watershed drainage authorities to inform legislators on the existence, purpose, and outcomes of the DWG, and reinforce the legitimacy of the DWG as a multi-faceted problem-solving body; and
4. During MAWD staff BWSR visits, MAWD staff regularly seek updates on how facilitation of the DWG is leading to improvements for member drainage authorities and convey this information to MAWD members.

Notes: The Resolutions Committee recommends adoption of Resolution 2022-03.

BACKGROUND INFO on MAWD RESOLUTION 2022-04

Resolution Seeking Clarification of Watershed District Project Establishment with Government Aid or as Part of a Plan

Proposing District: Bois de Sioux Watershed District
Contact Name: Jamie Beyer, Administrator
Phone Number: 320-563-4185
Email Address: bdswd@runestone.net

Background that led to the submission of this resolution:

Minn. Stat. § 103D.605 provides a process for a watershed district to construct a project with government aid or as part of a plan. Our watershed district uses this process. For project establishment, Subdivision 5 has a mix of related actions required by the [watershed district managers](#) and the [BWSR board members](#):

After the project hearing, if the [managers](#) find that the project will be conducive to public health, promote the general welfare, and is in compliance with the watershed management plan and the provisions of this chapter, [the board](#) must, by order, establish the project. The establishment order must include the findings of the [managers](#).

Ideas for how this issue could be solved:

After following the Minn. Stat. § 103D.605 process, we found that the BWSR board was not expecting to order the establishment of individual watershed district projects.

Efforts to solve the problem:

Our regional BWSR staff support the removal of the BWSR board decision point.

Anticipated support or opposition:

Our regional BWSR staff encouraged us to submit this resolution and helped us write it.

This issue (check all that apply):

Applies only to our district:	_____	Requires legislative action:	_____ X _____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____
Applies to the entire state:	_____ X _____	Impacts MAWD bylaws or MOPP:	_____

MAWD RESOLUTION 2022-04

Resolution Seeking Clarification of Watershed District Project Establishment with Government Aid or as Part of a Plan

WHEREAS, Minn. Stat. § 103D.605 provides a process for watershed district project establishment with federal/state government aid or as part of the watershed management plan; and

WHEREAS, Minn. Stat. § 103D.605, Subd. 5 requires specific findings by watershed district managers, followed by an order by the BWSR board that includes the findings by watershed district managers; and

WHEREAS, both establishment mechanisms identified in this statute (federal/state government aid and watershed management plans) require approvals outside of watershed districts, by the very nature of the mechanisms themselves.

NOW, THEREFORE, BE IT RESOLVED that the Bois de Sioux Watershed District requests that MAWD and BWSR work together to clarify Minn. Stat. § 103D.605, Subd. 5.

Notes: The Resolutions Committee recommends adoption of Resolution 2022-04.

BACKGROUND INFO on MAWD RESOLUTION 2022-05

Resolution Seeking to Obtain Stable Funding for Projects that Provide Flood Damage Reduction and Natural Resources Enhancement

Proposing District: Bois de Sioux, Two Rivers, and Rice Creek Watershed Districts
Contact Name: Jamie Beyer, Administrator; Dan Money, Administrator; and Nick Tomczik, Administrator
Phone Number: 320-563-4185; 218-843-3333; and 763-398-3079
Email Address: bdswd@runestone.net

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

1. Each time flooding occurs within the State of Minnesota, millions of dollars in damages occur to public infrastructure, cropland, business, and private property. Since 1993, flooding and extreme runoff events from spring snowmelt and from summer rainfall are occurring more frequently and with higher intensity.
2. In the past two legislative sessions (2021 & 2022), a total of only \$17 million of bonding money has been appropriated to the DNR Flood Damage Reduction grant program. The DNR alone shows a current need of over \$166 million for projects that have applied for funding.
3. FEMA and MN HSEM have incurred significant expense to repair and rebuild public infrastructure. Hazard mitigation grants are underfunded.
4. Proven programs such as the Red River Flood Damage Reduction Work Groups 1998 mediation agreement have provided the means to design and construct multi-purpose projects that accomplish significant flood control as well as benefits to water quality and habitat.
5. Counties, Cities, Watershed Districts, Townships, and others many times do not have the resources to construct projects to reduce the effects of severe and repeated flooding, nor do they have the resources to continually repair infrastructure following a devastating flood. The DNR also states that there are \$61,377,150 in state funds that have been requested for community project and \$61,377,150 requested for watershed district projects, for a total need of \$156,241,900. Looking at the average provided to the FHM program over the past five years, at current funding levels it will take 16 years to fund the existing project needs.

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

The proposed solution to this problem is to incorporate a mechanism to provide stable funding to the DNR’s Flood Damage Reduction program, to HSEM’s Hazard Mitigation Grant Program, the MN Outdoor Heritage Fund, Clean Water Fund, and other programs to cost share on multi-purpose projects that address inter-related water issues of provide flood prevention, flood damage reduction, water quality and quantity issues providing natural resources enhancement. A suggested amount is \$30 million per year for each program for a period of 10 years.

Efforts to solve the problem:

In general, there is broad bipartisan support for flood hazard mitigation projects – state funds are leveraged 1:1 with local funds and are used to implement projects that prevent flood damage to public and private infrastructure. These projects mitigate damages from current and future climate change impacts. Watershed Districts in the Red River Valley have aggressively lobbied for funds but have been derailed by broader bonding bill politics.

Anticipated support or opposition:

It is unknown what the reaction to this proposal will be. Given the lack of funding in recent years but the high demand for funding to construct projects, it is assumed that it would be favorable.

This issue (check all that apply):

Applies only to our district:	_____	Requires legislative action:	_____ X _____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____
Applies to the entire state:	_____ X _____	Impacts MAWD bylaws or MOPP:	_____

MAWD RESOLUTION 2022-05

Resolution Seeking to Obtain Stable Funding for Projects that Provide Flood Damage Reduction and Natural Resources Enhancement

WHEREAS, severe flooding is known to occur repeatedly within the State of Minnesota as indicated by the 14 Presidential disaster declarations for severe rainfall and flooding that have been declared in the past 29 years; and

WHEREAS, each flood event costs both public and private entities millions of dollars for repair and replacement of public infrastructure, damage to homes, and damage to cropland that is damaged by flooding; and

WHEREAS, flooding also has severe and repeated impacts to water quality and wildlife habitat resulting from erosion, sedimentation, nutrient loading, raw sewage discharges, chemical spillage, and other sources; and

WHEREAS, climate studies indicate that over the past 30 years temperatures have warmed and the intensity and duration of rainfall has increased, leading to long-term changes; and

WHEREAS, it is estimated that for every dollar spent on flood damage reduction mitigation there is a six dollar return on investment; and

WHEREAS, the Red River Basin Flood Damage Reduction Work Group, established in 1998 through a mediation agreement, has established a proven model to jointly design projects that will have multi-purpose projects that provide benefits for flood damage reduction and natural resources enhancement; and

WHEREAS, watershed management organizations were established to address water issues on the watershed scale; and

WHEREAS, FEMA and MN HSEM provide resources to repair infrastructure following a flood, however very limited resources are available for prevention of flooding; and

WHEREAS, the DNR's Flood Damage Reduction grant program and the HSEM's Hazard Mitigation Grant Program and Disaster Assistance Contingency Account have been successful tools for local governments to utilize to design and build projects to reduce and prevent flooding; and

WHEREAS, the DNR's FDR program and HSEM's HMG and Disaster Assistance programs are severely underfunded and have not been adequately funded by the State of Minnesota, and

WHEREAS, current funding sources for flood damage reduction generally do not fund natural resources concerns such as water quality and habitat, and in turn water quality and habitat funding sources generally do not fund flood damage reduction.

NOW, THEREFORE, BE IT RESOLVED that the Minnesota Association of Watershed Districts collaborate with the Red River Watershed Management Board and State Agencies to seek funding from the Minnesota Legislature to provide stable sources of funding through existing or potentially new programs that provide flood damage reduction and/or natural resources enhancements. A suggested sustainable level of funding is \$30 million per year for the next 10 years.

Notes: The Resolutions Committee recommends adoption of Resolution 2022-05.

BACKGROUND INFO on MAWD RESOLUTION 2022-06

Resolution Seeking to Limit Wake Boat Activities that Cause Shoreline Erosion, Reduce the Efficacy of In-lake Phosphorus Control Practices, and Contribute to the Spread of Aquatic Invasive Species

Proposing District: Riley Purgatory Bluff Creek Watershed District
Contact Name: Terry Jeffery, Interim District Administrator
Phone Number: 952-807-6885
Email Address: tjeffery@rpbcwd.org

Background that led to the submission of this resolution:

Riley Purgatory Bluff Creek Watershed District identified 13 primary goals in its 10-year watershed management plan “Planning for the Next Ten Years” (2018). Of these, two are adversely affected by the inadequate regulation of the operation of wake boats on area lakes:

- #8. Protect, manage, and restore water quality of district lakes and creeks to maintain designated uses.
- #10. Preserve and enhance habitat important to fish, waterfowl, and other wildlife.

RPBCWD recognizes the importance of a stable and healthy shoreline for purposes of water quality, fisheries habitat, and overall lake health. Erosive forces, such as through wave action, can cause shoreline recession, the loss of emergent vegetation, and the introduction of sediment to the water column. Erosion of shorelines and sediment accumulation in near-shore areas are often accelerated by human activities.

Studies performed by RPBCWD identified internal loading as a significant contributor to lake eutrophication in the watershed. One of the more effective management practices for the control of in-lake phosphorous is the application of the flocculant aluminum sulfate. Aluminum sulfate (alum) settles onto the lake bottom, binding to the substrate particles and preventing the release of phosphorous back into the water column. RPBCWD’s observations were that propellor wash interacts with lake bottoms at some depth but it is unclear to what extent this impacts the efficacy of alum treatments.

In February of 2022, the University of Minnesota St. Anthony Falls Laboratory published the results of a study on wave characteristics of wakes produced by recreational boats designed specifically for wake surfing and how those compare to non-wake surfing recreational watercraft. This study found that at 100 feet, the wave heights of wake surfing boats were 3 to 10 inches higher than non-wake surfing boats depending upon a number of factors. It further concluded that waves generated by wake-surfing boats contained 3 to 9 times the total energy of non-wake surf boats and had a greater than 6-fold increase in maximum power.¹

The authors noted that they had collected velocity and turbulence data associated with propellor wash but the analysis of these data will be used in a later study. (They are currently securing funding for this phase of the study.) Propellor wash will interact with the thermocline and lake bottom at some depth. It is not well understood how this impacts sediment scour and suspension, vegetation growth, and efficacy of in-lake treatments such as aluminum sulfate.

A 2018 report from the Oregon State Legislature summarizes studies on the various effects of wake boats, noting that boat speed is a primary factor in influencing wave size.² Also cited in this report is a report by the Scientific and Technical

¹ SAFL Project Report No. 600, *A Field Study of Maximum Wave Height, Total Wave Energy, and Maximum Wave Power Produced by Four Recreational Boats on a Freshwater Lake*; Mar, Jeffrey, Reisgraf, Andrew, Herb, William, Lueker, Matthew, Kozarek, Jessica, Hill, Kimerly (2022) Available online: [BoatGeneratedWakeWaveReport_Feb12022_Final.pdf \(umn.edu\)](https://www.safll.org/BoatGeneratedWakeWaveReport_Feb12022_Final.pdf)

² Item E: Staff report on safety around wake sports statewide. (2018) Oregon State Legislature. Available online: <https://olis.leg.state.or.us/liz/2018R1/Downloads/CommitteeMeetingDocument/144261>. See also Sara Mercier-Blais & Yves Prairie. (2014) Project evaluation of the impact of the waves created by the type of boats wake boat on the shores of Lake Memphremagog and Lovering; Ruprecht, Glamore, Cogland. (2015) Wakesurfing: Some Wakes are More Equal than Others. Available online: https://www.researchgate.net/publication/294799932_Wakesurfing_Some_Wakes_are_More_Equal_than_Others.

Advisory Committee to the Chesapeake Bay Program that demonstrates a positive correlation between the size of boat wakes and the extent of shoreline erosion as well as sediment resuspension and nearshore turbidity.³

Other public groups and units of government have begun to observe issues related to the use of wake boats on lakes. The Southeast Wisconsin Regional Planning Commission has begun studying the issue within its jurisdiction, reviewing the impacts of recreational boating on North Lake in Waukesha County.⁴

A report to the City Council of Prior Lake, MN, assesses environmental impacts from high-speed boats on the state's lakes. The report summarizes studies focused on ecological impacts caused by waves, including shore and bank erosion, decreased water clarity, water quality degradation, and harm to aquatic plant and animal species. Shallow waters feel the most direct impacts of boat wakes, as well as shoreline areas adjacent to less than 1,000 feet of open water, making near-shore habitat where water depth is approximately 10 feet or less—the littoral zone—the most important to protect.⁵

In spring 2019, Vermont considered legislation presented in Senate Bill 69 “to restrict or prohibit the use of wake boats in certain public waters.”⁶ The bill, as introduced, proposes to limit wake boat speed within 200 feet of shoreline, imposing a \$500 fine per violation, and proposes to restrict use of wake boats in certain public waters based on the size of the water body, the use of adjacent land, scenic beauty, or other recreational factors.⁷ While the bill did not progress in the 2019 session, it may be re-introduced during a future session.

Wake boats also exacerbate invasive-species risks to lakes. RPBCWD identified several strategies to manage non-native and invasive aquatic species in area lakes. A 2019 University of Minnesota Aquatic Invasive Species Research Center study showed that the large-volume water holding ballast tanks of wake boats provide zebra mussels and larvae a great opportunity for inter-lake transport. These boats are not designed to fully drain all ballast tank water.⁸

Ideas for how this issue could be solved:

We have identified three potential interrelated solutions:

1. Limiting wake boats to areas of lakes sufficiently distant from shorelines to allow boat-generated waves to adequately dissipate and lessen energy before affecting shorelines; and
2. Banning wake boats wakes in shallow lake areas where waves created by wake boats detrimentally affect sediment, aquatic vegetation, and aquatic habitat; and
3. Requiring wake boats to be designed and existing boats to be modified to enable complete drainage and decontamination of ballast tanks to stop the spread of aquatic invasive species.

Efforts to solve the problem:

Anticipated support or opposition:

The Minnesota Department of Natural Resources is already engaged in an education campaign, "Own Your Wake - for Everyone's Sake," encouraging responsible boat use near shorelines. DNR also actively promotes and enforces state AIS law, requiring boat ballast tanks to be emptied by a shoreline or waterway before being transported. We anticipate seeking DNR support for and leadership of legislation reflecting strategies to solve issues caused by wake boating. We will

³ *Id.* See also USDA NRCS. (1997) Slope Protection for Dams and Lakeshores: Minnesota Technical Note 2 (reviewing shoreline erosion processes and causes).

⁴ Southeastern Wisconsin Regional Planning Commission (SEWRPC). Memorandum - Preliminary Morphology, Water Level, Water Quality, and Wave Propagation Update for North Lake, Town of Merton, Waukesha County. March 2021

⁵ City of Prior Lake, Agenda Item #16. Information Item: A review of environmental impacts from high-speed boats on Indiana's public freshwater lakes; Administrative Cause no. 10-029V. Available online: <https://www.cityofpriorlake.com/documents/WSUM/info17.pdf>.

⁶ Bruce Durgin. (2019) Wakeboard Boats Believed to Damage Lakes. The Federation of Vermont Lakes and Ponds. Available online: <http://vermontlakes.org/wp-content/uploads//FOVLAP-Newsletter-Spring-2019-Final-digital.pdf>

⁷ Vermont Legislature (2019). Bill as Introduced: S.69. Available online: <https://legislature.vermont.gov/Documents/2020/Docs/BILLS/S-0069/S-0069%20As%20Introduced.pdf>

⁸ Dave Orrick. (2019) Zebra Mussel's Best Friend: Wakeboard Boats, New U Study Finds. Livewell also Tested. Accessed through the Minnesota Aquatic Invasive Species Research Center (MAISRC), <https://www.maisrc.umn.edu/news/wakeboards>.

also engage member communities within our watershed to address the issue of wake boats and their impacts on aquatic environments.

This issue (check all that apply):

Applies only to our district:	_____	Requires legislative action:	_____ X _____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____ maybe _____
Applies to the entire state:	_____ X _____	Impacts MAWD bylaws or MOPP:	_____

MAWD RESOLUTION 2022-06

Resolution Seeking to Limit Wake Boat Activities that Cause Shoreline Erosion, Reduce the Efficacy of In-lake Phosphorus Control Practices, and Contribute to the Spread of Aquatic Invasive Species

WHEREAS, watershed districts conserve the state’s water resources “by land use planning, flood control, and other conservation projects by using sound scientific principles for the protection of the public health and welfare and the provident use of the natural resources.” Minn. Stat. 103D.201, subd. 1;

WHEREAS, wake boats driven in Minnesota lakes result in scouring of lake bottoms, disturbance of lake sediment, damage to aquatic plants, erosion of lake shoreline, disturbance of and damage to aquatic habitat, and transfer of water potentially harboring aquatic invasive species in ballast tanks increasing transfer among Minnesota lakes;

WHEREAS, options to limit the water-resource impacts of wake boats include: restricting areas of operation within a waterbody and which waterbodies are suitable for their operation; defining the minimum depth of water in which wake boats can be operated in a manner which creates a wake; and requiring wake boats to be designed, and existing boats to be modified, to enable complete drainage and decontamination of ballast tanks to reduce the spread of AIS;

WHEREAS, the Minnesota Department of Natural Resources is engaged in an education campaign, "Own Your Wake - for Everyone's Sake," encouraging responsible boat use near shorelines, and actively enforces state AIS law, requiring boat ballast tanks to be emptied by a shoreline or waterway before being transported;

WHEREAS, the University of Minnesota’s St. Anthony Falls Laboratory plans to study the effect of propellor wash on lake bottoms and shorelines; and

WHEREAS, other states have begun to regulate wake boat minimum distance from shoreline and limit the water bodies in which wake boats make operate, and these regulations can provide templates for regulations in Minnesota;

NOW, THEREFORE, BE IT RESOLVED that the Minnesota Association of Watershed Districts will work with the Minnesota Department of Natural Resources to utilize the research findings from the St. Anthony Falls Laboratory and seek legislation to achieve one or more of the following:

- a) limit lakes and areas of lakes in which wake boats may operate;
- b) require new and existing wake boats to be able to completely drain and decontaminate their ballast tanks; and
- c) Provide funding for additional research on the effects of wake boats on aquatic systems.

Notes: The Resolutions Committee recommends adoption of Resolution 2022-06 contingent upon the proposer providing the specific location within the St. Anthony Falls Laboratory research findings that support items a, b, and c.

BACKGROUND INFO on MAWD RESOLUTION 2022-07

Resolution Seeking to Limit Excessive Use of Groundwater for the Purpose of Watering Urban and Suburban Landscapes During Summer Months

Proposing District: Riley Purgatory Bluff Creek Watershed District
Contact Name: Terry Jeffery, Interim District Administrator
Phone Number: 952-807-6885
Email Address: tjeffery@rpbcd.org

Background that led to the submission of this resolution:

Riley Purgatory Bluff Creek Watershed District seeks to address depletion of valuable groundwater resources in Minnesota. 60% of homeowners with irrigation systems in the Twin Cities Metro Area used far more water than they needed to water their lawns⁹. The use of groundwater to irrigate urban and suburban lawns during particular hours of the day during the summer poses needless use of such water during times when evaporation rates are highest, thus wasting precious water resources, many of which take thousands of years to replenish.

Watering lawns (either via landscape irrigation system or manual watering) between noon and sundown generally results in higher evaporation rates than watering morning hours. Watering lawns in the evening has the potential to make lawns susceptible to disease when hot and humid conditions are combined with excess moisture. Watering lawns in the early morning is the most ideal as evaporation demands are low and wind deflection is less of an issue.¹⁰

Irrigating urban and suburban lawns during or shortly after precipitation events, when soils are saturated, not only wastes a significant amount of groundwater, but also increases runoff and potential pollution of streams, lakes and wetlands.

Ideas for how this issue could be solved:

Encourage the Department of Minnesota Natural Resources to investigate statewide regulations of urban and suburban lawn watering practices. Including but not limited to:

- Restricting the hours during which irrigation of lawns is allowed (with the exception of irrigation from water capture and reuse systems)
- Enforcement of Minnesota State Statute 103G.298 requiring that “all automatically operated landscape irrigation systems shall have furnished and installed technology that inhibits or interrupts operation of the landscape irrigation system during periods of sufficient moisture. The technology must be adjusted either by the end user or the professional practitioner of landscape irrigation services.”
- Require all companies engaged in the installation or maintenance of landscape irrigation systems to be trained and certified in the installation and use of EPA water sense technologies.
- Require all companies engaged in the installation or maintenance of landscape irrigation systems to register with the DNR and pay an annual fee to be divided among the cities and counties in which they do business based upon the amount of business done in each city and county.
- Require all companies engaged in the installation or maintenance of landscape irrigation systems to certify that the systems comply with restrictions regarding sensor technology as well as time restrictions.

Efforts to solve the problem:

⁹University of Minnesota Extension, *Planting Grass Seed? Most Twin Citians water lawns ‘way too much’*, 2017, <https://twin-cities.umn.edu/planting-grass-seed-most-twin-citians-water-lawns-way-too-much>

¹⁰ University of Minnesota Extension Turfgrass Science and Metropolitan Council, *Efficient Water Use On Twin Cities Lawn Through Assessment, Research, and Demonstration*, 2016, <https://metro council.org/Wastewater-Water/Publications-And-Resources/WATER-SUPPLY-PLANNING/Twin-Cities-Lawn-Irrigation-System-Surveys-And-Ass.aspx>

Anticipated support or opposition:

Cities faced with providing adequate water supplies should support reasonable restrictions on the use of ground water to avoid the expense of drilling new wells and building new treatment facilities.

This issue (check all that apply):

Applies only to our district:	_____	Requires legislative action:	_____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____
Applies to the entire state:	_____ X _____	Impacts MAWD bylaws or MOPP:	_____

MAWD RESOLUTION 2022-07

Resolution Seeking to Limit Excessive Use of Groundwater for the Purpose of Watering Urban and Suburban Landscapes During Summer Months

WHEREAS, groundwater resources are often used in excess to water urban and suburban landscapes, primarily lawns; and

WHEREAS, evaporation rates are highest during the hours between noon and dusk and watering landscapes in the evening has the potential to increase susceptibility to plant diseases; and

WHEREAS, the ideal time to water lawns and urban and suburban landscapes is in the early morning, due to the low evaporation demands and lessened effects of wind deflection; and

WHEREAS, excess watering of urban and suburban landscapes can cause increased runoff and therefore pollution to streams, wetlands, and lakes; and

NOW, THEREFORE, BE IT RESOLVED that the Minnesota Association of Watershed Districts encourages the Department of Minnesota Natural Resources to investigate statewide regulations of urban and suburban lawn watering practices. Including but not limited to:

- Restricting the hours during which irrigation of lawns is allowed (with the exception of irrigation from water capture and reuse systems).
- Enforcement of Minnesota State Statute 103G.298 requiring that “all automatically operated landscape irrigation systems shall have furnished and installed technology that inhibits or interrupts operation of the landscape irrigation system during periods of sufficient moisture. The technology must be adjusted either by the end user or the professional practitioner of landscape irrigation services.”
- Require all companies engaged in the installation or maintenance of landscape irrigation systems to be trained and certified in the installation and use of EPA water sense technologies.
- Require all companies engaged in the installation or maintenance of landscape irrigation systems to register with the DNR and pay an annual fee to be divided among the cities and counties in which they do business based upon the amount of business done in each city and county.
- Require all companies engaged in the installation or maintenance of landscape irrigation systems to certify that the systems comply with restrictions regarding sensor technology as well as time restrictions.

Notes: The Resolutions Committee does not recommend adoption of Resolution 2022-07 because it is overly broad, it is unclear what problem the resolution is intended to address, and it contains overlapping jurisdiction with municipalities.

BACKGROUND INFO on MAWD RESOLUTION 2022-08

Resolution Seeking Increased Flexibility in Open Meeting Law to Utilize Interactive Technology

Proposing District: Riley Purgatory Bluff Creek Watershed District
Contact Name: Terry Jeffery, Interim District Administrator
Phone Number: 952-807-6885
Email Address: tjeffery@rpbcwd.org

Background that led to the submission of this resolution:

Due to the impacts of the COVID-19 pandemic, the Open Meeting Law, Minnesota Statutes Chapter 13, was revised by the 2021 Minnesota Session Laws to provide increased flexibility for participation in public meetings by telephone and interactive technology. The revisions to Minnesota Statutes Sections 13D.02 and 13D.021 provide for this additional flexibility in the event that a health pandemic or emergency is declared under Chapter 12 of Minnesota Statutes. When the health pandemic or emergency is no longer declared, the standard, non-emergency meeting participation and notice requirements for remote participation by a member of a public body apply.

The standard, non-emergency language in the Open Meeting Law allows a member of a public body board to remotely attend and participate in a public meeting using interactive technology, provided that participation is from a public and publicly noticed location (13D.02 Subdivision 1 (5)); and 2). A member may participate remotely from a nonpublic location in a public meeting up to three times in a calendar year due to military deployment or medically documented personal health reasons.

Many public bodies, including watershed districts, successfully used interactive technology to conduct business, including public meetings, during the pandemic. Benefits to using these platforms that went beyond health and safety included reduced travel costs and time for the public and the organizations using the platform; increased opportunities for public engagement; lower barriers to public engagement; and increased equity and opportunity for potential leaders and participants.

This proposed resolution declares MAWD's support for changes to the Open Meeting Law that would eliminate the requirement that public body board members participating in a meeting remotely by interactive technology be in a public and publicly noticed location, and the limitation on the number of times a member may participate remotely in a calendar year. It requires public bodies to provide members of the public access to public meetings using interactive technology at the regular meeting location, at which at least one representative of the public body must be present. It requires that the public be provided the opportunity to offer public comment during the meeting from remote locations or the regular meeting location. It further requires that a public body conducting public meetings under the revised Open Meeting Law must publish procedures for conducting meetings using interactive technology to put its members and the public on notice.

Ideas for how this issue could be solved:

Revise Minnesota Statutes Section 13D.02 to eliminate the limitation on a member of a public body's remote participation in public meetings by interactive technology, and eliminate the requirement that the location of the member be public and noticed as such; provide opportunity for public participation by interactive technology at the regular meeting location; and require a public body that conducts a public meeting using interactive technology to publish procedures for conducting meetings using interactive technology.

All other requirements of the Open Meeting Law would continue to apply to ensure public access and transparency, including, but not limited to: roll call voting; public comment; ability to be seen and heard; public notice; representation by a member or designated representative at the regular meeting location; and recording and posting of public meeting minutes.

Efforts to solve the problem:

The District has discussed trends in interactive technology use by watershed districts and other public bodies, as well as anticipated legislative action, with its attorneys. The District has no state agency, legislative, or county responses to report.

Anticipated support or opposition:

The District anticipates support from organizations that experienced benefits from use of interactive technology for their public meetings that would like to continue to use the flexibility of interactive technology. The District also anticipates public support for the continued use of interactive technology, which has expanded access to public meetings.

Opposition may come from advocates for the existing Open Meeting Law.

This issue (check all that apply):

Applies only to our district:	_____	Requires legislative action:	_____ <u>X</u> _____
Applies only to 1 or 2 regions:	_____	Requires state agency advocacy:	_____ <u>maybe</u> _____
Applies to the entire state:	_____ <u>X</u> _____	Impacts MAWD bylaws or MOPP:	_____ _____

**RILEY PURGATORY BLUFF CREEK WATERSHED DISTRICT
PROPOSAL TO AMEND Minnesota States Section 13D.02 as follows:**

13D.02 OTHER ENTITY MEETINGS BY INTERACTIVE TECHNOLOGY.

Subdivision 1. Conditions.

(a) A meeting governed by Section 13D.01, subdivisions 1, 2, 4, and 5, and this section may be conducted by interactive technology so long as:

(1) all members of the body participating in the meeting, wherever their physical location, can hear and see one another and can hear and see all discussion and testimony presented at any location at which at least one member is present;

(2) members of the public present at the regular meeting location of the body can hear and see all discussion and testimony and all votes of members of the body;

(3) at least one member of the body, chief legal counsel, or chief administrative officer is physically present at the regular meeting location where participation by interactive technology is available to members of the body and public present, unless participation at the regular meeting location is not practical or prudent under Section 13D.021; and

(4) all votes are conducted by roll call so each member’s vote on each issue can be identified and recorded; ~~and~~

~~(5) each location at which a member of the body is present is open and accessible to the public.~~

(b) A meeting satisfies the requirements of paragraph (a), although a member of the public body participates from a location that is not open or accessible to the public, ~~if the member has not participated more than three times in a calendar year from a location that is not open or accessible to the public, and:~~

~~(1) the member is serving in the military and is at a required drill, deployed, or on active duty; or~~

~~(2) the member has been advised by a health care professional against being in a public place for personal or family medical reasons. This clause only applies when a state of emergency has been declared under section 12.31, and expires 60 days after the removal of the state of emergency.~~

Subdivision 4. Notice of regular ~~and all member~~ locations.

If interactive technology is used to conduct a regular, special, or emergency meeting, the public body shall provide notice of the regular meeting location, ~~and notice of any location where a member of the public body will be participating in the meeting by interactive technology, except for the locations of members participating pursuant to subdivision 1, paragraph (b).~~ The timing and method of providing notice must be as described in section 13D.04.

Subdivision 6. Record.

The minutes for a meeting conducted under this section must reflect the names of any members appearing by interactive technology, ~~and state the reason or reasons for the appearance by interactive technology.~~

Subdivision 7. Public comment period.

If a public body's practice is to offer a public comment period at in-person meetings, members of the public shall be permitted to comment from a remote location during the public comment period of the meeting, to the extent practical.

Subdivision 8. Rules and procedures.

A public body that conducts a meeting under this section must publish procedures for conducting meetings using interactive technology no later than December 31, 2022.

MAWD RESOLUTION 2022-08

Resolution Seeking Increased Flexibility in Open Meeting Law to Utilize Interactive Technology

WHEREAS, the Open Meeting Law (Minnesota Statutes Chapter 13D) provides that the governing bodies of watershed districts and other units of government may hold meetings and provide for participation by board members through use of interactive technology, so long as there is a declaration of pandemic or emergency;

WHEREAS, during the COVID-19 pandemic, many public bodies, including watershed districts, used interactive technology to conduct public meetings; there were many benefits to using interactive technology platforms, including reduced travel costs and time to the public and the organizations using the platform; increased opportunities for public engagement; decreased barriers to public engagement; and increased equity and opportunity for potential leaders and participants;

WHEREAS, the current statute allows for members to participate in meetings through interactive technology, but absent a declaration of pandemic or emergency, requires that a member participating through interactive technology must be in a location that is open and accessible to the public and noticed as such; an exception is allowed up to three times in a calendar year for military deployment or medically documented personal health reasons (13D.02, subdivision 1(A)(5), subdivision 1(b));

WHEREAS, even absent a declaration of pandemic or emergency, remote meeting participation through the use of interactive technology provides benefits to facilitating member participation while also assuring that decision making is transparent and meetings are accessible to the public;

NOW, THEREFORE, BE IT RESOLVED that the Minnesota Association of Watershed Districts, Inc. hereby supports changes to the Open Meeting Law to provide greater flexibility in the use of interactive technology by allowing members to participate remotely in a nonpublic location that is not noticed, without limit on the number of times such remote participation may occur; and allowing public participation from a remote location by interactive technology, or alternatively from the regular meeting location where interactive technology will be made available for each meeting, unless otherwise noticed under Minnesota Statutes Section 13D.021;

BE IT FURTHER RESOLVED that the Minnesota Association of Watershed Districts, Inc. supports changes to the Open Meeting Law requiring watershed districts to prepare and publish procedures for conducting public meetings using interactive technology.

Notes: The Resolutions Committee has no recommendation regarding Resolution 2022-08.