

Drainage Work Group (DWG) Meeting

February 10, 2023

Following the welcome and introductions, Tom Gile, Board of Water and Soil Resources (BWSR) gave an overview of the agenda. Information was provided about the following drainage-related events. Items of note and next steps are highlighted in gray throughout the document.

- AMC Drainage Conference: February 8-9
- Minnesota Association of Drainage Inspectors (MADI) conference: February 28 and March 1.

Rita Weaver, BWSR sent a Doodle poll to the DWG members participating in the outlet adequacy subcommittee. Tom Gile will distribute a final list of participants.

The Department of Natural Resources (DNR) has drafted a scope for early coordination. That document will be distributed closer to the timeframe when the subcommittee will meet.

Proposed Drainage Registry

Carly Griffith thanked everyone for being present to participate in today's discussion. Their intention with the document that was distributed was to clarify what the original bill language intended to achieve. It wasn't meant to be a response to the comments or a final offer. They received written comments from five parties.

Tom Gile met with the environmental groups and assisted with reorganization of the document [included at the end of these notes]. The reorganization clarifies who is responsible and clearly lays out what is subject to the proposal. They also discussed whether BWSR or DNR would be the appropriate group. BWSR has no opinion on this.

Key discussion points.

- Environmental groups are already receiving notification.
- Environmental groups want notification at the petition stage because it happens six to nine months before the Preliminary Engineer's Report (PER) is done. They understand that there is no project design to comment on at the petition stage. It is their opinion that early notification would ensure a drainage project aligns with comprehensive watershed management goals.
- Drainage authorities understand that environmental group focus is on the Minnesota River watershed and that education regarding the importance of retention projects would be a better option than a registry portal.
- MNLICA wanted to know how we balance agricultural financial needs and meet these nitpicky things.
- The Minnesota Pollution Control Agency believes this is a solid concept, a simple approach, and that it is not asking for a lot of information.
- Drainage authorities do not believe notice should be given regarding a petition that has not been accepted to ensure it meets statutory requirements. Until that time, a petition is often an idea from a landowner.
- The environmental groups have done their own review of projects and have created their own database by calling drainage authorities and receiving petitions and engineering reports. They have reviewed all 71 projects in the database, commented on about half of them, and formally intervened on five or six.
- Drainage authorities, the Minnesota Viewers Association, and farm groups do not support the concept of petitioned repairs being included in the drainage registry.
- Drainage authorities believe that moving forward with enhanced public notice ahead of figuring out early coordination will hamper any ability to find a solution. Early notice isn't going to fix the perceived problem. We need to figure out how to work together.

- Drainage authorities believe the discussion should begin with the current notification and its limits and providing more access to that information.
- Drainage authorities already share information at the local level through websites, online portals, and social media platforms.
- A proposal to add broader notification in 103E.255 at the time the DNR commissioner is supposed to provide an advisory report was explained. At that time the petition has been reviewed, a preliminary survey prepared, what the project is has been determined, and what type of comments can be submitted is known. The public can engage in due process and has a right to be heard at the hearing. The engineers have time to consider changes. Statute already provides for that, and the portal could be incorporated under the DNR.
- The environmental groups said that the feedback about notification in 103E.255 was helpful. But, it runs into the same issue – that significant project costs have been expended at this point. They need early opportunities to express their concerns.
- The DNR says that the 30-day timeline doesn't work well. Early notice, even with some detail on scope, scale, and location helps.
- Drainage authorities believe that just giving the information earlier in the process is not going to solve the perceived problem. They want to figure out how to do something that everyone in the room agrees with. They asked what constructive things will happen because of the portal being established.
- The environmental groups want to engage in the process through non-controversial conversations. They have a hard time understanding why there is so much angst around having more people provide input before a project becomes controversial. They believe this is a transparency bill.
- The environmental groups suggested that a petition could be uploaded at the time an engineer is appointed and within 30 days, a public meeting would be held if it was requested. They would have to get agreement from their members to move forward with this.
- The farm groups have a hard time seeing how the registry portal could be divorced from early coordination. There could be financial impacts for landowners having to pay for these earlier changes. There is concern about the language in section c and how to reach consensus. At their annual conference, the corn growers voted that they cannot support a drainage registry portal. They would support discussing the drainage registry as part of early coordination.
- A question was asked if the goal of the environmental groups wanting early notification was to stop drainage or to look to improve what they already have.
- The environmental groups asked (but must take back to their members for consideration), if drainage authorities and farm groups would "stand down" if repairs were removed and an acceptable notification date was provided.
- Drainage authorities and farm groups asked for patience if information was taken back to members for consideration.
- Drainage authorities believe that if they are asked to "stand down", they would not support the bill. Our concerns have not been addressed. There needs to be some sort of compromise. We offered a list of things, and nothing has been brought forward. We have repeatedly stated we are uncomfortable with the language. If the environmental groups opt to introduce legislation, that will raise hackles and make people more upset. Things don't always happen right away. That is the reason the DWG was put together by Chair Hansen. The conversation hasn't tilted in a way that shows everyone is happy. If environmental groups introduce legislation without running it by DWG stakeholders first, there will be a lack of trust.
- The environmental groups stated that a bill is being drafted. What is going to emerge is the old language. If DWG stakeholders choose to make that a reason to break off discussion, that will be the circumstance. It will look like old language and drainage authorities and agricultural groups will have

to decide if they want to continue to engage. However, there is a process to amend a bill before it is introduced.

- The environmental groups should take the time to meet with farm groups to make them more comfortable about what is being proposed.
- BWSR believes that to have the bill go to the legislature as a DWG recommendation seems unlikely. That doesn't mean things can't go through on their own merit and entities can discuss with legislators. While there has been good productive dialogue, multiple group approval is unlikely.
- Drainage authorities asked that we stop talking about the DWG process. Now, we are trying to negotiate legislation, not follow the DWG process. It is unfortunate that the environmental groups have decided to move forward on their own and not continue to work with us.
- The proposed registry would be the responsibility of BWSR.

Next steps: The environmental groups will meet to determine if there is support for the proposed changes. If they agree, they will draft a bill, send it to Tom Gile, and have him distribute it to DWG members by the middle of next week.

The meeting adjourned at 2:04 p.m.

Meeting notes by Jan Voit