



MEMORANDUM

To: MCWD Board of Managers
From: Becky Christopher, MCWD Lead Planner
Date: July 11, 2016
Re: State Buffer Program and Draft Policies

Purpose:

At the July 14 Board Workshop, staff will provide an update on the State Buffer Program and draft policies that have been developed by the Board of Water and Soil Resources (BWSR) concerning its implementation. BWSR is accepting comments on the draft policies, and staff will be seeking Board direction on whether any comments should be submitted by the District.

Background:

The Buffer Law was signed into law by Governor Dayton in June 2015 and amended on April 25, 2016 to provide clarifications to several provisions. The law requires buffers of perennially rooted vegetation on all public waters and public ditches. While there is language in the law about an exemption for Municipal Separate Storm Sewer Systems (MS4s), BWSR's interpretation is that MS4s are only exempt if there are mechanisms in place that provide protection equivalent to the buffer law. Since this is not the case throughout the MCWD, staff's current understanding is that the law will apply within the District.

The District has no specific obligations under the law. Soil and Water Conservation Districts (SWCDs) are the entity responsible for identifying sites that are not in compliance and reporting them to the enforcement authority. Counties and watershed districts can elect to take on the role of enforcement authority, or it will default to BWSR. Staff does not recommend that the District take on this role.

At its June 22, 2016 meeting, the BWSR Board reviewed seven Buffer Program preliminary policies and authorized seeking public comment on these policies:

- Policy 1: [Compliance Determinations](#) (Parcel and Bank Approach)
- Policy 2: [Reporting and Progress Tracking](#)
- Policy 3: [MS4 Exemption](#)
- Policy 4: [Alternative Practices Implementation](#)
- Policy 5: [Other Alternative Practices Approved by the Board](#)
- Policy 6: [Local Water Resources Riparian Protection \("Other watercourses"\)](#)
- Policy 7: [Failure to Implement \(Amended to replace Board Resolution 15-95\)](#)

The law and draft policies can be reviewed at: <http://www.bwsr.state.mn.us/buffers/>.

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Next Steps:

Comments on the draft policies will be accepted by BWSR through July 27, 2016. Staff is coordinating with legal counsel to evaluate potential areas for comment, and these will be discussed at the July 14 Workshop.

If there are questions in advance of the meeting, please contact Becky Christopher at 952-641-4512 or bchristopher@minnehahacreek.org.

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