

June 5, 2024
SOIL LOSS COMMITTEE
MEETING MINUTES

Present: President Linda Vavra, Board Managers Scott Gillespie, John Kapphahn, and Allen Wold. Also present: Attorney Lukas Croaker, Administrator Jamie Beyer, Traverse County Commissioner Dwight Nelson, and Landowner Bill Schmidt.

Approve Previous Meeting Minutes: Upon motion by Wold, seconded by Kapphahn and carried unanimously, the minutes of September 12, 2023 were approved.

2023 Soil Loss Budget, Inc close-out on Sediment Removal and Vegetation Restoration following 2023 Flood Damages, Repairs and FEMA Claim: The final revenues and expenses for 2023 were \$142,583.37 and \$149,611.34 respectively. Committee members discussed the diversity of programs employed by the District to address soil loss and erosion, and also the difficulty managing water quality when expanded buffers become an added source of water-soluble phosphorous.

2024 Soil Loss Budget: Upon motion by Kapphahn, seconded by Gillespie and carried unanimously, the following 2024 budget was approved:

		\$ 237,985.41 Fund Balance, 12/31/23
2024 REVENUE BUDGET		
\$	1,000.00	Interest Income
\$	4,500.00	2023 FEMA Flood Settlement
\$	119,122.50	Riparian Aid
\$	124,622.50	Total Estimated Revenue
2024 BUDGET		
\$	(20,000.00)	Traverse County Lined Waterway Program - Traverse SWCD
\$	(10,000.00)	Legal Fees
\$	(75,000.00)	Level Spoils and Seeding Following Maintenance
\$	(30,000.00)	Repair High Grade Erosion
\$	(18,000.00)	Implementation & Enforcement
\$	-	Seeding Flood Repairs
\$	(2,750.00)	Staff/Board Managers
\$	(155,750.00)	Total Estimated Expenses
		\$ 206,857.91 Estimated Fund Balance, 12/31/24

Update on Redeterminations, Buffer Installations & Development (WCD #Sub-1, GCD #21, GCD #3, LTWQIP No. 1 Phase 3, Mustinka River Rehabilitation Corridor, Doran Creek Restoration, BdSWD #5):

WCD #Sub-1 – Construction is complete; buffers are installed; final project closeout may happen in July.

GCD #21 – Final hearings will be held June 17. Construction may take place in 2025.

GCD #3 – A repair was approved, and project design is being finalized for public bid.

LTWQIP No. 1 Phase 3 – Construction is complete; final closeout is scheduled for June. Some additional buffer seeding may need to be coordinated with the SWCD.

Mustinka River Rehabilitation Corridor – Phase 2A construction is complete and seeded, and the project will be closed in June. Phase 2B construction has begun.

Doran Creek Restoration – RRWMB has been awarded a \$5 million grant for easements, to be shared between three Red River projects, included Bois de Sioux. The project includes conversion of 1,300 acres to buffer land.

BdSWD No. 5 – DNR representatives do not support a project that they assert will divert surface run-off from a DNR designated public water in Section 24 of Dollymount Township. DNR representatives stated that they would not support a subsurface project either. DNR representatives asked if engineering staff could design a project that would divert less than 10% of mean daily flow. Mean daily flow can be measured in streams, but how determine a daily flow for an ephemeral/normally dry area is not clear. The RRWMB-DNR Mediation Agreement states that a primary goal is protecting agricultural lands from 10-year flood events. In their advisory letter, DNR staff described the existing water quality condition, which would be significantly improved if overland flooding could be controlled in a grassed waterway with the proposed project.

Update on Traverse Erosion Prevention Program: Traverse SWCD staff are signing-up landowners for lined waterway cost-share.

Update on Wilkin Cover Crop Program: At the May 16 board meeting, Wilkin SWCD staff provided an update on the success of their program. District funds are used for a one-year cover crop program that limits some risk for producers experimenting with cover crops (compared to risks associated with cost-share programs that require 3- and 5-year commitments).

Update on Grant County Mustinka Corridor Program: Grant County intends to construct this project in 2025; MnDOT is permitting and acquiring the necessary right of way.

Update on Seeding Following Drainage System Repairs: Engineer Technician Troy Fridgen is identifying where repairs and erosions need to be completed this year, and will be working with contractors and SWCD staff to have repairs and seeding completed.

Grant & Traverse SWCD Notifications of Non-Compliance Landowner Responses: Three corrective actions were issued in November 2022, with a 11-month installation deadline (to two landowners). District staff spoken to one landowner family; they have purchased seed and have been trying to get the buffer planted; a crop has not been planted, but wet conditions have prevented the planting of the grass; the District will monitor their progress. Mr. Bill Schmidt owns two of the parcels for which corrective action notices were issued, and he was present in the meeting to speak to his parcels.

Following the approval of the District's Preferred Alternative Practice, BWSR staff requested that the District cease the issuance of new corrective action notices. BWSR staff further recommended that District staff meet with SWCD staff. Committee members and staff discussed their findings from meetings with Wilkin SWCD Staff and Supervisors, Traverse SWCD Buffer Staff, Traverse SWCD Staff and Supervisors, and Grant SWCD Staff and Buffer Committee. No SWCD provided the District with a comparison of 16.5' buffer benefits to alternative practice benefits. District staff found that there was notable variability between and within SWCD offices when *talking* about alternative standards vs. *applying* alternative practice standards. For Bois de Sioux Watershed District landowners:

- Some are told that they can choose from BWSR's 6 alternative practices; in reality, BWSR has only offered 3 for 16.5' buffers. These three alternates include: the Ag Water Certification Program, which requires, potentially, a

large number of farm operation-wide changes and financial commitment, and may not be achievable if the operation includes rented land; an alternative practice if there is negative slope; an alternative practice if there is 0.1% slope. Due to the limitations of these three alternative practices, landowners are essentially reduced to no alternative practices.

- Some are told they are not eligible for alternative practices unless they install 16.5' buffer.
- Some are told there are no alternative practices for the 16.5' buffers.
- Some are told that their parcels are only eligible for alternative practices if there is a negative field slope to the public drainage system.
- Some are required to install alternative practices at "field scale" level – ie, requiring a practice to be installed on the full 40-, 80-, 160-, 640-acres, or whatever the size of the field is, in order to be "comparable" to the 16.5' buffer.

Support for the District's Preferred Alternative Practice was confirmed by one SWCD of the three that were consulted.

Administrator Jamie Beyer stated that it is not clear under what authority SWCD policies can be enacted to serve as pseudo zoning ordinances, enacting stricter land use regulations than are described in the state law. She spoke with a couple of former SWCD staff persons who stated that there are numerous practices available through the Field Office Technical Guide, and that landowners have more options available to them under the law than what District staff understand are being presented locally. In the opinion of the former SWCD staff, the law was written with flexibility, but it seems like local implementation as described is more restrictive than the intention of the state law.

If the District intends to support landowner initiatives to employ lawful alternative practices that are not recognized locally, Administrator Jamie Beyer stated that outside professional expertise is needed. Administrator Jamie Beyer presented broad contractual terms proposed by Ms. Angelica Hopp from Agriboost. Ms. Hopp formerly worked for Kandiyohi County as a buffer compliance technician. Today she has her own consulting company that includes services to certify USDA Conservation Stewardship Partnership (CSP) plans. Administrator Jamie Beyer presented the information as a proposal for the District to consider: Ms. Angelica Hopp could be contracted with to work closely with landowners designated as non-compliant by Traverse, Grant, and Wilkin Counties, with the support of District staff. Ms. Angelica Hopp has knowledge and experience with a broad set of conservation practices, and can provide to landowners more clear guidance on considerations for 16.5' buffer or alternative practice installation. In her proposed work with landowners, District staff will gain understanding of lawful practice alternatives while also bringing parcels into compliance with the Buffer Law.

Committee members asked Mr. Bill Schmidt if he would be interested in working with a third-party consultant to bring his parcels into compliance. Mr. Bill Schmidt confirmed his interest.

Upon motion by Kapphahn, seconded by Gillespie and carried unanimously, a recommendation will be made to the BdSWD board to approve a service contract with Ms. Angelica Hopp at the June 21, 2024 BdSWD Board meeting. District Attorney Lukas Croaker will draft a general independent contractor service contract. Committee members requested that Ms. Angelica Hopp be invited to participate in the June 21, 2024 BdSWD board meeting, if available.

BWSR staff have asked District to confirm a schedule to issue new corrective action notices. BWSR staff forwarded to the District staff an order from Otter Tail County, sentencing a District landowner with a criminal misdemeanor over a disputed installation of a 50' buffer. Criminal misdemeanors can have a wide range of consequences for an individual, including the potential to prevent entry into foreign countries, like Canada. District Attorney Lukas Croaker presented a revised Corrective Action Notice that includes two changes:

- 1) Notification that the District may pursue 103D.545 or 103D.551 civil action to order and coordinate the planting of the 16.5' buffer, instead of pursuing a criminal misdemeanor.
- 2) Notification that the District has retained the services of a third-party consultant that the landowner may contact to aid in 16.5' buffer or alternative practice installation.

Upon motion by Kapphahn, seconded by Wold and carried unanimously, the revised Correct Action Notice was approved for consideration for the full BdSWD Board at their June 21, 2024 board meeting.