



# Planting the Seeds: Establishing a state buffers program

August 2016 Snapshots

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In June of 2015, Governor Dayton signed into law a new buffer initiative aimed at enhancing protection of Minnesota's waters. The law was further clarified in 2016, and the Board of Water and Soil Resources (BWSR) is currently in the middle of a deliberate and transparent process to develop program policies and supporting guidance for its statewide implementation.

The law designates an estimated 110,000 acres of land for water quality buffer strips statewide on which new perennial vegetation buffers of up to 50 feet along rivers, streams, and ditches will be established to help filter out phosphorus, nitrogen, and sediment. It also provides flexibility and financial support for landowners to install and maintain buffers, and boost compliance with buffer laws across Minnesota.

In March, BWSR staff began gathering insight from stakeholders and the public on program development. Comments received during this process were posted on the BWSR website, and were used to help inform program development. BWSR has also been working closely with our local government partners throughout the process, as they are tasked with implementing the law.

Seven draft policies were posted on the website in late June so that stakeholders and the public would have another opportunity to review pieces of the program's development and provide comments about the process. These policies will lay the foundation for the development and delivery of a host of supporting guidance which local partners and the public can use to make progress towards compliance with the law.



*Buffer and Soil Loss Program Coordinator Tom Gile talks buffer implementation with local government staff in Detroit Lakes earlier this summer.*

Feedback will be incorporated and it's anticipated that the BWSR Board will adopt a series of policy documents at its August meeting which will ultimately guide the remainder of program development and guidance. The process is moving swiftly in an effort to get the information completed and in the hands of those who are implementing the law as soon as possible.

With the release of the DNR Buffer Map in early July, Soil and Water Conservation Districts are meeting with landowners around the state to help them understand what their responsibilities are in terms of implementation. BWSR continues to develop tools and guidance for our partners to help facilitate this process.

“In my travels around the state participating in workshops and Q&A sessions with our local government partners, it’s clear that everyone is working as hard as they can to make sure the implementation process works for landowners as smoothly as possible,” Buffer and Soil Loss Program Coordinator Tom Gile said. “People are ready to get started.”

BWSR’s ultimate goal is a well-established program that makes a difference for Minnesota’s water quality. Many landowners are not waiting for the compliance deadlines – November 1, 2017 for public waters and November 1, 2018 for public drainage ditches – to begin implementing buffers on their land. Contact your local SWCD for more information about how the buffer law applies to you and your property. For more information on the new buffer law, please visit: [www.bwsr.state.mn.us/buffers/](http://www.bwsr.state.mn.us/buffers/). The DNR map and more information about their process can be found at <http://dnr.state.mn.us/buffers/index.html>.

**RULES OF THE  
PIONEER-SARAH CREEK WATERSHED MANAGEMENT COMMISSION**

The purpose of these rules is to provide procedures for the operation of the Pioneer-Sarah Creek Watershed Management Commission, pursuant to and by the authority of its Joint Powers Agreement.

**I. OFFICERS AND APPOINTEES**

**A.** The officers of the Pioneer-Sarah Creek Watershed Management Commission (hereafter, "Commission") shall be the Chair, Vice Chair, Secretary and Treasurer. An Executive Secretary, Deputy Treasurer, Technical Advisor and Attorney will be appointed by the Commission.

**B.** The Chair shall be the presiding officer of the Commission. He/she shall preside at all meetings of the Commission and shall have all of the same privileges of discussion, making motions and voting as do other members. The Chair may delegate certain responsibilities to the Executive Secretary as necessary to properly carry out the duties of the office.

**C.** The Vice Chair shall, in the absence or disability of the Chair, perform the duties and exercise the powers of the Chair.

**D.** The Treasurer shall have the custody of the funds and securities of the Commission and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Commission and shall deposit all monies and other valuable effects in the name and to the credit of the Commission in such depository as may be designated by the Commission. He/she shall disburse the funds of the Commission as ordered by the Commission and shall render to the Commission at regular meetings, or as they may request, an account of all his/her transactions as Treasurer and of the Financial condition of the Commission. No Commission funds shall be disbursed without the signature of at least two officers of the Commission. For the purpose of disbursing funds, the Deputy Treasurer will be considered an officer of the Commission. The Treasurer may delegate certain responsibilities to the Executive Secretary or Deputy Treasurer as necessary to properly carry out the duties of the office.

**E.** The Secretary or his/her delegate shall attend all meetings of the Commission and shall act as Clerk of such meetings and shall record all votes and the minutes of all proceedings in files kept for that purpose. He/she shall give notice of all meetings of the

Commission and shall perform such other duties as may be prescribed by the Commission. The Secretary may delegate certain responsibilities to the Executive Secretary as necessary to properly carry out the duties of the office. The office of the Executive Secretary shall serve as the official mailing address of the Commission and the location of the Commission's official bulletin board for the posting of all notices.

**F.** The Hennepin County Department of Environmental Services (hereafter, "HCDES") shall serve as the Technical Advisor to the Commission and shall be a non-voting member of the Commission with no financial responsibilities. The HCDES shall perform such technical and advisory services as are agreed upon from time to time in addition to those specified by these rules.

**G.** The Executive Secretary is appointed by the Commission to coordinate activities of the Commission, accept delegated duties by the Commission officers, and accept administrative duties not assigned to officers.

**H.** The Attorney is appointed by the Commission to represent the Commission and to advise the Commission in legal matters.

**I.** The officers and appointees of the Commission shall give bond as required by the Commission, and by the Joint Powers Agreement (hereafter "Agreement"), with corporate sureties satisfactory to the Commission for the faithful performance of their duties and for restoration to the Commission, in case of death, resignation, retirement or removal from office, of all books, papers, vouchers, money and property of whatever kind coming into their possession or under their control, belonging to the Commission. The premium on any such bond shall be paid out of Commission funds.

**J.** Other persons may be engaged to perform any service or hold any office as required by the Commission.

**K.** The term of office of all officers shall be one year, commencing March 1. Staff persons shall serve at the pleasure of the Commission.

**L.** The Commission shall hold its election of officers at the first regular meeting during the month of February each year, with newly elected officers assuming office on March 1 of that year. Written notice of the election shall be made in notices of regular meetings for the months of January and February. In any event, the officers shall be held over in their offices until such election occurs.

**M.** The budget year of the Commission shall be the calendar year.

## **II. MEETINGS**

**A.** The regular meetings of the Commission shall be held on the third Thursday of each month at 4:00 p.m. at Independence City Center, Independence, Minnesota, unless written notice of a change of meeting time or place is mailed or emailed as requested to the members three days prior to the meeting and posted on the Commission's website and official bulletin board.

**B.** Written notice of all meetings of the Commission shall be sent to all Commissioners, to duly appointed Alternate Commissioners of all parties, and to the Clerk of each member city.

**C.** Special meetings of the Commission may be called by the Chair or any other three Commissioners jointly. The purpose of any special meeting shall be stated in the notice of the meeting.

**D.** Written notice of regular meetings shall be mailed or emailed as requested at least four days prior to each meeting and written notice of special meetings shall be mailed or emailed as requested at least two days prior to each such meeting and posted on the Commission's website and official bulletin board.

**E.** At any meeting of the Commission, the presence of a majority of the Commissioners shall constitute a quorum. The presence of an Alternate Commissioner in lieu of his/her Commissioner shall count in calculating the majority. Non-voting members shall not be calculated when determining a quorum.

**F.** If the Secretary is absent from a meeting and he/she has not delegated his/her responsibilities to the Executive Secretary, or if the Executive Secretary is absent from the meeting, the Chair shall appoint a Secretary Pro Tem for the meeting.

**G.** All meetings shall be conducted in accordance with Robert's Rules of Order Revised, except as otherwise provided in the Agreement of these Rules.

## **III. COMMITTEES**

**A.** A Technical Advisory Committee ("TAC") to the Commission is hereby created. TAC members and one or more alternate members shall be appointed by the governing body of each Member. TAC members may be, but need not be, Commissioners. The Executive Secretary and a representative from the Hennepin County Department of Environmental Services and the Three Rivers Park District shall also serve as TAC members. TAC

members shall serve at the pleasure of the governing body of each Member that appoints them and are not required to meet statutory qualifications for Commissioners.

1. The purpose of the Technical Advisory Committee shall be to review guidelines, standards and policies used to evaluate plats, plans and proposals of parties to the Joint Powers Agreement and make recommendations thereon to the full Commission, in order to establish procedures to assess flooding, water quality, sedimentation and erosion.

2. The Technical Advisory Committee shall schedule operations to carry out a water quality monitoring program in the watershed according to the policies of the Pioneer-Sarah Creek Watershed Management Plan and will provide technical advisory assistance to any local government unit as requested-

3. The Technical Advisory Committee shall review all local surface water management plans for consistency with the Pioneer-Sarah Creek Watershed Management Plan and the requirements of the current Metropolitan Surface Water Management Statute.

4. Technical Advisory Committee members shall undertake projects/tasks as requested or assigned to the TAC by the Commission and may participate in meetings of the Commission pertaining to those assigned projects/tasks.

**B.** An Executive Committee of the Commission is hereby created, composed of the four officers, a representative from the HCDES, and the Executive Secretary and shall provide direction for the Commission. Among its duties, the Executive Committee shall assume the role of a steering committee, review these rules, formulate educational programs for the public and member staffs, review legislation and recommend action and direction to the Commission. The Executive Committee may meet from time to time at a place and time designated by the Chairman. Written notices of these meetings shall be mailed or emailed as requested to the members three days prior to the meetings.

**C.** Citizen Advisory Committee. If a need is determined by the Commission, the Commission will establish a Citizen Advisory Committee to the Commission, particularly to review and comment on specific projects undertaken by the Commission pursuant to the Watershed Management Plan.

#### **IV. PROJECT REVIEWS**

**A.** Construction/Development Requiring Commission Review. In order to protect, preserve and manage the surface water resources of the watershed, the Commission has

developed goals, policies and standards to address issues related to water quantity, water quality, groundwater management, shoreland management, wetland management, and soil erosion management.

**B.** Procedures. In order to expedite the plan review in each of the categories listed above, along with practical recommendations that will assure the application of standards in a manner consistent with the policies of the Pioneer-Sarah Creek Watershed Plan, the following procedures shall be followed:

1. All plans and proposals will be sent by the member responsible for plan reviews directly to the Administrative Office.

2. Three copies of grading plans, erosion control plans; along with the Commission form requesting plan review, applicable review fees, and the name of the applicant or his/her representative and where he/she can be reached shall be submitted.

3. The Technical Advisor will have ten (10) work days in which to respond.

4. The Technical Advisor shall contact the applicant or his/her representative when additional information is required for review or a revision is required in the submitted plans.

5. One copy of the Technical Advisor's recommendations for changes will be sent to the responsible member, one copy to the applicant or his/her representative, and one copy will be filed in the Administrative Office.

6. If requested by the responsible member or the applicant, the Technical Advisor shall meet with both parties to discuss their recommendations and make revisions thereto if agreed to by the Technical Advisor.

7. The Plan with the Technical Advisor's recommendations shall then be forwarded to the Commission.

**C.** Commission Approval/Disapproval of Plan Reviews.

1. The Technical Advisor shall provide the Commission with a written report each month describing its disposition of each plan review and listing its recommendations for each plan's approval, contingent approval, or disapproval.

2. In cases where problems are encountered with the plan or proposal that cannot be resolved between the applicant or his/her representative, or member responsible for plan reviews, and the Technical Advisor, all involved persons will receive notice to come before the full Commission to present data and information on the nature of the conflict.

3. After review of the Technical Advisor's recommendations, data and information presented by others, and other pertinent information discussed or presented, the Commission will approve or disapprove each plan review presented in the written monthly report.

4. The Technical Advisor has Staff Authority to approve projects without presentation to the Commission when only erosion and sediment control review is required and when floodplain impact is less than or equal to 100 cubic yards.

5. In the case of project applications involving wetlands, and when the Commission is the Local government Unit (LGU) for the Wetland Conservation Act (WCA), the Technical Advisor has Staff Authority to grant no-loss exemption certificates, de minimis exemptions and certificates, approve pond excavations, and sign off on Technical Evaluation Panel (TEP) findings for wetlands less than or equal to one-half acre in size.

D. Enforcement Policy. In the event that enforcement of the Commission's review actions is required and is not undertaken as a matter of course by the submitting member, the Commission will tender the matter to the member for enforcement by it in accordance with its official controls. This referral policy is in accordance with the Agreement and the statutory powers to which it refers.

## **V. ANNUAL REQUIREMENTS**

A. Requirements for annual financial, activities and audit reports. Within 120 days of the end of the Commission's fiscal year, the Commission shall submit to the Board of Water and Soil Resources a financial report, an activity report, and an audit report for the preceding fiscal year if it has expended or accrued funds during that time. These reports may be combined into a single document. The audit report for the preceding fiscal year must be prepared by a certified public accountant or the state auditor and forwarded to the state auditor's office within 120 days of the end of the fiscal year. For the required contents of these reports, refer to the appropriate State Rule.

B. The Technical Advisor and Executive Secretary shall develop an Annual Work Plan prior to the annual budget meeting of the Commission.

## **VI. WATER APPROPRIATION FOR NON-ESSENTIAL USES**

A. Policy. In order to comply with Minnesota Statutes 103B.211 Subd. 4 and 5, or its successor, which requires permits for non-essential water appropriation uses such as lawn sprinkling, car washing, and golf course and park irrigation, the following standards and



application form have been established by the Commission.

**B.** Scope. Each tributary of the Pioneer-Sarah Creek Watershed qualifies.

**C.** Standards and Criteria.

1. From lakes. Permits will be issued to lakeshore (riparian) owners for appropriation for non-essential uses from the lakes. Each permit shall recite a minimum lake level elevation which requires cessation of all appropriation if and when that minimum elevation is reached. In the event such minimum elevations are changed, the elevation recited in permits issued shall remain governing until the permits expire.

2. From Pioneer and Sarah Creeks and their tributaries. Because flows are nominal except during periods of flooding and high water, no permits will be issued. Any lake or waterway frontage (riparian) owner may petition the Commission for revision of this rule. The petition shall be accompanied with the facts, reasons, and photos or other exhibits showing why this rule is unreasonable generally or under the specific circumstance of the petitioning riparian owner.

3. From wetlands. No permits will be issued, except on a showing of hardship or unique circumstances.

4. Permit applications. Permit applications will be in the form included as part of these rules and when executed and delivered by U.S. Mail to the address provided will constitute the permit. Each permit will be valid for two (2) calendar years.

5. No vested rights. No rights to appropriate will vest with the owner, run with the land, or otherwise attach to the property regardless of the renewals made or any other factors.

## **VII. MISCELLANEOUS**

A Code of Ethics is attached as an appendix to these Rules and has been adopted separately.

## **VIII. AMENDMENTS**

These rules, after written notice to the members four days prior to the meeting, may be amended by the affirmative vote of the voting majority of the Commissioners. A majority of a quorum is not sufficient to amend these rules.

Dated: February 19, 2009