

MEMORANDUM



DATE: July 1, 2023
TO: Minnesota Watersheds Members
FROM: Linda Vavra and Jamie Beyer, Resolutions Committee Co-Chairs
RE: **2023 REQUEST FOR MINNESOTA WATERSHEDS RESOLUTIONS**

It is that time of year for Minnesota Watersheds members to submit their policy recommendations through our resolutions process. This is YOUR organization and policy statements start with YOU! Here are the next steps and timeline:

- July / August** Members write, discuss, and approve resolutions at your WD/WMO meetings. The more detail you can provide, the easier it will be for the committee to make a recommendation.
- September 1** Administrators submit resolutions and background information documents to Jan Voit, Executive Director at jvoit@mnwatersheds.com by **September 1**. If more time is needed, please contact her so the Resolutions Committee is aware that another resolution may be submitted. The latest possible date to submit a resolution is **60 days before** the annual meeting (October 1). We ask that resolutions be submitted according to the described timeframe to ensure distribution to members for discussion by your boards in November.
NOTE: If all the requested information is not included, the Resolution will NOT be accepted.
- September / October** The Resolutions Committee will review the resolutions, gather more information, or ask for further clarification when deemed necessary; work with the submitting watersheds to combine similar resolutions; reject resolutions already active; discuss and make recommendations to the membership on the passage of resolutions.
- October 31** Resolutions (with committee feedback) will be emailed to each organization by **October 31**.
NOTE: If possible, please hold a regional meeting to discuss the Resolutions BEFORE the annual conference.
- November** Members should discuss the resolutions at their November meetings and decide who will be voting on their behalf at the annual meeting (2 voting members and 1 alternate are to be designated per watershed organization)
- December 3** Delegates discuss and vote on resolutions at the annual resolutions hearing. Please be prepared to present and defend your resolution.
- December / January** The Legislative Committee will review existing and new resolutions and make a recommendation to the Minnesota Watersheds Board of Directors for the 2024 legislative platform.
- January 2024** Minnesota Watersheds Board of Directors will finalize the 2024 legislative platform.
- February 12, 2024** First day of the 2nd half of 93rd legislative biennium.

NOTE: Resolutions passed by the membership will remain Minnesota Watersheds policy for five years after which they will sunset. If a member wishes to keep the resolution active, it must be resubmitted and passed again by the membership. Enclosed with this memorandum are the active resolutions and those that will sunset on 12/31/23. If you have questions, Please feel free to contact co-chairs at lvavra@fedtel.net or 320-760-1774, bds wd@runestone.net or 701-866-2725, or our Executive Director at jvoit@mnwatersheds.com or 507-822-0921.

THANK YOU FOR YOUR EFFORTS IN OUR POLICY DEVELOPMENT!

Background Information

2023 Minnesota Watersheds Resolution

Proposing Watershed: _____

Contact Name: _____

Phone Number: _____

Email Address: _____

Resolution Title: _____

Background that led to the submission of this resolution:

Describe the problem you wish to solve and provide enough background information to understand the factors that led to the issue. Attach statutory or regulatory documents that may be helpful.

Ideas for how this issue could be solved:

Describe potential solutions for the problem. Provide references to statutes or rules if applicable.

Efforts to solve the problem:

Document the efforts you have taken to try to solve the issue. For example: have you spoken to state agency staff, legislators, county commissioners, etc.? If so, what was their response?

Anticipated support or opposition:

Who would be willing to partner with our watershed or state association on the issue? Who may be opposed to our efforts? (Ex. other local units of government, special interest groups, political parties, etc.)?

This issue: (check all that apply)

_____ Applies only to our district

_____ Applies only to 1 or 2 regions

_____ Applies to the entire state

_____ Requires legislative action

_____ Requires state agency advocacy

_____ Impacts Minnesota Watersheds bylaws or MOPP

(MOPP = *Manual of Policies and Procedures*)

Active Minnesota Watersheds Resolutions

December 2, 2022



FINANCE

2021-01A: Support SWCD Capacity Fund Sources

Minnesota Watersheds supports SWCD capacity funds to come from county and state general funds.

2021-01B: Support Clean Water Funds for Implementation, Not Capacity

Minnesota Watersheds supports Clean Water Funds being used for implementation and not for capacity.

2021-02: Support Capacity Funding for Watershed Districts

Minnesota Watersheds supports capacity base funding resources directed to non-metro watershed district who request this assistance, to implement the activities as outlined in approved watershed district watershed management plans or comprehensive watershed management plans.

2019-08: Heron Lake Watershed District General Operating Levy Adjustment

Minnesota Watersheds supports an increase in Heron Lake Watershed District's general operating levy cap from \$250,000 to an amount not to exceed \$500,000.

2019-09: Shell Rock River Watershed District General Operating Levy Adjustment

Minnesota Watersheds supports an increase in Shell Rock River Watershed District's general operating levy cap from \$250,000 to an amount not to exceed \$500,000.

2019-10: Pelican River Watershed District General Operating Levy Adjustment

Minnesota Watersheds supports an increase in Pelican River Watershed District's general operating levy cap from \$250,000 to an amount not to exceed \$500,000.

2019-11: Buffalo Red River Watershed District General Operating Levy Adjustment

Minnesota Watersheds supports an increase in Buffalo Red River Watershed District's general operating levy cap from \$250,000 to an amount not to exceed \$500,000.

2017-05 Middle Fork Crow River Watershed District General Operating Levy Adjustment

Minnesota Watersheds supports the efforts of Middle Fork Crow River Watershed District to draft and advance special legislation affecting a change in its general fund levy cap.

URBAN STORMWATER

2022-01 Support Creation of a Stormwater Reuse Task Force

Minnesota Watersheds supports administratively or legislatively including at least one Minnesota Watersheds 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.

2022-02 Support Limited Liability for Certified Commercial Salt Applicators

Minnesota Watersheds 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.

WATER QUANTITY, DRAINAGE, AND FLOOD CONTROL

2022-03: Seek Increased Support and Participation for the Minnesota Drainage Work Group (DWG)

- Minnesota Watersheds communications increase awareness of the DWG (meeting dates and links, topics, minutes, reports) amongst members.
- Minnesota Watersheds 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 event.
- In preparation for Minnesota Watersheds member legislative visits, 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.
- During Minnesota Watersheds staff Board of Water and Soil Resources (BWSR) visits, regularly seek updates on how facilitation of the DWG is leading to improvements for member drainage authorities and convey this information to members.

2022-05: Obtain Stable Funding for Flood Damage Reduction and Natural Resources Enhancement Projects

Minnesota Watersheds supports collaborating 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.

2021-05: Support Crop Insurance to Include Crop Losses Within Impoundment Areas

Minnesota Watersheds supports expansion of Federal Multi-Peril Crop Insurance to include crop losses within impoundment areas.

2020-04 Support Temporary Water Storage on DNR Wetlands during Major Flood Events

Minnesota Watersheds supports the temporary storage of water on existing DNR-controlled wetlands in the times of major flood events.

2019-02: Add a Classification for Public Drainage Systems that are Artificial Watercourses

Minnesota Watersheds supports removal of the default Class 2 categorization for public drainage systems that are artificial watercourses and supports a default Class 7 categorization for public drainage systems that are artificial watercourses.

2019-03 Support for Managing Water Flows in the Minnesota River Basin Through Increased Water Storage and Other Strategies and Practices

Minnesota Watersheds supports efforts to manage the flow of water in the Minnesota River Basin and the Minnesota River Congress in its efforts to increase water storage on the landscape; and Minnesota Watersheds supports the Minnesota River Congress in its efforts to secure state and federal programs targeted specifically to increase surface water storage in the Minnesota River Watershed.

2019-04: Clarify County Financing Obligations and/or Authorize Watershed District General Obligation Bonding for Public Drainage Projects

Minnesota Watersheds supports legislation to achieve one or both of the following:

- a) To clarify that an affected county must finance a watershed district drainage project on project establishment and request of the watershed district; and
- b) To authorize watershed districts to finance drainage project establishment and construction by issuance of bonds payable from assessments and backed by the full faith and credit of the watershed district; and further provide for adequate tax levy authority to assure the watershed district's credit capacity.

WATER QUALITY, LAKES, WETLANDS, RIVERS, AND STREAMS

2022-06: Limit Wake Boat Activities

Minnesota Watersheds supports working with the Minnesota Department of Natural Resources (DNR) to utilize the research findings from the St. Anthony Falls Laboratory and seek legislation to achieve one or more of the following:

- Limit lakes and areas of lakes in which wake boats may operate;
- Require new and existing wake boats to be able to completely drain and decontaminate their ballast tanks; and
- Providing funding for additional research on the effects of wake boats on aquatic systems.

2020-03 Soil Health Goal for Metropolitan Watershed Management Plans

Minnesota Watersheds supports amending Minnesota Rule 8410.0080 to include a goal for soil health in watershed management plans and ten-year plan amendments.

2019-07 Chinese Mystery Snail Designation Change and Research Needs

Minnesota Watersheds supports Chinese Mystery Snail prevention and control research and to change the Chinese Mystery Snail designated status in Minnesota as a regulated species to a prohibited species.

2017-02 Temporary Lake Quarantine Authorization to Control the Spread of Aquatic Invasive Species (AIS)

Minnesota Watersheds supports legislation granting to watershed districts, independently or under DNR oversight, the authority, after public hearing and technical findings, to impose a public access quarantine, for a defined period of time in conjunction with determining and instituting an AIS management response to an infestation.

WATERSHED MANAGEMENT AND OPERATIONS

2022-04: Clarification of Watershed District Project Establishment with Government Aid or as Part of a Plan

Minnesota Watersheds supports working with BWSR to clarify Minnesota Statutes § 103D.605, Subd. 5.

2021-03: Support Increased Flexibility in Open Meeting Law

- Minnesota Watersheds 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, up to three times in a calendar year per manager.
- Minnesota Watersheds supports 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.
- Minnesota Watersheds supports changes to the Open Meeting Law requiring watershed districts to prepare and publish procedures for conducting public meetings using interactive technology.

2021-06: Support 60-day Review Required for State Agencies on Policy Changes

Minnesota Watersheds supports requiring state agencies to provide a meaningful, not less than 60-day review and comment period from affected local units of government on new or amended water management policies, programs, or initiatives with a response to those comments required prior to adoption.

2021-07: Support Metro Watershed-based Implementation Funding (WBIF) for Approves 103B Plans Only

Minnesota Watersheds supports BWSR distribution of metro WBIF among the 23 watershed management organizations with state-approved comprehensive, multi-year 103B watershed management plans. Those plans implement multijurisdictional priorities at a watershed scale and facilitate funding projects of any eligible local government unit (including soil and water conservation districts, counties, cities, and townships).

AGENCY RELATIONS

2019-01 Streamline the DNR permitting process

Minnesota Watersheds supports legislation, rules, and/or agency policies to streamline the DNR permitting process by increasing responsiveness, decreasing the amount of time it takes to approve permits, providing a detailed fee schedule prior to application, and conducting water level management practices that result in the DNR reacting more quickly to serious, changing climate conditions.

REGULATIONS

2020-01 Appealing Public Water Designations

Minnesota Watersheds supports legislation that would provide landowners with a more formal process to appeal decisions made by the DNR regarding the designation of public waters including the right to fair representation in a process such as a contested case proceeding which would allow landowners an option to give oral arguments or provide expert witnesses for their case.

2019-05 Watershed District Membership on Wetland Technical Evaluation Panels

Minnesota Watersheds supports legislation to allow technical representatives of watershed districts to be official members of wetland technical evaluation panels.

2019-06: Oppose Legislation that Forces Spending on Political Boundaries

Minnesota Watersheds opposes legislation that establishes spending requirements or restricts watershed district spending by political regions or boundaries.

NATURAL RESOURCES

No resolutions currently in this category.

Resolutions to Sunset

Effective December 31, 2023

It should be noted that in July of 2022, the sunseting deadline was extended for resolutions expiring in 2017 by two years due to the pandemic and its influence on lobbying efforts. **All 2017 resolutions will have a sunset date of 2024.**

2018-02 Increase the \$250k General Fund Tax Levy Limit

Minnesota Watersheds supports legislation to increase or remove the \$250,000 general fund ad valorem tax levy limit set in MN statute 103D.905 Subd. 3. If the limit is raised to a new dollar amount, Minnesota Watersheds supports an inflationary adjustment be added to statute.

2018-03 Require Timely Appointments to the BWSR Board

Minnesota Watersheds supports legislation that requires the Governor to make BWSR board appointments within 90 days of a vacancy or board member term expiration.

2018-04 Require Watershed District Permits for the DNR

Minnesota Watersheds supports an amendment to the MN Statute § 103D.315, Subd. 5, to include the MN Department of Natural Resources as a state agency required to get permits from watershed districts when applicable.

2018-06 Ensure Timely Updates to Wildlife Management Area (WMA) Plans

Minnesota Watersheds supports that WMA operation and maintenance plans and/or management plans are either drafted or brought current in a timely fashion, with input from local governmental entities, to ensure their consideration in future One Watershed, One Plan efforts.

2018-08 Reinforce Existing Rights to Maintain/Repair 103E Drainage Systems

Minnesota Watersheds supports legislation modeled after House File 2687 and Senate File 2419 of the ninetieth legislature (2017-2018) reinforcing that the DNR cannot restrict existing rights to maintain and repair 103E public drainage systems.

2018-09 Clean Water Council Appointments

Minnesota Watersheds may ask the representative of the Clean Water Council to resign when they lose their direct association to a watershed district; and that Minnesota Watersheds will recommend to the Governor's office that managers and/or administrators in good standing with Minnesota Watersheds be appointed to the Clean Water Council.

MEMORANDUM

TO: Board of Managers

FROM: Terry Jeffery, Administrator

RE: MN Watersheds Resolutions

DATE: September 13, 2023

On July 1st of this year, the MN Watersheds Resolution Committee requested submittal of resolutions on policy recommendations. These resolutions are due no later than October 1, 2023, although they have requested them by September 1, 2023.

In the attached resolution submittal packet, which you should have received via email from Jan Voit the first week of July, you will notice that the previous resolutions submitted by RPBCWD are still active. These resolutions include:

1. 2022-06: Limit Wake Boat Activities
2. 2021-03: Support Increased Flexibility in Open Meeting Law
3. 2020-03: Soil Health Goal for Metropolitan Watershed Management

Manager Koch has suggested a resolution requesting state funds to purchase the properties located on Spring Rd in Eden Prairie, Hennepin County, MN. A draft of that resolution is included for your consideration.

Background Information 2020 MAWD Resolution

Proposing District: Riley Purgatory Bluff Creek Watershed District

Contact Name: Claire Bleser, Administrator

Phone Number: 952-607-6512

Email Address: cbleser@rpbcd.org

Title: RESOLUTION to amend Minnesota Rule 8410.0800 to include a required goal for soil health in watershed management plans and ten-year plan amendments

Background that led to the submission of this resolution:

Riley Purgatory Bluff Creek Watershed District seeks to address the decline of soil health, “the continued capacity of soil to function as a vital living ecosystem that sustains plants, animals, and humans,”¹ and the closely related negative impacts to water quality, due to the spread of impervious surfaces and general compaction of urbanized soils.

Excessive rainfall and resultant flooding, threatening food security, public health, and natural resources, are anticipated as rainfall amounts continue to increase. Soil organic matter is a known effective antidote to the negative water resources impacts of soil erosion and flooding that accompany increased rainfalls.² For example, a 1% increase in soil organic matter has the ability to hold 20,000 gallons of additional water per acre. Increasing the organic carbon content in soil significantly benefits water quality, along with the public health more broadly.³ Healthy soils contain “a diverse population of beneficial organisms, high levels of decomposed organic matter, low levels of toxic compounds, adequate (rather than excessive) levels of nutrients, a sufficiently porous surface, and good tilth.”⁴

According to the Natural Resources Conservation Service,

“Soil helps control where rain, snowmelt, and irrigation water goes. Water and dissolved solutes flow over the land or into and through soil. . . . The minerals and microbes in soil are responsible for filtering, buffering, degrading, immobilizing, and detoxifying organic

¹ Natural Resources Conservation Service - Soils. Soil Health. USDA. *Available online:* <https://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/health/>.

² See Desai, Danika. 2018. Soil Conservation in California: An Analysis of the Healthy Soils Initiative. NYU Environmental Law Journal. *Available online:* <https://www.nyuelj.org/2018/02/soil-conservation-in-california-an-analysis-of-the-healthy-soils-initiative/>

³ Bryant, Lara. 2015. Organic Matter Can Improve Your Soil’s Water Holding Capacity. NRDC. *Available online:* <https://www.nrdc.org/experts/lara-bryant/organic-matter-can-improve-your-soils-water-holding-capacity>.

⁴ *Id.*

and inorganic materials, including industrial and municipal by-products. . . . Soil structure provides a medium for plant roots.”⁵

Currently, Minnesota Rule 8410.0800 lists required goals for water management plans and ten-year plan amendments, including for water quantity, water quality, public drainage systems, groundwater, and wetlands. Missing from this list of required goals is soil health.

Minnesota Statutes Section 103B.231, subd. 4(c) states:

(c) The [metropolitan watershed management] plan shall contain the elements required by subdivision 6. Each element shall be set out in the degree of detail and prescription necessary to accomplish the purposes of sections [103B.205](#) to [103B.255](#), considering the character of existing and anticipated physical and **hydrogeologic conditions**, land use, and development and the severity of existing and anticipated water management problems in the watershed. [emphasis added.]

Section 103B.231, subd. 4(c) provides a statutory basis for revising Minnesota Rule 8410.0080 to include soil health goals in watershed management plans, given the hydrogeologic connection between soil health and impervious surface water runoff and compaction of urbanized soils;

Ideas for how this issue could be solved:

Ask the Minnesota Board of Water and Soil Resources to amend Minnesota Rule 8410.0080 to include a goal for soil health in watershed management plans and ten-year plan amendments. A metropolitan watershed district would then be required to include soil health in its watershed management plan or ten-year plan amendment, and to implement policies to assess, protect, and restore soil health within the district.

Anticipated support or opposition from other governmental units?

(Check one) This issue is of importance to:

Only our district

Only our region

The entire state

⁵ Natural Resources Conservation Service - Soils. Soil Health. USDA. Available online: <https://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/health/>.

Background Information

2022 MAWD Resolution

MAWD Support for 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.

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.

Background Information

2022 MAWD Resolution

Efforts to solve the problem:

Document the efforts you have taken to try to solve the issue. For example: have you spoken to state agency staff, legislators, county commissioners, etc.? If so, what was their response?

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:

Who would be willing to partner with us on the issue? Who may be opposed to our efforts? (Ex. other local units of government, special interest groups, political parties, etc.)?

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
- Applies only to 1 or 2 regions
- Applies to the entire state

- Requires legislative action
- Requires state agency advocacy
- Impacts MAWD bylaws or MOPP
(MOPP = Manual of Policies and Procedures)

Background Information

2022 MAWD Resolution

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

Resolution Title: Increased Flexibility in Open Meeting Law to Utilize Interactive Technology

Background that led to the submission of this resolution:

Describe the problem you wish to solve and provide enough background information to understand the factors that led to the issue. Attach statutory or regulatory documents that may be helpful.

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:

Describe potential solutions for the problem. Provide references to statutes or rules if applicable.

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.

Background Information 2023 MAWD Resolution

Proposing District: Riley Purgatory Bluff Creek Watershed District

Contact Name: Terry Jeffery, Administrator

Phone Number: 952-607-6512 ext 1

Email Address: tjeffery@rpbcwd.org

Resolution Title: RESOLUTION to Limit Wake-Boat Damage to Shorelines and Water Quality

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 several 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

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.safllab.org/BoatGeneratedWakeWaveReport_Feb12022_Final.pdf)

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. (This study is currently underway.) 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. However, Mercier-Blais and Prairie (2014) determined that sediment resuspension was significantly higher than background conditions up to 492 feet from boats operating in wake-surfing mode and 656 feet from boats operating in wake-boarding mode.²

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.³ Also cited in this report is a report by the Scientific and Technical 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.⁴

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.⁵

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.⁶

In spring 2019, Vermont considered legislation presented in Senate Bill 69 “to restrict or prohibit the use of wake boats in certain public waters.”⁷ 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

² 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.

³ 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>.

⁴ *Id.* See also USDA NRCS. (1997) Slope Protection for Dams and Lakeshores: Minnesota Technical Note 2 (reviewing shoreline erosion processes and causes).

⁵ 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

⁶ 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>.

⁷ 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>

beauty, or other recreational factors.⁸ The bill did not progress in the 2019 session. However, in January of 2023 the Vermont Department of Environmental Conservation proposed a draft rule that sets forth the following conditions which must be met for the operation of wake boats.⁹

1. The waterbody must have at least 50 contiguous acres at least 20 feet in depth and 500 feet from shore on all sides.
2. Wake boats must be 500-feet from shore in order to engage in wake sports.
3. A wake boat must stay on one lake per calendar year unless it is decontaminated by a DEC approved entity.

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.¹⁰

In July of 2023, the Michigan Department of Natural Resources undertook a literature review specific to the effects of wake boats on aquatic habitats. Based upon this review, the authors recommended that boats operating in wake-surfing or wake-boarding mode, should be a minimum of 500-feet from the shoreline and be in water with at least 15 feet of depth. In addition, they also recommended that ballast tanks be completely drained prior to any overland transport.¹¹

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.

Anticipated support or opposition from other governmental units?

⁸ 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>

⁹ Vermont Department of Environmental Conservation Lakes and Ponds Rulemaking website.

<https://dec.vermont.gov/watershed/lakes-ponds/rulemaking>

¹⁰ 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>.

¹¹ Michigan Dept of Natural Resources Fisheries Report 37, *A Literature Review of Wake Boat Effects on Aquatic Habitat*; Francis, James, Nohner, Joel, Bauman, John, and Gunderman, Brian (2023) Available online: [Fisheries-Report-37-Wake-Boat-Study-Official-Version-Released-on-7.28.2023.pdf](https://www.dnr.state.mi.us/fisheries/Report-37-Wake-Boat-Study-Official-Version-Released-on-7.28.2023.pdf) (mymlsa.org)

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

This issue is of importance to (check one):

- The entire state X
- Only our region
- Only our district

Resolution to Limit Wake Boat Activities that Cause Shoreline Erosion, Reduce the Efficacy of In-lake Phosphorous 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;

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.