

A "Report on the Report" – MASWCD's Overview of the OLA's Watershed Management Program Evaluation

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Introduction

On Thursday, January 25th, the Office of the Legislative Auditor (OLA) released a report on watershed management in Minnesota. The report looks at watershed management activities conducted by the various local government entities (SWCDs, watershed districts, WMOs, counties), their relationship to the activities conducted by the state (primarily BWSR), and the financing and performance of the entities within this system.

A summary and a copy of the full 107 page report are available on the OLA web site at the following link: www.auditor.leg.state.mn.us/ped/2007/watersheds.htm.

The OLA report includes several findings, as well as recommendations and options for the Legislature to consider. Each of these is highlighted in this MASWCD report, followed by MASWCD's brief analysis.

Background/Timeline

April, 2006 Legislative Audit Commission (members at right) directed OLA to perform a program evaluation of watershed management in MN, noting concern among legislators as to the efficiency and effectiveness of the state's multilayered structure for managing watersheds. Some legislators wanted to know if individual local watershed organizations are well managed and whether BWSR is adequately overseeing them.

June, 2006 – Jan., 2007 OLA conducted research & analysis of the issue, including interviews with local and state government offices, MASWCD, NRCS, NACD, & others.

Jan. 25, 2007 OLA released its program evaluation report.

looking ahead A hearing has been held in the House and one will be conducted in the Senate. Legislators will now be reviewing the report and taking it under consideration.

2005-2006 Legislative Audit Commission

Chair - Senator Ann H. Rest

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Representative Lyndon Carlson
Representative Sondra Erickson
Representative Rick Hansen
Representative Aaron Peterson
Representative Connie Ruth
Representative Torrey Westrom

Senators

Senator Richard Cohen
Senator David Hann
Senator Warren Limmer
Senator James Metzner
Senator Thomas Neuville
Senator Claire Robling

OLA Report Findings & MASWCD Responses

STRUCTURE

REPORT FINDING: Minnesota's watershed management structure is a complex network of multiple federal, state, and local agencies and organizations. At least 7 federal agencies, 7 state agencies, and 11 different types of local water management entities are involved. In some parts of Minnesota, water is managed on a county basis; in other parts, it is managed on a watershed basis; and in still other parts, it is managed on both a county and watershed basis.

MASWCD RESPONSE: MASWCD does not refute the assertion that Minnesota's watershed management structure is complex. Complexity aside, however, Soil and Water Conservation Districts are uniquely positioned to resolve water quality issues.

- ⇒ The State's 91 SWCDs provide 100% statewide coverage and represent a nationwide framework of boards and staff focused solely on soil and water conservation issues.
- ⇒ SWCDs are the only local entities that have strong, broad-based ties to federal agencies such as the USDA Natural Resources Conservation Service and the USDA Farm Services Agency, partnerships which help to leverage additional financial and technical resources for addressing water quality and many other conservation issues.
- ⇒ SWCDs partner not only with state and federal government, but with a range of local entities to accomplish a variety of conservation goals.
- ⇒ SWCDs have well established roots at the local level and are able to maintain trust and credibility with the public they serve, a critical factor in the voluntary, incentive based programs they implement.

PERFORMANCE

REPORT FINDING: On a statewide basis, Minnesota's performance in managing its watersheds is unclear. The state lacks sufficient data on watershed management outcomes to fully assess the state's overall performance. For example, only a small portion of the state's waters have been assessed for water quality under the standards of the federal Clean Water Act. The performance of individual local water management entities is clearer. While some local entities have performed well, others have struggled. Successful entities have implemented projects and programs that have significantly improved water quality or reduced flood risk. The strug-

gling entities have had problems implementing their management plans and carrying out their duties.

MASWCD RESPONSE: The report uses water quality status as a measure of success or failure of a local entity, but at the same time acknowledges that only a fraction of our water bodies have been monitored and assessed. As the resources for these types of activities become more readily accessible and locals are able to get the data feedback they need to better target their efforts (for instance, via the Clean Water Legacy Act), greater strides will be seen in water quality achievements.

ACCOUNTABILITY & OVERSIGHT

REPORT FINDING: Both local and state agencies play critical roles in managing Minnesota's watersheds. Watershed management requires familiarity with local conditions and culture that local entities can best provide. But water is a statewide resource that flows across political boundaries. To protect downstream residents, the state must ensure that all local water management entities operate effectively. However, the Board of Water and Soil Resources, the state agency with the greatest oversight responsibility, provides inadequate oversight. Furthermore, the state often relies on grant requirements to hold local entities accountable. If an entity does not receive state grants, it receives little oversight.

MASWCD RESPONSE: The report recognizes that compared to other local watershed management entities, SWCDs receive a greater level of scrutiny from BWSR because of the funding they receive through BWSR.

The report suggests going beyond that, though, so that a local entity would be accountable to BWSR even for projects done exclusively with another partner/funding source. With the intention of providing BWSR with a clearer, more comprehensive picture of what gains are being had related to water quality, having locals provide BWSR with data on non-BWSR projects may be fraught with difficulties.

For instance, the types of information required by BWSR versus the non-BWSR project/grant source may be very different. This raises the question of costs vs. benefits and whether this type of increased burden on the locals (and on BWSR) would ultimately provide greater water quality improvement/protection.

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OLA Report Recommendations & MASWCD Responses

The recommendations presented by the OLA all relate specifically to BWSR, its structure and its relationship with the local entities.

REPORT RECOMMENDATION: The Legislature should require BWSR to provide greater oversight of local water management entities and hold each of them accountable for their performance. Specifically, the Legislature should require BWSR to:

1. Establish performance and operational standards for watershed districts, WMOs, SWCDs, and counties;
2. Collect performance, financial, and activity data from each entity;
3. Monitor the performance and operations of the entities and compare them with the established performance and operational standards; and
4. Release public assessments of each entity's performance.

MASWCD RESPONSE: To a large extent, many performance standards and accountability measures are in place for SWCDs. Through the eLink reporting system and annual reports, SWCDs are currently required to submit data on the funds they receive from BWSR and how the funds get spent. Additionally, BWSR has used its existing authorities to withhold grants, to penalize and reward SWCDs based on cost-share utilization rates, and to institute fines for violations discovered in cost-share audits.

The report recognizes this to a certain extent, but suggests there is a need for standards beyond planning guidelines and grant administration rules. For example, it points out that BWSR "has no standards specifying the amount of water quality improvement or flood risk reduction that should be achieved by local entities."

If BWSR is to develop and institute standards beyond those in place, it is important that consideration be given to the role of local governing boards and local priority setting. MASWCD believes that water management is a shared responsibility at the local, state and federal level, and there is a balance to be sought between state oversight and local priority setting.

REPORT RECOMMENDATION: The Legislature should require BWSR to identify and propose to the 2008 Legislature additional

enforcement tools that it will need to encourage and compel consistently low-performing watershed districts, WMOs, SWCDs, and counties to improve their operations and performance. The Legislature should then give BWSR the authority to use these additional tools.

MASWCD RESPONSE: MASWCD agrees it is important for the success of SWCDs that outside assistance and tools become available to assist them in problem solving and creating effective and efficient organizations. In developing additional tools, it is important to continue to recognize the diversity of the local entities, local priority setting to meet those diverse needs, and that a one-size-fits-all approach may not be appropriate.

REPORT RECOMMENDATION: The Legislature should change the governing structure of BWSR. Specifically:

- ⇒ The agency should be administered by a director who is appointed by the Governor and confirmed by the Senate; &
- ⇒ The BWSR board should change from a governing board to an advisory commission.

MASWCD RESPONSE: Before changing the BWSR governance structure, it is important to recognize the strengths of the one currently in place. The current governing structure of BWSR is effective and reflects the local, grass-roots nature of water and soil management in Minnesota. Because of the complexity of our watershed management structure, the different entities involved, and their on-the-ground knowledge of what does and doesn't work with regard to program implementation and landowner activities, these entities have a voice at the state level through the BWSR board. The collective of representatives from the local entities and related state agencies provide a forum in which these shared insights can guide and set policy and programs to best achieve water quality gains.

REPORT RECOMMENDATION: The Legislature should ensure that BWSR has adequate resources to perform its new oversight responsibilities.

MASWCD RESPONSE: Adequate financial resources for BWSR is critical and should receive priority attention from the Legislature.

OLA Report Policy Options & MASWCD Responses

In addition to the findings and recommendations outlined on the previous pages, the OLA report presents some policy options for the Legislature to consider. The report presents some advantages and disadvantages of each, but does not come out with a final recommendation on these.

SUNSET PROVISIONS (FOR WATERSHED DISTRICTS)

One of the options presented by the report is to have sunset provisions for Watershed Districts. This would address the fact that there is little oversight of Watershed Districts at the state level because they can derive most, if not all, of their funding through local levy authority.

MASWCD RESPONSE: MASWCD has no response, as this option does not directly affect Soil and Water Conservation Districts.

SELECTION OF BOARD MEMBERS

Currently, Watershed District board members are appointed by county commissioners, while SWCDs are elected by the public. The report suggests it may be worth considering either *electing* ALL watershed district and SWCD board members, or *appointing* ALL watershed district and SWCD board members.

MASWCD RESPONSE: The report acknowledges that SWCDs with an elected board, independent of the county, are perhaps in a better position to interact with the landowners who elected them.

SWCD boards are also more likely to attract candidates with a stronger conservation ethic than county commissioner races. Additionally, it increases the visibility of environmental issues at the local level.

Further, the report does not show how changing the selection process for SWCD supervisors relates to improved water quality.

ELIMINATE WMOs

Watershed Management Organizations (WMOs) exist only in the metro area. The report suggests eliminating the governance model and replacing all WMOs with Watershed Districts.

MASWCD RESPONSE: MASWCD has no response, as this option does not directly affect Soil and Water Conservation Districts.

CONSOLIDATION AT THE LOCAL LEVEL

The report suggests that to address the complexity of Minnesota's current watershed management system, the functions of all these separate entities (Counties, SWCDs, Watershed Districts and WMOs) could be

combined into a single watershed-based local entity with regulatory and levy authority. The report also presents for consideration merging SWCDs into county government.

MASWCD RESPONSE: Minnesota's framework for watershed management provides for local delivery and local decision making. Minnesota's SWCDs coordinate and deliver federal as well as state and local conservation programs. While many SWCD activities are water related, the work of SWCDs includes many other conservation activities as well. The report shows no persuasive evidence that consolidation of offices would result in better outcomes in terms of water quality or flood reduction.

CONSOLIDATION AT THE STATE LEVEL

The report presents the option of merging the separate water management functions of BWSR, DNR, PCA and Agriculture into a single state-level agency responsible for water policy.

MASWCD RESPONSE: The report itself points out that such a consolidation would be difficult to achieve, not to mention disruptive and costly. It also points out the fact that there is no persuasive evidence that it would clearly produce better outcomes in terms of improved water quality and reduced flooding.

OLA Report Findings & MASWCD Responses

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FINANCING

REPORT FINDING: In 2005, federal, state, and local units of government spent at least \$300 million in Minnesota to manage the state's watersheds. However, it will be difficult for the state to meet current water quality standards without additional resources. Some experts estimate that the state annually needs another \$75 to \$100 million to clean up its waters. A significant portion of this money would likely go to local water management entities to reduce nonpoint source pollution. Yet, the Board of Water and Soil Resources, the state agency responsible for overseeing these local entities, had its operating resources reduced over the last several years.

MASWCD RESPONSE: MASWCD agrees that financing is a significant concern. Our 2007 Legislative Platform outlines requests for increases to SWCD general services grants and increases to funding for the Clean Water Legacy Act, as well as support for the governor's proposed budget for BWSR which includes new resources.