

Minnesota State Bar Association *Environment and Energy Law Update*

John Jaschke | Executive Director
November 9, 2017



Minnesota Board of Water and Soil Resources | www.bwsr.state.mn.us

Our Mission:



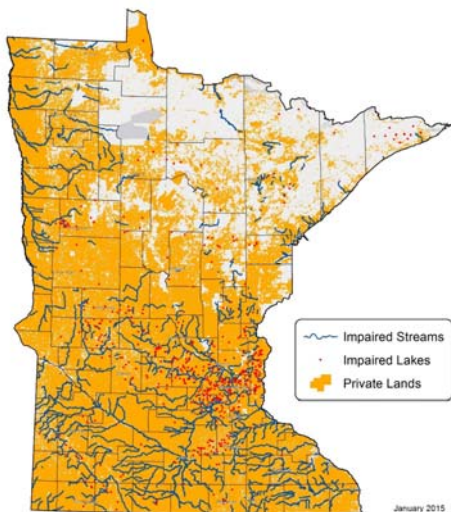
Improve and protect Minnesota's water and soil resources by working in partnership with local organizations and private landowners.

Business Model

- Focus on private lands
- Small agency of conservation professionals
- Local government delivery system
- Collaboration for on-the-ground results
- Governed by a 20-member Board



Private lands conservation



Local Delivery System

| | SWCD | WD/WMO | County |
|-------------------|------|--------|--------|
| Create | ✓ | ✓ | |
| Boundary | ✓ | ✓ | |
| Plan Approval | ✓ | ✓ | ✓ |
| Funding | ✓ | ✓ | ✓ |
| Performance | ✓ | ✓ | ✓ |
| Program Oversight | ✓ | ✓ | ✓ |

5

Statutory Authority

| | |
|--|--|
| 12A – Natural Disaster, State Assistance | 103E – Drainage |
| 103A – Water Policy | 103F – Protection of Water Resources (Buffers) |
| 103B – Water Planning and Project Implementation | 103G – Waters of the State (Wetlands) |
| 103C – Soil and Water Conservation Districts | 103H – Groundwater Protection |
| 103D – Watershed Districts | 114D – Clean Water Legacy Act |

6

Relevant Legislative Activity

- Buffer Law
- Drainage Work Group
- Conservation Reserve Enhancement Program (CREP)
- Wetland Conservation Act
- Watershed planning and funding
- 25 x 25 Initiative

7

Minnesota's Buffer Law



Minnesota's Buffer Law

Statewide Program



Local Implementation



- 50 foot average, 30 foot minimum on public waters
- 16.5 foot minimum for ditches on public drainage systems

2017 Legislation



- November 2017 deadline for public waters
- November 2018 deadline for public ditches
 - Conditional compliance waiver
 - Riparian aid for counties/watershed districts
 - Authorized use of common alternative practices

Progress Underway

Examples of Buffers Going In



Marshall County



Chippewa County



Otter Tail County

Progress Underway



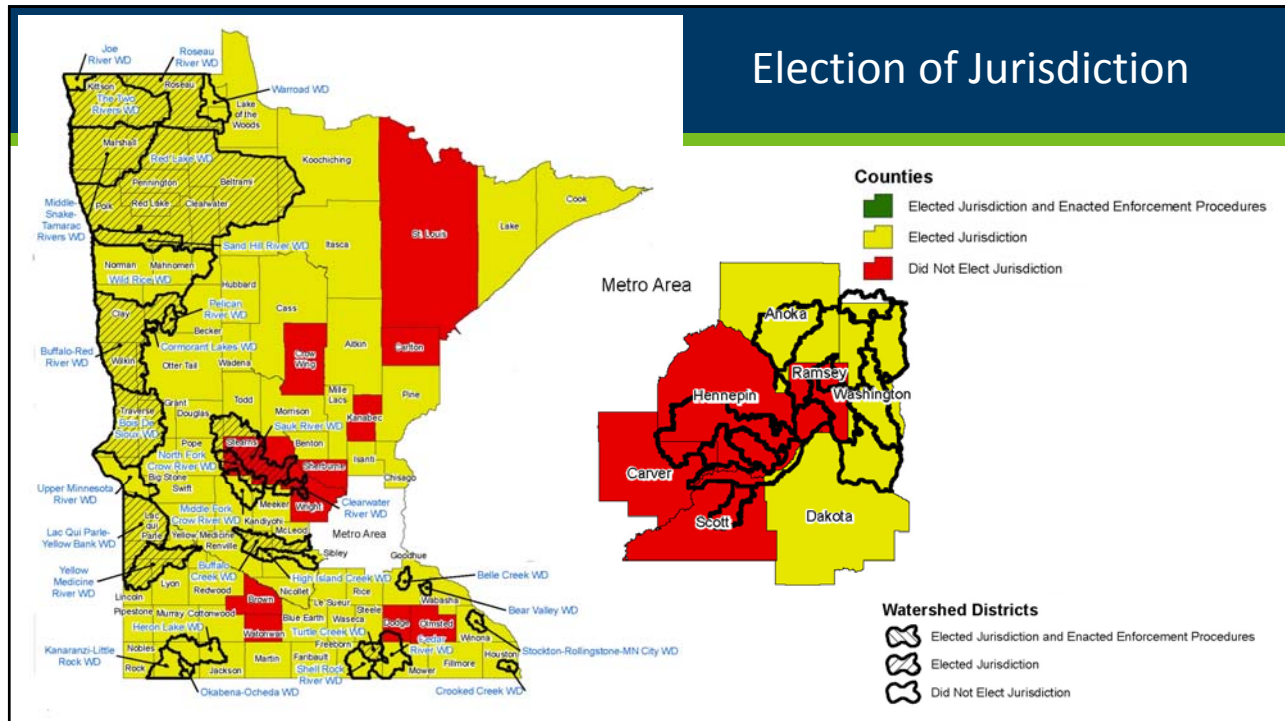
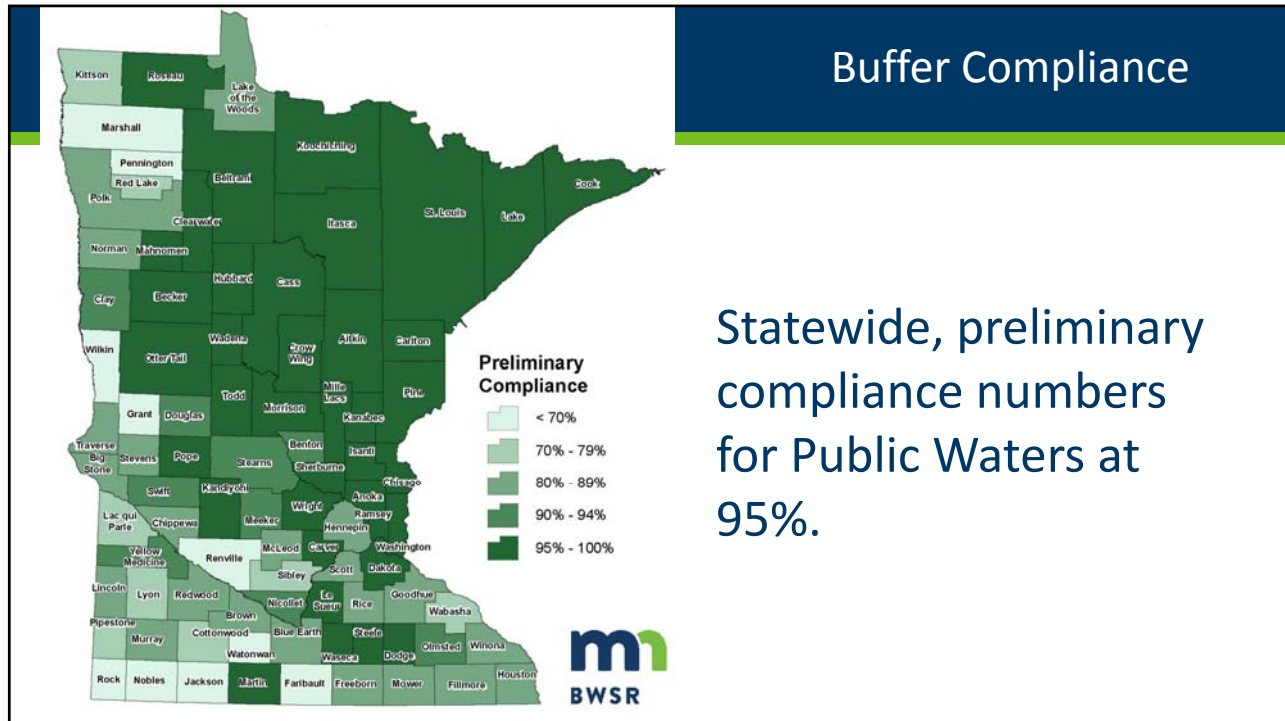
Cottonwood County



Mower County



Wilkin County



Buffer Enforcement Options

To date, 52 counties have submitted buffer ordinances for review.

- 11 have preliminarily selected Option 1: Criminal Prosecution (Ch. 394)
- 14 have preliminarily selected Option 2: Administrative Penalty Orders (Ch. 103B, F)
- 27 have preliminarily selected Option 3: Both Criminal Prosecution and Administrative Penalty Orders

Riparian Protection Aid

For compliance and related program work as determined by county

- \$8 million available in 2017
- \$10 million available in 2018



Buffer Cost Share Program



Drainage Work Group Priorities

- 1) 2018 Laws of MN, Chapter 93, Article 1, Sec. 4., (h) - - Accelerating Chapter 103E drainage system acquisition of ditch buffer strips and alternative practices
- 2) Clean Water Council Policy Committee request to the DWG
- 3) Runoff and Sediment Delivery Assessment Option for drainage system repair costs
- 4) Public Waters and Chapter 103E Drainage Systems



MN CREP =
RIM
 (state program)
 +
CRP
 (federal program)

19


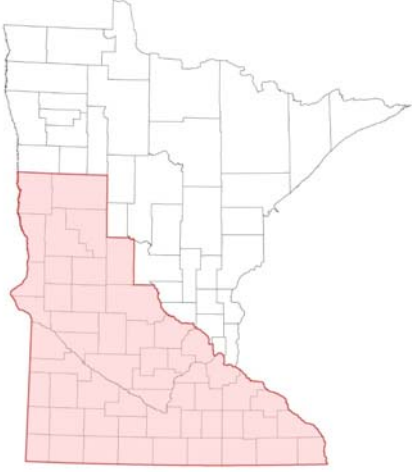
Minnesota CREP



Reinvest in Minnesota (RIM) Reserve

- State program - authority MS103F.515
- Established in 1986
- 7,000 easements
- 268,000 acres protected and restored
- Multiple benefits

20

- Signed January 17, 2017
- 60,000 acres
- 54-county area
- Targeted to environmentally sensitive areas (buffers, wetlands, wellheads)

21

Status

- Continual sign-up began in late May
- Three batching periods complete
- 2700 acres enrolled



Wetland Conservation Permitting Efficiencies



Approach:

- Continue work toward 404 assumption
- Online permitting system
- In Lieu Fee Program

23

Local Roads Wetland Replacement Program



Issue:
Funding need

24

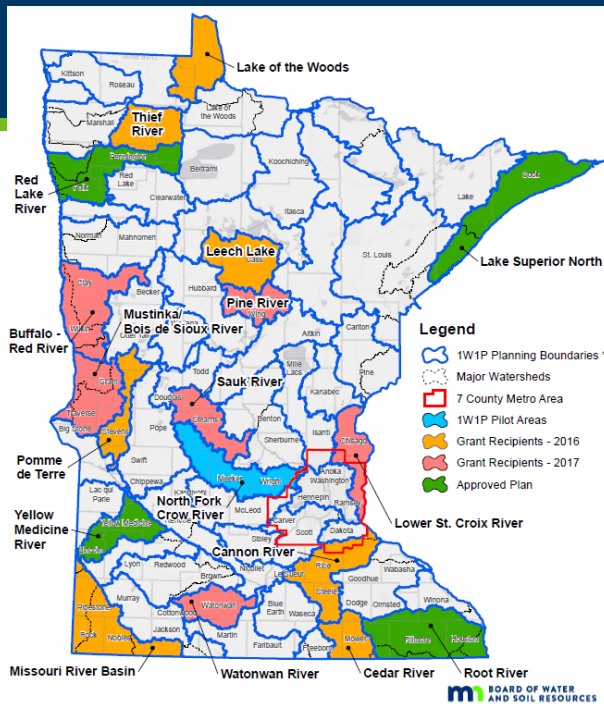
Local Roads Wetland Replacement Program



Benefits:

- Cost effective
- Streamlined permitting process: local, state, federal
- Higher quality mitigation

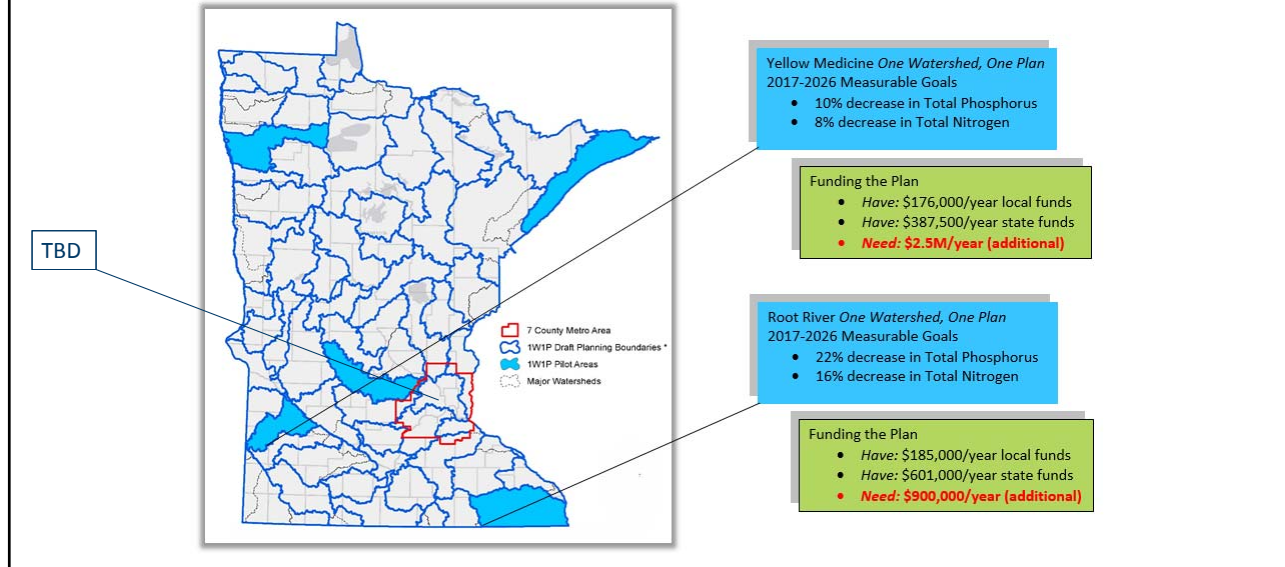
Watershed Plans



One Watershed, One Plan

- Five pilots
- Four Approved Plans, one in progress
- Seven grant recipients, 2016
- Seven grant recipients, 2017

Watershed Plans and Funding



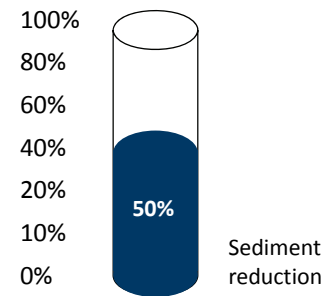
Governor Dayton's 25 x 25 Water Quality Initiative





Outcomes

Sand Hill River Watershed Sediment Reduction, *West Polk SWCD* \$475,000 CWF Grant

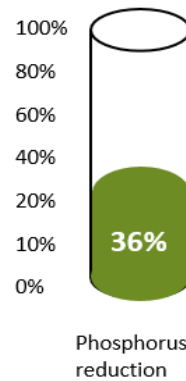


29



Outcomes

Mayhew/Big Elk Lake Phosphorus Reduction Program, *Benton SWCD* \$300,000 CWF Grant

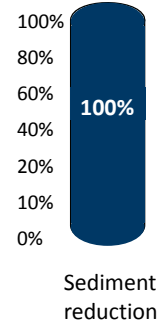


30



Outcomes

Poplar River Watershed, Cook SWCD \$829,000 Targeted Watershed Program Grant

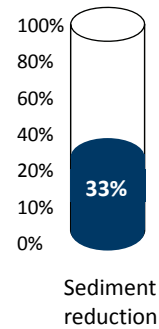
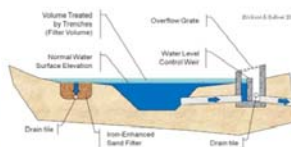


31



Outcomes

Oak Glen Creek Stormwater Pond Expansion, Anoka Conservation District \$517,780 Clean Water Fund Grant



A 520 acre area drains to the existing stormwater pond and the open channel section of Oak Glen Creek, which then flows to the Mississippi River.

32



John Jaschke

Executive Director

Phone: 651-296-0878

Email: john.jaschke@state.mn.us