Legislative Water Commission Update 05/31/2018

ERRORS? OMISSIONS? Please notify: <u>jim.stark@lcc.leg.mn</u>.

This bi-weekly update is a roundup of Minnesota water news, as well as articles from beyond Minnesota, that may inform members. It also includes summaries of meetings and reports as well as information about upcoming events. During the Legislative Session, updates on water-related legislation and committee activities are added. Any errors or omissions are inadvertent.

I look forward to continuing to work on water issues that are important to all of us.

Jim Stark, Director, MN Legislative Water Commission

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- Next meeting of the Legislative Water Commission: June 21 at the County Inn and Suites in Chanhassen at 6 pm
- The Commission met on April 23. Minutes are available at: www.lcc.leg.mn/lwc/
- Subscribe to the weekly update & follow LWC meetings

MINNESOTA NEWS:

The great siphoning: Drought-stricken West eyes the Great Lakes. Visit Star Tribune, May 27: www.startribune.com

Shallower Lake Pepin is call to action. Star Tribune's Zach Paider, with Bill's Bay Marina in Red Wing, discussed the challenges facing **Lake Pepin** as sediment increases in that area of the Mississippi River, making it shallower. Visit: www.startribune.com

MPCA beginning second ten-year cycle of water quality monitoring field work: In 2008, the Minnesota Pollution Control Agency (MPCA) began its first ten-year cycle of watershed-wide monitoring efforts in the Root, Le Sueur, Mississippi River-Lake Pepin, Little Fork and Sauk River watersheds. Now, a decade later, MPCA staff begin the second ten-year cycle of monitoring efforts in these same watersheds to see if conditions are improving or declining. MPCA staff are in the final stages of publishing Monitoring and Assessment Reports from watersheds monitored during the summer of 2015. The reports are posted on individual MPCA watershed web pages. You can find your watershed at www.pca.state.mn.us, and type "watersheds" in the search box. You can learn more about all of this water quality monitoring work on the MPCA's Biological Monitoring, Lake Monitoring, Stream Monitoring, and Volunteer Citizen Monitoring webpages.

The Clean Water Council met on May 21. The meeting included briefings on the recent stakeholder meeting, agency budget presentations and a presentation on then Storm water Research Road Map as well a report from the policy committee. Contact: Deepa S. A. de Allis, Clean Water Council Coordinator, Minnesota Pollution Control Agency. Phone: 651 757-2572

https://www.pca.state.mn.us/about-mpca/clean-water-council



MPR: Monster quest: Angler lands record giant sturgeon on Rainy River on May 4. Thee lake sturgeon measured 6 feet, 1 inch with a 30-inch girth. It was a new state catch-and-release record: <u>Minnesota Department of Natural Resources said Monday</u>.

Tagged bighead carp in St. Croix: The Minnesota Department of Natural Resources captured two bighead carp May 11, during a search on the St. Croix River, to recapture a tagged bighead carp they have been tracking as part of an invasive carp pilot project. The carp were captured in Anderson Bay on the St. Croix River. One was a 46-inch, 39-pound mature male, and the second was a 43-inch, 46-pound mature female. Neither fish showed indications that they had spawned this year. They were removed from the water and euthanized, and further lab analyses will provide more detailed and useful information about the fish. DNR: Click Here for more info.

Minnesota Cultivated Wild Rice Council to Hold Elections: MDA: The Minnesota Department of Agriculture (MDA) announces elections for the upcoming Minnesota Wild Rice Council Board of Directors. The MDA will conduct elections for the board positions at the wild rice field plot at the North Central Research and Outreach Center in Grand Rapids, Minnesota on July 24, 2018. Click Here for more information.

\$18 m Price Tag for Conserving Mt. Simon Aquifer: Stewardship of southern Minnesota's water supply would be extraordinarily costly for the city of Mankato, according to report commissioned by the Mankato City Council. The consultant is recommending a less green, less expensive strategy for providing future drinking water by recommending drilling a well into the Mt. Simon aquifer, which provides all or some of the drinking water to more than a million Minnesotans from the southern metro area to as far south as Martin County. Mankato Free Press: (read more).

Floating Bioreactors may save Minnesota wild rice: <u>Mankato Free Press</u>, An environmental engineer working with University of Minnesota-Duluth researchers is looking for a less expensive solution to protecting wild rice from mining pollution in the state's Iron Range. The researcher has developed floating bioreactors that take water with high sulfate. The bioreactors have fibers and bacteria that turn the sulfate into sulfide. The water that's returned to the lake then meets the state's sulfate standard (read more).

WATER CONSERVATION

The DNR recently presented a training webinar on the new Water Conservation Reporting system, to state agency staff and UMN water resources staff. The system is linked to the existing MN Permitting and Reporting System (MPARS). There are 348 water suppliers serving over 1,000 people and all 7-county metro communities who were asked to complete the report. In addition to basic water supply and distribution data, the new report shows imported/exported water, water reuse, and conservation efforts such as leak repair, meter replacement and rebate programs. The system also has information on conservation ordinances, education efforts, collaboration, and billing structures. The data can be aggregated statewide or in various subsets. Preliminary results include:

- The water loss goal for each utility is <10%. The water loss factor for the aggregate of MN utilities is 8.88% of water supplied to distribution.
- Another water conservation goal is to achieve less than 75 residential gallons per capita demand (GPCD). The aggregate statewide is 52 GPCD. In 2017, there were 210 utilities (91%) of utilities with valid water accounting data that met the state-wide goal of 75 GPCD.
- A third water conservation goal is to reduce the ratio of maximum day (peak day) to the Average Day
 Demand to Less than 2.6. This addresses excessive summer irrigation. Statewide, most water
 suppliers do meet this goal however, this is an area were some cities can improve.
- The full 2017 Water Conservation Report will be made available in June. The DNR is leveraging their
 expertise to measure the impact of water conservation effort and encourage best practices in water
 management.

Contact: Carmelita Nelson, Minnesota Department of Natural Resources

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mndnr.gov

GREAT LAKES

Wisconsin's Areas of Concern (AOCs)

The Great Lakes and the rivers that feed them have been historically important centers of trade and industry in Wisconsin. As cities grew around these economic hubs, river and harbor sediments were polluted by chemicals. Important fish and wildlife habitat was lost. Today, the pollution and habitat loss cause problems for fish and wildlife and diminish our ability to fully use and enjoy the rivers and lakes. Great Lake Rivers and harbors that have been most severely affected by pollution and habitat loss are known as "Areas of Concern," or AOCs. These are geographically—defined sites that need special attention. They were designated in 1987 as part of an international agreement between the U.S. and Canada known as the Great Lakes Water Quality Agreement [exit DNR].



Wisconsin has five AOC areas. Read more about the progress being made in Wisconsin's AOCs in <u>Healing Our Rivers & Harbors [PDF]</u>, a special insert to the August 2013 issue of the <u>Wisconsin Natural Resources magazine</u>. The *Wisconsin Lakesider* is the DNR's bi–annual AOC newsletter. Each edition includes some of the latest highlights of what's going on around the state at each of Wisconsin's five designated Great Lakes AOCs.

- St. Louis River on Lake Superior
- Lower Menominee River
- Lower Green Bay and Fox River
- Sheboygan River
- Milwaukee Estuary on Lake Michigan

SURFACE WATER/STORMWATER

National Flood Forecast Center, North Central Region: Due to recent rainfall, there are areas where the potential for flooding is possible. For details, visit: www.weather.gov/ncrfc

UPCOMING EVENTS

June 3-7: American Society of Civil Engineers **World Environmental and Water Resources Congress**; details to come at www.ewricongress.org

Minnesota Association of Watershed Districts Summer Tour: June 20-22: The will focus on the lower Minnesota River. Visit: mnwatershed.org

July 10-12: US Water Alliance's **One Water Summit** will be at the Hyatt hotel in downtown **Minneapolis. Water** leaders from across the country will come together conversations on how to achieve a sustainable water future for all. More information is available on the US Water Alliance website at http://uswateralliance.org/summit/one-water-summit-2018

The International Association of Great Lakes Research and Michigan Technological University have announced the 2018 State of Lake Superior (SOLS) Conference will be held October 9-12 in Houghton, Michigan. Hosted on the MTU campus, SOLS will be a multi-day conference and include invited sessions and abstracts, plenary sessions, field trips, and associated meetings. Stay tuned for more details and the Call for Sessions in coming weeks at iaglr.org/sol/sols18.

The biennial 2018 Upper Midwest Invasive Species Conference (UMISC) will be a Joint Conference with the North American Invasive Species Management Association, October 15-18, 2018 at the Mayo Civic Center in Rochester, MN. Abstract Submission Is Open. Deadline to Submit an Abstract for Presentation: Wednesday, April 11, 2018. They are expecting about 700 people to attend. See https://www.umisc.net/ or contact Doug Jensen, conference co-chair.

Minnesota Water Resources Conference: October 16–17, 2018, Saint Paul River Centre: The Minnesota Water Resources Conference presents innovative, practical, and applied water resource engineering solutions, management techniques, and current research about Minnesota's water resources. For More information contact: Nichole Salinas, College of Continuing and Professional Studies, University of Minnesota, 612-301-2448, ccapsconf3@umn.edu

2018 LEGISLATIVE UPDATE; INFORMATION AND PROGRESS ON BILLS THAT RELATE TO WATER:

2018 LEGISLATIVE UPDATE; INFORMATION AND PROGRESS ON BILLS THAT RELATE TO WATER (revised 6/4/18):

Corrections and changes are shown in red.

Link to bills signed by the Governor: https://mn.gov/governor/resources/legislation/

An excellent resource for detailed updates is the House Session Daily: http://www.house.leg.state.mn.us/sessiondaily

Governor Dayton signed a half-5 billion bonding bill. The bonding bill contains many essential projects. Some were funded by tapping into the environmental funding from the Minnesota Lottery, known as the Environment and Natural Resources Trust Fund. Governor Dayton line item vetoed one appropriation that would have given \$1 million for outside review of underlying water quality standards and permits. Several provisions relating to the environmental and natural resource were eliminated from the bill. Among those was a measure that would repeal the state's wild rice water quality standard. The bill which incorporated the provision was incorporated from HF3280, and was vetoed by Governor Dayton. Another provision would have prohibited the Pollution Control Agency from increasing water permit fees without legislative approval was removed. In total, the committee removed or amended eight policy provisions the bill included \$1.3 million to research and address chronic wasting disease, raising both the House and Senate's initial appropriations to closer match in the Governor's proposal.

Read Governor Dayton's letter outlining his decision on the bonding bill

The Governor vetoed several water-related bills related to:

- Some wild rice legislation
- Property tax credit for landowner compliance with the Buffer Law-Correction: Neither the House or Senate passed a property tax credit for buffers in any bill—there was no veto.
- Forbidding the adoption of the Groundwater Protection Rule on Nitrogen Fertilizer
- A 16-year exemption from water quality standards for certain industries: Correction: The Governor signed into law the 16-year certainty for water quality standards for municipalities, he vetoed the omnibus bill which contained similar language for industries.
- Relaxing oversight for transfers of water from one body to another
- Making it difficult for the MPCA to raise fees to support its water programs by requiring legislative approval
- Weakening statewide erosion controls--applying the state's soil loss law only in counties with soil loss ordinances

 Allowing sugar beet farmers to stop lining their beet storage pits: Correction: Allowing sugar beet farmers to stop lining their beet storage pits. The Omnibus bill contained consensus language. The omnibus bill was vetoed

Several water-related bills did not pass out of the House or Senate. They included bills to:

- Certify salt applicators, to reduce the salt pollution that damages state waterways;
- Test private drinking water wells upon sale of the property to ensure safety of the drinking water
- Modest improvements in watershed planning laws and Clean Water Legacy Act Consensus recommendations of the Drainage Work Group to enable financial incentives for drainage work that includes water quality and habitat benefits. Correction: Modest improvements in watershed planning laws and the Clean Water Act passed in the Omnibus as did the Drainage Work Group language based on consensus language from the Drainage Work Group.

Details on specific bills follow: -

- HF 4003—White Bear Lake; Governor Dayton has <u>allowed the bill to become law</u> without his signature. Both
 the House and Senate passed bills that prohibit the Department of Natural Resources from enforcing a
 judge's ruling related to White Bear Lake's water levels.—Correction: HF 4003--White Bear Lake: Governor
 Dayton signed the bill that prohibit the Department of Natural Resources from enforcing a judge's ruling
 related to White Bear Lake's water levels.
- Groundwater Protection Measure (HF 2887, SF 2720). The Minnesota Department of Agriculture's (MDA) proposed Groundwater Protection Measure is a measure to limit nitrate pollution in drinking water. A revised bill to forbid the MDA from implementing the Groundwater Protection Measure moved forward in the House and Senate. The Governor veto the bill. Several bills were introduced in the House and included in the omnibus supplemental budget bill HF4133/ SF3656. These initially contained a provision that would have prohibited the department from adopting the rule without prior approval by the Legislature. That language was removed from the bill in a conference committee meeting and included in a standalone omnibus agriculture finance bill, HF4133, which was passed by the House and Senate. The House Agriculture Policy Committee included a resolution that would have blocked the groundwater protection rule from taking effect until the end of next year's legislative session. The resolution relied on a state statute signed into law by former Gov. Jesse Ventura in 2001. It allows standing committees in the House and Senate, "with jurisdiction over the subject matter of a proposed rule" to prohibit an agency from adopting the rule "until the legislature adjourns the annual legislative session that began after the vote of the committee.
- HF3122 (Urdahl) /SF2668 (Dahms) Public facilities authority, bonding for clean water bond issue and appropriations for \$167 million plant requirements. The bill was incorporated into the bonding bill. However, the final amount was decreased and only a portion of that is GO Bonds. A large portion of the bonds will come from the ENRT Fund as appropriation bonds, as these are not backed constitutionally the funds won't be available to cities until after the bonds are sold in the fall.
- Governor Dayton vetoed the Wild Rice legislation, <u>HF3280</u>, which would have nullified existing water quality standards relating to the impact of sulfates on wild rice. A majority of counties across the state could potentially include designated wild rice waters, based on MPCA evaluations, subject to regulatory actions that could have an impact on wastewater treatment
- The Legislature passed <u>HF 3423</u> which includes appropriations from the outdoor heritage fund as well as two provisions relating to county notification of land acquisitions. The first provision requires, by July 1 of each year, the Lessard Sam's Outdoor Heritage Council staff is to provide counties with a list of project proposals that include potential fee title land acquisitions in the county. The second provision requires a nongovernmental organization to notify county and township boards, in writing, at least 30 days before closing on an acquisition of land in fee title with money from the outdoor heritage fund. The bill was sent to the Governor.

The ML 2018 (FY19) ENRTF appropriations bill was combined with a bonding bill as <u>HF 4425</u> on 5/20/18. This bill was passed, as amended, by the House and Senate and sent to the Governor for signature. Sixty- one projects were included at the amount recommended by the LCCMR.

- Three projects had amounts reduced:
 - County Geologic Atlases Part A (03a), UMN-- by \$1,260,000 from \$2,500,000 to \$1,240,000
 - o Increase Diversity in Environmental Careers to Serve Minnesota's Changing Demographics (051), DNR-by \$200,000 from \$750,000 to \$550,000
 - Nongame Wildlife Program Acceleration (08a), DNR-- by \$780,000 from \$1,000,000 to \$220,000
- One project was removed:
 - o County Geologic Atlases Part B (03b), DNR from \$1,500,000 to \$0
- One project had the amount increased:
 - Agricultural Weed Control Using Autonomous Mowers (08d), UM- Morris by \$200,000 from \$550,000
 to \$750,000
- One project and associated policy was added:
 - Lake Agnes Treatment (041), BWSR \$600,000
 - Allows phosphorous offsets or includes a lake management plan for Alexandria Lake Area Sanitary District's WWT facility permit with reduction in phosphorous achievable with carp and alum treatments performed in Lake Winona and Agnes.
- The bill also includes extensions for the availability of funds as well as corrections to prior appropriations as recommended by LCCMR. One additional extension and correction was made.
- The bill adds an appropriation of \$2,940,000 the first year (FY19) and up to \$7,840,000 each year for 19 years to finance ENRTF- backed appropriation bonds. These appropriations will be paid for with ENRTF proceeds available for annual spending.

The bill also includes the following:

- Provides \$98 million in appropriation bonds for specific projects
- Changes LCCMR's governing statute, MS 116P, to allow for spending on principle and interest of appropriation bonds
- Changes LCCMR's governing statute, MS 116P, to allow ENRTF funds to be spent on municipal water pollution control for municipalities with population under 5,000
- Changes LCCMR's governing statute, MS 116P, to adjust interest rates for water system improvement loans
- Directs LCCMR until 2021 to consider Wastewater Treatment System Grants up to \$10 million and Wastewater Treatment System Loans up to 5% of the ENRTF corpus for municipalities with population under 5,000
- Directs the LCCMR to consider recommending ENRTF funds in FY20 to pay for cleanup of a closed landfill in Burnsville.

The omnibus supplemental budget bill (SF 3656) contains a number of environment and natural resources provisions. This bill was sent to the Governor. Some of the provisions in the bill were removed by the conference committee due to concerns from the Governor's Office. **Provisions removed include:**

- Clarification that soil loss limits are only applicable in counties that have adopted soil loss ordinances.
- Study of groundwater samples associated with demolition debris landfills and clarification that demolition debris landfills shall be permitted according to current statute, rules or guidance; with no additional requirements.
- Rulemaking language pertaining to the metropolitan solid waste management plan that states any goal, policy, criteria, or standard contained in the policy plan may not be required of or enforced against a county or private party and does not have the force and effect of law unless required by statute or adopted in accordance with chapter 14.
- Extends by one year, to July 1, 2019, the conditional compliance waiver for public water buffer requirements for those who filed a compliance plan by November 1, 2017. The language also provides the same waiver and extension for buffers required on public drainage systems.
- Requires specific approval by law before the Commissioner of Agriculture can adopt water resource protection requirements for nitrogen fertilizer.

Some of the provision remaining in the bill:

• \$425,000 for statewide aggregate mapping.

- Drainage workgroup recommendations pertaining to drainage authorities and acquiring buffer strip easements (including drainage authorities eligible to use BMP loan program).
- Improvements to the Clean Water Legacy Act to provide for better coordination of local water management programs and streamlining of reporting requirements. Amends application requirements for the CAP bonding program that assists local governments with solid waste infrastructure projects

HF-4099/SF-3656 are the large omnibus bills.

After previously having four separate omnibus bills (agriculture, environment and natural resources, job growth and energy affordability, and state government finance), the House alighted them with the Senate's language by combining the four bills into one omnibus appropriations bill similar to (S.F. 3656). The House voted on this language on May 10 and passed. Some of the items related to environment and natural resources are as follows:

ARTICLE 13: Environment and Natural Resources Appropriations

- \$425,000 for grants to lake associations to manage AIS in partnership with local units of government.
- \$100,000 to conduct a statewide survey and analysis of Minnesotans' attitude toward fish stocking.

 ARTICLE 14: Environment and Natural Resources Policy
- Policies to better coordinate local water planning processes and streamline reporting requirements.
- Statutory wetland replacement order does not apply to project-specific replacement sites intended to bank credits for single-user banks before January 1, 2019.
- Providing wetland banking credits are an acceptable mitigation measure for adverse effects on rare natural communities.
- Wetland banking fees based on the actual cost to BWSR of implementing the activities for which fees are charged.
- Established a water quality and sustainability account for proceeds of the 3M settlement, imposes reporting
 requirements, and requires MPCA and DNR to work with stakeholders to identify and recommend projects
 to receive funding from the settlement proceeds.
- Discontinue the Ramsey County SWCD.
- Extends by one year conditional compliance waiver for public water buffer requirements for those who filed a compliance plan by November 1, 2017. The language provides the same waiver and extension for buffers required on public drainage systems.
- Prohibits the DNR from enforcing water appropriation permit terms that were added as a result of a court
 order and temporarily provides that public water suppliers in the metro area are not required to take
 certain measures related to groundwater appropriation (this language pertains to the White Bear Lake
 court decision).
- Imposes five-year moratorium on muskellunge stocking in Otter Tail County.
- Requires BWSR to convene a workgroup to review the biennial nonpoint priority funding plan.
 ARTICLE 15 Drainage Work Group recommendations were altered during the Senate Finance Committee):
 Only 2 of the original 7 sections of HF-3836 remain in the omnibus bills. HF-4099 includes some language recommended by the Drainage Working Group (DWG) and/or the MDA. This includes Ditch Buffer Strip Planting and Maintenance. SF-3656 includes revision language for the Ag BMP Loan Program.
 ARTILCE 19 Agriculture Statutory Changes: Requires specific approval by law before the Commissioner of Agriculture can adopt water resource protection requirements for nitrogen fertilizer.
- Governor Dayton vetoed the two bills that included DWG recommendations for Accelerate Buffer Strip-Implementation. Correction: Other actions included consensus language from the Drainage Working Group's (DWG) recommendations regarding Accelerated Buffer Strip Implementation as well as improvements in watershed planning laws and the Clean Water Act. These passed in the Omnibus bill.
- The Omnibus Ag Policy Bill, <u>Chapter 190, HF-4133</u>, included the revised language to update the AgBMP Loan Program (Sec. 17.117) to enable drainage authorities to serve as a borrower on behalf of landowners represented to finance ditch buffer strips. (see Sections 1, 2 and 3, lines 1.17 4.27)
- The Omnibus Supplemental Budget Bill, <u>Chapter 201, SF-3656</u>, included the revised AgBMP Loan Program revisions, as well as the other DWG recommendations, except that the revisions of Sec. 103E.351 Re-determining Benefits and Damages were partially DWG recommendations. (see ARTICLE 21, ACCELERATED BUFFER STRIP IMPLEMENTATION, Section 1 Sec. 7, lines 225.24 231.1)

- Modest improvements in watershed planning laws and Clean Water Legacy Act Consensus
 recommendations of the Drainage Work Group to enable financial incentives for drainage
 work that includes water quality and habitat benefits. Correction: Modest improvements in
 watershed planning laws and the Clean Water Act passed in the Omnibus as did the Drainage Work
 Group language based on consensus language from the Drainage Work Group.
- (HF 3577, SH 3199): Legislation would provide liability relief for salt applicators who have completed certified training through the Minnesota Pollution Control Agency. This bill has passed with bipartisan support through several House committees and one Senate committee. The Limited Liability legislation was removed from the omnibus bill.
- <u>HF3332</u> (Urdahl)/ <u>SF3075</u> (Westrom) -- Wastewater infrastructure projects supplemental grant bond issue and appropriation (relates to statutes 446A.072 and 446A.073)

Water Activity— Congress:

Water Resources Bill: The House may pass a version of a biennial water resources bill earlier this month with the House Transportation and Infrastructure Committee working on a mark-up. The bill would authorize the Army Corps of Engineers to begin work on dozens of flood control and reservoir projects across the country. Similar water resources legislation typically comes out every two years and serves as a vehicle in Congress to move wide-ranging water policy measures. The legislation does not currently include language from the White House's \$1.5 trillion infrastructure plan to expand a new EPA water infrastructure loan program, according to the chairman, Rep. Bill Shuster (R-PA). The Senate has already released its version of this water resources bill (S. 2800) and it also omits many of the most disputed environmental provisions from the President's plan.

2018 Farm Bill: The House recently voted to reject the farm bill (H.R. 2) by a vote of 198-213Congressional leadership is currently determining whether or not the same version of the farm bill would have enough support this week to pass first, before bringing the legislation up for a second vote. The Senate expects to mark up the Senate farm bill in the first week of June. Chairman Roberts said the plan is to move the Senate version of the bill in the first week of June, but a precise date hasn't been set.

Water Resources Development Act: The Senate's version of sweeping water resources legislation (S. 2800) has grown wider in scope than the House's narrower measure after senators voted for additional provisions in the bill on May 22. The Senate Environment and Public Works Committee approved its water bill on a 21-0 vote at a May 22 markup. The committee also unanimously adopted several amendments to the bill that would create new water infrastructure financing mechanisms and require that all iron and steel used in these programs be made in America. Sen. John Barrasso (R-WY), chairman of the committee and the primary author of many of these amendments, said his ultimate goal is getting some form of the bill out of Congress before the end of this session, however he could not estimate when the full Senate would take up the bill.

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