



Local Development and Inclusion of Summary Watercourses

“Other Watercourses”

Buffer Law Implementation Guidance

September 16, 2016

Purpose and Considerations

To provide direction to Soil and Water Conservation Districts (SWCDs) and local water planning authorities (counties and watershed districts) regarding the implementation of the Buffer Law, which requires SWCDs by July 1, 2017 to develop, adopt, and submit to each local water management authority within its boundary a summary of watercourses for inclusion in the local water management authority's plan. These requirements are defined in Minnesota Statutes §103F.48, Subd. 4. as follows:

"Local water management authority" is defined in the Buffer Law as the watershed district, metropolitan water management organization, or county operating separately or jointly in its role as local water management authority under chapter 103B or 103D. For purposes of this document, "water plan" means a county comprehensive local water plan authorized under Minnesota statutes §103B.311, a watershed management plan required under §103B.231, a watershed management plan required under §103D.401 or §103D.405, or a comprehensive watershed management plan under §103B.801 (also known as One Watershed, One Plan).

***NOTE* Identification of a watercourse on this map does NOT make it subject to the regulatory requirements of the State Buffer Law.**

Statutory References

Minnesota Statutes §103F.48, the Buffer Law, requires SWCDs to develop, adopt, and submit to each local water management authority within its boundary a summary of watercourses for inclusion in the local water management authority's plan. These requirements are defined in Minnesota Statutes §103F.48, Subd. 4. as follows:

In consultation with local water management authorities, on or before July 1, 2017, the soil and water conservation district shall develop, adopt, and submit to each local water management authority within its boundary a summary of watercourses for inclusion in the local water management authority's plan. A local water management authority that receives a summary of watercourses identified under this subdivision must incorporate an addendum to its comprehensive local water management plan or comprehensive watershed management plan to include the soil and water conservation district recommendations by July 1, 2018. The incorporation to include the summary of watercourses provided by the soil and water conservation district does not require a plan amendment as long as a copy of the included information is distributed to all agencies, organizations, and individuals required to receive a copy of the plan changes. A local water management authority that receives a summary of watercourses identified under this subdivision must address implementation of the soil and water conservation district recommendations when revising its comprehensive local water management plan as part of a regularly scheduled update to its comprehensive local water management plan or development of a comprehensive watershed management plan under section 103B.801.

"Local water management authority" is defined in the Buffer Law as the watershed district, metropolitan water management organization, or county operating separately or jointly in its role as local water management authority under chapter 103B or 103D. For purposes of this document, "water plan" means a county comprehensive local water plan authorized under Minnesota statutes §103B.311, a watershed management plan required under §103B.231, a watershed management plan required under §103D.401 or §103D.405, or a comprehensive watershed management plan under §103B.801 (also known as One Watershed, One Plan).

Implementation Guidance – Initiating the Process

SWCDs are required to consult with the local water management authority in developing the summary of watercourses. This consultation should include the process and criteria that will be utilized in developing summary of watercourses, the role of the local water planning authority, and a schedule for when the summary will be provided. SWCDs and water management authorities are also encouraged to coordinate the development of the summary of watercourses with their neighboring counties and watershed districts to ensure that those watercourses that cross county and watershed district lines have consistent designations and requirements.

Development of the summary of watercourses should also include reviewing the current water plan(s), DNR Buffer Protection Maps, and other available data to identify watercourses and waterbodies not protected under the current Buffer Law. The SWCD should also coordinate with Technical Service Area (TSA) for technical resources and GIS expertise to assist in the process of identifying waters to be included in the summary of watercourses that are not included on the DNR Buffer Protection Maps, also referred to as "other waters". The identification of these other waters should be done on a watershed basis to encourage consistency across jurisdictions and address connectivity. This will also help ensure consistency with the One Watershed One Plan Program.

Role of State Agencies

BWSR Board Conservationists will support and advise the SWCD, consistent with their responsibilities under current water planning processes. Other state agencies may provide information to assist the SWCD in the development of the summary of watercourses if asked. The law does not provide for state agency review of the summary of watercourses prior to submittal to the water management authority. State Agency review may occur under the plan update and/or amendment process of the water plan.

Consideration of Waters for Inclusion in the Summary

Public waters and public ditches are covered by the buffer requirement and will be identified on the DNR Buffer Protection Maps. The other waters to be considered for inclusion in the summary could include any watercourses not regulated under the Buffer Law. Factors the SWCD should consider when developing the summary of watercourses may include, but are not limited to the following:

- Is the watercourse impaired?
- What is the likelihood it conveys pollutants to an impaired water (connectivity)?
- What actions would be required to address any water quality concerns?
- Is the watercourse within a wellhead protection area?
- Is the watercourse included as a priority concern in a local water plan?
- What are the water quality trends?
- Is the water (or parts of it) exempt under the law?
- What existing ordinances and local regulations apply?

Data Sets and resources for consideration when developing the inventory

The following datasets should be considered as a starting point to develop the local inventory of other watercourses. Watercourses mapped may include, but are not limited to inclusion of the following:

- MN DNR hydrography - <https://gisdata.mn.gov/dataset/water-dnr-hydrography>
- MPCA Statewide Altered Watercourse - <https://gisdata.mn.gov/dataset/water-altered-watercourse>
- MN DNR Hydrologic Position Index (HPI) – public service is expected to be coming soon
- Aerial Imagery – various sources, but I like the MnGeo Imagery Service - http://www.mngeo.state.mn.us/chouse/wms/wms_image_server_specs.html
- MPCA Impaired waters list - <https://www.pca.state.mn.us/water/maps-minnesotas-impaired-waters-and-tmdls>
- MPCA Completed WRAPS <https://www.pca.state.mn.us/water/tmdl-projects#approved-e80b7f73>

Submission of the Summary of Watercourses to the Local Water Planning Authority

The submission of the summary of watercourses to the local water management authority must occur by July 1, 2017 and should be provided in a form that will enable efficient incorporation into the water plan. It is recommended that the summary of watercourses be provided as a map and a shapefile. In addition, the SWCD must also copy BWSR on the submission of the summary of watercourses to the local water management authority.

Implementation Guidance – Incorporating the Summary into the Local Water Plan

Local water management authorities have two options for incorporating the summary of watercourses into their local water management plan or comprehensive watershed management plan:

Option 1. Incorporate the summary as an addendum to the water plan by July 1, 2018, by adopting the summary submitted by the SWCD and providing notice to the agencies, organizations and individuals that are required to receive a copy of the plan changes (including BWSR). This option assumes no additional changes, beyond incorporation of the summary of watercourses, are being made to the water plan.

Option 2. Include the summary with an amendment or as part of a revision to the water plan, if this amendment or revision can be completed by July 1, 2018. This option assumes the local water management authority was already scheduled to amend or revise the water plan, and/or that additional changes are being incorporated into the water plan beyond the summary of watercourses.

Incorporating SWCD Recommendations

Minnesota Statutes §103F.48, Subd. 4 allows for the SWCD to provide recommendations associated with the summary of watercourses. If a local water management authority is currently scheduled to amend or revise its water plan by July 1, 2018 (option 2 above), it should consider incorporating these recommendations as part of this process. If the local water management authority is not scheduled to amend or revise its water plan, the recommendations can be incorporated as part of the next regularly scheduled update (after July 1, 2018).

Amendments and revisions to water plans must follow the appropriate statute, rule, and BWSR policy. For more information please contact your BWSR Board Conservationist (map and contact information available at: <http://www.bwsr.state.mn.us/contact/index.html>).