



# Advice From the Field

Preparing for county-level buffer work



FRESHWATER  
SOCIETY

# Sequence of Preparation Steps

For Soil and Water Conservation Districts

|       |   |   |
|-------|---|---|
| READY | <b>Theme 1</b><br>POLICY + POLITICAL WILL               | <ul style="list-style-type: none"><li>Buy in of elected officials/staff</li><li>Public meetings to ensure a transparent process</li></ul>                                       |
|       | <b>Theme 2</b><br>SHARED UNDERSTANDING OF THE LAW       | <ul style="list-style-type: none"><li>Fact sheets</li><li>Elected official and staff understanding</li></ul>  |
|       | <b>Theme 3</b><br>SHARED UNDERSTANDING OF THE ROLES     | <ul style="list-style-type: none"><li>Understand the roles of SWCDs and partners</li><li>Seek partnerships with adjacent counties</li></ul>                                     |
|       | <b>Theme 4</b><br>STAFFING + TRAINING<br>STAFF CAPACITY | <ul style="list-style-type: none"><li>Acquire or access staffing commitments</li><li>Training in needed skill areas</li></ul>   |
| SET   | <b>Theme 5</b><br>RESOURCES +<br>ADDITIONAL FUNDING     | <ul style="list-style-type: none"><li>Funding for initial efforts, and on-going support for implementation</li><li>Align with federal and non-federal incentive funds</li></ul> |
|       | <b>Theme 6</b><br>COMPLETE INVENTORY<br>+ MONITORING    | <ul style="list-style-type: none"><li>Review draft DNR maps</li><li>Consider additional waters with local water planning advisory committee</li></ul>                           |
| GO    | <b>Theme 7</b><br>COMMUNICATIONS<br>AND OUTREACH        | <ul style="list-style-type: none"><li>Hold public meetings</li></ul>  |
|       | <b>Theme 8</b><br>COMPLIANCE +<br>PARTICIPATION         | <ul style="list-style-type: none"><li>Create compliance tracking</li></ul>  |

## Overview

The Minnesota Association of Soil and Water Conservation Districts (MASWCD) regularly brings Area Districts together for informational meetings. Areas 2, 4, and 8 comprise 32 counties straddling the transition zone from predominantly agriculture land to forested lake country.

They invited the Freshwater Society to participate in Area meetings held in Park Rapids, Glenwood, and Rogers between June and November, 2015. Staff members from the Freshwater Society gave presentations on the findings in their report, *Farm To Stream: Recommendations for Accelerating Soil and Water Stewardship* followed by work sessions with SWCD Managers and technical staff.

The sessions were structured to give SWCD board and staff member's time and opportunity to think about how to prepare their respective organizations for new work and challenges they will face due to the buffer law. Freshwater Society staff crafted questions to spark conversations among participants and elevate inter-district thinking among peers with a wide range of capacity and perspectives.

### Questions that led the small group conversations:

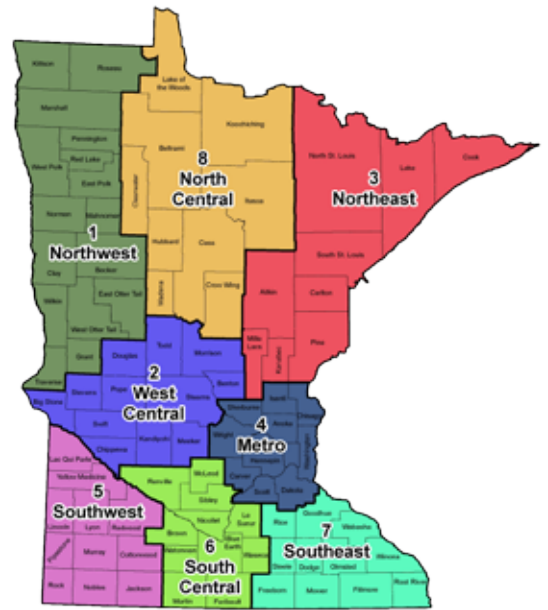
When your organization is two years into this new buffer work, what will success look like?

As you prepare your organization for this new buffer work, what are your greatest concerns?

This summary brings together the individual voices from MASWCD Areas who participated in conversations into a group voice that speaks, to peers, policymakers and community members.

Conversations fell into eight major themes, and were surprisingly consistent across all three areas of the state. Taken together, they frame an approach for how SWCDs can organize their work on the buffer law, and avoid some obvious pitfalls.

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SOIL AND WATER CONSERVATION DISTRICT AREAS

## The Buffer Law

The Minnesota buffer law, enacted in summer of 2015, establishes new perennial vegetation buffers of up to 50 feet along rivers, streams, and ditches, to help filter out phosphorus, nitrogen, and sediment.

Buffers will be required on public waters as well as ditches within the benefited area of a public drainage system. Other waters may be subject to local requirements identified by Soil and Water Conservation Districts.

## OVERVIEW CONTINUED

It is noteworthy that much of the work will need to be done **before** SWCDs begin to implement the new law. Many of the markers of success relate to how well SWCDs, counties and communities prepare themselves for the work involved. Preparation for the work is critical so that technical, social, or political shortcomings do not undermine progress.

Successful implementation will depend on how well local conservation partners work with local landowners.

As you read each section of this report, ask, “Who will do this work, and do those people have the skill, knowledge, and resources they need to be successful?”

The following sequence of themes is designed to help districts answer this question in a systematic way.

## Theme 1

### POLICY + POLITICAL WILL

Before work can begin on the new buffer law, SWCDs will need to know that County Commissioners, Agencies and other officials involved are getting up to speed and onboard. Buy-in from those in political positions is an essential part of laying the foundation for success. County Boards and SWCDs should consider passing a joint resolution in support of the buffer initiative as a public expression of support and hold joint public meetings to ensure a transparent process.

Organizations involved in implementing the buffer law will need to agree on how to approach communications, education, implementation, and enforcement, the roles of the different agencies involved, and how different partners will communicate and hand off tasks to each other. All parties involved will need to be “on the same page” because the buffer law has a high level of public interest, and is both mandatory and enforceable.

Along with a solid base of political support for the buffer law, SWCDs want a strong backbone of policy they can depend on. SWCDs have traditionally been seen as a non-regulatory partner in conservation. It will be critical to protect public perception of that role. Policies that should be in place before implementation begins include:

- ◆ Fully developed flow chart of how implementation will proceed;
- ◆ Set of realistic timelines, geographic priorities, and guidelines;
- ◆ Clear understanding of how to identify “other waters” in the District;
- ◆ Comprehensive and transparent list of waterbodies that have been identified as “other waters”;
- ◆ Implementation plan embedded in the County and SWCD annual plan, or comprehensive plan;
- ◆ Plan to offer financial and technical assistance to those landowners who comply voluntarily.

## Theme 2

### SHARED UNDERSTANDING OF THE LAW

The planning and policies noted in Theme 1 contribute to the next important theme – a shared understanding of the law. All parties – elected officials and staff – involved in implementing the buffer law must have a clear, shared understanding of the parameters of the law and a clear understanding of how to approach implementation of the law. Consistent rules will help the parties involved work together effectively. All parties should understand the following buffer protection maps of public waters, and how and where the buffer rules apply.

Counties and SWCDs should consider developing fact sheets that clarify language, with separate materials for internal staff use, and landowners. Both sets of materials should be short, use plain language, and be unambiguous.

Field staff need a clear understanding of the rules, the requirements and the expectations of the law, and to be able to clearly and consistently communicate those parameters to landowners. Everyone involved in the implementation of the law, from office staff to field staff to administrators to Board members, needs to know what the long range goals are for the county, what the rules are, where buffers go, what is required of each party, which waters are included, and which alternative practices can be used in place of buffers.

It isn't fair to put staff in the field to implement the buffer law if organizations aren't prepared to fully support their efforts.

In short, SWCD offices must expect to become experts on buffers. Maintaining a finite tabulation of compliance brings a new level of scrutiny and expectation for accurate record-keeping. "Black and white" buffer protection maps means "black and white" record-keeping will be needed.

## Theme 3

### SHARED UNDERSTANDING OF THE ROLES

It will not be enough to have a shared understanding of the law without also having intentional collaboration with partners, a consistent application of the rules, and a clear understanding and delineation of the roles played by each party. Inter-governmental sharing of staff, administrative systems, and outreach materials will reduce cost and increase consistency.

TABLE 1

| WHO                               | ROLE  |
|-----------------------------------|---|
| DNR                               | Buffer Protection Maps  |
| BWSR                              | Funding, enforcement  |
| County or Watershed District (WD) | Outreach, enforcement along ditch systems                         |
| SWCD                              | Technical help, outreach, notifies county or WD of noncompliance. |
| Landowner                         | Buffer or alternative practices, installation                     |

Consistency of approaches taken by adjacent counties will be important. First, many landowners have land that lies on both sides of county lines or watershed boundaries. Landowners will need, and expect, consistency and uniformity across county and watershed boundaries in how neighboring SWCDs identify waters, and how alternative practices are applied.

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**THEME 3** CONTINUED

Secondly, the work of implementing the buffer law should build on existing efforts, rather than supplant them. Whenever possible, education and outreach efforts related to the buffer law should enhance existing relationships with landowners, build relationships with new partners, and uncover new opportunities with both. Implementation efforts should incorporate existing programs such as RIM, CRP, CSP and others.

SWCDs are concerned that the responsibilities of enforcement will fall to them, and tarnish their traditional role as a friendly partner to landowners. The processes related to enforcement of the buffer law need to be clear, with duties and roles divided among appropriate agencies with referral mechanisms overtly created and communicated.

TABLE 2  
Items SWCDs want from other Governmental Bodies

| ITEM   | SOURCE                      |
|--|-----------------------------|
| <b>Joint resolution of policy outreach</b>         | County (city, township, WD) |
| <b>Procedure for identifying "other waters"</b>    | DNR/BWSR                    |
| <b>Comprehensive maps of public waters</b>         | DNR                         |
| <b>Funding for buffer implementation</b>           | BWSR                        |
| <b>Staff-level coordination of roles</b>           | County                      |
| <b>Referral procedures for enforcement matters</b> | County                      |
| <b>Procedures for utilizing APO authority</b>      | BWSR                        |

**Theme 4**

STAFFING + TRAINING – STAFF CAPACITY

Staffing represents the major technical consideration in the successful implementation of the buffer law. Staffing levels for conservation work at SWCDs have decreased over the past decade, and organizations will need to add capacity to implement the buffer law. This can be by hiring, sharing with other jurisdictions, or contracting for additional capacity.

The number of staff hours and the professional experience of staff members are notable concerns among SWCDs. New staff will need to have skills and experience working with agriculture on water quality, and understand the parameters of the buffer law. They will need to know their roles in implementing the new law, and what is expected of them by other partners.

Staff will need training on what are considered acceptable "alternative practices," what kinds of buffers and alternative practices are appropriate on each category of public waters, the process for evaluating and approving alternative practices, and how to communicate effectively with landowners. Landowners' interest in alternative practices is expected to be high and staff will need to understand how these can be used before reaching out to landowners.

Staff will need training on... the process for evaluating and approving alternative practices, and how to communicate effectively with landowners.

## Theme 5

### RESOURCES + ADDITIONAL FUNDING

Finding, hiring, training, and retaining staff will obviously require additional financial resources. A major finding of our 2015 *Farm to Stream Report* noted that staff retention requires long-term, stable funding; SWCDs are already thinking about how to ensure funding over the long-term to retain newly hired staff. New staff will need knowledge in the following areas:

- ◆ Inter-governmental coordination
- ◆ Federal conservation programs
- ◆ State/Watershed District incentives for buffer enhancement
- ◆ Database and GIS management tools
- ◆ Referral options for landowners with legal or enforcement questions
- ◆ Landowner relations
- ◆ Buffer and alternative practice technical design and documentation

Cost share and incentives are the primary tools SWCDs have to assist landowners in complying with the buffer law. SWCDs will need access to more cost share dollars to help landowners with buffer installation and maintenance. Participants in these conversations were concerned about how long it would take to get access to cost share funds, and how long those funds would be available.

SWCD staff will need resources for landowner education, technical assistance for buffer design, and equipment to assist in buffer installation. They will also need resources to enforce the law when landowners do not comply voluntarily.

Districts are clearly concerned the state will eventually withdraw fiscal support. This directly hurts staff retention. It will take funding to ramp up, and support, local implementation efforts, and address other soil and water conservation opportunities landowners propose.

Reaching out will be necessary as most landowners will not come to the service counter on this subject. This is different work.



*Buffers provide small amounts of habitat, erosion protection and filtering of pollutants. Adjusting the size to the landscape can increase benefits while accommodating farming operations.*



*Alternative conservation practices such as strip tilling are allowed in the law, though how they will be measured is still being determined. Alternative upland practices can provide water quality benefits in excess of narrow buffers.*

## Theme 6

### COMPLETE INVENTORY + MONITORING

It will be critical to conduct a thorough and complete inventory of all public waters in the county before implementation begins. The DNR will provide a draft map to each county of all waters covered by the buffer law. Each has the option to propose “other waters” in consultation with their local water plan and advisory committee. SWCDs need to know how waters are identified, which have existing buffers, which waterways are in need of buffers, and the process to add “other waters.”

A quantitative inventory is needed by all parties to run and measure this program. SWCDs will need to know how much land is affected by the state requirements and how much is potentially affected by an “other waters” designation at the local level. Existing buffers will need to be evaluated to see if they conform to the new buffer laws.

Once this identification process is completed, SWCDs will need to develop a complete list of all the work that needs to be done in their county, and a work plan to guide implementation. Landowners and other local partners should be involved in every step of the inventory and identification process, to ensure a transparent process.

With a thorough and complete inventory in place, and a list of projects that need to be done, SWCDs will need to prioritize their work. This can be done by township, sub-watershed, local importance, or other means. The method matters less than having a clear sequence in mind.

Most SWCDs and Counties have a plan in place to track water quality over time in strategic locations. SWCDs and Counties can use this baseline to measure progress. SWCDs, in collaboration with local lake associations or shoreland property owners associations, should consider conducting a DNR “Score the Shore” inventory on all major lakes in the county.

## Theme 7

### COMMUNICATIONS AND OUTREACH

SWCDs face a formidable task in framing communication and education efforts with landowners. It is important for SWCDs and Counties to understand that communications and education have separate functions, and they need clear intentions for both.

SWCDs and Counties will need a communications plan to send a unified message to landowners about the buffer law, and how SWCDs can help landowners comply. Those messages will need to be sent out through media channels and platforms that landowners trust. If audiences don't trust the medium, they won't trust the message.

Messages should be consistent across county (and watershed) boundaries. The organizations involved will need to tell the same story about the buffer law, the plans for implementing the law, and the kinds of support landowners can expect. SWCDs should be prepared to answer questions about how the buffer law will affect farming, logging, and other land uses.

Some of the communication functions will happen in one-on-one settings. SWCDs will need to cultivate relationships with landowners who may be reluctant to change their farming practices on fields that lie along waterways. Reluctant landowners who don't choose to attend information meetings, or who don't comply voluntarily will need more direct forms of outreach, and consume more staff time.

Fortunately, the experience of counties who have already raised buffer compliance rates report that the overwhelming majority of landowners comply with the law quickly once they believe everyone will be expected to comply.



## Theme 8

### COMPLIANCE + PARTICIPATION

SWCDs are concerned that enforcement of the buffer law will damage their relationships with landowners and change their reputation from a “partner in conservation” to “enforcer of the buffer law.” SWCDs will face hard choices on whether to spend staff time cultivating relationships with landowners who are not in compliance, or refer the situation to the county or state for enforcement.

The variety of riparian land uses will require specialized education materials. Lakeshore residents will need to understand the buffer law and develop a plan to protect their shorelines. Residential or commercial property owners will need guidance and support to find resources, and install appropriate buffers. Small farms, vegetable farms, and fruit growers may need specialized education, outreach and communications efforts.

In addition to public meetings, SWCDs can make use of both traditional and non-traditional outreach media including newsletters, county fairs, coffee shop gatherings, local newspapers, radio, press releases, and social media channels to reach the variety of audiences they will need to serve. As implementation begins, SWCDs can use these same communication media to publish and promote the success stories to encourage broader participation.

SWCDs will want to demonstrate a successful installation of a compliant buffer project so landowners can get a sense of what the law requires. Demonstration projects should include examples of how to enhance existing buffers and suitable alternative practices.

It will be important to document current compliance rates and show early success. SWCDs will want to demonstrate a successful installation of a compliant buffer project, and offer tours so other landowners can “kick the tires,” and get a sense of what the law requires on their land. Those demonstration projects should include examples of how to enhance existing buffers (e.g. manicured lakeshore lawns converted to un-mowed, native vegetation) and of suitable alternative practices.

The buffer law offers SWCDs an opportunity to work with landowners who may have additional conservation work in mind, beyond buffers. Buffer conversations may lead to opportunities to pursue conservation practices for upland treatment, improvements to soil health, fertilizer and irrigation management strategies, and other BMPs.

SWCDs want to set the standards high, and aim for 100% compliance. Achieving that will require attention to all the foundational work that should happen before implementation begins.

Successful efforts will be marked by a wide variety of benchmarks:

- ◆ Percentage of required buffers in place
- ◆ Buffers integrated with other conservation practices in a whole-farm conservation plan
- ◆ Alternative practices to buffers have been installed appropriately and monitored periodically
- ◆ Number of enforcement cases underway

## Natural Resource Outcomes

While these eight themes capture the processes SWCDs are undertaking, the group discussions kept returning to the *reason* for the work. Participants stressed the preparation and execution of these actions are meant to accomplish the districts' mission of soil and water resource management for the long-term benefit of their communities.

Some of the liveliest discussions focused on what success in two years looked like. Being practical-realists who know their landowners and the array of issues they face, few districts embraced the notion that there would be 100% buffers within two years. Most agreed 85-90% compliance at that point was realistic given the time DNR will take to produce maps of public

waters, and the counties to ramp up enforcement. This realistic perspective led to districts' acknowledgement that there will be lag time between implementation of the buffer law, and measurable water quality improvements.

However, SWCDs do expect to see the benefits slowly accumulate where buffer compliance is high. Water quality testing programs should see improved clarity as sediment runoff decreases, along with reductions in phosphorus, and nitrogen. There should be more diversity on the landscape, yielding multiple ecosystem benefits. Wetlands and shorelines should have more diverse, natural vegetation as shoreland plantings mature.

## Conclusion

This report is intended to help SWCDs assess their readiness to approach the work of the buffer law, and evaluate where they will need to add capacity, knowledge or skills.

Conversations with SWCD staff members across Areas 2, 4 and 8 have resulted in this scope and sequence of work that outlines an approach for successful implementation of the new buffer law in Minnesota. Though the law itself seems fairly simple and resembles long-standing requirements, the work of implementing the law is complex. Much of the work involved will happen in the background and well in advance of reaching out to landowners.

Reaching out will be necessary as most landowners will not come to the service counter on this subject. This is different work. This is why getting policymakers and leadership teams onboard; developing the political will and clear

policies at the local level; and developing collaborative partnerships across political boundaries are essential before sending staff into the field.

Before shovels break ground on any buffers, everyone involved should have a clear understanding of the law, and how it applies to local lands. Education and outreach planning should include an understanding of the audiences SWCDs and Counties are trying to reach, and the messages that will resonate with each audience.

**As you prepare your organization to implement the buffer law, keep asking, "Who will do this work, and do those people have the skill, knowledge, and resources they need to be successful?"**

## **Thank you!**

*Advice From the Field: Preparing for county-level buffer work* was compiled by Peggy Knapp and Steve Woods of the Freshwater Society.

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- ◆ McKnight Foundation
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- ◆ Rollie Cleveland, Chisago SWCD and Area 4 Chair
- ◆ Craig Mell, District Administrator, Chisago SWCD
- ◆ Minnesota Association of Soil and Water Conservation Districts

Special thanks to the people of the 32 SWCDs who offered their perspectives at Area meetings. Their insights, intelligence, and commitment to their communities provide the basis for this summation.

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