

# SWCD Operations 101

Doug Thomas, BWSR  
Brian Watson, Dakota SWCD

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# Session Topics

- SWCD Law – powers & authorities (10 minutes)
  - Doug Thomas
- SWCD Governance – function & duties (45 minutes)
  - Brian Watson
- SWCD & BWSR – how we work together (30 minutes)
  - Doug Thomas
- Questions / Discussion (30 minutes)

# Fundamentals of Soil and Water Conservation District Law

By: Doug Thomas

A STANDARD

**State Soil Conservation  
Districts Law**

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PREPARED AT THE SUGGESTION OF  
REPRESENTATIVES  
OF A NUMBER OF STATES

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19



36

*United States Department of Agriculture*  
SOIL CONSERVATION SERVICE

# History of SWCD Law

- 1935 Model act prepared and sent to states
- 1937 Minnesota SCD law enacted as Ch. 40
- By the 1960's most districts formed, now known as SWCDs
- 1971 urban areas added and election laws standardized
- 1990 SWCD law recodified as 103C
- Piecemeal changes/additions over the years
- 2003 SWCD law modernization

# Context

- Soil and Water Conservation best implemented:
  - At the local level
  - Voluntarily
  - Comprehensively
  - Collaboratively

# Trends

- Growing responsibility of local government
- Managing resources at the watershed level
- Rural Minnesota is changing
- Urban Minnesota is changing
- Technology
- Increasing conflict

# THE LAW – MN STATUTES CHAPTER 103C

<https://www.revisor.mn.gov/statutes/?id=103C>

## **MN'S SOIL AND WATER CONSERVATION POLICY**

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### 103C.005

#### Soil and Water Conservation Policy

- (1) control or prevent erosion, sedimentation, siltation, and related pollution in order to preserve natural resources;
- (2) ensure continued soil productivity;
- (3) protect water quality;
- (4) prevent impairment of dams and reservoirs;
- (5) reduce damages caused by floods;
- (6) preserve wildlife;
- (7) protect the tax base; and
- (8) protect public lands and waters.

## PROCEDURAL ITEMS

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- 103C.201 Formation of Soil and Water Conservation Districts
- 103C.205 Annexing Additional Area
- 103C.211 Consolidation and Division of Districts
- 103C.215 Change of Name
- 103C.221 Change of Location of Principal Office
- 103C.225 Discontinuance of Districts
- 103C.231 Cooperation between Districts and Other Public Agencies
  - federal government
  - the government of this state or other states
  - persons or public and private corporations
  - joint powers act
- 103C.235 State Agencies to Cooperate



## **DISTRICT BOARDS**

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- [103C.305](#) General Election of Supervisors
- [103C.311](#) Formation of Supervisor Districts
- [103C.315](#) Supervisors
- [103C.321](#) Officers and Employees
- [103C.325](#) Records, Audit, Information to State Board
- [103C.331](#) Powers of District Boards
- [103C.335](#) Technical and Administrative Assistance to Districts

# Powers of District Boards (103C.331)

1. General authority
2. Advisory assistance
3. Surveys, investigations and research
4. Publication of information
5. Demonstration projects
6. Implementation of Soil and Water Conservation Policy
7. Acquisition and maintenance of property
8. Acquisition and maintenance of property
9. Use of machinery and supplies

# Powers of District Boards (103C.331)

10. Construction of improvements
11. Comprehensive plan
12. Assumption of conservation projects
13. Authority for suits and contracts
14. Compensation for works or projects
15. Agreements for federal assistance
16. Budgets
17. Funds for state and national associations
18. Liability insurance
19. Administration of local controls



## **DUTIES OF THE BOARD OF WATER AND SOIL RESOURCES**

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103C.401 Board of Water and Soil Resources

103C.405 Program Plan

## **COST-SHARING CONTRACTS**

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103C.501 Cost-Sharing Conservation Contracts for Erosion Control and Water Management



## **WORKS OF IMPROVEMENT**

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- [103C.601](#) Works of Improvement
- [103C.605](#) County Determination of Project
- [103C.611](#) Project Without Assessments
- [103C.615](#) Action on Project with Assessments
- [103C.621](#) Project Bonds
- [103C.625](#) Status of Discontinued Project
- [103C.631](#) Repair
- [103C.635](#) Appeals

# Authorities SWCD's do not have

- Taxing authority
- Regulate the use and development of land

# SWCD Governance Function and Duties

Brian Watson, Dakota County SWCD

# Basic Function of an SWCD

To take available technical, financial and educational resources whatever their source, and focus or coordinate them so that they meet the needs of the local land user.

Two parties working together to achieve results:

- Elected Board – Sets Direction, Hires, Evaluates
- Staff – Implements, Manages, Operates

# Board and Staff

Working together to achieve results! Staying on course.



# Presentation Overview

1. Supervisor Elections
2. Supervisor Roles
3. Supervisor Compensation
4. Core SWCD Programs
5. Board Meetings
6. Staff and Board Working Together
7. Legislative Requirements

# Elections

SWCD Supervisors are elected officials subject to all statutes, rules, and state policies that govern the conduct and responsibilities of elected positions.

- 5-member board. Possible exception is the 7-County Metro.
- Representation can be “at large” (county-wide) or by nomination districts. Exception is 7-County Metro.
- Supervisors boundaries “at large” are typically based on township or city lines and do not need to be balanced based on population or land area.
- No primary elections held.

# Elections

- Under an “at large” scenario all eligible voters within the County vote for all supervisors positions.
- Under nominations districts, supervisor districts must be based on precincts, compact, include only contiguous territory and substantially equal in population.
- Under nomination districts, only eligible voters within the supervisor nomination district are eligible to vote (1 supervisor to vote for).
- Changes to existing Supervisor boundaries requires submittal of a resolution to BWSR and approval.

# Elections

- To file for supervisor you must file a Minnesota Affidavit of Candidacy with the County Auditor.
- Takes \$20 to file – some counties do not take plastic!
- Filing period typically begins late May or early June and ends in 14 days (84 days before 2<sup>nd</sup> Tuesday in August or the state primary).
- In almost all cases, supervisors are elected for terms of four years beginning on the first Monday in January.
- Newly elected supervisors should take oath of office at first official meeting that occurs after the first Monday in January.

# Elections

- County Auditor fills out a “Certificate of Election” and provides to successful candidate.
- Within 14 days of being elected, successful candidates are required to complete campaign finance disclosure form.
- Vacancies

If the vacancy occurs more than 56 days before the next state primary, the SWCD Board shall fill by appointment. The appointed supervisor then holds office until the next general election. A successor elected will hold office for the remainder of the vacant term.

If the vacancy occurs less than 56 days before the next state primary, the SWCD Board shall fill by appointment. The appointed supervisor then holds office until the expiration of the term or until the second general election whichever is shorter.

# Elections

It is incumbent upon the current SWCD Board and staff to ensure that open supervisor positions are widely publicized.

- Use the media
- Newsletters
- Local meetings
- Personnel recruitment (Board only?)

# Roles of an SWCD Supervisor

Three “hats” or roles of an SWCD Supervisor:

- As SWCD Board Member
- As Elected Official
- As Community Leader

You have been elected – now what?

# Role as SWCD Board Member

## Policy Development

Primary focus is not to run the day-to-day activities but rather setting overall policy and long-term objectives.

Examples:

- Development of Plans
- Establish Budgets
- Use of cost share dollars
- Personnel policy handbook including travel policy
- Fee schedules or charges for services
- Compensation for supervisors and staff
- Agreements with other agencies or units of government
- Membership in organizations

# Role as SWCD Board Member

## Policy Development



Key point:

Although it's the Boards responsibility to develop policy and staffs responsibility to implement it, the most useful policies are developed with staff input as well.

# Role as SWCD Board Member

## Planning and Budgets

Developing annual and comprehensive plans is a statutory requirement under 103C.

Comprehensive Plans – not longer than 10 years

Annual Plans – mechanism for implementing comprehensive plan and budget allocations in a give year.

To be eligible for BWSR grants, an SWCD must have a Comprehensive and Annual Plan on file and both plans must include budget information.

# Role as SWCD Board Member

## Planning and Budgets

There are options available.

- Outside of 7-County Metro you can adopt County Water Plan as your Comprehensive Plan.
- BWSR's new Biennial Budget Request may serve as Annual Plan



Key Point:

Consider having a Strategic Planning Session with Board and Staff at least once every 5 years.

# Role as SWCD Board Member

## Planning and Budgets

The SWCD should always adopt an annual budget through Board action.



Key Point:

Have quarterly or bi-annual financial reviews to evaluate and adjust your annual budget as needed.

# Role as SWCD Board Member

## Working with Staff

District Manager or a designated lead staff person should be the Board's key contact to supervising the operation of the SWCD.

The Board should work closely with Manager or designated lead staff to:

- Delegate responsibilities to employees
- Set work priorities
- Develop budgets and provide financial and accounting oversight
- Develop and approve an employee evaluation system
- Evaluate new programs or opportunities and expand existing programs
- Keep in contact and build relationships with partner organizations

# Role as SWCD Board Member

## Working with Staff



### Key Point:

Your designated lead staff or District Manager should be the funnel for which performance reviews of other staff are conducted.

The job description of the District Manager or lead staff should include devotion of time to improving staff credentials.

# Board and Staff Working Together OR



# Supervisor Role as Elected Official

As an elected official you are responsible for operating the SWCD as a political subdivision of state government.

Specifically, your duties are:

- Establish policies to implement state grants
- Maintain working relationship with other political bodies
- Enter into agreement or contracts
- Pursue funds from local, state and federal sources
- Cooperating with other districts and watersheds in resource needs
- Conduct annual meeting – election of officers.
- Monitor your actions to comply with program rules and regulations.

# Role as Community Leader

As a community leader you help guide your community in natural resource issues by:

- Acting as local grassroots representative
- Maintaining good conservation on the land you manage
- Acting as a spokesperson on conservation issues
- Use existing and new innovative programs to promote conservation
- Discuss SWCD programs with businesses, farm owners and operators, educators, professional groups, other elected officials.

# Supervisor Compensation

- Compensation is limited to no more than \$75/day which is state statute.
- Compensation is on a per day or per diem basis.
- Compensation is considered income and must be reported in accordance with tax regulations.
- Compensation and expenses are limited to activities directly related to the position of SWCD supervisor and need to be authorized by the SWCD Board and recorded in the minutes for when authorization is given.
- Oath of Office must be completed before any claims can be paid to a supervisor
- Mileage reimbursement can be provided up to the maximum tax-deductible mileage rate permitted under federal Internal Revenue Code.
- Meals and lodging are acceptable expenses but only for the supervisor or employee.

# Supervisor Compensation



## Key point

Consider adopting Board operating rules at your annual meeting that identifies key partners and organizational meetings for which per diem and mileage expenses are appropriate.

Each SWCD should adopt and follow a conflict of interest statement whereas Supervisors should abstain from making motions or voting on SWCD Board actions that directly affect them, such as an action on a cost share contract for themselves or a family member.

This statement can also be included in Board operating rules adopted annually.

# Core SWCD Programs

## BWSR Programs

Established by the state to assist in protecting your communities soil and water resources.

Conservation Delivery Grant *source is General Fund and formula based*  
BWSR annually allocates funds to all SWCDs for expenditures necessary to operate.

State Cost Share Program *source is General Fund and formula based*  
Provides up to 75% cost share to landowners for installation of soil and water conservation practices.

Reinvest in Minnesota (RIM) Program *source is General Fund and formula based*  
A land retirement program that pays landowners to retire marginal agricultural land.

# Core SWCD Programs

## BWSR Programs (continued)

Wetland Programs *source is General Fund and formula based*

Funding provided directly to counties and an amount transferred to SWCDs. Varies from county to county how much is provided to SWCDs. SWCDs have statute responsibilities under the Minnesota Wetland Conservation Act.

Comprehensive Water Planning *source is General Fund and formula based*

Counties apply to BWSR for base grants and competitive challenge grants for implementation of local water plan initiatives. Varies county to county but SWCDs are often involved with County Water Planning.

# Core SWCD Programs

## BWSR Programs (continued)

Buffer Initiative (NEW) *source is Clean Water Fund and formula based*

New law established during the 2015 legislative session will require SWCDs to implement a 50-foot vegetated buffer on streams and a 16.5-foot buffer on public ditches identified by the DNR. Additional watercourses can be identified by the SWCD to include in local water plans.

Increased District Capacity (NEW) *source is currently Clean Water Fund; each SWCD will receive \$100,000*

Legislative action in 2015 increased SWCD services funding. Increase recognizes important role SWCDs have in providing technical assistance to landowners.

# Core SWCD Programs

## BWSR Programs (continued)

Non-point Technical Assistance Grant *source is General Fund; each TSA gets \$125,000*

Funds are allocated to technical service areas (TSAs) for engineering and technical assistance. Minnesota SWCDs are divided into 8 TSA's.

Accelerated Implementation Grant **(NEW)** *source is Clean Water Fund; each TSA gets \$125,000 plus ability to apply for additional funds through competitive process among 8 TSA's*

Funds are allocated to technical service areas (TSAs) for increasing local capacity. TBD

# Core SWCD Programs

## Other Programs

### DNR Observation Well Program

Provides funds to SWCDs to monitor groundwater levels in selected wells.

### Rural Rainfall Monitoring

Nonfunded program that is a collaboration between SWCD, BWSR and State Climatology Office to set up volunteers to monitor precipitation.

### State Grants

Competitive grants available to SWCDs. Examples:

- Clean Water Grants (BWSR)

- Native Buffer Cost Share (BWSR)

- Cooperative Weed Management Areas (BWSR)

- 319 Grant Funds (PCA)

- Outdoor Heritage Grants - Conservation Partners Legacy (DNR)

# Board Meetings

- The most important piece of paper of a meeting is the agenda!
- Be careful not to be brief and vague. For example:  
    “BWR grants”  
    or  
    “Authorization to submit FY14 Clean Water Fund Grant application for providing land conservation practices within the Trout Brook Watershed.”
- Don't be afraid of a long agenda if it better indicates the reason for each topic to be discussed.
- It is a good practice for the Chair and District Manager or lead staff to coordinate prior to setting agenda.

# Board Meetings

Poor communication and poor agenda's will get us off course.



# Board Meetings

- Meeting minutes are mandatory and should clearly state all Board actions.
- Minutes are to be kept indefinitely for both regular and special meetings.
- Stay away from personal opinions such as “a heated discussion occurred” in your minutes.
- Much more information such as parliamentary procedure and open meeting law in the SWCD Supervisor Handbook found [www.bwsr.state.mn.us](http://www.bwsr.state.mn.us)

# Board Meetings



## Key Point

To conduct a efficient Board meeting, it is the responsibility of staff to get needed information such as the agenda and support materials to the Board approximately one week prior to the meeting. It is the responsibility of the elected Board to read the materials and come prepared.

# Staff and Board Working Together

- Board needs to take action to authorize a hire but doesn't have to be involved in the hire.
- The District Manager or lead staff should provide an orientation of all new employees and should participate in staff performance reviews.
- Compensation and benefits package must be adopted by the Board.

# Staff and Board Working Together

- Data Practices Act – a Board action should indicate who is responsible staff authority to deal with data requests.
- Staff implements programs and policy the Board sets the direction and evaluates.

# Staff and Board Working Together

## **STRONG STAFF – WEAK BOARD**

### “Tension”

- Board not properly oriented
- Board not informed on mission, budget and goals
- Staff originates all ideas
- Board advises the staff
- Staff decides, then informs Board

# Staff and Board Working Together

## **STRONG BOARD – WEAK STAFF**

### “Tension”

- All new ideas originate from Board
- Board makes almost all decisions
- Daily involvement of Board members
- Ignores advice of staff
- Staff not properly trained
- Staff afraid to take risks
- Staff act as “go-fers”

# Staff and Board Working Together

## **WEAK BOARD – WEAK STAFF**

### “Collapse”

- Board doesn't know statutory or specific responsibilities
- District Manager or lead staff not competent
- Accounting not addressed adequately; true financial condition not known
- Program results not measureable
- Board unaware of legal responsibilities
- Board deals with details not policy
- No clear definition of staff roles – poor or no job descriptions for each staff

# Staff and Board Working Together

## **BALANCED ORGANIZATION**

### **“Dynamic Tension”**

- Board and staff competent
- Board deals with policy issues and planning
- District Manager or lead staff carry administrative details through the rest of the staff
- Board Committee responsibilities are well defined and active
- Ongoing orientation and training program for Board and staff

# Staff and Board Working Together



# Staff and Board Relationship

In the long run,  
**Trust**  
is what makes the difference.

“You can observe a lot just by watching”

*Yogi Berra*

“The best thing you can do behind a persons back is  
pat it”

*Anonymous*

# Legislative Requirements

Recent Minnesota Law requires SWCD web sites be established and maintained to include:

- Annual Plan/BBR
- Annual Report
- Most recent financial audit
- Annual budget (can be met through Annual Plan)
- Board meeting schedule that identifies meeting location, day and time
- At least 12 months of meeting minutes; encourage agenda's be posted as well.
- Certain grant information

# SWCD & BWSR – how we work together

Doug Thomas

# History of Water Management

- 1887 Drainage Law
- 1935 Federal Soil conservation Act
- 1937 MN Soil conservation District law
- 1955 Watershed District Act
- 1969 Shoreland Management Act
- 1976 Public Water protection and Inventory
- 1977 SWCD Cost-Share program
- 1982 Metro Surface Water Management Act
- 1985 Comprehensive Local Water Mgmt. Act
- 1986 Reinvest in Minnesota – RIM Reserve
- 1989 Groundwater Protection Act
- 1991 Wetland conservation Act
- 2006 Clean Water legacy Act
- 2008 Clean Water, Land and Legacy Amendment
- 2012 Comprehensive Watershed Mgmt. aka 1W1P

# BWSR

MN Board of Water and Soil Resources

Established in 1987

- 20 member Board (3 SWCD appointees)
- Oversee SWCDs and
  - Watershed districts
  - Counties water planning
  - Wetland conservation act

# Agency Purpose

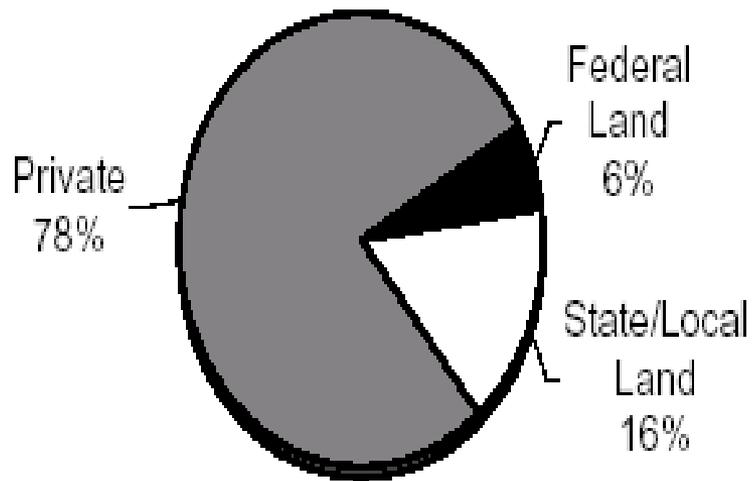
- The purpose of the agency is to protect and enhance the state's soil, water and wetland resources on our 41.7 million acres of private land.
- Our purpose is accomplished by implementing the state's:
  - soil conservation policy
  - comprehensive local water management act
  - wetland conservation act
  - buffer & soil erosion law

# Why is this important ?

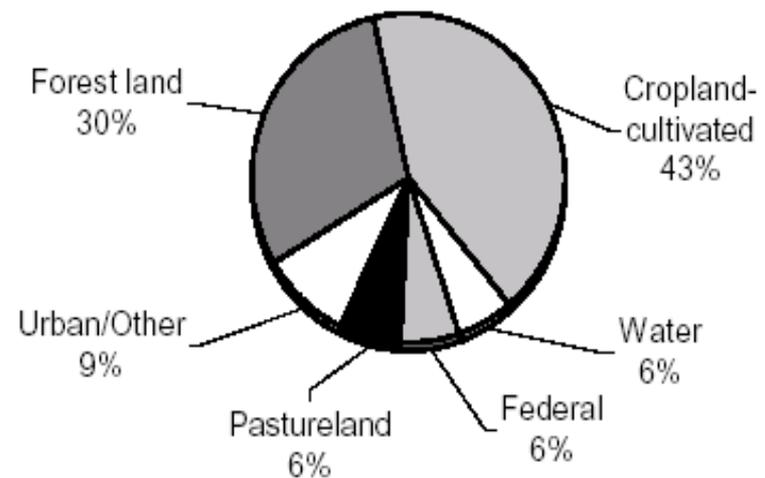
- 78% of the state is held in private ownership, the agency's focus on private lands is critical if we are to attain the state's goals for clean water, clean air, and abundant fish and wildlife habitat.
- These working lands – Minnesota's farms, forests and urban areas – contribute to the production of environmental goods and benefits, including cleaner air and water, abundant fish and wildlife habitat and preservation of open spaces.

# Land Ownership & Land Use

## Land Ownership



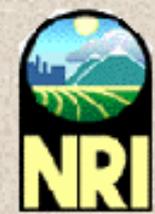
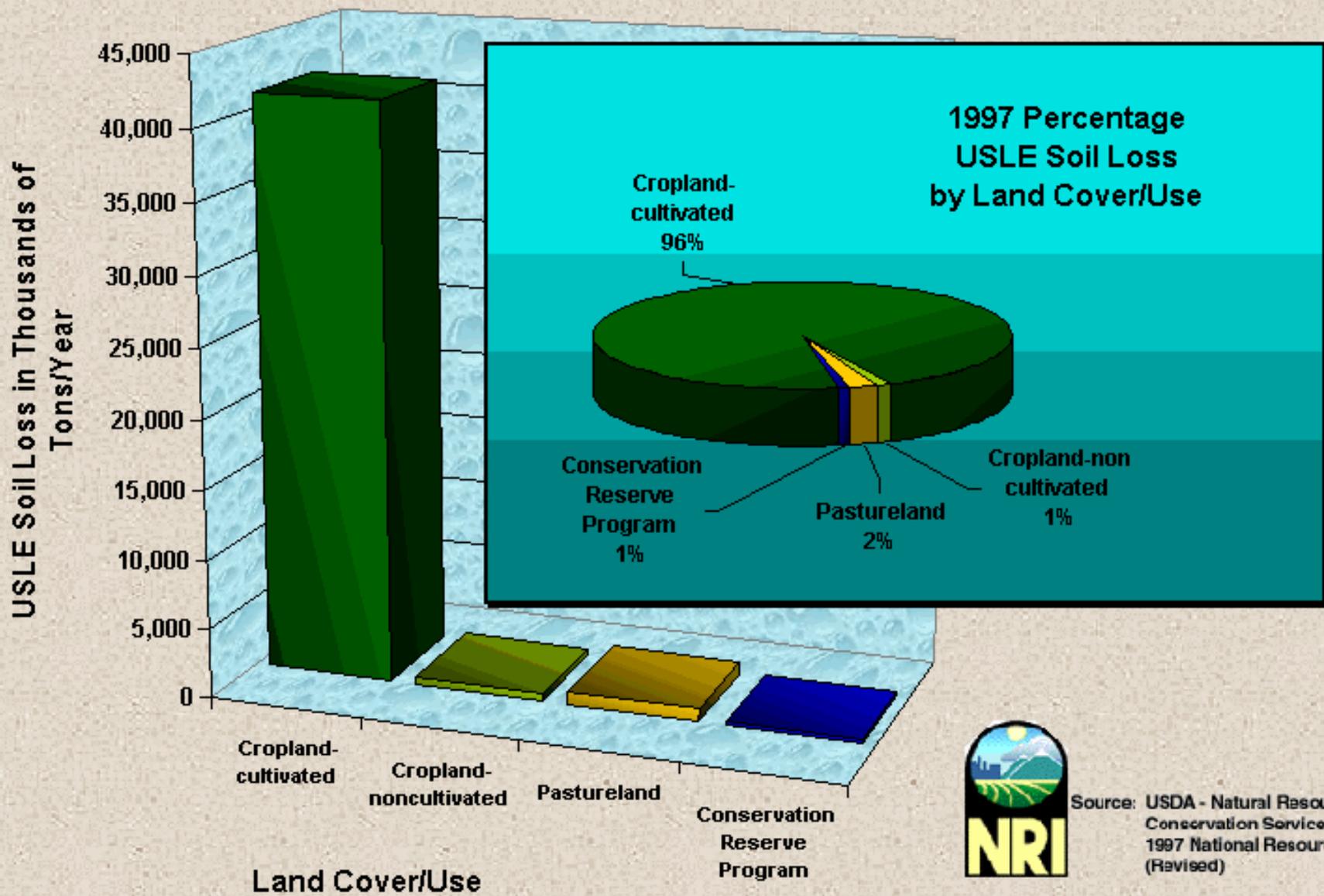
## Variety of Land Uses



# The Resource Concern

- Resource needs are serious. According to the federal government's Natural Resources Inventory (1997), 45 % of cultivated cropland in Minnesota is eroding, from water and/or wind erosion, above tolerable levels.
- Eroded soil and the nutrients attached to it is the single most significant source of non-point pollution in the state.

# Minnesota 1997 USLE Estimated Total Soil Loss in Thousands (1,000's) of Tons per Year by Land Cover/Use



Source: USDA - Natural Resources Conservation Service  
1997 National Resources Inventory (Revised)

# The Resource Concern

- Over 1900 water bodies and stream segments are listed as impaired from non-point sources of pollution.
- Minnesota is one of 23 states implicated in contributing excess nitrogen to the Gulf of Mexico's dead zone.
- \$238 million is needed to help bring polluting feedlots into conformance with State regulations.

# How we achieve our goals

- BWSR achieves it's goals through its:
  - statutory responsibilities
  - voluntary incentive based programs
  - regulation of wetlands under the wetland conservation act
  - buffer & soil erosion law
  - local government partners

# Statutory Responsibility

- The state soil conservation agency. (M.S. 103B.101)
- Direct private land soil and water conservation programs through the action of SWCD's, counties, cities, townships, Watershed Districts, and Water Management Organizations. (M.S. 103C, 103D)
- To link water resource planning with comprehensive land use planning. (M.S. 103B)
- To provide resolution of water policy conflicts and issues (M.S. 103A.211, 103A.305, 103A.315, 103A.311)
- To implement the comprehensive local water management acts. (M.S. 103B.201, 103B.255, 103B.301)
- To provide the forum (through the board) for local issues, priorities and opportunities to be incorporated into state public policy. (M.S. 103B.101)
- The state wetland conservation act. (M.S. 103G)
- To coordinate state and federal resources to realize local priorities.

# BWSR Assistance to LGUs

- Dispute Resolution
- Technical Assistance and Training
- Financial Assistance
- Intergovernmental Coordination
- Resolution of Water Policy Conflicts

# Soil and Water Conservation Districts: MS 103C

91 SWCDs; 455 Elected Supervisors; 350 District Employees



## BWSR Authorities

- Hear petitions and order formation of, consolidation of and/or division of districts, approve change of location, conduct referendum and order discontinuance of districts.
- Approve changes to nominating districts for elections and hear petitions/order removal of elected supervisors.
- Establish and enforce penalties for violation of grant programs and/or misconduct of supervisors or employees.
- Approve and administer state grants, coordinate programs and activities with state and federal agencies.
- Develop structural land use management practices and other programs designed to achieve soil and water conservation goals.
- Review and approve works of improvement.

# BWSR Programs

- State Cost-share Incentive Program
  - Erosion and sediment control projects
  - Water quality projects
  - Feedlot pollution control systems
- RIM - Reserve
  - Retire marginal agricultural land from production
  - Improve water and soil resources
  - Establish new wildlife habitat
  - Increase public and private investment in long-term resource improvements

# BWSR programs

- State Soils Scientist
  - Increase usefulness of current soils data
  - Updating of outdated soil surveys
  - Digitizing of current soil surveys
- Engineering and Technical Services
  - Design of wetland restoration projects
  - Specialized large lake & coastal engineering
  - Development of standards for soil conservation practices
  - Grants to swcd's for non-point engineering assistance (TSAs)

# BWSR Programs

- Local Water Management
  - Metropolitan Surface Water Management Act (1982)
  - Metropolitan County Groundwater Act (1987)
  - County Comprehensive Local Water Management Act (1985)
  - Provides a framework for local government to prepare, adopt and implement comprehensive water management plans and implement a broad range of activities, including education, inventories and mapping, monitoring, and land and water treatment projects

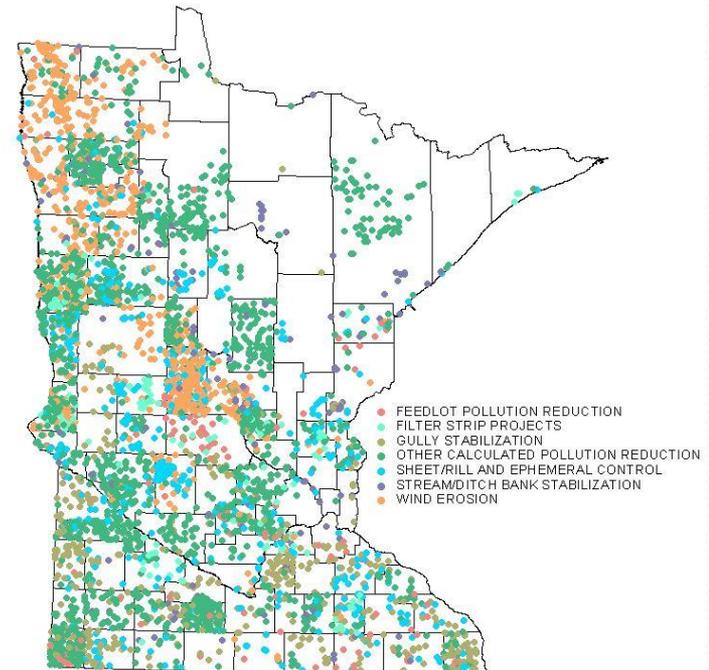
# State Accountability

- Accountability and reporting measures are built into all agency programs
- Responsible to monitor the dollars spent on programs and the resulting outcomes of soil loss reduction, sediment reduction, and phosphorous reduction (E-link)

# Delivering Conservation

- Land and Water Treatment Projects
  - Number of projects 3,763
  - Total Cost \$19,020,000
    - BWSR \$3,430,000
    - Landowner \$4,900,000
    - Federal \$2,165,000
    - MPCA \$2,250,000
    - MDA loans \$2,442,000
    - Local gov. \$1,878,000
  - Soil loss reduction 349,000 tons/year
  - Sediment reduction 59,400 tons/year
  - Phosphorous reduction 131,000 lbs/year

**1998-99 Land & Water Treatment Projects  
by Pollution Reduction Type**



# Does BWSR matter?

- Source of 1/3 of your revenue
- We understand you because we were you
- Together we tell the story of what the conservation money is buying
- Your voice within the Administration



# Parting Thoughts

# You are unique

- State agencies are limited in the amount of work they can do directly with land occupiers to accomplish soil and water conservation protection. In Minnesota SWCD's were created to be a key vehicle to reach out to all land occupiers who need assistance to properly manage their soil and water resources.

# Governance, authorities, financing are key

- Understanding how things are managed is critical to achieving results
- Understanding who manages water is equally important
- Establish and advocating your critical role in:
  - Technical assistance
  - Financial assistance
- Influencing public policy – what are the State's priorities

# What's on the horizon

- MASWCD resolutions
- One Watershed – One Plan Campaign
  - Focused comprehensive watershed implementation plans
  - 10 year transition
- Make it Prioritized, Targeted, and Measureable
- Clean Water Council / Clean Water Funds (2017)
- Buffer law ramp up
- Soil erosion law
- Water storage & treatment

# The Governor's Vision – 2003

- Keep Minnesota's waters clean
- Ensure communities have safe water
- Keep an accurate picture
- Restore the casualties of society's great progress
- Develop effective leadership on water

# Question & Discussion

# Ask: Sources of information

- Supervisor Handbook
- Minnesota Statutes Ch. 103C  
([www.leg.state.mn.us/leg/statutes.asp](http://www.leg.state.mn.us/leg/statutes.asp))
- MASWCD Web-site
- ([www.maswcd.org](http://www.maswcd.org))
- Other managers, staff, consultants
- BWSR staff
- BWSR Web-site ([www.bwsr.state.mn.us](http://www.bwsr.state.mn.us))