November 14, 2012

David J. Frederickson
Commissioner of Agriculture
625 Robert Street North
Saint Paul, MN 55155

Dear Commissioner Frederickson:

The Minnesota Agricultural Water Quality Certification Program Advisory Committee thanks you for the opportunity to make recommendations to this important program. The Advisory Committee understands the challenges facing Minnesota in regards to water quality as well as the importance of a vibrant state agricultural economy. The Advisory Committee members were very dedicated to keeping these two concepts in mind when crafting recommendations for the program.

The Advisory Committee has met for the past five months to develop the requested recommendations. During this time the committee members utilized the expertise, diversity and creativity of the group to come up with novel ideas for this program.

We ask that you strongly consider the attached recommendations of the Advisory Committee when developing the Minnesota Agricultural Water Quality Certification Program.

The MAWQCP Advisory Committee
David Minge, Facilitator

Doug Albin

Dennis Berglund

Nathan Collins

Elizabeth Croteau-Kallestad

Dean Fairchild

Dennis Fuchs

Kirby Hettver

Jim Kleinschmit

Bob Lefebvre

Mike Myser

Doug Peterson

Jim Riddle

Kris Sigford

Tony Thompson

Bill Zurn

MAWQCP Advisory Committee
FINAL RECOMMENDATION

Certification Program Pilot Projects

In this recommendation, the committee addresses five recommendation items regarding piloting the Minnesota Agricultural Water Quality Certification Program prior to consideration of opening the program to statewide participation. These items include: 1) the number of pilot areas, 2) the duration of pilot projects, 3) the size of pilot projects, 4) the characteristics of piloted areas, and, 5) the process to select pilots.

Recommendation:

1) Three pilot areas, to enable samples from three primary agricultural regions of the state: the Northwest, Central/Southwest, and Southeast, with consideration of areas in the Sentinel Watershed program.
2) Three-year duration of pilot projects, to enable diverse sample conditions in weather, production systems, practice implementation, and other factors including emphasis on replication of successful MAWQCP implementation and operation locally.
3) Pilot areas in three regions should target 12-digit HUC, to enable watershed basis for samples while providing opportunity for potential pilot assessment on county basis.
4) Pilot areas should be chosen to represent the characteristics of the three different regions identified for Item 1), and with additional consideration for areas with locally-representative diversity of agriculture (predominate land use types, crops, livestock, water quality goals and resource concerns).
5) In selecting the three pilots, the Commissioner should utilize the framework recommended by the MSTC Certainty Sub-committee as further detailed here (above) by the MAWQCP Advisory Committee.
6) The pilot process should include measurement metrics to establish the qualities needed for a successful program.

MAWQCP Advisory Committee
FINAL RECOMMENDATION

Certification Program Operations

We recommend that Certification should apply to the farm operation. This certification would include all owned crop land, rented and crop share parcels, and livestock components that are included within a producer's operation. The committee recommends that the Commissioner develop a process that recognizes differences between rented and owned land and changes in land ownership. Our committee also recommends that, with the goal of simplicity of administration, the Commissioner consider including farmstead components of certified farms such as septic systems and fuel and input storage. However, we recognize that homestead practices, structures and feedlots are predominately covered under existing regulatory and permit requirements of the State.

The Committee agreed that the following program operation steps should be undertaken during the certification process:

STEP 1: **Initial Assessment --** Committee members agreed that an initial informal assessment be done to determine eligibility or improvements that need to be made to make an operation certifiable. This initial assessment could be done by one of the following:

1). MAWQCP-accredited staff
2). Private individuals licensed as MAWQCP providers, or
3). the farm operator

To enhance efficiency, it was determined that a producer who does not need to implement additional practices to meet the criteria or chooses to implement approved practices without financial or technical assistance, may skip STEP 2, and proceed to the certification process as outlined in STEP 3.

STEP 2: **Technical Assistance --** Once it has been determined through the initial assessment that a producer needs to implement additional practices to meet certification requirements, they will be moved to the technical assistance pool. This pool would allow a producer to receive technical and financial assistance to design and implement the additional practices to meet the criteria of the program. Technical Assistance will be provided by Technical Service Providers through the USDA Natural Resource Conservation Service and/or other qualified professionals as licensed by the Minnesota Department of Agriculture which could include, but should not be limited to, SWCD staff and Certified Crop Consultants.

(cont.)

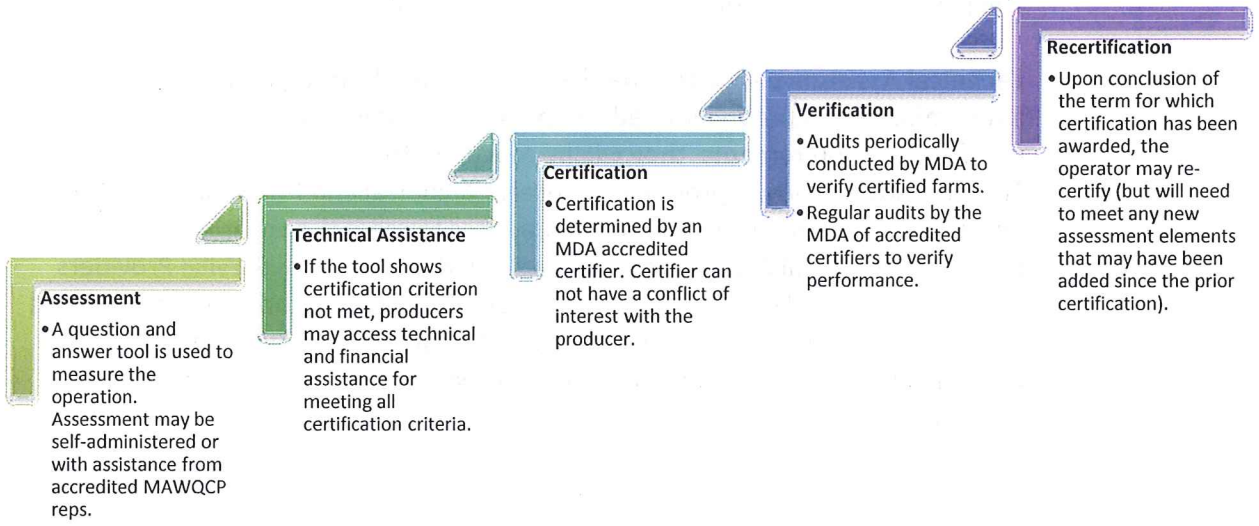
STEP 3: **CERTIFICATION --** The Committee members agreed that formal assessment for certification should be conducted by MAWQCP-accredited public and private personnel as licensed by the Minnesota Department of Agriculture. These "certifiers" would conduct the formal certification assessment to determine whether a producer meets the criteria set forth under the program. The "certifiers" would utilize a measurement tool (further recommendations on the tool are prescribed in a separate recommendation) to ensure consistency in the assessment process.

It was agreed to by the committee that "certifiers" should not have a conflict of interest with the producer. The Commissioner should develop a conflict of interest policy.. The Committee agreed that this policy would promote high confidence in the certification process.

STEP 4: **AUDIT AND VERIFICATION --** The committee members further agreed that the Minnesota Department of Agriculture should establish a process to randomly audit "certifiers" and producers for verification that they are meeting the criteria set forth by the program.

STEP 5: **UPDATES AND RECERTIFICATION --** Upon conclusion of the term for which certification has been awarded, the operator may re-certify (but will need to meet any new assessment elements that may have been added since the prior certification). Further, the committee recommends that the Commissioner should develop a process that takes into account farm operation changes that would affect certification.

The committee offers the following model of the certification program process as described above:



MAWQCP Advisory Committee
FINAL RECOMMENDATION

Certification Program Measurement Tool

The Committee has reviewed the NRCS Water Quality Index tool and the Conservation Measurement Tool that is used for the Conservation Stewardship Program. We unanimously endorse making modifications to these existing measurement tools to meet the needs of the Minnesota Agricultural Water Quality Certification Program. The design and methodology of the Conservation Measurement Tool and Water Quality Index were found to be properly flexible to assess differences in geography and farming systems across the state, in addition to already having demonstrated that they can incorporate new information and innovation in conservation systems. The overall program should support water quality standards and goals.

The committee further emphasizes that the criteria necessary to measure and determine certification must be aligned among the different levels of government and agencies.

In endorsing the measurement tool model with modifications, we recommend that a measurement tool:

1. Integrate any existing regulatory requirements;
2. Maximize technology and prioritize ease of use;
3. Utilize a water quality index or score rather than rigid one-size fits all criteria;
4. Incorporate a process for updates and revisions as practices, management and technology changes become established and approved; and
5. Comprehensively address water quality impacts.

The Committee proposes the following course of action:

A. That the Committee unanimously forward this recommendation to the Commissioner requesting immediate work begin on designing a measurement tool based on the Committee's input and bring a draft tool back to the committee for consideration and input.
B. Further, recommend to the Commissioner that he work with the NRCS Chief to assign a liaison to work with the Minnesota Department of Agriculture and the Committee to provide the software developed for the Conservation Measurement Tool, Water Quality Index, and other measurement products.
C. Request that the Commissioner periodically provide a measurement tool report to the MAWQCP Advisory Committee on findings, developments and other topics for which it can provide additional input.

MAWQCP Advisory Committee
FINAL RECOMMENDATION

Certification Program Certainty

We recommend that "certainty" should be provided to certified farmers for a 10 year term with an optional review at three-year intervals. At the 3 year interval, if a farmer chooses to incorporate approved updates for a re-certification, a new 10-year certainty term shall be established from that date. However, it is the conclusion of the committee that farmers will not be required to seek re-certification at the intervals, and further may alter existing practices and management provided the changes maintain certification eligibility, and retain the existing 10-year certainty term.

The Committee agrees that certainty:

a. is offered by the executive branch of Minnesota state government;
b. is not an exemption from any existing rules or statutes, but certification constitutes compliance with all applicable existing rules or statutes at time of certification;
c. applies to a certified operation's land;
d. requires that the implementation of recommended practices and certification be maintained, but will provide sufficient grace period if extreme weather or other causes beyond the control of the producer temporarily prevent maintaining practices and management for certification;
e. applies only to agricultural or land management practices that could affect water quality; and,
f. does not apply to new requirements resulting from new statutes or court judgments.

Subject to these limitations, certainty means the following:

FOR FARMERS:

1) No new state rules originating from the executive branch pertaining to water quality protection will be applied to certified farms during the period of certification;
2) Certified farms will be considered to be meeting their contributions to any targeted reductions of pollutants during the period of certification; and
3) Certified farmers are recognized as responsible protective stewards of their land and water quality.

FOR THE PUBLIC

1) Assurance that farmers are meeting or exceeding all applicable water quality rules and regulations;
2) Assurance that farmers are committed to achieving water quality goals and standards;
3) Assurance that we will see measurable progress over time; and
4) Guarantees of a public / private partnership to enhance water quality

Further, the Committee recommends that the Commissioner could pursue legislation to develop a statutory standing for certainty, and seek endorsement of MAWQCP by townships and counties.

MAWQCP Advisory Committee
FINAL RECOMMENDATION

Certification Program Data Management

In this recommendation the committee addresses control and maintenance of MAWQCP data. The Committee agreed that some information on a producer and an agricultural operation should be confidential (e.g. business practices, financial records, personal data). Committee members further agreed that aggregate conservation management and practice information not identified by the specific producer or agricultural operation should be publicly reported to enable program analysis and assessment, and establish MAWQCP credibility. The Committee agreed that the public availability of data on conservation management and practice information should continue as governed by Minnesota and Federal law (e.g. Minn. Stat. Ch. 13; Farm Bill Section 1619).

Recommendation:
To achieve the areas of agreement among the committee, and while acknowledging that different public record classifications may apply to potential incentives in a MAQWCP certification process, the Committee established the following recommended practices and principles for MAWQCP data management:

1) MAWQCP Administrators should maintain and make publicly available pursuant to a Data Practices Act request, the following:
    a. A list of certified operations by name;
    b. Date of certification for each operation;
    c. Date certification expires for each operation; and
    d. Date of audits for each operation.

2) Conservation practice and management data should be publicly available on whole program and regional basis separate from operation identity. Program reporting may provide aggregate information, including such information as conservation practices by area or participants, separate from operation identity.

3) Participants should be given the option to be publicly recognized if desired (including via signage, public notice, or other).

4) By roll call vote of the committee, six members recommended the measurement tool data be provided confidential status and be housed and controlled in a private third party entity, three recommended the measurement tool data be provided confidential status and be housed and controlled in a public entity; and four members recommended the measurement tool data be provided confidential status by whatever means will assure confidentiality.

These practices and principles constitute the recommended management of MAWQCP data to most effectively attract participation and enable accountability. Program Administrators should structure the program in accordance with these practices and principles utilizing existing state and federal rules as necessary.

MAWQCP Advisory Committee
FINAL RECOMMENDATION

Certification Program Incentives

We recommend the Commissioner explore and pursue various means to add value and leverage opportunities as incentives for participation in the MAWQCP, and to increase public benefit from MAWQCP. The Committee acknowledges that different incentive devices and strategies may require additional coordination and action by private entities, legislative bodies, etc. Further, the committee recognizes that providing financial incentives faces a greater challenge in the current price environment for agricultural commodities.

The Committee recorded the following items among the possible incentives for the MAWQCP:

1. Developing a property tax credit for participants, noting considerations such as:
    a. Must not result in reduced resources to local government
    b. May assist in generating more interest from landlords
    c. Property tax related programs presently exist, i.e. rural residential rates, Green Acres
    d. May pursue limited provisions such as not increasing property taxes due to installation of conservation practices, or prevent tax increase for a livestock facility
2. Providing Conservation funding/technical assistance priority to participants.
3. Providing recognition to participants, such as:
    a. Peer-to-peer recognition
    b. Public notices, media
    c. Specific recognition component for landlords who give preference to certified operations
4. Developing means for recognition from private and public sector, such as:
    a. Input discounts, i.e. seed discounts from suppliers
    b. Branding MAWQCP through purchasers, processors, and existing label regimens
    c. Credits/market-based incentives, i.e. water retention, water quality sourcing, payments for environmental services, etc.
    d. Opportunities for alignment and coordination with industry certification and marketing programs
    e. Opportunities for credit access preferences and benefits, such as the Ag BMP program
5. Developing streamlined processes in terms of coordinating—or removing if duplicative—administrative, record keeping, and review requirements.
6. Promoting the measurement tool for demonstration purposes to help farmers and the public understand their impact on water quality standards.
7. Developing and promoting partnerships within watershed, i.e. with NRCS, local farm and conservation groups, University, municipalities, etc.
8. Developing crop insurance and liability insurance discounts for participants.
9. Coordinating access to Legacy, foundation, NGO, state, federal and other funding.
10. Implementing an incentive review process for updating and adding incentives.

MAWQCP Advisory Committee
FINAL RECOMMENDATION

Certification Program Promotion

In this recommendation the Committee addresses outreach and promotion for the Minnesota Agricultural Water Quality Certification Program. The Committee provided recommendations for effective promotion in the categories listed below:

Goals of successful outreach:

1. Define the program for agricultural producers and the public.
2. Provide context for the program in terms of identifying water quality concerns and agricultural protection and enhancement activities.
3. Active engagement by stakeholders and recognized influencers in each pilot area (including farmers, producer groups, LGUs, NGOs, agencies, etc.).
4. Create advocates among influencers.
5. Achieve 50% participation of farmers in each pilot area within the term of the pilot.

A. Key points or messages to draw attention and program participation:

1. Participation will increase profitability and maintain and increase water quality.
2. Participation will demonstrate your contributions to water quality without regulatory burden.
3. Participation will provide privacy and not result in any penalty as result of seeking certification.
4. Participation will provide all applicable incentives to an operation.
5. Participation will provide the opportunity to share your story of proactive water quality action.
6. Participation will assist in long term sustainability of the soil and water for future generations.

Challenges to program participation:

1. Over-reach in program delivery or mission creep.
2. Amount of time required to participate.
3. Potential privacy, financial or other loss as a result of participation.
4. Lack of clarity for, or evidence of, useful outcome from participation.

B. Messengers:

1. Crop consultants.
2. Farm service providers and environmental consultants.
3. Federal, state and local agencies.
4. Agricultural organizations including general farm organizations, commodity groups, MAWRC, etc.
5. Other farmers.
6. University extension.
7. FFA, 4H.

C. Modes of delivery:

1. Farm events and agricultural organizations' meetings.
2. County fairs.
3. Local newspapers.
4. Ag radio.
5. Face-to-face networking.
6. Local SWCDs.
7. MAWQCP newsletter (print and email).
8. Target youth