

Minnesota Board of Water and Soil Resources. Minutes.

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Version 3
August 20, 2018

BOARD OF WATER AND SOIL RESOURCES
DEPARTMENT OF AGRICULTURE BUILDING
CONFERENCE ROOM A
90 WEST PLATO BOULEVARD
ST. PAUL, MINNESOTA 55107
JANUARY 25, 1989

AGENDA

9:00 a.m.	1. Call to Order
	2. Adopt Agenda
	3. Approve Minutes of December 28, 1989
	4. Chairman's Report - Donald Ogaard
	5. Executive Director's Report - Jim Birkholz
	6. EQB/Water Resources Committee Report - Loni Kemp • January 5, 1989 meeting
10:00	7. Comprehensive Water Resources Protection Act of 1989 • Briefing on current status including Article 3, Local Water Resources Protection and Management Grants • Briefing on Article 1 - MPCA • Briefing on Article 4 - MDH • Schedule of Winter Workshops
11:00	8. Comprehensive Local Water Planning • Project Manager's Report - Molly McGregor, Mississippi Headwaters • BWSR Plan Review guidelines - Greg Larson
	9. Advisors' Comments
Noon	Lunch
1:00 p.m.	10. RIM Update - Wayne Edgerton
1:30	11. U.S. Army Corps of Engineers - Proposal to Require Individual Permits for Dredge and Fill Activities in 51 Minnesota Counties - Ben Wopat, Chief of Regulatory Branch
2:00	12. Farmers Home Administration Easement Program - Brian Petrucci, American Farmland Trust and Cooperating Agencies
3:30	Adjourn
	Tour of BWSR Office

MINUTES OF JANUARY 25, 1989
OF THE
BOARD OF WATER AND SOIL RESOURCES

Appointed Members in Attendance
Donald Ogaard
John Williamson
John Boulton
Don Warner
Loni Kemp
Eugene Kalmes
John Brooks, Jr.
Howard Peterson
William Cofell
Jack Graba
Natalie Haas-Steffen
Ken Schellack
James Hoese
Loren Harste
Doug Bade

Appointed Member Absent
Lowell Moen

Others in Attendance
Mike Robertson, Minnesota Pollution Control Agency
Paul Burns, Minnesota Department of Agriculture
Sarah Tufford, Minnesota Department of Natural Resources
Dr. Valentine O'Malley and Mick Finn, Minnesota Department of Health
Dwain Otte and Mary Peterson, Minnesota Association of Soil and Water Conservation Districts
Nels Nelson, Baar Engineering
Dr. Bill Larson, University of Minnesota/Extension Service
Franklin Denn, Minnesota Association of Townships
Al Dornfeld, Minnesota Association of Watershed Districts
Gary Nordstrom and John Edwards, Soil Conservation Service
Marilyn Lundberg, State Planning Agency
Jim Piegat, Hennepin Soil & Water Conservation District
Judy Erickson, Erickson and Associates
Ben Wopat, U.S. Army Corps of Engineers
Brian Petrucci, American Farmland Trust, Chicago
Jim Moen, Farmers Home Administration
Molly McGregor and Dale Krystosek, Mississippi Headwaters
Brian Christenson, E.A. Hickok and Associates
Eric Nelson and Tex Hawkins, Fish and Wildlife Service

Staff Present
Jim Birkholz
Pat Bloomgren
Mel Sinn
Greg Larson
Dave Behm
Denice DeFrates
Wayne Edgerton
Steve Miller
Tom Wenzel
Mary Jo Anderson

Meeting Called to Order - Chairman Ogaard called the meeting to order at 9:00 a.m. in Conference Room A of the Minnesota Department of Agriculture Building, 90 W. Plato Boulevard, St. Paul, Minnesota.

89-01 **Adopt Agenda** - Moved by Cofell, seconded by Bade, to adopt the agenda as presented. Affirmative: Ogaard, Boulton, Williamson, Kalmes, Bade, Schellack, Hoese, Brooks, Jr., Harste, Peterson, Graba, and Cofell. Opposed: None. Carried.

Natalie Haas-Steffen arrived at 9:05 a.m.

Approval of Minutes of December 28, 1988 - Eugene Kalmes noted that there is a change on page three regarding the Incinerator issue, the location is LaCrosse, rather than Eau Claire. Bill Cofell noted that a change is needed on page two regarding motion #88-175, Cofell should be listed in the Affirmative. Howard Peterson noted that on page five, regarding motion #88-176, Peterson should be
89-02 listed in the ~~Affirmative.~~ Opposition Moved by Cofell, seconded by Bade, to approve the minutes of December 28, 1988, as corrected. Affirmative: Ogaard, Boulton, Williamson, Kalmes, Bade, Schellack, Hoese, Haas-Steffen, Brooks, Jr., Harste, Peterson, Graba, and Cofell. Opposed: None. Carried.

Chairman's Report - Chairman Ogaard reported that three board members, Don Warner, Jack Graba, and Natalie Haas-Steffen have been reappointed to the Board of Water and Soil Resources. Chairman Ogaard reported that he and Pat Bloomgren attended the Governor for a Day on January 24th in Rochester. Don stated that the participants in the local water planning effort in the southeast area are doing an excellent job, and they need to be commended for this. Chairman Ogaard reported that the MASWCD held a legislative breakfast on January 24th at the Holiday Inn-Capitol with district supervisors and legislators. He stated that very good discussions took place.

Don Warner entered the meeting at 9:10 a.m.

Chairman Ogaard reported that he and Jim Birkholz attended the Association of Minnesota Counties annual convention on January 23rd. He felt that there was alot of interest shown on the legislative issue of water management. Don attended the Environmental Quality Board meeting. There was a debate about genetic engineering regarding corn plot research and who should do the environmental review process. Paul Burns reported that an Environmental Assessment Worksheet is needed before they can proceed on this issue. The Department of Agriculture will be the lead agency.

Loni Kemp arrived at the meeting at 9:12 a.m.

Chairman Ogaard distributed a report he made, "Summary of the Deliberations of the BWSR Metropolitan Drainage Law Review Panel" for the board's review. Chairman Ogaard would like comments from the board members on this issue and will proceed to get the new panel together. Natalie Haas-Steffen had some comments from AMC to add to Chairman Ogaard's summary. Chairman Ogaard commended Mel Sinn for doing such an excellent job on the revised model watershed district annual report.

Executive Director's Report - Jim Birkholz introduced Dave Behm, the board's new Land Use Specialist. Dave will be managing the Soil Loss Limits program. Jim reported that the water planning 509 hydrologist position has been reclassified from a Hydrologist II to a Hydrologist III. That person will be hired shortly. Jim reported that effective January 23rd, one of the three 110B hydrologist

positions is vacant. John Fax has taken a position with the Department of Natural Resources. Jim reported that the grant agreements for cost-share rollover allocations are being sent to SWCDs. Don Warner will be working with staff on the Lutsen golf course cost-share issue to resolve funding for that project. Jim stated that a New Supervisors' Orientation session will be held on January 26-27 at Cragun's in Brainerd. The bookkeeping close-out sessions will be held statewide in February by State Auditor's Office. On January 12th, Jim and staff met with and briefed Senator Durenberger and his staff on BWSR programs and our role as an agency. Jim stated that the Governor's budget is to be released today so budget hearings will be scheduled in February.

EQB/Water Resources Committee Report - Loni Kemp reported that the EQB/Water Resources Committee met on January 5th. The panel has met twice on the groundwater strategy. $13 million is possibly in the budget for this, which will be coming out in the Governor's budget report. Loni reported that the WRC considered three options to deal with the nitrate issue in the groundwater strategy: 1) Call for the appropriate agency to do a nitrate program; 2) Develop a nitrate management approach to deal with the problem; and 3) Set up a task force to study the issue. The Water Resources Committee then voted on the options and chose Option #2 - to develop a nitrate management approach. This option will be further discussed by the Water Resources Committee. Loni suggested that the BWSR may want to discuss the liability proposal on chemical use at a later date. The legislative sponsors for this bill have not yet been set. Ken Schellack felt that the options should be looked at more closely rather than making this regulatory. Chairman Ogaard ~~felt~~ stated that applying best management practices on sugar beets ~~can~~ has lowered the use of nitrogen and produced higher yields of extractable sugar.

Comprehensive Water Resources Protection Act of 1989 - Jim Birkholz distributed copies of the updated summary of the act prepared by the State Planning Agency. The bill is ready to enter into the legislative process. Senator Steve Morse introduced his own bill today in the Senate and has made it consistent with Senator DeCramer's bill on recodification of water laws. Representative Willard Munger will carry the administration bill in the House.

Mike Robertson, MPCA, explained Article I regarding protection of groundwater, with the lead agency being MPCA. He explained that "PCA is the lead on Article I which is sometimes called the PCA article, but it clearly goes much beyond our agency. It sets the general policy both for the rest of the bill and the rest of the statutes as to how the state looks at its groundwater resource. The key element of this article is to put in to statute the goal of nondegradation. This is a goal that currently exists in PCA water quality standards but in elevating this goal to statute a statement is made by the legislature that pollution prevention is the focus of all of our programs. Talking about the goal of nondegradation has caused concern because there are activities that do occur in human life that will mean, in some situations, that we are not going to be able to prevent pollution from entering into the groundwater. So the nondegradation goal is set up to be realistic and flexible and to recognize that for certain situations, this nondegradation goal cannot be practically achieved. Then the question is how do you take that goal and try to make something practical of it, and the next step that is in Article I is to establish some kind of pollution limit. The proposed legislation that directs the PCA to establish a process to develop water quality standards. The proposed standards will be based upon drinking water standards developed by the Health Department and any other environmental considerations that may be appropriate. One of the key things

to this legislation is that one of the real changes that is occurring in state policy is that all units of government and agencies of the state have some impact on groundwater (by regulating or in some way controlling, or overseeing some kind of activity) are now going to be responsible and involved in this concept of preventing pollution to our groundwater. Other areas addressed in Article I include: expanding Environmental Quality Board's coordinating functions in monitoring, data collection and management, and in developing criteria for sensitive area delineation.

Dr. Valentine O'Malley, Department of Health, briefed the board on Article 5, Water Supply Monitoring and Protection. Dr. O'Malley explained that this article is aimed at protecting drinking water. It provides for expanded testing of public water supplies that is required under the federal Safe Drinking Water Act and pays for this testing through service connection fees. The bill also provides for a greatly expanded water well construction program. New civil penalties are instituted as well for well drillers. In addition, there is a requirement for disclosure of each well at the time of property transfer. Under the bill, a permit and fee would be required for new wells. Dr. O'Malley distributed "Proposals for Alternative Funding for Water Supply Monitoring and Surveillance in Minnesota", "Water Well Management in Minnesota", and a brochure entitled "Abandoned Wells" for the board's information. Dr. O'Malley discussed with the board the proposed amendments to Minnesota Statutes, Chapter 156A, Water Wells and Exploratory Borings.

Jim Birkholz stated that other agencies would be invited to report at the February meeting on the articles they are responsible for. He asked that board members contact him if they have any comments or questions on Article 7, the Local Water Resources Protection and Management Program. Jim distributed a schedule of winter workshops and selected sites for the "Big Water Bill" public informational meetings. A sign-up sheet was distributed for members to select which session they would like to attend. Briefing information will be provided to members for these sessions. Natalie Haas-Steffen suggested rescheduling the metro area session because that date would be conflicting for county commissioners who will be in Washington for their national convention, which is March 2 - 7.

Comprehensive Local Water Planning - Greg Larson distributed a handout on BWSR plan review guidelines. Greg encouraged board members to comment on the proposed plan review process. Staff will proceed with the plan to inform project managers, and as issues arise they will be addressed.

Project Manager's Report - Molly McGregor, Administrator of the Mississippi Headwaters Board, distributed a summarized report to the board on the progress of the eight counties of the Mississippi Headwaters Board (Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison Counties) on the development of Comprehensive Local Water Plans. Ms. McGregor stated that reaction to the local water planning effort has been positive within the Mississippi Headwater counties. Each of the member counties has developed individual processes for conducting the planning process. Each county has convened a citizen task force consisting of a representative of the soil and water conservation district, a representative of the county's townships, a representative of the county planning commission, a representative of the board of commissioners and a representative of the county's municipalities. Each county has designated a county project manager for local water planning, of which six of those are district managers of the local soil and water conservation district and the two others are assistant

zoning administrators of the county. Each of the eight counties is in the final stages of the data assessment, with counties beginning the policy portion of the plan. The Mississippi Headwaters Board holds meetings bimonthly with county project managers. Ms. McGregor thanked the Board for their support and direction on the local water planning efforts. Dale Krystosek, project manager from Beltrami County, distributed an "Overview of Water Planning Process for Beltrami and Clearwater Counties" and also a "Groundwater Policy Paper from Beltrami County" for the Board's information. Mr. Krystosek showed the board the various types of maps that can be produced by using the Apple 7, showing technical data and how it can be managed. He discussed the highlights of the water planning process, stating that the updated 1987 land use by SWCDs at 2.5 acre cell level; development of a GIS for use in the water planning process, and for long term monitoring of land and water resource trends; creation of a computerized, spatial database for other data items; formulation of specific implementation strategies, with activities, timelines, implementation agencies, costs, and funding sources; and publication of an executive summary in booklet form in addition to the full plan. Brian Christensen, E.A. Hickok and Associates, contracted with Aitkin and Itasca counties to provide planning services. He stated that task forces have been set up and assigned specific issues to work on. The people are concerned about water. Itasca County has completed their review process and are now writing the plan. They are proceeding quite well and will hopefully be completed in the next few months. The plans are for the local units of government for implementation. Mr. Christensen had draft inventory and assessments available for board members to review during the lunch hour today. Chairman Ogaard thanked Ms. McGregor, Mr. Krystosek, and Mr. Christensen for coming in before the board today.

Chairman Ogaard adjourned the meeting for lunch at 12:15 p.m. The meeting reconvened at 1:15 p.m.

Advisors' Comments - Gary Nordstrom, SCS, distributed a brochure, "Make Your Move Now" in regard to the Farm Bill. Gary stated that soil and water conservation districts will be receiving a publicity packet on this. The next CRP sign-up is schedule for February 6-24. He stated that two new provisions have been made available for this sign-up, which are: 1) wetlands eligibility; and 2) cross-over flooding areas for planting back to trees. Gary stated that Minnesota is sixth in the nation with a potential 1.6 million acres to be enrolled.

Dwain Otte, MASWCD, thanked everyone who attended the MASWCD legislative breakfast yesterday at the Holiday Inn-Capitol. The MASWCD met on January 23rd and they are in support of the Board's budget. Dwain report that he will be attending the National Association of Conservation Districts annual convention in Salt Lake City, Utah, February 4-9, 1989. He reported that Bob Wetherbee from Minnesota is the newly elected president of NACD. Dwain and Mary Peterson will be attending the new supervisors' orientation next week in Brainerd.

Franklin Denn, Minnesota Association of Townships, thanked the board for having two staff hydrologists attend their meeting last week.

Dr. Bill Larson, University of Minnesota Extension Service, stated that Extension Service staff would be happy to attend a future board meeting to explain some of the Extension Service's programs.

U.S. Army Corps of Engineers - Proposal to Require Individual Permits for Dredge and Fill Activities in 51 Minnesota Counties - Ben Wopat, Chief of Regulatory Branch. Mr. Wopat briefed the Board on the U.S. Army Corps of Engineers, stating that in 1972, congress passed the federal Water Pollution Control Act Amendments of 1972. It was at that time the Corps of Engineers through Section 404, was to regulate the discharges of dredge and fill materials into waters of the United States. The Corps decided they would only apply to the water that they had regulated, that was Section 10 waters, which is navigable waters in the United States. This resulted in a lawsuit, and the Corps was ordered by the courts to expand its jurisdiction to all waters of the United States. The Corps then adopted a nationwide permit program. This program was intended to issue a general permit at the national level. Any activity which meets limited criteria would then be automatically permitted at the national level. The limited criteria included size-limitation factors. If the area was less than ten acres it was issued a nationwide permit, if it was greater than ten acres it requires an individual permit. In 1982, the ten acre limitation was dropped. The intent was any water body no matter what size, if it was isolated or above the headwaters, would not require an individual permit.

The USACoE was then sued by 16 departmental agencies and the EPA was sued also. As a result of that, the present nationwide permit system was developed. If you have a wetland that is less than one acre in size, no permit is required from the Corps. If you have one that's greater than ten acres it automatically requires an individual permit. The area between one and ten is a questionable area, and that's the area that the Corps is dealing with in an attempt to address their public notice. In all previous cases, higher administration (Division Engineer) in the Corps had required site specific permits for one to ten acre wetland areas. Checking with higher administration often took 20 days. So to avoid the process, the Corps had proposed to require automatically individual permit for anything between the one and ten acre. This would have speeded up the process and administrative hassle. Unfortunately, that wasn't clear in their public notice. All it did was affect the one to ten and did away with the predischarge notification and coordination process. The intent was to enable the Corps to go immediately to the public interest review and take off at least 20 days and considerable manpower effort in doing the coordination. It has not been interpreted that way. Some people were outraged.

The Corps can decide to forget the whole process, in which case the Corps will continue with the present method, or go ahead with the project and the division engineer will decide that it is in the best interest of the resource end of the program to modify the nationwide permit and require prairie pothole projects between one and ten acres to automatically go into the individual permit review process. Mr. Wopat stated that no matter what decision is made, public meetings will be held in the western part of the state to explain the program. If the decision is made to go forward with the proposal and require individual permits, then there must be public hearings which are formal forums, and will also be public meetings. Discussion followed. Moved by Williamson, seconded by Haas-Steffen, to send a letter out regarding the U.S. Army Corps of Engineers public notice and proposal to change the rules of permiting authority of the Clean Waters Act 404. Affirmative: Ogaard, Boulton, Williamson, Warner, Kalmes, Bade, Schellack, Hoese, Haas-Steffen, Brooks, Jr., Harste, Peterson, Graba, Kemp, and Cofell. Opposed: None. Carried. Chairman Ogaard thanked Mr. Wopat for coming in before the Board today.

89-03

Farmers Home Administration Easement Program - Jim Birkholz introduced Brian Petrucci from the American Farmland Trust office in Chicago. Mr. Petrucci referred to the FmHA easement program, sections 1314 and 1318. Mr. Petrucci stated that section 1314 deal with conservation agencies (federal and state) assuming easement responsibility for marginal and other farmland. Local soil and water conservation districts have an opportunity to participate in this program. Section 1318 refers to conservation easements being used to restructure FmHA loans. Jim Moen, FmHA in St. Paul, stated that this is a one-step-at-a-time program, which has made progress. The conservation easements are part of the debt restructing program. An easement review team needs to be established. FmHA is asking for support from the Board on this program. John Williamson proposed a memorandum of understanding between the BWSR and FmHA, to assist county offices determine land to be considered. Williamson whole-heartedly supports this conservation easement program with the involvement of federal and state units of government. This would be an excellent opportunity for cooperation and good working relationships. Jim Birkholz felt that the local RIM screening committees could become involved in this program. Discussion followed. Moved by Kemp, seconded by Williamson, 89-04 that the BWSR develop a memorandum of understanding with the FmHA/F&WS, SCS, and encourage soil and water conservation districts to review, facilitate, and implement the program (this would be at the SWCDs' option of becoming involved). Affirmative: Ogaard, Boulton, Williamson, Kalmes, Bade, Schellack, Brooks, Jr., Harste, Peterson, Kemp, and Cofell. Opposed: Graba. Carried.

RIM Update - Wayne Edgerton distributed a summary of the 1988 RIM reserve sign-up totals for the board's information. Wayne reported that 199 applications have been received totaling approximately $4.3 million. There is approximately $900,000 not committed to be used for replanting and reseeding due to the drought. The BWSR will be receiving information on specific numbers in February for action.

Eugene Kalmes was concerned with the issue of SWCD consolidation as it is stated in the law written in 1938. He felt that this issue should be addressed as there have been many changes since that time and Chapter 40 should be updated.

89-05 Moved by Graba, seconded by Schellack, to adjourn the meeting at 3:50 p.m. Affirmative: Ogaard, Williamson, Kalmes, Bade, Schellack, Brooks, Jr., Harste, Peterson, Graba, Kemp, and Cofell. Opposed: None. Carried.

Sincerely,

Donald Ogaard

Donald Ogaard
Chairman

Summary of the Deliberations
of the BWSR
Metropolitan Drainage Law Review Panel

January 25, 1989

At its July 27, 1988 meeting the BWSR resolved to have its Chairman appoint a special panel to review the laws governing metropolitan drainage issues and to report recommended changes back to the full Board.

A Metropolitan Drainage Law Review Panel was established and met for the first time on October 19, 1988. Panel members were: Earl Gnan, Carver County Commissioner; Gerald Sande, Rice Creek Watershed District Manager; Steve Munstenteiger, Private Attorney; Marcel Jouseau, Metropolitan Council staff; and Dave Milles, DNR staff.

At its initial meeting the Panel agreed that:

- The Drainage Code, Chapter 106A, can effectively serve agricultural drainage needs and should not be amended to resolve problems unique to the Metropolitan Area;

- The Metropolitan Water Management Act (509) was the most appropriate mechanism to use to address metropolitan drainage issues; and

- BWSR staff should examine the potential for 509 to serve as an alternative to Chapter 106A in managing metropolitan drainage systems.

BWSR staff subsequently drafted a paper for the Panel which concluded that 509 "...allows WMOs to fit their drainage system needs into a comprehensive watershed management plan and to implement projects using the Act's authorities." Before the Panel met again to consider staff's findings, Senator Greg Dahl brought up a number of related issues and expressed interest in bringing them before the Panel.

The Panel held its second meeting on January 19, 1989 with guests from the Coon Creek Watershed District and Senator Greg Dahl. Panel members Gerald Sande and Marcel Jouseau, and Coon Creek Watershed District attorney Harold Sheff, expressly concurred with the staff's findings and conclusions regarding 509. Steve Munstenteiger stated that local drainage authorities must begin to view their drainage systems as any other "public utility" they manage and start applying professional management concepts to them. Senator Dahl discussed several related issues that he was concerned about, including: better public information and constructive policy debate about metropolitan water management projects; more efficient procedures for implementing needed projects; more equitable methods for allocating project costs;

and increased accountability for appointed watershed district managers. The Panel engaged in a lengthy discussion of these issues, particularly in reference to past activities in the Coon Creek Watershed District.

The Panel reached a concensus that:

- An expanded committee or task force should be established that includes representation of each of the major players in metropolitan water management, including the Legislature; and

- That the expanded group should study the laws governing metropolitan water management in a comprehensive manner and make recommendations for changes in the law prior to the 1990 legislative session to better assure fair, effective, and efficient local water management in the Metropolitan Area.

Various options for organizing the expanded group were discussed. It was agreed that Chairman Ogaard and Senator Dahl would speak to Senator Roger Moe and the Governor's Office about the idea before proceeding.

Respectfully Submitted,

Donald Ogaard

Donald Ogaard
BWSR Chairman

Minnesota Board of Water & Soil Resources

Southbridge Office Building
155 South Wabasha Ave., Suite 104
St. Paul, Minnesota 55107

(612) 296-3767

January 17, 1989

TO: Board of Water and Soil Resources Members, Staff, and Advisors

FROM: Jim Birkholz, Executive Director

SUBJECT: January 25, 1989 BWSR Meeting

Attached is the preliminary agenda and informational material for the January 25th board meeting. The meeting will start at 9:00 a.m. in Conference Room A of the Department of Agriculture Building, 90 W. Plato Blvd., St. Paul, Minnesota. I would like to call your attention to the following items related to the agenda:

- Comprehensive Water Resources Protection Act of 1989. We will review the current status of the bill and look specifically into the details of specific articles. The schedule of winter workshops on the big water bill should be available for the board meeting.

- Comprehensive Local Water Planning. This month Molly McGregor will report on the experiences of the Mississippi Headwaters Group of Counties. Greg Larson will also present the staff draft of plan review guidelines for discussion and decision. As discussed at past meetings, the plan review guidelines will be provided to 110B counties in an effort to ensure that optional items not required by either law or rules are considered in the planning process. Project managers have requested this additional information. Potentially, this information can make the difference between a good plan and a great plan. Because of the time needed to generate the guidelines, Greg will be sending a supplemental mailing to you following this notice.

- U.S. Army Corps of Engineers Proposal to Require Individual Permits for Dredge and Fill Activities in 51 Minnesota Counties. The deadline for requesting a hearing on this matter expired January 12. Corps of Engineers staff will be at the meeting to describe what is planned and provide information relevant to any hearings which may be scheduled.

Regional Offices

Northwest Region
1819 Bemidji Ave.
Bemidji, MN 56601
218-755-3963

Northeast Region
Government Service Center
320 W. 2nd Street
Room 603
Duluth, MN 55802
218-723-4752

West Central Region
611 Iowa Avenue
Staples, MN 56479
218-894-1692

South Central Region
Box 756
New Ulm, MN 56073
507-354-2196

Southeast Region
Friedell Bldg., Room 100
1200 S. Broadway
Rochester, MN 55904
507-285-7458

Southwest Region
Box 111
1400 E. Lyon Street
Marshall, MN 56258
507-537-7260

East Central Region
Southbridge Office Building
155 South Wabasha Ave., Suite 104
St. Paul, MN 55107
612-296-3767

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- Farmers Home Administration Easement Program. Staff from the American Farmland Trust and various agencies cooperating on this easement program will be at the board meeting. The intent is to discuss the easement program and to gather information on other state's experiences with the program. Further direction from the BWSR would help to expedite the easement program in Minnesota.

Please contact myself or Chairman Ogaard if you require any additional information or if you have any additional agenda items. Please travel safely. I look forward to seeing you on January 25th.

JB:mja
Enc.

BOARD OF WATER AND SOIL RESOURCES
DEPARTMENT OF AGRICULTURE BUILDING
CONFERENCE ROOM A
90 WEST PLATO BOULEVARD
ST. PAUL, MINNESOTA 55107
JANUARY 25, 1989

PRELIMINARY AGENDA

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2:00	11. Farmers Home Administration Easement Program - Brian Petrucci, American Farmland Trust and Cooperating Agencies
3:30	Adjourn

GARY DeCRAMER
Senator 27th District
Ghent, Minnesota 56239
Phone: (507) 428-3578
and
Room 303 State Capitol
St. Paul, Minnesota 55155
Phone: (612) 296-6820

JAN 11 1989

Senate

State of Minnesota

January 9, 1989

MEMORANDUM

TO: Participants in the Water Law Recodification

FROM: Senator Gary DeCramer GDC

Attached is a document which I submitted to members of the Minnesota Senate regarding Senate File 60.

Thank you for all of your help in bringing us this far in the process and I urge you to contact my office and arrange for a meeting if you wish to review with me your concerns regarding this legislation.

gdc

Attachment

GARY DeCRAMER
Senator 27th District
Ghent, Minnesota 56239
Phone: (507) 428-3578
and
Room 303 State Capitol
St. Paul, Minnesota 55155
Phone: (612) 296-6820

Senate
State of Minnesota

January 9, 1989

TO: MEMBERS OF THE MINNESOTA SENATE

FROM: SENATOR GARY DECRAMER GDC

RE: S.F. 60: RECODIFICATION OF MINNESOTA'S WATER STATUTES

I. Explanation of S.F. 60:

S.F. 60, introduced today, is the culmination of a three-year project to recodify the water law into understandable and readable chapters. The recodification clarifies and re-organizes provisions relating to: water planning; water project implementation; water project districts, including soil and water conservation districts, watershed districts, and drainage systems; water resource protection through land use regulation and management; and regulation of the use of and activities affecting waters of the state.

There are no new provisions in S.F. 60, just recodification of existing law. Some provisions may appear new, however, because they are properly placed within subject categories with headings rather than being buried within pages of unstructured paragraphs.

1989 is shaping up to be a year of major environmental concerns related to the quality and quantity of Minnesota's surface and ground water. As a number of us (see attached list) began to examine what Minnesota's current water laws already provide for, we found: contradictions and conflict in existing water policy; we discovered that related water provisions are widely distributed throughout various chapters; we found major water policy questions, such as ground water protection, unaddressed; and there exists archaic and legal terminology that is more confusing than meaningful.

COMMITTEES • Vice Chairman, Transportation • Agriculture • Chairman, Agriculture Resources Subcommittee • Education • Education Aids • Finance

II. Reason for S.F. 60:

I have frequently been asked, if there are no new provisions in the bill, why pass it. Part of the reason is the same reason we pass revisor's bills each year; that is, the ongoing need to update and clarify the statutes, rewording antiquated phrases in plain English without heretofore's or whereinafter's. However, the need for reorganization is critical as the legislature begins new water planning, use, and protection strategies for the 1990's. When Minnesota Statutes were organized in 1945, the provisions relating to water were contained in chapters 105 to 114 consisting of state, county, township and judicial drainage, dams and water level control, irrigation, and boundary water management. In 1947, the provisions relating to construction and operation of state drainage ditches was repealed and about 20 sections of law were coded into chapter 105 relating to water conservation and use to be administered by the Division of Drainage and Waters. Since that time, provisions relating to water have been coded into the chapters characterizing where the state agency or political subdivision has jurisdiction. The result has been a scattering of water provisions that extends from volume one through volume eight of Minnesota Statutes. A further consequence is a haphazard approach to water management and regulation with overlapping authorities and jurisdictions, as well as regulatory and enforcement gaps which frequently leave persons trying to understand the water law in a state of bewilderment. Water does not have jurisdictional boundaries, and successful planning, arrangement, and legislation will have to address water as a single topic.

S.F. 60 reorganizes water law as a single subject in the same manner mineral laws, game and fish laws, road and transportation laws, and other subject areas are organized into one topic area. The water law is reorganized into seven chapters: 103A - Water Planning and Information; 103B - Water Planning and Project Implementation; 103C - Soil and Water Conservation Districts; 103D - Watershed Districts; 103E -Drainage Law; 103F - Protection of Water Resources; and 103G - Waters of the State (see attached flow chart).

The water law recodification is particularly necessary as the legislature considers significant water legislation. As new programs are enacted, existing programs should be re-evaluated and updated or repealed. For example, in reviewing a draft of the Environmental Quality Board's proposed water legislation, I notice several sections overlap existing law, yet no provision is made to repeal or amend the existing authorities, and the provisions are coded in yet another three new chapters and several other sections throughout the statutes.

III. Process

The recodification has had substantial review with soil and water conservation districts, the Board of Water and Soil Resources, the Division of Waters and their attorney general, each reviewing and submitting comments on their particular provisions. Although I am not aware of any substantive changes - every effort has been made and will be made to see that there are no substantitve changes in the recodification. S.F. 60 is intended to be a nonsubstantive recodification and substantive amendments should be made in other bills. Appropriate amendments to S.F. 60 will not alter existing policy. There is great need to make changes in existing water policy, however, S.F. 60, to retain its integrity as a recodification, should not be the vehicle for changes to existing water policy.

S.F. 60 will be heard first by the Joint Environment and Natural Resources and Agriculture and Rural Development Committee. The bill will then be directed to the policy committees.

If errors or omissions are detected in the text of S.F. 60, if existing policy is inadvertently changed, or if you would just like to visit with me to review S.F. 60, please feel free to contact me. There are several years of work that have led up to the introduction of S.F. 60, and thanks is due to all those who have helped in preparing for this bill's introduction.

gdc

Attachments

GARY DeCRAMER
Senator 27th District
Ghent, Minnesota 56239
Phone: (507) 428-3578
and
Room 303 State Capitol
St. Paul, Minnesota 55155
Phone: (612) 296-6820

Senate
State of Minnesota

January 9, 1989

These were the people representing various interest groups who were involved in the recodification.

Judith Ball * Minnesota Department of Health

Patt Becker * Administrative Assistant, Senate Ag Committee

Kimberly Benson * Minnesota Department of Agriculture

Jim Birkholz * Board of Water & Soil Resources

Bill Bulger * Minnesota Department of Agriculture

Paul Burns * Minnesota Department of Agriculture

Senator Chuck Davis

Representative Steve Dille

Jack Ditmore * State Planning

Allen Dornfeld * Minnesota Watershed Districts

Larry Foote * Minnesota Department of Transportation

David Fricke * Minnesota Association of Townships

Ann Glumac * Committee Administrator, House Environment Committee

Mark Hanson * Senate Counsel

Ron Harnack * Division of Waters, Department of Natural Resources

John Helland * House Research

Marcel Jouseau * Metropolitan Council

Greg Knopff * Senate Research

Greg Larson * Board of Water & Soil Resources

Dave Milles * Division of Waters, Department of Natural Resources

Ron Nargang * Division of Waters, Department of Natural Resources

Mary Peterson * Minnesota Association of Soil & Water

Bob Pigeon * Area III Soil & Water Conservation District

Mike Robertson * Minnesota Pollution Control Agency

Mel Sinn * Board of Water & Soil Resources

Frank Swedzinski * Lincoln County Board of Commissioners

Tim Scherkenbach * Minnesota Pollution Control Agency

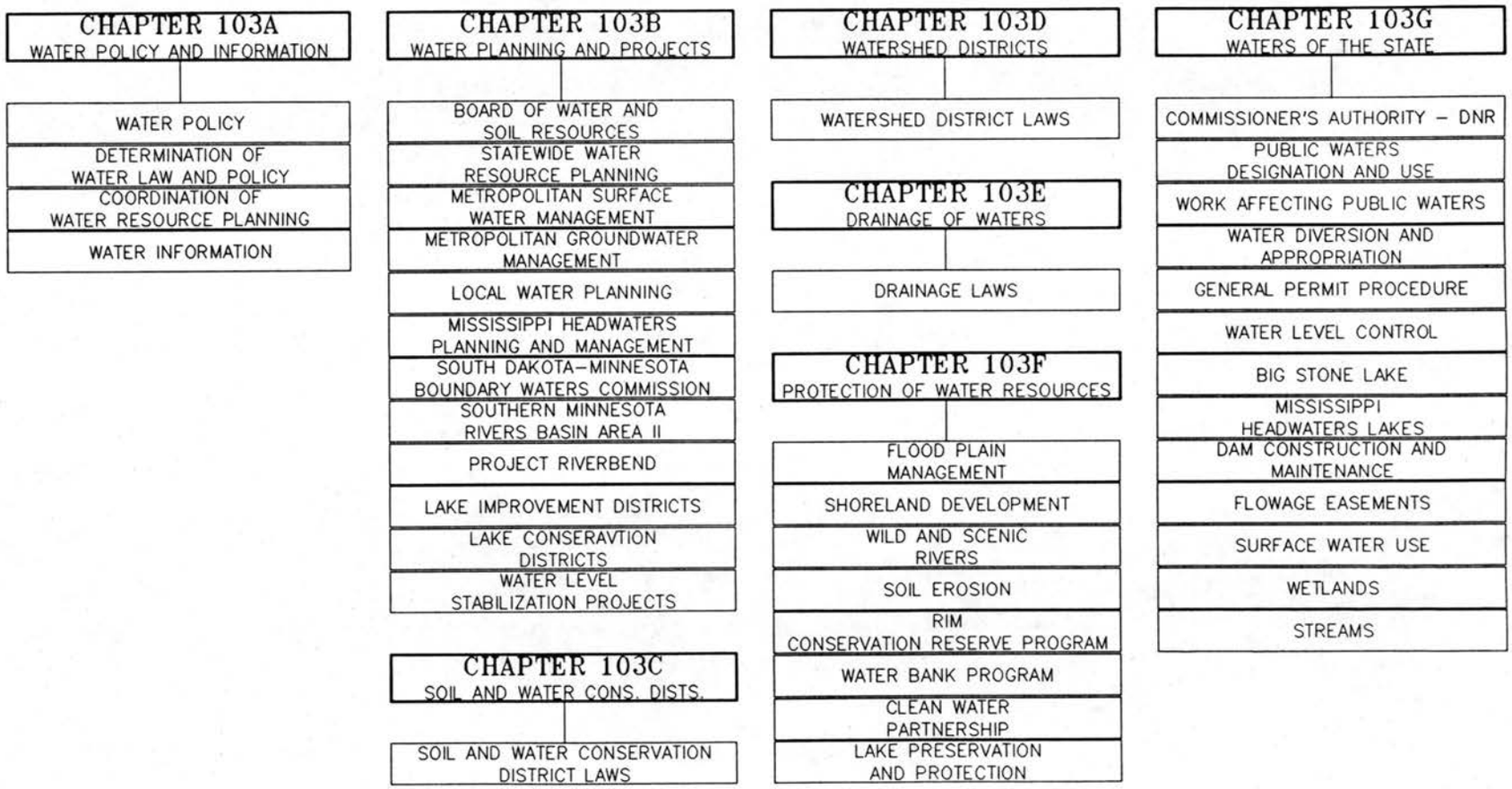
Dave Weirens * Association of Minnesota Counties

John Wells * State Planning

Nelda Westerlind * Cook County Soil & Water Conservation District

PROPOSED WATER LAW RECODIFICATION

SENATE FILE 60 (89-0843)



SOURCE: SENATE RESEARCH
1-09-89

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

MINUTES OF THE MEETING HELD
DECEMBER 28, 1988

Appointed Members in Attendance
Donald Ogaard
John Boulton
Don Warner
Eugene Kalmes
Douglas Bade
John Brooks, Jr.
Loni Kemp
Howard Peterson
William Cofell
Lowell Moen
Jack Graba
Natalie Haas Steffen
Ken Schellack
James Hoese
John Williamson

Appointed Member Absent
Loren Harste

Others in Attendance
Paul Burns, Minnesota Department of Agriculture
Ronald Nargang, Minnesota Department of Natural Resources
Mick Finn, Minnesota Department of Health
Dwain Otte, Minn. Assoc. of Soil and Water Conservation Districts
Al Dornfeld, Minnesota Assoc. of Watershed Districts, Inc.
Warren Wallgren, Ramsey-Washington Metro Watershed District
Paul Kalass, Minn. Association of Conservation District Employees
Marlyn Libbismeier, Minnesota Association of Townships
Bill Larson, Extension Service, University of Minnesota
Mary Peterson, Minn. Assoc. of Soil and Water Conservation Dist.
Pat Jensen, Deputy Commissioner, Department of Agriculture
John Wells, Minnesota State Planning Agency
Laurel Reeves, Division of Waters, Dept. of Natural Resources
Jerome Bechtold, Anoka Sand Plain Association of SWCDs
Joe Fitzgerald, Anoka Sand Plain Association of SWCDs

Staff Present
Jim Birkholz
Pat Bloomgren
Mel Sinn
Mark Nelson
Tom Wenzel
Karen Schultz

Meeting Called to Order - Chairman Ogaard called the meeting to order at 9:01 a.m. in Conference Room A of the Minnesota Department of Agriculture Building, 90 W. Plato Boulevard, St. Paul, Minnesota.

Adopt Agenda - John Williamson asked if there are any legal technicalities involved in temporarily changing the Board's meeting date, as was done for the November 1988 meeting - it was moved from November 23 to November 30. Jim Birkholz said it had been changed primarily because of the office relocation. The meeting date change had been published in the State Register, so
88-174 it was a legal meeting. Moved by Kalmes, seconded by Cofell to adopt the agenda as presented. Affirmative: Boulton, Williamson, Warner, Bade, Schellack, Moen, Hoese, Haas Steffen, Brooks, Peterson, Graba, and Kemp. Opposed: None. Carried.

Approval of Minutes of November 30, 1988 - Chairman Ogaard suggested the wording be changed in the statement by Lowell Moen on the last page of the November 30th minutes to read: "Lowell Moen stated that free water testing will be done for those who
88-175 have soil testing done by Central, a Division of Cenex." Moved by Kalmes, seconded by Cofell, to approve the minutes, as distributed, with the change in language. Affirmative: Boulton, Williamson, Kalmes, Bade, Schellack, Moen, Hoese, Haas Steffen, Brooks, Peterson, Graba, and Kemp. Opposed: None. Carried.

Chairman's Report - Chairman Ogaard reported that both the annual meetings of the Watershed District Association and the Soil and Water Conservation District Association held in December set records for attendance this year. He attended both conventions and said that he and Jim Birkholz had conducted a seminar together at the MAWD convention in Rochester concerning the increased assistance the Board can give the Watershed Districts. Two things requested by the managers at the seminar were guidelines on writing annual reports, and also that the Board's area representatives meet with managers in their respective areas to develop a line of communication. Chairman Ogaard said both conventions were very supportive, and he feels the relationship with this state Board could never be better than it is today and both Associations are looking forward to a continued good working relationship with this Board into next year.

He said an interesting issue at the last EQB meeting was the proposed Winona Incinerator. It is a unique situation where the city broke off from the support of the Incinerator and now opposes it. This was appealed to the EQB and was heard at the last meeting. The vote was 6 to 4 - six agencies against allowing the city to prevail, and the four citizens wanting to prevail in the instance of allowing an additional 45-day review period before the final decision is made. Eight votes are required to pass anything on the EQB, so nothing was resolved. The PCA had voted favorably toward the Incinerator and the City came back to

say new evidence brought forward allowed them another solution to the problem - to haul their garbage to the Eau Claire Incinerator, which puts out 10 times the undesireable emissions that the proposed Winona Incinerator would.

Chairman Ogaard noted that an article had been written in the Minneapolis Tribune about Natalie Haas Steffen. He congratulated Natalie on the article and the efforts she has put forward.

Executive Director's Report - Concerning the seminar in Rochester referred to by Chairman Ogaard, Jim Birkholz said he brought back three pages of suggestions from the managers that they want on interaction with our Board. Looking at some of those specifics gives the Board some good direction on planning specific staff activities that can help watershed districts be successful and therefore, help this Board be successful. Jim feels it was good for the Board staff to attend upbeat sessions like the Association conventions.

Jim stated that Dave Behm has started work as the Board's land use specialist.

Jim said the Board's new office space on Wabasha Street will be ready for the Board members to tour during the January meeting. The computer network should be up and running next month. The staff is getting ready for the upcoming legislative session and is primarily working on the "Big Water Bill". A number of interagency meetings have been held, both formal and informal, investing staff time to make sure that local government has the opportunity to implement water plans they are working on now. There will be a mailing this week to all local governments informing them of the Big Water Bill.

A staff meeting was held Dec. 15 to get water planning hydrologists Dan Steward, Chris Hughes, and Greg Larson and Board representatives together with Pat and Jim to discuss the 110B planning process, and also to discuss designing a structure for reviewing those plans. If everything goes according to people's most optimistic goals across the state, plans will be coming into our office for review in July. The staff is putting together a structure for working in concert with other agencies who must help in the review. More details will be brought to the Board in January on how the process is coming onto line because the staff will need some good policy direction from the Board on the review process, what Board members want to see in the way of detail in 110B plans, and what they don't want to see.

EQB/Water Resources Committee Report - Loni Kemp reported that the EQB/Water Resources Committee met December 1st. They had spent a few minutes talking about Senator DeCramer's recodification legislation. Senator DeCramer is proceeding with recodification using existing policy statements from different water

related agencies. The agencies at the meeting asked what was the point of it, the feeling being that there are conflicts in our complicated water legislation, but simple recodification isn't going to solve those conflicts. The agencies felt the conflicts should be clarified and the gaps filled in.

A lot of time was spent on the comprehensive water bill, which is a priority of both the Governor and the Legislature. The committee discussed many issues surrounding various topics covered in the bill, including BMPs, trends assessment, sensitive areas, delegation of authority, pre-emption of local fertilizer regulation, education, research, and the local role. The public is very supportive of the whole concept. The next meeting is January 5th when all the agencies will have the last chance to get the input on each others' sections of the bill. The final draft of the bill is scheduled to be jacketed on January 13th for introduction at the Legislature.

Chairman Ogaard asked Paul Burns to respond to the subject of controls and regulations on pesticides and fertilizers. Paul Burns said the department is aware of the concern over local control. The Department of Agriculture has met with environmental groups and farm groups concerning the regulations. The department currently regulates pesticide use and enforces federal and state label restrictions. The only regulations on fertilizers are on storage practices. The department is proposing the establishment of a task force to look at the issue of fertilizers and nutrients. Jack Graba said much more education needs to be done before regulations are increased. Chairman Ogaard stressed the need for a strong local-state partnership in addressing pesticides and fertilizers.

At this time Paul Burns introduced Pat Jensen, the new Deputy Commissioner in the Department of Agriculture.

Watershed District Reporting Guidelines - Chairman Ogaard distributed copies of a sample watershed district annual report that he and Mel Sinn had drawn up as guidelines for the districts to use in reporting their activities. There has never been a uniform method for watershed districts to report annually to the Board and the State Auditor. It is a requirement of the state that all the watershed districts make this report. Mel Sinn discussed each item in the sample report. A sample financial section of the report has not been completed yet. Natalie Haas Steffen said the Board should give the districts a reason for reporting, by responding with a summary report on all watershed district activity throughout the year. She further suggested that the guidelines ask districts to identify any difficulties they are having in working with various laws and programs to help the Board understand their problems and help find solutions.

A cover letter will be sent with the sample guidelines explaining the Board's intention. A reasonable due date for receipt of annual reports in the Board's office was discussed. Howard Peterson said it should be mailed as soon as possible to the Districts because they will be putting together their annual reports for 1988. Ron Nargang said the content of the summary data sheet is important so that the information is easily retrievable and comparable. Loni Kemp said the Board should make a commitment to doing a summary report so that the deadline for receipt of the report from the districts is for inclusion of
88-176 their information in this summary report. Moved by Peterson, seconded by Kalmes, to adopt the program in the proposed form and send it out in that general form by January 31, 1989, along with a cover letter showing the intent of the Board and showing a timeframe for receipt of the annual report including the audit. Affirmative: Boulton, Williamson, Warner, Bade, Schellack, Moen, Hoese, Haas Steffen, Brooks, Graba, Kemp, and Cofell. Opposed: None. Carried.

Comprehensive Water Resources Protection Act of 1989 - John Wells from the State Planning Agency was present to discuss this item on the agenda. Jim Birkholz explained the history of the (Draft) Comprehensive Water Resources Protection Act of 1989, stating that the Act is the result of interagency efforts to implement ground water management strategies and the strategy for the wise use of pesticides and nutrients. There has also been significant input from various private and public entities. The overall coordination was done by the State Planning Agency. The EQB Water Resources Committee has been the forum for discussion between the agencies. There was discussion of the proposed funding and the large number of state agencies involved. John Wells said it is felt that the issues should be focused separately through respective agencies and coordinated through the EQB.

Jim gave an overview of Title 3, local water resource protection and management program. There was considerable discussion of eligibility for funding of surface water management activities in metropolitan counties that haven't completed all their 509 plans.
88-177 Moved by Haas Steffen, seconded by Cofell, that those in the metro area who have not completed watershed management plans not be excluded from receiving funds that would be available under this proposal. Affirmative: Boulton, Haas Steffen, Peterson, Bade, Kemp, and Cofell. Opposed: Schellack, Williamson, Warner, Kalmes, Moen, Hoese, and Brooks. Abstaining: Graba. Motion defeated.

Pat Bloomgren explained the abandoned well sealing provisions of the bill that were added to Title 3. The law would mandate the property owner to properly seal a potentially hazardous well. A sunsetted grant program, to last six years, is a state cost-share program that can be used to pay up to 75%, not to exceed $2,000, of the cost of sealing an abandoned well. It is assumed that by

that time, changes to the well code will have been enforced long enough that the cost-share grant program will no longer be necessary. Natalie Haas Steffen said there have been local water plans approved in the metro area without any mention of sealing abandoned wells. She asked if the state intends to allow those organizations to amend their plans in order to be eligible for this grant money. Jim Birkholz said counties would be allowed to amend their local comprehensive water plans if there hadn't been anything in the original plan. In the metropolitan area the program would be available in counties that develop ground water plans. Some Board members feel that most landowners would not volunteer to properly seal their abandoned wells if their share is 25% of the cost. Pat Bloomgren said that after the 1989 legislative session, property transfers will require identification, to the best of the ability of the landowners, of wells that need to be sealed. There was discussion of whose responsibility it should be to seal wells that were abandoned long ago, and also whether the cost-share program should continue longer than six years.

At 12:00 Noon the meeting was recessed for lunch. The meeting was reconvened at 1:10 p.m.

Natalie Haas Steffen was not present for the afternoon session of the Board meeting.

Anoka Sand Plain Project Proposal - Jerome Bechtold, Chairman of the Anoka Sand Plain Association of Soil and Water Conservation Districts, gave a presentation on the recent history of the Sand Plain. The area is increasingly facing land use conflicts between farmers and rural subdivisions. Irrigation in the Anoka Sand Plain (ASP) is also increasing, causing concern for water quality and water use.

The eleven SWCDs in the ASP are willing to devote resources to address the groundwater issues. District staff has been trained in entering well logs in the County Well Index System. Most SWCDs in the ASP are also working with their Counties on 110B plans or Chapter 473 county groundwater plans. This has fostered good working relationships between the SWCDs and other Federal, State, and local agencies responsible for groundwater.

One agency, the United States Geological Survey, has developed an important project proposal to compare land use with groundwater quality in a "township-signed" area in the ASP. The total project cost would be $260,000 over four years and require a $70,000 local match (assuming DNR participation). The ASP Association would like the Board to support them in a request for $70,000 over a four-year period to provide their local 25% share of the study. There was discussion of the opportunity for local matching funds. Jerome Bechtold said he has been told by county commissioners that counties are not expected to be involved in

research, and that it is the obligation of other units of government. Don Ogaard asked if the Association had ever pursued a small local assessment in the form of a mill rate levy to have a local fund available? He said it is a matter of going before the Legislature as a united entity and asking to be allowed the assessment and asking for sunset legislation on it. It was felt that it is a good project in which to direct funds. It was the concensus that the Board wouldn't have any trouble in pursuit of support from the Legislature.

Comprehensive Water Resources Protection Act of 1989 - As Jim Birkholz reviewed the Act, there was considerable discussion by Board members on the best ways to protect water resources. It was felt that attempting to regulate the use of chemicals would not be as effective as education of the public would be, beginning in grade school, making people aware of their responsibilities in ground water protection.

Advisor Comments - Marlyn Libbismeier, Association of Townships, announced an educational short course including water and soil issues in March and April. Dwain Otte, MASWCDs, invited the Board members to attend a breakfast with legislators on January 24th to discuss pertinent issues. Al Dornfeld, MAWD, said the Association appreciates the Board's support in developing a uniform reporting system and looks forward to working with the Board in the legislative session. Paul Kalass, SWCD Employees Association, thanked the Board and staff for their help at the MASWCD convention. Bill Larson, University of Minnesota/Extension Service, said that with the new President, the University can be stronger.

Continuation of Legislation Discussion - Mel Sinn said all of Senator DeCramer's proposals for recodification of the water law have been sent to the Board for review, except for Chapter 112. There is significant restructuring of older portions of Chapter 40, and it is proposed that the portions of Chapter 40 dealing with soil loss limits and RIM be shifted out of the SWCD law and put into the chapter on protection of water resources. There is drastic restructuring in Chapter 105. Mel said a conversion chart will be necessary to follow all of the changes. In general, Mel said elements that should remain in the law, seemed to be there. Jim Birkholz said the staff is working closely with various Associations who are interested in particular parts of the law involved in the recodification.

Jim Birkholz reported that the Summary of Proposed RIM Reserve Legislation, which was mailed with the Board meeting notice is the best summary to date of all particular changes.

Mel Sinn said that the Metropolitan Drainage Panel had held one meeting since its inception. He said he had been directed to research the topic of using 509 as an alternative to the drainage code in working in the metro ara. Mel said Senator Dahl has

suggested changes in the drainage law as it applies to the metro area. Chairman Ogaard suggested that the Panel look at those issues. There will be two main agenda items at the Panel's meeting on January 19, 1989 - to look at 509 as an alternative, and to look at Senator Dahl's issues, which include insufficient public input in drainage proceedings, excessive engineering and accounting expenditures, unfair allocation of costs on some projects, unnecessary complexity of drainage law, the old issue of improvements being done under the guise of repair proceedings, and the fact that there is taxing authority in watershed districts in the hands of appointed officials. Several, if not all of the issues, will be discussed by the Panel. Senator Dahl will be provided feedback or recommendations. Chairman Ogaard said Senator Dahl has agreed not to act on this until this Board reviews the issues and makes recommendations.

State Cost-Share Program Rollover Allocations - Jim Birkholz explained the program and asked the Board members to discuss the
88-178 staff recommendation for funding. Moved by Williamson, seconded by Kalmes to approve the recommended funding. The Board members questioned the project in Cook County at the Lutsen golf course. After discussion of whether the Cook County project meets the requirements for funding, Williamson qualified his motion to incorporate into it the fact that Board staff will investigate the project to see if it meets the criteria for funding. Affirmative: Boulton, Warner, Bade, Schellack, Moen, Hoese, Brooks, Peterson, Graba, Kemp, and Cofell. Opposed: None. Carried.

Comprehensive Local Water Planning Update - Jim Birkholz said there had been no December project managers' meeting. At the January Board meeting, staff will bring the Board up-to-date on local plan review and get some policy direction from the Board on how many plans the Board will want to review itself and what part of the review will be delegated to the staff.

RIM Reserve Program Easement - Harland Maland Wetland Restoration - Jim Birkholz and Tom Wenzel reviewed the summary of the Harlan and Dorothy Maland RIM Reserve Easement. Jim said this is the first request to be released from the program that the Board has received. The Board members were asked to make the policy issue decision on whether to release the landowner from the easement. The Pheasants Forever Chapter in Faribault County has expressed a willingness to acquire that portion of Mr. Maland's land under that easement and manage it according to the requirements of the easement. The policy issue still remains about this Board's pleasure on proceeding with this. It would be a weakening of the easement process if the Board were lenient in this case. After discussion, Jim said the staff recommendation would be to hold Mr. Maland to the easement and keep the terms the same and not let him out of the program. If Pheasants Forever wants to step forward, that's Mr. and Mrs. Maland's decision. After discussion,
88-179 it was moved by Boulton, seconded by Bade, to approve the staff

recommendation to deny any consideration for release. Affirmative: Williamson, Warner, Kalmes, Schellack, Moen, Hoese, Brooks, Peterson, Graba, Kemp, and Cofell. Opposed: None. Carried.

Winter Workshops - Jim Birkholz said last winter the Board held workshops for watershed districts and soil and water conservation districts to look at comprehensive local water planning. It was a significant step forward in communication among them. Jim said this year the Board could enlarge on that and invite county officials. It is proposed to hold a workshop in each of the Board's seven administrative regions. County officials and staff, watershed district officials and staff, and soil and water conservation district officials and staff would be invited. Discussion would be on the "Big Water Bill" progress in the Legislature and how all this deals with comprehensive local water planning. It would be an outstanding opportunity to share information and share perspectives. It is proposed to have Board members participate as panelists to discuss comprehensive local water planning implementation. The staff will prepare a general outline for the discussion. Loni Kemp suggested that legislators may want to attend.

Additional Item - Ron Nargang thanked the Board, and in turn, the local entities, in particular, the county attorneys who helped the DNR last summer in the counties where the DNR suspended irrigation permits. Ron said it was absolutely critical to their ability to enforce that whole process. The support from SWCDs in weekly observational readings was a major contribution in their work. Ron asked if the Board would be interested in a status report on the effects of the drought. Jim Birkholz said it would be very helpful.

Howard Peterson asked if the Board members are expected to attend the AMC annual convention in January. Jim Birkholz said some of the convention would be relevant and if Board members would want to attend, they should talk with the Chairman or himself.

Don Warner would like to receive the minutes a week earlier. Jim said the normal schedule is to mail the minutes the Monday of the week preceding the Board meeting.

88-180 **Adjournment** - Moved by Warner, seconded by Kalmes to adjourn the meeting at 3:45 p.m. Affirmative: Boulton, Williamson, Bade, Schellack, Moen, Hoese, Brooks, Peterson, Graba, Kemp, and Cofell. Opposed: None. Carried.

Respectfully Submitted,

_____
Don Ogaard
Chairman

US Army Corps
of Engineers
St. Paul District

Public Notice

Notice of Proposal to Exercise Discretionary Authority to Require Individual Permits for Discharges of Dredged or Fill Material into Waters of the U.S., in the Prairie Pothole Region of Minnesota.

ISSUED: December 12, 1988
EXPIRES: January 12, 1989
SECTION: 404 - Clean Water Act

1. The Division Engineer, U. S. Army Corps of Engineers, North Central Division, proposes to modify nationwide permit (NWP) 330.5 (a) (26), as indicated below, in a specific area of Minnesota. This NWP currently authorizes some discharge of dredged or fill material into waters of the U.S., as stated at 33CFR 330.5 (a) (26), without any requirement to apply for or obtain an individual permit from the Corps of Engineers pursuant to Section 404 of the Clean Water Act. The affected area of Minnesota is indicated in Figure 1 and Table 1, attached.

2. If the proposed discretionary authority is exercised, NWP 26 would no longer apply to the 51 counties in the State of Minnesota that are recognized as being in the prairie pothole region of the U.S. Projects involving the discharge of dredged or fill material into waters of the U.S. or wetlands in these counties would need individual permit authorization under Section 404 of the Clean Water Act. This would result in proposed discharges into wetlands located in the prairie pothole region undergoing the Corps public interest review process, and permits would be issued only for those discharges found to be in the public interest.

3. The request to exercise discretionary authority is being made by the District Engineer, Army Corps of Engineers, St. Paul District, in recognition of the significant role the prairie pothole wetlands play in maintaining national waterfowl populations. Approximately 50 percent of the waterfowl produced annually in the U. S. are produced in this region. The U.S. Fish and Wildlife Service has estimated that 3 to 4 percent of the wetlands in the prairie pothole area are lost each year to agricultural drainage, urban sprawl, and other human induced activities. The continued loss of this particular resource is being cited as one of the factors contributing to the decline of the nation's waterfowl population. The wetlands in the prairie pothole region provide valuable water quality and flood damage reduction functions in addition to the wildlife habitat function described above. Therefore, the Corps of Engineers believes that there is sufficient concern for the aquatic environment to warrant voiding NWP 330.5 (a)(26) within the prairie pothole region by the exercise of discretionary authority in accordance with 33 CFR 330.8.

4. Additional information is available from Paul Richert, Corps of Engineers, St. Paul District, telephone (612) 220-0372. You may submit written comments within 30 days of the date of this notice to: District Engineer, St. Paul District, 1421 U.S. Post Office and Custom House, St. Paul, Minnesota, 55101, ATTN: CO-R. Any person may request in writing, within the comment period specified in this notice, that a public hearing be held so that they can present information concerning whether or not the Corps should

exercise discretionary authority over wetlands in the 51-county area. It is not necessary to request a public hearing in order to have your views or information considered in this matter. The Corps of Engineers will consider all written comments received as indicated above.

5. The Corps of Engineers will announce its decision to exercise or not to exercise the described discretionary authority in a future public notice.

Roger L. Baldwin
Colonel, Corps of Engineers
District Engineer

Figure one: NWP 330.5(a)(26) Does Not Apply to the Counties in the Prairie Pothole Region.

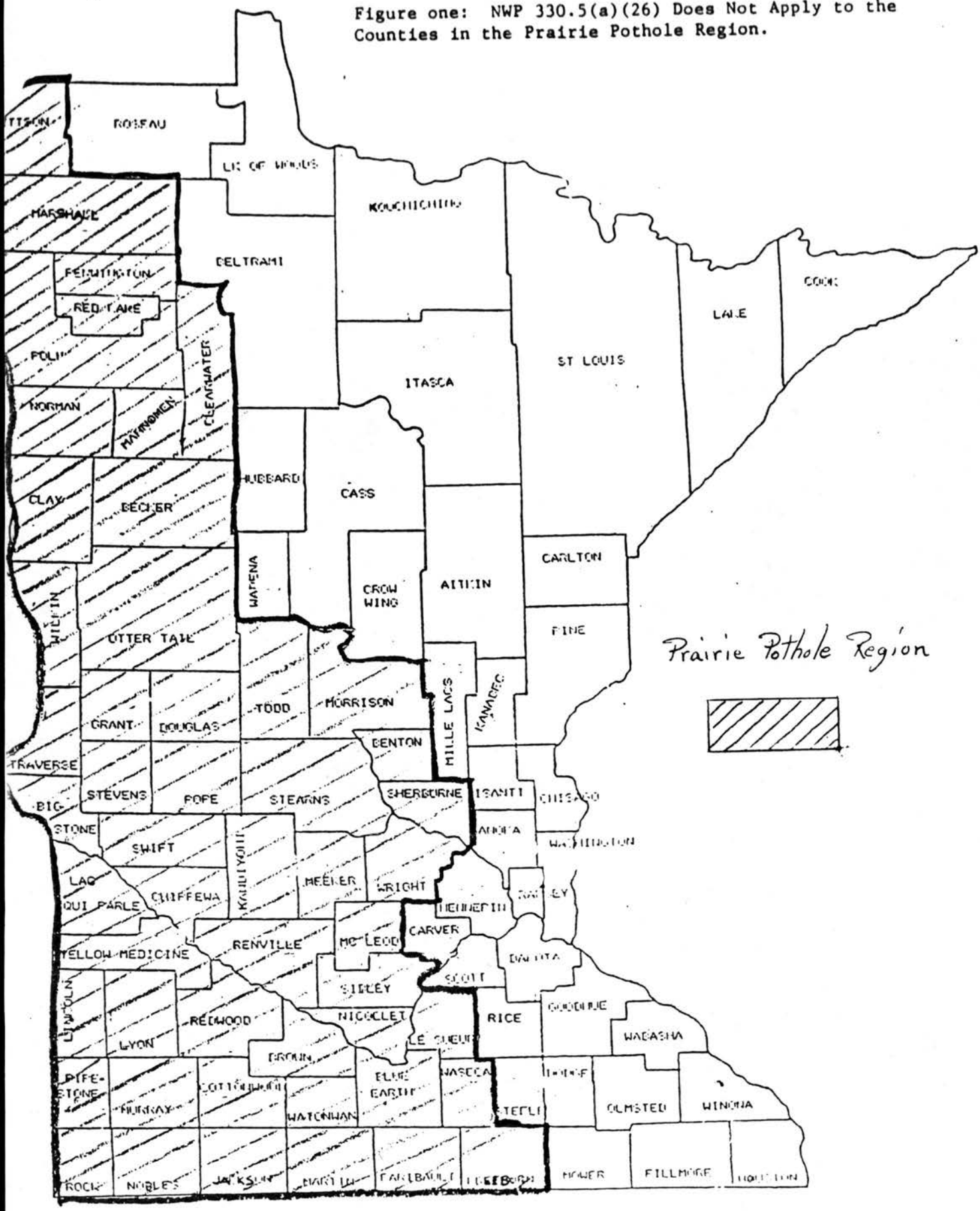


Table one: Minnesota Counties Affected by the Discretionary Authority Request.

Becker	Kandiyohi	Nicollet	Sherburne
Benton	Kittson	Nobles	Sibley
Big Stone	Lac qui Parle	Norman	Stearns
Blue Earth	Le Sueur	Otter Tail	Stevens
Brown	Lincoln	Pennington	Swift
Chippewa	Lyon	Pipestone	Todd
Clay	Mahnomen	Polk	Traverse
Clearwater	Marshall	Pope	Waseca
Cottonwood	Martin	Red Lake	Watonwan
Douglas	McLeod	Redwood	Wilkin
Faribault	Meeker	Renville	Wright
Freeborn	Morrison	Rock	Yellow Medicine
Grant	Murray		
Jackson			

LAND TRUST EXCHANGE

1017 Duke Street
Alexandria, Virginia 22314
703-683-7778

9/8/88

FEDERAL FARMLAND EASEMENT AND LAND TRANSFER PROGRAMS -- OVERVIEW

In mid-September, the Farmers Home Administration will issue regulations implementing new conservation provisions for FmHA lands and loan programs and providing for the resumption of previously existing conservation programs that temporarily have been on hold. These programs apply to millions of acres of land and provide important opportunities for land trusts and government agencies interested in protecting natural resources on the country's farmland.

One program demands land trusts' immediate attention. This program will allow a reduction in a delinquent a farm borrower's FmHA debt in exchange for a conservation easement on the property securing the loan. This program not only provides important resource protection opportunities but also, for some farmers, may be the determining factor in saving the farm. For many farmers, the determination of whether or not an easement will be used will be made in the next several months. FmHA, and its farm borrowers, have little understanding of easements and, if the program is to work, land trusts will need to play a major role in promoting and implementing it. More than 30,000 farmers are delinquent on their FmHA loans, so the conservation opportunities are significant.

Land trusts have somewhat more time to gear up for the other major discretionary FmHA conservation program, one that provides for the permanent protection of a broad range of conservation resources on FmHA's roughly 1.5 million acres of inventory land -- land that FmHA has received from defaulting borrowers. This program provides for the transfer of land or easements to federal or state conservation agencies or, with regard to easements only, to local governments and nonprofits. FmHA will, for the most part, start to sell or lease these inventory lands back to farmers next spring, so land trusts need to start identifying parcels for protection soon, before that process resumes.

The programs are summarized briefly below and are described in more detail in the fact sheets that follow.

CONSERVATION EASEMENTS AND DEBT REDUCTION

This important new program protects conservation resources while providing an important tool for helping farmers who are FmHA borrowers to stay solvent and keep their farm. Under this program, FmHA may reduce a delinquent borrower's debt to FmHA in exchange for an easement on land securing the loan for conservation, recreation, and wildlife purposes, if the loan was made prior to Dec. 23, 1985. While conservation easements are only one of several debt reduction tools available to FmHA, they are the only tool that allows the debt to be reduced to a point below the net recovery value of the farm, and thus may provide the key to a farmer keeping his farm. These easements may be held by federal, state, and local government agencies and by public or private nonprofit organizations.

Current Status. Congress established the debt-reduction-for-easements program in the 1985 Farm Bill, but final regulations to implement the program were delayed. In the meantime, the 1987 Agricultural Credit Act (enacted in January 1988) authorized a more comprehensive program to restructure or reduce a farmer's debt, which includes a variety of mechanisms for alleviating a farmer's debt problem, in addition to the previously authorized conservation easement mechanism. In May 1988, USDA proposed regulations to implement the overall debt restructure program, including the conservation easement provisions. Final regulations are expected mid-September, and the program will get underway in mid-October.

DISCRETIONARY TRANSFER OF LAND OR GRANT OR SALE OF EASEMENTS ON FmHA INVENTORY PROPERTY

Congress has granted FmHA broad authority to protect conservation resources of local, state, or federal interest on inventory property by transferring fee title to the land to federal or state agencies or by granting or selling easements to federal, state, or local agencies or private nonprofit organizations. This authority derives from two separate provisions in law:

(A) FmHA may transfer for conservation purposes land or easements to federal or state agencies on farm inventory property that (1) has marginal value for agricultural production, (2) is environmentally sensitive, or (3) has special management importance.

(B) FmHA may grant or sell easements only (not fee title) for conservation purposes to local government agencies or to private nonprofit organizations. While FmHA regulations allow the agency to grant or sell an easement below fair market value even if it would reduce the financial return on the sale of the land to FmHA, the practice in the field has been to require payment for such easements.

Current Status. FmHA gained the authority to grant or sell discretionary easements for conservation purposes in the 1985 Farm Bill, and regulations implementing the program were issued in April 1986. Such easements have been negotiated in a number of states, primarily with state fish and wildlife agencies. The program was placed on hold after passage of the 1987 Agricultural Credit Act -- which expanded the opportunities for farmers to regain their farms -- because the easements cannot be granted or sold until other property claims have been resolved.

The authority to transfer land and easements was included in the 1987 Agricultural Credit Act, and proposed regulations were published in May 1988. Final regulations are expected to be issued mid-September, when the authority to grant or sell easements will also be reinstated. Former landowners, however, will still have 190 days to repurchase inventory lands, and land or easements may not be conveyed until such claims are resolved.

MANDATORY EASEMENTS ON FmHA INVENTORY LANDS

FmHA has an inventory of some 1.5 million acres of farm property it has received as a result of farmers defaulting on their FmHA loans. The agency's regulations require it to place conservation easements (also called deed

restrictions) on inventory property containing wetlands, floodplains, or historic places before selling, leasing, or transferring the property. Other federally protected resources, such as endangered species, may also require the placement of such easements as an environmental mitigation measure. Such easements may be managed and enforced by FmHA, the U.S. Fish and Wildlife Service, the Forest Service, and state fish and wildlife agencies.

Current Status. The authority for this program derives from various executive orders, the National Environmental Policy Act, and federal conservation laws. The requirements have been more aggressively implemented recently due to a 1987 Memorandum of Understanding with the Fish and Wildlife Service, which has nearly completed a review of all inventory property to identify necessary natural-resource related easements. FmHA will continue to place easements on inventory lands as it receives new property.

THE ROLE OF LAND TRUSTS

These FmHA programs provide important conservation opportunities for land trusts with appropriate land in their state or community. Land trusts can and need to play several roles to take the best advantage of the programs -- in identifying resources for potential land transfers or easements, as educators about conservation easements, as intermediate negotiators with landowners, and, in some cases, as easement enforcers and/or managers.

FmHA and many of the agencies or farmers it will be working with in implementing these programs may have little familiarity with conservation easements, little time to undertake the work necessary to identify, delineate and design appropriate easements, or little inclination to take on the responsibility of easement enforcement.

Land trusts interested in participating in these programs should contact the Fish and Wildlife Service Farm Bill Coordinator in their state. FWS has been designated to act as advocate for the fish and wildlife resource interests of state or local agencies and nonprofit organizations and will act as liaison between FmHA and these entities. Land trusts should also contact FmHA directly: the State Director or State Environmental Coordinator at the state level and the County Supervisor at the local level.

In addition, the Land Trust Exchange will make available back-up documents (copies of regulations, standard FmHA easement language, useful agency field guidance, etc.) and will distribute occasional updates on FmHA programs to interested members and supporters. Contact Kathy Barton at the Land Trust Exchange to request back-up materials, to get on the mailing list to receive future updates, of for further information.

For more information on the conservation easements and debt reduction program, you should also contact Edward Thompson, Jr., American Farmland Trust at 202-659-5170. AFT has a demonstration project for this program underway.

(These fact sheets were prepared prior to the issuance of the final regulations based on information from FmHA. Check the final regulations for the most current information.)

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CONSERVATION EASEMENTS AND DEBT REDUCTION

SUMMARY

The Farmers Home Administration (FmHA) is authorized to cancel a portion of a delinquent FmHA borrower's debt in exchange for a conservation easement with a minimum term of 50 years on property securing the loan. The types of lands eligible for conservation easements are very broad, and easements may be enforced by any local, state, or federal government agency or a private or public nonprofit organization designated by FmHA. This conservation easement provision applies only to farmer program loans closed prior to Dec. 23, 1985.

Conservation easements are one of several tools that FmHA may use to restructure a farmer's debt. However, a conservation easement can be used to reduce the farmer's debt to a point lower than any of the other mechanisms and may be the determining factor in allowing the farmer to stay solvent and on the farm.

This program should be in full gear shortly, and the major opportunity for conservation easements should come at the end of 1988 and in early 1989.

AUTHORITY

Debt reduction through conservation easements is authorized in Section 1318 of the Food Security Act of 1985 (P.L. 99-198) as amended by the Agricultural Credit Act of 1987 (P.L 100-233), both of which are amendments to Section 349 of the Consolidated Farm and Rural Development Act. Section 615 of the Agricultural Credit Act of 1987 authorizes the other aspects of the overall debt restructure program. Regulations are at 7 CFR Part 1809, etc. (easement provisions at Section 1951 -S, Exhibit H). Proposed regulations published in the Federal Register on May 23, 1988, p. 18392 (see esp. p. 18453).

GENERAL DEBT RESTRUCTURE PROVISIONS

FmHA calls debt restructuring "primary loan servicing." In addition to conservation easements, primary loan servicing includes: (1) rescheduling and/or reamortization; (2) lower interest rates and deferral of principal and interest payments; and (3) "write-down" or debt reduction, which includes reducing debt through the use of conservation easements. FmHA will consider loan servicing options in the order above -- that is, the agency will consider lower interest rates and deferral only if rescheduling and/or reamortization would not be sufficient to keep the farmer in business and paying on his loan. Conservation easements will be considered with write-down if other primary loan service programs fail to keep a farmer solvent and on the farm.

Farmers are eligible for loan servicing once they are 30 days delinquent on their payments. When they become 180 days delinquent, FmHA will send a notice that they have 45 days to request consideration for loan servicing. FmHA then

has 60 days to process the request. FmHA expects to start sending notices to such delinquent borrowers in mid-October.

CONSERVATION EASEMENTS CAN SAVE A FARMER'S FARM

The loan servicing program has two co-equal objectives: to keep the farmer in business and to avoid losses to the government. Thus, for FmHA to agree to service the loan, the restructuring must both restore the farmer to a point where he can make his loan payments and have sufficient cash flow to stay in business, and it must provide the government a return equal to what would be the net recovery from involuntary liquidation of the farm. For example, if selling the farm would bring FmHA (after costs) $300,000, the loan cannot be reduced below $300,000. If a $300,000 loan is still too much for the farmer to pay and stay in business, the loan will not be serviced and the farmer's only options are to purchase the farm from FmHA, sell the farm for fair market value and pay that amount to FmHA, convey the property to FmHA, or let FmHA proceed with foreclosure.

This limitation, however, does not apply to conservation easements. Conservation easements can be used (1) on top of or (2) in place of write down to reduce a farmer's loan to an amount below the resale value of the property:

(1) An easement may be used on top of write down in the case where the farm is not exceedingly valuable, but the farmer needs a great deal of debt relief. In the example above, a farmer with a $300,000 farm and a $450,000 loan could have his debt written down to the $300,000 minimum without a conservation easement, and then a conservation easement might be developed that would reduce the debt perhaps to $200,000 (see discussion on calculating debt reduction through easements below. An easement might make the difference that allows the farmer to stay in business and on the farm.

(1) An easement may be used in place of write down for a farmer with little available cash but with very valuable land -- in the Northeast or urban fringe areas for example. With a $1 million farm and a $450,000 debt, for example, the farmer is not eligible for write down, because the return on the loan to FmHA is already less than the net recovery value of the farm. The farmer is eligible for a conservation easement, which can substantially reduce the loan, depending on the amount of land included in the easement. The easement might be the only option that allows the farmer to keep the land. (And, in such cases, the need for resource protection may also be particularly high.)

If a borrower requests consideration for a conservation easement, FmHA will determine if the borrower is eligible. If the borrower initially does not request consideration for an easement, but the debt write-down program fails to establish a feasible plan for the farmer's loan, the borrower will then be considered for a conservation easement combined with debt write down. However, whether or not to agree to the easement is the borrower's choice. FmHA will not require a borrower grant an easement.

ELIGIBLE FARMERS

To be eligible for debt restructuring, and hence the conservation easement set-aside, a farmer must have had his or her loan closed prior to Dec. 23,

1985, must be 30 days or more overdue on making a loan payment due to circumstances beyond the control of the borrower, must be unable to pay their debt as scheduled, and must generally have operated and maintained the farm in a responsible manner as described in the regulations.

ELIGIBLE LANDS

Easements may be established for conservation, recreational, and wildlife purposes on farm property that is wetland, upland or highly erodible land. With the exception of wetlands and wildlife habitat, the land proposed for an easement must have been row-cropped each year of the three years prior to December 23, 1985. "Wetland" is defined in Exhibit H in the regulations (and is the same as the "swampbuster" definition). Highly erodible land is land that SCS has determined has an erodibility index of 8 or more. Upland includes areas meet any one of the following criteria:

-- 100-year floodplain
-- Aquatic life or wildlife habitat or endangered plant habitat of local, regional, state, or federal importance
-- Aquifer recharge area of local, regional or state importance
-- Area of high water quality or scenic value.
-- Area containing historic or cultural property that is listed in or eligible for the National Register of Historic Places
-- Buffer zone for the adequate protection of a wetland
-- Area within or adjacent to a national park, national forest, national trail, national wilderness area, unit of the Coastal Barrier Resource System, or area administered by the Fish and Wildlife Service, Bureau of Land Management
-- Area within or adjacent to a federal or state wild or scenic river or land designated by U.S. Army Corps of Engineers' for flood control or recreation purposes
-- Area within or adjacent to abandoned railroad corridors contained in local, state or federal open space, recreation, or trail plans; state and local recreation, natural or wildlife areas, state conservation agency administered areas, or areas administered by state fish and wildlife agencies
-- Area that SCS determines contains soils not suited for agriculture

HOW MUCH DEBT REDUCTION DO YOU GET FOR A CONSERVATION EASEMENT?

FmHA "purchases" the conservation easement by cancelling a portion of the outstanding debt. The procedure for calculating the value of the easement is established in the legislation and is not related to the process for determining the value of a donated easement for tax deduction purposes under IRS regulations.

The amount of debt cancelled is determined as follows: in general, the same percentage of debt is cancelled that is equal to the percentage the easement bears to the total acres securing the loan. Thus, on a 300-acre farm with a 100-acre easement, the amount of debt cancelled would generally be one-third. With an outstanding loan of $300,000, the amount cancelled would be $100,000.

However, if the current value of the farm is less than the outstanding loan (which will generally be the case), this calculation must be altered, because

the amount of debt cancelled cannot be greater than either (1) the current value of the land under easement or (2) the difference between the amount of outstanding loan secured by the land under easement and the current value of the land under easement, whichever is greater. Thus, you need to calculate both of these items, and select the greater number.

In the above example, assume the value of the land is $240,000, less than the $300,000 outstanding loan. In (1) above, the current value of the land under easement then is determined to be $80,000 (one-third of the current value, since it's one third of the farm). In (2) above, the difference between the amount of outstanding loan secured by the land under easement (calculated in the first paragraph as $100,000) and the current value of the land under easement ($80,000) is $20,000. The greater figure is $80,000, and this is the amount of cancellation that would be allowed.

FmHA regulations (Exhibit H) contain a step-by-step procedure for calculating the amount of debt cancellation resulting from easements. Anyone working with this program should obtain a copy.

ESTABLISHING THE EASEMENT

When a farmer requests consideration of a conservation easement, the FmHA County Supervisor will establish an easement review team to recommend easement boundaries, determine if the land is suitable for conservation purposes authorized in the program, determine who will enforce the easement, identify any necessary special terms or conditions, recommend the length of the easement term, and propose a management plan. The team will be led by the Soil Conservation Service and will consist of FmHA, FWS in the case of wetlands, appropriate field offices of federal and state conservation agencies, adjacent landowners, and any other entity that may have an interest and qualifies as an enforcement authority, such as a local government agency or a land trust.

FmHA will deny the easement if the review team finds it is not feasible given the nature of the land or if no qualified entity volunteers to be the enforcement authority. Thus a land trust volunteering to enforce the easement could make the difference in whether or not the easement is established.

EASEMENT RESTRICTIONS

FmHA has prepared standard language for granting an easement that is quite restrictive. Almost all surface rights are encumbered. However, easement terms may be modified if the modification would not conflict with the purposes of the easement and if the enforcement authority concurs.

ENFORCEMENT AND MANAGEMENT

Any federal, state, or local government agency or any private nonprofit organization designated by FmHA may serve as the enforcer of the easement. Enforcement authorities are responsible for monitoring and reporting to FmHA regarding compliance with easement terms and ensuring the easement property is safely maintained. Enforcement costs, such as attorneys' fees and repair and restoration of easement property due to violations, will be reimbursed by the property owner. Any management responsibilities may be contracted out as

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DISCRETIONARY TRANSFER OF LAND OR GRANT OR SALE OF EASEMENTS ON FmHA INVENTORY PROPERTY

SUMMARY

Congress has granted the Farmers Home Administration (FmHA) broad authority to transfer inventory land or to transfer or sell conservation easements on inventory lands to a variety of easement holders. The authority comes from two different statutes that differ primarily with respect to the eligible easement holders and whether easement recipients are expected to pay for the easements.

In essence, federal or state agencies are eligible to receive transfers of land or easements at no cost from FmHA. Local government agencies and private nonprofit organizations are also eligible to receive easements, but not fee title to the land, and payment for the easement may be required if it would reduce the land's resale value. The types of land and resources that may be protected on both programs are largely the same.

DISCRETIONARY TRANSFER OF LAND OR EASEMENTS TO FEDERAL OR STATE AGENCIES

With respect to farm inventory property, Congress has authorized the Farmers Home Administration to transfer "land or interests in land" to a state or federal agency for conservation purposes if the property has marginal value for agricultural production, is environmentally sensitive, or has special management importance. Wetland and floodplain easements, as required under regulations in Section 1955.137 of FmHA's regulations must first be in effect if the transfer is to a state agency.

Authority. Section 616 of "The Agricultural Credit Act of 1987" (P.L. 100-233), which amends Subtitle D of the Consolidated Farm and Rural Development Act by adding this new subsection 354. The regulations are at 7 CFR 1955.139(c). Proposed regulations appeared in the Federal Register on May 23, 1988, p. 18511. Final regulations expected mid-September.

Eligible Lands. Lands or easements may be transferred to state or federal agencies if the property meets any one of the following three criteria and if the leaseback/buyback and dwelling rights of all previous owners and operators have been met. A parcel may be subdivided and just a portion or portions transferred as long as the land remaining to be sold makes up a viable sales unit. The eligible lands are broadly defined, as follows:

- A predominance of the land has marginal value for agriculture. This is land that the Soil Conservation Service has determined to be either highly erodible or generally not suited for cultivation (such as soil in classes IV, V, VII or VIII of SCS's Land Capability Classification).

specified by the easement enforcer, including to the farmer.

LENGTH OF EASEMENT TERM

The minimum easement term is 50 years, but a longer term or a perpetual easement is to be established if the easement review team determines that there is justification for doing so. What constitutes a justification is quite broad and includes if the easement would contribute to the protection of endangered or threatened species or wildlife protected under international treaty, would mitigate wildlife impacts of permits or licenses, would serve as the site for substantial investment of conservation funds, or would serve as a significant historical site, ground water recharge area "or other significant eligible easement objective," or if it would be desirable that the property be removed from production for a long period.

THE ROLE OF LAND TRUSTS

Land trusts interested in participating in this program should let their FmHA County Supervisor know they want to be included on any easement review teams. But land trusts will need to take a more proactive role to make the program work -- in letting farmers know it exists, in working to identify possible easements, in helping to move the easement review process along smoothly and quickly, in helping farmers understand conservation easements, in helping to negotiate easement terms that protect resources while not imposing unnecessary restrictions on the farmers, and so forth.

One complication in determining which farmers and lands may be affected by this program is that FmHA does not release the names of delinquent borrowers to the public. However, land trusts should be able to obtain a complete list of FmHA borrowers from the FmHA County Supervisor.

FmHA will be extremely busy once the debt restructuring gets underway, and the conservation easement aspect of the program may receive little attention without the help of land trusts or other interested conservationists. In particular, land trusts need to make the point that conservation easements may be the deciding factor in saving a farmer's farm.

Time is short. Many farmers will need to make their request for loan servicing in December, and FmHA will be making restructuring decisions by the beginning of next year. Land trusts need to get up to speed on this program quickly.

Land trusts interested in working with this program should contact LTE for copies of the regulations, standard easement language, and other materials and updates. They should also contact Edward Thompson, Jr., at the American Farmland Trust at 202-659-5170. AFT is conducting a demonstration project in Illinois and has real world experience with the program.

- A predominance of the land is environmentally sensitive. This includes any of the following:

  -- wetlands, floodplains, and riparian zones as defined in pertinent Executive Orders
  -- coastal barriers and zones as they pertain to the Coastal Barrier Resources Act or Coastal Zone Management Act;
  -- habitat for endangered or threatened species of animals and plants, including species that are proposed or candidates for listing;
  -- fish and wildlife habitats "of local, regional, state, or federal importance" or lands that "provide or have the potential to provide habitat value to species of federal trust responsibility" such as migratory birds and anadromous fish
  -- aquifer recharge areas of local, regional, state or federal importance
  -- areas of high water quality or scenic value
  -- areas containing historic or cultural property

- A predominance of land with special management importance. This includes any of the following:

  -- Inholdings, or lands adjacent to federally or state-owned lands
  -- Lands that would "contribute to the regulation of" access to federal or state-owned conservation lands
  -- Buffer zones for federal or state-owned lands
  -- Lands that would contribute to boundary identification and control of existing conservation lands.

DISCRETIONARY GRANT OR SALE OF EASEMENTS TO LOCAL GOVERNMENTS OR NONPROFITS

FmHA is authorized to grant or sell easements to a unit of local government or to a private, nonprofit organization on farm inventory properties for a wide array of conservation purposes. FmHA is authorized to grant or sell easements at below market value even if doing so would have an adverse financial impact on FmHA, but the practice so far has largely been that FmHA field officials require payment for easements that reduce the resale value of the property.

Authority. Section 1314 of the Food Security Act of 1985 (P.L. 99-198). Regulations at Section 1955.139(a)(3); proposed amendments to regulations published in the Federal Register on May 23, 1988, p. 18511.

Eligible Land. The conservation purposes for which these easements may be granted or sold are generally the same as those covered by the transfer authority for federal and state governments and specifically include the types of lands described as being "unsuited for agriculture" and "environmentally sensitive." The transfer authority could cover limited areas that would not be eligible for grant or sell to local governments and nonprofits -- for example, the transfer of land to the FWS for a parking lot next to a national wildlife refuge. On the other hand, the grant or sell authority may be used to protect "important farmland, prime forest land, or prime rangeland" as defined by USDA that may not be eligible for protection under the transfer authority. For most practical purposes, however, the eligible lands should be the same.

Granting Versus Selling Easements for Less than Fair Market Value. FmHA has granted easements under this authority at no cost in several states, on the grounds that the easement restrictions have not reduced the property's resale value.

Easements may also be granted or sold for less than fair market value. However, if doing so would "adversely affect the FmHA financial interest," -- that is, if it would reduce the resale value of the land -- the FmHA State Director must receive approval from the Administrator of FmHA, or must be delegated such approval authority.

There are no strict criteria for making such a decision. The regulations state that "factors to be addressed" in requesting the Administrator's approval include: the intended conservation purpose and environmental importance of the land; the impact to the government's financial interest; the financial resources of the potential easement grantee or purchaser and its normal method of acquiring similar property rights; and the likely impact to the environment should the easement not be granted or sold.

Based on this reading, an easement that would protect important resources and that would be acquired by a land trust that did not generally acquire easements at fair market value would seem a likely candidate for approval for grant or sale below fair market value by the Administrator. This approval process, however, is untested, largely because FmHA has received few requests for below-market grants or sales.

EASEMENT RESTRICTIONS

FmHA does not have standard easement language for discretionary easements because the terms vary so widely depending on the resources being protected. Easement restrictions are negotiated in the document with FmHA.

WHICH PROGRAM IS BETTER?

Both programs generally authorize the protection of the same resources, so in determining which approach to use, the first question to ask is: Would the conservation purposes be better served by fee title transfer of the land or by an easement? If fee title is preferable, the best approach is to find a federal or state agency willing to accept the transfer. Keep in mind that FmHA will probably tend to prefer transfer of fee title because it is simpler and does not leave FmHA dealing with partial interests in land. Especially where an easement would be highly restrictive, FmHA will probably be more receptive to transferring the property or relevant portion of the property than to negotiating an easement.

If an easement is the best approach, the question is: Will the easement restrictions reduce the resale value of the land? If so, again the preferable approach is to have the easement transferred to a federal or state agency, because FmHA can transfer such an easement to these recipients without reimbursement.

If, in either of the cases above, no federal or state agency wants the land or easement, local governments or land trusts will need to request the

easement. If the easement would reduce the resale value of the land, the entity requesting the easement should work with FmHA to get the transfer at the least possible cost. Negotiation on restrictions, boundaries, and sound justification for the approving a below-market grant or sale are all possible approaches.

If an easement is the best approach, and it will not reduce the resale value of the land, it should simply go to the best recipient -- federal, state, or local government or a nonprofit organization -- since all are eligible to receive such easements at no cost. (FmHA has established priorities for choosing among eligible recipients if more than one wants the easement.)

THE ROLE OF LAND TRUSTS

Land trusts should investigate inventory lands in their state or community to determine if there are resources that they are concerned about that qualify for protection under these programs. Land trusts should contact the Fish and Wildlife Service, which may have gathered valuable information on such resources in your region as part of its survey of federally protected resources on inventory lands.

Land trusts may want to provide education and assistance to state and local government agencies in identifying important resources, determining which situations favor transferring land and which favor easements, and developing appropriate easements for the resources' protection. One statewide land trust, the Iowa Natural Heritage Foundation, has had important success in playing such a role. (See the Spring 1988 issue of Land Trusts' Exchange for details.)

Even after the final regulations are issued in mid-September, FmHA will still be blocked from selling any inventory lands that might have pending ownership claims for 190 days, because the new regulations will also allow farmers, their spouses, and children a 190-day period in which to attempt to repurchase inventory property they previously owned (and this may be expanded an additional 60 days if there are prior lessees). This provides land trusts time to identify resources and develop relationships with implementing agencies before FmHA is likely to dispose of the land for nonconservation purposes.

Land trusts can also serve as easement holders, a role they may want to fill if no government agencies are willing to or appropriate for taking on the responsibility.

The authority to transfer land or grant or sell easements on inventory land will continue to be important in the future as additional land comes into inventory -- especially if a side result of FmHA's new authority to restructure debt to save farmers is ultimately to cause delinquent farmers that can't be saved to leave their farms. Land trusts should investigate the potential of the program to further their conservation goals.

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MANDATORY EASEMENTS ON FmHA INVENTORY LANDS

SUMMARY

FmHA regulations require the agency to place restrictions in leases or deeds on inventory property to protect floodplains and wetlands and historic places before the property is sold, leased, or transferred into other ownership. These are perpetual easements that run with the land. FmHA is also required to insure the protection of other federally recognized resources such as endangered and threatened species, wilderness areas, national natural landmarks, etc., and may use easements as a tool to do so.

AUTHORITY

The authority for the wetland and floodplain requirements derive from Executive Order 11988, "Floodplain Management," and Executive Order 11990, "Protection of Wetlands," which place affirmative responsibilities on federal agencies to preserve and enhance wetlands and to preserve and restore floodplains in managing and disposing of federal lands. The authority for historic preservation easements derives from the National Historic Preservation Act and Executive Order 11593, "Protection and Enhancement of the Cultural Environment." Regulations covering these easements are at 7 CFR Section 1955.137. The authority for easements on other federally recognized resources derives from the National Environmental Policy Act and other laws such as the Endangered Species Act and the Wilderness Act.

WETLANDS AND FLOODPLAINS

Types of Restrictions Included in the Easements. FmHA must specify in the lease or deed conveying inventory property that is in wetlands or floodplains those uses that are restricted under federal, state, and local regulations, as well as "other appropriate restrictions." This requirement applies even if land is being resold to the prior owner.

FmHA has developed standard language to insert into deeds for FmHA inventory containing wetlands and/or floodplains. Standard restrictions are prohibitions on the construction of dwellings, barns, outbuildings, or other structures and a prohibition on the alteration of the vegetation or hydrology of the wetland.

Who Manages the Easement? FmHA is responsible for describing the area under easement and recording the easement. In most cases, the rights in the easement, and the management responsibilities, are assigned to the U.S. Fish and Wildlife Service. Other eligible easement managers are the Forest Service, and state fish and wildlife agencies.

Status on Existing Inventory Lands. Under an agreement with FmHA, the Fish and Wildlife Service has surveyed the backlog of inventory lands to identify

wetlands, floodplains, and other federally protected natural resources (see below). For further information, contact the Fish and Wildlife Service Farm Bill Coordinator in your state.

OTHER NATURAL RESOURCES

FmHA also has responsibility under various federal laws to protect other important resources that may be located on or adjacent to inventory property. These include listed or proposed endangered or threatened species or critical habitat, designated or proposed wilderness areas, designated or proposed wild or scenic rivers, historic or archaeological sites listed or eligible for listing on the National Register of Historic Places, coastal barriers included in the Coastal Barrier Resources System; and sole source aquifer recharge areas designated by the Environmental Protection Agency.

Procedures for establishing easements to protect them are not included in regulations, but FmHA determines needed protection measures in its environmental assessment process. Easements are to be used if they are the most effective protection tool.

HISTORIC PLACES

Before selling, leasing, or transferring inventory property, FmHA must determine if the property is listed on or eligible for listing on the National Register of Historic Places. FmHA consults with State Historic Preservation Officers to determine if a property may be eligible for listing (for any structure older than 50 years) and works with these Officers to develop any necessary use restrictions to assure that future use is compatible with preserving the site, with the caveat that they not "result in an unreasonable economic burden to public or private interests." No comprehensive survey of historic places on inventory property has been conducted.

THE ROLE OF LAND TRUSTS

Land trusts may want to watchdog the implementation of these provisions to insure that areas requiring protection receive it. In some areas, the Fish and Wildlife Service does not have nearby or adequate field staff to manage or monitor wetlands and floodplain easements and would be interested in working with land trusts to accomplish this. Land trusts interested in participating in this program or in learning what areas have been identified by the Fish and Wildlife Service as needing easements should contact the FWS Farm Bill Coordinator for their state.

Land trusts should also be aware of this program's existence and its possible interplay with discretionary easements. For example, a land trust may want to request a discretionary scenic easement on a property that includes a wetland easement. In determining whether the scenic easement would reduce the resale value of the property and hence the return to FmHA, any loss in value due to restrictions that are already required in the mandatory easement should not be counted -- only the cost of any <u>additional</u> restrictions required by the scenic easement. This could substantially reduce the cost of the easement to the purchaser.

FmHA FARM INVENTORY PROPERTY BY STATE

STATE_NAME	FARMS_IN_INVENTRY	* PROGRAM_FARMS	# PROGRAM_TOT_ACRES	** SURPLUS_FARMS	# SURP_ACRES_TOTAL
ALABAMA	28	20	5105.9	7	1102.3
ARIZONA	28	3	5820.9	24	9160.0
ARKANSAS	70	33	6123.1	36	10814.3
CALIFORNIA	84	33	11407.6	51	32680.3
COLORADO	160	96	50879.4	64	31840.2
CONNECTICUT	1		0.0	1	1.0
DELAWARE	3		0.0	3	175.0
FLORIDA	78	11	2669.1	67	17648.3
GEORGIA	83	31	8830.2	52	11666.5
IDAHO	163	40	9597.2	123	35054.5
ILLINOIS	111	67	12322.7	44	6324.9
INDIANA	46	8	1074.1	38	6231.6
IOWA	334	319	74567.3	13	2316.4
KANSAS	300	69	16184.0	229	70106.8
KENTUCKY	52	32	5664.8	20	1970.0
LOUISIANA	144	107	27775.5	37	12102.6
MAINE	19	4	433.5	15	2752.5
MARYLAND	11	4	383.0	7	645.4
MASSACHUSETTS	3		0:0	3	459.0
MICHIGAN	157	88	20049.4	69	11955.6
MINNESOTA	216	75	28777.8	141	33107.6
MISSISSIPPI	315	98	34657.3	217	65925.6
MISSOURI	419	339	86455.6	76	18001.4
MONTANA	40	16	14834.7	24	21225.2
NEBRASKA	147	52	18477.6	95	37173.2
NEVADA	15	8	3398.9	7	5163.3
NEW HAMPSHIRE			0.0		0.0
NEW JERSEY	1	1	131.0		0.0
NEW MEXICO	38	19	2834.9	18	40827.9
NEW YORK	139	35	9370.0	104	22339.0
NORTH CAROLINA	123	33	4201.5	88	15676.3
NORTH DAKOTA	206	205	118235.4	1	312.0
OHIO	9	3	481.1	6	1334.0
OKLAHOMA	164	116	40037.2	47	21969.1
OREGON	79	40	10358.5	38	9729.7
PENNSYLVANIA	30	13	1745.6	17	2098.8
PUERTO RICO	22	18	4808.5	3	85.4
RHODE ISLAND			0.0		0.0
SOUTH CAROLINA	39	13	2444.6	26	8847.9
SOUTH DAKOTA	246	229	138278.8	17	14127.2
TENNESSEE	134	85	11485.3	49	7299.9
TEXAS	62	44	16604.5	18	16753.5
UTAH	11	10	1219.1	1	561.0
VERMONT	1		0.0	1	126.0
VIRGIN ISLANDS			0.0		0.0
VIRGINIA	15	7	974.3	8	1365.9
WASHINGTON	64	34	9089.3	29	7551.2
WEST VIRGINIA	13	9	1583.0	4	642.0
WISCONSIN	209	33	7201.0	176	39227.3
WYOMING	25	17	22662.3	8	18386.3

* "Program" means the farm is suitable for sale or lease to a typical FmHA borrower, that is, a low-income farmer

** "Surplus" means the property is unsold after 3 years or is not suitable for a typical FmHA borrower .

\# Add these columns -- Program Total Acres and Surplus Total Acres -- to total FmHA farm inventory property

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Chairman
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January 3, 1988

Dear Mr. Chairman:

My name is Bryan Petrucci and I am Assistant Director for the Midwest Region of the American Farmland Trust. AFT is a national, not-for-profit organization that deals with a variety of conservation and farmland protection issues. Our Chicago offices have been in operation for almost two years and you may have seen our display or picked up some of our literature at the last SWCD state conference in Springfield.

I am sending this letter to let you know that there are two new Farmer's Home Administration programs that Illinois Soil and Water Cconservation Districts may be able to use in the protection of local resources. These programs, part of the 1985 Farm Bill, may provide SWCD's with an opportunity to acquire easements on FmHA controlled lands. Their successful implementation would make possible the legal enforcement of conservation plans, and in some cases, even allow for the establishment of conservation demonstration areas.

<u>Section 1314</u>
Through this program, FmHA has been given the authority to grant easements on marginal and environmentally sensitive lands on farms held in their inventory. Qualified federal, state and local conservation agencies have the right to request that conservation easements be placed on inventory properties for the protection of natural resources, prior to their sale on the open market. Federal and state agencies can also make a request for the deed to lands which they consider to contain important resources.

The U.S. Fish and Wildlife Service has been the lead agency for reviewing inventory properties and identifying the environmentally sensitive lands (wetlands, riparian areas, endangered species habitat) of federal importance. The Illinois Department of Conservation has also done a preliminary review of these properties to identify resources of statewide importance (high quality wildlife habitat, large tracts of woodland, etc..).

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To date, only two SWCD's in Illinois have reviewed inventory properties in their counties and made requests to FmHA for an easement transfer. Our best estimate is that there are approximately 112 inventory properties located throughout 35 Illinois counties. It is probable that many of these contain resources of local importance that were not identified by USFWS or IDOC. My last FmHA report shows that in Knox County, there are 2 inventory farms containing 242.3 acres of land. This number may be higher or lower depending on recent sales or foreclosure activity.

Section 1318

Another program (Section 1318), has a component in which there is a need for SWCD's to be a part of. This provision allows FmHA to forgive a portion of a delinquent borrower's debt in exchange for a conservation easement on land used as collateral to secure the loan. Borrowers may use the easement option as a primary loan servicing program to avoid foreclosure.

In each county, FmHA will form an easement review team composed of local resource and conservation professionals. It will be the teams' job to assess marginal and environmentally sensitive areas found on each borrower's farm and assist SCS in the development of management plans for potential easements. Although FmHA will have the final say in whether or not to grant an easement, the easement review team will play an important part in deciding what types of resources should be be protected by easements and how to manage them.

Benefits to your SWCD.

These programs could provide your district with some important new conservation tools. First, by requesting easements on inventory land, or by developing easement plans on property used to reduce debt, it may be possible to tie conservation plans to the land through a deed restriction . On an inventory farm with highly erodible production fields, an easement would legally require that any future owners of the property use conservation systems in their operation, regardless of whether or not they receive federal farm program benefits. Another application may be for the protection of woodlots and wetlands. Easements could be tied to these properties to prevent clearcutting or inappropriate drainage activity by future owners.

Although local conservation districts are not actually eligible to receive direct property transfers from FmHA, there is nothing to prevent the Illinois Dept. of Conservation from requesting title to an inventory parcel and then giving management or ownership rights to a local SWCD. Working cooperatively with IDOC, Districts could have properties available to them for use as multi-use, conservation demonstration areas. All or part of an inventory farm could be transformed to a model farm, used for field tours or as a place to show cooperators the benefits of adopting a conservation plan.

What SWCDs should do

I have been monitoring FmHA's progress in the implementation of Section 1314 and 1318 for more than a year. The time to act on these programs is now! FmHA has already begun with the sale of inventory farms. SWCD staff should contact their local FmHA offices and ask for a listing of the inventory properties in their county. A quick review of each farm should give you a good idea of highly erodible and non-farm resources (woodlots, wetlands, etc..) found on these properties.

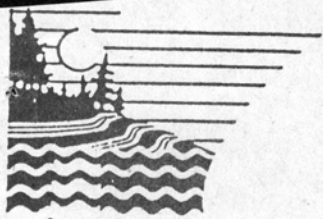
If there are farms in inventory that you believe should be protected through the transfer of a conservation easement, contact AFT's midwest office in Chicago. We'll provide you with more information on how to proceed with a request to FmHA. Remember, this program is brand new and very complicated. The ink on the FmHA's administrative rules is still wet and the program is untried. We don't really know how FmHA will handle requests for easements or property transfers. Preliminary talks with state officials have given us indications that they are willing to consider requests from local conservation agencies but will have difficulty approving easements which devalue the sale price of inventory properties. Although these programs may not meet our complete expectations, the successful negotiation of even a few limited conservation easements across the state would stand out as quite an accomplishment for Illinois SWCDs.

Also, SWCD's should contact their local FmHA offices and request to serve on the county conservation easement review team that will be formed to evaluate applications for easements filed by delinquent borrowers. FmHA is not automatically required to invite SWCD staff to serve on this team, so it is a good idea to let local officials know that you are interested and wish to participate.

I urge you to please consider the potential of this important program and ask that you give it your immediate attention. If you have any questions or feel that you need more information, please do not hesitate to contact me. Thank you for your time and consideration.

Sincerely:

Bryan T. Petrucci
Assistant Director, Midwest Region



Minnesota Board of Water & Soil Resources

Water Quality Concerns

by John Brooks, Jr. Member-State Board of Water and Soil Resources

There is a lot of concern for the quality of our underground water supply. This is a complex issue that is real and important to Clearwater County. This article addresses the issue of contaminated wells.

Southwestern Minnesota has many wells that are unsafe due to contamination from runoff into sink holes which are open directly into the underground aquifer. Abandoned wells could work the same way but no proof of this is yet available. We have many groups working on this issue, which includes the State Board of Water and Soil Resources (BWSR), local counties and local Soil and Water Conservation Districts (SWCD), and several other agencies.

In Clearwater County, the County Commissioners, in cooperation with the BWSR and the local SWCD Office, are doing a comprehensive local water study called 110-B, the study will address issues regarding surface and ground water. The local SWCD has set up a water plan task force of local groups to help with the water planning process. When the study is completed we hope to begin a plan to protect both underground and surface water. Education programs will be initiated to inform the public of potential problems.

There is a three-year study of groundwater quantity and quality being done in portions of Clearwater, Beltrami, Cass, and Hubbard County. This study is known as the Bagley-Bemidji Sand Plain Groundwater Study. It includes the shallow sand aquifer in the east central

portion of Clearwater County and als tested water quality in deeper confine aquifers in the same vicinity. Loca townships, cities, and watersheds have contributed to this study through the local soil and water conservation districts.

The State Board of Water and Soil Resources has proposed a survey of wells in sensitive areas. A well-sealing cost share program will be considered if this proves to be necessary. This program will likely be in cooperation with the local county and SWCD. It is important for people to be aware of the abandoned wells on their property and make every effort to protect them from contamination. The water supply most likely to be polluted through abandoned wells, is the one nearest to the abandoned well, which is often the well currently in use.

Some ways of polluting a well are with improper disposal or storage of garbage, chemicals or other hazardous materials, excessive runoff of chemicals and other pollutants. In Clearwater County we now have the incinerator at Fosston to accommodate the disposal of garbage materials. We urge county residents to use this facility as much as possible. Looking toward the future, recycling may be a realistic solution to some of our wasteproducts.

Clearwater County has had one county-wide household hazardous waste pick up. Another pick up may be arranged in the future. This is supervised by the local Environmental Service Office.

The Red Lake Watershed has also been working on water quality and has done an aerial study of garbage dumps on the rivers within their jurisdiction. They are now in the process of working with townships and counties to get these sites cleaned up.

These are some of the programs related to water quality that are now in progress. If you have concerns or questions about these programs or water quality in general, contact any representative of the above organizations.

Our water is a resource that is often taken for granted. Every citizen has a responsibility to preserve and protect this life-giving resource. Let's all work together to achieve this goal.

Water Quality Concerns

By John Brook
Member-State B[illegible] of
Water and Soil Resources

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Council . . .

continued from front page

*Directed City Clerk Westrum to write a letter of concern to the contractor concerning the rusting or discoloration of the exterior of the Liquor store and council chambers.

*Commented the snow removal efforts of Rangvald Thompson during the recent snow accumulation. "I heard a number of favorable comments on snow removal," reported Cl[illegible]

ISSUED: February 10, 1989

Public Notice

US Army Corps of Engineers
St. Paul District

Notice of Decision Not to Exercise Discretionary Authority to Modify existing Nationwide Permit, 33 CFR 330.5(a)(26), for Discharges of Dredged or Fill Material into Certain Waters within the 51-County Prairie Pothole region in Minnesota; and to Provide Notice of Public Meetings to be Conducted for the Purpose of Clarifying Various Provisions of the Corps Regulatory Program.

1. On December 12, 1988, the St. Paul District issued a Public Notice announcing that the Corps of Engineers was considering a proposal to exercise the discretionary authority described above. This proposal was intended to simplify and shorten the application process for projects that involved the discharge of dredged or fill material into waters of the United States located above the "headwaters" of a stream (the point at which the average annual flow is less than five (5) cubic feet per second), or isolated waterbodies (lakes, ponds, wetlands where there is no surface connection to a tributary system). Many prairie potholes fall within the "isolated waters" classification. However, because the Chief of Engineers, Washington, D.C., is considering modification of the nationwide permit for "headwater" and "isolated" waterbodies, I have determined that it would be prudent to not make any modifications to this nationwide permit at the district level pending the outcome of possible changes that would be national in scope. In addition, I have determined that it would be beneficial to hold several public meetings to explain the nature and extent of the Corps regulatory program.

2. The current regulatory requirements contained in the Code of Federal Regulations - CFR 330.5 (a)(26) - are still in effect. This regulation establishes a nationwide permit which authorizes landowners to engage in certain types of filling activities in "headwaters" and "isolated" waters without an individual permit from the Corps of Engineers. However, the nationwide permit covering "headwaters" and "isolated" waters was modified in February, 1985, by a set of Regional Conditions required by the State of Minnesota (Minnesota Department of Natural Resources and Minnesota Pollution Control Agency). The Regional Conditions were designed to add additional protection to special types of water and wetland resources within the State. Because of the complexity of these modifications, landowners should contact the St. Paul District, Corps of Engineers, before starting any kind of dredging, draining or filling in any waterbody, wetland or prairie pothole:

St. Paul District, U.S. Army Corps of Engineers
ATTN: Regulatory Branch
1421 U.S. Post Office
St. Paul, MN. 55101
(612) 220-0372

3. It is evident from the many responses to my initial public notice dated December 12, 1988, that there is widespread confusion and misunderstanding concerning the proposed exercise of discretionary authority over the prairie pothole region of Minnesota; some of that confusion surely rests with the failure of the public notice to explain in sufficient detail the intent and consequences of the proposal. Although this proposal has now been withdrawn, it is important that we clarify what had been proposed.

4. The proposed modification that was described in the public notice dated December 12, 1988, was intended to apply only to those projects where the

discharge would result in the loss or substantial adverse modification of between one (1) and ten (10) acres of a headwaters or isolated waterbody. The proposal would have resulted in eliminating both the existing 20-day evaluation/coordination process and the requirement to refer the proposed project to the Division Engineer in Chicago, Illinois, for a case-by-case determination of whether an individual or nationwide permit authorization was most appropriate. Historically, it has been our experience that all projects in the prairie pothole region, with impacts between one (1) and ten (10) acres, have not been deemed appropriate for authorization under the nationwide permit. Therefore, we considered it to be beneficial to both the Corps and the regulated community to dispense with the 20-day coordination/referral process and to initiate the individual permit review immediately upon receipt of notice of such projects. This would eliminate the need to process the paperwork through the Division Engineer.

5. The proposal set forth in the December 12, 1988, public notice did not clearly state that there was no intent to change the provisions of the nationwide permit for projects with impacts of less than one (1) acre; these projects would have continued to be authorized by the nationwide permit, provided that they also meet the existing Regional Conditions. Similarly, permit requirements for projects with impacts of greater than ten (10) acres would have been unchanged; such projects always must be authorized by an individual permit.

In summary, the December 12, 1988, proposal would not have expanded the Corps jurisdiction to waterbodies or projects not already subject to regulation under the Clean Water Act, nor changed any evaluative criteria utilized in the permit decision process. The result of the proposal would have been only an administrative simplification of the current coordination and referral procedures.

6. To ensure that the scope and nature of the Corps regulatory program is adequately understood, and its relationship to other Federal, State and local authorities is clarified, I have scheduled a series of informational public meetings as follows:

Feb 22 Mankato, Mankato State University, South Road at Ellis Avenue, Conference Auditorium, 10 a.m.-12 p.m.

Feb 22 Worthington, Nobles County Courthouse, 315 10th Street, Farmers Room, 4-6 p.m.

Feb 23 Marshall, SW State University, Highways 23-19 Junction, Room LC-201, 8:30-10:50 a.m.

Feb 23 Fergus Falls, Ottertail Power Cooperative, 216 South Cascade, Community Rooms, 4-6 p.m.

Feb 24 Crookston, University of Minnesota campus, ARC Auditorium, 9-11 a.m.

Roger L. Baldwin

ROGER L. BALDWIN
Colonel, Corps of Engineers
District Engineer

COMPREHENSIVE WATER RESOURCES PROTECTION ACT OF 1989

SUMMARY PREPARED BY THE
MINNESOTA STATE PLANNING AGENCY
January 25, 1989

The proposed "Comprehensive Water Resources Protection Act of 1989" is aimed at protecting the quality and abundance of Minnesota's water resources. It is intended to provide a framework to strengthen state and local programs to protect our water resources, especially our ground water.

Background

The last two years vividly demonstrate that we cannot become complacent about water matters. Minnesotans experienced a record flood in the Twin Cities during the summer of 1987, and a record drought in the summer of 1988. We have found once again that our ground water is vulnerable to contamination by the waste we discard in landfills and by the pesticides and fertilizers we use to produce food and to make our lawns attractive.

Pesticides have been found in nearly 40 percent of the wells tested in special state studies. Nitrate levels in these same studies exceeded health limits in over 40 percent of the private wells and seven percent of the public wells tested. Solid waste landfills and dumps have become a major source of ground water contamination, with well over 50 sites on the state's Superfund priority cleanup list.

The "Minnesota Ground Water Protection Strategy" and the companion "Strategy for the Wise Use of Pesticides and Nutrients" have been developed to guide our response to these problems. The package of recommendations in these reports was compiled by the variety of interests (including researchers, industry representatives, local governments, and environmentalists) serving on the EQB Advisory Committee on Ground Water Protection. This committee was chaired by Tom Anding, CURA. In addition, the state agencies and citizens of the Environmental Quality Board reviewed extensively and adopted these strategies. These recommendations serve as the foundation for the "Comprehensive Water Resources Protection Act of 1989."

The consensus of all who worked on this package is that we must prevent further contamination of ground water. Minnesota cannot afford to squander this precious resource.

To meet this prevention goal will take changes in behavior of individuals, as well as business and government. Therefore, new efforts to communicate the ties between the way we use our land and the quality of the water beneath the land surface will be needed.

Special research is needed to determine how chemicals spread on the land move into ground water supplies, to define which parts of the state are particularly prone to this movement, and to develop management practices successful in preventing contamination while accomodating prudent economic activity.

Special efforts to monitor our drinking water supplies, and to better control sources of pollution are needed. We have not routinely looked for the exotic chemicals that are contaminating our drinking water. The uncontrolled sources of pollution of which we are aware, like abandoned wells, need to be removed as sources of contamination.

Finally, to meet the goal of preventing contamination of ground water will take a new emphasis on a partnership between local and state government. The state cannot safeguard Minnesota's ground water acting alone. Local government has a key job to do and the state a duty to help local government do this job.

The Governor is recommending that the Legislature pass the "Comprehensive Water Resources Protection Act of 1989" to address these concerns. This action will ensure that we continue to share the benefits Minnesotans have rightly come to expect of clean, abundant supplies of water.

The proposed legislation is divided into a number of Articles based on various topics. The legislation, like the strategies on which it is based, is a multi-agency effort. Various agencies have drafted particular sections with the Minnesota State Planning Agency coordinating the effort. The following is a list of the Articles with a brief summary of their content.

Article 1
Protection of Ground Water
Lead Agency MPCA

The bill establishes a statutory framework for protecting both ground water quality and availability. It establishes a nondegradation policy as the goal for all activities conducted in the state. This goal is not intended to preclude activities which impact ground water quality, since it is recognized that it will not always be possible to reach the goal. However, the goal will provide a needed push for continued improvement in our ground water protection efforts.

Protection efforts would take place through development and application of best management practices, and by delineating sensitive areas where ground water is more vulnerable to contamination, thus requiring special protection measures. The bill would also require the evaluation of agency programs for their effectiveness at controlling pollution. To address situations where ground water pollution cannot be avoided, the bill directs the PCA to establish ground water pollution limits (standards) in conjunction with the Department of Health.

Article 2
Fertilizer, Soil Amendment, and Plant Amendment
Lead Agency MDA

This article amends many of the environmental protection provisions of the Pesticide Control Law into the Fertilizer, Soil Amendment and Plant Amendment Law. It will require permits to apply fertilizers

through irrigation systems. A "Fertilizer Management Plan" will be prepared that includes recommendations for fertilizer management use.

Article 3
Pesticide Control Law
Lead agency MDA

The widespread use of pesticides and nutrients poses threats to surface and ground water quality. This article provides a framework of actions needed to prevent contamination. It enhances prevention by such measures as requiring a "Pesticide Management Plan", and improving education and training of users. It also provides for increased information on handling, home and urban uses, alternative management practices, and pest surveys. Licenses would also be required of those retail stores selling pesticides.

Article 4
Waste Pesticide Collection
Lead Agency MPCA

This article creates a waste pesticide collection program. Since waste disposal is an important issue for counties, there should be much interest in new efforts to ensure pesticides are disposed of properly.

Article 5
Water Supply Monitoring and Protection
Lead - MDH

This article is aimed at protecting drinking water. It provides for expanded testing of public water supplies that are required under the federal Safe Drinking Water Act and pays for this testing through service connection fees.

The bill also provides for a greatly expanded water well construction program. New civil penalties are instituted as well for well drillers. In addition, there is a requirement for disclosure of each well at the time of property transfer.

Under the bill, a permit and fee would be required for new wells.

Article 6
Education; Research; Monitoring; and Information Management
Lead Agencies - MEEB, SPA,

The Environmental Quality Board (EQB) will be required to coordinate development of a state water resources monitoring plan. The plan would be augmented with biennial reports which assess the nature and quality of ground water in the state and recommend modifications needed in the monitoring plan. The EQB will also identify and recommend priorities for statewide water research needs.

Information management is another important area to be addressed in the bill. The amount of ground water and geologic information being collected is growing rapidly, and there is little uniformity or sharing of data under the current system. To begin to address data problems, the EQB would be required to establish minimum data compatibility standards for all state water data collection efforts.

This article reflects the need for improved public awareness of ground water issues. The Minnesota Environmental Education Board (MEEB) will establish a Water Information and Education Committee responsible for such things as identifying educational needs for both school children and adults, and establishing a plan of action to begin to fulfill these needs.

Article 7
Local Water Resources Protection and Management

Since local government plays a key role in water protection and management, the legislation would establish a grant program to counties, and to other local units through the county. Its primary purpose would be for development of comprehensive water plans where they have not yet been developed and for implementing water protection measures delineated in local water plans.

Priorities for these measures include such activities as developing water protection ordinances and improving enforcement. Activities could include ordinances or health regulations relating to septic systems, erosion, or well code enforcement. A grant program would also be enacted to seal priority abandoned wells.

Article 8
Water Appropriation Priorities
Lead Agency DNR

The drought brought renewed interest in the state priority system for water appropriation. Changes suggested would ensure that essential power production needs have a high priority, that the appropriation priorities focus on consumptive water uses.

Article 9
Legislative Commission on Water
Lead Agency SPA

This article establishes a legislative commission on water that reviews water policies and reports and generally monitors the development of water related legislation and evaluates its effectiveness.

PROPOSED COMPREHENSIVE WATER RESOURCES PROTECTION ACT OF 1989

FACT SHEET: PREPARED JANUARY 20, 1989

WHY DO WE NEED A WATER PROTECTION BILL?

Minnesota is a state known for its abundant water resources, both ground and surface water. The 1988 drought has dramatically underscored the dependence of human institutions on natural systems, and highlighted the need for effective stewardship of the resources in our state. We must take actions now to protect our ground water resource from pollution and misuse, and make a strong effort toward public information and education on the myriad of ways in which human activities impact ground water. Effective protection will not be possible without an informed public, able to make and support strong decisions aimed at protecting our ground water resource for generations of Minnesotans to come.

The proposed legislation provides a multi-pronged approach to protect our water resources and strengthens the partnership with local government. The approach recognizes that education, research, monitoring, incentives and regulation are all needed and must be coordinated and complementary if we are to achieve the desired results.

BACKGROUND FOR LEGISLATION:

Two water-related strategies were adopted by the Minnesota Environmental Quality Board in 1988, the "Minnesota Ground Water Protection Strategy" and the "Strategy for the Wise Use of Pesticides and Nutrients." These two strategies were developed with the involvement of many state agencies, and were the subject of a series of 14 public meetings held in April of 1988. An advisory committee, with representatives of industry, agriculture, professional organizations and environmental groups, was formed by the Environmental Quality Board. This group reviewed the two strategies in detail, and made extensive comments and recommendations on the directions taken. Each strategy provides a discussion of the issues which were considered, and outlines a recommended course of action for resolving the problems identified. It is the recommendations of these strategies which form the basis for the proposed bill.

OVERVIEW OF LEGISLATION TO BE PROPOSED:

The legislation to be proposed deals with several broad topic areas. These are:

* Clarification of the statutory framework for ground water protection. The existing legal framework emphasizes surface water, and ground water protection measures need to be added. The bill proposed will include establishment of nondegradation as a ground water protection goal for all activities, setting of numerical ground water pollution limits at levels protective of human health and the environment, development of criteria for designation of areas as sensitive to ground water pollution, and regular review of regulatory programs through the Environmental Quality Board to see that the ground water protection goals and limits are effectively implemented in the programs.

* Information, education, research and monitoring. An informed public is essential if we are to protect our water resources. Increased educational efforts for school children and adults are provided for in the proposed bill.

While we have a fair understanding of the surface water system and how various activities may cause pollution, the ground water system is very complex and poorly understood. To protect it, we must understand ground water better and develop our knowledge of how those activities that take place on the land are polluting it. Increased aquifer studies and water quality monitoring are needed. In addition, while the amount of ground water and geologic information is growing there is little uniformity or sharing of data under the current system. Minimum data compatibility standards are proposed to be established for all state funded water data collection efforts.

* Development of environmental programs at the local level. Since local government plays a key role in water protection and management, the legislation would provide cost sharing for implementing water protection measures delineated in local water plans. Priorities for these measures include activities such as developing water protection ordinances and improving enforcement.

* Testing of public water supplies, and improvement of the state's water well construction program. Over 75 percent of Minnesotans get their water supplies from ground water and a major emphasis of the proposed bill is to protect drinking water supplies. Today we know more about the existence and health significance of certain contaminants. Testing for additional contaminants that may be present in drinking water supplies is costly, but essential, and is proposed in the legislation. Over 10,000 new wells are drilled each year. Presently the state inspects only about 300 of these. Since wells can cause direct contamination of ground water resources, this legislation proposes to strengthen the well program to ensure that wells are installed properly, maintained properly, and sealed properly when no longer in use. A cost sharing program would be established for priority wells that need to be sealed to protect the ground water.

* Better management of pesticides and nutrients. There is a special emphasis on protecting water from pesticides and nutrients. This would occur through increased regulation as well as emphasis on education, training and development of management practices that protect water resources. The state would expand assistance to "low-input" agriculture (efforts that emphasize reduced use of chemicals and other "inputs" so that the agricultural operation protects the environment and operates more profitably). It would also expand efforts for "Integrated Pest Management," which involves the use of a combination of approaches to keep pests below levels where they do damage. Other measures to protect our water resources from pesticides and nutrients include the development of a "Pesticide Management Plan" that sets forth the actions that will occur if pesticides are found in ground water and a "Fertilizer Management Plan" that sets forth recommendations regarding fertilizer management and use. These two plans would be developed by the Department of Agriculture, in cooperation with the Environmental Quality Board. The collection of waste pesticides will also be provided for in the proposed legislation.

FOR MORE INFORMATION:

The State Planning Agency, as staff to the Environmental Quality Board, is the lead agency in development of this legislation. For more information, contact:

John Wells
State Planning Agency, Environmental Division
658 Cedar Street
St. Paul, Minnesota 55155

HOW ARE ABANDONED WELLS PROPERLY SEALED?

The sealing of abandoned wells begins by removing the pumping equipment and clearing any obstacles or debris that may have entered the well. Clearing obstructions from the well is necessary to get an effective seal. After the well is cleared, the well is ready to be sealed. The method of sealing that is generally used is to pump cement through a pipe from the bottom of the well to within two feet of the surface. The casing should be cut off two feet below the surface and the remaining hole filled with soil. Other procedures may be used if the well is large or if there are special geologic conditions. (See the next question for more discussion on alternative procedures.)

The final step in sealing an abandoned well is the submission of an abandoned well report by the licensed water well contractor to the Minnesota Department of Health. The report is the official documentation and your guarantee that the well has been properly sealed and no longer constitutes a real or potential pathway for contamination to enter the ground water. A copy of the report should be kept with the property owner's important papers.

DO ALL ABANDONED WELLS HAVE TO BE FILLED WITH CEMENT?

No. In general, the procedure used to seal an abandoned well is to completely fill the well with a material that is less permeable than the native soil and rock. In most cases, the best material is cement but there are cases where cement may not be practical and is not required. For example, it would be very expensive to fill large diameter dug wells with cement. The local and state ground water protection goals can still be served by using a filling material, such as clay or a mixture of sand and bentonite (a special clay used in the drilling of wells), to fill the hole and restore natural conditions as closely as possible. On the other hand, wells drilled into rock must be filled with cement or they will continue to allow water to migrate between water-bearing layers and degrade ground water quality.

WHERE CAN I GET MORE INFORMATION?

Local units of government, such as community health services agencies, county or city health departments, planning and zoning offices or soil and water conservation districts may have information and programs to encourage the finding and sealing of abandoned wells. The Minnesota Department of Health and licensed water well contractors can also help.

For further information contact the following Minnesota Department of Health offices:

1819 Bemidji Avenue
Bemidji, Minnesota 56601
218/755-3820

320 West Second Street
Duluth, Minnesota 55802
218/723-4642

Building 4A, East Drive
Fergus Falls, Minnesota 56537
218/739-7585

215 North Benton Drive, Box 426
Sauk Rapids, Minnesota 56379
612/255-4216

Box A-50
Marshall, Minnesota 56258
507/537-7151

410 Jackson Street
Mankato, Minnesota 56001
507/389-2501

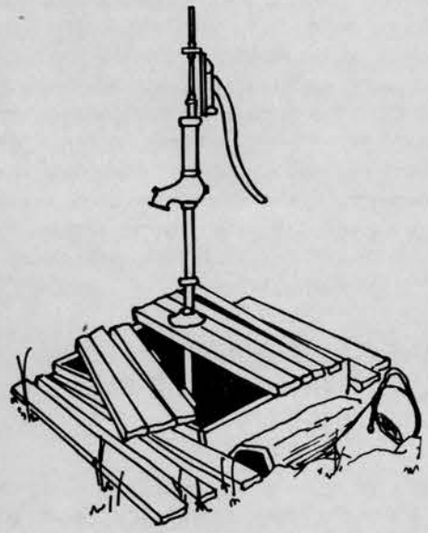
2116 Campus Drive, S.E.
Rochester, Minnesota 55904
507/285-7289

P.O. Box 9441
Minneapolis, Minnesota 55440
612/623-5376

Minnesota Department of Health
Division of Environmental Health
717 Delaware Street Southeast
P.O. Box 9441
Minneapolis, Minnesota 55440

8/88

ABANDONED WELLS



PROTECTING GROUND WATER IS EVERYBODY'S BUSINESS

MINNESOTA DEPARTMENT OF HEALTH

AUGUST 1988

WHAT ARE ABANDONED WELLS?

Abandoned water wells are wells that are no longer in use or cannot be repaired.

WHY ARE ABANDONED WELLS A PROBLEM?

Abandoned wells that have not been properly sealed are potential sources of contamination to ground water and can affect nearby drinking water wells. Abandoned wells can act as direct pathways to allow poor quality water to move from the surface or from near-surface water-bearing layers to lower, water-bearing layers. Unsealed abandoned wells, which are frequently not covered or otherwise protected, are open holes in the ground which pose serious threats to the health and safety of children and small animals.

WHAT CAUSES A WELL TO BECOME UNUSEABLE AND ABANDONED?

Wells grow old. As they age, the casing may rust, joints may leak, pumps and debris may become stuck in the well. The cover (loose board, slab of concrete) may decay and break and the well may be open to receive surface water runoff and trash. Wells may become abandoned when the well no longer provides sufficient water; the well becomes contaminated when land use changes; property owners move, or when the wells simply aren't repaired when they need to be. An abandoned well is soon forgotten.

DO I HAVE AN ABANDONED WELL ON MY PROPERTY?

Whether you live in the country or in town, you could have abandoned wells on your property. If you live in town, there may be a well that was used before city water became available. (The well may have been left to use for watering lawns and gardens.) If you live in the country, abandoned wells may be located close to existing or former house and barn sites. Examples of informational sources to help determine if you have an abandoned well include:

- Former property owners or people who have lived in the area a long time may remember well locations.
- Well drillers may remember where they drilled a well that is no longer in use.
- Old photos may show windmills, houses, barns, or other out-buildings where a well might be located.
- City and county records of building and land use permits may show how a property has been used.
- Historical documents and the history of cities and counties may provide clues to development patterns.
- Old fire insurance plan drawings may contain records of old wells.

WHAT DOES AN ABANDONED WELL LOOK LIKE?

The most obvious evidence of an abandoned well is a pipe sticking out of the ground. A well casing typically will be a metal pipe that is 1-1/4 to 6 inches in diameter. A dug well (meaning a large diameter well which was dug by hand, bucket, or auger) may appear as a ring of concrete, tile, bricks or rocks 12 to 36 inches (or even larger!) in diameter. A depression in the ground may indicate that a well has been buried. A wet area could indicate a flowing well that was never properly sealed. Windmills are often located over an abandoned well. An old shed may be an abandoned well house. A broken-down or no longer used hand pump is very likely connected to a well that should be sealed. Before the water well construction code was adopted in 1974, residential wells were frequently drilled in the basements of houses. A pipe sticking out of the floor, maybe just plugged with some rags, could be a well casing. A common place for wells was under the front step as sometimes evidenced by a glass block fitted into the top step.

WHAT SHOULD I DO IF I FIND AN ABANDONED WELL ON MY PROPERTY?

Contact a licensed water well contractor (check the yellow pages of your local phone directory under Well Drilling & Service) to make arrangements for having the abandoned well sealed. State law requires that abandoned wells be sealed by a licensed water well contractor. The contractor has the expertise and the specialized equipment necessary to do the job. The Minnesota Department of Health can provide a list of licensed contractors if you have trouble finding one.

WHY SHOULD I SEAL MY ABANDONED WELLS?

- Unsealed abandoned wells directly connect the land surface with the ground water. They can act like drains, allowing surface-water runoff, contaminated water near the surface, or wastes disposed of in abandoned wells to quickly reach ground water. Ground water is the major source of drinking water for two-thirds of the people in Minnesota - - PROTECTING IT IS EVERYBODY'S BUSINESS.
- Abandoned wells can affect the quality of water in the well that you are using, whether you have a private well located near the abandoned well or whether you are served by a municipal well water system.
- Abandoned wells can be a safety hazard. Children seem to be attracted to abandoned wells, sometimes with tragic results.
- Abandoned wells can waste ground water if flowing wells are not sealed or if wells interconnect 2 or more water-bearing layers.
- State law requires that abandoned wells be sealed.

WHAT DOES IT COST TO SEAL AN ABANDONED WELL?

The cost of sealing an abandoned well can vary considerably. Shallow, small diameter wells, like those commonly found at lake cabins, can often be sealed for $100 or less; large diameter, deep municipal wells have cost thousands of dollars to seal. An average 4-inch diameter well will usually cost from $2 to $8 per foot to seal. Well sealing costs can be reduced, sometimes considerably, by sealing the old well at the same time the new well is drilled or by arranging through citizens groups, organizations or governmental agencies to seal all abandoned wells in an area at the same time.

The cost of sealing abandoned wells is a small investment to protect future water quality.

ABANDONED WELLS

Magnitude of the Problem

Abandoned wells are water wells whose use has been discontinued or which are in such disrepair that continued use is impractical or may be a health hazard. Abandoned unsealed wells can act as conduits or channels for contamination to reach the groundwater. The threat of open holes serving as passageways for surface or near-surface contamination poses a major problem to the groundwater, particularly in contaminated areas.

The magnitude of the problem was demonstrated by a pilot study conducted by the Minnesota Department of Health in 1973. The pilot study located abandoned wells in five southeastern Minnesota townships in Winona, Fillmore, Wabasha and Houston Counties. The study revealed a surprisingly large number of abandoned wells with estimates ranging from 1,200 to 2,050 abandoned wells for the five townships or about one abandoned well for every five active wells in operation. Later information from the University of Minnesota, School of Public Health's abandoned well survey indicated that there may be as many as one to four abandoned wells for every active well.

The total number of abandoned wells can be visualized when it is realized that approximately 100,000-400,000 active wells are estimated to exist in the state. Based on the abandoned well survey, this means that approximately 100,000-1,600,000 abandoned wells are present throughout the state threatening the quality of the groundwater.

Adverse Effects of Abandoned Wells

Properly constructed water wells are not normally sources of groundwater contamination. But when the wells are in a state of disuse or disrepair, or if they are buried or casings are damaged and begin to deteriorate, then the wells can become conduits through which contamination can travel vertically through boreholes.

Since 1974, when the Minnesota Water Well Construction Code came into effect, water wells have been drilled so that they do not pose a threat to the groundwater if properly maintained. In some instances today, an aquifer must be sealed off and special well construction employed, for example, in geologically sensitive areas underlain by limestone. The Code may require casing and grouting of the limestone.

An abandoned well's potential for adversely affecting groundwater quality will depend on its original use, the local geology, land use, the hydraulic characteristics of the subsurface fluids, and the type of well construction. When a well is improperly sealed, it is often simply covered by a board or a sheet of metal in an unsuccessful attempt to insure that the well does not become a hazard. Unfortunately, such procedures fail to take into account the fact that the mere existence of an unsealed, abandoned well represents a great hazard to groundwater quality either as a direct conduit for surface contamina-

tion to enter the groundwater or for inter-aquifer exchange, that is, flow between two aquifers having different heads.

The natural quality of groundwater tends to be degraded by the activities of man. Wastes, which are not discharged into lakes and streams are deposited on or below the land and from there may migrate downward to contaminate the groundwater. The problem is compounded because groundwater contamination and the effects of contamination are not usually recognized until groundwater quality is seriously impaired.

Reasons for Sealing Abandoned Wells

Unsealed abandoned wells constitute a hazard to public health and a danger to groundwater supplies. In Minnesota approximately two-thirds of the state's population (2.6 million people) consume groundwater. Such a valuable resource must be protected from unwarranted neglect in allowing degradation from abandoned wells.

The principal dangers of an abandoned well are that it may transfer surface or near-surface contamination through the well bore or through the unsealed annular space between the casing and hole or between two casings or from a contaminated aquifer to an uncontaminated aquifer. Many abandoned wells are buried below the ground surface and may transfer contamination directly into the groundwater. Groundwater normally moves very slowly, from a few feet to tens of feet per year, and in the process is filtered and cleaned up or attenuated before it moves into the lower water-bearing zones. An abandoned well will cause the natural clean-up process to be circumvented and transfers large amounts of contaminated water to be concentrated at one point.

The ability of a well to transfer large amounts of water back into the groundwater system has been documented on many occasions. Such an example occurred a number of years ago when a recharge well in the Twin Cities was used to dispose of storm water before the practice was halted by the state. The well drained a storm sewer holding pond into the underlying groundwater at the rate of 2,000 gallons per minute. The well was reported to be completed in the highly fractured Shakopee limestone, a formation known to yield and accept large volumes of water.

A summary of the types of abandoned or unsafe wells that may transfer contamination into the groundwater may be classified as follows: (1) buried wells in which contamination may enter the well through the buried top of the casing; (2) wells in which the casing has been corroded and surface or near-surface water may run into the well; (3) improperly constructed wells in which the annular space around the outside of the casing is not sealed and acts as a channel; (4) improperly constructed wells in which an unsealed inner casing allows the transfer of water between formations; (5) open hole wells in which the borehole interconnects aquifers.

Priorities for Sealing Abandoned Wells

The abandoned well program has been one of the target projects for extra effort by the Minnesota Department of Health because of the recognition of the importance in protecting groundwater. Recognizing that a large number of abandoned wells exist with varing hazards, an abandonment priority has been developed:

1. Abandoned wells located in areas of major pollutant discharge or where wells intercept contamination plumes include wells located near spills of industrial chemicals or petroleum products, waste sites, processing facilities and landfills.

2. Developments with private wells annexed by and connected to municipal water systems. A cross-connection hazard exists between the water systems.

3. Demolition, rehabilitation or construction areas or where there are problems of scheduling proper sealing while access is available.

4. Wells improperly constructed, located or maintained. Wells with faulty seals or casings, multi-aquifer wells, "recharge" or disposal wells, wells near contamination sources such as septic systems.

5. Wells in geologically sensitive areas, wells completed in or through carbonates (limestone).

6. All other abandoned wells.

Sealing Procedures

Sealing of abandoned wells may be classified as temporary or permanent. A temporary seal or temporary removal of a well from service requires written approval from the Minnesota Department of Health. In addition to placing a watertight cap or cover on the casing, the well must be maintained so that it is not a source or channel of contamination when not in service. A permanently abandoned well requires that it be disconnected from the system and the hole completely filled.

The statutory authorization for the sealing of abandoned wells is vested in Minnesota Statutes, Chapter 156A. Under this statute the Minnesota Department of Health, through the Commissioner of Health, has been granted strong regulatory power. The Commissioner may order the owner of a well to take remedial measures including making repairs, reconstruction or sealing of a well. The order may be issued if the Commissioner determines, based upon inspection of the well and site or analysis of the water from the well, that any of the following conditions exist:

1. The well is contaminated.

2. The well has not been sealed and abandoned properly.

3. The well is in such a state of disrepair that its continued existence endangers the quality of the ground water.

4. The well is located in such a place or constructed in such a manner that its continued use or existence endangers the quality of the groundwater.

The law (Chapter 156A) specifies that no contractor shall drill, construct, repair or seal and abandon a water well unless in the possession of a valid license issued by the State Commissioner of Health.

Location and Inspection

Location of abandoned wells is the first step in proper sealing. While some wells are easily located, others may be buried or otherwise concealed. Location of abandoned wells may be through contact with the present or past owners, neighbors, or water well contractors. Regulatory officials may have information. Historic documents may be used such as aerial photo and plat maps, insurance company maps or photographs. Metal detectors may be of value in locating buried casings.

The procedure for sealing abandoned wells starts with obtaining information on the well's construction and condition. This information is best obtained from water well drilling records. Historical well records are filed with the Minnesota Geological Survey. Water well records for wells drilled after 1974 may be obtained from the Minnesota Department of Health. When written water well record information is lacking, interviews with the owners or well driller may provide information. A downhole TV camera survey can provide valuable information and can also verify the current well depth, condition and construction. In specific circumstances, the Minnesota Department of Health may conduct a camera survey.

After information is obtained about the well's construction, a site inspection will be necessary to ascertain the condition of the well and to note if the well is accessible, located in a pit, or buried, if the pump has been removed or if the well is currently operating. Inspection should also note if the well has been damaged or obstructed. When the well has been damaged, it is usually very expensive and time consuming to seal it.

Sampling

The policy of the Minnesota Department of Health is to require water samples from abandoned wells in industrial or commercial areas or where contamination is present or suspected. The water analysis is usually tailored to the specific constituents suspected, but a complete analysis may be run where a broad range of chemicals are suspected.

The owner is responsible for the cost of sealing an abandoned well including sampling costs. A complete laboratory analysis can consist of the following parameters:

1. 20 inorganic chemicals - sodium chloride, nitrate, etc.

2. 10 metals - lead, mercury, etc.
3. 12 volatile non-halogenated organic chemicals, such as benzene, toluene, etc.
4. 42 volatile halogenated organic chemicals - trichloroethylene, etc.

The sampling protocol is to pump the well until a water sample is obtained that is clear of debris, and sediment. Once the water is "clear" the usual procedure is to pump the well three to five times the calculated volume of water in the well bore to obtain a representative sample. The object is to purge the well of water that has been "standing" in the casing. Water samples taken for anlaysis at the Minnesota Department of Health are only taken in clean, specialized sample bottles provided by the Minnesota Department of Health laboratory.

Remedial Action - Clearing the Well

Sealing of abandoned wells starts with removing the pumping equipment and clearing any obstacles or debris that may have entered into the well.

When the well is obstructed and pumps or other equipment have been dropped down the well, the debris will have to be removed or "fished" out before the well can be sealed. A variety of fishing tools are used to remove obstructions. Threaded taps on the end of a drill rod may be run into the hole in an attempt to screw into the top of a pump or drop pipe. Other types of equipment used are over shots (a casing with inner teeth that is run over the obstacle to be removed), corkscrews, and spears used to hook the obstacle for removal.

In some instances the driller may chop or grind up the obstacle in an attempt to clear the well. Debris or other materials such as rock, sand, clay, stones, wood, etc., is usually drilled out or washed out of the hole. Fishing material out of a borehole is very difficult and the success of the operation is dependent on the experience and ability of the driller, but also somewhat subject to luck.

Casing Removal

Multiple strings of casing in a well increase the difficulty of sealing the well. To properly seal a well a non-grouted inner casing must be: (1) removed, or (2) perforated or ripped to insure that the annular space is sealed throughout its length, or (3) in rare instances a tremie line may be installed between the casings to grout up the annular space. In older wells the annular space is often too small to grout by use of a tremie line between the casings.

Whenever possible, the Minnesota Department of Health recommends that the casings be removed. On shallower wells, particularly sand point wells, the casing can usually be removed. Often the cost of casing removal and its negligible salvage value will lead to leaving the casing in place.

Sealing

Upon clearing of the well bore, the well is ready for sealing. The preferred method of sealing is to pump neat cement through a tremie pipe from the bottom of the well to within two feet of the surface in one continuous operation. The casing should be cut off two feet below the surface and the hole backfilled with native material.

Permanent sealing of an active unobstructed well will usually require the simple process of removing the pumping equipment, inserting the tremie line and pumping grout into the well. Care must be taken at this time that the grout line does not become buried too deeply in the cement so that it cannot be pulled out. Usually the driller will use "feel" to determine if the grout level is rising on the tremie line, and remove one or more sections at a time, keeping the lowest section of the tremie pipe submerged in grout.

Usually a tremie line of 1- or 1½-inch diameter galvanized steel or plastic pipe is used to install the grout to the bottom of the well. Larger diameter pipes may be used for larger diameter wells.

Grout and sealing materials other than neat cement may be used to seal a well in some instances, but the filling material should be selected so as to restore natural conditions as nearly as possible.

1. Unconsolidated deposits such as glacial drift may be sealed with a mixture of clean sand and puddled clay or neat cement grout or concrete grout (above the static water level) to provide a permeability no greater than the natural condition.

2. Cavernous or creviced rock such as cavernous limestone, basalt, creviced granite, etc., may be sealed with alternate layers of neat cement or concrete with gravel or stone aggregrate. When alternative materials are placed in the well they shall be installed so that consideration is taken to seal the hole. For example, a large diameter well constructed through several aquifers separated by confining beds must have cement grout placed so that the confining beds are isolated or sealed off from the aquifers. Thus when large diameter wells are sealed, the filling material will be selected so that the water-bearing zones are isolated.

3. A blasted and bailed hole in which a large cavern was created may be filled with clean sand equivalent in permeability to the aquifer.

The Well Code requires that concrete grout, cement grout, and bentonite must be installed through a tremie line to insure the proper placement of the grout from the bottom to the top of the well.

It should be noted that a tremie line is used because it (1) insures that grout is placed in the bottom of the hole, (2) insures a proper cement/water ratio, which affects the strength and permeability of the grout, (3) insures that the sand and cement in a concrete mix do not segregate.

Zones of Lost Circulation

Zones of lost circulation are commonly encountered when sealing wells completed through cavernous rock. Such zones may be badly fractured rock that has large caverns or solution channels in which large volumes of grout may be lost.

The Minnesota Department of Health recommends that whenever lost circulation zones are encountered, the grout should be pumped until it is certain that cement is being lost. Grouting should then stop and the cement be allowed to set up. Generally three hours is sufficient time for the grout to set, after which grouting can be resumed. If upon resuming the grouting operation the grout continues to be lost, 3/8- to 1/2-inch diameter "pea rock" may be inserted very judiciously from the surface in an attempt to plug the zones of lost circulation while simultaneously inserting grout through the tremie pipe.

The "pea rock" is used to plug the cracks and crevices as it floats on the top of the cement and acts as a plug or restriction to the cement flow through fractures or broken rock in the zones of lost circulation.

In all well abandonment operations, no matter what types of filling material are used, the top 10 feet must be sealed with cement or concrete grout.

Types of Grout

Grout used to seal wells may be classified as follows:

1. **Neat Cement Grout** - A mixture of one bag (94 pounds of Portland cement (ASTM C150-69A)) to not more than 6 gallons of clean water. Bentonite up to 2% by weight of cement may be added to reduce shrinkage or other admixtures (ASTM C457-69) to reduce permeability and/or control set time below the water level in the well. It should be noted that one bag of cement to 6 gallons of water is a very fluid mixture, but the mixture will set up like concrete after it hardens. Cement grout may be used as grout for wells constructed in all geologic formations.

2. **Concrete Grout** - A mixture of cement, sand and water in the proportion of one bag of Portland cement (94 pounds) (ASTM C150-69a) and an equal volume of dry sand to not more than 6 gallons of clear water. Where large volumes are required to fill openings, gravel not larger than ½-inch diameter may be added. Concrete grout shall not be used below the water level.

   Concrete grout may be used in all geologic formations such as drift, sandstone, metamorphic rock, and igneous rock but must not be placed below the water level.

3. **Heavy Drilling Fluid or Heavy Bentonite** - Heavy bentonite is a mixture containing a minimum of 10% bentonite by weight added to clean water or approximately 5% bentonite added to drilling mud. The fluid must be of sufficient viscosity to require a time of at least 70 seconds to discharge one quart of grout through an API (American Petroleum Institute) Marsh funnel viscometer (See picture on page C-27). This funnel can be obtained

from companies that sell drilling muds or from petroleum drilling supply dealers.

Heavy drilling fluid or heavy bentonite may be used as grout for glacial drift formations comprised of sands, clays, tills, etc.

Grout Pump and Grouting Procedures

Grout is inserted under pressure by means of a grout pump. These pumps are typically screw, rotor, piston, or diaphram-type pumps usually run by a gas engine or an air compressor. A Moyno pump is typical of the screw-type pump. Other common types are the Wilden diaphram and piston pumps typically called "contractor's" pumps. The pumps are usually capable of developing 100-125 psi or greater pressure. All pumps will clog with aggregate or bad cement. To avoid this problem contractors will usually screen the cement before it is run through the pump. Pumps will not allow large-sized aggregate to pass through. A diaphram pump will usually allow aggregate not larger than one-third the throat size to pass. The throats are usually 1/4- to 3/8-inch in diameter. Particles larger than sand size will often clog typical pumps.

Licensed water well contractors seldom use the drilling equipment mud pump for grouting with cement because of the difficulty in cleaning and fear of clogging the mud pump. A separate pump is generally dedicated for grouting use.

Abandoned Well Report

The final step in sealing an abandoned well is the submission of an abandoned well report by the licensed water well contractor. The report is the official documentation that the well has been sealed and no longer constitutes a real or potential pathway for contamination to enter the groundwater.

The abandoned well report should be reported to the Minnesota Department of Health on a water well Work Copy (the water well form that does not have a Unique Well Number printed on the upper righthand corner). The information given should include all data that is known about the well including such information as depth, diameter, static water level, casing schedule, geology, method of sealing, volume and type of grout used.

TABLE 1
CAPACITIES OF WELL CASING

Diameter of Holes - Inches	Gallons Per Linear Foot	Sacks of Cement Per Linear Foot	Linear Feet Per Sack of Cement	Cubic Yard of Grout To Fill 100' of Hole
1¼"	0.064	0.007	137.8	.03
2"	0.163	0.020	50.2	.08
3"	0.367	0.031	32.1	.18
4"	0.653	0.079	12.6	.32
5"	1.020	0.124	8.0	.50
6"	1.468	0.178	5.6	.73
8"	2.611	0.337	3.2	1.3
10"	4.080	0.496	2.0	2.0
12"	5.875	0.714	1.4	2.9
14"	7.996	.972	1.03	4.0
16"	10.448	1.270	0.78	5.2
18"	13.219	1.606	0.62	6.5
20"	16.320	1.983	0.50	8.1
24"	23.501	2.856	0.36	11.6
30	36.720	4.462	0.22	18.2
36	52.877	6.426	0.15	26.2

*One sack cement = 1.1 foot^3

TABLE 2
Typical Quantity of Grout Found Necessary to Fill Wells in the Seven County Metropolitan Area

Wells Completed in Geologic Formation	Volume (Does not include blasted and bailed sections of wells.)
Drift	1 x Calculated Borehole Volume x Depth
Platteville Limestone	3 x Calculated Borehole Volume x Depth
St. Peter Sandstone	1.2 to 1.3 x Calculated Borehole Volume x Depth
Shakopee Dolomite	2.5 x Calculated Borehole Volume x Depth
Jordan Sandstone	1.2 x Calculated Borehole Volume x Depth

Useful Formula:

- Gallons per 100' = 4.08 x (Inside Hole or Casing Diameter)^2
- Cubic feet of grout per 100 feet = .55 x (Inside Hole or Casing Diameter)^2
- 7.48 gallons = 1 cubic foot
- 202.0 gallons = 1 cubic yard

WATER WELL RECORD

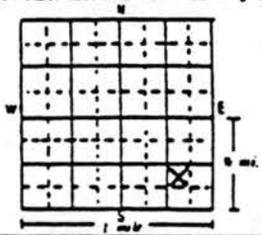
Minnesota Statutes 156A.01-.08

MINNESOTA UNIQUE WELL NO. for Water Samples: ABANDONED

1. LOCATION OF WELL
County Name: Anoka
Township Name: Oaktree | Township Number: 120 N/S | Range Number: 22 E/W | Section No.: 16 | Fraction: NW¼ SE¼ SE¼

Distance and Direction from Road Intersection or Street Address and City of Well Location:
100' East of Co. Rd 9, 200' South of Co Rd 2

Show exact location of well on section grid with "X." Sketch map of well location.



Addition Name: Red Oaks
Block Number: 2
Lot Number: 1



2. PROPERTY OWNER'S NAME
John Jones
Address: RR1 Box 23, Gillman, Mn 55297

3. FORMATION LOG	COLOR	HARDNESS OR FORMATION	FROM	TO
*Sand	brown	soft	0	10
Clay	green	med	10	50
Clay and Sand	grey	med	50	98
Clay	blue	med	98	115
Sand	brown	med	115	126
* formation log	estimated from			
well nearby	(#101057)			

Use a second sheet if needed

17. REMARKS, ELEVATION, SOURCE OF DATA, etc.
pump removed from well. 1 1/4 yds neat cement installed thru tremie pipe. Casing cut off 2 feet below grade. Top 2' filled with native soil.

WORK COPY

4. WELL DEPTH (completed): 126' ft. | Date of Completion: drilled 1948

5. DRILLING METHOD
[X] 1 Cable tool | 4 Reverse | 7 Driven | 10 Dug
2 Hollow rod | 5 Air | 8 Bored | 11 ____
3 Rotary | 6 Jetted | 9 Power Auger

6. DRILLING FLUID

7. USE
[X] 1 Domestic | 4 Monitoring | 8 Heat Pump
2 Irrigation | 5 Public | 9 Industry
3 Test Well | 6 Municipal | 10 Commercial
7 Air Conditioning | 11 ____

8. CASING
[X] 1 Black | [X] Threaded | HEIGHT: Above/Below Surface 1 ft. | HOLE DIAM.
2 Galv. | 5 Welded | Drive Shoe? Yes ___ No ___
3 Plastic | 6
4 in. to 122 ft. | Weight ___ lbs./ft. | ___ in. to ___ ft.
___ in. to ___ ft. | Weight ___ lbs./ft. | ___ in. to ___ ft.
___ in. to ___ ft. | Weight ___ lbs./ft. | ___ in. to ___ ft.

9. SCREEN | Or open hole from ___ ft. to ___ ft.
Make ___
Type: Brass Mesh | Dia.: 4 inch
Slot/Gauge: 15 | Length: 4 feet
Set between 122 ft. and 126 ft. | FITTINGS:

10. STATIC WATER LEVEL
52 ft. [X] below land surface ☐ above | Date Measured: 1/7/87

11. PUMPING LEVEL (below land surface)
___ ft. after ___ hrs. pumping ___ g.p.m.
___ ft. after ___ hrs. pumping ___ g.p.m.

12. HEAD/WELL COMPLETION
1 ☐ Pitless adapter, manufacturer ___ model ___
2 ☐ Basement offset | [X] At least 12" above ground
4 ☐ Plastic casing protection ___

13. WELL GROUTED?
☐ Yes ☐ No
[X] 1 Neat Cement | 2 ☐ Bentonite | 3 ☐ ___
Grout material: cement | from 2 ft. to 126 ft. | cu. yds. 1 1/4

14. NEAREST SOURCES OF POSSIBLE CONTAMINATION
___ feet ___ direction ___ type
Well disinfected upon completion? ☐ Yes ☐ No

15. PUMP
Date installed: Removed 1/7/87 | ☐ Not installed
Manufacturer's name: Doaks Pump Company
Model number: B-12 | HP: 1/2 | Volts: 110
Length of drop pipe: 72 ft. | capacity ___ g.p.m.
Material of drop pipe ___
Type: [X] 1 Submersible | 2 ☐ L.S. Turbine | 5 ☐ Reciprocating
3 ☐ Jet | 4 ☐ Centrifugal | 6 ☐ ___

16. EXISTING WELLS
Unused well on property? ☐ Yes [X] No
Abandoned [X] Permanent ☐ Temporary ☐ Not sealed

18. WATER WELL CONTRACTOR'S CERTIFICATION
This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief.
Gopher State Well Co. 74999
Licensee Business Name | License No.
Address: Box 382, Rt 1 Gillman, Mn
Signed: Henry Ramsey | Date: 1/7/87
Authorized Representative
Ralph Sibley | Date: 1/7/87
Name of Driller

MN 01305-82 (Rev. 10/84)

01/25/89

Proposed amendments to Minnesota Statutes, Chapter 156A. Water Wells and Exploratory Borings

1. New definitions
   limited water well contractor
   elevator shaft
   elevator shaft contractor
   monitoring well
   monitoring well contractor
   delegated agency
   wellhead protection area
   well certificate
   drive point well

2. Elevator shaft contractors must be licensed. After December 1990 a person excavating a hole for installation of an elevator shaft or hydraulic cylinder must hold a water well contractor's license or an elevator shaft contractor's license.

3. New language on limited licenses. Two new categories of limited license, to seal wells and to install well pumps or pumping equipment.

4. Geologists certified by the American Institute of Professional Geologists can also be registered to construct or seal monitoring wells.

5. After Dec. 31, 1989, there will be examination and experience requirements for persons seeking registration as a Monitoring well contractor.

6. Monitoring well contractors to fulfill continuing education requirements as a condition of registration.

7. Well contractors, limited water well contractors and elevator shaft contractors to meet continuing education requirements.

8. Bonding requirements for well contractors, limited water well contractors, monitoring well contractors and elevator shaft contractors. $10,000 state performance bond required.

9. Increase in the well contractor and limited well contractor license fees to $250 and registration fees for rigs to $100. New registration fee for pump rigs of $50.

10. Written contract required before any well is constructed or sealed.

11. Permits for all well construction after December 1989 and for excavation of holes to install elevator shafts after December 1990. Maintenance permits for all monitoring wells and dewatering wells in use more than twelve months after completion of construction, and for wells that are used less than twenty eight days a year as a primary source of water for domestic, agricultural, commercial or industrial use, and for wells used as secondary sources of water, or

a backup sources of water on properties served by public water.

12. Wells must be identified with labels indicating, the unique well number and other information.

13. Distance requirements for sources of contamination in relation to wells.

14. Requirements for when a well must be sealed.

15. Permit fees- $150 for wells with pumping capacity of less than 50 gallons per minute, $300 for wells with pumping capacity of more than 50 gallons per minute.
Annual maintenance permit fees- $50 for wells identified in #12.
Annual maintenance permit fees for monitoring wells and dewatering wells for those wells in use more than twelve months after completeion of construction. permits-$25 for each well.
Construction permit fee for monitoring wells -$50 for each well.
Construction permit fee for dewatering wells over 25 feet deep- $50 for each well. A project with more than 10 wells will have a single permit for $500.

16. Disclosure of wells on property at time of property transfer, and filing a record with county recorder at time of transfer. Certificate to be forwarded to MDH.

17. Clarification as to who is responsible for sealing wells.

18. New duties of the Commissioner- issue permits for all wells and holes for elevator shafts or hydraulic cylinders; setting fees for variance requests.

19. New rulemaking authority for well advisories in areas of known or suspected contamination, well head protection, excavation of holes for installation of elevator shafts or hydraulic cylinders.

20. Restrictive language on use of plastic casing changed.-language is still in rule.

21. Failure to comply with commissioner's orders may result in wells being sealed and costs being recovered.
Property owner may be faced with a government services lien, or will be assessed for costs of sealing through the county tax system.

22. Composition of the Water Well Advisory Council modified to accommodate elevator shaft contractors.

23. Penalties increased. Administrative penalties for violations of the Well Code and statute.

24. Duties of local units of government in relation to well management outlined.

WORKING DRAFT
SUBJECT TO CHANGE

ARTICLE 7

LOCAL WATER RESOURCES PROTECTION AND MANAGEMENT

Section 1. [110C.01] [SHORT TITLE.]

Sections 1 to 7 may be cited as the "local water resources protection and management program."

Sec. 2. [110C.02] [PURPOSE.]

The purpose of the local water resources protection and management program is to provide state financial and technical assistance to local units of government for local programs to protect and manage water resources within the framework provided by approved comprehensive local water plans.

Sec. 3. [110C.03] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of sections 1 to 7, the terms defined in this section have the meanings given them.

Subd. 2. [BOARD.] "Board" means the board of water and soil resources.

Subd. 3. [LOCAL UNIT OF GOVERNMENT.] "Local unit of government" means a statutory or home rule charter city, town, county, or soil and water conservation district, watershed district, an organization formed for the joint exercise of powers under section 471.59, a local health board, or other special purpose district or authority with local jurisdiction in water and related land resources management.

Subd. 4. [COMPREHENSIVE LOCAL WATER PLAN.] "Comprehensive local water plan" means a county water plan authorized under section 110B.04, a watershed management plan required under section 473.878, an overall plan required under section 112.46, or a county groundwater plan authorized under section 473.8785.

Sec. 4. [110C.04] [COMPREHENSIVE LOCAL WATER PLANS HAVE PRIORITY FOR FINANCIAL ASSISTANCE.]

State agencies must give priority to local requests that are part of, or responsive to, a comprehensive local water plan when administering programs for water-related financial and technical assistance.

Sec. 5. [110C.05] [LOCAL WATER RESOURCES PROTECTION AND MANAGEMENT GRANTS.]

Subdivision 1. [ESTABLISHMENT; FINANCIAL ASSISTANCE TO COUNTIES.] A local water resources protection and management grants program is established. The board shall provide financial assistance to counties for cooperative local government activities that protect and improve water quality or quantity. These activities may include, but are not limited to, planning, official controls, and other activities to implement comprehensive local water plans.

Subd. 2. [COUNTY SPONSORSHIP.] Funding requests must be submitted to the board by a county. A county must coordinate and submit requests on behalf of other units of government within its jurisdiction. A county may contract with other appropriate local units of government to implement programs conducted under this section. An explanation of the program responsibilities proposed to be contracted with other local units of government must accompany grant requests. A county that contracts with other local units of government is responsible for ensuring that state funds are properly expended and for providing an annual report to the board describing expenditures of funds and program accomplishments.

Subd. 3. [FINANCIAL ASSISTANCE.] Grants may be used to employ persons and to obtain and use information necessary to implement the following activities:

(1) develop comprehensive local water plans under sections 110B.04 and 473.8785 which have not received state funding for water resources planning as provided for in Laws 1987, chapter 404, section 30, subdivision 5, clause (a);

(2) implement water resources programs identified as priorities in comprehensive local water plans; or

(3) revise shoreland zoning ordinances prior to July 1, 1991.

Subd. 4. [LIMITATIONS.] Grants provided to carry out mandated or delegated state programs under this section shall be reviewed by the agency having statutory program authority to assure compliance with minimum state standards. At the request of the agency commissioner, the board shall revoke that portion of the grant used to support a noncompliant program.

Grants provided for the purpose of developing comprehensive local water plans shall not be awarded for greater than a two-year time period.

Subd. 5. [RULES.] The board shall adopt rules that:

(a) establish performance criteria for grant administration for local implementation of state delegated or mandated programs that recognize regional variations in program needs and priorities;

(b) recognize the unique nature of state delegated or mandated programs;

(c) specify that program activities contracted by a county to another local unit of government are eligible for funding; and

(d) require that grants from the board shall not exceed the amount matched by participating local units of government.

The board may adopt emergency rules to implement this section.

Subd. 6. [ELIGIBILITY.] A county requesting funds must have adopted a comprehensive local water plan unless the request is made under subdivision 3, clause (1) or (3).

Subd. 7. [PRIORITIES.] The board must consider requests for funding according to the following:

(1) completion of comprehensive local water plans under sections 110B.04 and 473.8785;

(2) adoption, administration, and enforcement of official controls;

(3) indicate the participation of several local units of government, including multicounty efforts;

(4) complement goals of federal, state, and local units of government; and

(5) demonstrate long-term commitments to effective water protection and management programs.

Subd. 8. [COORDINATED REVIEW OF COUNTY WATER RESOURCES PROTECTION AND MANAGEMENT PROGRAM.] (a) The board shall consult with appropriate agencies to evaluate grant requests and coordinate project activities with other state, federal, and local research management projects.

(b) Grants specified for shoreland management shall be allocated according to priorities established by the department of natural resources.

Sec. 6. [110C.06] [WELL SEALING GRANTS.]

Subdivision 1. [POLICY.] The board shall make grants to counties to seal wells and shall pay for the sealing of wells that have been ordered sealed by the commissioner of health upon the written request of the commissioner. The board will recover the costs of sealing wells for the commissioner by attaching a government services lien, as described in section 514.67, to the property, and providing a copy of that lien to the county recorder and the property owner, or by adding the cost to the property tax assessment, to be payable over a five-year period. The board may allocate funds to counties to be used to share the cost of sealing priority wells. The county shall use the state funds to pay up to 75 percent, but not to exceed $2,000 per well, of the cost of sealing priority wells.

Subd. 2. [REPORT.] The board in consultation with the commissioner of health shall make annual reports to the legislature on the status of expenditures and well sealings.

Subd. 3. [SUNSET.] The grant program established under

this section shall not continue beyond June 30, 1995. Grants provided between July 1, 1989 and June 30, 1995, are contingent upon biennial appropriation of funds.

Subd. 4. [ELIGIBILITY.] After July 1, 1991, only well sealings that are a part of, or responsive to, the priority actions identified in an approved comprehensive local water plan are eligible for assistance.

Subd. 5. [APPLICATION.] (a) Counties shall complete and submit applications for well sealing grants on forms prescribed by the board.

(b) In its application, the county shall provide evidence that it has consulted the local community health service boards, soil and water conservation districts, and other appropriate local units of government or organizations in preparing the application.

Subd. 6. [BOARD DUTIES.] (a) The board, in selecting counties for participation, shall consult with the commissioners of natural resources, pollution control, and health, and the director of the Minnesota geological survey, and must consider appropriate criteria including the following:

(1) diversity of well construction;

(2) diversity of geologic conditions;

(3) current use of affected aquifers;

(4) diversity of land use; and

(5) aquifer susceptibility to contamination by unsealed wells.

(b) The board and the commissioner of health shall establish priorities for sealing wells based upon the following criteria:

(1) well construction, depth, and condition;

(2) importance of aquifer as public and private water supply source;

(3) proximity to known or potential point or nonpoint contamination sources;

(4) current contamination of the well or aquifer;

(5) susceptibility of aquifer to contamination by unsealed

wells;

(6) limited availability of alternative sources of drinking water;

(7) potential for use of the well for monitoring groundwater;

(8) anticipated changes in land or water use;

(9) unique conditions such as construction, rehabilitation, or demolition areas; and

(10) danger to humans or animals of falling into the well.

Subd. 7. [COUNTY DUTIES AND RESPONSIBILITIES.] (a) A county may contract for the administration of the well sealing program with another local unit of government.

(b) A county, or contracted local unit of government, shall contract with landowners to share in the cost of sealing priority wells in accordance with subdivision 6. The contract shall specify that:

(1) sealing must be done in accordance with chapter 156A and the commissioner of health rules relating to sealing of wells;

(2) that payment shall be made to the landowner, upon completion of sealing of the well by a contractor licensed in accordance with chapter 156A; and

(3) that a record of well sealing shall be filed along with a copy of the water well record with the commissioner of health.

(c) The county shall make an annual report to the board, by or before January 1 of each year, on the status of the well sealing grant program including the number and location of wells sealed and the amount spent on each.

(d) The county must consult with local health boards, soil and water conservation districts, planning and zoning departments, and other appropriate organizations during program implementation.

(e) To encourage landowner participation in the program, the county shall publicize in newspapers of general circulation, information regarding availability of state funds to share the cost of sealing wells, and invite the public to report to the

county on the existence of wells that need to be sealed.

Subd. 8. [LANDOWNER RIGHTS AND RESPONSIBILITIES.] (a) The owner shall file the record of well sealing with the county recorder or register of deeds where the sealed well is located.

(b) The owner of a well that has been certified as being properly sealed by the county is not liable for contamination of groundwater from the well that occurs after the well has been sealed, if the owner has not disturbed or disrupted the sealed well.

Subd. 9. [WELL SEALING ACCOUNT.] (a) A revolving fund is established which the board will use to contract with licensed water well contractors to seal wells whose owners have not complied with an order to seal issued by the commissioner of health. Any unexpended amounts shall carry forward.



(b) If at any time, a property owner wishes to seal a well but is unable to afford to do so, the owner may request that the board pay for sealing the well and that the board's expense become a governmental services lien on the property as described in subdivision 1.

OFFICE MEMORANDUM - BOARD OF WATER AND SOIL RESOURCES

January 25, 1989

TO: JIM BIRKHOLZ

FROM: PAT BLOOMGREN

SUBJECT: "BIG WATER BILL" MEETING SITES

The selected sites for the "Big Water Bill" public informational meetings are as follows:

Metro Area	March 2	Holiday Day Inn - North Brooklyn Center (tentative)
Rochester	March 7	Room 100, Friedell Bldg. 1200 South Broadway
North Manktao	March 8	Best Western Garden Inn Highway 169
Marshall	March 9	Marshall Inn Jcts. Hwy 19 & 23
Grand Rapids	March 23	Sawmill Inn South Highway 169
Bemidji	March ~~9~~ 29	Holiday Inn West Highway 2
Detroit Lakes	March 30	Holiday Inn Highway 10

Coffee and rolls have been arranged for the registration period of 9:30 - 10:00. Lunch is on your own although some of the facilities are making special arrangements to serve a quick buffet to those who want to eat there.

BOARD OF WATER AND SOIL RESOURCES SIGN-UP SHEET FOR PUBLIC INFORMATIONAL MEETINGS ON BIG WATER BILL

Board Member	Meeting Location Preferance
MDA	will contact BWSR Staff
Lori Kemp	Rochester
Howard L. Peterson	ANY DATE
Don Warner	March 23
Doug Bade	Metro or/and Mankato
Eugene Kalenze	Rochester March 7
John Brooks	Bemidji March 29
John Boulton	Marshall or/an Rochester
Dawn Rasmussen	Marshall March 9.
Bill Cofell	Grand Rapids March 23 or
Bill Cofell	Detroit Lake March 30
Natalie Haas Steffen	Metro + Detroit Lakes March 30th may March 23rd Grand Rapids
Jack Ditmore	Detroit Lakes March 30
John Williamson	North Mankato
PCA - Pat: work with Linda B. on PCA staffing of these meetings	
Dave Ogaard	As many as possible
Ken Schellhaas	Det. Lakes ?

Revised 1/24/89

Part A: Principles Guiding BWSR Approval of Local Comprehensive Water Plans

- The enabling legislation and rules provide the criteria for plan development and review; counties and project managers will not be subjected to new requirements.

- Maximum involvement will continue to be sought from the Minnesota Department of Agriculture, Department of Health, Department of Natural Resources, Environmental Quality Board, Minnesota Geological Survey, Minnesota Pollution Control Agency, State Planning Agency, and the Waste Management Board during development of local water plans.

- In addition, these agencies have been requested by BWSR staff to develop a check list, or philosophy, of plan review. These are not new requirements, but are those points that, if considered collectively with the BWSR plan review items, will likely result in better quality plans.

Statutory and Rule Requirements of a Local Comprehensive Water Plan:

1. Cover entire area within a county;

2. Address problems within the context of watershed units and groundwater systems;

3. Be based upon principles of sound hydrologic management of water, effective environmental protection and efficient management;

4. Be consistent with comprehensive water plans prepared by counties and watershed management organizations wholly or partially within a single watershed unit or groundwater system;

5. Apply to every year through the year 1995 or any later year that is evenly divisible by five, and be updated before the period covered expires;

6. Be consistent with state law.

We would promote the following additional items; some are already required but need emphasis due to their importance.

- The local plan of action must not "dead end"; the plan must be **comprehensive** and establish priorities. For example, if data suggests serious sedimentation

problems, the plan should address it or discuss why actions are not needed.

- If a county proposes to submit, for example, an application for Clean Water Partnership funds, the plan should have priority waters and local funding commitments indicated.

- The plan must include an inventory of open dumps, landfills, feedlots, hazardous waste sites, underground storage tanks, abandoned wells, and permitted wastewater discharges.

- Priorities for waste water treatment plants should be included. For example, "Browntown is discharging untreated effluent to Trout Creek, a priority watercourse...Browntown is the Acme County number one priority for wastewater treatment plant funding...."

- Recycling and solid waste plans that affect water and related land resources should be discussed.

- Implementation of existing state mandates, e.g. seeding of drainage ditches, should be demonstrated.

- Proposed capital improvements necessary to implement an objective should be indicated with time lines and funding specifics.

- Suggested changes to state programs should be indicated.

- Data needs should be indicated.

- An amendment procedure should be stated.

- Goals, objectives, and priorities should link logically with data. For example, if data suggests that cropland erosion is not a problem, but sedimentation from forest roads is a problem, then goals, objectives, and priorities should be written accordingly.

- Funding of action items should be indicated as specifically as possible and include the amount and source of funding.

- It should be evident that the plan is written for local ownership and not a "mimic" to state what the agencies want to hear.

Part B: Example Format of the Document from BWSR Staff Seeking BWSR Action on a 110B Plan

Identification Block
(County:
(Date Planning Began:
(Regional Affiliation, If Any:
(Project Manager:

I. Executive Summary

- Physical environment, land use and development; surface water, ground water and related land resources are briefly described;
- Problems and opportunities, goals, objectives, and actions are discussed;
- Implementation program is described;
- Suggested changes to state programs and conflicts, if any, between the 110B plan and existing local plans are indicated;
- Summary of comments from other review agencies.

II. Staff recommendation statement, e.g. "Staff recommends approval".

For a plan recommended for disapproval, staff will include additional information identifying deficiencies and proposed corrective action. In any case, the BWSR action document will be brief, not exceeding one and one-half typed pages per plan.

Part C: TIMING AND MECHANICS OF FINAL PLAN REVIEW

Hypothetical Time Frame:

Beginning of Month A

- County submits 10 copies of a plan to the BWSR;
- Within 5 days, BWSR distributes copies to other review agencies.

* Board Meeting (4th Wednesday)

Beginning of Month B

- 45 days - deadline for other review agencies to submit comments to BWSR;

* Board Meeting (4th Wednesday)

Approximately 40 days exist for BWSR staff to prepare a recommendation for Board consideration.

Beginning of Month C

* Board Meeting (4th Wednesday)

End of Month C (90 days - deadline for BWSR review and decision to county)

Summary:

To avoid special Board meetings, allow sufficient staff review, and meet the mandated deadlines, it is essential that plans be submitted to the BWSR at the beginning of a month. Moreover, this schedule would provide an opportunity for a preliminary report during Month B after other agencies have completed their review. Submission of plans at mid-month would conflict with a fixed Board meeting schedule.

We will advise counties to submit plans on the beginning of a month. In some cases, this will require counties to delay sending plans after the local public hearing.



Mississippi Headwaters Board

Representing Clearwater, Hubbard, Beltrami, Cass, Itasca, Aitkin, Crow Wing and Morrison Counties
Cass County Courthouse, Walker, MN 56484 218-547-3300 Ext. 263

January 24, 1989

Mr. Donald Ogaard, Chairman
Board of Water and Soil Resources
90 West Plato Boulevard
St. Paul, Minnesota 55107

Dear Mr. Ogaard and Members of the Board:

I am pleased to report to you the progress of the eight member counties of the Mississippi Headwaters Board on development of Comprehensive Local Water Plans, pursuant to Minnesota Statutes 110B and Minnesota Chapter on Administrative Rules 9300. Please consider this a summary report which will be enhanced in testimony before the board.

Although the Mississippi Headwaters Board serves as regional coordinator of the planning process, each of the member counties has developed individual processes for conducting the planning process. The MHB has administered the Legislative Commission on Minnesota Resources grants, served as the principal data collector and is overseeing regional coordination of the county planning processes. Each county has developed its own strategy for conducting the plans, although there are more similarities than differences.

For example, each of the eight member counties has convened a citizen task force consisting of at least: a representative of the Soil and Water Board of Supervisors; a representative of the county's townships; a representative of the county planning commission; a representative of the board of commissioners and a representative of the county's municipalities. Other members have been added at the discretion of the county board of commissioners or at the request of the Local Water Planning Task Force. Each county has designated an county project manager for Local Water Planning. In six of the eight counties, this individual is the district manager for the county soil and water conservation district. In two of the eight counties, the project manager is the assistant zoning administrator.

Beltrami and Clearwater counties contracted with Headwaters Regional Development Commission, Bemidji, to provide planning services. Headwaters RDC subcontracted with Bemidji State University to provide assessments of six groups of data items required by the rules and to provide maps on the EPPL7 Geographic Information System. These counties used EPPL7 and aerial photography to update the 1969 Land Use Data last summer. Although the process was time-consuming, it was worthwhile and both counties have updated land use data that is accurate to two and a half meters. Both counties allocated additional

amounts to enter into the contract with Headwaters RDC.

Aitkin and Itasca counties contracted with E.A. Hickok and Associates (now J.M. Montgomery Associates) to provide planning services. Itasca County raised additional funds from the county and the Blandin Foundation.

Cass, Hubbard, Crow Wing and Morrison counties, have each contracted with Klaers, Powers and Associates, Duluth, for planning services. Each county has also entered into a contract with Pro-West and Associates, Walker, for mapping services. Pro-West uses the ARC/INFO geographic information system used by the U.S. Environmental Protection Agency as well as Minnesota State Planning. Crow Wing County allocated a cash match to the LCMR funds, in addition to the in-kind match. Crow Wing County has hired a biologist to take charge of the data assessment process. Cass County's task force is exploring using the services of Pro-West to develop a lakes and wetlands data base for the county.

Each of the eight counties is in the final stages of the data assessment. Generally, this process has taken about six months longer than anticipated. Counties are beginning the policy portion of the plan. Local water plans produced by the Mississippi Headwaters counties will stress information and enforcement. Although new programs, services and regulations will be recommended, the counties are closely monitoring activities at the state level to minimize duplication. This is especially advisable considering the limited resources of these counties.

Reaction to Local Water Planning has been positive within the Mississippi Headwaters counties. For example, the Cass County Local Water Task Force wrote an ordinance regulating disposal of septage which was adopted by the Cass County Board of Commissioners in December. However, the leadership role in natural resources management is not a familiar one to most counties. Current levy limits, small number of staff in environmental services and sheer size of the counties all contribute to an inability to meet environmental challenges aggressively. Whereas the county may be ready to extend its regulatory authority -- for example, as Cass County has with the ordinance to regulate septage disposal -- there are additional barriers to land use controls. Training for local decision-making boards is not applicable to rural, resource-based counties. There is no oversight to local land use controls on the state level. Courts typically favor the property owner over the county regulation and county attorneys don't have the time to take on land use cases.

So the Mississippi Headwaters counties are willing to meet the challenge of Local Water Planning, but are attempting to do so within the realities of county government. Cass County, for example, will propose retaining its task force when planning is complete to assist in

the much needed-review and update of county ordinances, and possibly the drafting of new ordinances recommended by the Local Water Plan. Otherwise, the county will need to find the means of implementing the plan within the current staffing and budget limits. We are all most hopeful that the Legislature will implement the 1989 Water Resources Protection Legislation as proposed and allow the continuing partnership of the state and local government through the Water Resources Management and Protection Program proposed for administration by the Board of Water and Soil Resources.

It is our goal to have completed final draft documents, available for local review, by late June. We support wholeheartedly the proposal of the BWSR staff to establish local reviews of draft plans by state agency personnel of the region. Each of the member counties has worked hard to keep state agencies in the region informed of the county planning process. This kind of review will help us feel more confident about our final products and hopefully, improve the final review process in St. Paul.

Each of the counties is now struggling with questions about final appearance of the plan and presentation of data and maps. We would like to add State Protected Waters Inventory to the two data items that can be referenced by facsimile and placed in data repository instead of being reproduced in the plan. This inventory requires three or four maps for the Mississippi Headwater counties, which are both large in area and are blessed with an abundance of surface water.

The counties will most likely group the 55 data items into five or six relevant categories in the final document. An effort has been made to address each data item listed in the rules, despite the quality or availability of information from the listed source. However, county project managers would like to know how long should they keep looking and how should situations of incomplete, inaccurate or irrelevant data be addressed? We would like to submit a list of data items that fall into that category -- incomplete, inaccurate, irrelevant -- to BWSR staff for review and comment by March.

In its role as regional coordinator, the Mississippi Headwaters Board convenes meetings of the county project managers bimonthly. Some of the sessions have been educational and the task forces have been invited. Surface waters, ground water, geology, soils and drinking water of the region were reviewed by state personnel at a regional meeting last spring. More recent sessions have reviewed pending legislation and the particulars of the planning process. Another session is set for Feb. 3. We're offering an EPPL7 training course in Brainerd at the end of February, and will offer training on use of the County Well Index program in March.

A major goal of the Local Water Planning Process in Summer 1987 -- when we first got going -- was to build within the county a coterie

of water resources protectionists. This group would then be able to take their new expertise back to their municipality, township, county board, lake association, whatever and spread the knowledge. It is most heartening to see the strong positive reaction to Local Water Planning in our eight counties and to see the knowledge and understanding grow. It was an unusual step for the counties to take on this new role of Local Water Planning, but it is a role they have embraced. There is a spirit of ownership for the county's water resources and that's an important foundation for these plans to be laid on.

Thanks to each of you for the support and direction of the Board of Water and Soil Resources.

Sincerely yours,

Molly MacGregor
Administrator



GROUNDWATER POLICY PAPER
BELTRAMI COUNTY

Concern:

The groundwater resources of Beltrami County are an extremely important resource to the county's residents. Virtually 100% of the domestic water used in the area is drawn from aquifers. Degradation of the quality of water in these aquifers could pose both economic and public health problems. Results from the Bemidji-Bagley Groundwater Study have shown that human activity is degrading water quality in the shallow sandplain aquifer. Although most domestic water is drawn from deeper confined aquifers, data from the groundwater study suggests that the deeper aquifers may be connected to these shallow aquifers in some areas.

Strategy 1: Status Quo

Use data from Bemidji-Bagley Groundwater Study to set policy. While this data is excellent, the water quality data is from a point in time (1987), and will not show if water quality is being degraded or improved in the future. Also, little is known about the groundwater in the northern part of Beltrami County.

Strategy 2: Continue Groundwater Monitoring

Water quality was intensively studied in 68 wells (41 in Beltrami, 16 in Clearwater, 6 in Hubbard, and 5 in Cass Counties) as part of the Bemidji-Bagley Groundwater study. These wells provide a monitoring network for future sampling to determine trends in groundwater quality. Beltrami County has committed $5,000 to groundwater quality sampling in 1989 and DNR Division of Waters projects a commitment of $8,000 for 1989. While these commitments assure that groundwater monitoring will take place in 1989, it needs to continue in future years to show trends.

Activities:

A. Select 1/3 of monitoring wells to be sampled in first year, rotating to other wells in 2nd and 3rd years so each well is sampled once every 3 years.

B. Obtain commitments from agency or company with technical capabilities to carry out groundwater monitoring work.

C. Set up framework to allow for continuation of monitoring into the future.

Implementation Agencies: SWCD, County Zoning Administrator, USGS, DNR-Waters

Estimated Cost: $10,000-15,000 per year

Funding Sources: Beltrami County, DNR Water, USGS

Strategy 3: Enter Groundwater Study Data into Computerized Geographic Information System

The information from groundwater study would be entered into a Geographic Information System (GIS) EPPL-7. This would allow analysis of groundwater information against land use, surface waters, underground storage tanks, and other information already available on the GIS.

Activities:

A. Adapt groundwater data into format compatible with GIS.

B. Enter data into GIS.

Implementation Agencies: SWCD, BSU, HRDC, Planning & Zoning Office.

Estimated Cost: $1,500

Funding Source: Absorbed by SWCD

Strategy 4: Implement Water Well Inventory Data System

Utilize data sheet developed by Minnesota Geological Survey to document well information such as depth, diameter, date drilled, location sketch, etc. While well drillers logs are available for most wells drilled since the mid-1970s, information for old wells or additional information for newer wells would be extremely valuable. This information could be gathered voluntarily from landowners by SWCD, SCS, and possibly County Planning & Zoning personnel.

A. Coordinate effort with Minnesota Geological Survey and provide training for local staff.

B. Adopt uniform system for storing well information locally.

C. Begin collecting well information.

Implementation Agencies: SWCD, SCS, Zoning Administrator

Estimated Cost: Costs would be minimal, although additional work load would be felt by agencies involved.

Strategy 5: Conduct Groundwater Study of Northern Beltrami County

Contract with the U.S. Geological Survey to conduct an intensive groundwater study of aquifers in Northern Beltrami County (in area not studied as part of Bemidji-Bagley Groundwater Study).

Activities:

A. Identify aquifers of prime concern to be studied.

B. Review existing well drillers logs and other available geologic information.

C. Field data collection.

D. Data analysis and interpretation.

E. Report preparation.

Implementation Agencies: SWCD, County Planning & Zoning Office, USGS, DNR Waters

Estimated Cost: $250,000

Funding Sources: USGS, DNR Waters, County, Townships

Strategy 6: BSU Geology Program Groundwater Research Project

This groundwater research project has been recommended for funding through the Legislative Commission on Minnesota Resources (LCMR). Bemidji State University Geology Program will be researching groundwater in various parts of Northwestern Minnesota, and in preliminary discussions have expressed an interest in studying parts of Northern Beltrami County.

Activities:

A. Determine areas to be studied.

B. Establish protocol for groundwater analysis and access necessary equipment.

C. Conduct groundwater research.

Implementation Agency: Bemidji State University (possibly USGS and SWCD).

Estimated Cost: $90,000

Funding Source: LCMR

Strategy 7: Develop Geologic Atlas for Beltrami County

County geologic atlases have been developed for several counties by the Minnesota Geological Survey. A county atlas would include maps showing boundaries of aquifers, in addition to other geologic characteristics that may influence groundwater. Preliminary work could be done by local staff to reduce costs of the project. The project would be conducted over a 2-4 year period.

Activities:

A. Initiate collection of well log information at local level and incorporate into format needed by Minnesota Geological Survey.

B. Minnesota Geological Survey conducts additional field investigations to complete data needs.

C. Data analysis and interpretation and preparation of county atlas.

Implementation Agencies: County, MGS, SWCD, SCS.

Estimated Cost: $110,000

Funding Sources: MGS (50-75%), County, SWCD (in-kind)

Summary:

The strategies listed above are geared toward improving our knowledge and subsequent protection of our groundwater resources. The Bemidji-Bagley Groundwater Study has given us excellent information about aquifers in the Bemidji area. The next challenge will be to effectively utilize that knowledge to protect our groundwater resources. Several of the options are aimed at that goal.

Strategies 5 and 6 are geared toward improving our knowledge of aquifers in other parts of Beltrami County. Potential roadblocks to implementing these measures are limited dollars t the local, state, and federal levels. The groundwater research to be conducted by Bemidji State University Geology Department and funded by LCMR will undoubtedly provide valuable additional groundwater knowledge.

Overview of Water Planning Process
for
Beltrami and Clearwater Counties

APPROACH

Staff: Team approach with Headwaters Regional Development Commission, Soil and Water Conservation District, Bemidji State University, and Headwaters Resource Conservation and Development Association as primary staff.

Policy: Advisory Task Force, 12 voting members, 6-10 ex-officio (non-voting) members (technical advisors, state and local staff). Meetings held every 4-6 weeks.

TIMELINE

As of January 1, 1989, all of inventory completed, approximately half of written assessments completed, and staff work on policy papers one quarter completed.

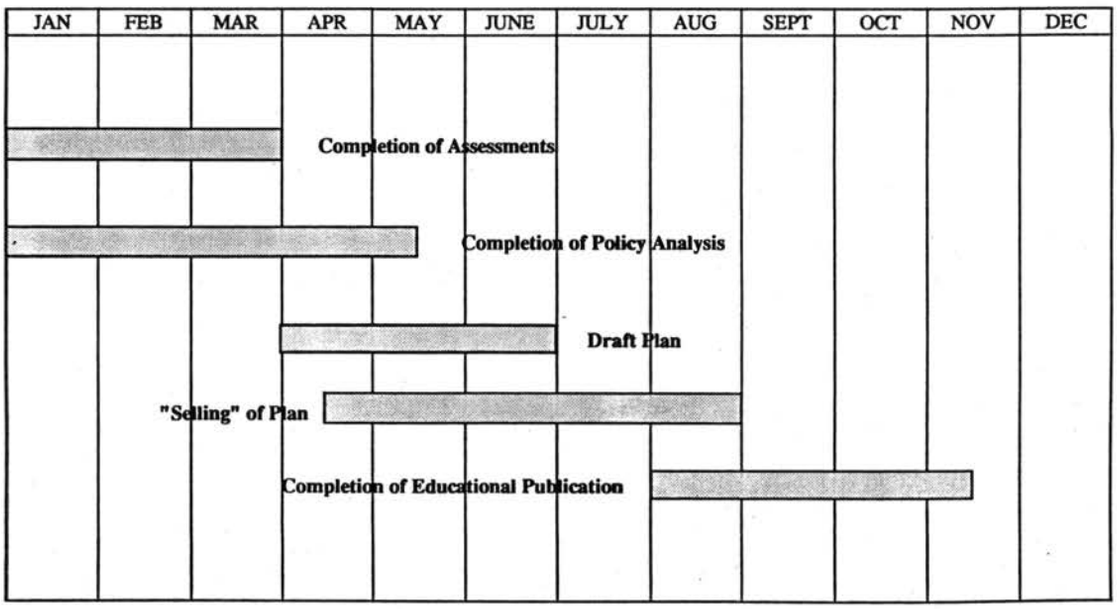
See timeline below for remainder of work.

HIGHLIGHTS OF PROCESS

- Updated 1987 Land Use by SWCD at 2.5 acre cell level.
- Development of GIS for use in water planning process, and for long term monitoring of land and water resource trends.
- Creation of computerized, spatial database for other data items (underground storage tanks, old town dumps, etc.)
- Formulation of specific implementation strategies, with activities, timeline, implementation agencies, cost, and funding source.
- Publication of executive summary in booklet form in addition to full plan.

Timeline
for Remainder of
Beltrami and Clearwater Water Planning Processes

1989



Make Your Move Now!

STAY ELIGIBLE FOR USDA PROGRAMS





December 31, 1989

THAT'S THE DEADLINE!

But make your move now! Play it safe and contact the Soil Conservation Service (SCS) to develop a conservation plan that will help you stay eligible for most USDA farm programs.

SCS and your local conservation district have limited staff to help you comply with new conservation provisions that Congress put in the 1985 Farm Bill.

You'll need a conservation plan for highly erodible cropland to stay eligible for crop support payments, storage loans, federal crop insurance, Farmers Home Administration loans and many other USDA programs. There are also *immediate* restrictions on "Sodbusting" and "Swampbusting."

Developing a plan may be as simple as documenting the conservation practices you now use to substantially reduce erosion. But if you need to modify your operation, SCS and your CD have already developed several soil-saving alternatives. Or you can work with SCS to develop your own alternative that meets USDA guidelines.

But please... call SCS or your CD today. Don't wait until the last minute when limited help is available.

Play it safe... make your move now!

All USDA programs and services are offered on a non-discrimination basis, without regard to race, color, national origin, sex, age, religion, marital status, or handicap.

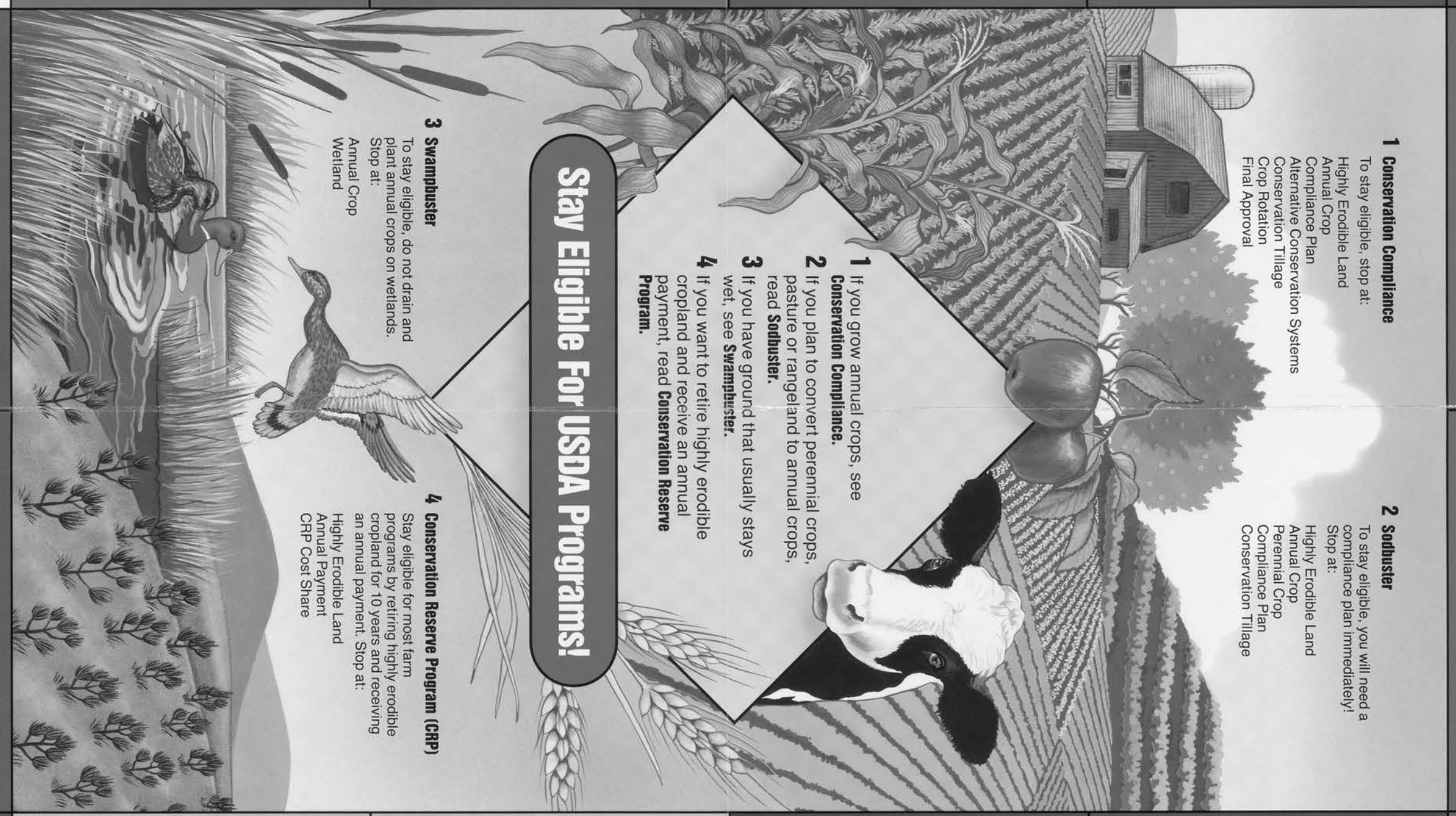
Alternative Systems

Alternative conservation systems developed by SCS and your Conservation District will substantially reduce erosion on highly erodible cropland and maintain eligibility for farm programs.

Conservation Tillage

Tillage techniques that leave prescribed amounts of crop residue after planting to protect soil from wind and water erosion. A primary component of a compliance plan.

Stay Eligible For USDA Programs!



1 Conservation Compliance
To stay eligible, stop at:
Highly Erodible Land
Annual Crop
Compliance Plan
Alternative Conservation Systems
Conservation Tillage
Crop Rotation
Final Approval

2 Sodbuster
To stay eligible, you will need a compliance plan immediately!
Stop at:
Highly Erodible Land
Annual Crop
Perennial Crop
Compliance Plan
Conservation Tillage

1 If you grow annual crops, see **Conservation Compliance.**

2 If you plan to convert perennial crops, pasture or rangeland to annual crops, read **Sodbuster.**

3 If you have ground that usually stays wet, see **Swampbuster.**

4 If you want to retire highly erodible cropland and receive an annual payment, read **Conservation Reserve Program.**

3 Swampbuster
To stay eligible, do not drain and plant annual crops on wetlands.
Stop at:
Annual Crop
Wetland

4 Conservation Reserve Program (CRP)
Stay eligible for most farm programs by retiring highly erodible cropland for 10 years and receiving an annual payment. Stop at:
Highly Erodible Land
Annual Payment
CRP Cost Share

Compliance Plan

The plan includes your selection of conservation systems needed to stay eligible for farm programs if you plant annual crops on highly erodible land. Must be developed before **December 31, 1989.** (Caution: Sodbuster requires a plan immediately.)

Perennial Crop

Long-term crops grown since 1981. Includes orchards, vineyards, pasture, rangeland. Must have a compliance plan immediately if converting to annual crop and soil is highly erodible.

Annual Crop

Requires annual tillage — such as cotton, corn, wheat, tomatoes, rice. If grown on Highly Erodible Cropland, a compliance plan is needed.

Highly Erodible Land

Vulnerable to excessive wind or water erosion because of soil conditions, climate or slope. Soil survey maps or on-site studies are used to determine location of highly erodible soils.

Stay Eligible

USDA Programs

- Price and income supports
- Crop insurance
- Farmers Home Administration loans
- Commodity Credit Corporation storage payments
- Farm storage facility loans
- Other programs

Final Approval

APPROVED

Conservation Districts review and approve compliance plans. In areas where there are no districts, SCS approves plans.

December 31, 1989

Deadline For Developing a Conservation Compliance Plan

CRP Cost Share



USDA can provide up to half the cost of establishing permanent cover — grass, shrubs and trees — for land enrolled in the Conservation Reserve Program.

Annual Payment

Producers sign Conservation Reserve Program contracts that pay an annual rental fee for 10 years to retire *highly erodible cropland* and plant grass, shrubs or trees to control erosion. Helps maintain your eligibility for most USDA programs.

Wetland



Areas with water-loving plants. **Warning**: Don't drain and grow annually tilled crops on wetlands or you may lose your eligibility for most USDA farm programs. See SCS.

Crop Rotation



Sequence of crops that allows adequate ground cover to protect soil from wind and water erosion. A primary component of a compliance plan.

Act Now!

Call or drop by the SCS Office today.

Urgent Message:

Time Is Running Out.
Don't Lose Your USDA Benefits!

SUMMARY OF
1988 RIM RESERVE
SIGN-UP TOTALS

Sign-up	# of Easements	Acres 20 Year	Acres Perpetual	Type of Perpetual: Acres Marg. Ag.	Acres Wet. Rest.	Acres Snow-Fence	Easement Dollars	Practice Dollars
August, 1988	125	826.9	1,553.1	878.0	620.6	54.5	$1,412,043.95	$243,014.93
Dec. 88-Jan. 89	199	1,621.9	2,257.2	1,693.7	561.9	1.6	2,236,390.18	425,910.67
TOTALS	324	2,448.8	3,810.3	2,571.7	1,182.5	56.1	3,648,434.13	668,925.60
		6259.1 Acres					$4,317,359.73	

