

Minnesota Board of Water and Soil Resources. Minutes.

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Version 3
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Minnesota Board of Water & Soil Resources

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St. Paul, Minnesota 55107

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DATE: November 27, 1991

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

FROM: Ronald D. Harnack, Executive Director

SUBJECT:
- December 17, 1991 BWSR Sub-Committee Review of Water Plans, Watershed District and Watershed Management Organization Plans - and -
- December 18, 1991 BWSR Meeting

The Board of Water and Soil Resources sub-committees will be meeting on December 17 in Rooms 224 and 229 of the State Capitol to review water plans, watershed district and watershed management organization plans. Parking is available in Lot Q (one block northeast of the State Capitol). The agenda and informational materials are enclosed.

The Board of Water and Soil Resources meeting will be held in Room 112 (Senate Hearing Room) of the State Capitol. Parking is also available in Lot Q. The agenda for the meeting is attached for your review.

Agenda summary:

Wetlands - The interim process defined in the Wetlands Conservation Act of 1991 begins on January 1, 1992. The law places a moratorium on all filling, drainage and burning of wetlands unless a local unit of government certifies that the wetland is replaced. Staff with input from other agencies and interests have drafted a guide document which is included in your packet. This document will be reviewed at the Board meeting. We expect that there will be individuals that will be interested in addressing the Board with respect to the interim process and the guidelines. ACTION ITEM: Board acceptance of the interim guidelines. After the Board meeting the guidelines will be revised to reflect the discussion and direction from the Board and distributed to local governments.

Metro Water Plan Rules - The planning committee has completed its work on the rules and recommends that the Board approve the rules for final rule processing. The statement of need and reasonableness (SONAR) will be distributed in a week to ten days. A final draft of the rules are in the packet. Staff will give an overview of the rules and the process and will have some of the committee members speak to the process and the rules. Staff recommends approval of the rules for

Regional Offices

Northwest Region
1106 Paul Bunyan Drive, NE
Bemidji, MN 56601
218-755-3963

Northeast Region
394 South Lake Avenue
Room 403
Duluth, MN 55802
218-723-4752

West Central Region
503 Washington Street
Brainerd, MN 56401
218-828-2604

South Central Region
Box 756
New Ulm, MN 56073
507-359-6074

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

Southwest Region
Box 267
1400 E. Lyon Street
Marshall, MN 56258
507-537-6060

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

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processing. ACTION ITEM: Board approval of the rules for processing towards final adoption. The final process involves a decision on how to proceed. The Board may choose one of the following options:

1) Notice the rules for adoption and scheduling a public hearing before an Administrative Law Judge;
2) Notice the rules for adoption without formal public hearing. If 25 people request a hearing before an ALJ then one must be held.
3) Notice the rules for adoption using a dual notice. Therefore if based on the comments received the Board believes that a hearing should be held one can still be conducted.

Although the public meetings on the rules were held to get public input, participation by the public was not overwhelming. Staff recommendation is to adopt option 3 to give the Board the greatest discretion.

Todd County Water Plan - The Board tabled the decision pending DNR's review of the response to agencies comments. DNR has responded and recommends approval of the Todd County Water Plan.

Nine Mile Creek Watershed District, Water Plan - The Board tabled the decision on the plan and referred the review to a committee. The committee has met and will review its recommendation with the Members. The recommendation of the committee is included in your packet. ACTION ITEM: Make a final decision on the plan.

Local Water Plan Implementation Grants Authorization - The approval of local water plans by the Board and action by local governments to adopt the plans and levy for implementation makes counties eligible for the state grant. The packet includes a summary of the projected grant and levy relationships by county. ACTION ITEM: Approval for staff to process the grants.

If you have any questions or need additional clarification please feel free to contact me.

RDH:mja
Enclosures

BOARD OF WATER AND SOIL RESOURCES
ROOM 112 STATE CAPITOL
75 CONSTITUTION AVENUE
ST. PAUL, MINNESOTA
DECEMBER 18, 1991

PRELIMINARY AGENDA

9:00 a.m.	1.	Call to Order
	2.	Adopt Agenda
	3.	Approval of Minutes of October 23, 1991
	4.	Reports • Chairman's Report - Jim Nielsen • Executive Director's Report - Ron Harnack • BWSR Committee Reports • Regional BWSR Report - Brainerd Office
10:00 a.m.	5.	Comprehensive Update on Wetlands - Greg Larson
noon	Lunch	
	6.	Metro Water Plan Rules - recommendation for adoption - Bruce Sandstrom
1:00 p.m.	7.	Metro Water Plans and Watershed District Overall Plans - Bruce Sandstrom - sub-committee recommendations for decision
2:00 p.m.	8.	Comprehensive Local Water Plans - Don Ogaard and Jim Nielsen • sub-committee recommendations for decision
	9.	Metro Water Plan - Nine Mile Creek Watershed District - Diane Jensen - sub-committee recommendation
	10.	Comprehensive Water Plan - Todd County - Doug Thomas - for decision
	11.	Local Water Plan Implementation Grant Authorization - Chuck Niska
3:00 p.m.	Adjourn	

DETERMINATION OF MAXIMUM PAYABLE 1992
COUNTY SPECIAL LEVIES UNDER CLAUSE U
FOR COMPREHENSIVE LOCAL WATER IMPLEMENTATION ACTIVITIES
BASED ON A WATER IMPLEMENTATION LOCAL TAX RATE OF 0.045%

COUNTY	(1) PAYABLE 1991 EQUALIZED TAXABLE NET TAX CAPACITY	(2) MAXIMUM PAYABLE 1992 CLAUSE U SPECIAL LEVY	(3) BWSR BASE GRANT ($37,500-LEVY)
AITKIN	$ 9,606,618	$ 4,323	$ 33,177
ANOKA	164,489,089	74,020	0
BECKER	13,489,049	6,070	31,430
BELTRAMI	13,275,937	5,974	31,526
BENTON	15,008,854	6,754	30,746
BIG STONE	2,781,295	1,252	36,248
BLUE EARTH	30,537,253	13,742	23,758
BROWN	13,726,616	6,177	31,323
CARLTON	14,579,652	6,561	30,939
CARVER	37,212,225	16,746	20,754
CASS	19,755,628	8,890	28,610
CHIPPEWA	6,960,316	3,132	34,368
CHISAGO	15,390,550	6,926	30,574
CLAY	20,177,547	9,080	28,420
CLEARWATER	3,771,937	1,697	35,803
COOK	5,297,931	2,384	35,116
COTTONWOOD	10,092,807	4,542	32,958
CROW WING	36,306,416	16,338	21,162
DAKOTA	251,065,305	112,939	0
DODGE	7,542,961	3,394	34,106
DOUGLAS	16,586,160	7,464	30,036
FARIBAULT	12,622,459	5,680	31,820
FILLMORE	8,384,700	3,773	33,727
FREEBORN	17,921,281	8,065	29,435
GOODHUE	41,596,408	18,718	18,782
GRANT	3,979,827	1,791	35,709

COUNTY	(1) PAYABLE 1991 EQUALIZED TAXABLE NET TAX CAPACITY	(2) MAXIMUM PAYABLE 1992 CLAUSE U SPECIAL LEVY	(3) BWSR BASE GRANT ($37,500-LEVY)
HENNEPIN	1,135,460,886	510,957	0
HOUSTON	6,297,015	2,834	34,666
HUBBARD	11,599,155	5,220	32,280
ISANTI	10,379,056	4,671	32,829
ITASCA	33,518,072	15,083	22,417
JACKSON	10,683,113	4,807	32,693
KANABEC	4,996,073	2,248	35,252
KANDIYOHI	20,252,479	9,114	28,386
KITTSON	6,359,134	2,862	34,638
KOOCHICHING	7,290,878	3,281	34,219
LAC QUI PARLE	5,035,413	2,266	35,234
LAKE	5,328,806	2,398	35,102
LAKE OF THE WOODS	1,960,617	882	36,618
LE SUEUR	11,608,152	5,224	32,276
LINCOLN	3,961,292	1,783	35,717
LYON	14,040,426	6,318	31,182
MC LEOD	13,865,618	6,240	31,260
MAHNOMEN	2,007,140	903	36,597
MARSHALL	7,902,821	3,556	33,944
MARTIN	18,739,736	8,433	29,067
MEEKER	9,536,144	4,291	33,209
MILLE LACS	7,722,527	3,475	34,025
MORRISON	12,140,088	5,463	32,037
MOWER	16,963,257	7,633	29,867
MURRAY	7,459,785	3,357	34,143
NICOLLET	12,610,058	5,675	31,825
NOBLES	12,805,031	5,762	31,738
NORMAN	6,123,302	2,755	34,745
OLMSTED	67,889,621	30,550	6,950
OTTER TAIL	25,753,148	11,589	25,911

COUNTY	(1) PAYABLE 1991 EQUALIZED TAXABLE NET TAX CAPACITY	(2) MAXIMUM PAYABLE 1992 CLAUSE U SPECIAL LEVY	(3) BWSR BASE GRANT ($37,500-LEVY)
PENNINGTON	4,387,126	1,974	35,526
PINE	10,428,584	4,693	32,807
PIPESTONE	4,891,578	2,201	35,299
POLK	20,072,500	9,033	28,467
POPE	5,341,179	2,404	35,096
RAMSEY	419,058,269	188,576	0
RED LAKE	1,951,395	878	36,622
REDWOOD	11,675,886	5,254	32,246
RENVILLE	14,333,141	6,450	31,050
RICE	23,421,631	10,540	26,960
ROCK	6,525,024	2,936	34,564
ROSEAU	7,040,720	3,168	34,332
ST. LOUIS	75,068,418	33,781	3,719
SCOTT	46,218,639	20,798	16,702
SHERBURNE	56,553,141	25,449	12,051
SIBLEY	7,433,987	3,345	34,155
STEARNS	56,339,824	25,353	12,147
STEELE	15,579,748	7,011	30,489
STEVENS	4,712,532	2,121	35,379
SWIFT	5,291,366	2,381	35,119
TODD	6,947,744	3,126	34,374
TRAVERSE	3,714,522	1,672	35,828
WABASHA	8,893,600	4,002	33,498
WADENA	4,041,436	1,819	35,681
WASECA	10,466,059	4,710	32,790
WASHINGTON	125,841,012	56,628	0
WATONWAN	7,177,646	3,230	34,270
WILKIN	5,883,328	2,647	34,853
WINONA	18,690,477	8,411	29,089
WRIGHT	48,914,495	22,012	15,488

COUNTY	(1) PAYABLE 1991 EQUALIZED TAXABLE NET TAX CAPACITY	(2) MAXIMUM PAYABLE 1992 CLAUSE U SPECIAL LEVY	(3) BWSR BASE GRANT ($37,500-LEVY)
YELLOW MEDICINE	6,231,614	2,804	34,696
STATE TOTAL	$ 3,345,574,777	$ 1,505,509	$ 2,512,651

BWSR SUB-COMMITTEE REVIEW OF WATER PLANS
103B.301 COMPREHENSIVE LOCAL WATER PLANNING (CLWP)
DECEMBER 17, 1991
ROOM 229 STATE CAPITOL

[Chair - Don Ogaard, John Boulton, Dwain Otte, Don Warner, Jack Graba, John Brooks]

1:00 - 1:15 p.m.	Opening Remarks and CLWP Overview - Doug Thomas
1:15 - 2:30	Big Stone, Chippewa, Lac Qui Parle, and Pope Counties - Dan Steward
2:30 - 2:50	Cottonwood County - Chris Hughes
2:50 - 3:15	Break
3:15 - 4:15	Kandiyohi, McLeod, and Renville Counties - Chris Hughes
4:15 - 5:05	Benton County - Dan Steward

BWSR SUB-COMMITTEE REVIEW OF WATERSHED DISTRICT AND WATERSHED MANAGEMENT ORGANIZATION PLANS
DECEMBER 17, 1991
ROOM 224 STATE CAPITOL

[Chair - Jim Nielsen, Howard Peterson, Diane Jensen, Loren Harste, Warren Rodning, Jim Rossman]

1:00 - 1:15 p.m.	Overview - Mel Sinn
1:15 - 1:45	Turtle Creek Watershed District - Mel Sinn
1:45 - 2:15	Belle Creek Watershed District - Mel Sinn
2:15 - 2:45	South Two River Watershed District - Mel Sinn
2:45 - 3:00	Break
3:00 - 3:30	Buffalo Creek Watershed District - Mel Sinn
3:30 - 4:00	Crow River Watershed Management Organization - Bruce Sandstrom

Ogaard
RM 229

Tentative agenda for BWSR sub-committee review of water plans
12/17/91

103B.301 Comprehensive Local Water Planning (CLWP)

1:00 - 1:15	Opening remarks and CLWP overview, Doug Thomas
1:15 - 2:30	Big Stone, Chippewa, Lac Qui Parle, and Pope Counties, Dan Steward
2:30 - 2:50	Cottonwood County, Chris Hughes
2:50 - 3:15	Break
3:15 - 4:15	Kandiyohi, McCleod, and Renville Counties, Chris Hughes
4:15 - 5:05	Benton County, Dan Steward

Nielsen
RM 224

Watershed District and Watershed Management Organization Plans

1:00 - 1:15	Overview – Mel Sinn
1:15 - 1:45	Turtle Creek Watershed District – Mel Sinn
1:45 - 2:15	Belle Creek Watershed District – Mel Sinn
2:15 - 2:45	South Two River Watershed District – Mel Sinn
2:15 - 3:00	Break
3:00 - 3:30	Buffalo Creek Watershed District – Mel Sinn
3:30 - 4:00	Crow River Watershed Management Organization – Bruce Sandstrom

OVERVIEW OF THE
BIG STONE, CHIPPEWA, LAC QUI PARLE & POPE COUNTY WATER PLANS
SEPTEMBER 1991

On June 6, 1989, the counties of Big Stone, Chippewa, Lac Qui Parle and Pope finalized the Minnesota River Headwaters (MRH) Joint Powers Agreement intended to guide joint development of comprehensive water plans. In the spring of 1990, the five member counties passed individual resolutions to develop county water plans. In May of 1990, the counties signed grant agreements with BWSR providing each with $15,300 in planning funds to be matched with local cash or in-kind contributions. The Swift County Plan was submitted for state review in August and will be up for action at the October Board meeting. The rest of the Minnesota River Headwaters Counties anticipate Board action at the November meeting.

Area Description

The MRH area is located in West Central Minnesota. The county seats of the member counties are as follows: Big Stone, Ortonville; Chippewa, Montevideo; Lac Qui Parle, Madison; and Pope, Glenwood. The counties lie in the Northern Great Plains, or prairie ecoregion. Surface water drainage is provided by the Pomme de Terre, Chippewa, Lac Qui Parle and Minnesota Rivers. Together, the four counties have over 700 lakes covering 86,000 acres. Most of the lakes are shallow lakes typical of prairie country and many have been affected by the network of drainage ditches constructed to improve poor natural drainage. The largest lakes in the area include Big Stone (11,185), Minnewaska (7,770 acres) and Lac Qui Parle (4,625 acres).

The MRH area consists of mixture of moraines, till plains and glacial outwash areas. Groundwater supply is generally adequate with the outwash plains the focus for irrigated agriculture.

Land use in the MRH area is dominated by agriculture. Cropland as a land use ranges from a high of 88% of Chippewa County to a low of 63% in Pope County. Woodlands are associated with riparian areas, slopes or farmsteads, and range from 1-3%. Water and wetlands range from a high of 9% in Big Stone County to a low of 1% in Chippewa County. 3.5% of Lac Qui Parle County is in publicly owned wildlife management areas.

Area Summary

The member counties plan October task force meetings to respond to comments raised by the state agencies, All the counties have held local public hearings. Chippewa and Lac Qui Parle counties intend to rely on their SWCDs for implementation oversight. Big Stone County will depend on its Environmental Services Office and Pope County on its Planning and Zoning Office.

OVERVIEW OF THE BENTON COUNTY WATER PLAN
SEPTEMBER 1991

Background

The Benton County Board established a Water Resources Advisory Committee in July 1988. In September 1988, the Board passed a resolution to develop a Comprehensive Water Management Plan (Plan). Plan coordination and development duties were delegated to the Benton SWCD. The Benton County Plan was developed on an individual county basis. Regular Advisory Committee meetings began in January 1989. The advisory committee spent the first year collecting water related data. In January 1990, Don Bajumpaa was hired by the SWCD to serve as local water plan coordinator. The Benton County Plan was the subject of a public hearing on August 13, 1990.

County Description

Benton County is located in Central Minnesota in the central hardwood forests region. Agriculture dominates Benton County land use. 42% of the county is cropland and 52% is pasture. Urban areas cover about 4% of the county. The county has relatively few lakes with only seven.

The most significant special geologic conditions in the county are the Crow Wing Outwash Plain along its west boundary and the Mississippi Valley Outwash along its south boundary. Together, these outwash plains cover 23% of the county. These outwash areas of sand and gravel are dependable sources of groundwater, but also easily transmit pollutants to the water table. Benton County is concerned about ground water quality in its outwash aquifers because most of the county's urban growth is occurring there, plus irrigated agriculture is also concentrated there.

Municipal well water testing conducted by the Department of Health indicates generally good groundwater quality. However, testing of wells in a suspected trouble area near Rice indicated 41% of the wells with nitrate levels above 10 mg/L.

The Elk River watershed drains the central two-thirds of the county, 27% drains directly to the Mississippi River on the County's west boundary, and 8% of the county drains east to the Rum River. The County has 53 miles of public drainage ditches. Virtually, no maintenance work has been done on these ditches since their construction between 1900 and 1920. The County's recently completed drained wetland inventory indicated about 1,200 potentially restorable wetlands exist. 99% of the land in the county is privately owned. 695 acres have been enlisted in the RIM program, while 2,742 acres are enlisted in CRP.

Summary

The Plan identifies the Benton SWCD as the lead local agency for plan implementation. The County has responded to preliminary agency review comments in writing and the Plan has been amended to address agency comments. The Benton County Plan will be on the Board agenda for action at the November meeting.

OVERVIEW OF THE COTTONWOOD COUNTY COMPREHENSIVE WATER PLAN FOR THE OCTOBER 23, 1991 BOARD MEETING

INTRODUCTION

Cottonwood County is in Southwestern Minnesota. The County seat is Windom. Other cities include Bingham Lake, Mountain Lake, Storden, Jeffers, Westbrook and Delft. Cottonwood County began Local Water Planning on August 18, 1987 as part of the Southcentral Minnesota Counties Comprehensive Water Planning Project, a 13 county Joint Powers Board formed to write and implement comprehensive local water plans.

PHYSICAL DESCRIPTION OF COUNTY

Cottonwood County has a total of 414,720 acres of which 405,320 acres are privately owned. The County's original vegetation consisted of grassland (prairie and wet prairie marshes and sloughs) and hardwood forest. A well established stand of prairie bush clover exists within the County. The opportunity exists for the County to inventory and map native prairie and prairie bush clover and develop a plan to ensure their protection.

Most wetlands have been drained along with the values they provide. The County has the opportunity to restore drained wetlands and protect the remaining wetlands through incentive programs and regulations including the Wetland Conservation Act of 1991.

The Coteau des Prairies, meaning "highland of the prairies" or "hill of grasses" is the County's most conspicuous geologic feature. The Coteau is a ridge of quartzite bedrock overlain by glacial sediment. The steepness of the Coteau slope as it falls to the northeast is a cause of downstream flooding. Thus, opportunities exist to restore wetlands and develop small reservoirs and earthen dams to reduce downstream flooding.

The Red Rock Ridge Area of Cottonwood County, an area of exposed and shallow bedrock, does not offer sufficient quantities of good quality water. The Red Rock Rural Water System was developed to adequately supply the residents of this area. The continued growth of this system requires close monitoring of water quantities and protection of the systems wells.

Average annual precipitation amounts to about 27 inches with growing season precip. equalling 18 inches. The major watersheds in Cottonwood County are The Middle Minnesota River, Cottonwood River, Blue Earth River, Watonwan River and Des Moines River watersheds. Cottonwood County's land is 87 % cultivated with the majority in corn and soybeans. The intensely cultivated land together with its non-point source pollution potential pose concerns for water quality in the County. Potential point sources of pollution such as non-conforming individual sewage treatment systems, abandoned unsealed wells and feedlots also lead to concerns about water quality.

STAFF REVIEW

Cottonwood County through its water planning committee and associated staff has taken the time to produce an excellent educational water plan which provides the reader insight into the comprehensive programs and laws applicable in the County. The County has developed goals, objectives and actions to address the issues in the County. Additionally, Cottonwood County has recently addressed state agency concerns by consolidating proposed actions into a concise, comprehensive implementation program. The program lists partners, approximate times and costs. Actions proposed include: 1) Decreasing or eliminating taxes on private wetland areas and seek reimbursement through the Wetland Conservation Act of 1991, 2) Work with Area II and RCRCA (Redwood Cottonwood Rivers Control Area) to manage wetland areas and develop reservoirs to reduce flooding, 3) Inventory and prioritize potential water pollutants such as feedlots, landfills, septic systems and fuel and chemical storage tanks, 4) Inventory natural prairie ecosystems and coordinate their protection with the Minnesota Department of Agriculture, 5) Redesignate lakes for waterfowl and furbearer management wherever fish management is impractical, 6) Identify and map underground aquifers and direction of water flow within Cottonwood County and neighboring counties and 7) Establish a wellhead protection program in cooperation with the Minnesota Department of Health.

Staff continues to work with Cottonwood County through the final state agency review process. The Cottonwood Plan should come before the Board for action on December 18, 1991.

Information in this overview was taken from the final draft of the Cottonwood County Comprehensive Water Plan which was submitted for final state agency review on October 1, 1991.

OVERVIEW OF THE KANDIYOHI COUNTY COMPREHENSIVE WATER PLAN FOR THE SEPTEMBER 25, 1991 BWSR MEETING

INTRODUCTION

Kandiyohi County is located in west central Minnesota. It is bordered by Renville, Chippewa, Swift, Pope, Stearns and Meeker Counties. Communities include Willmar, Regal, New London, Sundburg, Atwater Pennock, Kandiyohi, Raymond, Thorpe, Lake Lillian, Roseland, Prinsburg, Blomkest and Svea. Numerous lakes and rivers accent the County including the Crow River and Green Lake. The County Seat is Willmar.

Kandiyohi County is part od the Mid Minnesota Joint Powers Board which was formed to write comprehensive local water plans. The County began planning on February 6, 1990.

PHYSICAL DESCRIPTION OF COUNTY

There are two principal aquifers in Kandiyohi County. One is a surficial drift aquifer and the other is a buried drift aquifer. Water in the Surficial drift is generally of good quality however nitrate contamination does exist in some areas. The buried drift aquifer has water that is commonly hard with sulfate and chloride concentrations also present. The depth to bedrock is at least 200 feet. Drift aquifers produce from 100 to 600 gallons per minute (GPM) while the Cretaceous produces 10 to 250 GPM and the Precambrian\metamorphic produces 5 to 25 GPM.

One study done by the United States Geological Survey on the Bonanza Valley sand-plain area describes the use of groundwater from the surficial sand-plain aquifer for irrigation. Calcium, magnesium, and bicarbonates were the major ions present. It was noted that increased sulfate, chloride, and nitrate indicate possible contamination from barnyards, feedlots, or domestic sewage and expressed concern that irrigation and increased use of fertilizers might increase nitrate concentrations in the groundwater.

There are three surface watersheds: the Crow River, Minnesota River - Hawk Creek, and Chippewa River. These three are divided into sixteen separate minor watersheds.

The southern half of the county is a gently undulating till plain characterized by dark loamy soils. The northern half of the county is a rolling moraine characterized by dark and light colored loamy soils. Kandiyohi County is affected by wind and water erosion with approximately the same amount of areas in the county being affected by these two types of erosion. Average tolerable water erosion for the county is three to five tons per acre per year. Wind erosion occurs usually in the late winter and early spring when field surfaces may be dry and wind velocities reach or exceed 12 to 13 miles per hour.

When European settlers first reached Kandiyohi County the area was almost completely covered with upland prairie and prairie wetland. The northeastern part of the county had mixed stands of hardwood trees.

Approximately 2/3 of the Northern part of the County is in the North Central Hardwood Forests Region, and the Southern 1/3 is in the Western Corn Belt Plains Region. The southern half of the County is a gently undulating till plain that is intensively row cropped. Corn, soybeans, sugar beats and small grains, are the most common crops. Because the Southern half of the County is fairly flat with little relief, water erosion from cropland is not as big a problem as in the northern half. But because the cropland is intensively row cropped, and the fields are commonly quite large and unprotected, wind erosion can be a problem in this part of the County.

Land use practices in agriculture have changed significantly in the last 20 years. Twenty years ago agriculture was quite diversified with livestock and dairy operations being quite numerous. Most of the crops that were produced were for feed for the livestock, and most of these crops were considered high residue crops. Presently, the land uses in agriculture are primarily cash grain operations with corn, soybeans, small grain and sugar beets being produced. Some of these cash grain crops are considered low residue and do not protect the soil from erosion as well as high residue crops.

The Western Corn Belt Region lakes are generally quite shallow and have larger surface areas, and are characterized as eutrophic or hypereutrophic in nature. Both streams and lakes in this region are nutrient rich reflecting the naturally productive soils as well as the fertilizers used to increase crop production. The natural features of this region and the intensive agricultural management practices promote NPS loadings to area lakes and streams. Nutrients and sediment are a concern. Silt and sediment deposition in agricultural drainage ditches and other surface waters has been reported by area residents and observed by resource managers. This is especially evident in the southern part of the county between harvest and spring planting. Silt deposited in surface waters increases turbidity, plugs drainage ways, increases

fertility by adding nutrients attached to silt particles, and can introduce other chemical pollutants that attach to the silt particles.

Much of the natural drainage network has been augmented by county ditches, field ditches, and tile lines, especially in the southern part of the county. Kandiyohi County has over 500 miles of public drainage systems. The average annual cost to maintain and improve the drainage system is about $250,000 per year. Items such as beaver control, installation of side inlet structures, stabilizing banks, erosion control, major and minor ditch cleanouts and weed spraying are covered by maintenance and improvements. Approximately $35,000 a year is spent on weed spraying alone in the public ditch system.

The Timber Lake restoration project restored over 300 acres of this drained lake and required the cooperation of private landowners and various agencies. The Kandiyohi plan lists 15 more drained or partially drained lakes which have the potential for restoration. One concern in the County is that Purple Loosestrife has started to invade certain wetlands. One final project which is gathering momentum and partners is implementation of the Lake Wagonga Fish and Wildlife Management Plan. Part of this plan is the restoration of a 1200 acre drained lake (Grass Lake) within the upper reaches of the watershed.

STAFF REVIEW

The plan lists numerous strategies which indicate the proactive approach the County is proposing to address problems, opportunities and needs. The following are some of those strategies:

1. The County will cooperate with the Buffalo Creek and North Fork Crow River Watershed Districts in implementing existing watershed district defined activities and in updating their plans to reflect specified policies of the county water plan.

2. The County shall identify those major (>10 acres) drained wetlands that can be restored and consider alternative means to achieve proper restorations through state or County land purchases, easements, or restoration incentives for the landowner.

3. Require by County and local land use ordinances that intermittent waterways have a grass covering.

4. Assess the status of individual sewage treatment systems and adopt a program to upgrade nonconforming systems. Upgrading of a system will be at the landowners expense.

5. Identify known or likely aquifer recharge areas.

6. Develop protection measures for wellheads and the application of chemicals adjacent to wellheads.

7. The local water planning coordinator will develop a local groundwater quality data base to monitor baseline water quality conditions.

8. Develop a baseline groundwater quality testing program focusing on surficial glacial aquifers supplying public water supplies and groundwater recharge areas.

9. The County shall require through ordinance that pumping and disposal of private septic waste be conducted by a licensed operator.

10. Encourage the development of Lake Associations or Improvement
Districts to organize water quality and maintenance activities and apply for available grant monies.

11. Consider hiring a limnologist for the County.

12. Identify Diamond, Long, Big Kandiyohi, Wagonga, Nest, Willmar and Foote Lakes as priority Lakes for water quality improvement.

13. Prepare a fact sheet or pamphlet listing the general goals of the water plan.

The Plan was submitted on September 6, 1991 for final review. Staff continues to work with Kandiyohi County on data and assessments. Information in this overview was obtained from the draft Kandiyohi Water Plan.

OVERVIEW OF THE MCLEOD COUNTY COMPREHENSIVE WATER PLAN

FOR THE AUGUST 28, 1991 BWSR MEETING

INTRODUCTION

Mcleod County began Comprehensive Local Water Planning on February 6, 1991 as part of the Mid Minnesota Joint Powers Board which was formed to write comprehensive local water plans. The initial phase of planning involved five public meetings to identify issues and concerns of the citizens followed by formation of a Water Management Committee. The committee was responsible for the development of overall county objectives, policies and action items. The committee also reviewed and finalized the recommended management strategies. A public hearing was held on June 25 to receive comments on the water plan. The plan went through a preliminary state agency review during April, May, and June of 1991 as well as a local review during the same period. The final draft of the plan was submitted for review final State Agency review on August 1, 1991. This is an overview of that final draft.

PHYSICAL DESCRIPTION OF MCLEOD COUNTY

Mcleod County is located in the east-central part of Minnesota bordered by Renville, Meeker, Wright, Carver and Sibley counties. The County seat is Glencoe with other cities being Lester Prairie, Winsted, Silver Lake. Hutchinson, Brownton and Stewart. Smaller communities in the county are Fernando, Sumter, Biscay and Plato.

Surficial deposits of undifferentiated drift exist throughout Mcleod County except for the surficial outwash, of sand and gravel, located in the floodplains of the South Fork Crow River, High Island Creek and Buffalo Creeks. The depth of surficial deposits is anywhere from 200 feet at the Eastern and Southern borders of the County to 500 feet in the center of the County where a buried bedrock valley exists. Surficial aquifers generally produce 25 to 100 GPM with outwash in the Middle Fork Crow River producing 100 to 500 GPM.

The uppermost bedrock layer is 200 feet deep in the Southeast corner of the County. As one travels northwesterly you would encounter the Ironton Galesville and Franconia bedrock layers at greater than 200 feet in depth. Continuing on, the Eau Clare and Mount Simon Hinkley are found at a depth of approximately 500 feet near the center of the County. Traveling northwest undifferentiated igneous and metamorphic rock is found followed by cretaceous(sedimentary) rock extending West into adjacent counties. Several of the bedrock layers are water bearing.

Aquifer recharge occurs generally in the uplands as precipitation percolates through the upper till and into the aquifers. Aquifer discharge takes place in the major river basins and is evident by

continued flow during periods of drought. The major watersheds of Mcleod County are the North Fork Crow River(2.83 %), South Fork Crow River (84.33%) and the Minnesota River(Shakopee)[12.83%].

The severity of erosion and erosion potential increases from the south to the north, with high priority regions occurring primarily in the northern one-third of the County. Original vegetation included both upland prairie and deciduous forest. Prairie wetland and pothole lakes existed near present day Stewart and Fernando. Virgin upland prairie is virtually extinct with the exception of a Nature Conservancy project of less than 100 acres.

The City of Hutchinson has grown considerably since the 1969 land use survey was made. In that survey 82% of Mcleod County was Ag-land, followed by open pasture (8.5%), wetlands and lakes (4.6%) and residential(3,3%). The Department of Natural Resources owns and operates 8,720 acres (2.7%) of land including the Luce Line trail running from Winsted to Hutchinson. 96% of the County is privately owned. There are 201.5 miles of public ditches in the County. An average annual figure for maintenance is $25,000. There are 6 Regional/County parks including Buffalo Creek, Swan Lake, William May, Stahl's Lake, Piepenburg and Lake Marion.

STAFF REVIEW

The communities of Biscay and Plato rely solely on private septic systems and have no operating storm sewer systems. An AGNPS study of Lake Winsted indicated several problem areas including high sedimentation, feedlot runoff and nutrients in runoff from the City of Winsted. The County is proposing to construct receiving ponds to filter out sediment, nutrients and other materials from storm runoff and to inspect feedlots for their impact on receiving waters. Buffalo Creek stream quality data, slightly east of Plato, indicates very high levels of phosphorous possibly because of municipal or industrial sources. The Buffalo Creek Watershed District performed the testing through a private engineer and will conduct future testing to delineate problems and sources of contamination of the Creek including several ditch/creek entry points. The Minnesota Department of Health maintains that the level of sodium in the Glencoe water supply may be of concern to citizens with low sodium or sodium free dietary requirements. The high sodium is a result of a Zeolite water softening procedure in the treatment of water.

A major concern of the citizens of Mcleod County is the Mcleod County Landfill. An existing monitoring well at the landfill site has measured the presence of several volatile organic hydrocarbons and inorganic compounds in shallow glacial deposit groundwater at a depth of 15 to 25 feet. These contaminants have not migrated off site as of December of 1990 and are being monitored closely. The County plans to support continued well testing at the site as well as throughout the County.and Feedlots in the County total approximately 1195 with 130 near a lake or stream and another 300 thought to be potentially polluting tile lines and county ditches.

Approximately 50% of the wetlands in Mcleod County have been lost through drainage for agricultural purposes. The plan focusses on wetland restoration while at the same time maintaining the existing drainage system and minimizing flood damages. The County shall cause to be adopted, through the County or Watershed Districts, policy and zoning regulations prohibiting future drainage of Types III through VIII wetlands and all undrained non-rowcropped Types I and II wetlands. Additionally the County plans to provide tax incentives to landowners to maintain existing wetlands of all types and provide immediate reassessment of tax capacity upon documentation of wetland conversion or maintenance.

Sources of nutrient sediment pollution in surface waters are failing septic systems, ag-runoff and livestock waste. The County plans a largely educational/incentive program to address ag-runoff concerns with a focus on shoreland zoning as a method of maintaining vegetative buffers to some surface waters. The County Environmentalist will maintain a surface water data base and manage the surface water quality program. The County plans to use an ordinance to require a minimum setback distance of feedlots from streambanks and shorelines with vegetative buffer strips between them. The County also plans to establish a program to upgrade nonconforming systems.

Leaky underground storage tanks are a concern in the County because of the VOC's identified in the Minnesota Department of Health's well sampling program. The County will request local units of government to provide information on potential and known contamination sites and will compile information on leaking underground storage tanks while testing those tanks suspected to be leaking. The County anticipates a slight increase in staff to assist with its water quality data base, ISTS program, Toxic and Hazardous Waste Program, landfill activities, educational program and abandoned well inventory. The County will appoint a County Environmentalist to be responsible for water plan implementation and will provide appropriate funding for plan implementation.

BWSR staff has and will continue to work with Mcleod County to address concerns related to plan content.

Submitted by Chris Hughes with information obtained from the Mcleod County Comprehensive Water Plan.

TURTLE CREEK WATERSHED DISTRICT
REVISED WATERSHED PLAN SUMMARY Mel Sinn 11/24/91

BACKGROUND:

** District established in 1968
** Existing watershed plan adopted in 1970
** District adopted rules in 1970
** Area of about 157 square miles
** Central portion of district is flat and agriculture is heavily dependent on artificial drainage systems
** Projects completed: removal of debris from Turtle Creek channel in city of Austin; two small drainage improvements; main stem channel improvement project under consideration

IDENTIFIED PROBLEMS:

** Water quality degradation (discussed in generic terms)
** Flood damage
** Erosion and sedimentation
** Reduced recreational oppurtunities

POSSIBLE SOLUTIONS:

** **To water quality problems** - proper operation and maintenance of municipal waste treatment facilities; stewardship education; proper maintenance of individual septic systems; proper chemical use; fencing of livestock; use of conservation practices; maintenance of grassed strips along legal drains
** **To flooding problems** - increase conveyance capacity; restore and develop floodwater retention areas; use of conservation practices; regulate and coordinate drainage activities; floodplain regulation
** **To erosion and sedimentation** - use of conservation practices; installation of conservation structures
** **To reduced recreational oppurtunities** - improve water quality; preserve, restore, and create habitat; trail development

DISTRICT OBJECTIVES:

** Comprehensive use of conservation practices
** Protect remaining marshes
** Development of water retention projects
** Maintain drainage systems; regulate/coordinate new systems
** Sediment removal
** Enforcement of grassed strip requirement
** Inventory and seal abandoned wells
** Collect hydrologic data
** Enforcement of septic regulations
** Cooperate with other agencies
** Educate the public
** Enforcement of shoreland regulations
** Encourage proper use of chemicals

WATERSHED DISTRICTS OF MINNESOTA 1988

WATERSHED DISTRICT	ORDER OF ESTABLISHMENT
HIGH ISLAND	1
THE TWO RIVERS	2
JOE RIVER	3
STOCKTON-ROLLINGSTONE-MINNESOTA CITY	4
COON CREEK	5
NINE MILE CREEK	6
CROOKED CREEK	7
LOWER MINNESOTA RIVER	8
OKABENA-OCHEDA	9
BUFFALO-RED RIVER	10
BEAR VALLEY	11
ROSEAU RIVER	12
WARROD	13
COOKS VALLEY	14
PELICAN RIVER	15
CORMORANT LAKES	16
MINNEHAHA CREEK	17
UPPER MINNESOTA RIVER	18
WILD RICE	19
BELLE CREEK	20
TURTLE CREEK	22
BUFFALO CREEK	24
RILEY-PURGATORY CREEK	25
MIDDLE DES MOINES	26
PRIOR LAKE-SPRING LAKE	27
MIDDLE RIVER-SNAKE RIVER	28
LAC QUI PARLE-YELLOW BANK	29
THIRTY LAKES	30
YELLOW MEDICINE RIVER	31
RICE CREEK	32
SAND HILL RIVER	33
RAMSEY-WASHINGTON METRO	34
CLEARWATER RIVER	35
CARHELIAN-MARINE	36
KANARANZI-LITTLE ROCK	37
NORTH FORK CROW RIVER	38
SAUK RIVER	39
SOUTH TWO RIVER	40
BOIS DE SIOUX	41

KITTSON 3 · ROSEAU · 2 · 12 · 13 · MARSHALL · BELTRAMI · KOOCHICHING · LAKE OF THE WOODS · ST LOUIS · COOK · LAKE · 28 · POLK · PENNINGTON · 23 · RED LAKE · CLEARWATER · ITASCA · 33 · NORMAN · MAHNOMEN · 19 · HUBBARD · CASS · CLAY · BECKER · 10 · 15 · OTTERTAIL · 16 · WILKIN · WADENA · CROW WING · AITKIN · CARLTON · 30 · TODD · PINE · GRANT · DOUGLAS · MORRISON · KANABEC · 41 · 40 · STEVENS · POPE · STEARNS · BENTON · TRAVERSE · BIG STONE · 39 · MILLE LACS · ISANTI · 38 · 18 · SHERBURNE · SWIFT · KANDIYOHI · ANOKA · CHISAGO · MEEKER · 35 · CHIPPEWA · 29 · WRIGHT · LAC QUI PARLE · McLEOD · HENNEPIN · RAMSEY · WASHINGTON · RENVILLE · 24 · CARVER · SCOTT · YELLOW MEDICINE · 1 · SIBLEY · 31 · DAKOTA · LE SUEUR · NICOLLET · LINCOLN · LYON · REDWOOD · 20 · WABASHA · 14 · GOODHUE · 11 · BROWN · 4 · PIPESTONE · MURRAY · COTTONWOOD · WATONWAN · BLUE EARTH · WASECA · STEELE · DODGE · OLMSTED · WINONA · 26 · 22 · 37 · ROCK · NOBLES · 9 · JACKSON · MARTIN · FARIBAULT · FREEBORN · MOWER · FILLMORE · HOUSTON · 7

METRO INSET

ANOKA · CHISAGO · 5 · 32 · WASHINGTON · HENNEPIN · 36 · RAMSEY · 21 · 34 · 17 · 6 · 25 · 8 · CARVER · 27 · SCOTT · DAKOTA

BELLE CREEK WATERSHED DISTRICT
REVISED WATERSHED PLAN SUMMARY Mel Sinn 11/24/91

BACKGROUND:

** District established in 1968
** Existing watershed plan approved in 1970
** District adopted rules in 1971
** Area of about 82 square miles
** There are no lakes, DNR protected wetlands, or public drainage systems in the District
** Projects completed: served as local sponsor for a $4+ million federally-assisted (PL-566) watershed project that included construction of five flood control reservoirs and two grade stabilization structures

IDENTIFIED PROBLEMS:

** Water quality degradation
** Flood damage
** Erosion and sedimentation
** Reduced recreational oppurtunities

POSSIBLE SOLUTIONS:

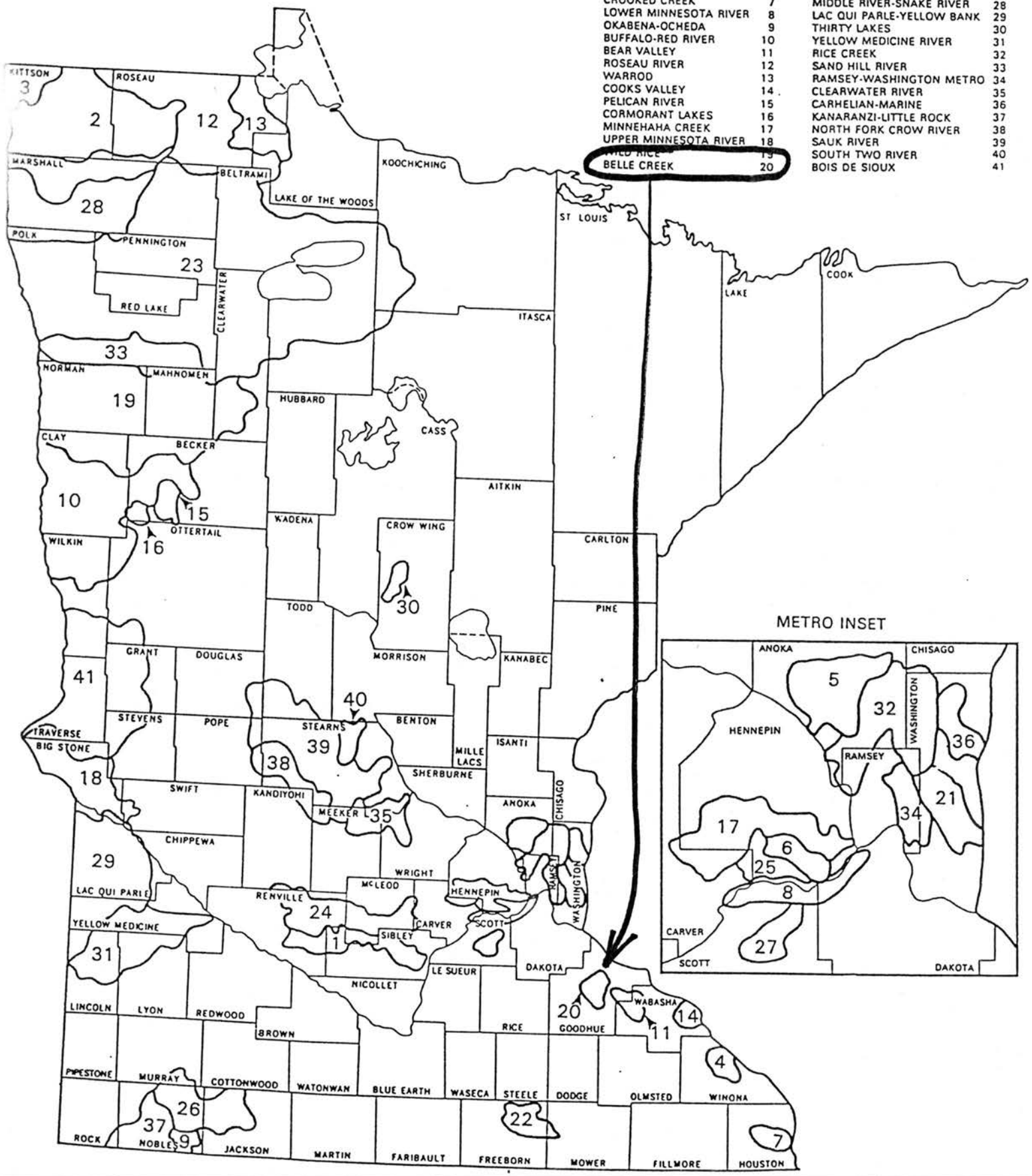
** **To water quality problems** - control of soil erosion; use of conservation practices; stewardship education; proper maintenance of individual septic systems; proper management of livestock and livestock waste; proper chemical use
** **To flooding problems** - remove sediment from flood control reservoirs and other water control structures to maintain flood storage capacity; maintain PL-566 structures; use of conservation practices
** **To erosion and sedimentation** - use of conservation practices; installation of conservation structures
** **To reduced recreational oppurtunities** - preserve wildlife habitat along watercourses; use of conservation practices; additional conservation structures

DISTRICT OBJECTIVES:

** Proper housekeeping of the land surface
** Promote use of conservation practices and control soil loss
** Proper maintenance of PL-566 structures
** Reduce streambank erosion and encourage grassed strips
** Additional water retention and conservation structures
** Provide for sediment removal from reservoirs
** Encourage conservation easements on marginal lands
** Discourage further drainage of low lands
** Address sinkhole and abandoned well problems
** Promote proper chemical use and improve water quality
** Investigate water quality in cooperation with other agencies
** Seek enforcement of proper septic system requirements

WATERSHED DISTRICTS OF MINNESOTA 1988

WATERSHED DISTRICT	ORDER OF ESTABLISHMENT
HIGH ISLAND	1
THE TWO RIVERS	2
JOE RIVER	3
STOCKTON-ROLLINGSTONE-MINNESOTA CITY	4
COON CREEK	5
NINE MILE CREEK	6
CROOKED CREEK	7
LOWER MINNESOTA RIVER	8
OKABENA-OCHEDA	9
BUFFALO-RED RIVER	10
BEAR VALLEY	11
ROSEAU RIVER	12
WARROD	13
COOKS VALLEY	14
PELICAN RIVER	15
CORMORANT LAKES	16
MINNEHAHA CREEK	17
UPPER MINNESOTA RIVER	18
WILD RICE	19
BELLE CREEK	20
VALLEY BRANCH	21
TURTLE CREEK	22
RED LAKE	23
BUFFALO CREEK	24
RILEY-PURGATORY CREEK	25
MIDDLE DES MOINES	26
PRIOR LAKE-SPRING LAKE	27
MIDDLE RIVER-SNAKE RIVER	28
LAC QUI PARLE-YELLOW BANK	29
THIRTY LAKES	30
YELLOW MEDICINE RIVER	31
RICE CREEK	32
SAND HILL RIVER	33
RAMSEY-WASHINGTON METRO	34
CLEARWATER RIVER	35
CARHELIAN-MARINE	36
KANARANZI-LITTLE ROCK	37
NORTH FORK CROW RIVER	38
SAUK RIVER	39
SOUTH TWO RIVER	40
BOIS DE SIOUX	41



BUFFALO CREEK WATERSHED DISTRICT
REVISED WATERSHED PLAN SUMMARY Mel Sinn 11/24/91

BACKGROUND:

** District established in 1969
** Existing watershed plan approved in 1974
** District adopted rules in 1974
** Area of about 415 square miles
** Relatively flat, highly drained watershed
** Projects completed: the District has undertaken 17 projects - 3 sedimentation basin/desilting projects; 2 new drainage systems; 9 projects to remove channel obstructions; 1 lake outlet improvement; and 2 channel repair/stabilization projects.

IDENTIFIED PROBLEMS:

** Water quality degradation
** Flood damage
** Erosion and sedimentation
** Reduced fish and wildlife habitat

POSSIBLE SOLUTIONS:

** **To water quality problems** - acquire better long-term data on water quality; promote Citizens Lake Monitoring Program; adopt feedlot rule; encourage use of conservation practices; consider initiation of a septic system inspection program; prepare a comprehensive diagnostic and feasibility study; encourage enrollment in conservation easement programs; work with counties to promote public sanitary sewer systems on densely populated lakes; work with counties on public education regarding water quality
** **To flooding problems** - perform flood studies and update floodplain maps; seek enforcement of floodplain ordinances; collect hydrologic data; build retention into public improvement projects whenever feasible; develop retention projects
** **To erosion and sedimentation** - acquire better data on erodible lands; cooperate with SWCDs on landowner education; identify where the grassed strip requirements apply on public drainage systems
** **To reduced recreational oppurtunities** - encourage preservation, restoration, and creation of wildlife habitat

DISTRICT OBJECTIVES:

** (expressed in previous paragraph)

WATERSHED DISTRICTS OF MINNESOTA 1988

WATERSHED DISTRICT	ORDER OF ESTABLISHMENT
HIGH ISLAND	1
THE TWO RIVERS	2
JOE RIVER	3
STOCKTON-ROLLINGSTONE-MINNESOTA CITY	4
COON CREEK	5
NINE MILE CREEK	6
CROOKED CREEK	7
LOWER MINNESOTA RIVER	8
OKABENA-OCHEDA	9
BUFFALO-RED RIVER	10
BEAR VALLEY	11
ROSEAU RIVER	12
WARROD	13
COOKS VALLEY	14
PELICAN RIVER	15
CORMORANT LAKES	16
MINNEHAHA CREEK	17
UPPER MINNESOTA RIVER	18
WILD RICE	19
BELLE CREEK	20
VALLEY BRANCH	21
TURTLE CREEK	22
[illegible]	23
BUFFALO CREEK	24
[illegible]	25
MIDDLE DES MOINES	26
PRIOR LAKE-SPRING LAKE	27
MIDDLE RIVER-SNAKE RIVER	28
LAC QUI PARLE-YELLOW BANK	29
THIRTY LAKES	30
YELLOW MEDICINE RIVER	31
RICE CREEK	32
SAND HILL RIVER	33
RAMSEY-WASHINGTON METRO	34
CLEARWATER RIVER	35
CARHELIAN-MARINE	36
KANARANZI-LITTLE ROCK	37
NORTH FORK CROW RIVER	38
SAUK RIVER	39
SOUTH TWO RIVER	40
BOIS DE SIOUX	41

KITTSON 3 · ROSEAU 2 12 13 · MARSHALL 28 · BELTRAMI · LAKE OF THE WOODS · KOOCHICHING · ST LOUIS · POLK · PENNINGTON 23 · RED LAKE · CLEARWATER · ITASCA · LAKE · COOK · 33 · NORMAN 19 · MAHNOMEN · HUBBARD · CASS · CLAY 10 · BECKER · 15 · OTTERTAIL 16 · WILKIN · WADENA · CROW WING 30 · AITKIN · CARLTON · PINE · TODD · GRANT 41 · DOUGLAS · MORRISON · KANABEC · STEVENS · POPE · STEARNS 40 39 · BENTON · TRAVERSE · BIG STONE · MILLE LACS · ISANTI · 18 · SWIFT · KANDIYOHI · SHERBURNE 38 · MEEKER 35 · ANOKA · CHISAGO · CHIPPEWA · 29 · WRIGHT · RAMSEY · LAC QUI PARLE · RENVILLE 24 · HENNEPIN · WASHINGTON · YELLOW MEDICINE · CARVER · SCOTT · 1 · SIBLEY · 31 · LE SUEUR · DAKOTA · NICOLLET · LINCOLN · LYON · REDWOOD · 20 · WABASHA 14 · GOODHUE 11 · RICE · BROWN · 4 · PIPESTONE · MURRAY · COTTONWOOD · WATONWAN · BLUE EARTH · WASECA · STEELE · DODGE · OLMSTED · WINONA · 26 · 37 · 9 · 22 · 7 · ROCK · NOBLES · JACKSON · MARTIN · FARIBAULT · FREEBORN · MOWER · FILLMORE · HOUSTON

METRO INSET

ANOKA · CHISAGO · 5 · 32 · WASHINGTON · HENNEPIN · 36 · RAMSEY · 21 · 34 · 17 · 6 · 25 · 8 · CARVER · SCOTT · 27 · DAKOTA

SOUTH TWO RIVER WATERSHED DISTRICT
WATERSHED PLAN SUMMARY Mel Sinn 11/24/91

BACKGROUND:

** District established in 1986
** District adopted rules in 1989
** Area of about 93 square miles

IDENTIFIED PROBLEMS:

** Water quality degradation
** Flood damage
** Erosion and sedimentation
** Reduced recreational oppurtunities

POSSIBLE SOLUTIONS:

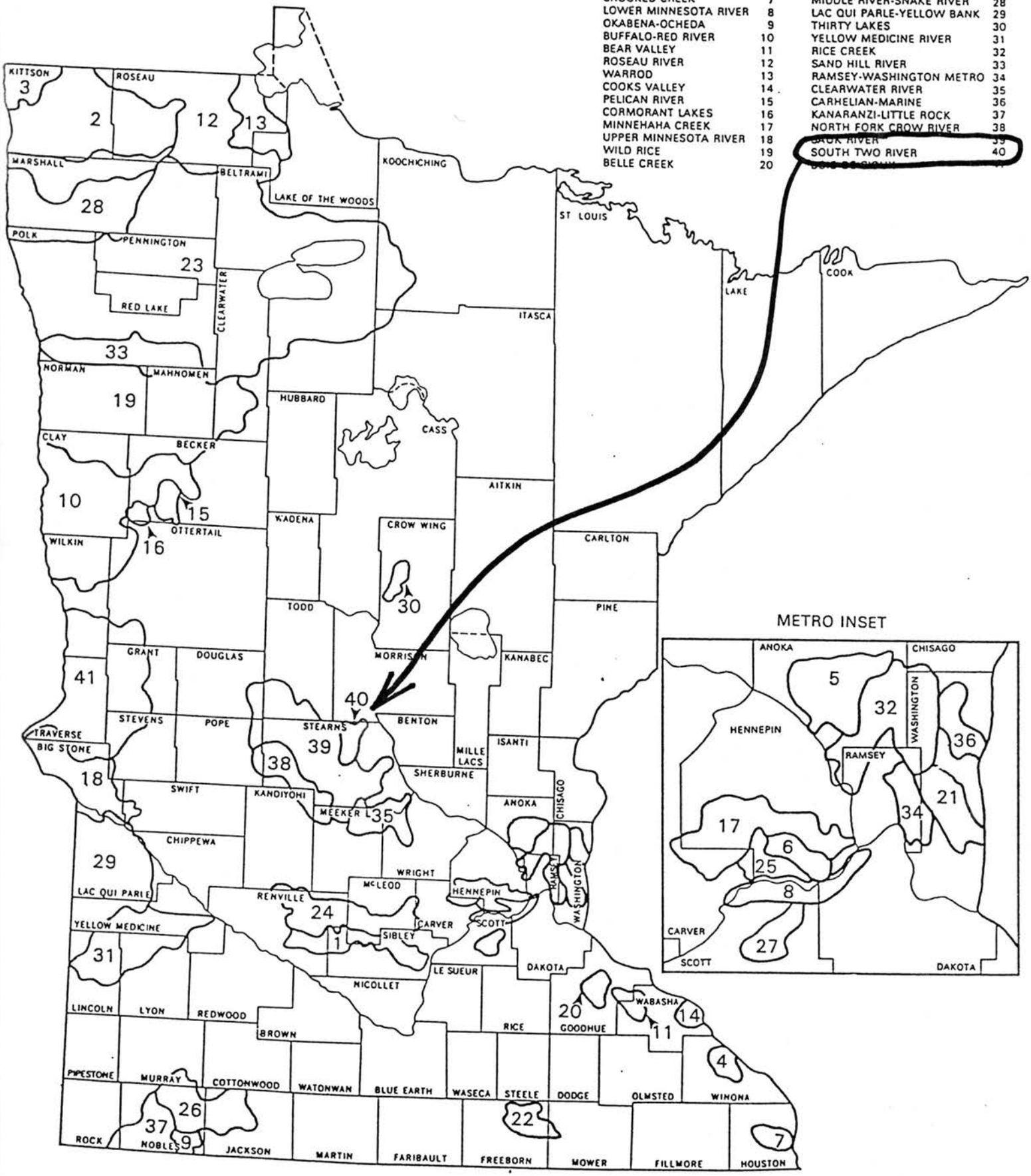
** **To water quality problems** - prepare water quality diagnostic study; promote Citizens Lake Monitoring Program; reduce nonpoint pollution; investigate peat bogs as a nutrient source
** **To flooding problems** - conduct a comprehensive flood study; wetland restoration
** **To erosion and sedimentation** - use of best management practices; wetland restoration
** **To reduced recreational oppurtunities** - reduce sedimentation; preserve and restore wetlands; work closely with county to improve water quality

DISTRICT OBJECTIVES:

** Public conservation education
** Develop rainfall monitoring program
** Private drainage system inventory
** Acquire baseline data on lakes
** Develop comprehensive GIS for the watershed
** Evaluation of ditch and natural watercourse conditions
** Conduct water quality diagnostic study
** Perform additional floodplain mapping
** Foster positive intergovernmental working relationships
** Work closely with counties on county plan implementation
** Determine proper levels for Pelican and Two River Lakes
** Improved monitoring of landfills
** Provide curriculum about the District to the High Schools

WATERSHED DISTRICTS OF MINNESOTA 1988

WATERSHED DISTRICT	ORDER OF ESTABLISHMENT
HIGH ISLAND	1
THE TWO RIVERS	2
JOE RIVER	3
STOCKTON-ROLLINGSTONE-MINNESOTA CITY	4
COON CREEK	5
NINE MILE CREEK	6
CROOKED CREEK	7
LOWER MINNESOTA RIVER	8
OKABENA-OCHEDA	9
BUFFALO-RED RIVER	10
BEAR VALLEY	11
ROSEAU RIVER	12
WARROD	13
COOKS VALLEY	14
PELICAN RIVER	15
CORMORANT LAKES	16
MINNEHAHA CREEK	17
UPPER MINNESOTA RIVER	18
WILD RICE	19
BELLE CREEK	20
VALLEY BRANCH	21
TURTLE CREEK	22
RED LAKE	23
BUFFALO CREEK	24
RILEY-PURGATORY CREEK	25
MIDDLE DES MOINES	26
PRIOR LAKE-SPRING LAKE	27
MIDDLE RIVER-SNAKE RIVER	28
LAC QUI PARLE-YELLOW BANK	29
THIRTY LAKES	30
YELLOW MEDICINE RIVER	31
RICE CREEK	32
SAND HILL RIVER	33
RAMSEY-WASHINGTON METRO	34
CLEARWATER RIVER	35
CARHELIAN-MARINE	36
KANARANZI-LITTLE ROCK	37
NORTH FORK CROW RIVER	38
[illegible]	39
SOUTH TWO RIVER	40
[illegible]	41



Minnesota Board of Water and Soil Resources
Southbridge Office Building
155 South Wabasha, Suite 104
St. Paul, Minnesota 55107

In the Matter of Reviewing the Comprehensive Water Plan for **Todd County** (Minnesota Statutes 1988, Section 110B.08, Subdivision 5 (now M.S. 1990, 103B.315, Subdivision 5) and Minnesota Rules 9300.0170)

ORDER APPROVING COMPREHENSIVE WATER PLAN

Whereas, the Todd County Board of Commissioners submitted a Comprehensive Water Plan (Plan) to the Minnesota Board of Water and Soil Resources (Board) on August 1, 1991 pursuant to Minn. Stat. 1988, Section 110B.08, Subdivision 5 (now M.S. 1990, 103B.315, Subd.5), and

Whereas, the Board has completed its review of the Plan,

Now Therefore, the Board hereby makes the following Findings of Fact, Conclusions and Order:

FINDINGS OF FACT

1. On September 18, 1989 Todd County passed a resolution to develop a Comprehensive Water Plan.

2. Chapter 110B of Minnesota Statutes 1988 (now 103B.301, M.S. 1990), authorizes and encourages Minnesota counties to develop and implement a comprehensive water plan.

3. Todd County completed a draft Plan in April of 1991, and submitted it to affected local units of government for review and comment pursuant to Section 110B.08 Subd. 1 (now 103B.315 Subd. 1).

4. On April 16, 1991 Todd County submitted a partial draft Plan to the Departments of Agriculture, Health, and Natural Resources, the Pollution Control Agency, the State Planning Agency and the Minnesota Geological Survey for preliminary review and comment.

5. On June 3, 1991 Todd County held a public hearing on the Plan pursuant to Section 110B.08 Subd. 4. (now 103B.315 Subd. 4) for the purpose of obtaining public input into the Plan.

6. On August 1, 1991 Todd County submitted its Plan along with all written comments received on the plan, and a record of the public hearing.

7. **Minnesota Department of Agriculture Review:** On May 29th and September 19, 1991 the Minnesota Department of Agriculture (MDA) provided written comments on the Plan. In its final review dated September 19, 1991 MDA provided comments related to inconsistencies with Minnesota statutes, recommended minor changes, and recommended future amendments or programs the County may wish to consider in Plan amendments. In its final comments MDA found no inconsistencies with current law and rule.

   On October 16, 1991 Todd County responded in writing to the MDA on its preliminary Plan and final Plan review comments.

8. **Minnesota Pollution Control Agency Review:** On September 10, 1991 the Minnesota Pollution Control Agency (MPCA) provided written comments on the Plan. In its September 5, 1991 comments to the Board the MPCA recommended approval of the Plan. Also in its final comment letter the PCA provided general and specific comments to the County to consider as it begins Plan implementation, including; sewage systems; identification and registration of above and below ground storage tanks; drainage and associated activities; groundwater monitoring; and workplan prioritization.

   On October 16, 1991 Todd County responded in writing to the PCA on its final Plan review comments.

9. **Minnesota Department of Natural Resources Review:** On June 20th, and September 27, 1991 the Region III Administrator provided written comments on the Plan to the Board. The DNR Fisheries Area Supervisor, Little Falls, provided written comments on the Plan to the county on October 8, 1991.

   The DNR in its preliminary review dated June 20, 1991 provided general and specific comments which dealt with drainage, irrigation, recreation, and ground water recharge. The DNR also expressed concern over the lack of opportunity provided DNR to have staff input during the planning process by Todd County.

   The DNR in its final review dated September 27, 1991 did not object to BWSR approval of the Plan, subject to the County addressing concerns the DNR had raised in its reviews dated June 20th, and September 27, 1991. The concerns being raised were over the County not responding to or including changes in its final Plan from the agencies preliminary Plan review, and lack of opportunity for DNR area staff involvement. Other than the above stated concerns the DNR final review included specific data errors in the Plan.

   On October 16, 1991 Todd County provided written comments to DNR on both its preliminary Plan review comments, final Plan review, and Area Fisheries Office's comments.

10. **Minnesota Department of Health Review:** On June 24th, and September 12, 1991 the Minnesota Department of Health (MDH) provided written comments on the Plan to the Board. MDH in its comments dated September 12, 1991 recommended approval of the Plan.

    On October 16, 1991 Todd County provided written comments to MDH on both its preliminary and final Plan review comments.

11. **Minnesota Geological Survey Review:** On June 7th and September 20, 1991 the Minnesota Geological Survey (MGS) provided written comments on the Plan to the Board. MGS reviewed the Plan for accuracy of the text on geology and aquifer systems described in the Plan. MGS identified a number of required changes and additions to the Plan's summaries and references of geology.

    On October 16, 1991 Todd County provided written comments to MGS on both its preliminary and final Plan review comments.

12. **Minnesota State Planning Agency / Environmental Quality Board Review:** No written comments received.

13. **Office of Waste Management Review:** No written comments received.

14. **Minnesota Board of Water & Soil Resources Review:** On June 18, 1991 the Minnesota Board of Water & Soil Resources (BWSR) provided written comments to the County on its preliminary Plan. Required changes or additions to the Plan included:

    ** The County must insure that all 55 required data elements are included in the final Plan.

    ** The Plan must include a estimated costs, schedules, and identification of lead agencies for the priority action items listed in the Plan.

    The preliminary Plan submitted on April 16, 1991 did not include the required 55 data elements and related assessments. The BWSR noted this in its preliminary comments dated June 20, 1991 and reserved its right for additional comment.

    On October 1, 1991 the BWSR provided Todd county with final comments on its Plan. Changes or additions still required included.

    ** The County must respond in writing to agency comments received by the County during both its preliminary and final Plan review periods.

    ** The Plan assessment of Surface Water Quality needs to clarify the County's definition of conventional flooding, and remove inconsistencies in statements of surface water quality conditions in the County.

** The Plan must include an assessment of The Impact of Irrigation on Present and Future Water Uses.

** The plan must include an assessment of Shoreland ordinances and their adequacy.

On October 16, 1991 Todd County provided written changes to the Board on both its preliminary and final Plan reviews. The written changes provided adequately addressed comments made in the BWSR review letters dated June 18th, and October 1, 1991.

15. **County Response to Agency Comments:** Todd County in its final Plan submitted to the Board on August 1, 1991 made some required changes as required by BWSR staff review of June 5, 1991. Todd County also made some changes to the Plan as a result of Agency and local comments.

On October 16, 1991 Todd County provided final written changes as required by BWSR.

16. The Board reviewed the Plan for conformance with the requirements of the Comprehensive Local Water Management Act at its October 23, 1991 regular meeting.

CONCLUSIONS

1. All relevant requirements of law and rule have been fulfilled. The Board has proper jurisdiction in the matter of approving a Comprehensive Water Plan of Todd County pursuant to Minn. Stat. 1988, Sections 110B.04, Subd. 4 (now 103B.301, Subd. 4.) and Minn. Rules 9300.0170, Subd. 4.

2. The Todd County Plan attached to this Order states water and water-related problems within the County, possible solutions, general goals, objectives and actions of the County, and an implementation program. The attached Plan is in conformance with the requirements of Minn. Stat. 1988, Chapter 110B (now 103B.301) and Minn. Rules Chapter 9300.

ORDER

The Board hereby approves the attached Plan as the Comprehensive Water Plan of Todd County. Dated at St. Paul, Minnesota, this 23rd day of October 1991.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Jim Nielsen
Chairman

Minnesota Board of Water & Soil Resources

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Regional Offices

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394 South Lake Avenue
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Marshall, MN 56258
507-537-6060

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

October 30, 1991

Vern Richter, Chair
Crow River Watershed Management Commission
11380 County Road 24
Watertown, MN 55388

Re: Crow River Watershed Management Commission Plan

Dear Mr. Richter:

In behalf of the Minnesota Board of Water and Soil Resources I have completed my review of the Crow River Watershed Management Commission's (CRWMC) Watershed Plan (Plan). This review included the review of the agency comments and your responses to them. The Plan appears to a sound basis for improving water management in your watershed.

It is my opinion that the Plan is in substantial compliance with applicable laws. I did note, however, several items that I would like you to either clarify, consider and provide an appropriate response to. They are as follows:

1. With regard to solving water quantity problems (the flooding along the Crow River) the should consider amending the plan to specify a schedule or strategy for meeting with upstream communities to discuss what can be done.

2. The CRWMC should consider conducting a cost-benefit study to assess the average annual crop losses to flooding on the Crow River. A survey of the attitudes of affected landowners towards enrolling in the various land retirement or wetland restoration programs and an inventory of the affected properties could also be part of the study. This could in turn justify targeting of various funding sources to achieve greater public and private benefit. By including such a proposal in the Plan, the CRWMC would be eligible to apply for a BWSR water plan implementation base or challenge grant funding to help differ the costs. If the study isn't identified in the plan, you wouldn't qualify for such a grant according to state rules. (reference to pages IVA-1 to 3)

3. Pages IVB-1 to 3 references a program where the WMO will identify and notify farmers in violation of the Agricultural Land Preserves Program. The Plan should be more specific as

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to how this will be done procedurally. For example: Who will be involved? How will it be done? Is there a schedule to be followed?

4. Page VA-1 states that the Commission will review site plans when variances are involved but it doesn't spell out any obligation for each local unit of government to insure that the Commission is appropriately notified. The WMO should consider developing some formal process to insure that this is done. Some options to consider might be through a memorandum of understanding, local ordinance or modification of the joint powers agreement.

5. Page VIB-2 proposes to evaluate a program to monitor water quality. You should also consider making a commitment to establishing a schedule or work plan to accomplish this.

6. The Commission would benefit from outlining the time and place for its meetings and policies for holding special meetings as well as establishing an annual work plan to help focus your efforts.

Upon receipt of your responses to this letter, I will schedule the Plan for my recommendation of approval at the next BWSR Board meeting. Due to conflicts with the Thanksgiving and Christmas holidays the Board will be combining its November and December meetings and meet on December 17 and 18, 1991. Your plan will likely be considered for approval at a subcommittee meeting of the Board on Tuesday, December 17, 1991. The time and place are yet to be determined so I must notify you of this when this is available. The BWSR would like to have at least one representative from the Commission present to respond to any questions they might have.

Please call me at (612) 297-4958 if you have any questions.

Sincerely,

Bruce Sandstrom, Staff
MN Board of Water and Soil Resources

cc Marcel Jouseau, MC
John Stine, MDNR
John Pauley, MDNR
Jeff Stollenwerk, MPCA
Kim Benson-Johnson, MDH
Dan Kane, Carver SWCD
Virginia Harris, Carver County Zoning Office
Mel Sinn, Mark Nelson, Ron Harnack, BWSR

a:crowwmc.ltr

BOARD OF WATER AND SOIL RESOURCES
ROOM 112 STATE CAPITOL
75 CONSTITUTION AVENUE
ST. PAUL, MINNESOTA
DECEMBER 18, 1991

AGENDA

9:00 a.m.	1.	Call to Order
	2.	Adopt Agenda
	3.	Approval of Minutes of October 23, 1991
	4.	Reports • Chairman's Report - Jim Nielsen • Executive Director's Report - Ron Harnack • BWSR Committee Reports • Regional BWSR Report - Brainerd Office
10:00 a.m.	5.	Comprehensive Update on Wetlands - Greg Larson
noon	Lunch	
1:00 p.m.	6.	Metro Water Plan Rules - recommendation for adoption - Bruce Sandstrom
2:00 p.m.	7.	Metro WMO Plan and Watershed District Plans - Jim Nielsen •sub-committee recommendations for decision
	8.	Comprehensive Local Water Plans - Don Ogaard • sub-committee recommendations for decision
	9.	Metro WMO Plan - Nine Mile Creek Watershed District - Diane Jensen • sub-committee recommendations for decision
	10.	Comprehensive Water Plan - Todd County - Doug Thomas • for decision
	11.	Local Water Plan Implementation Grant Authorization - Chuck Niska
	12.	Consideration of FY 92-93 budget reductions options - Ron Harnack - for policy direction
3:00 p.m.	Adjourn	

BOARD OF WATER AND SOIL RESOURCES
ROOM 112 STATE CAPITOL
75 CONSTITUTION AVENUE
ST. PAUL, MINNESOTA
DECEMBER 18, 1991

Appointed Members in Attendance
Jim Nielsen
John Brooks, Jr.
Don Ogaard
Loren Harste
Howard Peterson
Don Warner
Dwain Otte
John Boulton
Jack Grabba
Diane Jensen
Warren Rodning

Agency Members in Attendance
Tom Lutgen, Department of Natural Resources (DNR)
Kim Benson-Johnson, Department of Health
Wayne Anderson, Pollution Control Agency (MPCA)
Paul Burns, Department of Agriculture (MDA)

Others in Attendance
Gary Nordstrom, Soil Conservation Service (SCS)
D'Wayne DeZiel and Danny Potter, Minnesota Association of Soil and Water Districts (MASWCD)
John Sumption, Minnesota Association of Conservation District Employees (MACDE)

Staff in Attendance

Ron Harnack	Ron Shelito
Jim Birkholz	Doug Thomas
Mel Sinn	Dan Steward
Greg Larson	Bruce Sandstrom
Chuck Niska	Lynette Morrisette

Meeting Called to Order - Chairman Nielsen called the meeting to order at 9:00 a.m.

** 91-95 **Adopt Agenda** - Moved by Ogaard, seconded by Brooks, Jr., to adopt the agenda as presented. Affirmative: Nielsen, Boulton, Warner, Graba, Otte, Harste, Rodning, Peterson, and Jensen. Opposed: None. Carried.

** 91-96 **Approval of Minutes of October 23, 1991** - Moved by Harste, seconded by Brooks, Jr., to approve the minutes of October 23, 1991, as circulated. Affirmative: Nielsen, Ogaard, Boulton, Warner, Graba, Otte, Rodning, Peterson, Jensen. Opposed: None. Carried.

Chairman's Report - Chairman Nielsen highlighted a Governor's letter dated December 12, pointing out that the Monticello Nuclear Power Plant is up for relicensing, and that will be the first nuclear power plant in the country to be relicensed. Chris Sand, Commissioner, Department of Public Service will lead on this licensing, any comments on this item are welcome.

Chairman Nielsen attended an Environmental Quality Board (EQB) retreat. The focus of this meeting was reassessing the functions and roles of EQB in the state and government. Jim also discussed with Chuck Williams, Commissioner, MPCA, the need for more emphasis on eliminating polluting feedlots. Williams was receptive and staff of both agencies will discuss and develop a plan of action.

Chairman Nielsen reported that within brother agencies there is strong interest to place emphasis on the Minnesota River Cleanup.

Lastly Chairman Nielsen announced that BWSR's share of the budget deficit is approximately $1 million.

Executive Director's Report - Ron Harnack updated the board on two meetings with SCS and ASCS. The focus of the SCS meeting was technical assistance and their capabilities to meet state and local objectives. Jim Birkholz meets monthly with SCS to maintain communication. The focus of the ASCS meeting was a) how to make more effective use of funds; b) CRP/RIM wetland restoration coordination; and c) cost-share issues relating to feedlots and soil loss.

Ron Harnack stated that at AMC, MASWCD, and MAWD conferences had major focus on the Wetland Conservation Act and manager training. BWSR staff were active in both, and local officials were supportive of the wetlands approach to date.

Ron Harnack gave an update on the Minnesota River Assessment Program meeting held last week, saying it was moving forward nicely and BWSR has a strong role in the implementation of this program.

Ron Harnack stated that December is the month the board normally deals with cost-share roll over dollars, however due to the constraints of the agenda, this would be moved to January's agenda. He stated that BWSR

has $350,000 in requests for about $90,000 in roll over dollars. He suggested priorities for consideration, at the same time considering our match dollars for the North Shore non-point moneys that we took in from EPA. Our hard match is 40% or $40,000, and it needs to be decided in January if it should be taken from rollover dollars or streambank, lakeshore, roadside program.

Ron Harnack reported on administrative issues. Position descriptions are at the Department of Employee Relations waiting for allocation decisions, interviews will be held on Friday for Greg Larson's wetland support position, and interviews will begin shortly for the North Shore Engineer, and the Data Systems position.

Ron Harnack stated that some Board members felt it would be beneficial for him to file a written report each month as well as giving his oral report, so he will start that next month.

Diane Jensen entered the meeting at 9:13 a.m.

BWSR Committee Reports - Don Ogaard reported that the Education Committee decided to have its meetings on the fourth Friday of the month. Their first formal meeting would be on Friday, December 20, 1991. The focus of the meetings will be what role our board can function in. He stated that their focus would not just be on the allocation of funds and programs. The committee felt none of this would be worthwhile if it doesn't get to the end user.

Jack Graba, Dispute Resolution Committee, stated that the dispute between the MCWD and a group of lake residents has been resolved as per handout.

There was no Feedlot Committee report.

Loren Harste reported that the Wetland Committee went over the Interim Program.

Don Warner stated that the Pesticide Committee would be meeting in February.

BWSR Regional Office Report - Ron Shelito and Dan Steward from the Brainerd regional office gave a presentation of their region. Ron described in brief the Cost-Share Program, RIM, education, and cooperation with WDs, SWCDs, and County Water Planners. Dan gave a slide show tour of the region, pointing out the diversity of ecoregions from the Red River Valley to the Great Lakes. He stated that different resources have different needs, from agriculture to forests to lakes. The transition area deals with livestock, lakes, prairie potholes, wetland areas, increased development. Northern lakes and forest area has a different type of wetland, and lakes abound and the economy is more dependent on recreation/tourism. Ron Shelito stated priority issues are polluting feedlots, overload of SWCDs workplans, technical assistance shortage, cost-share shortage, and cooperating efforts

between agencies.

Department of Agriculture arrived at 9:40 a.m.

Kim Benson-Johnson left the meeting at 10:00 a.m.

Chairman Nielsen called for a break at 10:10 a.m. The meeting reconvened at 10:20 a.m.

Approve Wetlands Interim Program Guidelines - Greg Larson gave an overview of the Interim Guidelines, and the changes which appear in Edition 2. Dave Johnson, DNR, went over Permit Simplification. ** Discussion followed. Moved by Otte, seconded by Rodning, to accept the 91-97 Edition 2 of the Proposed Interim Guidelines for the Wetland Conservation Act. Affirmative: Nielsen, Ogaard, Boulton, Brooks, Jr., Harste, and Jensen. Opposed: None. Abstained: Warner, Graba and Peterson. Carried.

Wetland Regulatory Simplification Study - The board just received the Wetland Regulatory Simplification Study today from DNR, and has not had ** a chance to study it. Moved by Otte, and seconded by Jensen, to table 91-98 the acceptance/rejection of the Wetland Regulatory Simplification Study until January. Affirmative: Nielsen, Ogaard, Boulton, Warner, Graba, Otte, Brooks, Jr., Harste, Rodning, Peterson, and Jensen. Opposed: None. Carried.

Chairman Nielsen adjourned the meeting for lunch at 12:02 p.m. The meeting reconvened at 1:00 p.m.

Authorizing Resolution to Adopt Rules Without a Public Hearing - Bruce Sandstrom introduced Nels Nelson, Tim Kelly, Jim Robinette, and Paul Williams, members of the advisory committee. Bruce reported that October 21st was the final meeting of the advisory committee, there were 18 members present, and they voted to adopt the Metropolitan Local Water management Rules (rules). Bruce gave an overview of the rules. He then presented the Authorizing Resolution to Adopt Rules. Discussion ** followed. Moved by Ogaard, seconded by Boulton to accept the 91-99 Authorizing Resolution to Adopt Rules. Affirmative: Nielsen, Graba, Otte, Brooks, Jr., Rodning, and Jensen. Opposed: Peterson. Abstained: Warner and Harste. Carried.

Water Management Organization/Watershed District Plans

Chairman Nielsen announced that the panel of board members consisting of himself, Howard Peterson, Diane Jensen and Loren Harste and Warren Rodning met yesterday afternoon, and heard the presentations from various representatives from the Turtle Creek Watershed District, Belle Creek Watershed District, South Two River Watershed District, Buffalo Creek Watershed District, and the Crow River Watershed Management Organization. Chairman Nielsen announced that the panel recommends that the plans submitted be approved ** by the board. Discussion followed. Moved by Nielsen, seconded by 91-100 Harste, to approve the WMO/WD plans previously mentioned. Affirmative:

Ogaard, Boulton, Warner, Graba, Otte, Brooks, Jr., Rodning, Peterson, and Jensen. Opposed: None. Carried.

Comprehensive Local Water Plans

Don Ogaard announced that the panel of board members consisting of himself, Dwain Otte, Don Warner, and Jack Graba met yesterday afternoon, and heard presentations from Big Stone, Chippewa, Lac qui Parle, Pope, Renville, Kandiyohi, McLeod, Cottonwood, and Benton Counties. John Boulton and John Brooks, Jr. were not able to attend due to prior commitments. Don Ogaard stated there were summaries of each of these meetings, but due to time constraints he could not present them fully to the board. Chairman Nielsen requested copies of the summaries be attached to the minutes. Don Ogaard announced the panel recommends that
** the plans submitted be approved by the board. Moved by Ogaard, seconded
91-101 by Otte, to approve the comprehensive local water plans submitted for the counties previously mentioned. Affirmative: Nielsen, Boulton, Warner, Graba, Brooks, Jr., Harste, Rodning, Peterson, and Jensen. Opposed: None. Carried.

The two committees indicated that the smaller group review worked very well. It provided greater opportunity for discussion between Board members and local officials.

Metro WMO Plan - Nine Mile Creek Watershed District

Diane Jensen announced that the sub-committee of board members consisting of herself, Don Ogaard, Loren Harste, Howard Peterson met to consider the Metro WMO Plan for Nine Mile Creek Watershed District. She announced that after careful consideration, it is the recommendation of the sub-committee to not approve this plan. She stated that the panel suggests the WD either continue to revise the plan, addressing concerns of BWSR, or a better option would be to focus on development of a plan consistent with the new rules. Aileen Kulak, from Nine Mile Creek Watershed District, addressed the board to thank them for their time.
** Moved by Jensen, seconded by Harste, to accept the report given by the
91-102 sub-committee, to not approve the Metro WMO Plan for Nine Mile Creek Watershed District. Affirmative: Nielsen, Ogaard, Boulton, Warner, Graba, Otte, Brooks, Jr., Rodning, and Peterson. Opposed: None. Carried.

Todd County Comprehensive Water Plan

Doug Thomas recalled for the board that Todd County CWP was being brought back after it was tabled at the October 23 board meeting. Thomas gave a brief overview of the plan, noted a letter from DNR approving the plan, and recommended board approval of the plan.
** Discussion followed. Moved by Graba, seconded by Brooks, Jr., to accept
91-103 the Todd County Comprehensive Water Plan as presented. Affirmative: Nielsen, Ogaard, Boulton, Warner, Otte, Harste, Rodning, Peterson, Jensen. Opposed: None. Carried.

Local Water Plan Implementation Grant Authorization

Ron Harnack stated that BWSR needs the board's authorization to allocate/distribute grants for all of the Local Water Plans that have

been approved. Chuck Niska said that BWSR Base Grant has a $37,000 levy per county, and that total funds available through the Local Water Planning Program is $2,435,000. Planning Grants to Cook and Wadena County equals $30,600. He also stated that under Implementation Grants, there are 59 currently approved Water Plans with a BWSR grant amount totalling $1,819,757, 10 Plans are up for approval today with grant requests totalling $329,720, given all eligible counties participate, the request total is $2,180,077. Niska went on to say that total remaining program funds will be $254,923. Niska said that in the next few weeks BWSR would be accepting applications to receive the Base Grant funds. Discussion followed. Moved by Boulton, seconded by Rodning, to accept the Local Water Plan Implementation Grant Authorization as submitted. Affirmative: Nielsen, Ogaard, Warner, Graba, Otte, Brooks, Jr., Harste, Peterson, and Jensen. Opposed: None. Carried.

** 91-104

FY 92-93 Budget Reductions

Ron Harnack explained that there is a need for BWSR to take approximately $1,000,000 cut in its budget due to the state deficit. He went over the FY 92-93 BWSR General Funds handout to determine where BWSR should take this reduction. Ron recommended that the cut of $960,000 come from Wetland Restoration Easements. Discussion followed. Moved by Brooks, Jr., seconded by Warner, to accept Ron Harnack's recommendation, taking the $960,000 reduction from the Wetland Restoration Easement appropriation. Affirmative: Nielsen, Ogaard, Boulton, Graba, Otte, Harste, Rodning, and Peterson. Opposed: Jensen. Carried.

** 91-105

Ron Harnack suggested dates for the board retreat to review the strategic plan, develop objectives, and interaction of board members. One possibility would be the last week in February (25 or 27). Discussion followed. Chairman Nielsen suggested that ideas come back in January for dates/places.

Moved by Graba, seconded by Warner to adjourn the meeting at 3:02 p.m. Affirmative: Nielsen, Ogaard, Boulton, Otte, Brooks, Jr., Harste, Rodning, Peterson, and Jensen. Opposed: None. Carried.

** 91-106

Respectfully submitted,

D. James Nielsen
Chairman

Big Stone, Chippewa, Lac Qui Parle, and Pope County Plan presentation, Dan Steward]

All counties are members of 5 county Joint Powers Board (Minnesota River Headwaters JPA). JPA was organized for Plan development and has voted to continue for Plan implementation and inter-county projects.

Big Stone County

County Representatives present: Mildred Thimean, Environmental Services Officer, and Dianne Rademacher, Upper MN River WD

Began planning - March 1990
Final plan submitted - September 1991
Plan consultant - DPA International

Agency Review

** Dept of Agriculture - proposed actions to enforce regulation on pesticide and fertilizer spill inconsistent with MDA authorities.
** MN Geological Survey - Corrections to text and references on geology recommended, recommended approval.
** MN Dept of Health - recommended plan acknowledge availability of non-community water supply data, recommended approval.
** MPCA - general comments on sewage treatment, solid-waste, and water monitoring, recommended approval.
** DNR - general comments on drainage and its impact on water quality, impact of future ditch maintenance on wetlands, recommended approval.

County Response

** County responded in writing to all comments on December 6, 1991.

Staff recommendation - approval
Subcommittee consensus - approval

Chippewa County

County representatives present: Ron Stevens, Task Force Chair
Jean Diggins, SWCD
Judy Olson, Water Plan coord.

Began Planning - April 1990
Final plan submitted - September 1991
Plan Consultant - DPA International

Agency comments

** Dept of Ag. - Plan actions to enforce regulation for reporting chemical spills inconsistent with MDA authorities.
** MN Geological Survey - minor comments on geology references and text, recommended approval.
** MN Dept. of Health - Recommended plan acknowledge availability of non-community water supply data, recommended approval.
** MPCA - general comments on lake & stream water quality, and drainage system maintenance, recommended approval.
** DNR - general comments on drainage, ag-land impacts on surface water quality, recommended approval,
** BWSR - plan must include groundwater assessment reflecting country-side community health water testing results, assessment of irrigation

County responded in writing to all comments on December 6, 1991

Plan highlights

** Coordinated surface water management program.
** development of comprehensive groundwater data base.
** Aggressive abandoned well program planned.

Staff recommendation - approval

Subcommittee recommendation - approval

Lac Qui Parle County

County representatives present:
Arvid Boman, Co. Comm.
Albert Hoffman, Co. Comm.
LeRoy Janz, Co. Comm.
David Ludvickson, WD
Sonja Farmer, SWCD

Began planning - March 1990
Final plan submitted - September 1991
Plan consultant - DPA International

Agency Review
** MN Dept. of Agriculture - county action to enforce regulation on chemical spills inconsistent with MDA authorities.
** MN Geological Survey - recommended changes to data and references on geology, recommended approval.
** MN Dept. of Health - recommended County acknowledge non-community water supply water quality data, recommended approval.
** PCA - general comments on sewage treatment, solid waste, and water quality monitoring, recommended approval.
** DNR - plan should identify magnitude of wetland loss in county, and address enforcement of 103E buffer strip requirements, recommended approval
** BWSR - county required to clarify water quality assessment as it relates to poor existing water quality versus projected recreational demand, and plan requires a detailed implementation schedule including estimated costs, timeframes, and lead agency.

County responded in writing to all comments on December 6, 1991.

Plan Highlights
** increased surface water monitoring & core samples of selected lakes.
** development of county comprehensive groundwater data base.

Staff recommendation - approval
Subcommittee recommendation - approval

Pope County

County representatives present: Mike Howe, Planning & Zoning
Arnie Stone, Co. Comm.

Began planning - March 1990
Final plan submitted - September 1991
Plan consultant - DPA International

Agency Comments
** MN Dept. of Agriculture - No inconsistency with statute identified.
** MN Geological Survey - recommended minor changes to geology references, recommended approval.
** MN Dept of Health - plan should acknowledge availability of non-community water supply water quality data, recommended approval.
** PCA - discussed need for comprehensive programs which include education and enforcement, recommended approval.
** DNR - general comments on drainage issues and need for ditch inventories, recommended approval.
** BWSR - required plan to include procedure to address conflicts between drainage and surface water quality.

County responded in writing to all comments on December 6, 1991.

Plan Highlights

** lake prioritization
** initiate lake diagnostic studies
** promote formation of lake associations
** investigate need to establish new watershed districts
** adopt feedlot ordinance

Staff recommendation - approval
Subcommittee recommendation - approval

Renville, Kandiyohi, and McCleod Counties, Chris Hughes
Members of Mid Minnesota JPA for water plan development and implementation

Renville County

County representatives present: Marcy McGlaughlin, Co. Comm.
Larry Zupke, P&Z Administrator

Began planning - March 1990
Final plan submitted - July 1991
Extension requested - September 1991
Plan consultant - JM Montgomery Engineers

Plan Review Issues

** County needs comprehensive approach to management of public ditch system (700 miles)
Co Response - evaluate wetlands in accordance with wetland protection act
- appoint county ditch inspector with responsibility for buffer strip compliance, work toward watershed management objectives, maintenance, and education.
** Individual Sewage Treatment Systems
Co. Response - require licensing of installers and pumpers
- enforce MPCA rule 7020 on new construction
- address non-conforming systems on a complaint basis
- begin water monitoring of ditches

** Flooding
Co. Response - coordinate activities with High Island Creek WD
- hydrologic investigation & management plan development for Sacred Heart Creek

County responded to all comments with written changes in November of 1991.

Staff recommendation - approval
Subcommittee recommendation - approval

McCleod County

Co. Representatives present: Grant Knutson, Co. Comm.
Ed Brink, Co. Comm.
Paul Melchor, Co. Environ. Office

Began planning - February 1990
Final plan submitted - August 1991
Extension requested - October 1991
Plan consultant JM Montgomery Engineers

Plan Review Issues

** Stronger wetland protection required
Co. Response - develop ordinance to protect type 1-8 wetlands
- develop tax incentives for restored and protected wetlands
- accept petitions for ditch abandonment

** Flooding
Co. Response - cooperate with High Island Creek WD in evaluation and planning of flood control measures

** Water quality protection
Co. Response - hired County environmentalist
_ cooperate with Buffalo Creek WD on water quality program
- protect recreational value of surface waters through ordinance development

County responded in writing to all comments in October of 1991

Staff recommendation - approval
Subcommittee recommendation - approval

Kandiyohi County

Co. representatives present: Richard Post, Co. Comm.
Earl larson, Co. Comm.
Jeff Bredberg, Solid Waste Officer

Began planning - February 1990
Final plan submitted - September 1991
Plan consultant - JM Montgomery Engineers

Plan Review Issues

** Data on groundwater and ditch system repair costs incomplete
Co. Response - expanded groundwater assessment to include MDH & MDA special studies.
- included new section with detailed maintenance costs for county ditches by year

** County did not have a comprehensive approach to future ditch management
Co. Response - include objective to change focus of ditch maintenance to include addressing sources or cause of problems.
- will evaluate impact of future maintenance on wetlands pursuant to 1991 Wetland Act.
- will evaluate existing studies of buffer strip compliance and will enforce where required.

County responded in writing to all comments on December 16, 1991

Staff recommendation - approval
Subcommittee recommendation - approval

Cottonwood County

Presenter Chris Hughes

County Representatives present: Ken Alf, Co. Comm.
Kieth Maddson, Co. Comm.
David Thompson, P & Z Office

Began planning - August 1987
Final plan submitted - September 1991
Last County from 13 County Southcentral Water Planning Project

Plan Review Issues

** Main issue raised during plan review was need to reorganize plan and ensure that objectives and actions were carried forward into implementation plan from assessments.

** BWSR required county to develop detailed implementation schedule including estimated costs, timeframes, and lead agencies.

County addressed all comments in final Plan.

Staff recommendation - approval

Subcommittee recommendation - approval

Benton County

Staff presenter - Dan Steward

County Representative present: Don Byumpa, Water Plan Coord.

Began planning - July 1988
Final plan submitted - September 1991

Agency Review
** MN Department of Agriculture - No inconsistencies with MDA law & rule
** MN Geological Survey - recommended approval
** MN Department of Health - recommended approval
** DNR - raised issues on buffer strip compliance in county, and status of shoreland development regulations, recommended approval
** MPCA - raised issue over county assessment of existing surface water quality not being reflective of state and regional data, recommended approval

County responded in writing to all comments in November of 1991.

Implementation Highlights
** creating comprehensive data management system at county level
** developing inter-county joint powers agreements for major rivers in county
** developing program to identify, prioritize and correct polluting feedlots

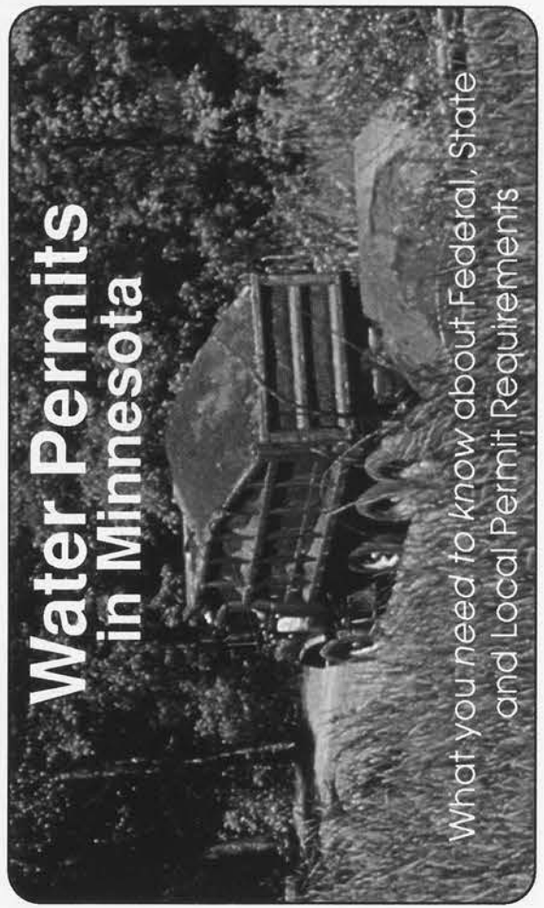
Staff recommendation - approval
Subcommittee recommendation - approval

Joint U.S. Army Corps of Engineers/
Dept. of Natural Resources
Water Permit Brochure

Important!

In 1991, the Minnesota Legislature approved the Wetland Conservation Act. The act includes new wetlands regulations effective January 1, 1992. This brochure does NOT cover these new regulations; however, after January 1992, you may contact your local soil and water conservation district for more information on the new regulations.

Minnesota
DEPARTMENT OF NATURAL RESOURCES



Water Permits in Minnesota

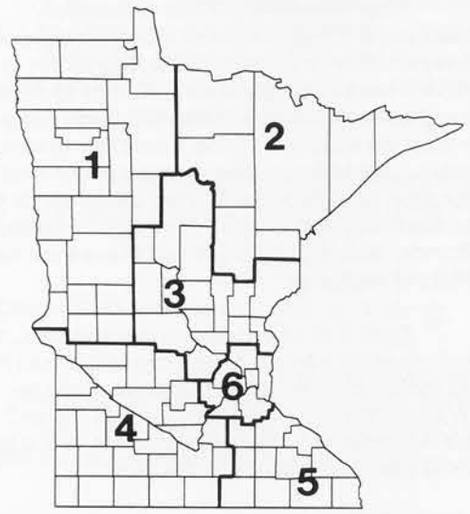
What you need to know about Federal, State and Local Permit Requirements

US Army Corps of Engineers
St. Paul District

Who To Contact

DNR-DIVISION OF WATERS

For more information about water-related issues, you can contact your DNR-Division of Waters Area Hydrologist through the appropriate regional office.



REGION 1
2115 Birchmont Beach Road N.E.
Bemidji, MN 56601 - (218) 755-3973

REGION 2
1201 East Highway 2
Grand Rapids, MN 55744 - (218) 327-4416

REGION 3
1601 Minnesota Drive
Brainerd, MN 56401 - (218) 828 -2605

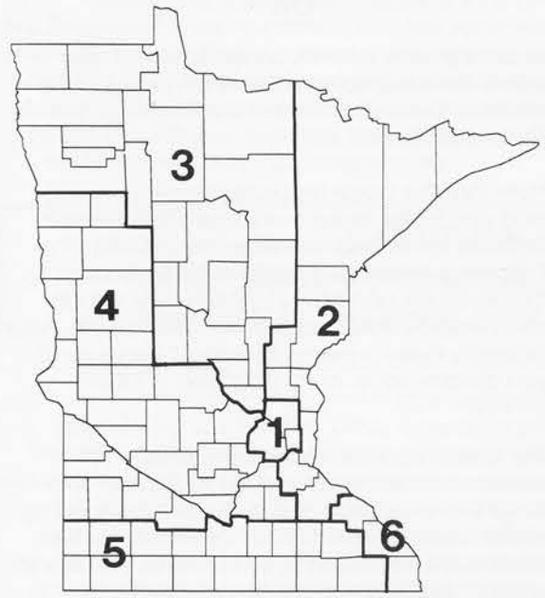
REGION 4
Highway 15 South
Box 756
New Ulm, MN 56073 - (507) 359-6053

REGION 5
P.O. Box 6247
Rochester, MN 55903 - (507) 285-7430

REGION 6
1200 Warner Road
St. Paul, MN 55106 - (612) 772-7910

CENTRAL OFFICE
DNR Building, Third Floor
500 Lafayette Road
St. Paul, MN 55155-4032 - (612) 296-4800

U.S. ARMY CORPS OF ENGINEERS
St. Paul District



CORPS OF ENGINEERS, ST. PAUL DISTRICT REGULATORY CONTACTS
AREA 1 - Ramsey and extreme southern Hennepin (612) 220-0362
Anoka, northern Hennepin (612) 220-0360
AREA 2 (612) 220-0355
AREA 3 (612) 220-0358 or 220-0370
AREA 4 (612) 220-0363 or 220-0372
AREA 5 (612) 220-0362
AREA 6 (608) 784-8236 (La Crosse, Wis.)
BEMIDJI FIELD OFFICE (218) 759-1728
DULUTH FIELD OFFICE (218) 722-6424
GENERAL INFORMATION (612) 220-0375

Minnesota
DEPARTMENT OF NATURAL RESOURCES

US Army Corps of Engineers
St. Paul District

Department of the Army
Corps of Engineers
St. Paul District
180 Kellogg Blvd. East
Room 1421
St. Paul, MN 55101-1479

In addition, permits may be required by watershed districts and water management organizations (contact the State Board of Water and Soil Resources at (612) 296-3767 for location information), and local units of government such as counties, townships, and cities (see your phone directory under government listings).

Wetland Types and Definitions

Introduction

Little more than a decade ago, wetlands were commonly referred to as swamps, bogs, or marshes and were considered of little to no value, if not simply a nuisance. By the 1970's, the ecological and functional value of wetlands was recognized as expanding agricultural and development pressures contributed to their rapid disappearance. Since the 1970's new laws have been enacted, old laws enforced, and new policies developed to regulate the alteration of wetlands. Along with the existing and new laws came a myriad of federal, state, and local governmental agencies to deal with. The Army Corps of Engineers and the Minnesota Department of Natural Resources are the two major agencies that regulate wetlands in Minnesota. Local units of government are now becoming more involved with wetland management regulations, too. This brochure will attempt to clarify the different levels of governmental regulation.

Wetland Functions

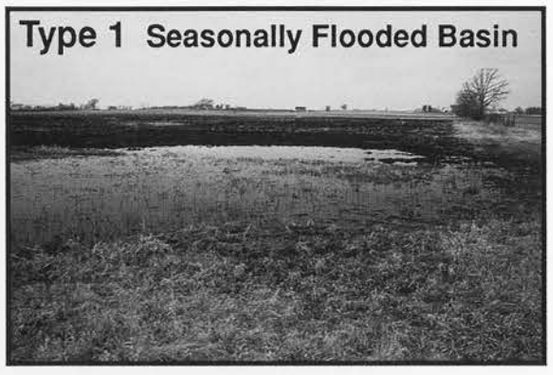
Wetlands can provide a number of values that directly benefit the general public. Collectively they provide:

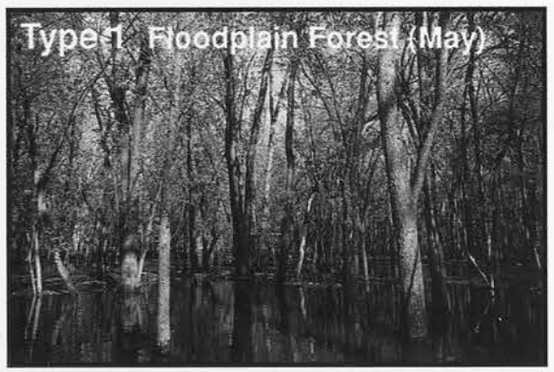
- Floodwater storage and retention
- Nutrient assimilation
- Sediment entrapment
- Groundwater recharge
- Low flow augmentation
- Aesthetics and recreation
- Shoreland anchoring and erosion control
- Wildlife habitat
- Fisheries habitat
- Habitat for rare plant and animal species

Wetland Classification

The State of Minnesota has based its program of wetland protection on the classification system presented in Wetlands of the United States, U.S. Department of the Interior Fish and Wildlife Circular No. 39, 1971 Edition. At the time of the initial protected waters inventory legislation in 1976, the U.S. Soil Conservation Service, and Fish and Wildlife Service used the same terminology. When the state legislation was amended in 1979, the terminology remained.

Since that time, the U.S. Fish and Wildlife Service published Classification of Wetlands and Deepwater Habitats of the United States which provides the basis for the current national wetlands inventory. However, because of its familiarity with the Circular 39 system, the state legislature has decided to continue with this system. Both systems are currently used in Minnesota. The following pictures are based on the Circular No. 39 classification system. Type 1 contains three examples of this type of wetland:





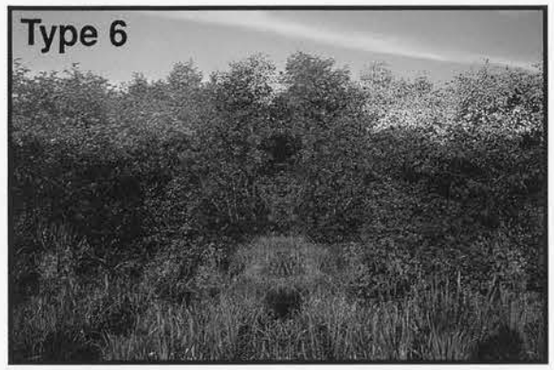
















A SPECIFIC DEFINITION OF WETLAND TYPES 1 THROUGH 8 MAY BE FOUND IN U.S. FISH AND WILDLIFE CIRCULAR 39, 'WETLANDS OF THE UNITED STATES' OR IN MINNESOTA DEPARTMENT OF NATURAL RESOURCES - DIVISION OF WATERS PUBLICATION 'WETLAND TYPES AND DEFINITIONS'.

TEXT CREDITS:
MICK WEBURG, USCOE
JOHN FAX, MNDNR-DOW
PHOTO CREDITS:
STEVE EGGERS, USCOE

July 1991

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Minnesota Department of Natural Resources
Division of Waters

Introduction

Minnesota's waters have been grouped into two categories for purposes of regulations which encourage the wise use of many types of water basins and watercourses. The waters involved have been identified as "protected waters" or "wetlands" depending on size, physical characteristics and ownership of surrounding lands. Any person, agency or organization proposing to change the course, current, or cross-section of Minnesota's protected waters or wetlands, must obtain a permit from the Department of Natural Resources (DNR). The DNR's authority to require such permits is established in Minnesota Statutes Chapter 103G.

Maps identifying protected waters and wetlands are available for inspection at DNR Regional and Central Offices, County Soil and Water Conservation District Offices, County Auditor Offices and County Zoning Offices. Maps are available from the DNR Information Center, 500 Lafayette Road, St. Paul, MN 55155-4040, (612) 296-6157.

Why does the State regulate "protected waters" and "wetlands"?

The identification of protected waters and wetlands was adopted to make it easier to determine all waters where a state (DNR) permit is required for any change in their course, current, or cross-section. The underlying philosophy is that the state not only has an interest in protecting the amount of water contained in these lakes, marshes and streams, but also has an interest in protecting the container (i.e., lake, marsh or stream) which confines these waters.

What are "protected waters"?

"Protected Waters" include all of the following:

1. All water basins assigned a shoreland management classification, except wetlands less than 80 acres classified as natural environment lakes. Check with your county zoning official to determine whether this applies to your lake.

2. All waters which have been determined to be public waters or navigable waters by a court of law.

3. All meandered lakes, except those which have been legally drained. Meandered lakes were identified by the General Land Office Surveys inthe late 1800's.

4. All water basins previously designated by the Commissioner of Natural Resources for specific management purposes such as trout lakes or game lakes.

5. All water basins previously designated as scientific and natural areas.

6. All water basins located within and totally surrounded by publicly owned lands.

7. All water basins where the State of Minnesota or the federal government holds title to any of the beds or shores, unless the owner declares that the water is not necessary for the purposes of public ownership.

8. All water basins where there is a publicly owned and controlled access which is intended to provide for public access to the water basin.

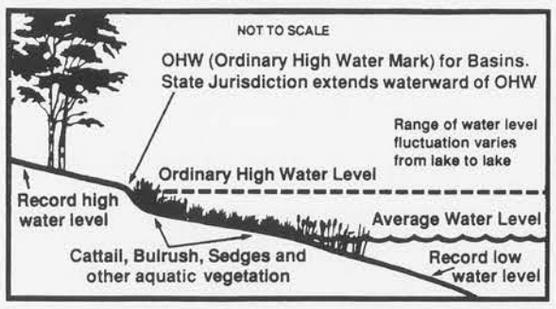
9. All natural and altered natural watercourses with a total drainage area greater than two square miles and all designed trout streams (by the Commissioner of Natural Resources) regardless of the size of their drainage area.

What are "wetlands"?

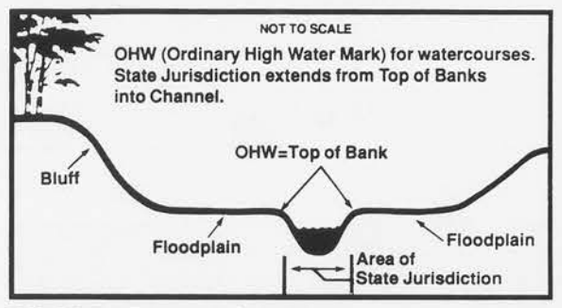
"Wetlands", which are regulated and protected under Minnesota law, include and are limited to, all types 3, 4 and 5 wetlands that have not been designated as "protected waters", which are 10 or more acres in size in unincorporated areas, or 2-1/2 or more acres in size in incorporated areas. The wetlands types are defined in Circular 39, Wetlands of the United States, 1971 Edition, U.S. Department of Interior.

What is the boundary of "protected waters" and "wetlands"?

The boundary of protected waters and wetlands, for regulatory purposes, is defined by the "ordinary high water mark" (OHW). The OHW is the elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. Generally, it is the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.



For watercourses, the OHW is the elevation of the top of the bank of the channel. For reservoirs and flowages, the OHW is the operating elevation of the normal summer pool. Any work done below the OHW is within the beds of protected waters or wetlands and is therefore subject to the permit authority of the Department of Natural Resources.



NO DNR PERMIT REQUIRED

Certain projects do not require DNR-Waters permits. Please refer to DNR brochure "Work That Can Be Done Without A Protected Waters Permit".

When is a DNR permit needed?

Any work done below the ordinary high water mark (OHW) of protected waters and wetlands requires a permit from the Department of Natural Resources (except as noted above). Typical examples of projects requiring a permit include: draining, filling, dredging, channelizing, construction of dams, harbors or permanent offshore structures, placement of bridges and culverts, and marinas.

BEFORE INITIATING ANY PROJECT AFFECTING PROTECTED WATERS OR WETLANDS, contact your local Conservation Officer or the Regional Hydrologist by writing or phoning the appropriate Regional Office.

NOTE: Any work exceeding the established limits and/or any other work in protected waters or wetlands without a permit is a violation constituting a misdemeanor and is punishable by imposition of fines up to $700 and/or 90 days in jail.

If you see what you think is a violation of State Water Law, you can call the DNR Violations Coordinator at (612) 296-4800.

United States Army Corps of Engineers

Federal Permits for Work in Wetland and Water Areas

You must have authorization

from the Army Corps of Engineers to put fill or dredged material into any water or wetland area (Section 404 of the Clean Water Act)

OR

to do any work in, over, under, or which may affect the navigable capacity of a Navigable Water of the United States. (Section 10 of the Rivers and Harbors Act).

Note that the Corps regulates many more wetland and water areas than does the Minnesota Department of Natural Resources (MDNR). The Corps regulates every wetland type discussed in this brochure; and has jurisdiction over virtually every wetland and waterbody in Minnesota. You probably need a permit from the Corps even if you already have, or do not need, a MDNR permit.

The Corps regulates many wet prairie and meadow, forested, shrub, and floodplain wetlands that may seldom, if ever, contain standing water. These areas may not appear to be wetlands to the untrained eye. However, you should contact the Corps to obtain a jurisdictional determination at least 90 days in advance whenever you plan to place any material in a low area or other location which may be a wetland, or to do any work, in, over, under, or which may affected a Navigable Water of the U.S.

Section 404 Permits ...

... to fill wetland or water areas are not easy to obtain. In order to be issued a Section 404 permit for an activity that need not be located in water or wetland areas to fulfill its basic purpose, an applicant must clearly demonstrate that:

1. An upland site that would avoid filling water or wetland areas is not reasonably available, even if not presently owned by the applicant, and

2. No feasible on-site alternatives exist that would avoid or minimize the placement of fill into waterbodies, including wetlands. Such alternatives include confining development to uplands, eliminating parts of the development, reducing building and/or parking lot sizes, etc.

After an applicant has successfully passed steps 1 and 2, the last step in the process is compensatory mitigation (creating water or wetland areas having values sufficient to offset the values lost because of the fill). Such mitigation must be included to the maximum extent feasible. This often involves the purchase and restoration of previously drained wetlands, or the purchase and conversion of upland areas into wetlands. **National policy is that there shall be no net loss of wetlands.**

Even if all of the above are satisfied, a permit must be denied if the proposal would have a significant adverse effect upon aquatic resources, or the Corps determines that the proposal is contrary to the public interest, or if a state or local permit is denied for the work.

Section 10 Permits ...

... are required for work affecting "navigable waters" of the U.S. These are the major rivers and lakes, which in Minnesota are:

Big Fork River, Big Stone Lake, Bois De Sioux River, Kawishiwi River, Kettle River, Lake of the Woods, Lake Traverse, Lake Superior, Little Fork River, Lower Red Lake, Mille Lacs Lake, Minnesota River, Mississippi River and Headwaters Reservoirs, Pigeon River, Pike River, Rainy River, Red River of the North, Red Lake River, Rum River, Snake River, St. Louis River, Upper Red Lake, Vermillion Lake and River and the International Boundary Waters.

Section 10 permits are generally issued where the proposal would have no substantial adverse effects on navigation or the environment. However, if the work or structure includes a discharge of dredged or fill materials, a Section 404 permit will also be required.

The information which follows generally applies to both Section 10 and 404 permits.

When will you get your permit?

You might not. A substantial number of Corps individual permits for projects that would alter wetlands are denied, usually after a review process that may exceed 90 to 120 days. The time it takes for the Corps to make a final decision depends on the kind of Corps permit that is required, how complex or controversial the project is, and how complete the information is concerning the proposed project. Lengthy delays often result while applicants prepare an alternative analysis of available upland sites, alternative designs that reduce the adverse impacts to wetlands, or develop compensatory mitigation plans.

Corps individual permits (IP) involve issuance of a public notice to solicit comments about the adverse and beneficial impacts of the project. An environmental assessment is also prepared for each project. Field investigations of projects sites are usually necessary, and sometimes include an archaeological survey. The Corps must coordinate individual permit projects with many Federal, state, and local agencies. Sometimes a public hearing is required, which adds about 60 days to the permit review.

Corps nationwide permits (NWP) can authorize some minor projects that involve small wetland fills or work in certain locations. It takes only a few days to confirm the applicability of some nationwide permits.

A **Corps general permit (GP)** can authorize certain projects that require both MDNR and Corps permits. The Corps and the MDNR developed this GP to reduce regulatory duplication for the public. It will not apply if your project has been denied a state or local permit, fails certain conditions, or is controversial. GPs may take 20 to 30 days.

A **Corps Letter-of-Permissions (LOP)** may be used to authorize certain minor work, such as a dock or storm water outfall. This kind of Section-10-only permit is limited to work or structures in navigable waters of the U.S.; it cannot be used to authorize filling water or wetland areas. LOPs may require issuance of a public notice, and usually take 10 to 45 days.

You should keep in mind ...

... that your Corps permit may be denied. Investments that may depend upon issuance of a Corps permit to be successful should not be undertaken before a permit is granted. Remember, contact the Corps whenever it appears that work you propose may need a Corps permit, and apply for Corps permits as soon as possible.

Corps Permit Fees...

... depend on the nature and scope of the project. The Corps will advise you of any fee so you can decide if you wish your application to be evaluated.

Violations...

... are punishable by fines of up to $50,000 per day of violation, or imprisonment of up to 3 years, or both. Also, the area subject to the violation generally must be restored to its original condition. If you believe you know of a violation, immediately contact the Corps Compliance Section at (612) 220-0378.

Contact the Corps

The best way to contact the Corps is to send a letter describing your project, along with a map showing the project location, and a sketch or drawing showing the proposed work. Photos of the site help. Be sure to include your address and telephone number, so the Corps can call or write you. Or, if you wish, you may call the Corps at the numbers indicated in this brochure.

Warning - by USDA - SCS

Any drainage activity including maintenance on wetlands may affect a landowners receipt of USDA benefits under the 1985 Food Security Act (FSA) as amended. Before commencing any activity affecting drainage on your land, contact your local USDA-Soil Conservation Service and refer to their fact sheet entitled "FSA Wetland Determinations and Agriculture (May, 1990)".

Preliminary — S...
DRAFT

WETLAND REGULATORY SIMPLIFICATION STUDY

As Pursuant to

Wetlands Conservation Act of 1991

MINNESOTA DEPARTMENT OF NATURAL RESOURCES

DIVISION OF WATERS

&

BOARD OF WATER AND SOIL RESOURCES

DECEMBER 18, 1991

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EXECUTIVE SUMMARY

The Department of Natural Resources and the Board of Water and Soil Resources, in consultation with the appropriate State and Federal agencies, conducted a study to examine and simplify wetland regulatory processes. The purposes of this study were to: 1) examine current wetland regulatory programs, 2) explore options of combined local, State and Federal processes relating to wetland regulation, and 3) recommend alternatives to aid in the public's understanding of regulatory programs and simplify the wetland permit process. The U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Soil Conservation Service and the U.S. Fish and Wildlife Service are the primary Federal agencies involved with wetland regulation. The Department of Natural Resources, the Board of Water and Soil Resources and the Minnesota Pollution Control Agency are the primary State agencies involved in wetland regulation. Watershed Districts, Watershed Management Organizations, counties, townships, and cities regulate wetlands at the local level. Soil and Water Conservation Districts assist in the regulation of wetlands at the local level.

This study revealed many differences between local, State and Federal permit application processes, fee rates, areas of jurisdiction, enforcement procedures and appeal/hearing procedures. Current local, State and Federal program differences are not adaptable to a combined application process without law and rule changes.

Regulatory simplification is a very complicated process. Combining or eliminating regulatory processes would require law and rule changes. Pre-approval of projects has been taken as far as possible without authorizing projects having potential for causing significant environmental damage. U.S. Army Corps of Engineers general permits could be expanded to reduce overlap between State and Federal wetland regulatory programs. The assumption of Section 404 would complicate regulation of wetlands and is impossible for the State to achieve given the current situation. The legislature should request exemption from Federal regulation of wetlands. An interagency project notification form would not require extensive rule or law changes. Expanded Memoranda of Agreement would enhance interagency cooperation. A packet containing a common interagency notification form and a common informational brochure is the best way to achieve wetland regulatory simplification.

PERMIT SIMPLIFICATION

I. INTRODUCTION

PURPOSE OF CURRENT REVIEW

In May of 1991, the Minnesota Legislature passed the Wetlands Conservation Act of 1991 (Laws of Minnesota 1991, Chapter 354). This Act contains many broad ranging changes to the current state of wetland protection and regulation. Included in the Act is a mandate that the Board of Water and Soil Resources (BWSR) and the Commissioner of the Department of Natural Resources (DNR), in consultation with the appropriate Federal agencies, develop a plan to simplify and coordinate State and Federal regulatory processes related to wetland use by January 1, 1992. Individuals who are currently proposing to work in "protected" wetlands can be faced with at least three sets (Local, State and Federal) of regulations, permit processes, and philosophies (Appendix A; adapted from Wetland Program Comparison Fact Sheet, DNR-DOW, no date reference). The intent of simplification is to make wetland regulatory processes more understandable for the public through enhanced interagency cooperation.

REGULATORY AGENCIES

The U.S. Army Corps of Engineers (USCOE), the U.S. Environmental Protection Agency (EPA) and the U.S. Fish and Wildlife Service (FWS) are the primary Federal agencies involved with wetland regulation. The USCOE administers the 1899 Rivers and Harbors Act (Section 10) and the 1972 Clean Water Act (Section 404) permit programs for projects which affect our nations waters. The EPA

oversees the administration of the Clean Water Act (Section 404) and provides comment and oversight to the USCOE on Section 10 and Section 404 permit applications. The FWS also provides review and comment to the USCOE on projects which will affect our nations water resources. In addition, agricultural landowners who wish to farm wetlands must follow U.S. Soil Conservation Service (SCS) guidelines if they are to avoid losing U.S. Department of Agriculture (USDA) farm subsidies.

The primary State agencies involved in the protection and regulation of Minnesota's wetland resources are the DNR, BWSR and the Minnesota Pollution Control Agency (MPCA). The DNR administers the Protected Waters Permit Program for activities which will alter the course, current or cross-section of Minnesota's public waters and wetlands. The BWSR oversees local unit of government (LUG) regulation of wetland areas outside of the DNR's jurisdiction under the 1991 Wetland Conservation Act. The MPCA issues certification for the Federal Clean Water Act (Section 401) for activities which will result in the discharge of dredge or fill materials into waters of the State. The MPCA also issues State certification (Minnesota Rules Chapter 7050) for all activities which will result in the discharge of dredge or fill materials into waters of the state.

At the local level, Soil and Water Conservation Districts (SWCD), under Minnesota Statutes Chapter 103C, assist landowners in the

implementation of plans to conserve and protect soil and water resources. Watershed Districts (WSD) and Watershed Management Organizations (WMO) have statutory authority under M.S. Chapter 103D to regulate land use and projects affecting flood plain and shoreland areas within district boundaries. Many counties (under M.S. Chapter 394) and municipalities (under M.S. Chapter 462) have implemented shoreland, floodplain, wild and scenic river and wetland ordinances, in addition to their own building and zoning codes, to control development and protect the environment.

The existence of several types of jurisdictional wetlands, regulatory programs and agencies has made it very difficult for the public to understand how and why Minnesota's wetlands are regulated. The purpose of this document is to: 1) examine current wetland regulatory programs, 2) explore the options of combined processes coordinating the interaction of Federal, State and Local units of government as concerns the protection and regulation of Minnesota's wetland resources, and 3) recommend alternatives which will aid the public's understanding of regulatory programs and simplify the wetland permit process.

II. CURRENT PROGRAMS

AREAS OF JURISDICTION

The USCOE regulates various activities in virtually all of Minnesota's waters. USCOE Section 10 permits are required for the placement of structures or any other work in "navigable waters" of

the United States. USCOE Section 404 permits are required for the discharge of dredged or fill materials into "Waters of the United States". "Navigable waters" of the United States are those waters which are presently used, have been used in the past, or are susceptible to use to transport interstate or foreign commerce (Regulatory Program: Applicant Information, USCOE, May, 1985). "Waters of the United States" includes not only navigable waters, but also waters, wetlands and tributaries adjacent to navigable waters and other waters where the degradation or destruction of which could affect interstate or foreign commerce (53, Fed. Reg. 20765, 1988). In the past, these definitions have been given very liberal use and application. However, the defining characteristics of Federally regulated wetlands are being tightened under proposed changes to the "1989 Federal Manual for Delineating Jurisdictional Wetlands" (58 Fed. Reg., 40446 - 40480, 1991) Until the proposed revisions have been field tested, it is unclear what effects the proposed changes will have on Federal (USCOE) and State (BWSR) regulation of Minnesota's wetlands.

The DNR, under M.S. 103G.005, Subdivisions 15 and 18, regulates "public waters" and "public waters wetlands". Public waters and Public Waters Wetlands were inventoried by the DNR in the early 1980's and are shown on official Protected Waters Inventory Maps. These maps are available from the Department of Natural Resources - Division of Waters, 500 Lafayette Road, St. Paul, MN 55155-4032. DNR Protected Waters Permits are required under M.S. Chapter 103G

for activities at or below the ordinary high water level (OHW) which alter the course, current or cross-section of public waters and public waters wetlands. The OHW means the boundary of waterbasins, watercourses, public waters and public waters wetlands as defined in M.S. 103G.005, Subdivision 14.

With the passage of the 1991 Wetlands Conservation Act, BWSR and SWCD's will oversee local unit of government (LUG) regulation of wetland areas not under the jurisdiction of the DNR (with certain exemptions). As defined in the Act, "wetlands" under the jurisdiction of BWSR/LUG are:

> ...lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:
>
> 1) have a predominance of hydric soils;
> 2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
> 3) under normal circumstances support a prevalence of such vegetation...(Laws of Minnesota 1991, Chapter 354).

There is no minimum basin size limit and the jurisdictional boundaries of regulated wetland areas corresponds to the boundary that would be used by the USCOE (using the 1989 Federal Manual for Wetland Delineation). Applicants must replace altered/degraded wetlands under a locally approved mitigation plan.

The MPCA is responsible for the abatement and control of water pollution (Section 401 Certification Program: Synopsis, MPCA-

Water Quality Division, August, 1990). Section 401 of the Federal Clean Water Act requires that any applicant for a Federal permit (from the USCOE) for any activity which may result in a discharge of dredged or fill materials to navigable waters obtain certification for that activity (Section 401 Certification Program: Synopsis, MPCA-Water Quality Division, August, 1990). The MPCA has been designated under Minnesota Statutes Chapters 103B and 103F as the agency responsible for Section 401 certification of USCOE issued permits (Section 401 Certification Program: Synopsis, MPCA-Water Quality Division, August, 1990). The MPCA's rules (Chapter 7050) are applicable to all waters of the State as well as to 401 certifications. "Certification" means that the activity proposed by a permit applicant is in compliance with State water quality rules and statutes. The USCOE can not issue permits in cases where the MPCA has denied certification.

Prior to the passage of the Wetlands Conservation Act of 1991, the primary role of SWCD's was to furnish aid to landowners and agencies for the development and revision of comprehensive plans to implement State policy specified in Minnesota Statutes Section 103A.206 (M.S.A. 103C.331, 1991) and to advise local and State agencies on the implementation of these plans. SWCD's developed and assisted in the implementation of plans for urban, forestry and agricultural "Best Management Practices", erosion and sedimentation control projects, changes in land use, construction, maintenance and operation of structures, mechanical practices and related

technical standards and practices (M.S.A. 103C.331, 1991). With the passage of the Act, SWCD's now have a role in the oversight/regulation of activities which affect certain wetlands.

Watershed Districts, under M.S. Chapter 103D, protect and conserve the natural resources of the State through land use planning, flood control, and regulation of improvements by riparian property owners. This authority extends over surface and ground water resources within the watershed district boundaries and, in some instances, to neighboring land and wetland resources outside of the watershed district boundaries. In the metropolitan area, Watershed Management Organizations have been established, under Minnesota Statutes Chapter 103B, to perform some or all of the functions of a WSD similar to the authority under Minnesota Statutes Chapter 103D (M.S.A. 103B.211, 1991). Watershed Districts and WMO's have the authority to deny or issue permits for activities which will impact wetland resources under their jurisdiction. WMO's may be designated to regulate wetlands covered under the Wetlands Conservation Act in the Twin Cities metropolitan area.

Under the Shoreland, Floodplain and Wild and Scenic Rivers Management programs, counties and cities regulate a variety of activities above the OHW of public waters wetlands. In addition, some counties and cities have adopted ordinances to protect wetland areas which are outside of the DNR's jurisdiction. Many townships have also started adopting shoreland, floodplain and environmental

protection ordinances. The degree of wetland protection and associated permit processes can vary widely between local units of government and discussion of these differences goes beyond the scope of this document. The role of counties and cities in wetland regulation will be discussed only as it pertains to the Wetland Conservation Act of 1991.

Depending upon the size and type of wetland affected by a proposed action, a permit applicant could be faced with working with a number of possible combinations of regulatory agencies (Appendix B; Who to Contact About Land And Water Development/Alteration Questions, DNR-DOW, no date reference). The current regulatory situation can be extremely confusing, especially when local, State and Federal policies and procedures are conflicting. While the EPA, SCS and FWS play an important part in the Federal regulation of wetland areas, to include them in the simplification process goes beyond the scope of this document.

CURRENT STATE/FEDERAL PROCESSES

To ease the burden on the regulated public, the USCOE has issued a series of "nationwide general permits" which give blanket authorization to activities which will have minimal environmental impact. Depending upon the type of project, nationwide general permits can convey Section 404 authority, Section 10 authority, or both to a project, provided the necessary certifications have been obtained from the DNR and the MPCA.

In response to concerns of Minnesota's regulatory agencies and to avoid regulatory duplication with the DNR, the USCOE has also issued a "regional general permit" (Draft Reg. Conditions and General Permit Revisions, Weburg, September, 1989). The regional general permit is a blanket authorization that covers projects which are routine and will have little, if any, significant environmental impact (e.g. DNR boat ramps/public accesses). General Permit-001-MN avoids Federal duplication of 19 specific activities regulated by the DNR (Federal Regulation of Wetlands, Wopat, no date reference). Upon issuance of all State and local authorizations (e.g. DNR protected waters permit and/or MPCA 401 certification), the activity covered by a blanket permit is given immediate approval. In some instances, the USCOE must send a copy of the general permit to the owner before the project can be started.

"Individual permits" are required for activities not authorized under nationwide general permits or regional general permits because of conditions for Minnesota that have been prescribed by the DNR and the MPCA. An individual permit (Appendix C; Federal Section 404: Assumption Feasibility Study, DNR-DOW, August, 1989) generally requires a pre-application meeting, a public interest review of the project impacts and the preparation of an environmental assessment. Project review includes consideration of alternatives to avoid, minimize and mitigate any adverse effects of a project. Approval to begin a project can take anywhere from a

few days under a blanket authorization, to 90 days or more in the case of an individual permit. The USCOE must deny project approval to those projects which do not receive individual Section 401 or Minnesota Rules Chapter 7050 certification from the MPCA or any other required State or local authorizations.

DNR "Protected Waters Permits" are required under M.S. Chapter 103G to alter the course, current or cross-section of "public waters" or "public waters wetlands". In general, DNR rules cover a much wider range of project types than do Federal standards. However, similar to the nationwide and general permits, the DNR has given pre-approval to a variety of projects with minimal environmental impact, provided they meet certain specifications. Individuals can start pre-approved projects without providing notice to the DNR.

The DNR, under M.S. Chapter 103G.301, coordinates the review of Protected Waters Permit applications with other units of government having jurisdiction in such matters. Under an existing Memorandum of Agreement (MOA), the DNR notifies the USCOE of all Protected Waters Permit applications and of all instances in which a DNR permit has been determined to be unnecessary. Under a similar MOA, the DNR notifies the MPCA of all protected waters permit applications which meet certain conditions. Copies of protected waters applications are also sent to the SWCD, WSD/WMO, county, city and DNR sections of Fisheries and Wildlife for review and comment. The DNR Protected Waters Permit process (Appendix D;

Federal Section 404: Assumption Feasibility Study, DNR-DOW, August, 1989) takes approximately 60 days to complete.

In many cases, pre-application meetings are held to work out difficulties before a DNR Protected Waters Permit application is submitted for review. The DNR Area Hydrologist, DNR Area Fisheries and Wildlife Managers and, in some cases, representatives from other units of government meet with the applicant to discuss the intended project, reduce adverse environmental impacts and work out any problems before the application is submitted. Cooperative efforts such as this help to ease the applicant through the permit process and avoid unforeseen problems after the permit process has started.

The aforementioned system works for most applicants. However, in some cases, applicants find out about a required permit "after-the-fact" or at a point too late in the process to pull-back because of financial commitments. Very often, the applicant has unintentionally neglected to obtain all of the necessary permits because they were unaware of a particular agency's jurisdiction over their project. Results of a study conducted by the Wisconsin DNR revealed that the awareness of the need to obtain permits varied between agencies. Of the individuals polled, all knew that they needed to obtain a Wisconsin DNR permit, half knew they needed a local permit and only a few knew that they needed a USCOE permit (An Assessment of Wisconsin's Wetland Protection Programs, WI-DNR,

January 1991). The study went on to suggest that an instruction book is needed to explain the permit process, how to work with all the agencies, what permits are needed, the steps in the process and where to go for help (An Assessment of Wisconsin's Wetland Protection Programs, WI-DNR, January 1991). When the process fails, it is not because of over-regulation, but because of a lack of public information and understanding of wetland regulatory programs.

Because the roles of BWSR, SWCD and local governments in wetland regulation is so new, no combined processes or MOA's have been developed with them (Appendix E). At this time, it is unclear how and to what extent local governments, DNR, BWSR, MPCA and the USCOE will interact on the regulation of wetland areas. While watershed districts, watershed management organizations, counties, towns and cities have an important role in the regulation of wetlands, a discussion of their current regulatory processes and their interaction with State and Federal agencies is beyond the scope of this document. Because of the wide range of program variations observed, the role of local governments will be examined only as it pertains to the Wetlands Conservation Act of 1991.

III. PROGRAM DIFFERENCES

LOCAL/STATE/FEDERAL PROGRAM DIFFERENCES

An application involving the USCOE, DNR, BWSR, MPCA, WSD, WMO and local unit(s) of government would be extremely complex. Different

fee rates, time of fee payment, review periods, areas of jurisdiction and appeal, public hearing and enforcement procedures do not lend themselves to an integrated process. An analogous situation would be a combined local, State and Federal income tax system. In addition, WSD/WMO's, counties and municipalities often operate under their own (local) agenda. The degree of interaction with a State agency, such as the DNR, varies from district to district and from local unit of government to local unit of government. Lastly, Federal agencies do not interact with local units of government in the regulation of wetlands. Federal wetland programs are geared solely to interact with State-wide agencies.

SECTION 404

The 1991 wetlands protection act (Laws of Minnesota 1991, Chapter 354) contains a mandate which requires the Commissioner of the DNR, in consultation with the attorney general, to adopt rules that provide adequate authority for administering the Section 404 program by February 1, 1993. In addition, the Act requires that, by March 1, 1993, the governor shall make a submission to the administrator of the U.S. Environmental Protection Agency (EPA) to obtain authority to administer the Section 404 program. This option was examined in a legislatively mandated and EPA funded, DNR-Division of Waters study published on August 31, 1989.

The 1989 study gave an overview of the costs and complexities of assuming a 404 program, Federal versus State program differences and what the legislature would have had to accomplish prior to

program assumption. The purpose of this part of the study is to examine and update the 1989 Section 404 study as regards permit and regulatory simplification. While the EPA's basic conditions for State Section 404 assumption are relatively unchanged, there have been changes and proposed changes in legislation, at both the State and Federal level, that are worth further examination.

RECAPITULATION OF 1989 STUDY

The main points of the 1989 study, are as follows:

> The Minnesota Department of Natural Resources currently has regulatory authority over Public Waters and most types 3, 4, and 5 wetlands as discussed earlier in this report. The Department's position concerning assumption of the 404 program in its current form, is not to encourage this action...The cost to the State without Federal funding, the reportability by the State to the U.S. Environmental Protection Agency and the program controversy with the public prevented the proposed legislation from being officially introduced during the session...
>
> A more desirable program for the Department would be for the Minnesota Legislature to pass legislation which would protect most of the remaining non-protected State wetlands as attempted during the 1989 legislative session (one acre or more of wetlands Types 2, 6, 7 and 8). The Federal government would then have the option of incorporating these wetlands into their General Permits similar to the way the U.S. Army Corps of Engineers has with the State's current Public Water and Wetland Permit Program...
>
> Under 404 program assumption, the State would be obligated to create a set of less restrictive rules regulating the discharge of dredged or fill materials for wetlands not presently protected by the State (State of Minnesota, Federal Section 404 Assumption Feasibility Study, August 31, 1989)...
>
> The Federal Government would retain permitting authority over navigable waters, wetlands adjacent to navigable waters and waters under the control of sovereign Indian nations...
>
> The State may limit the impact of assuming the Section 404 program by creating a new statutory section which might be termed "Other Waters of the United States". This option minimizes the effect of changing the definition of public waters for some 75 State statutes, while providing only that

additional permitting authority mandated by the Environmental Protection Agency (EPA). The State would not be required to expand its regulatory responsibility over a host of programs such as the waterbank program, game and fish laws, wild rice and cranberry harvesting, and purple loosestrife and other noxious plant control.

Assumption of the Section 404 Program requires the State to have the statutory authority to implement the requirements of the Section 404 Program. The statutory changes summarized below are the minimum changes believed necessary. Any further changes or more stringent requirements are up to the discretion of the State.

*Authority to assume operation of the Section 404 Program and make agreements to the extent necessary to implement the requirements of the Section 404 Program.

*Statutory authority for the imposition of penalties not to exceed $25,000 per day for each instance of a civil violation and up to $100,000 per day for each instance of a criminal violation. It is recommended that the State also have the statutory authority to impose administrative penalties in the amounts of $10,000 per violation to a maximum of $125,000...

*Not withstanding any other laws to the contrary, the Commissioner must be able to regulate ditch maintenance under Chapter 106A and 112, which affect waters of the United States to the extent necessary for the Section 404 Program.

*It is not required, but to make compensation more equitable, the legislature should consider expanding the wetland no drainage compensation (Waterbank Program) provisions of M.S. 105.391, Subd. 3 to include wetlands as defined by the EPA.

State assumption of the Federal Section 404 program requires a willingness by the State to provide a mechanism for funding the program. The Environmental Protection Agency does not currently provide operational grants for any other State Section 404 Programs and has indicated that there is little likelihood such funding would be available in the future. Options available to fund Minnesota's Section 404 program consist of legislative support or partial funding through some combination of revenue from permit fees, fines, or a "fee for services" permit system.

Annual costs for State administration of the Section 404 program range from approximately $864,743 to $1,304,743... The figure of $1,304,743 is a cost estimate for the Department

> of Natural Resources if the Section 404 program were assumed without any exclusions. Neither figure includes a required two to three year appropriation of $67,400 per year for the preparation of EPA mandated assumption documents or any external program costs... In consideration of statewide accessibility to field offices and enforcement personnel, permit applications may increase, possibly, requiring a cost revaluation in order to continue with the program.
>
> It is the Department's opinion that assumption costs for any other unit of State government would be at least comparable to that of the DNR (contingent upon an agency's existing resources)...(DNR-DOW, August, 1989)

As was mentioned earlier, the EPA's general conditions for State assumption of the Section 404 program have remained relatively unchanged since the completion of the 1989 study. The State would have to submit to the EPA administrator a full and complete description of the program it proposes to establish and administer. Items which would have to be included in the State's submission are as follows:

> 1) An informational program designed to guide prospective applicants through the permit program.
> 2) A Federally approved permit application form.
> 3) A letter from the governor requesting program approval.
> 4) A complete program description. This must include descriptions of staff, permitting and administrative procedures, funding, estimates of numbers of permits, enforcement capabilities, regulated waters and best management practices.
> 5) A statement from the State attorney general which says that the laws necessary for the State to adequately administer and enforce a complete Section 404 program are in place.
> 6) A Memorandum of Agreement (MOA) with the regional administrator of the EPA which includes terms and conditions of State assumption.
> 7) A MOA with the Secretary of the Army which includes the terms and conditions of State assumption of the program from the USCOE (DNR-DOW, August, 1989).

The major item of change since the 1989 study is the passage of the Wetlands Conservation Act of 1991. At the time of the 1989 study, the DNR was the only State agency with permit authority over

"protected" waters and wetlands. With the passage of the Act, BWSR now oversees the SWCD/local unit of government regulation of all types 1 through 8 wetlands not regulated by the DNR (with certain exemptions). Assumption of the 404 program would mean that State wetland regulation would be split between BWSR/SWCD/LUG and the DNR, as full program assumption is the only option available to the State. Assumption of Section 404 would replace one regulatory agency, the USCOE, with potentially hundreds of entities (DNR, BWSR, SWCD, counties, townships and cities). In addition, the State would need to find a way to finance a program that would require at least $1,300,000 annually. Increased hearing costs, numbers of violations and permit actions would require an addition of field/regional staff. Finally, large differences in permit processes, fee structures, violation and enforcement procedures, penalties, areas of jurisdiction, exempted activities and management philosophies would have to be resolved before Section 404 assumption could occur.

However, assumption is impossible at this time as the EPA will not approve local administration of the Federal Section 404 program. Federal wetland programs are geared solely to interact with State-wide agencies. The delegation of wetland regulatory authority to local units of government prevents the State from assuming the Section 404 program.

STATE/FEDERAL PROGRAM DIFFERENCES

There are many differences between State and Federal application

processes. For waters which fall under the jurisdiction of both the DNR and the USCOE, the idea of a combined DNR/USCOE application form was examined several years ago in a series of meetings involving the DNR, USCOE and other State and Federal agencies. After much debate, it was concluded that a combined application process was unworkable and the idea was discarded. Differences in fee rate structures, time of fee payment, after-the-fact application fees and review periods would have to be resolved before such a system could be workable. An analogous situation would be the creation of a combined State and Federal Income Tax Form (Letter to Ben Wopat, Nargang, June, 1990).

For example, the DNR Protected Waters Permit application fees range from a minimum of $75 to a maximum of $500. Fees are calculated based on the maximum of the following:

1) Project Cost x 1%.
2) Length of Shoreline affected x 75 cents per foot.
3) Volume of material filled or excavated x 75 cents per cubic yard.

Townships applying for a road, bridge or culvert project are charged a maximum fee of $100. There is no distinction between fees for non-commercial versus commercial projects. Fees are payable before project review takes place and are nonrefundable. There are no application fees for State or Federal agencies. For work without a required permit, a double after-the-fact permit application fee is charged plus a minimum of $100 for field inspection fees.

In contrast, the USCOE currently charges a $10 application fee for private, non-commercial projects and a $100 application fee for private, commercial projects. Fees are not assessed until after a permit decision is reached. To further complicate matters, the USCOE is currently reexamining their fee structure.

Under the proposed USCOE fee structure, the minimum application and general permit fees would increase to $100. Fees for standard (individual) permits would increase to $500 and $2000 respectively for non-commercial and commercial projects. There would also be additional fees for wetland jurisdictional delineations, public hearings and preparing environmental impact statements. Fees would also be up-front and nonrefundable under the proposed system. Also, no fees would be charged of State agencies if the State did not charge the USCOE a regulatory fee. Finally, after-the-fact permit applications would be charged a 30% penalty in addition to the normal application fee (55 Fed. Reg., 41354-41357, 1990). At this time, it is unclear what type of fee schedule the USCOE will implement.

There are also many differences between the DNR and USCOE application processes. Before a combined application form could be used there are several concerns/questions that would need to be addressed:

1) What fee structure(s) would apply? Would applicants have to submit two separate payments for State versus Federal fees? (an analogous situation would be a combined State and Federal income tax payment).

2) If a common application fee was arrived at, how would the money be split between the agencies? Some projects requiring a DNR permit do not require a USCOE permit and vice versa.
3) Would there be a distinction between commercial and non-commercial project fees for DNR permits? If so, rule and law changes would be needed.
4) Would fees be paid up-front or after the issuance/denial of a permit? If so, rule and law changes would be needed.
5) Would the State and Federal agencies have separate time frames for permit review or would a common review period time-line be adopted? Rule and law changes would be required to change the Protected Waters Permit review process.
6) Who would determine when fee schedules are to be changed to reflect current economic conditions? How would this process be coordinated?

Before a combined application form would be feasible, changes in State and/or Federal rules and laws regarding application fees and review processes would be required. Changes in Minnesota Rules would require hearings involving both State personnel and the public. Based on past experience, total costs for rule hearings ranges from $50,000 to $100,000 (depending upon the complexity of the hearing). Finally, following changes in Federal regulations, the State would be required to change it's regulations. Since the State has no control over Federal legislation, this would mean that State legislative action would be mandated following Federal actions. Until the USCOE arrives at a set fee schedule and other differences can be worked out, the possibility for a combined application form would seem to be nonexistent.

However, it should be mentioned that the State of Wisconsin and the USCOE have successfully adopted a limited version of a combined application form. A prospective applicant sends two copies of the

application and the Wisconsin DNR fee to the appropriate Wisconsin DNR office. Upon receipt of the application, the DNR forwards a copy of the application to the District USCOE office. The agencies then respond separately to the applicant with their respective jurisdictional interests. As mentioned later in this report, the Minnesota DNR and the USCOE also cooperate in this fashion using the DNR permit application as the starting point (refer to DNR-USCOE MOA).

A combined application form for projects falling under the jurisdiction of USCOE and BWSR/LUG would be more feasible than a combined DNR/USCOE application as there are fewer program differences. With the exception of the agricultural exemptions outlined in the Wetlands Conservation Act, BWSR/LUG and the USCOE generally regulate the same sizes and types of wetlands.

BWSR/LUG, in their new wetland regulatory role, are not permit issuing agencies. There would be no need to develop interagency fee rates and schedules. The combined form would serve the dual role of being an application for a USCOE permit and a notification form to BWSR and the local unit of government. Upon receipt of the form, agencies would reply in a timely manner to the applicant with their respective jurisdictional interests.

However, a combined LUG/BWSR/USCOE application form would only simplify regulation of wetlands which fall under the jurisdiction

of these respective entities. The potential for confusion over wetlands regulated by the DNR and USCOE would still remain. At best, such a form represents only a partial solution to permit simplification.

IV. OPTIONS

COMBINED NOTIFICATION

A combined "notification form" is one possibility for simplifying the permit process (Appendix F; Weburg, Adapted from draft Notification Form, no date reference). A prospective applicant would complete a single project description form with sufficient information to allow the respective agencies to determine jurisdictional interest in the project. The "notification form" would be sent to one agency designated as the "clearing-house" for all project notices (Appendix G). The clearing-house would then distribute the form to a preestablished list of regulatory agencies for review. It would then be up to the respective agencies to contact the applicant and provide appropriate forms, regulatory information and project guidance. To avoid any miscommunication, agencies receiving the notification form would also notify the clearing-house of their jurisdictional determination. The clearing-house would then provide the applicant with an update of agency responses to the project.

Such a form would be advantageous to prospective applicants in that:

1) Only one form would be required (initially) to notify local, State and Federal agencies of the applicant's proposed intentions.
2) No changes would be required in local, State and Federal application fees and permit review periods.
3) There is less chance of an applicant finding out about a necessary permit "at the last minute".
4) Warning statements which tell the applicant to contact the SCS (if on agricultural land), watershed districts, watershed management organizations, local unit of government and county officials could be included on the form.

This approach would simplify the initial step in the permit application process (Appendix G). Once past the initial notification process, the applicant would still deal with separate local, State and Federal application forms, fee structures, review periods and processes. There is also the possibility that once past the notification process, local, State and Federal agencies would be operating independent of each other. This could lead to differences in the scope of the project authorized, issuance or denial of a permit, and enforcement difficulties. However, existing MOA's could be expanded to ensure interagency cooperation (Appendix H). Finally, there is the more formidable task of educating and informing the public to the existence of such a form and the permit process in general.

The DNR or SWCD are in an ideal position to act as a "clearing-house" agency. Persons interested in working in protected wetlands could fill out one "notification form" (Appendix F; Weburg, Adapted from draft Notification Form, no date reference). The form, which would contain information sufficient to determine project location and agency jurisdiction, would be filled out and sent to the

appropriate field office. The clearing-house would then forward the notification form to the appropriate local, State and Federal agencies. The agencies, including the clearing-house, would then notify the applicant of their jurisdictional interest, and the need for any additional application forms and fees in a timely manner. Agencies would also provide the clearing-house with a copy of their jurisdictional determination. The clearing-house would then provide the applicant with a checklist of the agencies notified and their response to the project.

The aforementioned system would be effective for applicants who have limited knowledge of wetland regulatory processes. For applicants who are familiar with the current permitting system, there would be two possible courses of action: 1) follow the combined notification process, or 2) proceed with the "separate" application system currently in place (Appendix G). There would be no need for "experienced" applicants to use the combined notification process if they are already familiar with the current regulatory system. These applicants would contact agencies individually to obtain necessary permits/authorizations for their projects.

Violations of permit conditions arising from either the "combined" notification system or the "separate" permit application system would need to be coordinated under expanded Memoranda of Agreement (Appendix I). Reporting and enforcement of "after-the-fact"

violations could also be coordinated under an expanded MOA.

COMBINED INFORMATIONAL MATERIALS

An interagency task force could be assembled to develop brochures, manuals, etc., which include all of the agencies that regulate Minnesota's wetland resources. Combined publications could be distributed to city halls, libraries and State and Federal government offices to facilitate passage of information to the general public. The recently published DNR/USCOE permit information brochure is an excellent example of interagency cooperation (Attachment A). This brochure gives a brief overview of each agencies regulatory jurisdiction and permit requirements as well as other general information. The brochure also contains a warning to prospective applicants telling them to contact their local SWCD if they are proposing to work in a wetland after January 1, 1992. Interagency brochures, used in conjunction with a combined notification form, could go a long way toward regulatory simplification and public understanding of Minnesota's water laws.

V. CONCLUSIONS AND RECOMMENDATIONS

Regulatory simplification is a very complicated process. A degree of regulatory complexity is inevitable given existing differences in jurisdiction, rules and permit processes of the agencies involved in wetland regulation. The intent of this study was to examine the agencies involved in wetland regulation and their areas of jurisdiction in an effort to locate ways in which the regulation

of Minnesota's wetlands can be simplified for the public.

It is felt that the activities which require protected waters permits warrant the close attention they receive because of the potential for significant, adverse effects on major lakes, marshes and streams. Conversely, pre-approval of projects has been taken as far as is possible without authorizing projects which have potential for causing significant environmental damage. However, similar to GP-001-MN, USCOE regional general permits could be expanded to reduce regulatory overlap with the BWSR/LUG wetland regulations.

It is also the Department's position that the addition of new programs, such as Section 404, is counter productive to simplification. The regulated public as well as regulatory agencies need a period of time to adjust to new legislation (ie. Wetlands Conservation Act of 1991). The assumption of Section 404 would not simplify the regulation of protected wetlands for the general public in any measurable way (ie. one regulatory agency, USCOE, would be replaced by potentially hundreds of regulatory entities: DNR, MPCA, BWSR, WMO, counties and cities). Until it is possible for the State to assume parts of a Section 404 program with no strings attached, the Department continues our position of <u>not</u> assuming Section 404.

A better course of action would be for the State, acting through

the legislature, to request changes in wetland regulation at the Federal level. For example, states such as Minnesota, which have a comprehensive wetland regulatory program in place, would become exempt from the Section 404 program. This would be advantageous to the State in that: 1) the State would have autonomy over the regulation of its wetland resources, and 2) an entire regulatory layer would be removed (simplification). A far less desirable option is for the State legislature to preempt the wetland permitting authority of all State and local agencies except for the DNR and BWSR/SWCD. Under this system, the WSD's, WMO's, county and city units of government would become advisory agencies to the permitting agencies. Such action would result in a prospective applicant having to obtain a permit or authorization from only three possible agencies (DNR, BWSR/SWCD, and USCOE). This action would not only simplify the wetland regulatory process, but also preserve the input of local units of government over affairs within their jurisdiction.

Combined interagency permit notification or application procedures and combined information brochures were presented as ways to help to ease public confusion regarding wetland regulation. Various forms and combinations of application and/or notification forms were examined and their relative merits discussed. The best option for regulatory simplification is a process involving a combined "notification form" and a "combined informational brochure". Information packets, containing a combined notification form and an

interagency permit process brochure would be made available to the public at local, county, State and Federal offices. Individuals proposing to work in a water body would complete and mail the combined notification form to a "clearing-house" agency which would then forward it to an established list of regulatory agencies. The agencies would then respond to the applicant in a timely manner with their respective jurisdictional interests. Combined information brochures would help to guide the applicant through the permit process with as little difficulty as is possible. Combined notification and information processes, in conjunction with expanded Memoranda of Agreement would go a long way towards regulatory simplification.

DCJ, 1991

	DNR - DOW	USCOE	BWSR	WSD/WMO	LOCAL
WETLAND DEFINITION	Wetlands are defined by Minnesota Statute (M.S.) 103G.005, Subdivision 18; by a minimum basin size and type.	Wetlands are defined by Federal Regulations 33 CFR 328.3(b) as those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.	Wetlands are defined by M.S. 103G.005, Subd. 19, and do not include public waters and public waters wetlands as defined in subd. 18.	A variety of definitions may be used in district rules.	A variety of definitions may be used in local zoning ordinance.
REGULATED WETLAND TYPES (Per USFWS Circular #39)	Types 3, 4, and 5.	Types 1 through 8.	Types 1 through 8.	Various wetland typing may be used.	Various Wetland typing may be used.
MINIMUM WETLAND SIZE	2.5 acres in incorporated areas; 10 acres in unincorporated areas.	No size minimum.	No size minimum.	Various basin sizes may be used.	Various basin sizes may be used.
MITIGATION	Under M.S. 103G.245, Subd. 7, if a major change in the resource is justified, protected waters permits must include provisions to compensate for the detrimental aspects of change. Commonly used when governmental units make permit applications for roadway fills.	In order to issue a Section 404 Permit to fill a wetland, an applicant is required to perform compensatory mitigation in the form of restoring drained wetlands or the purchase and conversion of upland areas into wetlands. No net loss of wetlands.	Under M.S. 103G.222, after July 1, 1993, wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetlands of at least equal public value under an approved replacement plan.	Various types of mitigation may be used depending on replacement plans.	Various types of mitigation may be used depending on local ordinance.
TAXES	The DNR - DOW does not have any taxing authority in Minnesota.	The USCOE does not have any taxing authority in Minnesota.	BWSR does not have any taxing authority in Minnesota.	WSD/WMO have taxing authority; used for conducting operations.	Local units of government have taxing authority.
COMPENSATION	The DNR - DOW has no compensation programs relative to wetland management.	The USCOE has no known compensation program relative to wetland management.	BWSR provides compensation to eligible landowners who preserve types 1, 2 & 3 wetlands through the Wetland Preserve Program. Provides cost-share funding to landowners who propose to establish or restore wetlands.	WSD/WMO have no known compensation programs relative to wetland management.	Landowners may be exempted from taxes on protected wetlands. Local governments have acquired wetlands for mitigation purposes as negotiated with resource management agencies.
FARMIBILITY	Under M.S. 103G.231, Subd. 1, a landowner may use the bed of wetlands for pasture or cropland during periods of drought if 1) dikes, ditches, tile lines or buildings are not constructed, and 2) the agricultural use does not result in the drainage of the wetland. In addition, a landowner may fill a wetland to accomodate wheeled booms on irrigation devices if the fill does not impede normal drainage.	USCOE regulations allow landowners to farm wetlands when conditions permit as long as they don's change the course, current or cross-section of a wetland basin.	The 1991 Wetlands Conservation Act lists many agricultural exemptions.	WSD/WMO management plans may allow landowners to farm wetlands in periods of drought.	Local ordinances may allow landowners to farm wetlands in periods of drought.
VIOLATION PENALTIES	1) Administrative Law Judge (ALJ) hearing and recommendations, 2) DNR final order, 3) court of appeals, 4) higher courts.	Criminal: fines up to $100,000 per day and 6 years in jail. Civil: fines up to $25,000 per day. Administrative: A) Class I - $10,000 per violation; B) Class II - $10,000 per day.	Violations of M.S. 103G are punishable as a misdemeanor with fines up to $700 and/or 90 days in jail.	Violations of M.S. 103D.545 are punishable as a misdemeanor with fines up to $700 and/or 90 days in jail. Violations may be enforced by criminal prosecution, injunction, action to compel performance, restoration, or other appropriate action.	Penalties may very depending on local ordinance.
APPEAL PROCESS	Violations of M.S. 103G.245 are punishable as a misdemeanor with fines up to $700 and/or 90 days in jail.	1) File reviewed by higher authority (EPA), 2) Suit in federal court system, 3) appeal to higher court.	1) Appeal of wetland replacement plan decision by mailing notice of appeal to board within 30 days of receipt of decision. 2) Appeal heard by committee for dispute resolution. 3) ALJ hearing. 4) final order. 5) Court of appeals. 6) Higher court.	Appeal of WSD/WMO orders can be made to district court or secretary of BWSR. Notice of appeal must be filed within 30 days of final WSD/WMO order. Board and court orders may be appealed as in other civil cases.	In the case of a county, appeals are made to the Board of Adjustment. For cities, appeals are made to either a Board of Adjustment or to the city council. Further appeals are civil actions in district court.

WHO TO CONTACT ABOUT LAND AND WATER DEVELOPMENT/ALTERATION QUESTIONS

ACTIVITIES OUTSIDE OF WATER BASIN BOUNDARY (WORK-ON-THE-UPLAND)

Examples of Activities:

Building Setbacks
Land Grading
Vegetation Removal
Sewage Treatment
Water Supply
Decks

LOCAL UNITS OF GOVERNMENT

County and City
-Shoreland Ordinance
-Floodplain Ordinance
-Wild and Scenic Rivers Ordinance
Watershed Districts
Water Management Organizations
Townships

ACTIVITIES WITHIN WATER BASIN BOUNDARY (WORK-IN-THE-BED)

Examples of Activities:

Filling
Excavating
Draining
Structures (Bridges, Culverts, Outfalls)
Docks
Harbors/Marinas
Retaining Walls
Vegetation Control (Including Chemicals)

FEDERAL AGENCIES

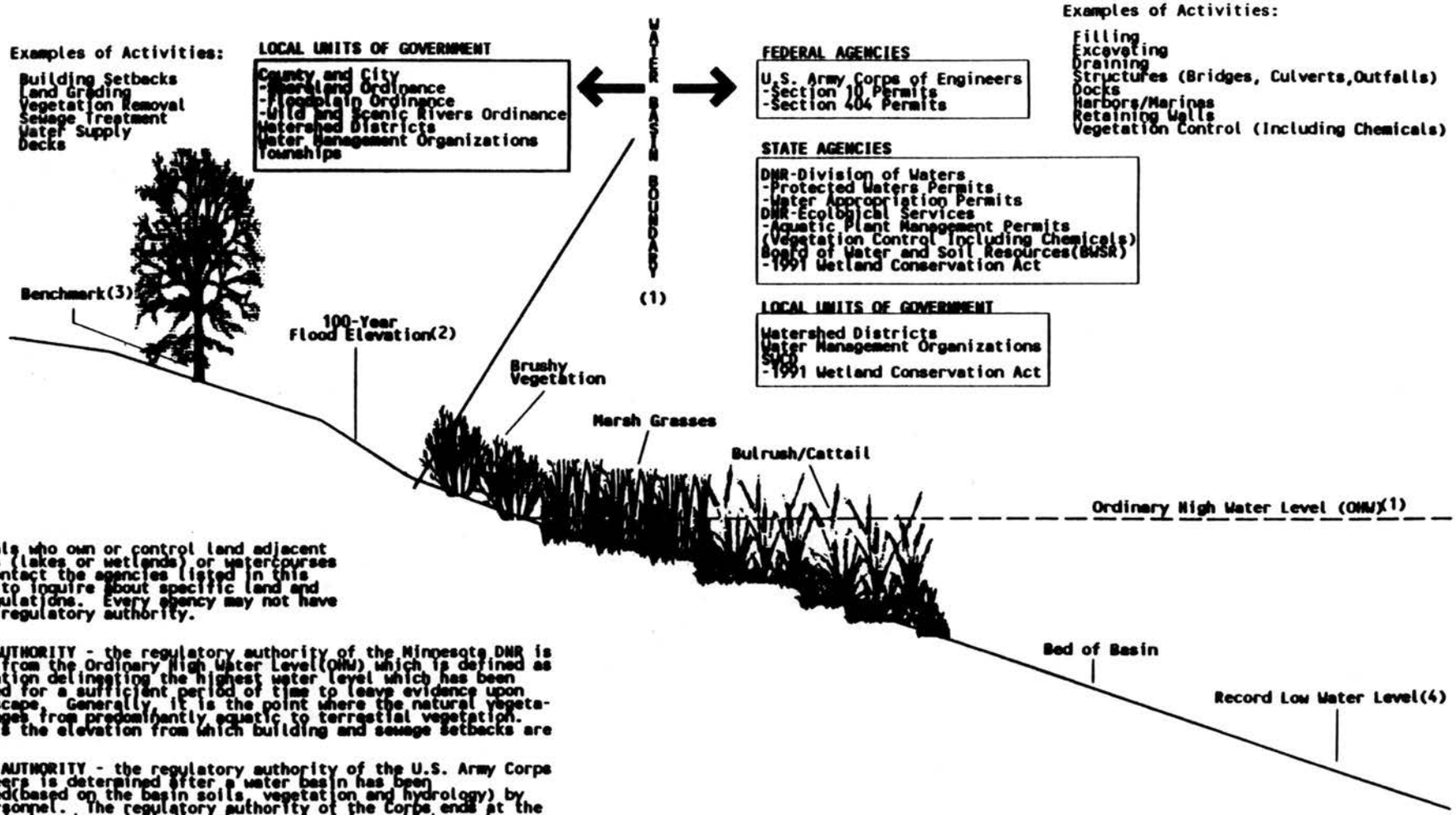
U.S. Army Corps of Engineers
-Section 10 Permits
-Section 404 Permits

STATE AGENCIES

DNR-Division of Waters
-Protected Waters Permits
-Water Appropriation Permits
DNR-Ecological Services
-Aquatic Plant Management Permits
(Vegetation Control Including Chemicals)
Board of Water and Soil Resources(BWSR)
-1991 Wetland Conservation Act

LOCAL UNITS OF GOVERNMENT

Watershed Districts
Water Management Organizations
SWCD
-1991 Wetland Conservation Act



NOTES:

Individuals who own or control land adjacent to basins (lakes or wetlands) or watercourses should contact the agencies listed in this brochure to inquire about specific land and water regulations. Every agency may not have specific regulatory authority.

1. **DNR AUTHORITY** - the regulatory authority of the Minnesota DNR is measured from the Ordinary High Water Level(OHW) which is defined as the elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. Generally, it is the point where the natural vegetation changes from predominantly aquatic to terrestial vegetation. The OHW is the elevation from which building and sewage setbacks are measured.

   CORPS AUTHORITY - the regulatory authority of the U.S. Army Corps of Engineers is determined after a water basin has been delineated(based on the basin soils, vegetation and hydrology) by Corps personnel. The regulatory authority of the Corps ends at the water basin boundary, including the aquatic fringe which may be above the OHW. Local units of government should also be contacted, but in most instances, do not regulate activities within a basin.

2. The 100-year or regional flood is the record event in which there is a one-percent chance of being equaled or exceeded in any given year. The 100-year flood elevation is higher than the OHW and is used to determine the bounderies of the floodplain, which is usually regulated by a local floodplain ordinance.

3. A benchmark is an established(or assumed) reference point or elevation most commonly expressed in feet above mean sea level. Benchmarks are commonly used by surveyors and building officials to locate the OHW and 100-year flood elevations.

4. The record low water level illustrates that actual basin water levels fluctuate, but the regulatory basin boundary or OHW does not.

WARNING:

Any drainage activity including maintenance on wetlands may affect a landowners receipt of USDA benefits under the 1985 Food Security Act (FSA) as amended. Before commencing any activity affecting drainage on your land, contact your local USDA-Soil Conservation Service and refer to their fact sheet entitled "FSA Wetland Determinations and Agriculture service. (May, 1990)".

FEDERAL AGENCIES

U.S. ARMY CORPS OF ENGINEERS
1421 U.S. Post Office and Customs House
St. Paul, MN. 55101-1479
(612) 220-0375

U.S.D.A.- SOIL CONSERVATION SERVICE
600 Farm Credit Service Building
375 Jackson Street
St. Paul, MN. 55101
(612) 290-3675

STATE AGENCIES

DNR- DIVISION OF WATERS
Central Office
500 Lafayette Road
St. Paul, MN. 55155-4032
(612) 296-4800

DNR- DIV. OF FISH AND WILDLIFE
Ecological Services Unit
500 Lafayette Road
St. Paul, MN. 55155-4025
(612) 296-2835

DNR- WATERS, AND FISH AND WILDLIFE REGIONAL OFFICES

REGION 1
2115 Birchmont Beach Rd. N.E.
Bemidji, MN. 56601
(218) 755-3973

REGION 2
1201 East Highway 2
Grand Rapids, MN. 55744
(218) 327-4416

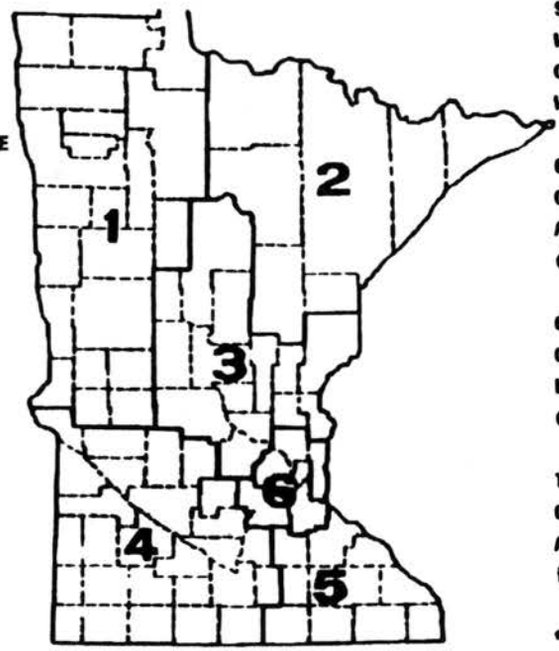
REGION 3
1601 Minnesota Drive
Brainerd, MN. 56401
(218) 828-2605

REGION 4
Highway 15 South, Box 765
New Ulm, MN. 56073
(507) 359-6053

REGION 5
P.O. Box 6247
Rochester, MN. 55903
(507) 285-7430

REGION 6
1200 Warner Road
St. Paul, MN. 55106
(612) 772-7910

STATE BOARD OF WATER AND SOIL RESOURCES (BWSR)
155 South Wabasha Street
St. Paul, MN. 55107
(612) 296-3767



DNR REGIONS

LOCAL UNITS OF GOVERNMENT

SOIL AND WATER CONSERVATION DISTRICT (SWCD), WATERSHED DISTRICT, AND WATER MANAGEMENT ORGANIZATION (WMO), contact BWSR for SWCD, Watershed District, and WMO telephone numbers.

COUNTIES
Contact County Zoning Official, or the Association of Minnesota Counties at (612) 224-3344 if unknown.

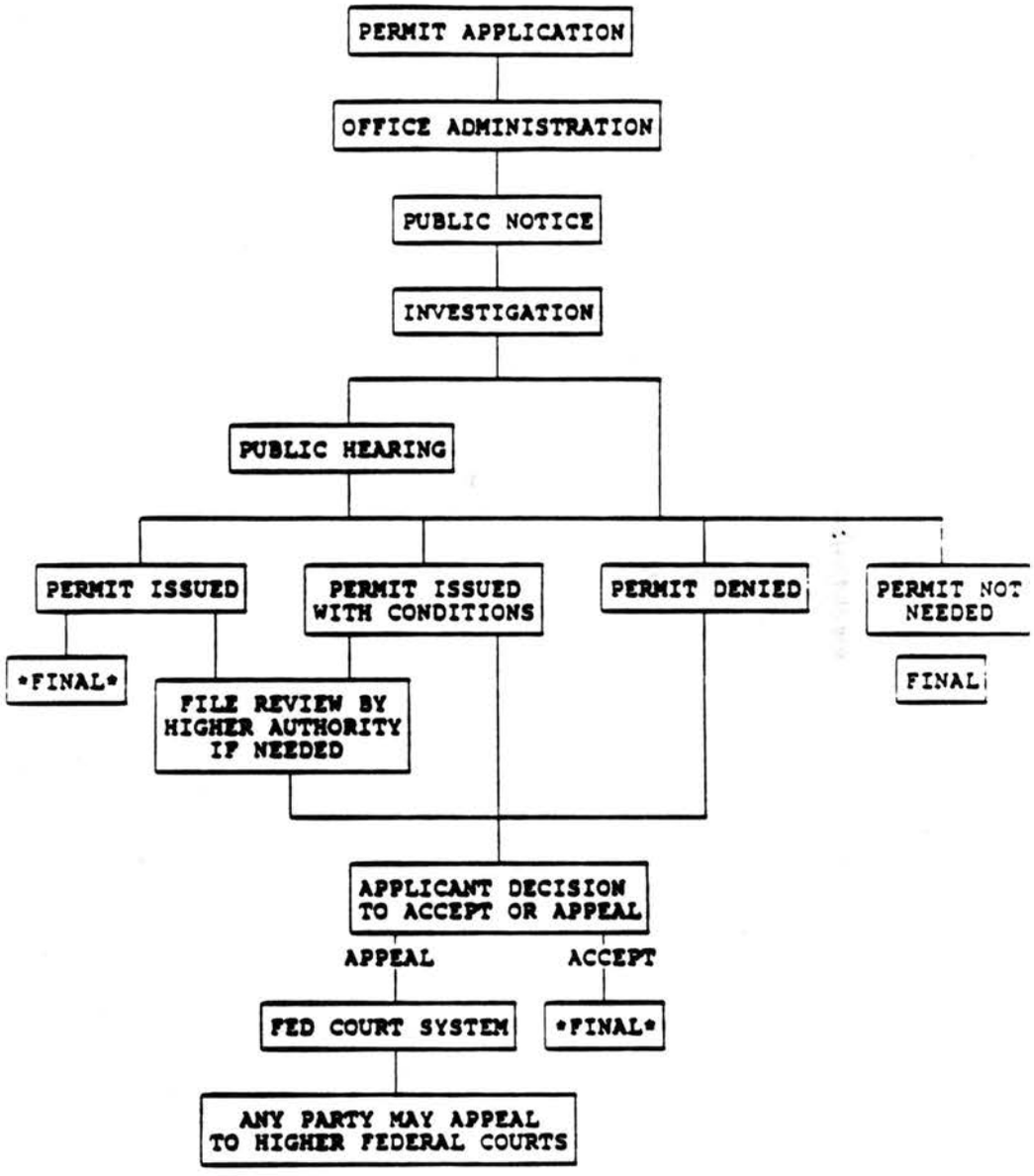
CITIES
Contact City Zoning Official, or the League of Minnesota Cities at (612) 473-7358 if unknown.

TOWNSHIPS
Contact Township Board, or the Minnesota Association of Townships at (612) 497-2330 if unknown.

***NOTE - In addition to the numbers listed above, check the government listings in the local telephone directory for local field office telephone numbers.**

APPENDIX C

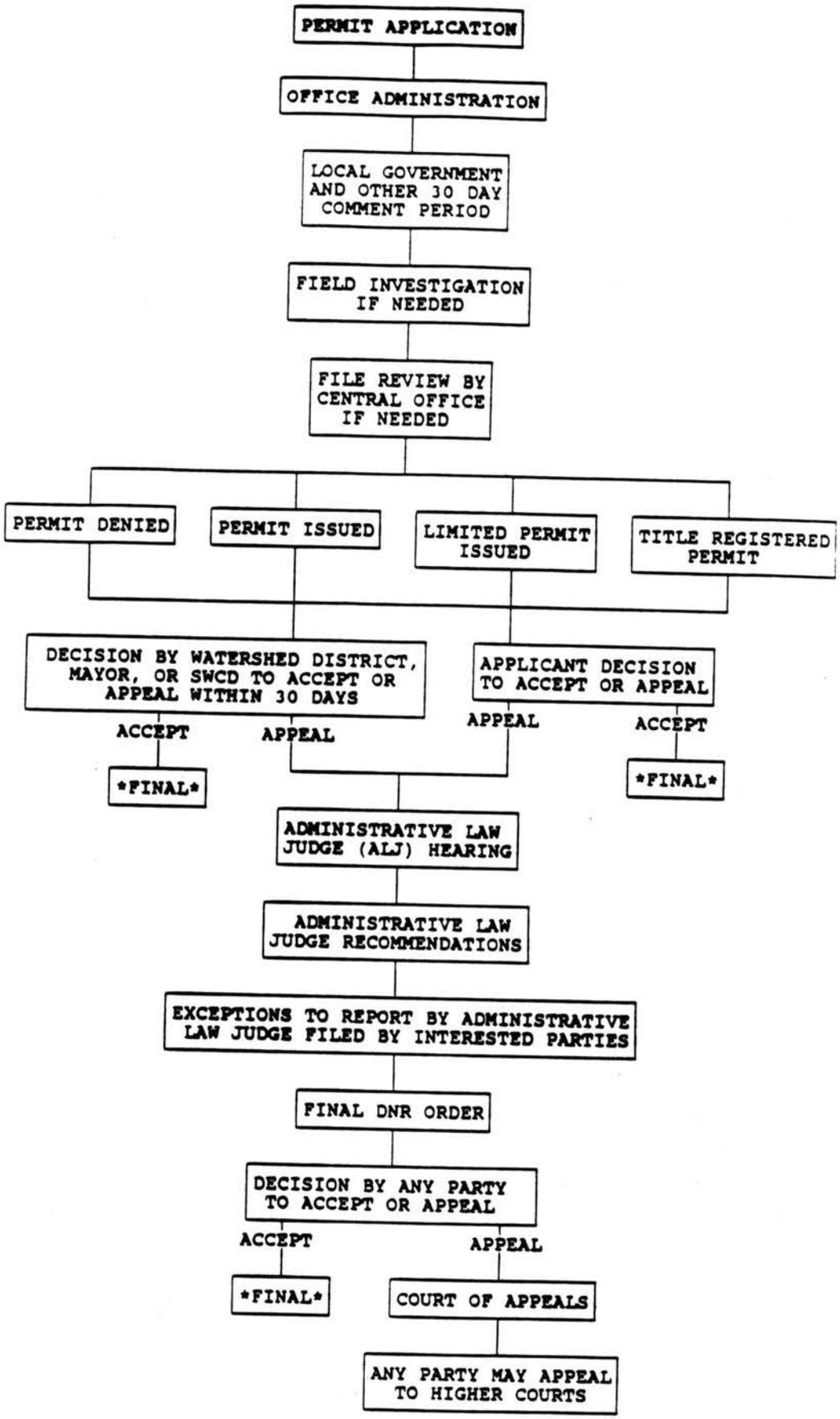
FLOW CHART FOR U.S. ARMY CORPS OF ENGINEERS SECTION 404 INDIVIDUAL REVIEW PERMITS. LETTERS OF PERMISSION, NATIONWIDE, REGIONAL AND GENERAL PERMITS ARE HANDLED SIMILARLY WITH THE EXCEPTIONS - PUBLIC NOTICE IS NOT GIVEN.



FINAL : THIS MEANS FINAL, ONLY, IF THE DECISION IS NOT APPEALED BY ANOTHER PARTY.

APPENDIX D

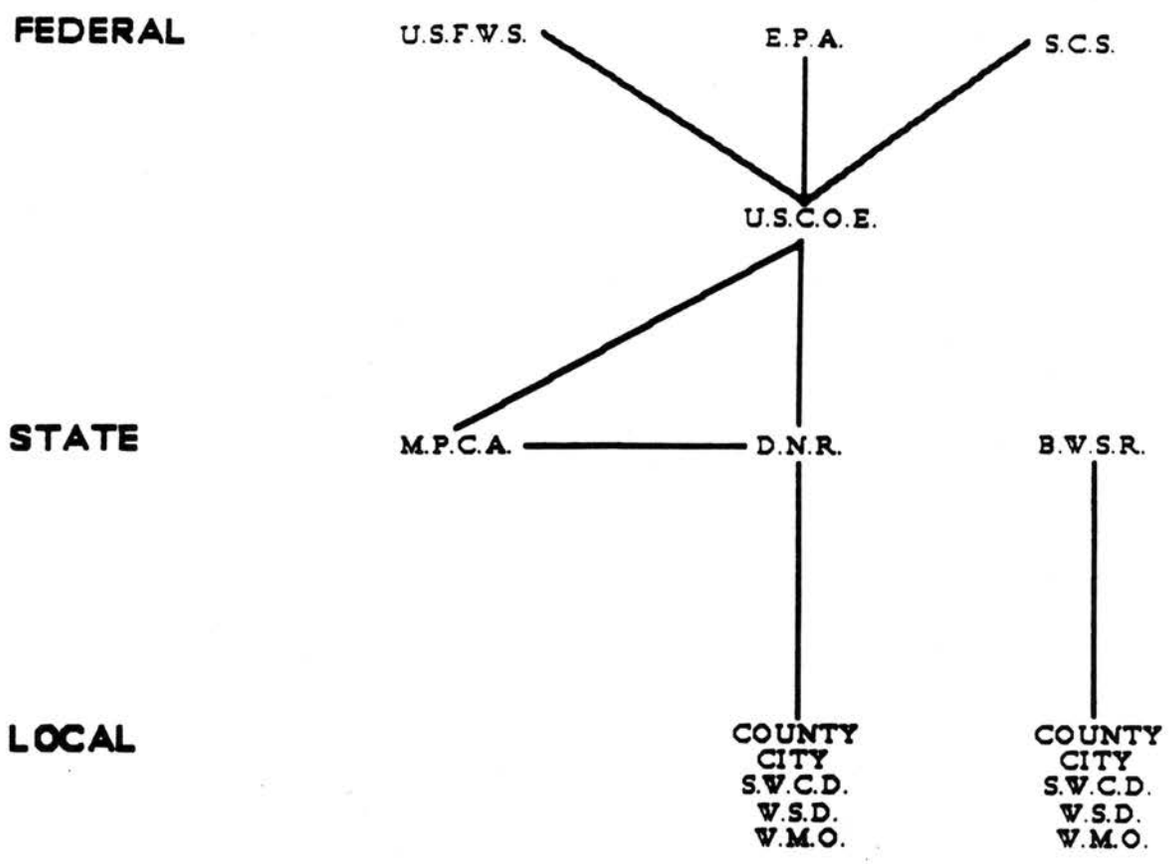
FLOW CHART FOR PROTECTED WATERS PERMIT APPLICATION - M.S. 105.42



FINAL : THIS MEANS FINAL, ONLY, IF THE DECISION IS NOT APPEALED BY ANOTHER PARTY.

APPENDIX E

EXISTING PATHS OF INTERACTION



PROJECT NOTIFICATION FORM

You may use this form to notify the Minnesota Department of Natural Resources, the Board of Soil and Water Resources, the Army Corps of Engineers, Soil and Water Conservation District, Watershed District and your county and municipal offices of a project you propose which may fall under their jurisdiction. Agencies that receive this form will advise you of their jurisdiction over your proposal. Fill out this form completely and mail a copy to the Department of Natural Resources Area office for the county in which you live (see reverse). You must obtain all required authorizations before beginning work. Violations of local, State or Federal laws may be punishable by civil, administrative and/or criminal penalties. AGRICULTURAL LANDOWNERS - Before beginning any activity affecting drainage on your land, contact your local USDA-Soil Conservation Service office.

1. Name (Last, First, M.I.) / Agent / Area Code, Telephone

2. Address (Street, RFD, Box #, City, State, Zip Code)

LOCATION OF PROPOSED PROJECT (ATTACH MAP WITH SITE LOCATION)

3. Government Lot(s) Quarter Section, Section, Township, Range

4. Project Address:

5. Project will affect: __Lake __Wetland __Watercourse
   Name of Resource Affected:

6. TYPE OF WORK (CHECK ALL THAT APPLY) __CONSTRUCT __REMOVE __DRAIN __DAM __FILL __EXCAVATE __REPAIR __SHORELINE __WETLAND __WATERWAY __DOCK __LAKE __CULVERT __RIPRAP __OUTFALL __INTAKE __SAND BLANKET __BRIDGE __LAKE __REPLACE __DREDGE __MARINA __OTHER(DESCRIBE):_____

7.A. Project Purpose:

7.B. Permits Applied For:

AGENCY	PERMIT TYPE	STATUS: PENDING	RECEIVED

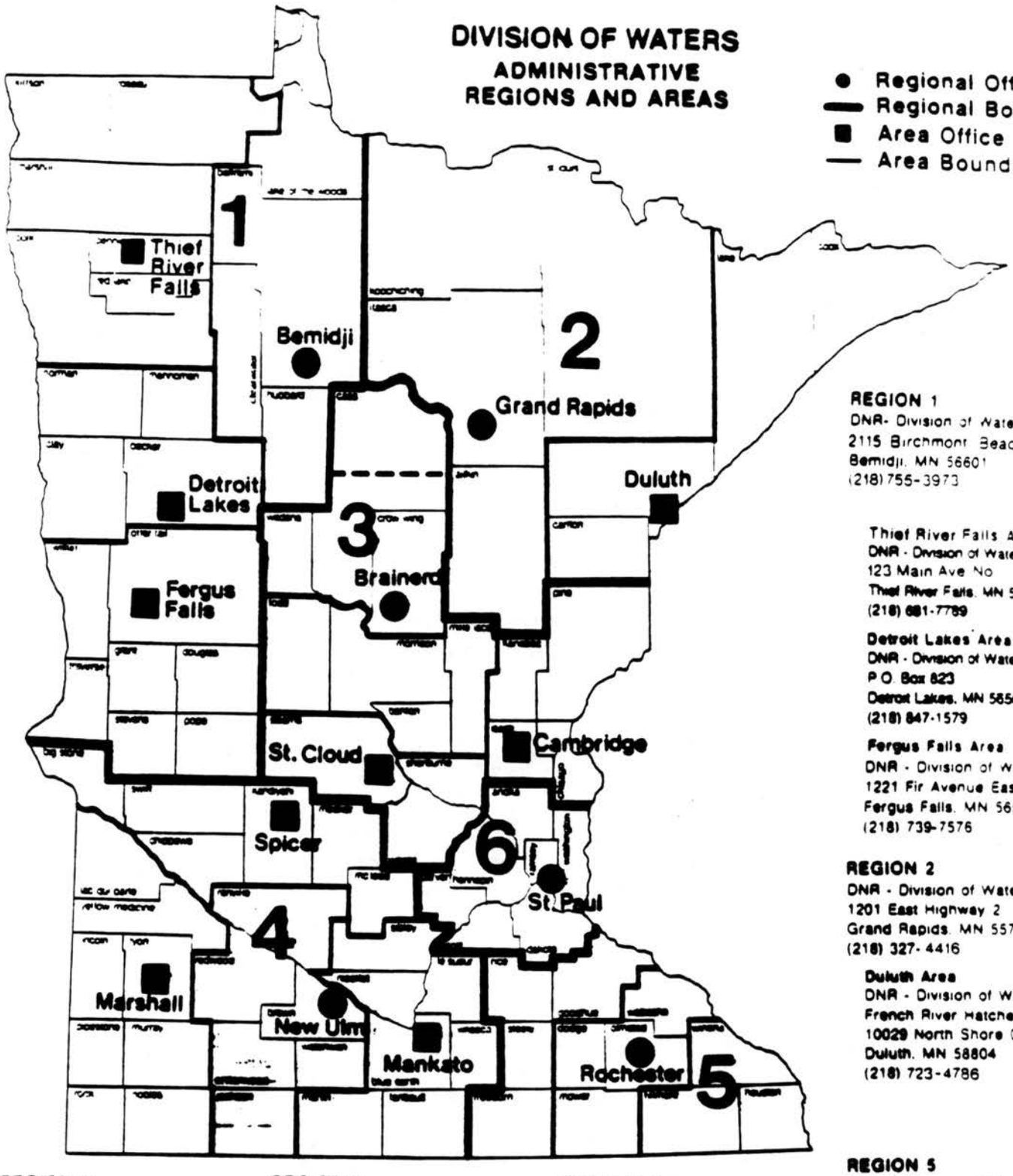
8. Project Start Date: Completed:

9. I hereby request that I be advised of any permits or other determinations concerning this project that I must obtain. I understand that proceeding with work before all required authorizations are obtained may subject me to Federal, State and/or local penalties.

_____ DATE: _____
Signature of Person Proposing Project

_____ DATE: _____
Signature of Agent (if applicable)

DIVISION OF WATERS
ADMINISTRATIVE REGIONS AND AREAS



REGION 1
DNR- Division of Waters
2115 Birchmont Beach Road
Bemidji, MN 56601
(218) 755-3973

Thief River Falls Area
DNR - Division of Waters
123 Main Ave No
Thief River Falls, MN 56701
(218) 681-7789

Detroit Lakes Area
DNR - Division of Waters
P.O. Box 823
Detroit Lakes, MN 56501
(218) 847-1579

Fergus Falls Area
DNR - Division of Waters
1221 Fir Avenue East
Fergus Falls, MN 56537
(218) 739-7576

REGION 2
DNR - Division of Waters
1201 East Highway 2
Grand Rapids, MN 55744
(218) 327-4416

Duluth Area
DNR - Division of Waters
French River Hatchery
10029 North Shore Drive
Duluth, MN 58804
(218) 723-4786

REGION 3
DNR - Division of Waters
1601 Minnesota Drive
Brainerd, MN 56401
(218) 828-2806

Cambridge Area
DNR - Division of Waters
915 South Highway 65
Cambridge, MN 55008
(612) 689-2832

St. Cloud Area
DNR - Division of Waters
3725 12th St. North P.O. Box 370
St. Cloud, MN 56302
(612) 255-4278

REGION 4
DNR - Division of Waters
Box 756, Highway 15 South
New Ulm, MN 56073
(507) 354-2196

Spicer Area
DNR - Division of Waters
P.O. Box 457
232 Lake Ave. South
Spicer, MN 56288
(612) 231-5435

Mankato Area
DNR - Division of Waters
Nichols Office Center
Suite 180, 410 Jackson St.
Mankato, MN 56001
(507) 389-2151

Marshall Area
DNR - Division of Waters
Box 111, 1400 E. Lyon
Marshall, MN 56258
(507) 537-7258

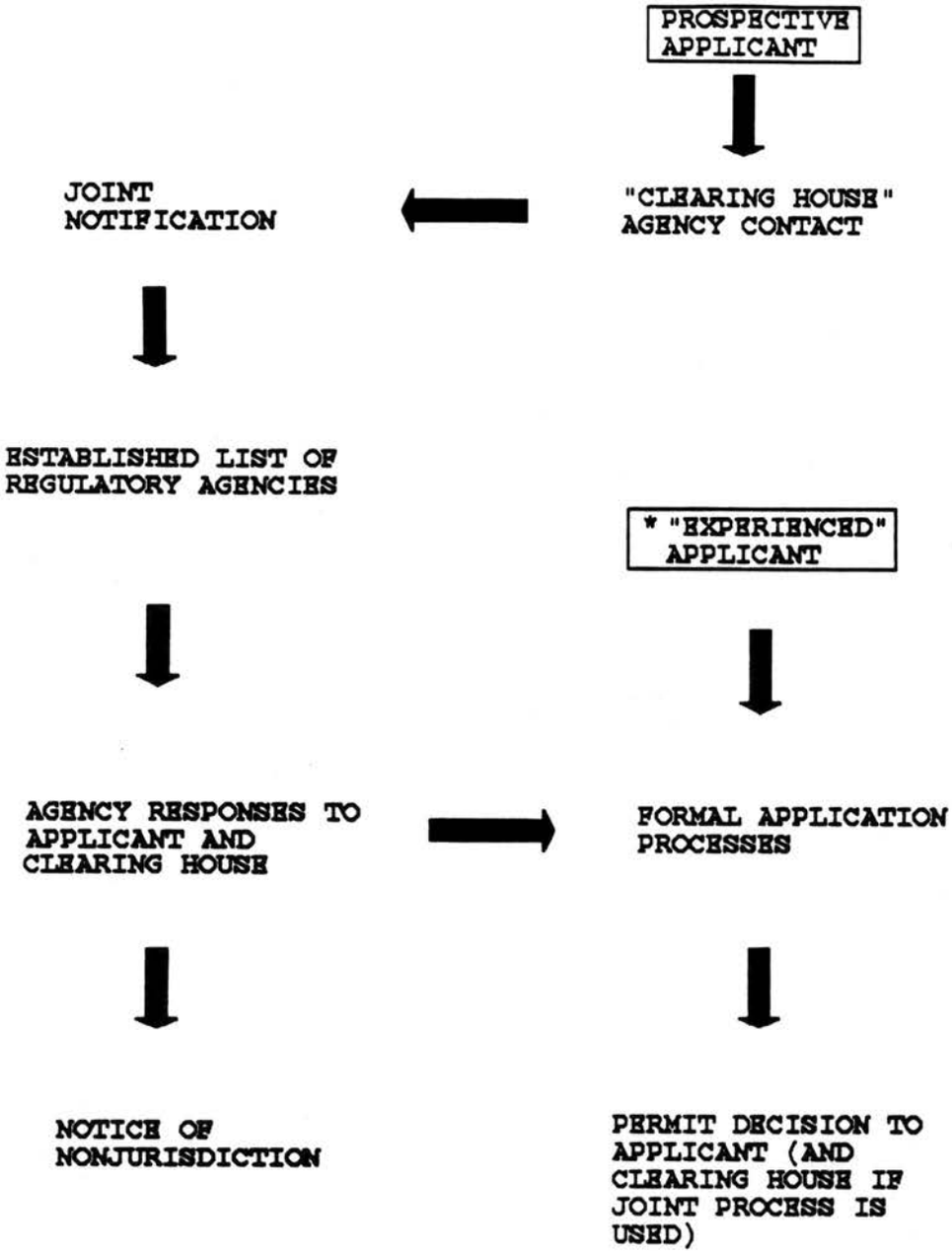
REGION 5
DNR - Division of Waters
P.O. Box 6247
Rochester, MN 55903
(507) 285-7430

REGION 6
DNR - Division of Waters
1200 Warner Road
St. Paul, MN 55106
(612) 296-7523

CENTRAL OFFICE
DNR - Division of Waters
DNR Building, 500 Lafayette
St. Paul, MN 55155-4032
(612) 296-4800

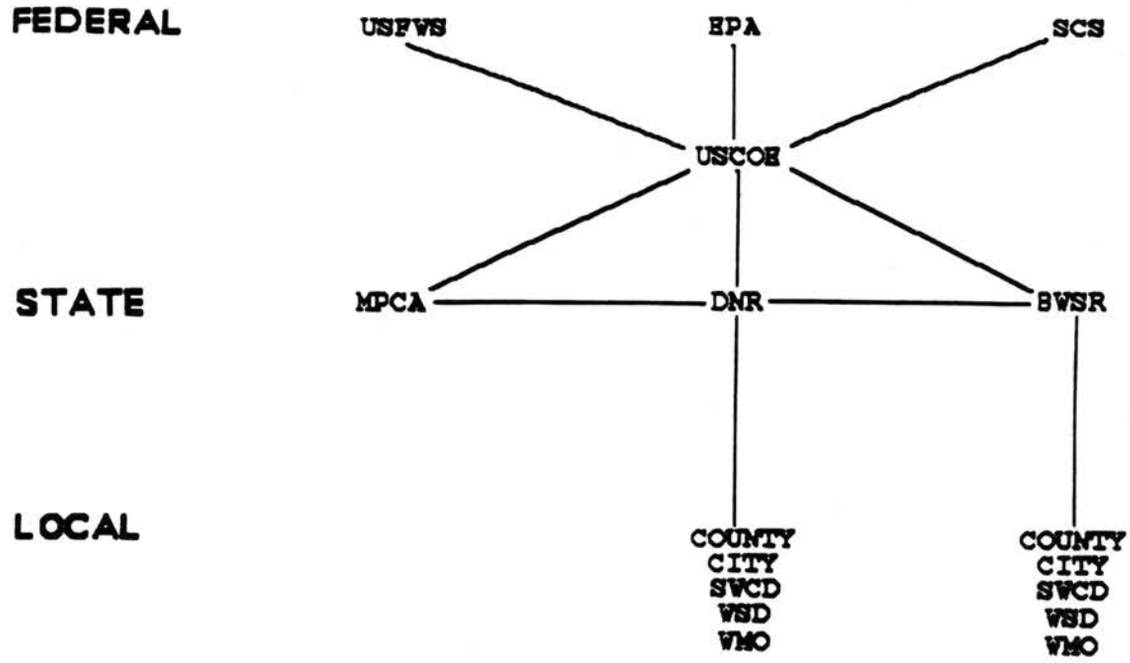
APPENDIX G

JOINT NOTIFICATION PROCESS FLOWCHART



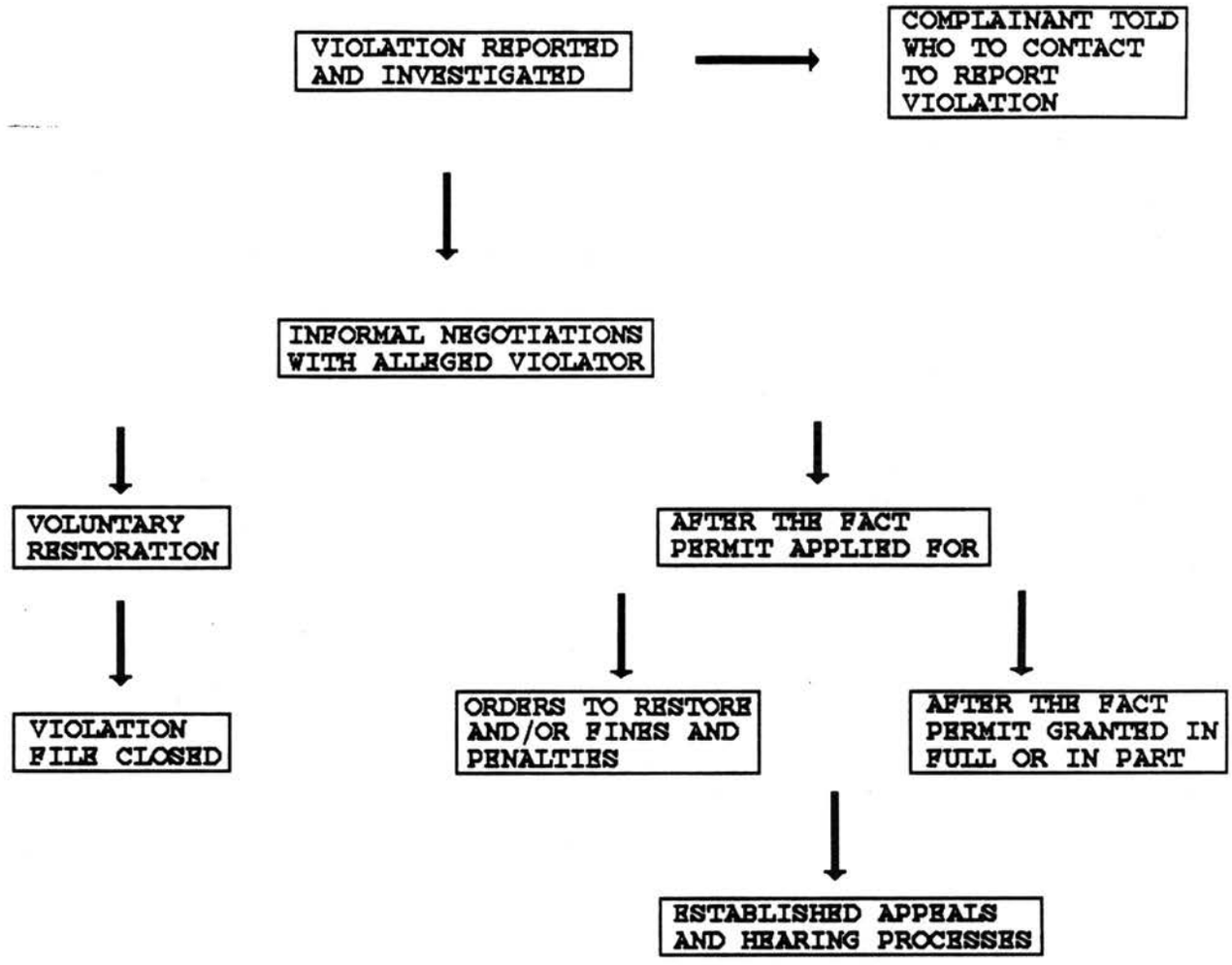
*NOTE: "Experienced" applicants would have the option of bypassing the joint notification process and submitting applications directly to regulatory agencies.

EXPANDED PATHS OF INTERACTION



APPENDIX I

FLOW CHART FOR VIOLATIONS



NOTE

Violations would be coordinated under expanded Memoranda of Agreement. No distinction would be made between violations occuring under the joint "notification" process or the current "separate" application process.

NOTE: This is a general process flow chart. The actual process may differ.

REFERENCES

Laws of Minnesota, 1991, Chapter 354: Wetland Conservation Act of 1991. St. Paul, MN. May, 1991.

Minnesota Department of Natural Resources, Division of Waters. Federal Section 404: Assumption Feasibility Study. St. Paul, MN. August 31, 1989.

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Minnesota Department of Natural Resources, division of Waters. Who to Contact About Land and Water Development/Alteration Questions. St. Paul, MN. reproduced without date reference.

Minnesota Pollution Control Agency, Water Quality Division. Section 410 Certification Program: Synopsis. St. Paul, MN. August, 1990.

Minnesota Statutes Annotated: Supplementary Pamphlet. Volume 8A, Sections 97 to 114B. St. Paul, MN. 1991.

Nargang, Ron. Minnesota Department of Natural Resources, Division of Waters, Director. Typewritten letter to Mr. Ben Wopat, Chief, Regulatory Branch, U.S. Corps of Engineers. St. Paul, MN. July 24, 1990.

U.S. Department of Defense. Corps of Engineers, Department of the Army. Regulatory Program: Applicant Information. Washington D.C.: E.P. 1145-2-1, May, 1985.

U.S. Department of Defense. Corps of Engineers, Department of the Army. Proposal to Amend Permit Regulations for Controlling Certain Activities in Waters of the United States. Washington D.C.: Federal Register, Vol. 55, No. 197, October 11, 1990.

U.S. Department of Defense. Corps of Engineers, Department of the Army. Federal Manual for Identifying and Delineating Jurisdictional Wetlands: Proposed Revisions. Washington D.C.: Federal Register, Vol. 58, No. 157, August 14, 1991.

U.S. Environmental Protection Agency. Clean Water Act Section 404 Program Definitions and Permit Exemptions; Section 404 State Program Regulations. Washington D.C.: Federal Register, Vol 53, No. 108, June 6, 1988.

Weburg, Mick. St. Paul District of the Corps of Engineers. Draft Regional Conditions and General Permit Revisions. St. Paul, MN. September 22, 1989.

Weburg, Mick. St. Paul District of the Corps of Engineers. Draft General Permit Revisions. St. Paul, MN. November 7, 1989.

Weburg, Mick. St. Paul District of the Corps of Engineers. Draft Interagency Notification Form. St. Paul, MN. (reproduced without date reference).

Wisconsin Department of Natural Resources, Bureau of Water Regulation and Zoning. An Assessment of Wisconsin's Wetland Protection Programs: Should the State Assume the Federal Wetland Fill Permit Program?. Madison, WI. January, 1991.

Wopat, Ben A. St. Paul District of the Corps of Engineers. Federal Regulation of Wetlands. St. Paul, MN. (reproduced without date reference).

DRAFT

METROPOLITAN LOCAL WATER MANAGEMENT RULES

STATEMENT OF NEED AND REASONABLENESS
FOR
MINNESOTA RULES - PARTS 8410.0010 TO 8410.0180

MINNESOTA BOARD OF WATER
AND SOIL RESOURCES

December 12, 1991

METROPOLITAN LOCAL WATER MANAGEMENT RULES
MINNESOTA RULES - PARTS 8410.0010 TO 8410.0180

STATEMENT OF NEED AND REASONABLENESS

SECTION I - INTRODUCTION

These rules were prepared pursuant to legislative mandate provided by Chapter 601 of the Laws of 1990. The rules affect how watershed management is conducted in the seven county metropolitan area, including Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington Counties. Chapter 601 directed the Minnesota Board of Water and Soil Resources (BWSR) to adopt rules governing five major areas relating to watershed planning and implementation, namely:

1. the content of joint powers agreements (M.S. 103B.211, Subd. 1,(b);
2. standards and procedures for removal of members of watershed management organization boards (MS 103B.227, Subd.3);
3. standards and requirements for amendments to watershed plans (MS 103B.231, Subd. 6, (b);
4. standards and criteria for making determinations of whether watershed management plans are being implemented (MS 103B.231, Subd. 10, (b); and
5. requirements and standards for annual financial reports, financial audits and activity reports (MS 103B.231, Subd. 14).

In addition to this authority and mandate, the BWSR has general rule making authority for implementing all its programs pursuant to MS 103B.101, Subd. 7.

A. **History of Local Water Planning in the Metropolitan Area** - The Metropolitan Surface Water Management Act (Act) was passed into law in 1982. The current law is contained in Minnesota Statutes Section 103B.201 to 103B.255. The Act was passed into law as "Chapter 509" of the Laws of 1982. The Act is the basis for local watershed planning and management in the seven county metropolitan area. Local watershed management plans prepared pursuant to the Act are commonly referred to "509" plans in reference to the original act.

The Act mandated that comprehensive surface water management plans be developed on a watershed basis throughout the metro area. A primary purpose of the Act was to provide for better coordinated management of surface water among local government units. Where no watershed district was in existence, local government was given the option to form a Watershed Management Organization (WMO) using joint powers agreements to accomplish the necessary planning. There were 10 watershed districts in existence at the time the Act was passed into law. Subsequently, 36 WMOs were formed by joint powers agreements, most of which have adopted and are in some phase of implementation of their respective plans.

The Act was amended in 1987 to allow counties to develop groundwater management plans on a voluntary basis. The amended law is now simply referred as the Metropolitan Water Management Act (Act).

B. **Recommendations of the Metropolitan Local Water Management Task Force** - During

1989, a task force established by the legislature studied the status and effectiveness of the local water management planning activities brought about as a result of the Act. The task force concluded that there were both successes and failures. The failures were related somewhat to lack of state oversight and guidance of the plan development and implementation process. The task force recommended that the legislature revise the Act in order to implement its recommendations. The recommendations were contained in a report entitled "Report of the Metropolitan Local Water Management Task Force to the Governor and Legislature of the State of Minnesota", dated December 15, 1989. The work of the Task Force resulted in the enactment of Chapter 601 as referenced in the introduction above.

C. **The Rule Making Process** - The BWSR developed the proposed rules with the assistance of a 44-member advisory committee. (Two of the original members resigned from the committee during the course of the committee process.) The advisory committee was comprised of interested representatives of nine watershed management organizations (WMOs) and or cities, four watershed districts, four counties, seven soil and water conservation districts, eight state or regional agencies and nine associations or interest groups. Specifically, the membership included representatives from:

Local Government: Anoka County, Anoka Soils and Water Conservation District (SWCD). Black Dog Watershed Management Organization (WMO), Bassett Creek Watershed Management Commission, Carver SWCD, Coon Creek Watershed District (WD), Dakota County, Dakota SWCD, Hennepin Conservation District, Lower Run River WMO, Nine Mile Creek WD, Ramsey County, Ramsey SWCD, Ramsey-Washington Metro WD, Richfield-Bloomington WMO, Riley-Purgatory-Bluff Creek WD, Sand Creek WMO, Scott SWCD, Shingle Creek WMO, Six Cities WMO, Washington County, and Washington SWCD.

Associations: Association of Metro Municipalities, Citizens League, Consulting Engineers Council of Minnesota, League of Women Voters, Minnesota Association of Soil and Water Conservation Districts, Association of Metro Soil and Water Conservation Districts and Wetlands Forum.

State and Regional Agencies: Department of Agriculture, Department of Health, Department of Natural Resources, Metropolitan Council, Metropolitan Waste Control Commission, Pollution Control Agency, State Planning Agency and University of Minnesota.

The full advisory committee met a total of seven times on the following dates: November 1, 1990; December 13, 1990; February 7, 1991; March 21, 1991; June 6, 1991; July 18, 1991; and October 31, 1991. Except for the November 1, 1990 meeting, a draft of the rule was reviewed at each meeting. The rule presented represents the consensus building efforts of the committee. The committee reviewed and commented on seven separate drafts of the rules. The rule as represented by this SONAR is the eight draft of the rule and includes the committee recommended revisions to the seventh draft. At the October 15, 1991 meeting, of the members present, the advisory committee voted unanimously to recommend that the BWSR proceed to formally adopt the eighth draft of the rule.

During the review of the first two drafts of the rule, the committee members were required to state in writing what concerns they had about each section of the rule and to suggest alternative language the BWSR should consider. BWSR staff in turn would respond to each comment in writing in the minutes of the meeting, either agreeing to the revision or stating why the suggestion was not used. The entire process resulted in over 625 pages of written comments and over 200 pages of meeting minutes. This phase of the process helped to quickly focus on the major issues and build a framework for the rule.

In the later drafts of the rule, free discussion of the various issues was allowed, once the framework was established.

For a number of major issue areas subcommittees were established and met to discuss topic areas in greater detail. Subcommittees met seven times and discussed in detail the following issues, including: wetland protection, water quality monitoring, stormwater design standards and plan implementation.

The sixth draft of the rule was presented at six public informational meetings held at three locations to solicit additional comments. Turn out was light at these meetings and no new significant issues were brought forth which the advisory committee had not brought up and discussed. About 450 copies of the sixth draft were mailed to local governmental units and other interested parties prior to the commencement of the public meetings. The public meetings were held at the following times and places:

September 3, 1991 - 7:00 p.m. - White Bear Lake City Hall
September 4, 1991 - 7:00 p.m. - Minnetonka Community Center
September 5, 1991 - 2:00 p.m. - Burnsville City Hall
September 10, 1991 - 9:00 a.m. - White Bear Lake City Hall
September 11, 1991 - 9:00 a.m. - Minnetonka Community Center
September 12, 1991 - 7:00 p.m. - Burnsville City Hall

D. **Concept of the Rules** - About one half of the rules deal with the content of second generation watershed management plans of both watershed management organizations and of metropolitan cities and towns. The other half of the rules define the required content of joint powers agreements, annual reporting requirements of watershed management organizations and procedures for dealing with situations where plans are not being properly implemented.

The rules will have an impact on all WMOs. Generally, the rules will have the most limited effect on those WMOs that have established successful watershed management programs. The sections of the rules dealing with plan content are structured to "guide" the planning process instead of trying to prescribe the same solutions for every watershed.

Section II of this SONAR is an itemized account of each subpart of the rule wherein the rule subpart is briefly summarized, a reason for inclusion is given and a statement of justification is presented. Section III explains the potential impact or lack thereof the rule has on agriculture and small businesses. Section IV explains the potential fiscal impact the rules may have on local governments.

SECTION II - JUSTIFICATION OF EACH PART OF THE PROPOSED RULES

Section 8410.0010 - Scope

Summary of Content - This section of the rule outlines that the rules apply to the general administration of watershed management activities and to amendments to existing plans made after January 1, 1995. Plan amendment schedules and/or amendment procedures are also outlined along with BWSR's responsibilities and authorities to affect implementation in cases where a plan is not being properly implemented.

Reason for Inclusion - To provide the reader with clear direction regarding what metropolitan watershed activities are covered by these rules and when various aspects of the rule are effective.

Justification for Section 8410.0010

Subpart 1: The proposed time lines associated with the amendment schedule and/or amendment procedures were reviewed at length with the advisory committee. Concerns related to the time line being too long were discussed along with opposing points of view that the WMO should have the ability to use the plan for a reasonable period of time prior to being required to amend the plan in conformance with these new rules. In establishing the effective date of the rule with respect to plan content, the BWSR Advisory Committee considered the amendment schedules that were included in previously approved first generation plans, the length of time that has passed since the first plans were approved, and general feedback from the advisory committee. Subsequently, the committee settled on the requirement that a WMO must amend its plan consistent with the amendment schedule and procedures outlined in the plan, but not later than 10 years from the date of initial plan approval.

Subpart 2: The general feeling by the advisory committee and the BWSR was that the BWSR should have the power to order plan implementation, but only under selected circumstances. The committee and the BWSR felt it was inappropriate to provide the BWSR with the authority to require the WMO to modify a previously approved plan. The BWSR's authority should be limited to only taking action if an approved plan was not being properly implemented.

Section 8410.0020 - Definitions

Summary of Content - Definitions for 33 key words, phrases, or abbreviations are provided as they specifically apply to Parts 8410.0010 through 8410.0180 of these rules. Some of the key definitions include minor plan amendments; natural surface water storage and retention systems; capital improvement; public waters; and wetlands.

Reason for Inclusion - To provide a clear definition of commonly used terms within this rule.

Justification for Section 8410.0020 - The terms that are defined within this section as well as the specific definition for each term was discussed by the BWSR and the advisory committee as they reviewed each subsequent draft of the rule. Throughout this process, a number of suggestions were received concerning the inclusion of additional definitions and/or the modification of definitions that were included in previous drafts of this rule. The choice of the individual words defined in this section as well as their corresponding definition was tested against the general feelings of the advisory committee membership at each rule review meeting. If possible, definitions for words or agencies were referenced to definitions provided in other Minnesota Statutes.

Section 8410.0030 - Content of Joint Powers Agreements

Summary of Content - This section of the rule outlines the minimum information that must be included in a WMO joint powers agreement. Specific information that must be provided or addressed includes, but is not limited to; 1) legal description of the WMO's boundaries, 2) budget and work plan, 3) terms of compensation,

4) powers and duties of the WMO and its officers and members, 5) the duration of the joint powers agreement, and 6) the process that must be followed if the agreement is to be dissolved. The schedule for updating joint powers agreements in conformance with these rules is also outlined.

Reason for Inclusion - Minnesota Statutes Section 103B.211, Subd. 1(b) mandated that BWSR adopt rules prescribing minimum requirements for the content of watershed management organization joint powers agreements. M.S. Section 103B.211, Subd. 1(c) also mandates the specific voting requirements for decisions of WMOs and, therefore, it is appropriate for the rule to cross-reference said requirements.

Justification for Section 8410.0030

General: The minimum content requirements for joint powers agreements contained in the rule attempts to provide direction to WMOs concerning issues that typically need to be clarified between members of the WMO. The general concern of the BWSR and the advisory committee was that the minimum content requirements for the joint powers agreement should remain very limited to prevent the unproductive effort of addressing issues that are not factors within a given WMO. It is the BWSR's position that the proposed rule language is consistent with these considerations. The language associated with this content of joint powers agreement section has been written to provide each WMO with latitude concerning many issues that should be addressed in the joint powers agreement. Rather than being overly prescriptive, it was the intention of the BWSR to allow the WMOs to address these issues utilizing a procedure or process they feel would be most appropriate.

Subpart 1.G. The need for establishment of citizen and technical advisory committees received considerable deliberation. Some individuals felt it appropriate to require that such committees be established, others felt that they were not necessary. The language, as drafted, provides the WMO with latitude concerning the need for these committees and specifically requires the WMO to develop procedures that would provide for the establishment of these committees should their formation be desired.

Subpart 1.J. Considerable discussion and deliberation went into the extent to which specific requirements for notification on the location and time of meetings should be spelled out. The language requiring that a process be developed and inserted into the joint powers agreement allowing the WMOs to specifically define the process was deemed most appropriate as most WMOs have specific ways of notifying appropriate individuals of the location and time of meetings.

Subpart 1.L. Considerable deliberation was undertaken regarding the need for a minimum number of WMO meetings. Many members felt that a minimum requirement to have meetings scheduled at least annually was too lax, and WMOs should be required to meet more frequently. It was the BWSR's perspective to require at least an annual meeting, but rely on the "good faith" actions of the WMOs to meet as frequently as necessary to properly manage water resources.

Subpart 2: The BWSR carefully considered various alternatives concerning the time table for updating joint powers agreements. Some members of the advisory committee wanted the time period shortened and others wanted it lengthened to accommodate various considerations. After discussion, it was the general consensus of the advisory committee that updating the joint powers agreements no later than January 1, 1993 or one year after adoption of these rules was a reasonable time for this task.

Subpart 3 To address situations of non-performance particularly in the more rural areas, the draft rule language provides that counties may be members of joint powers agreement WMOs when the non-performance conditions described in the Minnesota Statutes Section 103B.211 Subdivision 3 are present.

Section 8410.0040 - Removal of WMO Representatives

Summary of Content - This section of the rule outlines the terms and conditions under which a WMO representative could be removed. An appeal process is also outlined with the BWSR acting as an appeal authority in such matters.

Reason for Inclusion - Minnesota Statutes Section 103B.227, Subd. 3 requires the BWSR to adopt rules prescribing standards and procedures for removing members of WMOs.

Justification for Section 8410.0040 - The intention of the proposed language is to provide a mechanism through which an individual member may be removed from the position by the appointing authority. Considerations regarding the removal respond to performance related issues as well as for the removal of an individual for virtually no reason provided they were appointed to the WMO board at the will of the appointing authority. If the appointing authority appoints an individual at will, they may also remove the individual at will. It is the intention of the BWSR to also provide an appeal procedure through which any decision of the appointing authority may be directed to the BWSR for resolution.

Concerns relating to the ability of appointing authorities to remove previously appointed managers at will, were typically based on political realities, changes in job title and/or classification, firing or layoffs, etc. Views were expressed that dictated there should be a removal mechanism for individuals serving an indefinite term at the pleasure of the appointing authority even if the members performance was satisfactory. The classic situation of concern to many members of the advisory committee was a situation in which a city appointed a city engineer or director of public works to the WMO board, and then due to internal actions of the city, the appointed individual was no longer in a position to represent or respond to the local communities wishes in the fashion so desired.

Section 8410.0050 - Content of WMO Plans: Executive Summary

Summary of Content - This section of the rule requires that each plan contain an executive summary briefly describing the general content of the plan.

Reason for Inclusion - This section is included to provide a consistent format typically found in planning documents and reports. The requirement for an executive summary is intended to give the uninformed reader a quick overview of the WMO's problems, policies and goals.

Justification for 8410.0050 - It was the intention of this section to be non-prescriptive and allow for WMOs to have significant amount of latitude concerning the content of this section of the plan. The advisory committee also expressed concerns regarding the need for this section to be non-prescriptive. Overly prescriptive language in this section was deemed to be mettlesome and inappropriate.

It was the BWSR and advisory committee's feeling that an executive summary was an important part of the document if the WMOs perspectives concerning water resource management are to be disseminated to appropriate individuals within the jurisdiction of the WMO.

Section 8410.0060 - Content of WMO Plans: Land and Water Resource Inventory

Summary of Content - This section of the rule indicates that each plan must contain an inventory of water resource and physical factors affecting the water resource based upon existing records and publications. The rules provide that existing data publications and maps may be included by reference if the plan summarizes the content and specifies where the publication can be obtained at a convenient location. Required land and water resource data includes information on precipitation, general geology and topographic data, water based recreation and land ownership, fish and wildlife habitat, unique features and scenic areas, and information on pollutant sources.

Reason for Inclusion - M.S. 103B.231, Subd. 6 requires that plans describe the existing physical environment, land use and development in conjunction with proposed development proposed in comprehensive plans. The law further requires plans to present information on the hydrologic system, including existing public drainage systems.

Concerns and Justification for Section 8410.0060

General: The overriding concern expressed by the BWSR, the advisory committee and others providing comments on the plan was that the information required as part of this inventory should be limited to the greatest practical extent. These comments were based on the concern that the expenditure of resources needed to develop an exhaustive inventory could be a non-productive water resource management expense.

Other concerns were expressed indicating that without adequate land and water resource inventory information, proper surface water management cannot be completed. Furthermore, the development of a plan to address water resource management concerns is not possible without this inventory information.

The BWSR attempted to limit the land and water resources information requirements to only those which were deemed absolutely necessary, and attempted to reduce the effort involved by allowing the adoption by reference of data, publications and maps if available locally. It was the intention of the BWSR, however, to require that each WMO have easy access to the required information so that it can be available to assist the WMO in the proper management of water resources in areas over which it has jurisdiction.

There was considerable discussion on how the surface water resource data required as part of this section of the rule would be obtained if the state agencies having this information were not cooperating with the WMO in a timely manner or providing the information in a readily useable format. It was the BWSR's perspective that if such information was not provided in a reasonable manner, this would be taken into consideration at the time the WMO plan was brought to the BWSR for approval.

Part A: Precipitation data was deemed an important piece of water resource management information. The BWSR intends to develop a standard set of precipitation information that can be made available to WMOs as they prepare their plan so this task will not need to be repeated by each WMO as their plan is updated.

Part B: Information on the general geology and topography within the WMO was deemed necessary if surface water resources are to be properly managed. Groundwater, surface water connections and information on aquifers and the geology of the region was also deemed necessary in order for the WMO to adequately address surface water issues that may have an impact on groundwater management.

Part C: The surface water resource data required as part of this plan was acknowledged by the BWSR to be somewhat extensive, however, most of the information required has been previously developed and is available by simply requesting it from various state agencies or local units of government.

Issues regarding the required inventory of functional values of the wetlands present or provisions for a phased inventory, or the adoption of a process to identify function of values on a case by case basis were carefully considered. These inventory requirements were in deference to the new wetland management act outlined in Minnesota Statute Section 103B.3355. Future development of wetland rules associated with this statute were intended to be taken into consideration when the functional values of the wetland are addressed in the WMO plan.

Part D: It was the expressed intention of the BWSR to not require extensive groundwater information in surface water management plans. However, plans must acknowledge the inter-relationship between surface and groundwater resources and provide information concerning these resources to the extent that surface water may be managed with a concern toward proper management of groundwater resources.

Part I: Concerns regarding this section included suggestions to eliminate non-water resource related inventory information such as information on hiking trails and unique features in scenic areas. The language was adjusted based on these comments to require inclusion of such information only if it has a direct relationship to the management to surface water resources.

Section 8410.0070 - Content of WMO Plans: Impact on Other Units of Government

Summary of Content - This section of the rule discusses how WMOs must address the impact that the WMO plan will have on other affected units of government.

Reason for Inclusion - M.S. 103B.201 defines one of the purposes of the Act to establish uniform polices and goals. Further M.S. 103B.231, Subd. 4 requires that WMOs identify inconsistencies with other plans and to coordinate their planning activities with other units of government.

Concerns and Justification for Section 8410.0070 - The BWSR feels strongly that there is a need for the WMO to have a clear perspective on the water resource management goals and policies of other agencies having jurisdiction over the water resources within the WMO. This knowledge would allow the WMO to develop a plan that is intended to be as consistent as possible with the other agencies goals and polices. It was also the intention of the BWSR to require that WMOs clearly outline and justify any anticipated inconsistency between

the goals and policies it drafts in its WMO plan and the goals and policies of the other local, regional and state review authorities. The BWSR also felt it important that this information be provided prior to the establishment of the WMO goals and policies and also prior to the final draft plan being submitted to these agencies for their review. In the interest of expediency, these rules do allow the WMO to proceed with the plan development if the goals and policies of these agencies is not furnished within 45 days of the date the WMO request such information.

Section 8410.0080 - Content of WMO Plans; Establishment of Goals and Policies

Summary of Content - This portion of the rule directs WMOs to establish specific goals and policies concerning, at a minimum, the following water resource based issues: water quantity, water quality, recreation, fish and wildlife, enhancement of public participation, information and education, public ditch systems, groundwater, wetlands, and erosion.

Reason for Inclusion - M.S. 103B.231, Subd. 6 requires that plans set forth in the objectives, policies and conditions that will be sought for a variety of topics including water quality, natural resource protection and water quantity.

Justification for Section 8410.0080

General: It was the intention of the BWSR that WMO plans establish goals and policies that are in some way measurable and can be quantified. Vague or non-measurable goals would typically not be in conformance with the intent of these rules. The test for goals and policies would generally relate to the ability of the WMO or review agency to determine if the water resource management goals have been met within a specified time period.

Advisory committee members expressed concern that the measurements concerned with determining if the goals and policies were met could be cost prohibitive and would take away resources that otherwise would be available to promote or implement proper surface water management practices. The BWSR attempted to reach some middle ground concerning these issues and developed corresponding rules that were non-prescriptive to allow the WMO's flexibility in establishing goals and policies and identifying the way the success or failures of these goals will be quantified.

Part A: The rules provide for adherence to Minnesota Statute 103B.3365 which require runoff from development creating more than one acre of new impervious surface to be properly managed. If a comprehensive plan for a city is available and has been approved, on-site management practices for such parcels can be eliminated.

Section A of Section 8410.0080 also requires the maximum allowable peak runoff rate be established for "appropriate subwatersheds". Considerable discussion and consideration ensued regarding what is the definition of an appropriate subwatershed. Generally speaking, the BWSR felt that WMOs should be given the flexibility to decide what is an appropriate subwatershed based on the policies and goals unique to the WMO. Subwatersheds could be based on jurisdictional or hydrologic boundaries. Furthermore, particularly in undeveloped watersheds, it was the BWSR's perspective that the establishment of peak allowable runoff rates from these areas could be facilitated through the development of appropriate controls when the watershed is developed.

Part B: The water quality section states the relationship of land use to water quality should be considered when developing goals and policies. The direction provided here is that WMOs should recognize that if specific water quality goals are to be met, the land use within the watershed should be managed to limit non-point source pollution from the runoff generated within it. The use of buffer strips and open space around the perimeter of waterbodies for which high quality water is planned, is an example of managing land use to protect water quality.

The water quality section of this part of the rule also states that goals and policies should be developed to strive for compliance with applicable water quality standards and be suitable for the intended uses of natural surface water storage and retention systems. This infers that a waterbody classification may likely be necessary in order to develop goals and policies. It is the BWSR's position that as part of the development of the WMO plan, the classification of waterbodies within the WMO is an integral part in developing appropriate goals and policies within given areas of the watershed. The classification system for these waterbodies has been left intentionally vague to allow the WMOs flexibility in this anticipated classification process.

Part D: Concerns were expressed regarding requiring enhancement of public participation, public information or public education programs. Comments were received from opposite perspectives indicating either advisory committees and public information programs should be absolutely required, or that advisory committees and public information programs were a non-productive expenditure of resources. Non-prescriptive language was adopted which allows the WMO to address the issue as they see fit.

Part E: The WMO's involvement in managing officially established county and judicial ditches within the WMO must be defined as part of this planning activity. In the past, watershed districts have typically assumed authority over county and judicial ditches at the time the watershed districts were formed. Joint powers WMOs typically have not managed public ditch systems. However, since ditch management can significantly affect water resources, it is appropriate that WMOs decide what their role is. The process and implementation of ditch management activities must be defined in the plan so that the plan's goals and policies are not inadvertently subverted.

Part F: This section of the rule provides that the WMO assess the need and degree of involvement that the WMO shall have in groundwater management if a county groundwater plan has not been commenced at the time the WMO plan is being developed. It is the intention of the BWSR to not require the development of a specific groundwater plan as part of this surface water management plan unless the WMO feels it is absolutely necessary to do so. In the seven-county metro area, Anoka County was identified as the single county which has not developed or is in the process of developing a county groundwater plan. Again, the language in this section of the rule is non-prescriptive, and allows the WMO the flexibility to assess the need and degree of involvement that it shall have in groundwater management. It was also the BWSR's intention to require that if a county groundwater plan has been developed, that the WMO plan be consistent with the goals and policies of the county groundwater plan as provided for in M.S. 103B.255 and M.S. 103B.231, Subd. 4.

Section 8410.0090 - Content of WMO Plans: Assessment of Problems

Summary of Content - This section of the rule describes the procedures and methods that must be followed to preform a comprehensive assessment of existing and potential water resource related problems. The assessment of existing and potential problems must, at a minimum, identify and address issues regarding lake

and stream water quality problems, flooding and stormwater rate control problems, and problems related to soil erosion and/or current or projected land use practices. The assessment must also review the adequacy of various regulatory or maintenance programs to provide assurances that water resources are properly managed and protected with the WMO.

Reason for Inclusion - M.S. 103B.231, Subd. 6 requires that plans contain an assessment of existing and potential problems.

Justification for Section 8410.0090 - It is the BWSR's perspective that the assessment of problem section is one of the most important planning activities that will take place as part of this plan development. The rules require that each plan contain an assessment of existing and potential water resource related problems using whatever means are available to perform this assessment. If the problem assessment is executed properly, existing water resource related problems will be clearly identified and potential water resource related problems can be avoided. It was the BWSR's position that a fairly comprehensive listing of the topic areas to be covered by specifically listed in this rule to ensure that this important planning activity is thoroughly completed. It was also the BWSR's perspective that if this assessment is carefully completed, the intention of the law to limit future capital expenditures will be realized.

Section 8410.0100 - Content of WMO Plans: Implementation Program

Summary of Content - This portion of the rule requires each plan describe an implementation program consisting of non-structural, structural, or programmatic solutions to the problems, issues and goals identified in previous sections. The implementation program must provide a comprehensive description of the regulatory controls, stormwater and drainage design performance standards, information programs, data collection programs, management programs, and structural solutions that will be followed to address the water resource management problems, issues and goals of the WMO.

Reason for Inclusion - M.S. 103B.231, Subd. 6 requires that plans set forth a management plan as well as an implementation program consistent with the management plan. This section further requires the BWSR to adopt rules to establish standards and requirements of watershed plans, including the nature of required controls and uniform erosion control, stormwater retention and wetland protection ordinances.

Justification for Section 8410.0100

General: The implementation program section of this rule is deemed to be the heart of the WMO planning activity. The over-riding concern in the drafting of this implementation program is to assure that the plans provide and identify specific and clearly define non-structural, structural, and/or programmatic solutions to the problems issues and goals identified in the plan. Furthermore, the BWSR interprets the work of the 1989 Legislative Task Force and the intent of the Act to clearly define the specific party responsible for carrying out various aspects of the implementation program so that accountability is defined and achieved.

Subpart 1.A. In regard to wetland protection, plans must anticipate future rules to be developed pursuant to the Wetland Conservation Act of 1991, and Chapter 354 of the laws of 1991. Clearly, the original Act intended that wetland protection and management be a major focus of watershed plans. Because the wetland conservation act post-dates the Act, it is imperative that the plans

thoroughly consider and describe how wetlands will be regulated and managed.

Subpart 1.B. It was the BWSR's intention to allow for the adoption by reference of erosion and sediment control guidelines or best management practices that are previously published. If a WMO utilizes this approach, the responsibilities for erosion control plan review permitting and enforcement need only be defined.

Subpart 1.D. It is the intention of the BWSR to encourage local municipalities to adopt and administer the MDNR approved shoreline and flood plain ordinances. But, it is not the intention of the BWSR to formally require the adoption of such ordinances as part of this planning activity. The plan must, however, recognize that compliance with these state mandated programs is an important element of watershed management.

Subpart 1.E. The BWSR recognizes that certain land uses and land practices may have an adverse impact on water quality, and it may be difficult to enforce restrictions concerning the degradation of water quality based on certain land use practices. These rules provide direction that local communities adopt nuisance ordinances for the purpose of providing a mechanism through which local communities can legally abate such land use activities that will not allow it to meet its water quality goals.

Subpart 2 The rules referring to stormwater drainage and design performance standards are consistent with other sections of the rule which generally direct that these planning activities establish some type of standards that can be quantified. It is the BWSR's perspective that without measurable design and performance standards, no real in-roads into proper surface water management can be facilitated.

Subpart 3 The information program is consistent with the requirements of the state law. M.S. 103B.227, Subp 4 specifically requires WMOs to annually publish and distribute a written summary section regarding its activities to residents. It is the intention of the rule language associated with this information program, that the required written communication be distributed to parties that have both an active and a general interest in WMO activities. The media through which this communication can be distributed has been left to the discretion of the WMO and the WMO is encouraged to utilize whatever format is most cost effective to distribute this publication.

Subpart 4 The data collection program rules require WMOs to develop a program that can ascertain whether the water quality goals of the WMO are being achieved. The extent and associated cost of this monitoring program has been left up to the WMO. It is the BWSR's intention that the WMO will develop a program that will be responsive to its available resources and yet allow for a determination as to whether or not the water quality and quantity goals of the WMO are being met.

Subpart 5 The BWSR feels that these plans should assess the need for various management programs. This need must be tied to the WMO's approach to toward accomplishing its goals and objectives. As part of this planning activity, it is the intention of the BWSR that WMOs assess the need and extent for various management programs. However, the rules have intentionally not required the implementation of specific management programs that are known to have some level of benefit to water quantity or quality management.

Section 8410.0110 - Content of WMO Plans: Impact on Local Government

Summary of Content - This portion of the rule requires that the impact of plan implementation on local units of government be evaluated. Specifically, the administrative and financial capabilities of local units of government must be considered to establish the ability of these local units of government to implement the plan to the extent outlined within the plan.

Reason for Inclusion - M.S. 103B.231, Subd. 6 requires plans to specify schedules for amending the comprehensive plans and official controls of affected local governments.

Justification for Section 8410-0110 - The impact on local government section of this rule is intended to provide a mechanism through which administrative and financial resources of counties, cities, and townships can be evaluated in respect to the cost for implementation of a WMO plan. It is the BWSR's perspective that plans should realistically evaluate these concerns since many aspects of plan implementation are passed down to other units of government. If affected local governments are not administratively or financially capable of carrying out their responsibilities, the plan will fail. This analysis should avoid such failures from occurring.

Section 8410.0120 - Content of WMO Plans: Implementation Priorities

Summary of Content - This portion of the rule requires that plans prioritize plan implementation components to make the best use of available local funding, prevent future water management problems from occurring and to ensure that regional, county, state and federal grant funding is properly targeted.

Reason for Inclusion - Public funding is limited and there are competing funding needs both within and outside of water management. It is prudent to set priorities so that best use of available funds is achieved.

Justification for Section 8410.0120 - Prioritization of plan implementation components is required as part of this section of the rule. This section should also be utilized to clearly describe the extent to which water resource management activities are needed and provide some indication of the extent to which funding is available to meet these needs.

Section 8410.0130 - Content of WMO Plans: Implementation Components

Summary of Content - This section of the rule requires that plans specify and outline the controls, responsibilities, schedules, capital improvement programs, enforcement actions, and administrative processes to be followed during the implementation of this plan.

Reason for Inclusion - M.S. 103B.231, Subd. 6 requires plans to contain objectives, policies, management principles, alternatives, a capital improvement program and standards and schedules for amending plans and controls of local government.

Justification for Section 8410.0130 - This section of the rule requires that the implementation plan address the components identified in Subpart 1 of this rule and for each of these components, define responsibilities for implementation, provide a schedule, define a capital improvement program necessary to

respond to the implementation components, address regulatory enforcement issues and the administrative processes through which the WMO and local governmental units will interact. It is the BWSR's perspective that the text associated with this section of the rule is reasonably self explanatory.

Section 8410.0140 - Plan Content: Plan Amendments

Summary of Content - This section of the rule outlines the process through which amendments to the plan may be initiated and executed. The general amendment procedures, including amendment procedures for minor amendments to capital improvements, the form of the amendments, and the distribution requirements for the amendments are outlined.

Reason for Inclusion - M.S. 103B.231, Subd. 6 requires plans to set out a procedure for amending the plan. This section of the law also requires the BWSR to adopt rules for plan amendments, including the public participation process.

Justification for Section 8410.0140

Subpart 2 — This section of the rule defines the general amendment procedure for major amendments. It is the intent of this procedure to provide an opportunity for parties having an interest in water resource management to provide input and comment on any proposed plan amendments.

Subpart 3 — This section of the rule has included a minor amendment section which provides an expedited process to make minor adjustments to the plan. This section was added to provide a cost effective way to make minor amendments to the capital improvement portion of the plan.

Subpart 4 — The direction provided regarding the form and distribution of amendments is as shown to maintain consistency, minimize confusion and provide direction to WMOs when plan amendments are contemplated.

Section 8410.0150 - Annual Reporting Requirements

Summary of Content - This section of the rule indicates that within 120 days of the end of the WMOs fiscal year, each WMO shall submit to the BWSR a financial report, an activity report, and an audit report for the preceding fiscal year. The content requirements for the annual financial audit and activity reports are provided along with the procedures the BWSR will follow should a state audit of a given WMO be considered.

Reason for Inclusion - M.S. 103B.231, Subd. 14 requires the BWSR to adopt rules establishing the requirements of financial reports, financial audits and annual activity reports.

Justification for Section 8410.0150 - The BWSR and advisory committee spent considerable time drafting this portion of the rule. Earlier drafts of the rule provided more prescriptive language regarding the content for annual financial reports. This final language outlines the need for general types of information, but does not specifically require the report to be completed in a specific format. It is anticipated that at least major sections of the annual financial report could be copied directly from a certified public accountant or state auditor report that would typically be prepared in any given year.

The BWSR is extremely interested about the inclusion of an annual activity report into the WMO's annual report. It is the perspective of the BWSR that the requirement for the WMO to provide an assessment of the previous year's annual work plan, and a projected work plan for the coming year will provide the WMOs with the mechanism through which they can establish goals and objectives for coming years, provide themselves with an opportunity of maintaining a certain amount of accountability towards achieving those goals identified. This information will also be useful to the BWSR in evaluating the activities of WMOs throughout the Twin City Metropolitan area.

Section 8410.0160 - Content of Local Plans: General Structure

Summary of Content - This section of the rule outlines the general content requirements for local plans. It also indicates that local plans must be prepared and adopted within two years of BWSR's approval of the last WMO plan that affects the local unit of government. Further breakdown of the structure for local plans is deferred to Section 8410.0170 of the rules.

Reason for Inclusion - M.S. 103B.235 provides certain guidance for local plans to the degree specified in the WMO plan. This section is needed to provided additional guidance for local plans in the event that the WMO plan is vague in some respects.

Justification for Section 8410.0160 - It is the intention of this section of the rule to provide an overall description of the content of a local plan. Local plan preparation, approval, and adoption within two years of BWSR's approval of the last WMO plan that affects the local unit of government was thoroughly considered. Discussion ensued over the instance where a community was covered by four different WMOs, three of the four plans had been completed, but the fourth may never be completed. It was the BWSR's perspective that such instances can be resolved on a case by case basis rather than incorporating some specific prescriptive language in the rule to address the issue.

Section 8410.0170 - Content of Local Plans: Structure

Summary of Content - This section of the rule outlines the specific content requirements for local plans. The content requirements parallel the content requirements for WMO plans taking into additional consideration that the local plan must be consistent with water resource management approach outlined in the WMO plan. Specifically, the following sections must be included in each local plan; purpose, water resource related agreements, executive summary, land and water resource inventory, establishment of policies and goals, assessment of problems, corrective actions, financial considerations, implementation priorities, implementation program, and amendment procedures. The submittal and review process to be followed are also described in this section of the rule.

Reason for Inclusion - M.S. 103B.231, Subd. 6(b) requires BWSR to adopt rules which include the requirements for implementation of WMO plans. M.S. 103B.235 requires local governments to prepare local water plans in conformance with overriding WMO plans.

Justification for Section 8410.0170 - It was the BWSR's intention that this section provide clear direction into the outline of a local water resource management plan. Local units of government preparing these local plans may adopt portions of WMO plans by reference if the sections of the WMO plan are consistent with the

local plan perspectives and the WMO plan provides for such adoption by reference. The rationale for the local plan content is consistent with that of the WMO plan content.

Section 8410.0180 - Determinations of Failure to Implement

Summary of Content - This section of the rule clarifies BWSR's authority and responsibility when a plan is not being implemented for a watershed either because there is not a WMO, because the WMO has not adopted an approved plan, or because the approved plan is not being carried out. The responsibilities of the BWSR staff and Board are outlined for such cases.

Reason for Inclusion - M.S. 103B.231, Subd. 10 requires the BWSR to adopt rules establishing standards and criteria for making determinations on whether WMOs are properly implementing their plans.

Justification for Section 8410.0180 - This portion of the rule provides an opportunity for the BWSR to take action if a plan has not been prepared, has not been adopted or approved, or because a plan is not being properly implemented. It was the intention of the BWSR to develop a reasonably formal process that must be followed in order for a determination of failure to be made. It was also the BWSR's intention that the BWSR Board only become involved if a number of preliminary reviews and required meetings cannot resolve the problem in a less formal manner.

SECTION III - IMPACT ON AGRICULTURE AND SMALL BUSINESS

As part of the agency's administrative rule making procedures and responsibilities, Minnesota Statutes Chapter 14 requires that the proposed rules be evaluated for potential impacts on agricultural land and for impacts on small businesses. Sections III., A. and III., B. address this requirement.

A. **Impact on Agricultural Lands** - Minnesota Statutes Section 14.11, Subd. 2 is the statutory reference for rule impacts on agricultural land. That subdivision refers to Minnesota Statutes Sections 17.80 to 17.84, which discusses the State's agricultural land preservation and conservation policy in detail. It is the BWSR's finding that these rules are consistent with the State's policy of preservation and conservation of agricultural land.

The rules main potential impact on agricultural land is with respect to the requirements of Part 8410.0100, Subpart 1. This part of the rule requires that WMO's adopt or require affected cities and towns to adopt controls to address excess soil erosion from agricultural land. The rule does not specify what the controls must consist of or how they must be enforced. This is left up to the discretion of the WMO based upon the scope of the problem as identified in the plan development process.

It is the intention of the BWSR to provide guidance documents in the form of model ordinances based on the "Soil Loss Limits Act" (MS 103F.401 to 103F.455), applicable zoning and planning enabling laws (MS 366.10 to 366.19; MS 394.21 to MS 394.37; and MS 462.351 to 462.365) or applicable nuisance laws (MS 561.19 and MS 609.74). Due to the optional approach the rule allows, it is difficult to access any monetary impact on individual agricultural producers. However, it is likely that most corrective measures supported by local governments to date rely on the availability of public cost-share funds before mandatory compliance is effectuated. This approach is advocated by the BWSR at the present

in order to lessen the cost of corrective measures. Agricultural experts generally agree that the implementation of soil conservation practices are economically beneficial to long term agricultural production regardless whether there are publicly financed economic incentives available.

B. **Impact on Small Business** - Minnesota Statutes Section 14.115 requires that agencies proposing rules which may impact small businesses consider certain methods for reducing the impact of the rule on small businesses. Presently, land developers are generally required to comply to some degree with local erosion control ordinances and standards. The rule requires that the WMO adopt a uniform set of guidelines for erosion control. This may actually reduce erosion control costs to land developers in the long run, since their consultants and contractors will not have to deal with local controls that vary in scope. It is the opinion of the BWSR that the rules do not significantly impact small businesses and so there is no need to consider methods for reducing impacts. However, the rule does not prohibit a WMO from imposing special requirements at targeted small businesses which may impact them. This is entirely an issue that a WMO or member local units of government must consider.

SECTION IV - FISCAL NOTE

The foregoing rules will mandate that local government take certain actions, some of which may result in local government incurring costs beyond what they have historically spent on executing their obligations with respect to the Metropolitan Water Management Act. However, it is difficult to estimate such costs due to a number of factors including:

- Some watershed management plans of WMOs already have implemented planning and programming in excess of what these rules require.
- 10 of the 46 WMOs are watershed districts created pursuant to MS 103D and so are already required to file annual reports, most of which would comply with the reporting requirements specified in the rule.
- Each watershed has different water resource issues and problems, thus the solutions proposed by each WMO will vary in cost.
- Many of the plans that will need to be amended to be brought into conformance with the rule primarily because the original act was not interpreted properly when their first generation watershed plan was developed.

The probable increased costs to local government can be placed in three categories: cost to revise joint powers agreements, costs related to annual reports, and costs related to second generation plans.

A. **Cost to Revise Joint Powers Agreements** - Chapter 601 of the Laws of 1990 required the BWSR to develop rules to guide the content of joint powers agreements (JPAs). Chapter 601 established the following voting requirements: 1) policy decisions are not allowed to require more than a majority vote, and 2) decisions on capital improvements may not require more than a two-thirds vote. Since all 36 existing joint powers agreements of the require higher voting requirements (many require unanimous vote) all will have to revise their JPAs. Most other aspects of the agreements should not require revision. Therefore it is estimated that the revision of the 36 JPAs will be about $1000 each, or a total one-time cost of $36,000.

B. **Cost to File Annual Reports and Audits** - There will be no appreciable increased cost for annual reporting and auditing to the ten WMOs that were originally created as watershed districts. The 36 JPA WMOs may experience some increase in costs depending upon whether or not they currently are requiring the preparation of annual reports or audits. It is difficult to estimate the costs of annual reports, since some WMOs are very active and some may only meet once a year. Likewise some have no budget and some do. Those that do not directly expend funds are not required to file financial reports and audits. Usually, the WMOs who have no established budget require each member to pay for any expenses incurred on an individual member basis, based upon prearranged formulas. In such cases the expenditures are accounted for in the member community's normal annual audit process. The BWSR estimates that 25 percent of the JPA WMOs (about 9 WMOs) operate this way. Therefore based upon the above considerations, the increased costs to local government will be approximately $108,000 in accordance with the following calculations:

Unit of Government	Number	Audit	Financial Report	Annual Totals
Watershed Districts	10	$ 0	$ 0	$ 0
JPA WMOs	27	$2000	$1500	$ 94,500
JPA WMOs	9	$ 0	$1500	$ 13,500
Total =				**$108,000**

C. **Cost of Preparation of Second Generation Plans** - The rules define what "second generation" watershed management plans must contain and are effective after Jan. 1, 1995. The rules require that the plans be brought into compliance in accordance with either the schedule specified in the first generation plan or, if there was no schedule, within ten years after the BWSR approved the first generation plan. Consequently, most plans will be have to revised to be consistent with the rule between 1995 and 2000. The cost will vary between WMOs since some plans (at least 6) will only require cosmetic revisions due to the comprehensive approach that was taken with the first generation plan. According to a random survey, the cost of the first generation plans ranged from as low as $10,000 to as high as $120,000. Given this range, the BWSR estimates that a realistic average cost was near $40,000 per plan. It is likely that the second generation plans should average no more than 50% to 75% of the original cost, or $30,000 at the outside, not adjusted for inflation. For 46 plans over a five year period, the total annualized average cost should be approximately $276,000 each year from 1995 to 2000.

A major purpose of the Metropolitan Water Management Act is to reduce the overall cost of water management through the development and implementation of the required watershed management plans. This can be accomplished only through a coordinated effort among affected local units of governments to reduce or eliminate duplication of effort, focus economic resources, prioritize capital improvements and provide for adequate planning to prevent future problems. It is the opinion of the BWSR that the costs of the required planning activity will be more than offset by the benefits.

Is he against rules or

resolution to adopt rule w/out public hearing?

CHAPTER 8410
BOARD OF WATER AND SOIL RESOURCES
METROPOLITAN LOCAL WATER MANAGEMENT

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CHAPTER 8410

BOARD OF WATER AND SOIL RESOURCES

METROPOLITAN LOCAL WATER MANAGEMENT

8410.0010 - SCOPE.

Subpart 1. Upon promolgation these rules apply to the general administration of metropolitan watershed management activities and to amendments to existing plans made after January 1, 1995. If no plan has been submitted to the board by the effective date of these rules, any plan thereafter submitted must be in compliance with these rules. A WMO must amend its plan consistent with these rules and submit such amendments to the board in conformance with its amendment schedule and/or amendment procedures outlined in Sections 8410.0140 but not later than 10 years from the date of initial plan approval.

Subpart 2. Where the board determines that a plan is not being properly implemented pursuant to an action initiated in accordance with Part 8410.0180, and there is reason to believe that an improved plan would lead to improved water management, the board may direct the responsible authorities to develop an amended plan within a reasonable time frame. In making this determination, the board must consider such items as:

A. when the plan was approved and adopted;

B. the status of local plan development and adoption;

C. the scope and anticipated costs to amend;

D. the availability of funds; and

E. the potential short and long term adverse impacts on the natural resources of the affected watershed.

8410.0020 - DEFINITIONS.

Subpart 1. **Applicability.** The definitions in this part and in Minnesota Statutes, section 103B.205 apply to parts 8410.0010 through 8410.0180.

Subp. 2. **Board.** "Board" means the Minnesota Board of Water and Soil Resources created by Minnesota Statutes, section 103B.101.

Subp. 3. **BWSR.** "BWSR" means the Minnesota Board of Water and Soil Resources created by Minnesota Statutes, section 103B.101.

Subp. 4. **Capital improvement** "Capital Improvement" means a physical improvement that is not directed toward maintenance of an in-place system during its life expectancy.

Subp. 5. **Council.** "Council" means the Metropolitan Council as created by Minnesota Statutes section 473.123.

Subp. 6. **FEMA.** "FEMA" means the Federal Emergency Management Agency.

Subp. 7. **Flooding Problem.** "Flooding Problem" means a flooding problem that has been identified as a problem by the WMO or local unit of government.

Subp. 8. **Groundwater plan.** "Groundwater plan" means a county plan adopted under Minnesota Statutes Section 103B.255.

Subp. 9. **Local comprehensive plan.** "Local comprehensive plan" has the meaning given it in Minnesota Statutes Section 473.852, subdivision 5.

Subp. 10. **Local government unit.** "Local government unit" or "local unit" has the meaning given it in Minnesota Statutes Section 473.852.

Subp. 11. **Metropolitan Water Management Act.** "Metropolitan Water Management Act" means Minnesota Statutes Sections 103B.201 to 103B.255.

Subp. 12. **MDNR.** "MDNR" means the Minnesota Department of Natural Resources.

Subp. 13. **MDH.** "MDH" means the Minnesota Department of Health.

Subp. 14. **MDOT.** "MDOT" means the Minnesota Department of Transportation.

Subp. 15. **MGS.** "MGS" means the Minnesota Geological Survey.

Subp. 16. **Minor plan amendments.** "Minor plan amendment" means items such as: recodification of the plan, revision of a procedure meant to streamline administration of the plan, clarification of the intent of a policy, the inclusion of additional data not requiring interpretation, or any other action which will not adversely affect a local unit of government or diminish the WMO's ability to achieve a plan's goals or implementation program.

Subp. 17. **Minor watershed unit.** "Minor watershed unit" means each of the approximately 5,600 minor watershed units delineated on the state watershed boundaries map prepared pursuant to the requirements of Laws of Minnesota 1977, chapter 455, section 33, subdivision 7, paragraph (a).

Subp. 18. **MPCA.** "MPCA" means the Minnesota Pollution Control Agency.

Subp. 19. **MUSA.** "MUSA" means the Metropolitan Urban Service Area as defined on maps prepared by the Metropolitan Council. The latest version of the map identifying the MUSA is adopted by reference and is subject to periodic change. The latest version of the map identifying the MUSA may be obtained from the Metropolitan Council Data Center, Mears Park Centre, 230 East 5th Street, St. Paul, Minnesota 55101. The MUSA is the area of the Seven County Metropolitan Area which the Council is committed by policy to provide regional planning for sanitary sewer, highway, transit, park and airport facilities.

Subp. 20. **Natural surface water storage and retention systems.** "Natural surface water storage and

retention systems" means public waters and wetlands and as defined in Minnesota Statues 103G.005 Subdivisions 15 and 19, respectively.

Subp. 21. **Official controls.** "Official controls" has the meaning given it in Minnesota Statutes, Section 473.852.

Subp. 22. **Plan.** "Plan" means the watershed management plan prepared by a watershed management organization or county as required by Minnesota Statutes, Section 103B.231, subd. 1.

Subp. 23. **Plan Review Authorities.** "Plan Review Authorities" means the Metropolitan Council, the MDH, the MDNR, the MPCA, the BWSR, and counties, cities, towns, and SWCDs partially or wholly within the WMO as defined in Minnesota Statutes, Section 103B.231, Subd. 7, 8, and 9.

Subp. 24. **Public waters.** "Public waters" means those waters of the state identified as public waters pursuant to Minnesota Statutes, Section 103G.005, Subdivision 15.

Subp. 25. **Seven County Metropolitan Area.** "Seven County Metropolitan Area means the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington, excluding the corporate boundaries of the City of New Prague.

Subp. 26. **Subwatershed unit.** "Subwatershed unit" means a hydrologic area less than the entire area under the jurisdiction of a watershed management organization.

Subp. 27. **SWCD.** "SWCD" means Soil and Water Conservation District.

Subp. 28. **Watershed.** "Watershed" means a drainage area having boundaries which are substantially coterminous with those of an aggregation of contiguous minor watershed units possessing similar drainage patterns and which cross the borders of two or more local government units.

Subp. 29. **Watershed district.** "Watershed district" means a district established pursuant to Minnesota Statutes, Chapter 103D.

Subp. 30. **Watershed management organization.** "Watershed management organization" or "organization" means either: 1) a watershed district wholly within the metropolitan area, or 2) a joint powers entity established wholly or partly within the metropolitan area by special law or by agreement that performs some or all of the functions of a watershed district that has the characteristics and the authority specified under Minnesota Statutes Section 103B.211. Counties may be watershed management organizations if a joint powers WMO does not perform and the responsibility for plan preparation is deferred to them. Lake improvement or conservation districts are not watershed management organizations.

Subp. 31. **Wetlands.** "Wetlands" means those waters of the state identified as wetlands under the Minnesota Statutes Section 103G.005, Subdivision 19.

Subp. 32. **Wetland Banking System.** "Wetland banking system" means an accounting system established by a unit of government for the purpose of tracking and managing net losses and gains to wetland values that occur as a result of development.

Subp. 33. **WMO.** "WMO" means watershed management organization.

8410.0030 - CONTENT OF JOINT POWERS AGREEMENTS.

Subpart 1. In addition to a description of any authorities adopted pursuant to the content requirements of Joint Powers Agreements as outlined in Minnesota Statutes Section 103B.211 Subdivision 1, Joint Powers Agreements establishing a water management organization must at a minimum contain the following items:

A. a purpose statement consistent with Minnesota Statutes 103B. 201,

B. a complete legal description defining the boundary of the WMO,

C. a requirement to adopt rules of order and procedure,

D. a process for establishing an annual budget and work plan,

E. a formula for determining each member's share of the annual operating budget,

F. a statement as to how member appointees are to be compensated,

G. a procedure providing for the establishment of citizen and technical advisory committees or other means of public participation.

H. a section defining the powers and duties of the WMO,

I. a section establishing the duties and terms of the officers of the WMO,

J. a notification process on the location and time of meetings,

K. a section defining the voting requirements for decision making and capital improvements consistent with Minnesota Statutes 103B.211, Subd. 1, (c),

L. a section outlining meetings to be scheduled at least annually,

M. the process and responsibilities of the WMO and its members for filling vacancies consistent with Minnesota Statutes 103B.227, Subdivisions 1 and 2,

N. the duration of the agreement and a process for dissolution which provides for at least 90 days notice of the intent to dissolve to the affected county(ies) and the board, and

O. a section defining how the membership will be represented with the total number of representatives to be not less than 3.

Subpart 2. Joint Powers Agreements must be updated if necessary to be in conformance with these rules no later than January 1, 1993 or one year after adoption of Minnesota Rules Chapter 8410, whichever is later.

Subpart 3. A county may be a member of a Joint Powers Agreement WMO when the conditions described in Minnesota Statutes Section 103B.211, Subdivision 3 are present.

8410.0040 - REMOVAL OF WMO REPRESENTATIVES.

A manager of a Watershed District or a member of a Joint Powers Board may be removed from the position by the appointing authority prior to term expiration for violation of a code of ethics of the WMO or appointing authority or for malfeasance, nonfeasance, or misfeasance, after being provided an opportunity for hearing before the appointing authority. Managers holding the position as an elected official and are not re-elected, or are serving an indefinite term at the pleasure of the appointing authority may be removed by the appointing authority at will. Decision of the appointing authority may be appealed to the Board of Water and Soil Resources.

8410.0050 - CONTENT OF WMO PLANS: EXECUTIVE SUMMARY.

Each plan must have a section entitled "Executive Summary". The summary should outline the purpose of the organization, the membership of the WMO board of managers, the general boundaries of the WMO, a brief history of the organization, a summary of the watershed management goals, problems, potential solutions, and general content of required local plans.

8410.0060 - CONTENT OF WMO PLANS: LAND AND WATER RESOURCE INVENTORY.

Each plan must contain an inventory of water resource and physical factors affecting the water resources based upon existing records and publications. If data publications and maps are available at a convenient central location, they may be included by reference. The plan must include a brief summary of the data and must identify where the publication can be obtained. At a minimum, the following information must be included in the plan. Items A and C5 are allowed to be in the local plan instead of the WMO plan.

A. Precipitation. Plans must include precipitation data normally used in the seven county metro area for hydrologic and hydraulic design.

B. General geology and topographic data. Each WMO plan shall contain a summary describing the general topographic relief, geology, aquifers and all known groundwater-surface water connections. The summary should reference available publications and maps where data may be available in greater detail. A map defining appropriate subwatershed units within the WMO must be included.

C. Surface water resource data. Necessary surface water data within the watershed that includes:

(1) a map of the public waters and public ditch systems established under Minnesota Statutes 103D or 103E, including the location of any existing dams and control structures;

(2) a copy of the National Wetlands Inventory Map produced by the United States Fish and Wildlife Service; and, if deemed useful by the WMO, a copy of the Metropolitan Mosquito Control District Mosquito Control Wetland Inventory;

(3) either an inventory of the functional values of the wetlands present; or, provision for a phased project to create such inventory within a given time frame; or, the adoption of a specific process to identify such functional values on a case-by-case basis for the review of individual project proposals, all of which must be consistent with Minnesota Statutes Section 103B.3355;

(4) a table of the major hydrologic characteristics of public waters if provided by the MDNR in a format that can be readily incorporated in a plan,

(5) a map(s) showing the areas served by each existing stormwater system which identifies existing stormwater ponds and the location of all stormwater outfalls;

(6) a table summarizing available information on the 100 year flood levels and peak discharges of existing and proposed stormwater ponds along with flood profile information that corresponds to the peak discharges of channelized flow passing through the watershed. The plan shall determine the need for additional data and recommend a schedule for securing same. A discussion must also be provided relative to the consistency of the flood profile information developed as part of the stormwater management plan to that of any information published in a FEMA Flood Insurance Study;

(7) a general discussion of, or a map showing areas of known flooding problems not identified as flood prone in a published flood insurance study,

(8) a listing of the existing flood insurance studies and location where they can be viewed;

(9) a summary of water quality data and any related information if available from MPCA, MDNR, MDOT, MDH, the Metropolitan Council, the Metropolitan Waste Control Commission, the WMO, the SWCD, the county(ies), and city(ies);

(10) a map or list, if available, showing the location of known existing and abandoned surface water quality and quantity monitoring sites;

(11) a list of municipalities with approved shoreland ordinances and projected completion dates for those without ordinances; and

(12) a table listing the amounts and locations of all surface water appropriations as permitted by the MDNR and provided to the WMO.

D. Groundwater resource data. Necessary groundwater data includes any data required to be included in the WMO plan by a county groundwater plan. If a county groundwater plan is not anticipated to be completed, the WMO plan must include groundwater data as necessary to allow groundwater issues to be addressed.

E. Soil data. Each WMO plan must include a general discussion of the types of soil present, their development limitations their infiltration characteristics and their tendency to erode. The discussion must include a list of references where more detailed data are available.

F. Land use and public utility services. Necessary land use and public utility service information is limited to that which existed at the time the plan or plan amendment was developed, including:

(1) a general map of existing land uses;

(2) a general map showing anticipated land uses;

(3) reference to the location of the metropolitan urban service area.

G. Water based areas and land ownership. Necessary information on water based recreation areas and land ownership includes a map or a discussion of the location of all existing and proposed local, regional, state and federal parks, preserves, wildlife areas, recreation areas, canoe routes and water accesses available for use by the public.

H. Fish and wildlife habitat. Necessary information of fish and wildlife habitat includes:

(1) a list and description of the MDNR ecological and management classifications for lakes and streams, where available;

(2) a list and description of the conclusions and recommendations of biological surveys or reconnaissance studies, where available; and

(3) a description of state management plans for fish and wildlife areas, where available.

I. Unique features and scenic areas. Necessary unique feature and scenic area information includes a map or description (listing) of unique features and scenic areas with relationships to water including state designated natural and scientific areas, areas containing county, state, and federal rare and endangered species, and other features such as waterfalls, springs, historic mills and heritage elements identified by the MDNR Heritage Program, to the extent it is available from the MDNR.

J. Pollutant Sources. A map or list from appropriate agencies of:

(1) known closed and open sanitary landfills, closed and operating open dumps, and Minnesota Superfund hazardous waste sites and a summary of available water quality information relating to these sites; and

(2) feedlots, abandoned wells as defined by the MDH, registered underground and above ground storage tank sites, permitted wastewater discharges, and a summary of available water quality information relating to these sites.

If the information outlined in Section J is included in a county groundwater plan, this information can be excluded from the WMO plan provided suitable references are provided.

8410.0070 - CONTENT OF WMO PLANS: IMPACT ON OTHER UNITS OF GOVERNMENT.

During the development of its plan or amendments thereto, each WMO shall request a summary of

the relevant water management policies and goals of each local, regional and state review authority identified in Minnesota Statutes 103B.231, Subdivisions 7, 8 and 9. The WMO shall take into consideration the goals and policies of the review authorities when drafting the WMO's goals and policies. The WMO plan shall clearly outline and justify any anticipated inconsistencies between its goals and policies and those of the authorities who responded, provided the requested information is furnished within 45 days of the WMO's request.

8410.0080 - CONTENT OF WMO PLANS: ESTABLISHMENT OF GOALS AND POLICIES.

Each plan must contain specific goal statements and corresponding policies relating to the overall purposes specified in M.S. Section 103B.201. The goals and policies of the WMO shall attempt to avoid conflict with county, regional or state goals and policies. The goals must be outlined in sufficient detail to provide direction regarding what the policies are to accomplish, provide direction to the WMO Board, and allow for the success or failure of these goals and policies to be quantified. The goals and policies should recognize the fundamental relationship between water quality and land use. Development of goals and policies must, at a minimum address the following issues:

A. Water Quantity. Plans must outline goals and policies describing how stormwater runoff will be managed. The maximum allowable peak run-off must be established for appropriate subwatersheds to the extent necessary to assure that the goals and policies of the WMO will be met and address how runoff from developments creating more than one acre of new impervious surface will be managed with respect to Minnesota Statutes 103B.3365. The plan must describe the criteria used for defining "appropriate subwatersheds".

B. Water Quality. Plans must, at a minimum, outline specific water quality goals and policies for natural surface waters storage and retention systems within the WMO. Goals should be related to parameters or quantities that can be measured. The relationship of land use to water quality should be considered when developing goals and policies. The goals and policies should be developed to strive for compliance with applicable water quality standards and be suitable for the intended uses of natural surface water storage and retention systems.

C. Recreation and Fish and Wildlife. Plans must outline how water resource based recreational activities and wildlife interests will be protected and/or improved through the implementation of the plan. In consideration of these issues, the plan must determine whether there is a need to classify or prioritize individual water resources for management purposes.

D. Enhancement of Public Participation, Information and Education. Plans must outline goals and policies describing how and when public participation will be encouraged. Goals and policies must address as a minimum the creation and purposes of advisory committees and public information programs.

E. Public Ditch Systems. If public ditch systems constructed pursuant to M.S. Section 103D or 103E are within the WMO, the plan shall by policy define the WMO's relationship to the ditch authority and recommend whether or not there are advantages to managing the ditches under the Metropolitan Water Management Act and determine whether ditch maintenance activities have the potential of adversely impacting any goal of the WMO.

F. Groundwater. If a county groundwater plan has not been commenced at the time the plan or amendment thereof is initiated, the WMO shall assess the need and degree of involvement the WMO shall have in groundwater management, and establish appropriate goals and policies.

G. Wetlands. Plans must outline specific goals and policies regarding the management of wetlands within the WMO and identify high priority areas for wetland preservation, restoration and establishment. Wetland management goals and policies should address utilization, protection and/or preservation, as well as the enhancement or restoration of wetlands identified within the WMO. Plans must also evaluate the need to establish a wetland banking system.

H. Erosion. Plans must identify specific goals and policies that will control soil erosion consistent with the goals and policies outlined in Section 8410.0080.

8410.0090 - CONTENT OF WMO PLANS: ASSESSMENT OF PROBLEMS.

Each plan must contain an assessment of existing and potential water resource related problems using a combination of analysis of land and water resource data collected pursuant to Part 8410.0060 and through the identification of existing or potential problems by residents or local, regional, or state agencies. During the development of this assessment, the WMO shall request a brief assessment of existing problems affecting the subject WMO from the plan review authorities, the MDOT, and the Minnesota Department of Agriculture based on data, plans and other documentation within their possession. The WMO should solicit comments from residents and local officials within the watershed for information about problems which may be more local in nature. The WMO's assessment shall include a discussion of the relationship of locally identified problems to problems identified by the plan review authorities provided such information is received within 45 days of the WMO's written request. The assessment of existing and potential problems as determined by the WMO must, at a minimum, include the following topic areas:

A. specific lakes and streams with water quality problems;

B. flooding and stormwater rate control issues within and between communities;

C. impacts of water quantity and quality management practices on recreation opportunities;

D. impacts of stormwater discharges on water quality, fish and wildlife resources;

E. impact of soil erosion on water quality and water quantity;

F. general impact of land use practices, and in particular, land development and wetland

alteration on water quality and quantity;

G. the adequacy of existing regulatory controls to manage or mitigate adverse impacts on public waters and wetlands.

H. the adequacy of programs to:

(1) limit soil erosion and water quality degradation, and

(2) maintain the tangible and intrinsic values of natural storage and retention systems; and

(3) maintain water level control structures; and

I. the adequacy of capital improvement programs to correct problems relating to:

(1) water quality,

(2) water quantity management,

(3) fish and wildlife habitat, and public waters and wetland management, and

(4) recreational opportunities, and;

J. Future potential problems which are anticipated to occur generally within a 20 year period based on growth projections and planned urbanization identified in local and regional comprehensive plans. Such assessments must include a discussion of the relationship between locally identified problems and the problems and goals identified in county, regional, state and federal plans which are brought to the attention of the WMO Board.

8410.0100 - CONTENT OF WMO PLANS: IMPLEMENTATION PROGRAM

Each plan must describe an implementation program consisting of nonstructural, structural and/or programmatic solutions to the problems, issues, and goals identified pursuant to Parts 8410.0080 and 8410.0090. In developing its implementation program the requirements contained in Subparts 1 through 6 must be followed. All plans should clearly define the responsibility of the WMO and the local units of government in carrying out the implementation program and further define the WMO's role when a local unit of government is considering a variance or fails to implement its water resource management responsibilities.

Subpart 1. **Regulatory Controls.** In establishing required regulatory controls, the following sections must be considered:

A. Wetland protection. Each plan must provide for the regulation of activities in wetlands and specify respective duties of the WMO and local units of government. Further, each plan must describe any local controls and procedures in place with regards to carrying out the local government responsibilities pursuant to the Wetland Conservation Act of 1991, Chapter 354 of the Laws of 1991, and any rules promulgated therefrom. Each plan must also define any other controls the WMO has determined to be

necessary in order to achieve its water management goals which may be more restrictive than that required by said Act. The description must consider, where applicable the following topics:

(1) the relationship of the WMO, state agencies, local SWCDs, and affected counties, cities and towns with respect to authority, administration and coordination;

(2) any designated repositories for required maps or inventories of wetlands;

(3) any procedures related to enforcement;

(4) a description of any local wetland banking programs and their relationship to any corresponding state program; and

(5) the methods and procedures to be used in determining replacement of wetland values in mitigation proposals.

B. Erosion Control. The WMO shall specify controls or programs to reduce erosion and sedimentation to receiving waters. In rural areas, agricultural crop land erosion may be controlled by implementing zoning ordinances consistent with Minnesota Rules Part 6120.3300, Subpart 7 and may include other water resources outside of designated shoreland areas as deemed appropriate by the WMO. WMOs affected by specific state laws requiring adoption of uniform county-wide erosion and sediment control standards or programs must be compliant with such laws. All other WMO's must either adopt by reference an existing set of erosion and sediment control guidelines or best management practices published by a county, a SWCD, the Board or the MPCA, or establish comparable erosion and sedimentation guidelines of its own for the purpose of administering erosion controls.

C. Permits. Each plan must specify controls which require all appropriate building permits, driveway permits and grading permits to contain enforceable provisions to protect soil from erosion during and after construction. This does not include sites for which approved erosion control plans are in place.

D. Shoreland and Floodplain Ordinances. Each plan must identify member local units of government that have failed to adopt and administer a MDNR approved shoreland and floodplain ordinances where mandated by state law. Where the plan notes that flood damage has occurred outside of mapped floodplains or potential for flooding exists adjacent to stormwater facilities, each plan shall require the local unit of government to determine if additional local controls are necessary to address the situation.

E. Nuisance Controls. Where a plan notes the existence of certain land uses which could adversely affect the WMO's ability to achieve its water quality goals, and these uses cannot be properly managed or regulated with existing controls, the uses constitute a public nuisance in accordance with Minnesota Statutes Section 609.74. In such cases, the plan must provide for the adoption of local controls to define and abate such nuisances. For the purpose of these rules, public nuisances may include any action, failure to act or land use practice which would impair water quality if allowed to continue.

Subpart 2. **Stormwater & Drainage Design Performance Standards.** Each plan must contain

minimum standards and provide for appropriate controls for the design of new stormwater conveyance, ponding and treatment systems consistent with the overall goals of the WMO plan and consistent with Minnesota Statutes Section 103B.3365 Subdivision 4. Included will be performance standards which provide for:

A. the establishment of target in-lake nutrient concentrations and corresponding pollutant loadings for sediment and nutrients.

B. the establishment of maximum permissible runoff rates for selected design storms based on such considerations as, existing and future flood levels and expected increases in runoff volume with respect to impacts on downstream channels and adjacent development;

C. the establishment of standards to reduce the impacts of flooding on natural resources, personal and real property.

D. the establishment of design criteria for stormwater outlet structures to address floatable pollutants and to provide for access for maintenance and repair;

E. pond design methodology for nutrient entrapment consistent with the subwatershed goals; and

F. compliance with pollutant loading for specific subwatersheds, consistent with local, regional, and statewide plans in consideration of MPCA water quality standards.

Subpart 3. **Information Program.** All plans must provide for the publishing of at least one written communication per year identifying the representatives on the WMO Board, current advisory committee members, how to contact the WMO, its role in local water management, the goals and policies of the WMO, when public meetings are held, how the WMO is financed, where the plan can be viewed, and any other information relative to the implementation of its plan. The communication may be accomplished through the publication of a news letter, publication of all or a portion of its annual report, an article or news release submitted to a local newspaper widely distributed in the member communities, an attachment to a sewer or water bill, or any other similar media format which annually reaches the general population.

Subpart 4. **Data Collection Programs**

A. All plans must establish water quality and quantity monitoring programs that are capable of producing accurate data to the extent necessary to ascertain whether the water quality goals of the WMO are being achieved. Such programs shall, at a minimum, include the location of sampling, the frequency of sampling, the proposed parameters to be measured and the requirement of periodic analysis of the data.

B. All plans should encourage all units of government collecting water quality and quantity management data, to annually submit such data consistent with state compatibility guidelines to the WMO and other appropriate state agencies for entry into public access data bases.

Subpart 5. **Management Programs.**

A. All WMO plans must assess or require local plans to assess the need for periodic maintenance of public works, facilities and natural conveyance systems and specify any new programs or revisions to existing programs needed to accomplish its goals and objectives. Plans must further identify which units of government or private parties are responsible for maintenance thereof. Plans must, at a minimum, assess or require local plans to assess:

(1) the need and frequency for sweeping of public and private streets and parking lots;

(2) the need and frequency for inspecting stormwater outfalls, sumps, and ponds;

(3) the adequacy of maintenance programs for stormwater facilities and water level control structures owned by both WMO members and nonmembers;

(4) the condition of public ditches constructed pursuant to Minnesota Statutes 103D or 103E provided the WMO has jurisdiction over these systems;

(5) the need to establish a water body management classification system to provide for water quality and quantity management based on a hierarchial basis; and

(6) the need to establish local spill containment clean-up plans; and

(7) the need for other management programs as deemed necessary.

B. All proposed management programs establishing a classification system for the management of water bodies shall be consistent with Minnesota Rules Chapter 7050. Where WMO classifications are inconsistent, the WMO shall petition the MPCA to revise the MR 7050 classification.

Subpart 6. **Potential structural solutions to problems.**

A. **Structural options to existing problems.** All plans which document existing water management problems which cannot be resolved by preventative actions shall investigate the feasibility of implementing structural solutions which would remediate or resolve each problem.

B. **Cost analysis.** For each structural solution proposed, all plans shall provide a cost estimate and a recommendation as to how it should be funded.

C. **Priorities.** Each potential structural solution identified pursuant to this section shall be assigned priorities. In assigning priorities, consideration shall be given to regional and state plans in conjunction with the WMO's goals, policies and problems identified in Parts 8410.0080 and 8410.0090.

8410.0110 - CONTENT OF WMO PLANS: IMPACT ON LOCAL GOVERNMENT.

Subpart 1. **Existing Local Controls.** All plans shall review the impact of local controls and programs required by the plan in accordance with Part 8410.0100. This review will include concerns expressed by counties, cities and townships with respect to their administrative and financial capabilities to adopt and enforce such controls and programs in addition to a table which generally describes the status of

local controls and programs of affected counties, cities and townships with respect to that required by the plan.

Subpart 2. **Financial Impact on Local Government.** All plans shall contain an analysis of the financial impact of implementation of the proposed regulatory controls and programs identified pursuant to Part 8410.0100. Such analysis shall include at a minimum an estimate of the costs associated with the plan implementation and anticipated source(s) of revenue.

Subpart 3. **Adoption by reference.** All or part of a WMO plan may be adopted by reference by a local unit of government for all or part of its local plan to the degree specified in the approved WMO plan.

8410.0120 - CONTENT OF WMO PLANS: IMPLEMENTATION PRIORITIES.

All plans must prioritize all plan implementation components to make the best use of available local funding, to prevent future water management problems from occurring to the maximum extent practical and to ensure that regional, county, state and federal grant funding is targeted properly.

8410.0130 - CONTENT OF WMO PLANS: IMPLEMENTATION COMPONENTS

Subpart 1. **Controls.** All plans must provide for the adoption of necessary regulatory controls, stormwater design standards, education program, data collection programs, and maintenance programs which the plan identifies pursuant to Part 8410.0100.

Subpart 2. **Responsibilities.** All plans must clearly distinguish the responsibilities of the WMO versus the responsibilities of affected counties, cities and townships with respect to each implementation program element established in accordance with Part 8410.0100.

Subpart 3. **Schedule.** All WMO plans must include a schedule for implementation by the WMO, JPA members and affected local units of government. All plan controls and programs to be implemented by the WMO must be in effect within one year of plan adoption. All local plan controls and programs must be developed and in effect within two years of adoption of the last WMO plan within the local unit of government.

Subpart 4. **Capital improvement program.** All plans shall include a capital improvements program which identifies specific capital improvements necessary to implement the water resource management goals and policies of the WMO.

Subpart 5. **Enforcement.** All plans must identify the procedure to be followed to enforce violations of the controls of the WMO as well as the local unit of government.

Subpart 6. **Administration process.** All WMO plans must specify the administrative process and time lines for the submittal, review, and approval of local plans and variances thereto by the WMO.

8410.0140 - PLAN CONTENT: PLAN AMENDMENTS

Subpart 1. **Amendment section.** All plans must contain a section entitled "Amendments to Plan" which contains the year the plan shall extend to and establish the process by which interim amendments may be made and who may initiate such amendments.

Subpart 2. **General amendment procedure.** All amendments to a plan must adhere to the review process provided in Minnesota Statutes 103B.231, Subdivision 11, except where the proposed amendments constitute minor amendments, and;

A. the WMO has held a public meeting to explain the amendments and published a legal notice of such meeting twice, at least 7 days and 14 days prior to the date of the meeting;

B. the WMO has sent copies of the amendment(s) to the affected local units of government, the Metropolitan Council and the state review agencies for review and comment; and

C. the board has either agreed that the amendments are minor or failed to act within 45 days of receipt thereof.

Subpart 3. **Minor amendments to capital improvements.** An amendment to an approved plan's capital improvement program may be considered to be a minor plan amendment if the following conditions are met:

A. the original plan set forth the capital improvement(s) but not to the degree needed to meet the definition of "capital improvement program" as provided in Minnesota Statutes 103B.205. Subdivision 3, and

B. the affected county or counties have approved the capital improvement in its revised, more detailed form.

Subpart 4. **Form of amendments.** Unless the entire document is reprinted, all amendments adopted by the WMO must be printed in the form of replacement pages for the plan, each page of which must,

A. on draft amendments being considered show deleted text with strike-outs and new text as underlined,

B. be re-numbered as appropriate, and

C. include the effective date of the amendment.

Subpart 5. **Distribution of amendments.** Each WMO must maintain a distribution list of agencies and individuals who have received a copy of the plan and shall distribute copies of amendments within 30 days of adoption thereof. All WMO's should consider sending drafts of proposal amendments to all plan review authorities to seek their comments prior to establishing a hearing date or commencing the formal review process.

8410.0150 ANNUAL REPORTING REQUIREMENTS.

Subpart 1. **Requirement for annual financial, activity, and audit reports.** Within 120 days of the end of the WMOs fiscal year each WMO shall submit to the BWSR a financial report, an activity report, and an audit report for the preceeding fiscal year if it has expended or accrued funds during this time. These reports may be combined into a single document. The audit report for the preceeding fiscal year must be prepared by a certified public accountant or the state auditor and forwarded to the State Auditor's Office within the same time limits specified above.

Subpart. 2. **Content of annual financial and audit report.** The annual financial report must include the following information:

A. the approved budget;

B. a reporting of revenues;

C. a reporting of expenditures;

D. a financial audit report or section which includes a balance sheet, classification of revenues and expenditures, an analysis of changes in final balances and any additional statements deemed necessary for full financial disclosure.

Subpart. 3. **Content of annual activity report.** The annual activity report must include the following information:

A. a list of WMO board members, advisory committee board members and board member vacancies at the end of the reporting year; including the names of designated officers and members and information on how members can be contacted. For joint powers WMOs, the list must indicate the governmental organization each board member represents. For watershed districts, the list must indicate the county that each member is appointed by;

B. a list of WMO employees and consultants; including mailing addresses and telephone numbers;

C. an assessment of the previous year's annual work plan which indicates whether the stated goals and objectives were achieved and, where they were not achieved, indicates why they could not be achieved;

D. a projected work plan for the next year indicating the desired goals and objectives;

E. a summary of the permits or variances issued or denied under ordinances or rules required by the WMO or local plan as well as any enforcement actions initiated by either the WMO or its local units of government;

F. a summary of water quality monitoring data collected by the WMO or its local units of government;

G. an evaluation of the status of local plan adoption and implementation based on a review

of the local unit of governments' activities by the WMO during the past year;

H. a copy of the written communication required by Part 8410.0100, Subpart 3;

I. the WMO's activities related to the biennial solicitations for interest proposals for legal, professional, or technical consultant services pursuant to Minnesota Statutes 103B.227, Subd. 5;

J. an assessment of changes in fund balances, including a description of the costs of each program element with respect to the overall annual budget; and

K. the status of any locally adopted wetland banking program.

Subpart 4. **Procedure for state audit.** The BWSR shall use the following procedure in determining whether to order a state financial or performance audit of a WMO:

A. Before the BWSR will consider ordering a state audit, a written complaint must be filed with the BWSR's executive director requesting the BWSR to order a state audit. The complaint must set forth with as much specificity as possible the grounds for requesting a state audit. Valid grounds for requesting a state audit include the mishandling or misuse of public funds and or the documented failure to implement an approved plan.

B. The executive director shall determine whether there is a basis for a complaint before reporting the complaint to the BWSR. The executive director shall ensure that the affected WMO is notified of the complaint and given an opportunity to respond to the allegations prior to determining whether there is a basis for the complaint.

C. If the executive director determines there is a basis for the complaint, the complaint shall be reported to the BWSR. The affected WMO shall be given an opportunity to appear before the BWSR at the time the complaint is reported to it and respond to the allegations in the complaint. The complainant shall also be given an opportunity to appear.

D. After having the complaint reported to it, and after providing an opportunity for the WMO and the complainant to be heard by it, the BWSR shall decide whether to order a state financial or performance audit of the WMO.

8410.0160 - CONTENT OF LOCAL PLANS: GENERAL STRUCTURE.

Local plans must at a minimum meet the requirements for local plans as set forth in Minnesota Statutes 103B.235, except as provided by the WMO plan pursuant to Part 8410.0110, Subpart 3. They must include sections containing a table of contents, purpose, water resource related agreements, executive summary, land and water resource inventory, establishment of goals and policies, relation of goals and policies to local, regional, state, and federal plans, goals, and programs, assessment of problems, corrective actions, financial considerations, implementation priorities, amendment procedures, implementation program,

and an appendix. Communities should consider including its local plan as a chapter of its local comprehensive plan. The local plan shall be adopted within 2 years of BWSR's approval of the last WMO plan that affects local unit of government.

8410.0170 - CONTENT OF LOCAL PLAN: STRUCTURE.

Subpart 1. **Purpose.** Each local plan must have a section entitled "Purpose" which outlines the purposes of the water management programs required by Sections 103B.205 through 103B.255.

Subpart 2. **Water Resource Related Agreements.** Any appropriate water resource management related agreements, which have been entered into by the local community must be outlined. This includes joint powers agreements related to water management the local community may be party to between itself and the WMO, adjoining communities, or private parties. Available information concerning these agreements in general conformance with the content of joint powers agreements for WMO's as outlined in Minnesota Rules Section 8410.0030 must be included.

Subpart 3. **Executive Summary.** Each plan shall have a section entitled "Executive Summary", which generally summarizes the content of the local plan in a manner similar to that required for WMO plans under Section 8410.0050.

Subpart 4. **Land and Water Resource Inventory.** Each local plan must contain a composite land and water resource inventory containing all relevant data from WMO plans affecting it consistent with the data required by Minnesota Rules Section 8410.0060.

Subpart 5. **Establishment of Policies and Goals.** Each local plan must state specific goals and corresponding policies related to the purpose of these plans, be consistent with the policies and goals of the WMO plans within the city or township, and address the relation of the local plan to the regional, state and federal goals and programs outlined in Section 8410.0070.

Subpart 6. **Assessment of Problems.** Each plan must contain a summary assessment of existing and/or potential water resource related problems, including those identified in WMO plans which affect the community. The problem assessment must be completed for only those areas within the corporate limits of the community and meet the same content requirements as that outlined for WMO plans pursuant to Minnesota Rules Section 8410.0090, Subparts 1 and 2.

Subpart 7. **Corrective Actions.** Each local plan shall describe non-structural, programmatic and/or structural solutions to the problems identified in Part 8410.0170, Subpart 6. The mandatory actions outlined in Minnesota Rules Section 8410.0100, Subparts 1 through 6 for WMO plans, shall be considered except that such actions shall be limited to those that can be implemented at a local level. All corrective actions must be consistent with the WMO plan(s) having jurisdiction within the municipality or township.

Subpart 8 - **Financial Considerations.** The local plans must contain an analysis of the financial impact of implementation of the proposed regulatory controls and programs identified pursuant to Part

8410.0170, Subpart 7. The analysis must include at a minimum the following items:

A. the estimated cost of adoption and enforcement of local controls and standards for the local municipality;

B. the estimated annual cost of implementation of other specified programs to each local municipality;

C. a discussion of local ability to fund adoption of and enforcement of local controls and standards, implementation of other specified programs, and capital improvements. Discussion to include:

(1) levy limit constraints;

(2) effect on other city funding needs;

(3) establishment of watershed management taxing districts;

(4) creation of stormwater utilities; and

(5) monetary impact against homes or farmsteads in effected community.

D. the impact on the local municipality of local implementation of each capital improvement project component if ad valorem financing is used; and

E. a summary of grant funding that would likely be available to fund water management projects and programs.

Subpart 9. **Implementation Priorities.** Local plans must prioritize implementation components so as to make the best use of available local funding and prevent future water management problems from occurring to the maximum practical extent. Local plans must prioritize WMO plan implementation components in line with WMO priorities as outlined pursuant to Part 8410.0120, but for only those implementation components that must be facilitated by the local municipality or township.

Subpart 10. **Implementation Program.** All local plans must outline required implementation components that apply at a local level. These components shall be consistent with the required plan components outlined for WMO plans under Part 8410.0130. Official local controls must be enacted with 6 months of adoption of the local plan.

Subpart 11. **Amendment Procedures.** The local plan must contain a section entitled "Amendments to Plan", which contains the year the plan shall extend to and establish the process by which amendments may be made. The amendment procedure shall be in conformance with the plan amendment procedure outlined in the WMO plan(s) that effects the community. Local plan amendments must be forwarded to each WMO affected by the local plan amendment for review and approval prior to adoption.

Subpart 12. **Submittal and Review.** After consideration and before adoption, the local plan shall be submitted to all affected WMOs for review in accordance with Minnesota Statutes Section 103B.235. Each local unit of government must also notify affected WMOs within 30 days of adoption and implementation of the plan, including the adoption of necessary official controls.

8410.0180 - DETERMINATIONS OF FAILURE TO IMPLEMENT.

Subpart 1. **Applicability.** This part applies when a plan is not being implemented for a watershed either because there is not a WMO, because the WMO has not adopted an approved plan, or because the approved plan is not being carried out.

Subpart 2. **Establishing cause.** Prior to the board's involvement in determinations of whether a plan is being properly implemented, the board shall first establish just cause for such determination by review of a written complaint from an aggrieved party or through conclusions arrived at by board staff pursuant to the review of a WMO's annual report. Any complaint or appeal made by an aggrieved party pursuant to Minnesota Statutes Section 103B.231, Subd. 13 must be made in writing to the Executive Director of the Board and must summarize the issues at dispute and the efforts the party made to resolve the problem.

Subpart 3. **Board staff responsibilities.**

A. Staff investigation and report. Board staff may investigate issues relating to alleged failure to implement plans primarily by response from written complaint from an aggrieved party or by review of WMO annual reports. Within 30 days of receiving a written complaint, board staff are required to initiate a preliminary investigation of the facts as they appear based on personal observation, review of all relevant documents and discussions with involved parties. The results of this preliminary investigation shall be reviewed with the executive director, and the board's legal counsel if appropriate, prior to preparation of a report. The report shall ascertain whether a failure to implement exists, define the exact nature of the failure to implement and recommend a course of action.

B. Meeting to discuss staff report. Upon completion of a report regarding a complaint or review of an annual report, the staff shall send a copy of its report by certified mail to the WMO members of record to set a time and place for a meeting agreeable to all parties to informally discuss the contents of the report if a conflict exists. The complainant and any other aggrieved or affected party shall also be sent a copy of this report by certified mail and shall be invited to attend any meeting held to discuss the report.

C. Official response from WMO. The affected WMO shall be allowed 30 days to hold a public meeting to develop a formal course of action if the joint powers agreement requires such process. Any formal response shall be sent by certified mail to the board as well as any aggrieved or affected party within 15 days of such meeting.

D. Appeal to Dispute Resolution Committee. The affected WMO and any aggrieved or affected party may not appeal to the board's dispute resolution committee established pursuant to Minnesota Statutes Section 103B.101, Subd. 10. to hear and resolve disputes over plan implementation until after the meeting has been held in accordance with Part 8410.0180, Subpart 3, B.

E. Report to Board. Based upon information discovered at the meeting held in

STATE OF MINNESOTA
COUNTY OF RAMSEY

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

In the Matter of the Proposed Rules Governing the Management of Water in the Seven County Metropolitan Area, Minnesota Rules Chapter 8410

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING AND INTENT TO ADOPT RULES WITH A PUBLIC HEARING UPON RECEIVING 25 OR MORE REQUESTS AND INTENT TO CANCEL HEARING IF FEWER THAN 25 PERSONS REQUEST A HEARING.

ALTERNATIVE NOTICE TO ADOPT RULES FOR THE MANAGEMENT OF WATER IN THE SEVEN COUNTY METROPOLITAN AREA.

I. Explanation of Alternative Notices

The Minnesota Board of Water and Soil Resources (Board) hereby proposes to adopt rules without a public hearing under the noncontroversial rulemaking procedure of Minnesota Statutes, §§ 14.22 to 14.28. However, if 25 or more persons request a hearing on the proposed rules, one will be held according to Minnesota Statutes, § 14.25. To expedite the rulemaking process should that occur, the Board is at the same time giving notice of hearing on the proposed rules according to Minnesota Statutes, §§ 14.131 to 14.20. The hearing on the proposed rules will be canceled if 25 or more persons do not request that one be held. With the comment period closing on _____, there will be twenty-five days before the scheduled hearing date. This twenty-five day period will give interested persons time to contact the Board to find out whether the hearing will be canceled.

II. Notice of Intent to Adopt Proposed Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Board proposes to adopt Minnesota Rules, parts 8410.0010 to 8410.0180 without a public hearing unless 25 or more persons submit written requests for a public hearing with respect to the proposed rules. The Board has determined that the proposed rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes §§ 14.22 to 14.28.

Interested persons shall have until 4:30 p.m. _____ to submit comments in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portions of the proposed rules being addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Board and do not result in a substantial change in the proposed language.

Any person may make a written request for a public hearing on the proposed rules within the 30-day comment period. Any person requesting a public hearing must state his or her name, address, and telephone number and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a person desires that a hearing be held on only a portion of the proposed. If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the Board be informed of the specific portion of

the rules on which a hearing is being requested at the time the hearing request is made. This will enable the Board to limit the hearing, if one is held, to the specific issues of concern. A public hearing will be held only if 25 or more persons submit in writing requests for a hearing on the proposed rules or a portion thereof by _____, thus necessitating that one be held with respect to the proposed rules. If a hearing is required, the Board will proceed pursuant to Minnesota Statutes, §§ 14.131 to 14.20 and the hearing notice provided in Section III below.

Comments or written requests for a public hearing must be submitted to:

Bruce Sandstrom
Minnesota Board of Water and Soil Resources
155 South Wabasha Street, Suite 104
St. Paul, Minnesota 55107
(612) 297-4958

The statutory authority of the Board to adopt the proposed rules is contained in Minnesota Statutes, § 103B.101, Subd. 7; § 103B.211, Subd. 1; § 103B.231, Subd. 6, 10 and 14; and § 103B.227, Subd. 3.

A free copy of the proposed rules may be obtained from the Board by writing or telephoning Bruce Sandstrom at the address or telephone number listed above. A summary of the proposed rules are published immediately following this notice.

The proposed rules govern the content of amendments to watershed management plans for 46 Watershed Management Organizations (WMOs) in the seven county metropolitan area. The rules also govern the content of WMO annual financial, audit and activity reports; how WMO members may be removed; the content of WMO joint powers agreements; and standards and criteria for making determinations of whether watershed plans are being implemented.

A STATEMENT OF NEED AND REASONABLENESS (SONAR) that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and may be obtained from the Board by writing or telephoning Bruce Sandstrom at the address or telephone number listed above.

IF NO HEARING IS REQUIRED, the Board will submit to the Attorney General the proposed rules and notice as published, the rules as proposed for adoption, any written comments received by the Board, the statement of need and reasonableness, and a statement explaining any modifications to the proposed rules. The Attorney General will approve or disapprove the rules as to legality and form, including the issue of substantial change and determine whether the Board has the authority to adopt the rules and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General must submit the written request to Bruce Sandstrom at the address listed above. If the proposed rules have been modified, the notice will also state that fact and will state that a free copy of the proposed rules, as modified, will available upon request from the Board.

Local Government Considerations

The Board's evaluation of the impact of the proposed rules on the expenditure of public monies by local public bodies is addressed in the statement of need and reasonableness. There will be a direct cost to some local units of government and this will vary according to such factors as the size of the watershed, the number of communities in each WMO, whether the WMO is a watershed

district and the degree to which a WMO's original plan met the intent of the Metropolitan Waters Management Act.

Agricultural Land

The proposed rules will not have an impact on agricultural land; therefore, no further information need be provided under Minnesota Statutes, § 14.11.

Small Business Considerations

The Board is subject to Minnesota Statutes, § 14.115 regarding small business considerations in rulemaking. The Board's evaluation of the applicability of the methods contained in Minnesota Statutes, § 14.115, Subd. 2, for reducing the impact of the proposed rules on small business is addressed in the statement of need and reasonableness.

III. Notice of Intent to Adopt Rules with a Public Hearing If 25 or More Persons Request a Hearing on the Proposed Rules

> PLEASE NOTE THAT if 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period pursuant to the notice given in Part II above, a hearing will be held on _____, in accordance with the following notice of public hearing.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be held under Minnesota Statutes, § 14.14, Subd. 1, beginning on _____, at _____ at the below location. The hearing will have an evening session beginning at 7:00 p.m. to allow for additional testimony for those not able to attend the day session.

If necessary, the hearing will continue on additional days at times and places determined during the hearing by the Administrative Law Judge.

All interested or affected persons will have an opportunity to participate in the hearing. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Administrative Law Judge _____, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 349-2543.

Written material may be submitted and recorded in the hearing record for five working days after the public hearing ends, or for a longer period not to exceed 20 calendar days if ordered by the administrative law judge at the hearing. Written material received during this shall be available for review at the Office of Administrative Hearings. The Board and interested persons may respond to any new information that is submitted. Response must be made in writing within three business days after the submission period ends. Written material or responses submitted must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the final day. No additional evidence may be submitted during this three-day comment period. This rule hearing procedure is governed by Minnesota Statutes, §§ 14.131 to 14.20 and by Minnesota Rules, parts 1400.0200. Questions about this procedure may be directed to the administrative law judge.

The statutory authority for the Board to adopt the proposed rules is contained in Minnesota Statutes, § 116.07, Subd. 4.

A summary of the proposed rules are published immediately following this notice and a free copy of the rules may be obtained from the Board by writing or telephoning Bruce Sandstrom at the address and telephone number listed above in Part II of this notice.

The proposed rules govern the content of amendments to watershed management plans for 46 Watershed Management Organizations (WMOs) in the seven county metropolitan area. The rules also govern the content of WMO annual financial, audit and activity reports; how WMO members may be removed; the content of WMO joint powers agreements; and standards and criteria for making determinations of whether watershed plans are being implemented.

The proposed rules may be modified as a result of the rule hearing process. Persons who are potentially affected in any manner by the substance of the proposed rules are therefore advised to participate in the process.

Please be advised that Minnesota Statutes, Chapter 10A (1990) requires each lobbyist to register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

NOTICE IS HEREBY GIVEN that a statement of need and reasonableness is now available for review at the Board and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence which the Board anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. copies of the statement of need and reasonableness may be reviewed at the Board. Copies may also be obtained from the Office of Administrative Hearings at the cost of reproduction.

NOTICE: Any person may request notification of the date on which the administrative law judge's report will be available, after which date the Board may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Board at any time prior to the filing of the rules with the secretary of state.

Small Business Considerations

The Board is subject to Minnesota Statutes, § 14.115 regarding small business considerations in rulemaking. The Board's evaluation of the applicability of the methods contained in Minnesota Statutes, § 14.115, Subd. 2, for reducing the impact of the proposed rules on small business is addressed in the statement of need and reasonableness.

IV. Notice of Intent to Cancel Hearing on the Proposed Rules If Fewer than 25 Persons Request a Hearing on the Proposed Rules

> PLEASE NOTE THAT the hearing, notice of which is given in Part III above, will be canceled on the proposed rules if fewer than 25 persons request a hearing on the proposed rules in response to the notice given in Part II above.

To be informed whether a hearing noticed in Part III above will be held, please call or write Bruce Sandstrom at the address or telephone number listed above before _____, and leave your name, address, and telephone number. You will be notified after _____, if the hearing has been canceled. You may also call Bruce Sandstrom at (612) 297-4958 after _____, for oral confirmation regarding the scheduled hearing.

Dated:_____

_____
D. James Nielsen, Chair
Minnesota Board of Water and Soil Resources

CERTIFICATE OF THE
BOARD OF WATER AND SOIL RESOURCES
AUTHORIZING RESOLUTION

I, D. James Nielsen, do hereby certify that I am the Chair of the Minnesota Board of Water and Soil Resources (Board), a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board duly and properly called and held on the 18th day of December 1991, that a quorum was present, and that a majority of those present voted for the below resolution which has not been rescinded or modified.

> "BE IT RESOLVED, that with respect to the promulgation of rules governing the management of water in the Seven County Metropolitan Area, Ronald D. Harnack, the executive Director of the Minnesota Water and Soil Resources Board, is hereby granted the authority and directed to sign and to give Notice of the Board's Intent to Adopt a Rule Without a Public Hearing and to simultaneously give Notice to Adopt Rules With a Public Hearing upon receiving 25 or more requests for hearing and cancel said hearing if fewer than 25 persons request a hearing; to publish said Notices in the State Register; and to perform any and all acts incidental thereto. "

IN WITNESS THEREOF, I have hereunto subscribed my name this 18th day of December 1991.

_____
D. James Nielsen, Chair
MN Board of Water and Soil Resources

Attested By:

_____
Board Member

a:resoluti.on

Minnesota Board of Water & Soil Resources

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

(612) 296-3767
Fax (612) 297-5615

Regional Offices

Northwest Region
1106 Paul Bunyan Drive, NE
Bemidji, MN 56601
218-755-3963

Northeast Region
394 South Lake Avenue
Room 403
Duluth, MN 55802
218-723-4752

West Central Region
503 Washington Street
Brainerd, MN 56401
218-828-2604

South Central Region
Box 756
New Ulm, MN 56073
507-359-6074

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

Southwest Region
Box 267
1400 E. Lyon Street
Marshall, MN 56258
507-537-6060

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

November 27, 1991

To: Members of the Board of Water and Soil Resources

From: Diane Jensen, Citizen Member
DJ by BJ

Subject: Nine Mile Creek Watershed District Watershed Management Plan Recommendation

At the October 23, 1991 Board meeting the Nine Mile Creek Watershed District (the "District") requested that the Board approve the watershed management plan the District prepared pursuant to the Metropolitan Surface Water Management Act. District Managers Aileen Kulak, Helen McClelland and LuAnn Tolliver presented the reasons the Board of Managers believed the plan should be approved. Staff from the BWSR, the MDNR, the MPCA and the Met Council summarized their primary concerns with the plan as written.

After discussion, a motion was passed to refer the issue to a subcommittee of the Board chaired by myself. Other members of the subcommittee were Loren Harste, Donald Ogaard and Howard Peterson. The subcommittee was charged with reviewing the plan and bringing a recommendation back to the Board.

The full subcommittee met on November 5, 1991 with BWSR staff members Bruce Sandstrom and Mel Sinn to review the plan, associated correspondence, plan review guidelines and policies and applicable law. As a result of this deliberation, the subcommittee agreed to the following recommendations:

1. That the Board not approve the plan in its present form.

2. That the District take one of two courses of action. Either:

   a. continue to work on revising the plan, with particular emphasis towards addressing the four major issue areas outlined by BWSR staff at the October Board meeting, or

   b. discontinue the efforts to get the current plan approved and start work on a new plan when the metro water management rules are adopted.

An Equal Opportunity Employer

The subcommittee shares the financial concerns expressed by the District. However, we felt that approving the plan as written has the potential to create greater problems for the District than those posed by the prospect of revising the plan or starting work on a "second generation" plan. The primary problems we envision are confusion about local plan content requirements and the regulatory roles of the District and affected cities.

Beginning work on a "second generation" plan would seem to be the most cost effective approach. This would also allow the District to solicit requests for proposals for the effort, thus allowing for better control over expenses while meeting the planning requirements in the law. If the District pursues this option, they should notify the selected vender that the Board's complete file on this matter is available for reference.

cc Nine Mile Creek Watershed District
Ron Harnack
Bruce Sandstrom
Mel Sinn

a:subcomm.rep

PERMIT SIMPLIFICATION

I. INTRODUCTION

- A) REASON FOR CURRENT REVIEW
  - i) MANDATE IN WETLANDS CONSERVATION ACT OF 1991
  - ii) CURRENT SITUATION IS CONFUSING
  - iii) FEDERAL, STATE AND LOCAL AGENCIES
    - i) MULTIPLE JURISDICTION, MANY "PLAYERS"
- B) PURPOSES OF STUDY
  - i) EXAMINE CURRENT REGULATORY PROGRAMS
  - ii) EXPLORE OPTIONS OF COMBINED PROCESSES
  - iii) RECOMMEND ALTERNATIVES FOR SIMPLIFICATION

II. CURRENT PROGRAMS - AREAS OF JURISDICTION

- i) USCOE
- ii) DNR - DOW
- iii) BWSR/LUG

III. DIFFERENCES

- A) LOCAL/STATE/FEDERAL DIFFERENCES
- B) SECTION 404
- C) STATE/FEDERAL DIFFERENCES

IV. OPTIONS

- A) LEGISLATIVE ACTION
- B) COMBINED NOTIFICATION FORM
  - i) "CLEARING-HOUSE" AGENCY
- C) COMBINED INFORMATIONAL BROCHURES

PERMIT SIMPLIFICATION

V. CONCLUSIONS AND RECOMMENDATIONS

A) DEGREE OF COMPLEXITY IS INEVITABLE

B) PRE-APPROVAL TAKEN AS FAR AS IS POSSIBLE

C) 404 ASSUMPTION ONLY ADDS TO COMPLEXITY

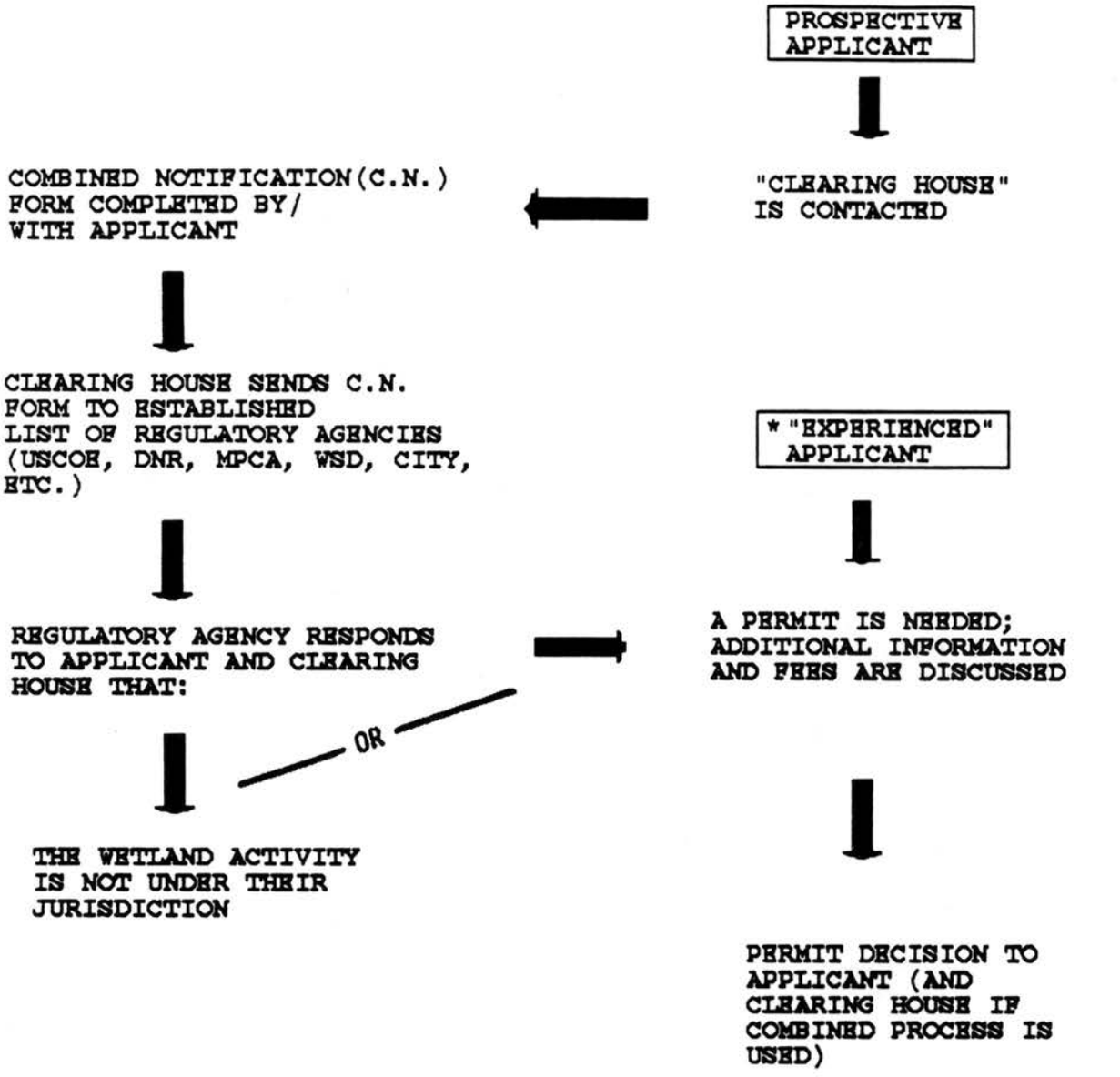
D) INFORMATION PACKET

i) COMBINED NOTIFICATION FORM

ii) COMBINED INFORMATIONAL BROCHURE

E) EXPANDED MOA'S

COMBINED NOTIFICATION PROCESS FLOWCHART



*NOTE: "Experienced" applicants would have the option of bypassing the combined notification process and submitting applications directly to regulatory agencies.

NOTE: This is a general process flowchart. The actual process may differ.

December 18, 1991

Written Comments to the Interim Guidelines:

Arthur Hawkins

City of Eden Prairie

Stevens Soil and Water Conservation District

Mille Lacs County Highway Department

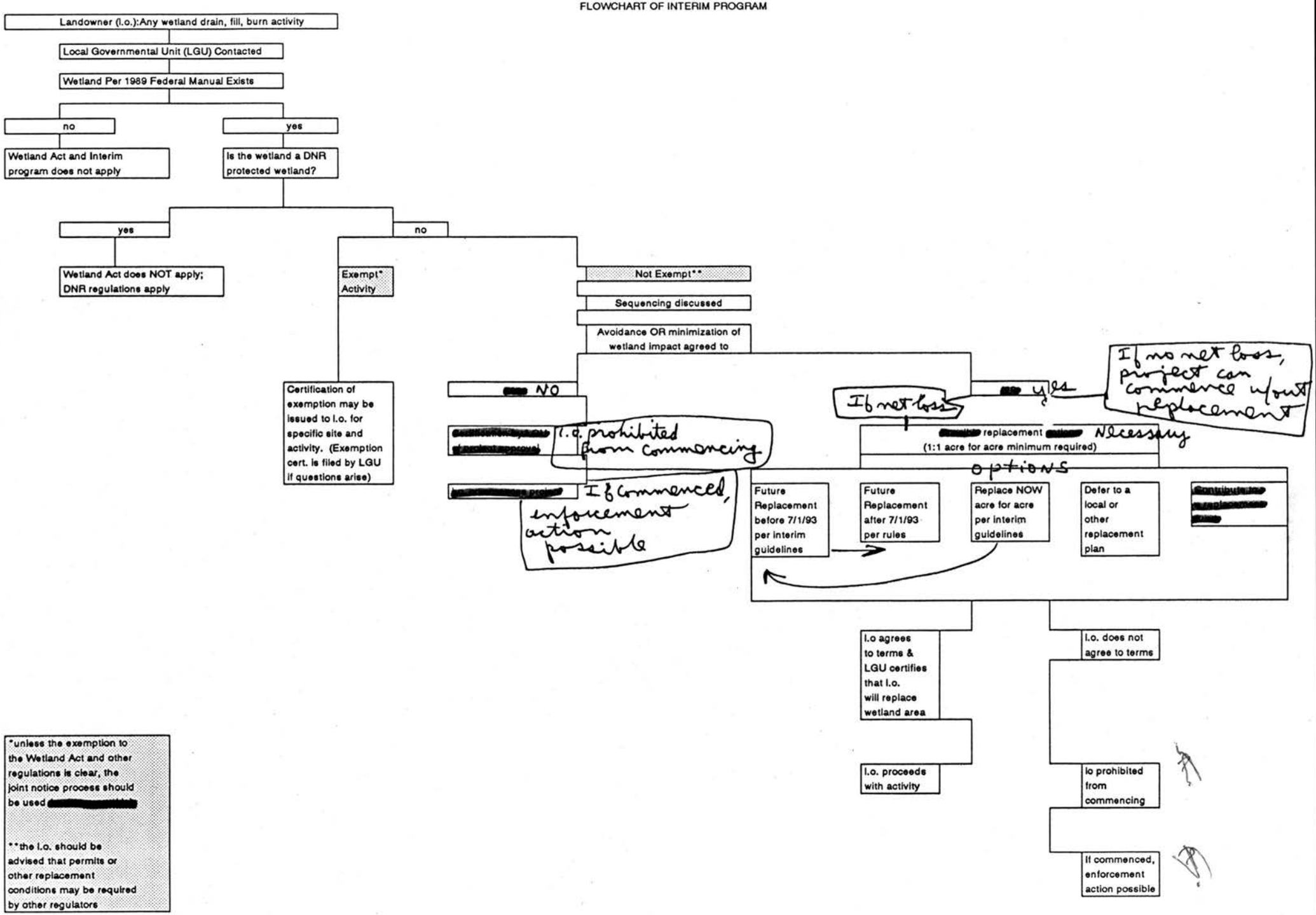
National Audobon Society/ Minnesota Audobon Council

Minnesota Conservation Federation

Robert Mostad

def of ag land

FLOWCHART OF INTERIM PROGRAM



PROJECT NOTIFICATION FORM

You should use this form to notify the Minnesota Department of Natural Resources, the Board of Soil and Water Resources, the Minnesota Pollution Control Agency, the Army Corps of Engineers, Soil and Water Conservation District, Watershed District and your county and municipal offices of a project or work you propose which may fall under their jurisdiction. Agencies that receive this form will advise you of their jurisdiction over your proposal. Fill out this form completely and mail or deliver a copy to the "Clearing House Agency" office for the county in which you live (see reverse). You must obtain all required authorizations before beginning work. Violations of local, State or Federal laws may be punishable by civil, administrative and/or criminal penalties. AGRICULTURAL LANDOWNERS - Before beginning any activity affecting drainage on your land, contact your local USDA-Soil Conservation Service office.

1. Name (Last, First, M.I.) / Agent / Area Code, Telephone

2. Address (Street, RFD, Box #, City, State, Zip Code)

LOCATION OF PROPOSED PROJECT (ATTACH MAP WITH SITE LOCATION)

3. Government Lot(s) Quarter Section, Section, Township, Range

4. Project Address:

5. Project will affect: __Lake __Wetland __Watercourse
   Name of Resource Affected:

6. TYPE OF WORK (CHECK ALL THAT APPLY) __CONSTRUCT __REMOVE __DRAIN __DAM __FILL __EXCAVATE __REPAIR __SHORELINE __WETLAND __WATERWAY __DOCK __LAKE __CULVERT __RIPRAP __OUTFALL __INTAKE __SAND BLANKET __BRIDGE __LAKE __REPLACE __DREDGE __MARINA __OTHER(DESCRIBE):_____

7. Project Purpose:

8. Project Start Date: Completed:

9. I hereby notify the recipients of this form of the project proposed, and request that I be advised of any permits or other determinations concerning this project that I must obtain. I understand that proceeding with work before all required authorizations are obtained may subject me to Federal, State and/or local penalties.

_____ DATE:_____
Signature of Person Proposing Project

_____ DATE:_____
Signature of Agent (if applicable)

CLEARING HOUSE AGENCY ADDRESSES AND PHONE NUMBERS

* This page of the combined notification form will contain a listing of Clearing House Agency addresses and phone numbers for individuals to contact about questions regarding the wetland regulatory process.

December 17, 1991

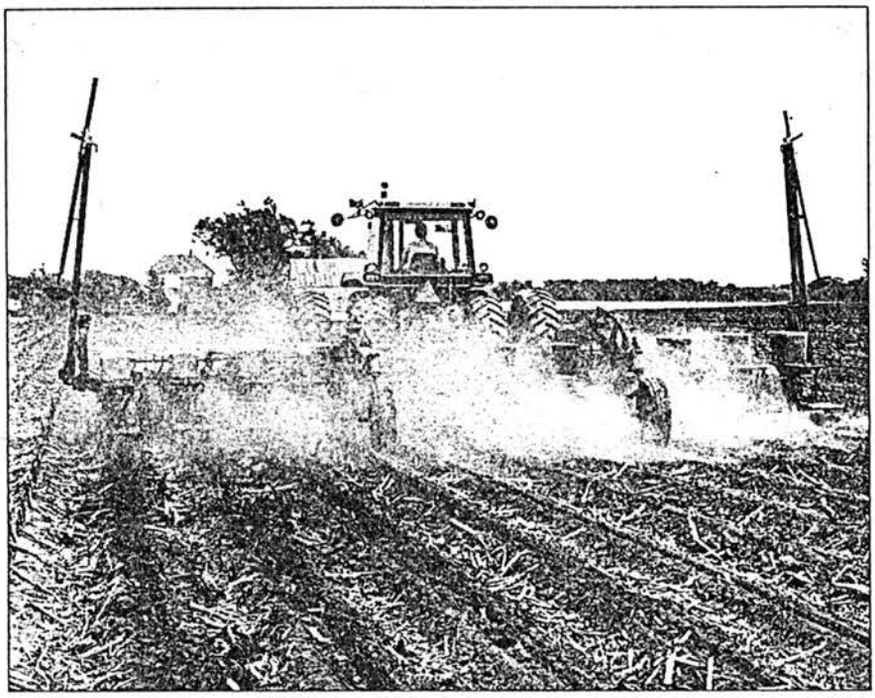
Acknowledgements from LGU's accepting responsibility for the Interim Program

Vadnais Lake WMO
Minnehaha Creek Watershed District
Nine Mile Creek Watershed District
City of Fridley
City of Coon Rapids
City of Forest Lake
Riley Purgatory-Bluff Creek Watershed District
Lake County
City of Burnsville
City of Maple Grove
Town of May, Washington County
Lac Qui Parle-Yellow Bank Watershed District for Lac Qui Parle County
Bassett Creek WMO*
City of Minnetonka
West Mississippi WMO*
Shingle Creek WMO*
City of Virginia

* Stipulates that responsibility will be relinquished to a member city if the city accepts responsiblity

LGU's formally declining the program:
Pine County
Kanabec County

why? 1) not accepting state mandates without funding.
2) not until 1989 legislation debate is resolved.



Farming practices and residue levels will come under closer SCS scrutiny as the agency checks farmers' compliance with conservation plans.

SCS Laying Down the Law on Erosion

Failure to meet soil conservation targets could trigger payment cuts.

Farmers with highly erodible land may be in for a rude awakening. Soon.

In an abrupt change from the fairly flexible approach to conservation compliance that has ruled to date, the Soil Conservation Service (SCS) is getting ready to lay down the law.

Specifically, the agency is prepared to reduce your farm program payments by $500 to $5,000, starting next year, if you fail to meet your conservation plan's requirements on schedule.

BY JIM HOUTSMA

Farmers have only a brief time to change their plans before the SCS's more aggressive stance on conservation compliance takes effect. In the Dakotas, farmers have until Dec. 31 to revise conservation plans; in Minnesota, it must be done before program sign-up next spring.

After these deadlines, plan revisions will be allowed only in highly exceptional circumstances, SCS officials say.

How many farmers are likely to be found out of compliance after these deadlines?

Estimates vary all over the map.

In Minnesota and the Dakotas, 65,000 conservation plans were written for some 13.5 million acres of highly erodible land by 1989.

Spot checks of 5% of those plans this year showed that fewer than 20 of the farmers were not actively applying 75% of the practices specified in their plans, as the law requires for 1991. (By next year, 85% of the practices must be implemented, with 100% compliance demanded by the end of 1993.)

However, an environmental group that closely monitors conservation compliance finds the SCS estimates hard to swallow.

"It's flat out unbelievable in Minnesota and the Dakotas, with so many plans and so many acres" that so few farmers are out of compliance, says Ken Cook, vice president of policy at the Center for the Study of Resource Economics, Washington, DC.

Meantime, ASCS chief Keith Bjerke estimates that 98% of the farms being checked will be found in compliance with their conservation plans. But with a million farmers in the nation, that means as many as 20,000 will be found to be out of compliance.

A completely different estimate comes from a preliminary report last spring from the Soil and Water Conservation Society (SWCS), Ankeny, IA. Its survey suggests that a *majority* of farmers may be out of compliance.

At surveyed sites in the Corn Belt, Great Plains and the Pacific Northwest, only 41% of farmers were in strict compliance with their plans after planting, SWCS says.

"The truth probably lies somewhere in between" SCS estimates and the preliminary study, says SWCS executive vice president Tony Vrana.

Whichever estimate is right, the days of flexible plan adjustment at the local SCS office appear to be about to end.

This coming year, "there has to be a sincere (good faith) effort to get on schedule and stay on schedule to reduce erosion," explains North Dakota State Conservationist Ron Clark. "Otherwise, there will be a determination that the farmer isn't actively applying his plan, and that information will be supplied to the Agricultural Stabilization and Conservation Service with ensuing repercussions."

According to Bjerke, ASCS will then begin withholding or taking back 1991 government payments. This includes any disaster aid or federal crop payments.

Besides triggering a payment reduction, an SCS determination of failure to actively apply conservation plans in 1991 will put farmers on a list to be rechecked next year.

For extra leverage, state SCS officials also recently enlisted the help of a group with a high stake in ensuring that farmers stay eligible for farm program payments – bankers. □

F492 - F493
BOARD OF WATER & SOIL RESOURCES
GENERAL FUNDS

	Appropriation Name + Number	F492 BUDGET	F492 OBLIGATED (as of 12/17/91)	F492 BALANCE	F493 BUDGET	F493 OBLIGATED (as of 12/17/91)	F493 BALANCE
1	BOARD OF WATER & SOIL RES-ADMIN	$1,873,000	$1,873,000	$ Ø	$1,917,000	$ Ø	$1,917,000
2	19040:00-10						
3	FLOOD PLAIN MGMT	189,000	61,200	127,800	189,000	Ø	189,000
4	19040:01-10						
5	COST SHARE - EROS & WATER WORK	1,461,000	1,461,000	Ø	1,461,000	Ø	1,461,000
6	19040:02-10						
7	Int'l Water Coalition	10,000	10,000	Ø	10,000	Ø	10,000
8	19040:03-10						
9	GEN. PURPOSE GRANTS	849,000	835,000	14,000	849,000	Ø	849,000
10	19040:04-10						
11	SEDIMENT & EROS CNTRL	159,000	157,200	1,800	159,000	Ø	159,000
12	19040:06-10						
13	CONSERVATION RESERVE	900,000	900,000	Ø	900,000	Ø	900,000
14	19040:10-10						
15	LOCAL WATER RES. PROTECTION	2435,000	Ø	2,435,000	2,535,000	Ø	2,535,000
16	19040:13-10						
17	ABANDONED WELL INVENTORY	200,000 (1)	Ø	200,000	Ø	Ø	Ø
18	19040:15-10						
19	TOTALS	$8,076,000	$5,297,400	$2778,600	$8,020,000	$ Ø	$8,020,000
20							
21	WETLANDS ADMIN	$ 297,500 (2)	$297,500	$ Ø	425,000 (2)	Ø	425,000
22	19040:30-10						
23	MASWCD TRNG GRANT	100,000 (2)	100,000	Ø	100,000 (2)	Ø	100,000
24	19040:31-10						
25	WETLAND RESTORATION ESMNTS	1,100,000 (2)	Ø	1,100,000	Ø	Ø	Ø
26	19040:32-10						
27	TOTALS	$1,497,500	$397,500	$1,100,000	$525,000	$ Ø	$525,000
28	TOTAL AGENCY GENERAL FUND	$9,573,500	$5694,900	$3878,600	$8545,000	$ Ø	$8,545,000

(1) These funds are appropriated for the biennium and are available either year

(2) These funds are appropriated for the biennium and are available either year

prepared by: Tom Schwanke
Date: 12-17-91

Minnesota Board of Water & Soil Resources

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

(612) 296-3767
Fax (612) 297-5615

MEMORANDUM

Date: December 17, 1991

To: Board

From: Eric Mohring (612) 297-7360

Subject: Abandoned well grant programs
Applications received

Well sealing cost-share grants ($750K available):

Well Criteria option: 11 applications totaling $176K.
County Criteria option: 24 applications totaling $504K.
Total: $680K.

If all of these applications are funded, this still leaves ± $70K for well criteria applications over the course of the year.

Abandoned Well Inventory Grants ($200K available):

22 Applications totalling $322K.

In this case there is substantial competition for the available funds.

The applications are currently being reviewed by an inter-agency advisory group:

Bruce Bloomgren	MN Geological Survey
Kim Benson-Johnson	MN Department of Health
Bruce Olson	MN Department of Health
Eric Porcher	MPCA
Brian Rongitsch	DNR
Doug Thomas	BWSR
Bill Best	BWSR
Chuck Niska	BWSR
Chris Hughes	BWSR

The funding recommendations from this group will be presented at the January BWSR meeting. Please feel free to call me with any questions.

Regional Offices

Northwest Region
1106 Paul Bunyan Drive, NE
Bemidji, MN 56601
218-755-3963

Northeast Region
394 South Lake Avenue
Room 403
Duluth, MN 55802
218-723-4752

West Central Region
503 Washington Street
Brainerd, MN 56401
218-828-2604

South Central Region
Box 756
New Ulm, MN 56073
507-359-6074

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

Southwest Region
Box 267
1400 E. Lyon Street
Marshall, MN 56258
507-537-6060

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

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WELL SEALING COST-SHARE GRANT PROGRAM
COUNTY CRITERIA OPTION
APPLICATIONS RECEIVED BY DECEMBER 1991

COUNTY	FUNDING REQUESTED	PARTIAL FUNDING OK?	MINIMUM $ ACCEPTABLE
Brown	$10,000	Y	
Blue Earth	$25,000	Y	
Dakota	$35,000	Y	$20,000
Dodge	$35,000	Y	$20,000
Fillmore	$8,000	Y	
Freeborn	$8,000	N	
Goodhue	$35,000	Y	
Hennepin	$30,000	Y	
Houston	$22,000	Y	
Jackson	$20,000	Y	
Lincoln	$30,000	Y	
Marshall	$13,500	Y	
Mower	$25,000	?	
McLeod	$10,000	Y	
Nobles	$27,000	Y	$15,000
Pipestone	$11,250	N	
Polk	$20,000	Y	
Red Lake	$12,500	Y	
Sherburne	$7,500		
Stearns	$20,000	Y	$10,000
Stephens	$10,000	Y	
Wabasha	$34,000	Y	
Washington	$25,000	Y	
Yellow Medicine	$30,000	Y	
TOTAL	$503,750		
AVERAGE	$20,990		

WELL SEALING COST-SHARE GRANT PROGRAM
WELL CRITERIA OPTION
APPLICATIONS RECEIVED BY DECEMBER 1991

COUNTY	FUNDING REQUESTED	PARTIAL FUNDING OK?	MINIMUM $ ACCEPTABLE
Benton	$16,200	Y	$11,100
Big Stone	$10,200	Y	
Brown	$6,855	Y	
Dakota	$40,000	Y	$35,000
Douglas	$7,000	Y	
Faribault	$27,506	Y	
Marshall	$19,511		
Martin	$16,285	Y	
Mille Lacs	$2,750	Y	
Pennington	$6,149	Y	$2,500
Watonwan	$23,500	Y	
TOTAL	$175,956		
AVERAGE	$15,996		

TOTAL $ AVAILABLE: $750,000
TOTAL $ REQUESTED: $679,700

ABANDONED WELL INVENTORY GRANT PROGRAM

APPLICATIONS RECEIVED BY DECEMBER 1991

COUNTY	FUNDING REQUESTED	PARTIAL FUNDING OK?	MINIMUM $ ACCEPTABLE
Beltrami	$19,000	Y	
Benton	$10,000	N	
Carleton	$6,600	Y	$4,200
Chippewa	$10,000	Y	$10,000
Clearwater	$4,000	Y	$3,500
Cottonwood	$12,975	Y	
Dakota	$25,000	Y	$20,000
Fillmore	$9,200	Y	$5,000
Hennepin	$35,000	Y	
Houston	$10,335	Y	
Hubbard	$7,000	Y	
Jackson	$23,380	Y	$12,500
Kanabec	$7,500	Y	$5,000
Mille Lacs	$6,500	Y	
Nicollet	$7,000	N	
Olmsted	$13,120	Y	$8,000
Ramsey	$8,500	Y	$7,000
Sibley	$6,200	Y	$4,000
Stearns	$20,000	Y	$10,000
Swift	$11,000	?	
Wabasha	$20,000	Y	
Washington	$25,000	Y	
Winona	$25,000	N	
TOTAL	$322,310		
AVERAGE	$14,013		

TOTAL $ AVAILABLE: $200,000

city of bloomington, minnesota (612) 881-5811 • FAX 887-9684
2215 West Old Shakopee Road • Bloomington, Minnesota 55431-3096

December 16, 1991

Bruce Sandstrom
Minn. Board of Water & Soil Resources
Southbridge Office Bldg.
155 South Wabasha St., Suite 104
St. Paul, MN 55107

Re: Proposed 509 Rules

Dear Mr. Sandstrom:

It is my understanding that the Board will very shortly be considering the proposed 509 Rules that were required to be prepared by the State Legislature. As a member of the Advisory Committee that met for numerous occasions, both as an overall committee and as subcommittees, I would like to recommend the approval of these rules. As you are aware, extensive input was received from a wide variety of interests and perspectives in shaping this final document. I am very happy to report that from my perspective both your staff and the consultant which you hired did a very good job of listening to that input and working to produce a document which is now generally accepted.

Naturally in the preparation of something as comprehensive and potentially controversial as this, there are items which have raised concerns by various parties. The final document, however, is a good overall concensus of the viewpoints and will be able to meet the objectives of the need for these rules.

I am sorry that I will not be able to attend your Board meeting due to prior commitments but I thank you for the opportunity I have had to participate, and as stated previously, recommend approval of these rules.

Sincerely,

Charles V. Honchell

Charles V. Honchell
Director of Public Works

CVH/mlw

DETERMINATION OF MAXIMUM PAYABLE 1992
COUNTY SPECIAL LEVIES UNDER CLAUSE U
FOR COMPREHENSIVE LOCAL WATER IMPLEMENTATION ACTIVITIES
BASED ON A WATER IMPLEMENTATION LOCAL TAX RATE OF 0.045%

* Counties eligible based on approved & locally adopted plans

*** Counties eligible based on 12/18/91 BWSR Plan approval

COUNTY	(1) PAYABLE 1991 EQUALIZED TAXABLE NET TAX CAPACITY	(2) MAXIMUM PAYABLE 1992 CLAUSE U SPECIAL LEVY	(3) BWSR BASE GRANT ($37,500-LEVY)
AITKIN*	$ 9,606,618	$ 4,323	$ 33,177
ANOKA	164,489,089	74,020	0
BECKER*	13,489,049	6,070	31,430
BELTRAMI*	13,275,937	5,974	31,526
BENTON***	15,008,854	6,754	30,746
BIG STONE***	2,781,295	1,252	36,248
BLUE EARTH*	30,537,253	13,742	23,758
BROWN*	13,726,616	6,177	31,323
CARLTON*	14,579,652	6,561	30,939
CARVER*	37,212,225	16,746	20,754
CASS*	19,755,628	8,890	28,610
CHIPPEWA***	6,960,316	3,132	34,368
CHISAGO	15,390,550	6,926	30,574
CLAY*	20,177,547	9,080	28,420
CLEARWATER*	3,771,937	1,697	35,803
COOK	5,297,931	2,384	35,116
COTTONWOOD***	10,092,807	4,542	32,958
CROW WING*	36,306,416	16,338	21,162
DAKOTA	251,065,305	112,939	0
DODGE*	7,542,961	3,394	34,106
DOUGLAS*	16,586,160	7,464	30,036

COUNTY	(1) PAYABLE 1991 EQUALIZED TAXABLE NET TAX CAPACITY	(2) MAXIMUM PAYABLE 1992 CLAUSE U SPECIAL LEVY	(3) BWSR BASE GRANT ($37,500-LEVY)
FARIBAULT*	12,622,459	5,680	31,820
FILLMORE*	8,384,700	3,773	33,727
FREEBORN*	17,921,281	8,065	29,435
GOODHUE*	41,596,408	18,718	18,782
GRANT*	3,979,827	1,791	35,709
HENNEPIN	1,135,460,886	510,957	0
HOUSTON*	6,297,015	2,834	34,666
HUBBARD*	11,599,155	5,220	32,280
ISANTI	10,379,056	4,671	32,829
ITASCA*	33,518,072	15,083	22,417
JACKSON*	10,683,113	4,807	32,693
KANABEC	4,996,073	2,248	35,252
KANDIYOHI***	20,252,479	9,114	28,386
KITTSON*	6,359,134	2,862	34,638
KOOCHICHING	7,290,878	3,281	34,219
LAC QUI PARLE***	5,035,413	2,266	35,234
LAKE	5,328,806	2,398	35,102
LAKE OF THE WOODS	1,960,617	882	36,618
LE SUEUR*	11,608,152	5,224	32,276
LINCOLN*	3,961,292	1,783	35,717
LYON*	14,040,426	6,318	31,182
MC LEOD***	13,865,618	6,240	31,260
MAHNOMEN*	2,007,140	903	36,597
MARSHALL*	7,902,821	3,556	33,944
MARTIN*	18,739,736	8,433	29,067
MEEKER*	9,536,144	4,291	33,209
MILLE LACS	7,722,527	3,475	34,025
MORRISON*	12,140,088	5,463	32,037

COUNTY	(1) PAYABLE 1991 EQUALIZED TAXABLE NET TAX CAPACITY	(2) MAXIMUM PAYABLE 1992 CLAUSE U SPECIAL LEVY	(3) BWSR BASE GRANT ($37,500-LEVY)
MOWER*	16,963,257	7,633	29,867
MURRAY*	7,459,785	3,357	34,143
NICOLLET*	12,610,058	5,675	31,825
NOBLES*	12,805,031	5,762	31,738
NORMAN*	6,123,302	2,755	34,745
OLMSTED*	67,889,621	30,550	6,950
OTTER TAIL*	25,753,148	11,589	25,911
PENNINGTON*	4,387,126	1,974	35,526
PINE	10,428,584	4,693	32,807
PIPESTONE*	4,891,578	2,201	35,299
POLK*	20,072,500	9,033	28,467
POPE***	5,341,179	2,404	35,096
RAMSEY	419,058,269	188,576	0
RED LAKE*	1,951,395	878	36,622
REDWOOD*	11,675,886	5,254	32,246
RENVILLE***	14,333,141	6,450	31,050
RICE*	23,421,631	10,540	26,960
ROCK*	6,525,024	2,936	34,564
ROSEAU*	7,040,720	3,168	34,332
ST. LOUIS	75,068,418	33,781	3,719
SCOTT*	46,218,639	20,798	16,702
SHERBURNE	56,553,141	25,449	12,051
SIBLEY*	7,433,987	3,345	34,155
STEARNS*	56,339,824	25,353	12,147
STEELE*	15,579,748	7,011	30,489
STEVENS*	4,712,532	2,121	35,379
SWIFT*	5,291,366	2,381	35,119
TODD***	6,947,744	3,126	34,374

COUNTY	(1) PAYABLE 1991 EQUALIZED TAXABLE NET TAX CAPACITY	(2) MAXIMUM PAYABLE 1992 CLAUSE U SPECIAL LEVY	(3) BWSR BASE GRANT ($37,500-LEVY)
TRAVERSE*	3,714,522	1,672	35,828
WABASHA*	8,893,600	4,002	33,498
WADENA	4,041,436	1,819	35,681
WASECA*	10,466,059	4,710	32,790
WASHINGTON	125,841,012	56,628	0
WATONWAN*	7,177,646	3,230	34,270
WILKIN*	5,883,328	2,647	34,853
WINONA*	18,690,477	8,411	29,089
WRIGHT	48,914,495	22,012	15,488
YELLOW MEDICINE*	6,231,614	2,804	34,696
STATE TOTAL	$ 3,345,574,777	$ 1,505,509	$ 2,512,651

LOCAL WATER RESOURCES PROTECTION AND MANAGEMENT PROGRAM

FUNDING-USE SUMMARY

Total funds available through the Local Water Planning Program: $2,435,000

PLANNING GRANTS

Planning Grants to Cook and Wadena Counties totalling $30,600

IMPLEMENTATION GRANTS

59 Currently Approved Water Plans, BWSR grant amount totalling $1,819,757
10 Plans up for approval on 12-18-91, grant requests totalling $329,720

Given all eligible counties participate, the request total is $2,180,077

Total remaining program funds $254,923

FY92-FY93
BOARD OF WATER AND SOIL RESOURCES
GENERAL FUNDS

Appropriation Name & Number	FY92 Budget	FY92 Obligated	FY92 Balance	FY93 Budget	FY93 Obligated	FY93 Balance
Board of Water & Soil Resources	$1,873,000	$1,873,000	-0-	$1,917,000	-0-	$1,917,000
Flood Plain Mgmt. rollover	$ 189,000	$ 61,200	$ 127,800	$ 189,000	-0-	$ 189,000
Cost-Share-Erosion and Water Work	$1,461,000	$1,461,000	-0-	$1,461,000	-0-	$1,461,000
Int'l Water Coalition	$ 10,000	$ 10,000	-0-	$ 10,000	-0-	$ 10,000
General Purpose Grants	$ 849,000	$ 835,000	$ 14,000	$ 849,000	-0-	$ 849,000
Sediment & Erosion Control rollover	$ 159,000	$ 157,200	$ 1,800	$ 159,000	-0-	$ 159,000
Conservation Reserve	$ 900,000	$ 900,000	-0-	$ 900,000	-0-	$ 900,000
Local Water Resource Protection rollover	$2,435,000	$2,100,000	$ ~~335,000~~ 245,000	$2,535,000	-0-	$2,535,000
Abandoned Well Inventory	$ 200,000	-0-	$ 200,000	-0-	-0-	-0-
Wetlands Administration rollover	$ 297,500	$ 47,500	$ 250,000	$ 425,000	-0-	$ 425,000
MASWCD Trng. Grant	$ 100,000	$ 100,000	-0-	$ 100,000	-0-	$ 100,000
Wetland Restoration Easments	$1,100,000	-0-	$1,100,000	-0-	-0-	-0-

chg

no

pass

no

no

no

no

pass

no

yes ↓ sugg.

↙ $ ~~960,000~~ out

DETERMINATION OF MAXIMUM PAYABLE 1992
COUNTY SPECIAL LEVIES UNDER CLAUSE U
FOR COMPREHENSIVE LOCAL WATER IMPLEMENTATION ACTIVITIES
BASED ON A WATER IMPLEMENTATION LOCAL TAX RATE OF 0.045%

COUNTY	(1) PAYABLE 1991 EQUALIZED TAXABLE NET TAX CAPACITY	(2) MAXIMUM PAYABLE 1992 CLAUSE U SPECIAL LEVY	(3) BWSR BASE GRANT ($37,500-LEVY)
AITKIN	$ 9,606,618	$ 4,323	$ 33,177
ANOKA	164,489,089	74,020	0
BECKER	13,489,049	6,070	31,430
BELTRAMI	13,275,937	5,974	31,526
BENTON	15,008,854	6,754	30,746
BIG STONE	2,781,295	1,252	36,248
BLUE EARTH	30,537,253	13,742	23,758
BROWN	13,726,616	6,177	31,323
CARLTON	14,579,652	6,561	30,939
CARVER	37,212,225	16,746	20,754
CASS	19,755,628	8,890	28,610
CHIPPEWA	6,960,316	3,132	34,368
CHISAGO	15,390,550	6,926	30,574
CLAY	20,177,547	9,080	28,420
CLEARWATER	3,771,937	1,697	35,803
COOK	5,297,931	2,384	35,116
COTTONWOOD	10,092,807	4,542	32,958
CROW WING	36,306,416	16,338	21,162
DAKOTA	251,065,305	112,939	0
DODGE	7,542,961	3,394	34,106
DOUGLAS	16,586,160	7,464	30,036
FARIBAULT	12,622,459	5,680	31,820
FILLMORE	8,384,700	3,773	33,727
FREEBORN	17,921,281	8,065	29,435
GOODHUE	41,596,408	18,718	18,782
GRANT	3,979,827	1,791	35,709

COUNTY	(1) PAYABLE 1991 EQUALIZED TAXABLE NET TAX CAPACITY	(2) MAXIMUM PAYABLE 1992 CLAUSE U SPECIAL LEVY	(3) BWSR BASE GRANT ($37,500-LEVY)
HENNEPIN	1,135,460,886	510,957	0
HOUSTON	6,297,015	2,834	34,666
HUBBARD	11,599,155	5,220	32,280
ISANTI	10,379,056	4,671	32,829
ITASCA	33,518,072	15,083	22,417
JACKSON	10,683,113	4,807	32,693
KANABEC	4,996,073	2,248	35,252
KANDIYOHI	20,252,479	9,114	28,386
KITTSON	6,359,134	2,862	34,638
KOOCHICHING	7,290,878	3,281	34,219
LAC QUI PARLE	5,035,413	2,266	35,234
LAKE	5,328,806	2,398	35,102
LAKE OF THE WOODS	1,960,617	882	36,618
LE SUEUR	11,608,152	5,224	32,276
LINCOLN	3,961,292	1,783	35,717
LYON	14,040,426	6,318	31,182
MC LEOD	13,865,618	6,240	31,260
MAHNOMEN	2,007,140	903	36,597
MARSHALL	7,902,821	3,556	33,944
MARTIN	18,739,736	8,433	29,067
MEEKER	9,536,144	4,291	33,209
MILLE LACS	7,722,527	3,475	34,025
MORRISON	12,140,088	5,463	32,037
MOWER	16,963,257	7,633	29,867
MURRAY	7,459,785	3,357	34,143
NICOLLET	12,610,058	5,675	31,825
NOBLES	12,805,031	5,762	31,738
NORMAN	6,123,302	2,755	34,745
OLMSTED	67,889,621	30,550	6,950
OTTER TAIL	25,753,148	11,589	25,911

COUNTY	(1) PAYABLE 1991 EQUALIZED TAXABLE NET TAX CAPACITY	(2) MAXIMUM PAYABLE 1992 CLAUSE U SPECIAL LEVY	(3) BWSR BASE GRANT ($37,500-LEVY)
PENNINGTON	4,387,126	1,974	35,526
PINE	10,428,584	4,693	32,807
PIPESTONE	4,891,578	2,201	35,299
POLK	20,072,500	9,033	28,467
POPE	5,341,179	2,404	35,096
RAMSEY	419,058,269	188,576	0
RED LAKE	1,951,395	878	36,622
REDWOOD	11,675,886	5,254	32,246
RENVILLE	14,333,141	6,450	31,050
RICE	23,421,631	10,540	26,960
ROCK	6,525,024	2,936	34,564
ROSEAU	7,040,720	3,168	34,332
ST. LOUIS	75,068,418	33,781	3,719
SCOTT	46,218,639	20,798	16,702
SHERBURNE	56,553,141	25,449	12,051
SIBLEY	7,433,987	3,345	34,155
STEARNS	56,339,824	25,353	12,147
STEELE	15,579,748	7,011	30,489
STEVENS	4,712,532	2,121	35,379
SWIFT	5,291,366	2,381	35,119
TODD	6,947,744	3,126	34,374
TRAVERSE	3,714,522	1,672	35,828
WABASHA	8,893,600	4,002	33,498
WADENA	4,041,436	1,819	35,681
WASECA	10,466,059	4,710	32,790
WASHINGTON	125,841,012	56,628	0
WATONWAN	7,177,646	3,230	34,270
WILKIN	5,883,328	2,647	34,853
WINONA	18,690,477	8,411	29,089
WRIGHT	48,914,495	22,012	15,488

COUNTY	(1) PAYABLE 1991 EQUALIZED TAXABLE NET TAX CAPACITY	(2) MAXIMUM PAYABLE 1992 CLAUSE U SPECIAL LEVY	(3) BWSR BASE GRANT ($37,500-LEVY)
YELLOW MEDICINE	6,231,614	2,804	34,696
STATE TOTAL	$ 3,345,574,777	$ 1,505,509	$ 2,512,651