



Minnesota Board of Water and Soil Resources.
Minutes.

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3/23/94

**BOARD OF WATER AND SOIL RESOURCES
CROWN STERLING SUITES - LEXINGTON/SUMMIT ROOM
175 E. 10TH STREET
ST. PAUL, MINNESOTA 55101
MARCH 23, 1994**

APPOINTED MEMBERS PRESENT: Jim Nielsen, Jim Rossman, Howard Peterson, Glenn Annexstad, Barb Cobb, Ted Lovdahl, Tim Hvidsten, and Dwain Otte.

MEMBERS ABSENT: Barbara Uppgaard, Marvell Tripp, Kathleen Roer, and Warren Rodning.

AGENCY MEMBERS PRESENT:

Fred Bergsrud, Minnesota Extension Service (MES)
Wayne Edgerton, Department of Natural Resources (DNR)
Dave Nelson, Pollution Control Agency (PCA)
Paul Burns, Department of Agriculture (MDA)

AGENCY MEMBERS ABSENT:

Kim Benson-Johnson, Department of Health

OTHERS PRESENT:

D'Wayne DeZiel, LeAnn Buck, and Bob Pigeon, Minnesota Association of Soil and Water Conservation Districts (MASWCD)
Gary Wehrenberg, Dan Livdahl, Minnesota Association of Conservation District Employees (MACDE)
Pat Wulff, Minnesota Lakes Association (MLA)
Judy Erickson, Minnesota Association of Watershed Districts (MAWD)

STAFF PRESENT:

Jim Birkholz
Doug Thomas
Dave Behm
Marybeth Block
Jim Haertel
Bruce Sandstrom
Wayne Zellmer
Keith Grow

Chairman Nielsen called the meeting to order at 9:10 a.m.

- ****
94-16 **Adopt Agenda** - Moved by Lovdahl, seconded by Cobb, to adopt the agenda as presented. Affirmative: Annexstad, Cobb, Hvidsten, Lovdahl, Otte, Peterson, Rossman, and Nielsen. Opposed: None. Carried.

- ****
94-17 **Minutes of February 23, 1994** - Howard Peterson stated that a correction needs to be made on page five, regarding adjourning the meeting for lunch. It should read, "Chairman Nielsen recessed the meeting ..." Moved by Peterson, seconded by Lovdahl, to correct and approve the minutes of February 23, 1994, as presented. Affirmative: Annexstad, Cobb, Hvidsten, Lovdahl, Otte, Peterson, Rossman, Nielsen. Opposed: None. Carried.

Chairman's Report - Chairman Nielsen reported on the Environmental Quality Board (EQB) meeting he attended. Chairman Nielsen said that Ron Harnack is at the Capitol this morning at a legislative hearing.

Committee Reports

Dispute Resolution Committee (DRC) - Doug Thomas reported that the Dispute Resolution Committee (DRC) has two issues before it: 1) Churchill Co-op appeal of Buffalo Creek feedlot issue; and 2) Jessen Farms vs. Yellow Medicine River Watershed District. A formal hearing on the Jessen Farms issue will be scheduled. Doug stated that the meetings are scheduled on the hearing rules in April, May and June; the formal promulgation process for rule adoption will be this fall.

Feedlot Committee - Jim Rossman reported that the Feedlot Committee is waiting for the Legislature to act on the State Revolving Fund issue with the Pollution Control Agency. Jim stated that several committees of the Feedlot Advisory Group (FLAG) are working to come up with a good permitting and enforcement process. D'Wayne DeZiel stated that last night, the Senate Agriculture Committee approved Senate File 2150, authorized by Senator Steve Dille, creating a standing ongoing committee replacing FLAG. The new committee would be lead by the Department of Agriculture and PCA commissioners.

Chairman Nielsen stated that the Governor's office assigned BWSR to develop state recommendations for the 1995 Farm Bill. Jim Birkholz has taken on that responsibility and scheduled a meeting for April 8, 7:30 a.m. at the Kelly Inn, to discuss the Farm Bill.

Gary Wehrenberg thanked the BWSR for its financial support on the Blue Earth River Basin Initiative. It has allowed projects to be implemented.

RIM/PWP Retooling/Rules Update - Marybeth Block gave a brief synopsis of the RIM/PWP programs and retooling objectives. Dave Behm explained the administrative rule revision process; it is anticipated that a revised RIM/PWP rule will be in effect prior to the fall 1994 application period. Discussion followed. Barb Cobb stated that the BWSR RIM Reserve Strategic Plan Committee (Barb Cobb, Glenn Annexstad, and Dwain Otte) is

satisfied with how staff are proceeding and progressing on the retooling effort. Tim Hvidsten commended staff members for acknowledging and incorporating opportunities for more control of the programs at the local level.

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94-18

Hennepin County Groundwater Plan - Jim Haertel explained that staff members have reviewed the Hennepin County Groundwater Plan and recommend approval. Changes in findings of fact were discussed. Jim Haertel introduced Dr. James Piegat, Joe Newburg, Greg Sense, and Dave Anderson. Discussion followed. Moved by Dwain Otte, seconded by Ted Lovdahl, to approve the Hennepin County Groundwater Plan as recommended by staff. Affirmative: Annexstad, Cobb, Hvidsten, Lovdahl, Otte, Peterson, Rossman, and Nielsen. Opposed: None. Carried.

Chairman Nielsen recessed the meeting for a break at 10:15 a.m. The meeting reconvened at 10:30 a.m.

Legislative Update - Ron Harnack updated members on legislative bill S.F. 2103, companion H.F. 2116, regarding the appointment of SWCD supervisors in the metro area. Ron explained that SWCD supervisors are currently elected; the bill would change that process to appointments made by the county boards. Jim Birkholz will attend the legislative committee this afternoon on this bill, and testify on BWSR's opposition to the bill. Discussion followed. Townships are opposed to the appointment process. AMC steering committee supports this proposed legislation. Chairman Nielsen authorized Ron Harnack and Jim Birkholz to go forward with BWSR's position of opposing this bill.

Cost-Share Program Retooling - Dave Behm explained the Cost-Share Program and stated that it is operating under rules established in 1985. Dave stated that three main issues need retooling: 1) administrative issues need to be simplified and improved; 2) technology has changed, which affects technical issues; and 3) the allocation framework. Wayne Zellmer reported on the allocation process and stated that the formula currently used has been in existence since 1987. This is an opportunity to review the programs under the Cost-Share Program to see what would work best. Wayne said staff would like to present options to the BWSR at the June meeting for action on possible changes to the 1995 allocation formula; and over the next several months staff will assess the strengths and weaknesses of the program and suggest appropriate changes. Discussion followed. Chairman Nielsen is pleased with staff efforts on the retooling process.

Wetlands Grant Update - Doug Thomas reviewed the counties that have not adopted Wetland Conservation Act (WCA) as of March 22, 1994: Beltrami, Kittson, Koochiching, Marshall and Lake County. Staff will continue to monitor these counties and will update BWSR. If the counties do not adopt, they will be asked to return their grant or be held accountable for the administration for the program under the Act and rules. Board asked for another update in April. Discussion followed.

Policy Intervention Appeal - Doug Thomas introduced Tom Casey, appellant; John Stine, DNR/Waters; John Winston, attorney for landowner; and Scott Powell, landowner. Doug briefed the BWSR on the appeal and why it's before the board. Doug stated that the BWSR has three options: 1) accept intervention; 2) deny intervention; 3) table until BWSR adopts rules in fall of 1994. Staff recommends that the BWSR deny the petition and question jurisdiction. Mr. Stine stated that DNR clearly has jurisdiction; and the Department of Transportation has authority relating to seaplanes on certain bodies of water and have designated the lake for seaplane use. DNR's permit review process has been extensive and have scoped down the size of the excavation project. DNR feels staff recommendation is acceptable and that statewide water policy, statute and rules are clear and provide clear authority to DNR. DNR believes this is not a policy question and BWSR should not intervene in this case. Tom Casey said that this is not an economic issue; it's a wetland issue; the rules and authority leave too much room for interpretation and BWSR rules have not been adopted; therefore, this issue should be tabled until rules are adopted. John Winston, representing Scott Powell, stated four points: 1) there is no policy; 2) DNR assumed jurisdiction; 3) concern is relating use of airplane on Whale Tail Lake issuance of is plane, not policy; and 4) time to permit has been significant. They have met all DNR requirements and are working cooperatively with DNR. They request the petition be denied. Chairman Nielsen stated that the BWSR decision would be whether BWSR wants to make a water policy decision to intervene in this matter; or wants to defer the matter until rules are adopted. Barbara Cobb moved to table this issue until rules can be adopted by BWSR. Motion failed - no second. Jim Rossman moved, seconded by Annexstad, to support staff recommendation to deny petition to intervene. Discussion followed. Affirmative: Annexstad, Hvidsten, Lovdahl, Otte, Peterson, Rossman, Nielsen. Opposed: Cobb. Carried.

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94-19

Chairman Nielsen recessed the meeting for lunch at 12:05 p.m. Barbara Cobb left the meeting at 12:05 due to illness. The meeting reconvened at 1:00 p.m.

Snake River Watershed Joint Powers Organization - Keith Grow introduced Tom Roschlein, Margaret Sherman, Wes Cashman, Wilfred Kalmoe, Clair Freble, Lloyd Merrill. Wes Cashman presented information on Snake River Watershed and briefed the BWSR on its progress. Bill Strusinski was introduced and shared his perspective and concluded that progress has been very slow. He's concerned with viability of funding; asks that BWSR review this in three months to see if there is progress. He said they are not ready to withdraw their petition at this time. Strusinski stated that he would like to see the plan adopted, and implemented, a full-time position filled, by-laws adopted, priorities set, and be set before they withdraw their petition. Margaret Sherman stated that by-laws have been drafted, a position filled, they are making progress. Mr. Freble stated that the position was posted, a budget was established, and he also feels that significant progress has been made. Moved by Howard Peterson, seconded by Jim Rossman, that BWSR continue to oversee this and review in three months. Affirmative: Annexstad, Hvidsten, Lovdahl, Otte, Peterson, Rossman, and Nielsen. Opposed: None. Carried.

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94-20

Dwain Otte left the meeting at 1:40 p.m.

Per Diem Report - Howard Peterson reported that the per diem committee (Howard Peterson, chair; Ted Lovdahl, Glenn Annexstad, and Ron Harnack) appointed by Chairman Nielsen met last night. He stated that other boards were surveyed regarding their per diem allotments. The committee recommends to the full BWSR \$55/day for: 1) per diem paid for day of travel when exceeds 200 miles; 2) per diem for day or days of meetings; 3) per diem for special meetings; 4) per diem for preparation time (minimum of four hours) may be accumulated, but may not be banked, and you can't double dip. BWSR committee meetings will be scheduled, if possible, the day before the regular BWSR meeting. Child care would be available as stated in the statute as eligible for reimbursement. Ron said to document time on expense claims submitted, stating preparation time, and travel time. Ron said he would bring this before the legislative auditor and the attorney general's office. Moved by Howard Peterson, seconded by Ted Lovdahl, that staff be directed to put the recommendation in writing and contact the attorney general's office and the legislative auditor for review. Affirmative: Annexstad, Hvidsten, Lovdahl, Peterson, Rossman, and Nielsen. Opposed: None. Carried.

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94-21

Legislative Policy Issues - Ron Harnack updated members on the Wetland Conservation Act amendments proposed by Stumpf: 1) streamlines notice procedures; 2) processing fee restriction; 3) compensation or market value on property tax statement; 4) BWSR may approve a comprehensive plan as an alternative; 5) clarifies what can be done on existing roadways; 6) money for wetland banking credits; and 7) gives additional banking credits for impoundments in Red River Valley. Ron said that staff has opposed #7 and is negotiating with legislators and interest groups.

Advisor Comments

Minnesota Lakes Association (MLA): Pat Wulff stated that a wonderful partnership exists with BWSR and MLA. MLA's second annual conference on water quality enhancement is scheduled for April 30 at the Legion in Sauk Rapids. Pat stated that MLA is very thankful for Dan Steward and his efforts and cooperation.

Minnesota Association of Soil and Water Conservation Districts (MASWCD): Bob Pigeon thanked BWSR for help in the Snake River situation.

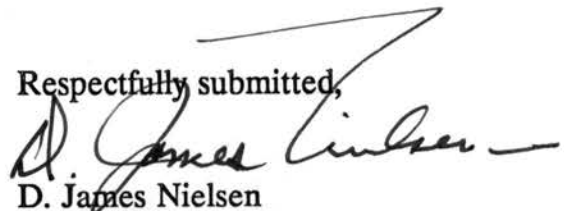
Ron Harnack asked for guidance on how to deal with having individuals on the agenda. Chairman Nielsen said to call on him and he will help out.

Wayne Edgerton wanted information on a news release regarding continuing feedlots and septic systems in LeSueur, Watonwan and Waseca Counties.

Howard Peterson wanted it noted that a quorum is not present this afternoon.

Chairman Nielsen adjourned the meeting at 2:35 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. James Nielsen", with a long horizontal flourish extending to the right.

D. James Nielsen
Chairman

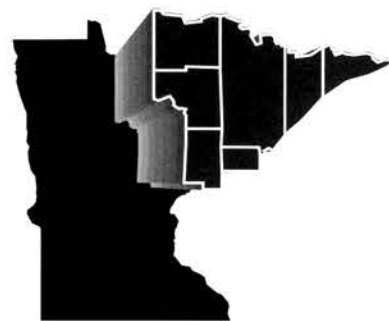
Northeast

MinnAqua

Youth are tomorrow's decisionmakers when it comes to managing our precious water resources. Through the MinnAqua program in Aitkin, Cass, Crow Wing, Morrison, Todd and Wadena counties, nearly 1,000 young people are participating in a water resource education program that teaches land and water stewardship along with fishing. MinnAqua is a collaborative effort of MES and the Minnesota Department of Natural Resources.

Originally a Twin Cities area program, MinnAqua has expanded recently to Greater Minnesota. Working through schools, clubs and other organizations, MinnAqua staff use games and hands-on learning experiences to teach children about clean water and the effects that consumer decisions have on water quality. Young people learn about lawn fertilizers, home pesticides, septic systems and recreational practices and their impacts on our water supply.

Best Management Practices
Counties in Minnesota's Arrowhead region place a high priority on educating shoreland property owners to protect the rich water resources of the region by promoting best management practices. MES is cooperating with 13 county, state and federal agencies to produce a series of 16 fact sheets on such topics as septic systems, wells, recreation, landscaping, hazardous waste and agencies that provide help and service to shoreland property owners. The series of fact sheets is



available to property owners through many sources. These include regulatory agencies, real estate agents, well drillers and lake associations, all of whom have a stake in clean water and pristine shores.

Fish Waste Composting

Minnesota anglers generate an estimated 15 million pounds of fish waste each year. A demonstration project undertaken in Lake, St. Louis, Itasca and Cass counties at nine resorts and one marina has shown that composting fish wastes is practical and ultimately produces an excellent soil conditioner. In addition, the composting process saves fishing resort operators as much as \$3,000 a year in waste disposal costs.

In cooperation with Minnesota Sea Grant Extension, MES has produced a publication, "Composting Fish Waste," which offers detailed instruction for building and maintaining a fish waste compost structure.

MINNESOTA EXTENSION SERVICE
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Statewide Programs

Most of the programs highlighted in the previous pages demonstrate regional efforts to implement statewide water quality initiatives. A sampling of additional programs with statewide emphasis include:

Publications

The Minnesota Extension Service designs and develops publications and other educational materials related to water quality. Recently, three multi-piece series have been published. These give an in-depth look at many aspects of Turfgrass Management (six publications), Treatment Systems for Household Water Supplies (six publications) and Fertilizing Cropland with manure (five publications.)

Sharing Local Water Plans

With every county in the state charged with writing and carrying out local plans for improved water quality, county officials look to each other for ideas and implementation help. Twenty-two county-based teams from throughout the state met to share ideas for effective programs to improve water quality.

MES in Stevens County worked with the West Central Experiment Station and the University of Minnesota-Morris to spotlight proven water quality projects that other counties might build into their plans of work.



Some of the projects include:

- * feedlot ordinances
- * wellhead protection
- * irrigation management
- * pesticide container collection
- * water quality attitude surveys among farmers and consumers.

Septic System Maintenance Education

For more than 20 years, MES has been active in training professionals who design, install and clean septic systems. Now, in addition to the sewage treatment professionals that MES has always trained, MES is educating homeowners with septic systems. Staff in Sherburne, Benton, Stearns and Wright counties have trained volunteer septic system professionals to conduct homeowners' workshops on septic system operation.

These workshops originated in this area because of the sensitive soil of the Anoka Sand Plain and the region's rapid growth. However, the educational materials, worksheets and vinyl maintenance stickers developed in the Mississippi River Corridor cluster of counties are expected to be useful to septic system owners statewide.

Followup from the workshops shows that participants have changed to using liquid detergent rather than powders, from high to lowered water use, from frequent to less frequent chemical cleaner use and from infrequent to regular septic tank cleaning.

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Water Quality Education 1992

A Report to Legislators

As a legislator, you need to have information about important issues affecting your constituents. Clean water is one of those vital issues. To inform you about water quality education going on throughout the state, we have put together this overview of programs and efforts the University of Minnesota Extension Service (MES) is conducting.

The magnitude and importance of the MES water quality initiative can be seen in every county throughout the state. Selected programs, summarized here from a regional perspective, demonstrate the impact of MES programming and the benefits of collaboration with many other state and local agencies.

To benefit state residents and communities, MES efforts are concentrated in three areas:

- ~ Safe drinking water
- ~ Waste utilization and management
- ~ Impacts of urban and rural land use

Southwest

Well Testing

In the four counties of extreme southwestern Minnesota—Lincoln, Lyon, Murray and Pipestone—more than 1,000 private well owners submitted water samples for free testing. This represented more than half of the private well users in those counties. Many had never tested their water before.

Nearly 22 percent of the water samples contained nitrate-nitrogen levels of 10 parts per million or above. In general, shallower



drilled wells had higher levels than deep wells. Wells near septic tanks and livestock barns had higher nitrate-nitrogen levels than wells located away from these potential problem sites.

The results from the well testing effort were compiled into a computer data base that will help county officials pinpoint trouble spots and recommend possible solutions.

Protecting Pesticide Applicators

In the heavily agricultural areas of southwestern Minnesota, safe pesticide handling

is a concern for both the environment and the individuals working with the chemicals. MES educators in those counties conducted training sessions on spraying techniques, protective clothing and laundering procedures. More than 650 pesticide users attended the half-day sessions, which stressed safety and were held at sites close to farmers in each county. The sessions were team taught by MES educators with specialties in agriculture and home economics.

Earlier in these counties, an extensive effort to teach safe laundering techniques resulted in helpful magnets imprinted with laundering Do's and Don'ts being distributed to hundreds of farmers handling hazardous chemicals. Intended to stick to home laundry equipment, the magnets remind farm families of safe handling procedures.

Water Week Education for Children

MES and the Redwood County Soil and Water Conservation District collaborated on an effort to teach 1,200 fifth graders about the importance of clean water and what they can do to protect it. The program was conducted during National Drinking Water Week in May of 1992 and involved children from eight elementary schools. Using a sand tank groundwater model, children got to see first hand how pollutants can enter groundwater. They discussed the hazards of leaky landfills, abandoned wells and improper disposal of hazardous chemicals. Both students and teachers gave the Water Week workshop high marks. Plans call for expanding the program to more schools in 1993 and beyond.

Northwest

Household Hazardous Waste Collection

In Hubbard County, a hazardous waste collection day recently involved more than 300 people who wanted to dispose of dangerous household chemicals safely. The successful collection was part of an effort by Becker and Hubbard counties and the Minnesota Pollution Control Agency.

Participants brought 275 gallons of latex paint, a similar quantity of oil-based paint, 220 gallons of flammable solvents, and many other hazardous substances to a licensed hazardous waste facility. As part of the paint collection, residents took home 250 gallons of paint to use for future painting projects. In addition, the waste collection effort collected 600 gallons of used oil and 35 automotive batteries.

As participants dropped off their hazardous waste, MES educators answered questions and distributed educational materials on hazardous waste. The materials show how to control the accumulation of this waste through careful purchasing, recycling, and reuse of products that may end up as hazardous waste, and how to reduce reliance on such products.

Manure Application Management

With cattle herds averaging 61 head and average farm size exceeding 500 acres, farmers in extreme northwestern Minnesota generally have ample land on which

to spread their livestock waste. They may not always spread it to best advantage, however, and this can lead to too much nitrogen, phosphorus and potassium for best crop yields. Ground and surface water can become polluted through runoff and leaching of excess nutrients.

MES-developed computer software now helps farmers calculate how much manure they can apply to supply nutrients to crops without polluting groundwater and/or nearby lakes and streams. Data collected from six farms participating in the Dairy Initiatives program demonstrated the usefulness of manure application planning. The computer-generated recommendations reduced the amount of commercial fertilizer needed for these farms by an average of \$2,267. Savings ranged from \$1,195 to \$4,200 per farm. Equally important, the farms were less likely to contribute to water pollution problems due to excessive fertilizer use.

Pesticide Container Collection

Polk County MES staff cooperated with their local solid waste department, Soil and Water Conservation District offices and the Minnesota Plant Food and Chemical Association to collect and recycle pesticide containers. Now in its third year, the Polk County effort has increased its collections each year. During the three-day campaign in 1992, more than 100 farms and businesses brought in 15,500 containers for recycling. Twelve trained volunteers staffed the collection sites and inspected containers before they were shipped to a North Dakota recycling site for chipping.



Southeast

The "Don't Bag It" Campaign

With limited landfill space, homeowners are now prohibited from disposing of leaves, grass clippings and other yard waste in landfills. With leadership from Hennepin County, one of the first counties to come under the restriction, MES educators statewide are educating citizens about alternative ways to dispose of yard waste. The MES "Don't Bag It" campaign provided county extension offices with a slide show and series of informative brochures and fact sheets that utilities and waste disposal companies could duplicate and distribute to their customers. Olmsted County extension educators mounted a media campaign to get homeowners to leave grass clippings on their lawns rather than disposing of them in landfills. Volunteer Master Composters educated homeowners on how to compost yard waste. "Don't Bag It" materials also emphasized mulching with yard waste as well as ways to participate in municipal composting projects.

Lawn Fertilizer Guide

Only about one lawn in ten needs fertilizer containing phosphorus, and the excess can be a threat to water resources. MES staff in Stearns, Benton, Sherburne and Wright counties coordinated an effort to educate homeowners about lawn fertilization that is respectful of the environment. After meeting with fertilizer retailers and representatives to reach consensus on recommendations, MES staff wrote and distributed a concise fertilizer guide.

The free guide, which was tailored to soil and climate conditions in the four-county area, was distributed to 15,000 people in more than 100 stores and garden centers. Master Gardeners volunteered their time to place the guide display racks and keep them stocked. Homeowners could also obtain a soil test bag and information on testing for precise fertilizer requirements.

The effort spawned interest among lake associations, where fertilizer runoff problems are immediately apparent. Several such associations now purchase specially blended fertilizer in bulk for distribution to their lake property owners.

Consumer Education on Waste Management

How can leaders in government and industry spur an interest in waste reduction among consumers? Thirty representatives of retailing, the food and dairy industry, recycling and landfill operations and the schools in the Mississippi River Corridor counties—Stearns, Benton, Sherburne and Wright—met to share



ideas. Education to spell out the problem and get consumers to buy into possible solutions is critical, the participants agreed.

Meeting in small groups, the leaders agreed to work toward a number of solutions to help reduce waste and raise the awareness level of consumers whose purchasing and lifestyle decisions determine how much waste is generated. Among the priorities for the group are to:

- * Explore deposit legislation
- * Work toward more informative labels for recyclables
- * Support the "green" movement in schools and in proposed legislative changes
- * Push for reduced packaging and more recyclable packaging
- * Distribute unbiased information about manufacturers' environmental claims.



February 10, 1994

Mr. D. James Nielsen, Chair
Minnesota Board of Water and Soil Resources
1815 Meadowwoods Trail
Long Lake, MN. 55356

Dear Chair Nielsen:

The following is a summation of the feedback I received from our annual north staff meeting.

We held our annual north staff planning meeting on February 1, 1993, in Grand Rapids. Fourteen field staff and one central office staff (Jim Birkholz) attended. We spent time reviewing many areas:

- ☛ 1993 successes and failures
- ☛ how individual staff spent their time and why
- ☛ what changes need to be made to make 1994 more successful
- ☛ 1994 individual work plans

The individual workplans are due to me by March 1. I'll summarize them and give you that information at a later date.

The following is a very general summary of the meeting. I have, however, enclosed a detailed summary for your information.

Basically, field staff felt that there were many successes in 1993. We implemented WCA without too much controversy. We got a good start on RIM retooling efforts. Water plan implementation is going well with many strong local projects under way. Relationships with local governments seem strong in spite of the controversial nature of WCA.

Field staff still spend a majority of their time with clientele, but most of the contact is related to BWSR program implementation. Board conservationists in the north spent roughly 55 percent of their time on two programs last year, WCA and Water Planning. BWSR team assignments and BWSR administrative duties took a large chunk of time. Our field specialists were able to maintain a clientele focus perhaps due to the more narrow range of activities they perform.

Staff spent time where they did for three main reasons: program mandates, clientele requests, and recognition of need. It's encouraging to know that staff are still finding time to follow up on clientele requests and assess clientele needs. However, it seems that more and more of this clientele interaction is being driven by program mandates. I'm not saying this is necessarily wrong, but I feel it does represent the direction this agency is moving and defines a somewhat different relationship between field staff and clientele.

So what didn't get done? Most of the work was completed, but quality may have suffered. Staff report they made fewer clientele contacts and those that were made

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were quick trips to deal with program issues. Less time was spent reviewing plans and reports and quality in the review process may have suffered. Interagency contacts also went down. Staff spent less time working in areas of specialization. Generally, there was less staff interaction, except at staff meetings, and camaraderie may have declined.

So what are we going to do about it? Staff developed a list of possible changes (see attachment). We prioritized them into four items that should be addressed this year.

- Hire more field specialists; in particular RIM, WCA, Education, Forestry, and a Training Coordinator. This may not be realistic. However, we should take a hard look at the concept.
- The agency should put more focus on electronic communication for clientele reporting and planning.
- Deregulate our programs and make them more self-running.
- SWCD Comprehensive Plan updates should be eliminated this year.

In addition, I have made the decision to redefine the role of the special projects coordinator currently stationed in Duluth. When the current project is completed, we will change the focus of the position back to a regular Board Conservationist. We will carve out a new work area and reduce the number of clientele for each board conservationist. This should allow time for board conservationists to develop more one-on-one contact with clientele and hopefully begin to address work load and quality issues.

I appreciate your interest in the issues facing the northern field staff. Thank you for letting me share them with you.

Sincerely,

Ron Shelito, Supervisor
North Region

c: Ron Harnack
Jim Birkholz
North Field Staff

SUMMARY
1994 NORTH REGION PLANNING MEETING
February • 1994

The following is a summary of how staff felt they spent their time in 1993:

BOARD CONSERVATIONIST:

WCA/TEPS

- Clientele training
- Agency coordination
- BWSR staff training
- Violations

Time: 30% - 50% (average based on work area)

Why:

- mandated program
- clientele requested assistance
- risk of enforcement to landowner
- clientele expectation of BWSR

WATER PLAN IMPLEMENTATION

- clientele training (build local capability)
- clientele coaching
- agency coordination
- develop new partnerships

Time: 10% - 20%

Why:

- local demand
- mandated
- local expectation of service

BWSR TEAM ASSIGNMENTS

- RIM retooling
- conducted clientele training sessions
- grant decisions made

Time: 10% - 20%

Why:

- assigned
- enjoyed it
- efficient/effective way to do business

OTHER BWSR PROGRAM DELIVERY

- cost-share (audits, training)
- RIM (easement review, training)
- MFIP

Time: 5% - 10%

Why:

- clientele demand
- good programs for clientele to use
- no choice (i.e. RIM easement review)

CLIENTELE TRAINING AND VISITS (non program related)

- leadership training
- orientation

Time: 5% - 10%

Why:

- clientele requested
- staff felt need

SPECIAL ISSUES

- Red River Valley flooding
- Snake River joint powers
- personnel management issues (LGUs)

Time: 5% - 20%

Why:

- assigned
- clientele requested
- recognized need

BWSR ADMINISTRATION

- staff meetings
- timesheets, expense claims, etc.
- board member contacts
- position description revision
- other

Time Spent: 10% - 20%

Why:

- want to get paid
- staff interaction valuable
- assigned

TRAVEL TIME IS FIGURED INTO INDIVIDUAL ACTIVITIES.

FORESTER:

CLIENTELE TRAINING (regional, statewide, and local)

- windbreak training
- program training
- basic forestry training for Area III SWCDs
- technical assistance

Why:

- clientele asked for it
- need was there

AGENCY COORDINATION

- interagency forestry committees
- grants
- MASWCD Forestry Committee
- individual agency contacts

Why:

- keep BWSR in forestry loop
- promote SWCD forestry abilities and needs to others
- access forestry opportunities for SWCDs

FOREST STEWARDSHIP PROGRAM

- clientele training
- program delivery

Why:

- help SWCDs access opportunities available through this program.

WATER QUALITY

- BMP audits
- WCA TEP panels
- technical assistance to SWCDs

Why:

- requested by clientele and other agencies
- assigned
- need recognized

BWSR ADMINISTRATION

- staff meetings, timesheets, etc.

Time: forester estimates that 75 - 80% of his time spent on clientele issues.

EDUCATION SPECIALIST:

SERVING LOCAL UNITS

- requests for information
- water planning projects
- deliver water education information
- local coordination
- requests for program ideas

Time: 35% - 40%

DEVELOP EDUCATION MATERIALS

- shoreland BMPs
- baby brochure
- stormwater information

Time: 25% - 30%

PROGRAM ADMINISTRATION

- staff meetings, timesheets, etc.

Time: 20%

PROFESSIONAL DEVELOPMENT

- travel
- workshops

Time: 10%

BOARD CONSERVATIONIST SPECIAL PROJECT POSITION:

ADMINISTRATION

- position description rewrite
- staff meetings
- reorientation

REPORTING/PLANNING PROGRAM ANALYSIS

- clientele
- staff survey
- staff office visits
- clientele delivery analysis
- program staff interaction

This new position began in September, 1993. Time estimates were not made nor analysis of why time was spent. The incumbent was following his established work plan.

SECRETARIAL:

OFFICE ADMINISTRATION

- filing
- fight with computers
- learn new computer programs
- prioritize information requests
- supplies, bills, general paperwork
- electronic mail

Time: 30% - 40%

SUPPORT PROFESSIONAL STAFF

- meeting arrangements and workshops
- staff counseling
- PC training
- material preparation (mtgs and workshops)
- review correspondence

- do best to help professional staff do best
Time: 45% - 55%

CLIENTELE CONTACT

- training
- professional staff backup (answer clientele questions)
- maintain professional image

Time: 10%

MISCELLANEOUS ITEMS

- NWI maps
- professional development
- team involvement

Time: 5%

GENERIC LIST OF TIME MANAGEMENT REASONS

Staff spent time where they did because:

- program mandates
- more deadlines
- more and different requests from clientele
- new clientele (cities, lake associations) requests
- personal interest/expertise
- clientele expectations
- learning curve (WCA, block grants, RIM retool) time spent studying up.
- loyalty to other staff
- SCUDS, i.e., special assignments
- local SCUDS, i.e., clientele emergencies

GENERIC LIST OF THINGS THAT DID NOT GET DONE

- specialty areas
- clientele visits (not as many)
 - board meeting visits
 - SLR, and PWP site visits
- water plan task force meetings (not as many)
- cost-share audits (not as many)
- RIM audits
- interagency contacts (not as many)
- plan reviews (not as detailed)
- field staff interaction (not as much)
- staff relations (loss in camaraderie)
- quantity went up, quality went down
- son of step program did not get used
- handbook updates put off
- computer expertise still slow in coming
- personal training opportunities (fewer)
- cost-share rule revision (slow start)
- office staff meetings
- secretarial collaboration
- team involvement (not as much)

CHANGES NEEDED TO BWSR OPERATIONS

- Put on field specialists (RIM/PWP/WCA). These specialists could be at a classification lower than a Board Conservationist and serve as a career ladder for new people entering the agency.
- Have a field specialist for cost-share audits and other compliance activities, or have a funeral for audits.
- Planning guidelines must be coordinated.
 - SWCD comprehensive plan updates need to go
 - Board Conservationists have less time to do quality work on required plan.
 - Clientele report process reduced to one page and coordinated.
 - Education needs higher priority if we are really going to do it. Forty-two counties is too many for one person to really be effective.
 - Need to move more quickly into the electronic age. Need to tie in with clientele so we can do planning, reporting, and auditing electronically.
- Probably need to encourage clientele to come to us more so we can cut down on travel time.
- A two-to-four week travel moratorium each year was suggested to allow staff to catch up and do some creative thinking.
- TEP panels; board conservationists will not be able to make site visit every time. Need to be sure clientele understand this and provide tools to allow for office evaluations.
- Use more video downlinks to cut travel time.
- Deregulate cost-share rules. Take some of the hoops out and make the program more self-running. Cut down on board conservationist oversight.
- Need to make all of our programs more self-running (block grant concept)
- Make SWCDs part of county government
- Make all of our field staff specialists rather than generalists. Set up on a program basis or clientele basis.
- Say "no" to more meetings.
- Need better (shorter) reference documents.

- Need a combination of smarter, self-running programs with the addition of some field specialists.

The above list was not prioritized nor is it a consensus. These are simply the comments resulting from discussion on what needs to change to make us more efficient.

SUGGESTED CHANGE LIST FOR 1994

- Hire more field specialists. WCA and RIM specialists should be hired (perhaps at a lower classification) to assist with the technical and legal aspects of these programs. This would free up board conservationist time to do more coalition building at the local level and remain as generalists. Complex technical issues such as wetland delineation could best be handled by a single field specialist who would help keep board conservationists trained, assist with clientele training, assist board conservationists and LGUs on the tough wetland calls (violations), and stay up-to-speed on current technologies and agencies' policies. Board conservationist would still be required to have a working knowledge of the program but would have someone besides John and Greg to assist them. The same basic argument applies to the RIM program and its complex legal and realty aspects.

Specialists are also needed in the areas of education, forestry, and training to reduce size of work areas and to free up existing staff time to develop more one-on-one working relationships with clientele. A training coordinator has been a long expressed need of the agency considering all of the clientele training we try to provide.

- More focus on electronic communication for clientele reporting and planning. This would allow staff to do more thorough review of clientele plans with minimum effort. Surveys suggest that clientele are also in favor of this approach. We also need better systems within our agency and a plan for where we intend to go electronically in the future.
- Deregulate our programs. The cost-share rule update needs to be completed with an emphasis on flexibility for clientele and less oversight by BWSR. It needs to be self-running at the district level yet in a manner that BWSR staff can easily check on. WCA notice and appeals process in the rules needs to be changed and simplified. This more than anything could derail the program and make extra work for both the LGU and BWSR field staff. The interim program worked great in northern Minnesota. In counties with more than 80 percent of there wetlands remaining, wetland loss is not a huge environmental risk. Under the interim program, LGUs in the north did a superb job of controlling wetland loss through avoidance, minimization, and 1:1 replacement with a minimum of hassles. This approach seems more than adequate in the north. We should pursue changes in the WCA to allow for this type of regulation in the north.
- SWCD comprehensive plan updates should be dropped this year. This was unanimous. For years we have all agreed that these plans do not provide any significant information for BWSR or the SWCDS. We should drop them entirely and free up everyone's time to do some work that matters. As we move toward a more coordinated planning process in the next couple years, we can once again require a plan from SWCDs. Until then, can it.

3/22/94

HF/SF	TITLE	ID*	AUTHOR	STATUS	COMMENTS
SF 1687 HF 1852	Limits Local Government Officials to Single Daily Per Diem	Doug	S - Johnston, Frederickson, Knutson, Pariseau, Belanger H - Molnau	Committee Rules and Legislative Administration	BWSR Supports with Changes. Recommendation: That the bill set policy on per-diem and leave enforcement mechanisms alone. As an example, SWCD and WD audit requirements and BWSR oversight should be adequate to prevent from happening if the legislature establishes a clear and concise policy.
SF 1742 HF 1862	EQB to Provide It's Own Staff and Administration	Ron H. Doug	S - Merriam, Price, Oliver H - Hausman, Munger, Kahn, Pauly	Committee on Government Operations and Gambling	BWSR position is Neutral
SF 1803 HF 1993	Governor's Capitol Improvements Bonding Bill	Ron H.	S - D.E. Johnson, Laidig, Frederickson, Johnston, McGowan H - Stanius, Sviggum, Girard, Dempsey	Committee on Capital Investment H Env. Finance - Passed	BWSR Supports 10,000,000 RIM 2,000,000 PWP 1,900,000 Area II and (50/50) Governor's Bonding Proposal
SF 1909 HF 2158	Pollution Control Agency - Local Sewage Ordinances	Doug	S - Price, Krentz, Morse, Dille, Murphy	Committee on Environment and Natural Resources H Environment - Passed H Environment Finance - Passed	BWSR Supports - With mechanism for financial support for counties and landowners (SRF).
SF 1986 HF 2476	Wetlands - Compensation If Replacement Plan Not Approved	Ron H. Greg	S - Hanson, Stumpf, Morse H - Delmont, Weaver, Jacobs, Simoneau	Committee on Environment and Natural Resources	BWSR Opposed as Proposed - Creates significant administrative costs and creates greater state liability - current law has not been proven to problem. Could support with changes.
SF 2015	Metropolitan Reorganization Act of 1994	Doug	S - Flynn, Pariseau, Mondale, Moe, D.E. Johnson	Committee on Metropolitan and Local Government	In Review.

HF/SF	TITLE	ID*	AUTHOR	STATUS	COMMENTS
SF 2046	Town Roads - Responsibility for Drainage System Bridges, Culverts	Doug	S - Vickerman, Berg, Stevens, Janezich, Bertram	Committee on Environment and Natural Resources	BWSR Supports
SF 2092 HF 2304	Sustainable Forestry Account	Jim L.	S - Finn, Morse, D.J. Johnson H -Rukavina, Hasskamp, Munger	Committee on Environment and Natural Resources	Not BWSR issue directly. BWSR should support the concept of good forest planning and timber management. Whether this bill is the best way to accomplish this is unknown because it is really outside our issue area. Qualified Support
SF 2103 HF 2116	Appointment of SWCD Boards	Jim B. Doug	S - Mondale, Pappas, Flynn, Luther, Metzen H - Orfield	Committee on Local Government and Metro Affairs - no hearing scheduled.	BWSR Opposes. Recommendation to delete the entire language relating to changes to soil and water conservation district elections. Keep the statute as is.
SF 2126 HF 2073	Grant to Northern Counties Land Use Coordinating Board	Doug	S - Solon, D.J. Johnson, Stumpf, Lessard, Moe H - Battaglia, I. Anderson, Rukavina, Tomassoni, Solberg	Committee on Environment and Natural Resources	Recommendation: Bill should include a reference to Local Water Plans for coordination, as one of the goals of water planning is sustainable development of environmental and natural resources.
SF 2143 HF 2598	Board of Government Innovation and Cooperation - Duties, Local Waiver	Greg	S - Reichgott, Junge, Hottinger, D.J. Johnson, Terwilliger, Metzen H - Evans, I. Anderson, Murphy, Kahn, VanDellen	Committee on Governmental Operations and Reform	
SF 2150 HF 2272	Transfer Jurisdiction Over Feedlot Pollution to Dept. of Agriculture	Greg	S - Dille, Stevens, Lesewski, Bertram H - K. Olson, Girard, Peterson, Bauerly, Kalis	Committee on Agriculture	BWSR Opposes. Feedlot regulations/permitting should remain with PCA. Current interagency coordination and cooperation builds on strengths of agency roles. PCA - standards and permitting Agriculture - education, research, advocacy BWSR - techncial and financial assistance

HF/SF	TITLE	ID*	AUTHOR	STATUS	COMMENTS
SF 2175 HF 2403	Governor's Supplemental Budget Bill	Ron H.	S - Frederickson, D.E. Johnson, Terwilliger H - Abrams, Hugoson, VanDellen, Sviggum, Frerichs	Committee on Finance H Env. Finance (3/23)	BWSR Supports. Bill has the SRF and feedlot interagency initiations in the bill.
SF 2194	Legislative Auditor - Perform Best Practices Review Audits	Jim B.	S - Riveness, Metzen, Morse, Terwilliger, Sams	Committee on Government Operations and Reform	BWSR position is Neutral. We already do some of this review work in our ongoing work with local units. Recommendation: If the intent of the legislation is to also cover soil and water conservation districts and watershed districts, then they should be added to the advisory committee. If the intent is to limit the reviews to cities and counties the bill should be amended to limit the scope of activity to those specific entities.
SF 2220 HF 2485	Water Policies - Sustainable Agriculture, Well Permits, Reports Ground Water Bill	Eric Doug Ron H.	S - Price, Dille, Morse, Murphy, Krentz H - Munger, Kalis, Bishop, Lynch, Trimble	Committee on Environment and Natural Resources H Env. Finance - Passed H Environment - Passed H Gov. Operations - S Env. Finance - Passed S Environment (3/23)	BWSR Supports environmental education elements two positions and grants for environmental education. BWSR Opposes well sealing grants if appropriation is less than \$400,000.
SF 2233 HF 2349	Task Force to Advice EQB	Ron H. Doug	S - Finn, Morse, Berglin, J. Johnson H - Clark, Mariani, Jefferson, Munger	Committee on Environment and Natural Resources	BWSR position is Neutral or Oppose. Recommendation: Eliminate the process for intervention.
SF 2235 HF 2747	Mississippi Headwaters - Comprehensive Land Use Plan Changes	Doug	S - Lessard H - Wenzel, Kinkel, Hasskamp	Committee on Environment and Natural Resources	May impact wetlands. DNR opposes as the plan reduces shoreland standards.
SF 2236 HF 2410	Natural Resources - Tree Seed, Planting Stock Sales	Jim L.	S - Lessard, Chandler H - Rukavina, Kinkel, V. Johnson, Battaglia	Committee on Environment and Natural Resources	

HF/SF	TITLE	ID*	AUTHOR	STATUS	COMMENTS
SF 2244 HF 2564	Wetlands Replacement Plan Exemption	Greg Ron H.	S - Samuelson H - Hasskamp	Committee on Environment and Natural Resources	BWSR Opposes - bill exempts few select cities in the 80% counties - Cloquet, Brainerd, Bemidji, Winona, Hibbing, Duluth
SF 2259 HF 2278	State Government - Eight Secretaries to Head Executive Offices	Ron H.	S - Metzen, Luther, Moe, Riveness H - Asch, Carruthers, Kahn	Committee on Governmental Operations and Gambling	BWSR Opposes - the environmental cluster approach to management of environmental agencies is working well.
SF 2262	Town Board On-Site Inspections - No Open Meeting Requirements	Doug	S - Sams, Stevens, Day, Langseth, Samuelson	Committee on Metro and Local Government	BWSR position is Neutral - May have application to TEP on-sites and decisions.
SF 2277 HF 2638	Metro Waste Control Commission - Total Watershed Management Agreements	Doug	S - Merriam, Riveness H - Sekhon, Munger, Trimble, Pauly, Bishop	Committee on Environment and Natural Resources	BWSR Supports
SF 2298	State Government - Environment and Natural Resources Restructuring	Ron H.	S - Pogemiller, Moe, Stumpf, D. Benson, D.J. Johnson	Committee on Environment and Natural Resources	BWSR Opposes.
SF 2332 HF 2553	PERA Service Credit Purchase - Certain SWCD Service	Jim B.	S - Piper H - Reding	Committee on Governmental Operations and Reform Pensions Committee - Passed	BWSR Supports. Recommendation: Should be amended to also include SWCD employees who became employed by the state and qualified for the state retirement plan during the above buyback period. Specifically, amend page 1, line 14 insert after "member" the language, "or Minnesota state retirement system member".
SF 2362 HF 2126	Statewide Comprehensive Land Use Planning Coordination Act	Doug	S - Chandler, Luther, Marty, Morse H - Orfield, C. Brown, Neary	Committee on Metro and Local Government	BWSR Opposes. The power it gives the state in prescribing land use in identified critical areas seem excessive. General concept good, however, approach needs a lot of work, too prescriptive, top down!!

HF/SF	TITLE	ID*	AUTHOR	STATUS	COMMENTS
SF 2363 HF 2593	Administrative Rulemaking - Five Year Review	Greg	S - Hottinger, Runbeck, Betzold, Metzen, Berg H - Leppik, Simoneau, Rukavina, Winter, Gruenes	Committee on Government Operations and Reform	
SF 2391 HF 2311	Dept. of Revenue Bill Abolishing Local Levy Limits	Doug	S - Belanger, D.J. Johnson, Flynn, Reichgott, Junge, D. Benson H - Winter, Girard, Rukavina, Rest	Committee on Taxes	BWSR Supports With Changes. Recommendation: Repeal limit for towns in 103B.245, Subd. 3, and 103B.251, Subd. 8(b).
SF 2457 HF 2773	Rulemaking - Rule Reviews, Authority, Disapproval	Greg	S - D. Benson, Hottinger, Metzen, Moe, Kiscaden H - Gruens	Committee on Governmental Operations and Reform	
SF 2477 HF 2555	Increases In Water Quality Permit Fees	Greg	S - Sams, Bertram, Langseth, Day, Lessard H - Winter, Steensma, Reding, Goodno	Committee on Environment and Natural Resources	drop
HF 1938	Wetlands - Easements, Small Tract Exemption From Replacement, type 6's less than two acres on agriculture.	Greg Ron H.	H - Finseth	Committee on Environment and Natural Resources	BWSR Opposes - poor timing; limited problem; greatly increases cost of PWP program. Creates expectation that cannot be realized.
HF 2065	Watershed Districts - Manager Election	Doug	H - Trimble, Munger	Committee on Environment and Natural Resources	BWSR Opposes the election of watershed district managers.
HF 2070	Constitution - Limit Growth of State Appropriations to Inflation	Tom S.	H - Knight, Frerichs, Wolf, Workman, Bettermann	Committee on Rules and Legislative Administration	No action necessary by BWSR drop
HF 2427	Nonprofit Corporation Board Meetings - Open If Accept Public Funds	Wayne	H - Jaros, Beard	Committee on Commerce and Economic Development	

HF/SF	TITLE	ID*	AUTHOR	STATUS	COMMENTS
HF 2469	Conservation Easements - Payment Standards	Mary-beth Ron H.	Rep. Reding	Committee on Environment and Natural Resources	BWSR Neutral. Does not apply to BWSR easements, however, track as programs could be implemented. Precedent that is set is poor state policy.
HF 2684	Constitution - Full Funding For State Mandates on Local Government	Doug	H - Knight, Wolf, Dempsey	Committee on Governmental Operations and Gambling	BWSR Opposes. Recommendation: This type of legislation would significantly impair the state's ability to react and pass laws governing environmental and natural resources protection. The message here is that no oversight is necessary and that all citizens of the state should pay for the complete cost of any program. This would be discriminatory based on the way the state generates income through property and income taxes. All that benefit are not all that pay.
HF 2717	Omnibus Water Bill - Drinking Water Account, Nonpoint Pollution, Bonds	Wayne Jim B. Doug Ron H.	H - Peterson, Bishop, Girard, Winter, Wenzel	H Committee on Agriculture - Passed H Env. Finance - Passed H Env. and Natural Resources - Passed S Env. Finance - Passed S Agriculture - Passed S Env. and Natural Resources - Passed	BWSR Supports - sets up SRF for conservation practices and nonpoint BMPs.
HF 2742 SF 2516	State Bond Authorization Cancellations	Tom S.	H - Kalis S - Merriam	Committee on Capital Investment	BWSR Supports - This is a clean-up bill which allows Dept. of Finance to cancel balances of \$100 or less without legislative in the bond funds. Requires consultation with affected agency - good bill.
SF 2550 HF 2814	Metro Soil & Water Conservation Districts - Appoint Supervisors	Jim B.	S - Flynn, Mondale, Murphy, Runbeck, Wiener H - Wagenius	Committee on Metropolitan and Local Government - hearing 3/23	BWSR Opposes. Maintain election, democratic representation process.
SF 2532	State Agency Consultant Contracts - 1995 Contracting Limit	Tom S.	S - Riveness, Metzen, Moe, Sams, Wiener	Committee on Governmental Operations and Reform	BWSR position in Neutral. Does not significantly impact our agency.

**BOARD OF WATER AND SOIL RESOURCES
ATTENDANCE ROSTER**

	NAME	AFFILIATION	PHONE #
1.	Dan Luedahl	MACDE	507-376-9150
2.	GARY Wehrenberg	FARIBAULT SWCD	507-526-2388
3.	Mr. Will	MAH	612 414-2922
4.	Steve Merrill	Lakeview Lake Assn	612-629-7005
5.	Clare Fabb	" " "	612-629-7979
6.	Wilfred Kalmar	" " "	612-629-7459
7.	David Nelson	MPCA	612 296-9274
8.	Judy Eich	maurice	612-257-1906
9.	Margaret Sherman	Aitkin County	218-845-2816
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DRAFT

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 Ground-Water Plan
for Hennepin County
(Minnesota Statutes Section 103B.255)

ORDER APPROVING
GROUND-WATER
PLAN

Whereas, the Hennepin County Board of Commissioners submitted a Ground-Water Plan (Plan) to the Minnesota Board of Water and Soil Resources (Board) on December 21, 1993 pursuant to Minn. Stat. 1990, 103B.255, 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. In March of 1988 the Hennepin County Board of Commissioners (County Board) resolved to prepare a county ground water plan, and assigned the preparation of the Plan to the Hennepin Conservation District (HCD).
2. On June 12, 1990, the County Board passed a resolution accepting a grant to develop a Ground-Water Plan.
3. Chapter 103B.255 authorizes and encourages counties in the 7-county metropolitan area to develop and implement ground-water plans.
4. HCD completed a draft Plan in April of 1992, and submitted it to affected local units of government for comments and suggestions.
5. On April 30, June 24, and August 20, 1992, HCD held public meetings on the draft Plan for the purpose of obtaining public input into the Plan.
6. In October of 1992 Hennepin County submitted its draft Plan to affected local units of government for review and comment pursuant to Section 103B.255 Subd. 8.

7. In October of 1992 Hennepin County submitted its draft Plan to the Departments of Health, Natural Resources, Agriculture, the Pollution Control Agency, the Minnesota Geological Survey, the Board of Water and Soil Resources, and the Metropolitan Council for preliminary review and comment.
8. In November of 1992, cities and Watershed Management Organizations (WMOs) provided comments on the draft Plan to the county, and requested an extension in the review time allowed.
9. In the period November, 1992 through February, 1993, state agencies provided comments to the county on the draft Plan.
10. On January 19, 1993 the County conducted a workshop to hear the concerns of affected cities and WMOs.
11. On February 4, 1993 the County Board conducted a public hearing on the draft Plan. The County Board directed the HCD to conduct workshops for further city input.
12. On June 16, June 29, and July 14, 1993 workshops were held to obtain further input into the Plan.
13. On July 16, 1993 HCD staff revised the Plan in response to comments received and distributed revised sections to local governments.
14. On July 29, 1993 the County Board conducted a public hearing on the revised Plan.
15. In August of 1993 the County completed a new draft of the Plan.
16. On December 14, 1993 the County Board resolved to forward the Plan to the Metropolitan Council and State agencies for final review.
17. On December 21, 1993 the County submitted a revised Plan to the Departments of Health, Natural Resources and Agriculture, the Pollution Control Agency, the Minnesota Geological Survey, the Board of Water and Soil Resources, and the Metropolitan Council for final review and comment.
18. **Minnesota Pollution Control Agency Review:** On January 7, 1993, February 2, 1994, and March 8, 1994, the Minnesota Pollution Control Agency (MPCA) provided written comments on the Plan. In its February 2 and March 8, 1994 comments the MPCA recommended final approval of the Plan.

On March _____, 1994 Hennepin County responded to the MPCA Plan review comments.

19. **Minnesota Department of Natural Resources Review:** On December 15, 1992 and February 7, 1994 the Department of Natural Resources (DNR) Waters Division provided written comments on the Plan.

On March _____, 1994 Hennepin County responded to the DNR Plan review comments.

20. **Minnesota Department of Health Review:** On February 9, 1993 and February 23, 1994, the Minnesota Department of Health (MDH) provided written comments on the Plan. In its February 9, 1993 comments, the MDH pointed out some inconsistencies with rules and policies relating to wellhead protection and well management. The February 23, 1994 comments state that the MDH suggestions have been incorporated into the revised draft, and that the Plan is consistent with the ground-water protection programs administered by MDH. In the February 23 comments, the MDH recommends final approval of the Plan.

On March _____, 1994 Hennepin County responded to the MDH Plan review comments.

21. **Minnesota Department of Agriculture Review:** On February 8, 1994 the Minnesota Department of Agriculture (MDA) provided written comments on the Plan. The comments related to inconsistencies with Minnesota statutes, recommended minor changes, and recommended future amendments or programs the County may wish to consider in future Plan amendments. MDA found no inconsistencies with current law and rule, and recommended approval of the Plan.

On March, _____ 1994 Hennepin County responded to the MDA Plan review comments.

22. **Minnesota Geological Survey Review:** On January 6, 1993 the Minnesota Geological Survey (MGS) provided written comments on the Plan. MGS reviewed the Plan for accuracy and completeness of ground-water and geologic information, and for potential roles the MGS might play in plan implementation. MGS identified a number of suggested additions, changes, and corrections, which have been incorporated into revised drafts of the Plan.

On March, _____ 1994 Hennepin County responded to the MGS Plan review comments, and have incorporated MGS suggestions into the final Plan.

23. **Metropolitan Council Review:** On February 21, 1994, staff of the Metropolitan Council provided written comments on the Plan. On March 3, 1994, the Metropolitan Council, at its regular meeting, voted to recommend to BWSR that the Plan be approved contingent on: a) the County's determining and including estimated costs to cities for implementing the Plan; and b) incorporating suggested corrections.

On March _____, 1994 Hennepin County responded to the Metropolitan Council Plan review comments.

24. **Minnesota Board of Water & Soil Resources Review:** On December 21, 1992 and July 21, 1993, the Minnesota Board of Water & Soil Resources (BWSR) provided written comments on the Plan.

BWSR in its comments dated July 21, 1993, stated that its comments on the preliminary draft were addressed in the revised draft.

On March _____ 1994, Hennepin County provided final written changes to the Board.

25. **County Response to Agency Comments:** Hennepin County in its Plan submitted to the Board on December 21, 1993, has made numerous changes to the Plan as a result of state agency and local comments.

On March _____, 1994, the County provided final written changes to the Plan, together with a written response to the final state agency comments. For those suggested changes which were not incorporated into the final Plan, the County has provided written explanations.

The County has made all the changes deemed necessary by the BWSR staff.

26. The Board reviewed the Plan for conformance with the requirements of the Metropolitan Water Management Act at its March 23, 1994 regular meeting.

CONCLUSIONS

DRAFT

1. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of approving a Ground-Water Plan of Hennepin County pursuant to Minn. Stat. 103B.255.
2. The Hennepin County Ground Water Plan attached to this Order:
 - (a) covers the entire county area;
 - (b) describes existing and expected changes to the physical environment, land use, and development in the county;
 - (c) summarizes available information about ground water and related resources in the county;
 - (d) states the goals, objectives, scope, and priorities of groundwater protection in the county;
 - (e) contains standards, criteria, and guidelines for the protection of ground water from pollution and for various types of land uses in environmentally sensitive areas, critical areas, and previously contaminated areas;
 - (f) describes relationships and possible conflicts between the ground water plan and the plans of other counties, local units of government, and WMO's in the affected ground water system;
 - (g) sets forth standards and guidelines for the implementation of the plan by WMO's and local units of government;
 - (h) includes a procedure for amending the plan,

as provided in Minnesota Statutes Chapter 103B.255.

ORDER

The Board hereby approves the attached Plan as the Ground-Water Plan of Hennepin County. Dated at St. Paul, Minnesota, this 23rd day of March, 1994.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: D. James Nielsen
Chairman



March 11, 1994

TO : Board Members
FROM : Greg Larson, Head-Water and Land
Management Section

Subject : The state cost-share program

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As announced by Ron Harnack at the February meeting, we are seeking your guidance on the state cost-share program. There are two primary issues: revision of the program rules and the allocation of funds to soil and water conservation districts. These issues have been discussed--more or less-- for about three years and have been the subject of resolutions at two annual meetings of the Minnesota Association of Soil and Water Conservation Districts. These issues fall within my section but due to higher priorities such as the Wetland Conservation Act and activities associated with our easement programs, I have not been able to commit my staff to these concerns. Recently, the workload in my section has shifted and state priorities have changed necessitating a new look at the cost-share program.

Concerning the allocation of funds: It is my recommendation that several options be considered for distributing the fiscal year 1995 cost-share program allocations, scheduled for your action this June. Options could include regional block grants, which have been favored by a number of SWCDs. The current rule does not prohibit this--or other options-- provided that at least 70 percent of the allocation addresses high priority problems. I refer you to page E-62 (8400.0600) of the cost-share rule which is included in your meeting packet.

Concerning the revision of the rule: It is my recommendation that the rule revision process formally begin this July. This timing would allow the cost-share revisions to incorporate those changes needed to make the best use of the State Revolving Loan program and consider the program changes needed to deal with expiring contracts from the Federal Conservation Reserve Program. Many other items also need attention as we seek to modernize the program to meet 1990s issues. Most concerns of SWCDs, to date, have focused on the type of practices and cost-share rates. As noted on page E-61 (8400.0300) of the rule, changes to the list of practices and cost-share rates can only be made pursuant to Minnesota Statutes, chapter 14. This is the rule-making chapter. I would expect that the rule revision could be completed by July 1, 1995.

I refer you to a backgrounder on the cost-share program which is included in your packet.

Given the interest of the Minnesota Association of Soil and Water Conservation Districts and the SWCD employees association in this topic, I am certain that they would participate in the development of allocation options and the rule revision process. In fact, I would expect them to assist!

Contact me if you have questions or comments prior to the meeting.

BACKGROUNDER: THE STATE COST SHARE PROGRAM

PURPOSE: To share the cost of installing land treatment practices to control soil erosion, sedimentation or water quality degradation.

LAW/AUTHORITY: MN Statutes Section 103C.501
Rules: Chapter 8400

- Eligibility requirements: Soil and Water Conservation Districts (SWCDs) requesting funds must submit to the BWSR an Annual Plan of Work, a Comprehensive Plan, and an Annual Report for the prior year and a financial statement showing the income and liabilities of the SWCD. These are reviewed and approved by the Board Conservationists.
- 70% of program funds must be used for high priority erosion, sedimentation or water quality problems identified in SWCD Comprehensive and Annual Plans. Cost-share rates may not exceed 75% of project costs (many SWCDs cost share projects at a rate lower than the maximum rate, so as to work with more landowners).
- Remaining funding may be used as follows:
 - no more than 20% of program funds may be used for the technical and administrative needs of the SWCDs, or for
 - secondary or "lower" priority erosion sedimentation and water quality problems as identified in the SWCD Comprehensive and Annual Plans. These cannot be cost-shared at a rate higher than 50% of total project costs.

WHAT PRACTICES ARE COST-SHARED?

- Erosion control structures
- Stripcropping
- Terraces
- Diversions
- Stormwater control systems
- Field windbreaks
- Animal waste control systems
- Critical area stabilization
- Streambank, lakeshore and roadside (SLR) stabilization

CURRENT FUNDING (FY 1994): \$1,461,000 (plus \$600,000 targeted for the Minnesota River and \$159,000 for SLR projects).

HISTORICAL FUNDING:

- Annual funding has averaged \$1.5M since 1977.
- Allocations to individual SWCDs average about \$16,000 and range from \$2,300 to \$42,000.

HISTORY:

- In 1977 the legislation establishing the program passed without a dissenting vote.
- The initial program rules were developed in 1978 and focused on the protection of soil productivity.
- In 1982, legislative changes included:
 - focusing on more aggressive landowner contacts by SWCDs; program funding related to SWCD plans
- A 1984 legislative change allowed for the State Board to retain funds until they were spent; the beginning of the "roll-over" (to the next year) of funds.
- In 1985, the Rule was revised and included:
 - incorporation of the 1982 legislative changes
 - introduction of the concept of Special Projects
 - an emphasis on water quality.
- Since 1985:

Local SWCD program goals and state priorities have not paralleled federal priorities. SWCDs have become more involved in helping counties and cities solve locally identified problems. Water quality related issues have replaced soil productivity concerns.

July 1, 1985

CHAPTER 8400
SOIL AND WATER CONSERVATION BOARD
COST-SHARE PROGRAM
RULES

8400.0100 DEFINITIONS.

Subpart 1. Scope. For purposes of parts 8400.0100 to 8400.2900, the definitions in this part, in addition to those in Minnesota Statutes, chapter 40, apply.

Subp. 1a. Adequately protected. "Adequately protected" means that soil erosion and other factors that influence the sustained productive use of the resource base are within acceptable limits, which are achieved through the use of soil and water conservation practices. With respect to soil erosion, the loss may not exceed "T."

Subp. 2. Agricultural Stabilization and Conservation Service. "Agricultural Stabilization and Conservation Service" means the United States Agricultural Stabilization and Conservation Service, an agency of the United States Department of Agriculture.

Subp. 3. Annual plan. "Annual plan" means a plan prepared by the district pursuant to Minnesota Statutes, section 40.07, subdivision 9, and according to the most recent version of the Guidelines for Soil and Water Conservation District Comprehensive and Annual Plans published by the state board. That publication is subject to frequent change, is available at the State Law Library, and is incorporated by reference.

Subp. 4. Approved practice. "Approved practice" means a soil and water conservation practice which qualifies for state cost-sharing and which has been approved by the state board.

Subp. 5. Area conservationist. "Area conservationst" means the area conservationist of the Soil Conservation Service.

Subp. 6. Assigned Soil Conservation Service personnel. "Assigned Soil Conservation Service personnel" means the district conservationist or Soil Conservation Service personnel designated by the area conservationist to provide need and performance certification to the program.

Subp. 7a. Class I-IV soil. "Class I-IV soil" means soil generally suitable for field crop production according to United States Department of Agriculture Handbook No. 210, "Land Capability Classification" (Washington, D.C., September, 1961). That publication is not subject to frequent change, is available at the St. Paul Public Library, and is incorporated by reference. Soil in Class I has few limitations that restrict their use while Class IV soil has very severe limitations that require very careful management.

Subp. 8. Comprehensive plan. "Comprehensive plan" means a long-range plan prepared by the district pursuant to Minnesota Statutes, section 40.07, subdivision 9 and according to the most recent version of the Guidelines for Soil and Water Conservation District Comprehensive and Annual Plans published by the state board. That publication is subject to frequent change, is available in the State Law Library, and is incorporated by reference.

Subp. 8a. Descriptive maps. "Descriptive maps" means computer-generated maps prepared by the land management information center of the State Planning Agency and provided to districts depicting high priority wind and water erosion and sedimentation areas. These maps are a tool for the district to identify high priority problem areas. These maps can and should be supplemented by the district as needed to more accurately reflect high priority erosion and sedimentation problems.

Subp. 9. District. "District" means a soil and water conservation district organized under Minnesota Statutes, chapter 40.

Subp. 10. District board. "District board" means the five supervisors of a district authorized to carry out the functions of the district.

Subp. 11. District conservationist. "District conservationist" means the district conservationist of the Soil Conservation Service.

Subp. 12. District cooperator. "District cooperator" means a land occupier who has requested the assistance of a district in controlling conservation problems. The request must be formalized by the signing of a district cooperator's agreement provided by the state board and approved by the district board.

Subp. 13. District technician. "District technician" means a district employee or county employee assigned to the district who possesses expertise in the design and application of soil and water conservation practices.

Subp. 14. Enduring practice. "Enduring practice" means a soil and water conservation practice which is designed for an effective life of ten years or more.

Subp. 14a. Feedlot model. "Feedlot model" means the analytical model contained in "An Evaluation System To Rate Feedlot Pollution Potential," publication no. ARM-NC-17, of the Agricultural Research Service of the United States Department of Agriculture (Peoria, Illinois, April 1982), designed for programmable hand-held calculators and used to determine the pollution potential rating of an animal feedlot. That publication is not subject to frequent change, is available at the State Law Library, and is incorporated by reference.

Subp. 15. Field Office Technical Guide. "Field Office Technical Guide" means the document providing standards and specifications for technical requirements of soil and water conservation practices as provided by the Soil Conservation Service and adopted by the district board.

Subp. 16. Group spokesperson. "Group spokesperson" means an individual designated by the several individuals involved in a group project, who may speak for the entire group in negotiations with a district for cost-share assistance.

Subp. 16a. High priority erosion problems. "High priority erosion problems" means areas where erosion from wind or water is occurring on Class I-IV soils equal to or in excess of $2 \times T$ tons per acre per year or any area within 300 feet of a water course or within 1,000 feet of a water basin or wetland eroding by water in excess of T tons per acre per year. The water basin, wetland, or water course must be classified by the Department of Natural Resources as a protected water. Erosion problems occurring on nonshoreland areas in excess of T but less than $2 \times T$ tons per acre per year are classified as secondary priority.

Subp. 16b. High priority water quality problems. "High priority water quality problems" means areas where sediment, nutrients, chemicals, or other pollutants discharge to Department of Natural Resources designated protected waters or to a sinkhole or ground water so as to impair their quality or usefulness, including high priority feedlots and sedimentation problems.

"High priority feedlots" means feedlots where the pollution potential rating from the feedlot model is greater than or equal to one and which are

discharging pollutants to Department of Natural Resources designated protected waters or to a sinkhole or shallow soils overlying fractured or cavernous bedrock or within 100 feet of a water well. Feedlots not meeting these criteria are not eligible for cost-sharing assistance except as provided in part 8400.2600, subpart 3.

"High priority sedimentation problems" means areas within 300 feet of a water course or 1,000 feet of a water basin or wetland where the water erosion rate exceeds three tons per acre per year or areas where the districts can show that sediment delivery occurs from a watershed or direct conveyance structure such as a storm sewer or paved outlet channel discharging to these waters. The water basin, wetland, or water course must be classified by the Department of Natural Resources as a protected water. Sedimentation problems not meeting these criteria are not eligible for cost-sharing assistance.

Subp. 18. Land occupier. "Land occupier" means a person, firm, or corporation, including the governments of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of the state, who possess lands lying within a district organized under Minnesota Statutes, chapter 40, whether as owner, lessee, renter, tenant, or otherwise, including, during the life of a practice, successors of a land occupier who received a cost-share payment. This definition also includes the federal government.

Subp. 19. Nonproduction practice. "Nonproduction practice" means a soil and water conservation practice which is installed or applied to control soil erosion or sedimentation or to protect or improve water quality. Practices installed or applied primarily to bring land into production or to increase the short-term productivity are not eligible for cost-sharing.

Subp. 20. Program plan. "Program plan" means a statewide plan developed by the state board, in consultation with the districts and appropriate agencies, for control of the soil and water conservation problems in the state.

Subp. 20a. Protected water. "Protected water" means those water basins, water courses, and wetlands, as defined in Minnesota Statutes, section 105.37, on the inventory of public waters and wetlands under Minnesota Statutes, section 105.391, subdivision 1, and identified on a protected waters and inventory map available in a county auditor's office.

Subp. 20b. Registered professional engineer. "Registered professional engineer" means a person who practices professional engineering within the meaning of Minnesota Statutes, sections 326.02 to 326.15, and who performs technical professional services such as, but not limited to, the planning, designing, or inspecting of the construction of erosion, sediment control, or water quality protection or improvement measures. A registered professional engineer may be designated by a district board and may use criteria in a recognized technical procedure to design, install, and certify practices which qualify for state cost-sharing.

Subp. 20c. Shallow soils overlying fractured or cavernous bedrock. "Shallow soils overlying fractured or cavernous bedrock" means areas where the soil depth or texture in conjunction with the condition of the bedrock will not provide treatment of agricultural waste sufficient to protect groundwater quality. Determination of these areas is made on an individual project basis by assigned Soil Conservation Service personnel or a registered professional engineer. Actual determination may be done by the district technician.

Subp. 20d. Sinkhole. "Sinkhole" means a depression or hole in the earth's surface caused by dissolving of underlying limestone; drainage is through joints and fractures in underlying bedrock.

Subp. 21. Soil and water conservation practice. "Soil and water conservation practice" means structural or vegetative practices applied to the land for the purpose of controlling soil erosion, sediment, agricultural waste, or other water pollutants.

Subp. 22. Soil Conservation Service. "Soil Conservation Service" means the United States Soil Conservation Service, an agency of the United States Department of Agriculture.

Subp. 22a. Special project. "Special project" means a conservation project including but not limited to a demonstration project, accelerated watershed or water quality project, long-term conservation agreement, planning technique, or nonstructural erosion or sediment control or water quality protection or improvement measure. Special projects may address nonshoreland secondary priority erosion problems and are submitted to the state board according to "Guidelines for Special Projects" published by the state board. That publication is subject to frequent change, is available in the State Law Library, and is incorporated by reference.

Subp. 23. State board. "State board" means the state Soil and Water Conservation Board created in Minnesota Statutes, section 40.03.

Subp. 25. T. "T" means soil loss tolerance which is the maximum level of soil erosion that will permit a high level of crop productivity to be sustained economically and indefinitely. In Minnesota, "T" ranges from one to five tons per acre per year depending on the particular soil characteristics. "T" values for Minnesota soils are provided in the Field Office Technical Guide.

Subp. 26. 2 x T. "2 x T" means soil erosion at the rate of two times T.

8400.0200 AUTHORITY.

Minnesota Statutes, chapter 40, authorizes the state Soil and Water Conservation Board, in cooperation with the soil and water conservation districts, to administer a program of cost-sharing with land occupiers on the installation of soil and water conservation practices. Parts 8400.0100 to 8400.2900 provide procedures and criteria to be followed by the state board in allocating cost-sharing funds to districts, and standards and guidelines which the district boards shall use in allocating funds to land occupiers.

8400.0300 ESTABLISHING APPROVED PRACTICES.

The state board, in consultation with the districts, shall maintain a list of practices which are eligible for cost-share funds and a schedule of maximum rates. The list is contained in parts 8400.2000 to 8400.2700 and the schedule in parts 8400.2800 and 8400.2900. Changes to the list and schedule must be made pursuant to Minnesota Statutes, chapter 14.

8400.0400 CRITERIA FOR APPROVED PRACTICES.

Practices approved by the state board must meet the criteria in items A to C.

A. Their primary purpose must be the control of soil erosion or sedimentation, or protection or improvement of water quality.

B. They must be enduring in nature. All practices cost-shared under this program must be designed for a minimum effective life of ten years.

C. They must be nonproduction practices.

8400.0600 ALLOCATION OF FUNDS.

Subpart 1. Comprehensive plan. Before the state board can allocate cost-share funds to a district it must first approve the district's comprehensive plan, including its most recent amendment and the annual work plan which includes the application for needed cost-share funds. The plans must be in a format required by the state board.

Subp. 3. Review criteria. The state board shall review all district applications for cost-share funds with respect to the following criteria:

- A. the extent of high priority erosion or water quality problems in the district as outlined in the district comprehensive and annual plans;
- B. priorities for the control of soil erosion or water quality problems as established in the program plan of the state board;
- C. historical success of the district in applying soil and water conservation practices;
- D. availability of cost-share funds from other sources; and
- E. readiness of the district to effectively use the funds.

The state board shall review all district applications for special project funds with respect to criteria established in the most recent version of the Guidelines for Special Projects published by the state board. That publication is subject to frequent change, is available in the State Law Library, and is incorporated by reference.

Subp. 4. Grants. Following review and approval of the annual and comprehensive plans, the state board shall allocate to districts in the form of grants at least 70 percent of the cost-sharing funds available statewide for conservation practices to address high priority erosion or water quality problems. The remaining cost-share funds may be allocated by the board to districts for technical and administrative assistance or special projects. Technical and administrative assistance grants may be used for controlling secondary priority nonshoreland erosion problems.

8400.0700 MONITORING.

For purpose of monitoring the progress of the program and use of funds, the state board shall receive from each district an annual report of the year's accomplishments by a date deemed reasonable by the state board. The state board may require additional special reports deemed necessary by the

state board to monitor the cost-sharing program. The reports must be on forms provided by the state board.

8400.0900 ADMINISTRATION OF FUNDS.

Following receipt of grant funds from the state board, a district is responsible for administration of the funds in accordance with Minnesota Statutes, chapter 40 and all other applicable laws. The district board may make all decisions concerning use of these funds in accordance with parts 8400.0100 to 8400.2900.

As a condition to receiving grant funds from the state board, the district shall ensure compliance with the maintenance provisions of part 8400.1700 and Minnesota Statutes, chapter 40 by monitoring all cost-share contracts made with land occupiers.

Prior to considering any applications from land occupiers for cost-share assistance, the district board shall establish the cost-share rates for practices to be installed under the program, which may not exceed the maximum rates established by the state board. This decision shall be based on the following factors:

- A. the extent of high priority erosion or water quality problems in the district as outlined in the district comprehensive and annual plans;
- B. advice of technical experts familiar with the district;
- C. cost-share rates currently in effect under the agricultural conservation program administered by the United States Agricultural Stabilization and Conservation Service and other assistance programs;
- D. district priorities as established in the districts' comprehensive and annual plans; and
- E. cost-share funds available.

8400.1000 APPLICATION FOR FUNDS BY LAND OCCUPIERS.

Land occupiers seeking assistance under this program shall apply to the districts on forms provided by the state board and available from the district office. Each application must be filled out in its entirety. The application must be signed by the land occupier and if the land occupier is not the owner it must also bear the owner's signature. Applications must be submitted not later than June 1 to be considered for cost-sharing from the funds available

for the current fiscal year. After initial priority screening by the district board, assigned Soil Conservation Service personnel or a registered professional engineer are responsible for making a determination of need and cost estimate. Actual determination of need and cost estimate may be done by the district technician. Additional information on the desired practice which may be required by the district board in its consideration of the application shall be included.

8400.1100 GROUP PROJECT.

A situation may arise where the cooperation of several land occupiers is required to solve a conservation problem. The district may share the cost of such a group project if all of the land occupiers are eligible as individuals and the practices satisfy the criteria of the program. The land occupiers must reach agreement on a division of payments and designate a group spokesperson. The spokesperson must be identified on the group cooperator agreement and shall file all forms with the district and negotiate all project details with the district. Checks for the district share of the practice shall be issued to the group members based on the division of payment plan prepared by the group.

8400.1200 LAND IN MORE THAN ONE DISTRICT.

If a project involves land in more than one district, application must be made to the district containing the most land benefited by the practice.

8400.1300 CRITERIA FOR DISTRICT BOARD REVIEW.

Criteria for district board review:

- A. The applicant must be a district cooperator.
- B. The practice needed to solve the problem must be on the list of approved practices.
- C. The primary purpose of the requested practice must be the control of soil erosion or sedimentation, or the protection or improvement of water quality. In cases where the primary purpose is questionable, the district board shall make a determination of the acceptability of the application. Additionally, the district board shall make determination of the need for supplemental practices to protect any practice installed under this program,

such as fencing of water impoundment structures. If the district board determines that supplemental practices are necessary, it shall authorize cost-sharing for their installation.

D. The requested practice must be consistent with district plans and priorities.

E. The practice must be maintained by the land occupier, who is responsible for operation and maintenance of practices applied under this program.

F. Priority consideration shall be given to land occupiers or groups of land occupiers who demonstrate the ability to meet matching requirements. Cost-share funds may not be used for repair of practices installed solely with private or federal cost-sharing funds.

G. The practice must comply with the technical requirements of the Field Office Technical Guide. For practices not included in the Field Office Technical Guide, other recognized technical procedures may be used to design, install, and certify practices.

8400.1400 DISTRICT APPROVAL.

Subpart 1. General. After completion of a priority determination and cost estimate, the district board shall either approve or deny the application. If it is approved, the district board shall instruct the chairman or acting chairman to sign the application. Once it is signed, the application becomes the contract between the district and land occupier and serves as the authorization for work to proceed on the practice. Practices begun prior to district approval are ineligible for financial assistance. If it is denied, the district board shall notify the land occupier in writing within 30 days after board action of the reason for denial of the application. Changes in any provisions of the contract are subject to review and approval by the district board.

Subp. 2. High priority problems. In order to ensure compliance with part 8400.0600, subpart 4, the district board shall approve only those applications that involve the high priority problems for which they received funds.

8400.1405 STARTING AND COMPLETION DEADLINES.

Subpart 1. Time limit; cancellation. Projects not started within 18 months after district board approval must be canceled unless an amendment to the project has been approved by the district board. Projects not completed within two calendar years after initial approval must be canceled.

Subp. 2. Partial payment. In cases where weather or other unanticipated circumstances beyond the control of the land occupier, force postponement of certification of completion until the following construction season, the state board or its authorized representative may authorize a district board to issue a partial payment for the work that has been completed. The following conditions must be met before the state board or its authorized representative will consider authorizing a partial payment:

A. The anticipated completion date will be in compliance with subpart 1.

B. The completed work meets the requirements of part 8400.1300, item G.

C. The state board's authorized representative must review the work and concur in the payment decision.

Subp. 3. Payment conditions. If the state board or its authorized representative authorizes a partial payment under subpart 2, the following conditions apply:

A. Payment percentages must comply with part 8400.2800.

B. The balance of the project must be paid by the district board upon the satisfactory completion of the total project.

C. All expenses incurred in correcting damage caused to the project by virtue of its incompleteness must be borne by the land occupier.

D. Land occupiers receiving partial payments must complete the project within a time deemed reasonable by the district board.

E. Land occupiers not completing partially paid projects are violating part 8400.1700 and shall be directed to return the amount of financial assistance received.

F. Partial payment authorizations shall not be construed as precedent setting. Every request will be considered by the state board or its authorized representative on its own merits.

Subp. 4. Denial. If the state board or its authorized representative denies a request for partial payment under subpart 2, the district board shall be notified within 30 days of the reasons for denial of the request.

8400.1500 DISTRICT RECORDS.

The district shall maintain a current ledger of all cost-share contracts on forms provided by the state board. The ledger must specify the land occupiers with whom the district has contracted, the practices involved, the status of construction, and a total of funds encumbered.

8400.1600 PAYMENTS.

Subpart 1. Construction of practice. Construction of practices must be monitored by the district board to ensure compliance with part 8400.1300, item G. Upon completion, assigned Soil Conservation Service personnel or a registered professional engineer shall certify whether or not the practice has been satisfactorily performed, including a certification that the practice meets the requirements of part 8400.1300, item G. No certification shall be made until all specifications have been satisfied. Exceptions must be in accordance with part 8400.1405, subpart 2. Upon certification of completion, the land occupier shall contact the district for payment and shall present documentation of all costs incurred in the installation of the practice in the form of receipts or invoices.

Subp. 2. In-kind services. In-kind services provided by the land occupier such as, but not limited to, earth work, seedbed preparation, and seeding may be credited toward the land occupier's share of the total cost of the practice. The district board shall determine whether charges for in-kind services are practical and reasonable.

Subp. 3. Actual cost differing from estimated cost. In cases where the actual cost of the practice exceeds the estimated cost, the district may only share the approved percentage of the estimated cost, except when an amendment to the cost-share contract has been approved. Because of extreme circumstances such as, but not limited to, weather and unforeseen geologic conditions, it may be desirable to increase the estimated cost, or postpone the starting or completion date of the practice. These changes must be approved by the supervisors in advance of completion of the work with an

amendment to the cost-share contract covering the changes. Amendments may not be authorized for providing final cost-sharing percentages in excess of the originally approved percentage or additional money for projects that were knowingly underfunded at the time of approval. Amendments may not be authorized after final approval of payment has been made on the original contract. Where the actual cost is less than the estimated cost, the district shall only share the approved percentage of the actual cost of the practice. The district board shall review the receipts or invoices provided by the land occupier to determine the actual cost of the practice. When the district determines that all claims are practical and reasonable, it shall authorize issuance of a check for the district share of the practice. If the district board determines that certain claims are not justified, it shall notify the land occupier in writing of the unjustified claims within 30 days. The district board shall then authorize the issuance of a check for the district share of the justified claims.

8400.1700 MAINTENANCE.

The land occupier is responsible for operation and maintenance of practices applied under this program to ensure that their conservation objective is met and the effective life of ten or more years is achieved. Should the land occupier fail to maintain the practices during their effective life, the land occupier is liable for the amount of financial assistance received for their installation. The district board may authorize the removal of a practice installed under this program provided the land occupier can show good cause for removal of the practice. The land occupier is not liable for cost-share assistance received if the failure was caused by reasons beyond the land occupier's control, or if soil and water conservation practices are applied at the land occupier's expense which provide equivalent protection of the soil and water resources. In no case shall a district provide cost-share assistance to a land occupier for the reapplication of practices which were removed by the land occupier during their effective life or failed due to improper maintenance.

8400.1800 APPEALS.

If a land occupier feels he has been treated unfairly, he may request that the district board review its decision. Should the land occupier and the

district board reach an impasse, the land occupier may petition in writing for a hearing before the state board. If it grants the hearing, which shall be informal, the state board or a referee appointed by it shall hear all testimony offered, and shall accept written testimony for ten days after the hearing. The referee, if one is used, shall report his findings and recommendation to the state board, which shall within 60 days of the hearing date make its decision on the appeal, upholding, reversing, or amending the decision of the district board.

8400.1950 VARIANCES.

If a district board feels that a particular requirement of parts 8400.0100 to 8400.2900 prevents an erosion or sedimentation control or water quality project from being installed, a request for a variance may be filed with the director of the state board. The request must be in writing and contain:

A. the name and address of the district board making the request and the signature of the district chairperson;

B. the nature of the variance being sought, including an identification of the applicable rule from which the variance is sought, the time period for which it is sought, and the reason for seeking the variance;

C. a statement of alternatives for dealing with the installation of the affected project if the variance is not granted; and

D. a statement of the effects on applicable natural resources and the public if the variance is granted.

Variance requests must be submitted to the director at least 30 days prior to the state board meeting at which the variance is requested to be heard. Within 45 days after the meeting, the state board must approve or deny the variance request and provide written notification of the decision to the applicant. A variance will not be granted if it is in conflict with any statute. The state board may grant a variance upon such conditions as it may prescribe.

If a variance has been granted by the state board, the district board holding the variance may file with the state board at any time a written request for modification or amendment of the variance. The request for modification or amendment, and the state board's consideration of the request, shall comply with requirements of this part.

8400.2000 APPROVED PRACTICE: EROSION CONTROL STRUCTURES.

Subpart 1. Definition. "Erosion control structure" means a structure such as, but not limited to, floodwater retarding or multipurpose dams designed to provide temporary storage of floodwater, control the release rate of water providing downstream channel stability, or impound water.

Subp. 2. Purpose. The purpose of an erosion control structure is to control soil erosion or to protect or improve water quality. An erosion control structure may provide multiple benefits including, but not limited to, water supply for livestock, recreation, flood control, channel stability, wildlife habitat, and fire prevention.

Subp. 3. Applicability. Erosion control structures may be used on any lands where they are necessary for the control of soil erosion or water quality protection or improvement.

Subp. 4. Policies. Cost-sharing is authorized:

A. only for the construction of erosion control structures that provide for reduction of soil erosion or water quality protection or improvement;

B. for the installation of livestock watering facilities in conjunction with erosion control structures only if the facilities are necessary for the proper management and protection of the structure as determined by the district board;

C. for permanent fencing of an erosion control structure as determined by the district board;

D. for tree and shrub plantings adjacent to the structure and seeding necessary to stabilize an erosion control structure and adjacent critical areas, including, whenever possible, the use of those species that provide wildlife habitat and visual enhancement;

E. for erosion control structures which provide multiple benefits if the primary benefit is soil erosion control or water quality protection or improvement;

F. for temporary materials and seedings necessary to properly stabilize an erosion control structure during construction; and

G. for erosion control dams and ponds if a minimum of 50 percent of the contributing drainage area above the proposed project is adequately protected.

8400.2100 APPROVED PRACTICE: STRIPCROPPING.

Subpart 1. Definition. "Stripcropping" means the development and application of a cropping system for a farming unit which provides for planting row crops with the contour where practicable and incorporates alternate strips of row crops, close grown crops, sod crops, or fallow.

Subp. 2. Purpose. The purpose of stripcropping is to establish a system of farming with contour, field, or wind stripcropping to control soil erosion or protect or improve water quality. Stripcropping may provide additional benefits to wildlife.

Subp. 3. Applicability. Stripcropping may be used on any lands where it is necessary for the control of soil erosion or water quality protection or improvement.

Subp. 4. Policies Cost-sharing is authorized for equipment and labor costs involved in the marking of individual strip lines. Equipment and labor costs must not exceed equivalent total costs as listed in "Custom Rate Estimates for Minnesota," published annually by the University of Minnesota Agricultural Extension Service, and available in county agricultural extension offices. That publication is adopted by reference.

A Project is not eligible for state cost-share assistance if federal cost-share funds are used on the same project.

8400.2200 APPROVED PRACTICE: TERRACES.

Subpart 1. Definition. "Terrace" means an earth embankment, or a combination ridge and channel constructed across the slope at the required spacing.

Subp. 2. Purpose. Terraces are constructed to:

- A. reduce erosion;
- B. reduce sediment content in runoff water;
- C. intercept and conduct surface runoff at a nonerosive velocity to a stable outlet;
- D. prevent gully development;
- E. reduce flooding; or
- F. protect or improve water quality.

Terraces may provide additional benefits by creating wildlife habitat and retaining runoff for moisture conservation.

Subp. 3. Applicability. Terraces may be used on any lands where they are needed for the control of soil erosion or water quality protection or improvement.

Subp. 4. Policies. Cost-sharing is authorized:

A. for construction necessary to properly establish terraces, including earthwork, material, and seedings if necessary;

B. for temporary materials and seedings necessary to properly stabilize terraces during construction; and

C. for tile systems necessary for the establishment and operation of the terraces, including the outlet which shall be limited to 300 feet below the last terrace in a system.

8400.2300 APPROVED PRACTICE: DIVERSIONS.

Subpart 1. Definition. "Diversion" means a channel with a supporting ridge on the lower side constructed across the slope.

Subp. 2. Purpose. The purpose of a diversion is to divert water away from erosive areas or areas that pose a threat to water quality to areas where it can be used or disposed of safely. Diversions may provide additional benefit to wildlife.

Subp. 3. Applicability. A diversion may be used where:

A. runoff from higher lying areas is eroding cropland, pastureland, or farmsteads, or is needed to support conservation practices such as terraces or stripcropping in the control of erosion or sedimentation;

B. surface and shallow subsurface flow is damaging sloping upland or contaminating ground or surface water; or

C. it is required as a part of a pollution abatement system, or to control erosion or sedimentation on urban or developing areas and construction sites.

Subp. 4. Policies. Cost-sharing is authorized:

A. for tile systems necessary for the establishment and operation of diversions;

B. for construction necessary to properly establish diversions including earthwork, materials, and seedings;

C. for temporary materials and seedings necessary to properly stabilize diversions during construction; and

D. for permanent fencing of diversions as determined by the district board.

8400.2400 APPROVED PRACTICE: STORMWATER CONTROL SYSTEMS.

Subpart 1. Definition. "Stormwater control system" means a practice or

system of practices such as, but not limited to, grassed waterways, water and sediment control basins, and grade stabilization structures installed to convey storm runoff to a constructed or natural outlet in a nonerosive manner. This practice does not apply when the primary purpose is drainage to expand or improve crop production or making the cropping system more convenient.

Subp. 2. Purpose. The purpose of a stormwater control system is to provide a means of regulating or removing runoff to control erosion or protect or improve water quality. Additional benefit may be provided through creation of wildlife habitat.

Subp. 3. Applicability. A stormwater control system may be used on all lands by using vegetative or structural measures for control of erosion or protection or improvement of water quality.

Subp. 4. Policies. Cost-sharing is authorized:

A. For the construction of practices required in a complete stormwater control system. These practices include, but are not limited to a lined waterway or outlet, detention ponds, vegetative filter strips, permanent sod cover, and permanent vegetation including trees, shrubs, and grasses. At least 80 percent of the contributing drainage areas above grassed waterways on land owned or controlled by the applicant, must be adequately protected.

B. For tile systems necessary for the establishment and operation of stormwater control systems, including the outlet, which is limited to 300 feet below the end of the waterway.

C. For temporary materials and seedings necessary to properly stabilize a stormwater control system during construction.

D. For permanent fencing of stormwater control systems as determined by the district board.

8400.2500 APPROVED PRACTICE: FIELD WINDBREAKS.

Subpart 1. Definitions. "Field windbreak" means a strip or belt of trees, shrubs, or grass barriers established within or adjacent to a field.

Subp. 2. Purpose. The primary purpose of a field windbreak is to reduce wind erosion. Additional benefits may be the protection of crops, livestock, and wildlife, increased moisture conservation by controlling snow deposition, and beautification and enhancement of the landscape.

Subp. 3. Applicability. Field windbreaks may be used in or around open field which need protection against wind erosion. Additional benefits may be realized from the creation of wildlife habitat.

Subp. 4. Policies. Cost-sharing is authorized for site preparation, planting materials, planting, chemicals for weed control, and other applicable costs necessary to establish a field windbreak. The land occupier is responsible for controlling competitive vegetation for two years following planting and must bear the cost of control.

Cost-sharing is prohibited for plantings installed primarily for farm beautification, protection of buildings or livestock, energy conservation, or other uses where erosion control is not the primary purpose.

8400.2600 APPROVED PRACTICE: ANIMAL WASTE CONTROL SYSTEMS.

Subpart 1. Definition. "Animal waste control system" means a planned agricultural waste management system to contain and manage liquid and solid wastes including runoff from concentrated animal waste (feedlot) areas with ultimate disposal in a manner which does not degrade soil or water resources. This practice includes systems for safe disposal of livestock wastes through use of soil and plants.

Subp. 2. Purpose. Agricultural waste management systems are used to manage wastes in rural areas in a manner which prevents or minimizes degradation of soil and water resources and protects public health and safety. These systems are planned to preclude discharge of pollutants to surface or ground water and, to the fullest practicable extent, recycle wastes through soil and plants.

Subp. 3. Applicability. Animal waste control systems may be used with any high priority feedlot or where the land occupier was cited by the Minnesota Pollution Control Agency or other situations where that agency determines there is a potential feedlot pollution hazard.

Subp. 4. Policies. Cost-sharing is authorized for:

A. All structures and permanent shrubs, trees, or grasses necessary to store animal wastes or control stormwater runoff from animal confinement areas including storage facilities, diversions, waste storage ponds, and waterways. A complete system, controlling discharge of runoff from animal confinement areas to waters of the state is required.

B. Tile systems necessary for the establishment and operation of an animal waste control system.

C. Temporary materials and seedings necessary to properly stabilize an animal waste control system during construction.

D. Permanent fencing of an animal waste control system as determined by the district board.

Cost-sharing is prohibited on any costs normally incurred in the management of an animal confinement area. This includes buildings, yards, permanent or portable pumps, tank wagons, loaders, stackers, and similar items.

Holding tanks, collection basins, waste conveying pipe, and other animal waste facilities are eligible for cost-sharing if the district board determines that they are necessary to protect water quality and if the entire system needed to control pollution is installed.

A holding tank which will become an integral part of a building is eligible for cost-sharing if there is no other feasible alternative available for controlling pollution. The district board, with technical review completed by technicians available to it, shall make the final decision concerning the cost-sharing eligibility of such a system. For purposes of determining the cost-share payment, the cost of the building foundation and the cost of the building is not eligible for cost-sharing. The cost attributable to the foundation shall be represented by the top four feet of the storage tank walls.

8400.2700 APPROVED PRACTICE: CRITICAL AREA STABILIZATION.

Subpart 1. Definition. "Critical area stabilization" means planting permanent vegetation such as trees, shrubs, vines, grasses, or legumes or placing rock cover on highly erodible or severely eroded sites or in areas where vegetation is needed to protect or improve water quality.

Subp. 2. Purpose. The purpose of critical area stabilization is to provide permanent vegetative or rock cover to stabilize the soil, to control erosion or to protect or improve water quality. Additional benefit may be gained by improving wildlife habitat and enhancing natural beauty.

Subp. 3. Applicability. Critical area stabilization may be used on sediment-producing, highly erodible, or severely eroded areas or in areas where vegetation is needed to protect or improve water quality, such as, but not limited to, abandoned mine spoil, construction sites, and denuded or gullied areas where vegetation is difficult to establish.

Subp. 4. Policies. Cost-sharing for stabilizing streambank, lakeshore, and roadside areas must be addressed with the approved practice in part 8400.2705.

Cost-sharing is authorized for:

- A. earthwork, materials, seed, and seedings and other associated costs necessary to stabilize the area;
- B. temporary materials and seedings necessary to stabilize the area during construction; and
- C. permanent fencing of the area as determined by the district board.

8400.2705 APPROVED PRACTICE: STREAMBANK, LAKESHORE, AND ROADSIDE STABILIZATION.

Subpart 1. Definition. "Streambank, lakeshore, and roadside stabilization" means stabilizing and protecting streambank, lakeshore, and roadside areas against erosion by vegetative or structural means.

Subp. 2. Purpose. The purpose of streambank, lakeshore, and roadside stabilization is to control erosion or protect or improve water quality.

Subp. 3. Applicability. Streambank, lakeshore, and roadside stabilization may be used on eroding or sediment producing areas on streambank, lakeshore, or roadside sites where vegetative or structural measures are needed to correct the problem.

Subp. 4. Policy. Cost-sharing is authorized for:

- A. earthwork, materials, seed, and seedings necessary to stabilize the area;
- B. temporary materials and seedings necessary to stabilize the area during construction; and
- C. permanent fencing of the area as determined by the district board.

Permanent fencing may be used as the sole remedy if it is determined by the district board to be the most practical solution, except that fencing of property boundaries and roads is ineligible for cost-sharing.

Subp. 5. Cost-sharing limit. Cost-sharing may not exceed 50 percent of total eligible project costs.

8400.2800 MAXIMUM RATES.

The maximum percent of the total cost of a practice installed to control a high priority erosion or water quality problem that may be funded by state

cost-share funds is 75 percent except as stated in part 8400.2100, subpart 4. The maximum percent of the total cost of a practice installed to control a secondary priority nonshoreland erosion problem that may be funded by state cost-share funds is 50 percent except as stated in part 8400.2100, subpart 4. State cost-share funds may be matched with federal money or other state funds except as stated in part 8400.2100, subpart 4. The combined state and federal amount may not exceed the maximum rates in this part or part 8400.2705, subpart 5.

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to districts. The state board shall emphasize the determination of priority areas where erosion, sedimentation, and related water quality problems appear most in need of control and the development of the comprehensive public information program.

Subd. 2. ~~Informational hearing on plan.~~ To develop the program plan, the state board may request existing pertinent information from state agencies and may conduct hearings.

Subd. 3. ~~Coordination with state resource plans.~~ The program plan shall be coordinated as closely as possible with the statewide framework water resources plan, the statewide water quality management plan, and other statewide resource plans.

Subd. 4. ~~Review and revision.~~ The state board shall review and revise the program plan at intervals it deems appropriate.

HIST: 1990 c 391 art 3 s 22

COST-SHARING CONTRACTS

103C.501 COST-SHARING CONTRACTS FOR EROSION CONTROL AND WATER MANAGEMENT.

Subdivision 1. **Cost share authorization.** The state board may allocate available funds to districts to share the cost of systems or practices for erosion or sedimentation control or water quality improvement that are designed to protect and improve soil and water resources.

Subd. 2. **Request by district board.** (a) A district board requesting funds of the state board must submit an application in a form prescribed by the board containing:

- (1) a comprehensive plan;
- (2) an annual work plan; and
- (3) an application for cost-sharing funds.

(b) The comprehensive and annual work plans must be completed as provided in section 103C.331, subdivision 11. After review of the district's comprehensive plan, the state board must approve the comprehensive plan with necessary amendments or reject the plan.

Subd. 3. **Approval of application.** If the state board approves the comprehensive plan, including the plan's most recent amendment, the annual work plan, and the application of the district, the state board shall determine the specific amount of funds to allocate to the district for cost-sharing contracts.

Subd. 4. **Cost-sharing funds.** (a) The state board shall allocate at least 70 percent of cost-sharing funds to areas with high priority erosion, sedimentation, or water quality problems. The areas must be selected based on the statewide priorities established by the state board. The allocated funds must be used for conservation practices for high priority problems identified in the comprehensive and annual

work plans of the districts.

(b) The remaining cost-sharing funds may be allocated to districts as follows:

- (1) for technical and administrative assistance, not more than 20 percent of the funds; and
- (2) for conservation practices for lower priority erosion, sedimentation, or water quality problems.

Subd. 5. **Contracts by districts.** (a) A district board may contract on a cost-share basis to furnish financial aid to a land occupier or to a state agency for permanent systems for erosion or sedimentation control or water quality improvement that are consistent with the district's comprehensive and annual work plans.

(b) The duration of the contract may be the time required to complete the planned systems. A contract must specify that the land occupier is liable for monetary damages, not to exceed the amount of financial assistance received from the district, for failure to complete the systems or practices in a timely manner or maintain the systems or practices as specified in the contract.

(c) A contract may provide for cooperation or funding with federal agencies. A land occupier or state agency may provide the cost-sharing portion of the contract through services in kind.

(d) The state board or the district board may not furnish any financial aid for practices designed only to increase land productivity.

Subd. 6. **Rules.** The state board shall adopt rules prescribing:

- (1) procedures and criteria for allocating funds for cost-sharing contracts;
- (2) standards and guidelines for cost-sharing contracts;
- (3) the scope and content of district comprehensive plans, plan amendments, and annual work plans;
- (4) standards and methods necessary to plan and implement a priority cost-sharing program, including guidelines to identify high priority erosion, sedimentation, and water quality problems;
- (5) the share of the cost of conservation practices to be paid from cost-sharing funds; and
- (6) requirements for districts to document their efforts to identify and contact land occupiers with high priority erosion problems.

HIST: 1990 c 391 art 3 s 23

WORKS OF IMPROVEMENT

ISSUE

Thomas E. Casey & Mark Ten Eyck
Petition for Intervention
DNR Permit Application No. 93-6130
Whaletail Lake, Hennepin County

The petition requests that the BWSR Board: (1) determine that an important question of water policy exists; (2) that intervention in the public interest is justified; and (3) that a written recommendation be rendered regarding the question of water policy described in the petition.

BACKGROUND

On February 17, 1994 the BWSR received a petition for intervention in a matter of water law or policy. The Board's authority to intervene in a matter of water law or policy exists under M.S. 103A.301-.341. The dispute centers around an application to DNR for a permit to dredge a portion of a protected waters (Whaletail Lake PW #27-184P) for access by a seaplane from the shoreline to the open water.

The petition for intervention is based on the question of does a riparian owner have any legal right to dredge in a protected waters to access his seaplane from a upland area, through wetland vegetation, to the open water area of the lake. The petitioners contend that the proposed activity will have detrimental effects on the environment, and that there is no legal precedent in Minnesota case law to grant the permit. The petitioners also raise questions about conflicting water uses, safety, and environmental impacts.

The following excerpt from M.S. 103A.325 explains the decision before the Board.

"After receiving a petition, the board must decide whether the petition and the record made before the agency show an important question of water policy according to the rules adopted by the board. If the board decides that there is not an important question of water policy, the board may not intervene and the proceeding continues in the agency as though the petition had not been made. If the board decides there is an important question of water policy and intervention in the public interest is justified, the board must issue a brief statement to the petitioner and the agency describing in general terms the questions of water policy it will consider."

FINDINGS

The following findings outline the relevant statutory and rule provisions that relate in this matter.

1. MS 103G.205, Effect of Public Waters Designation. Subpart 2 of this section states that designation as a public waters does not diminish the right of ownership or usage of the beds underlying the designated public waters.
2. MS 103G.245, Subd. 1, (2), requires a DNR permit to change or diminish the course, current, or cross section of public waters, entirely or partially within the state, by any means, including filling, excavating, or placing of materials in or on the beds of public waters.
3. MS 103G.245, Subd. 7, permits may only be issued if the project will involve a minimum encroachment, change, or damage to the environment. If a major change is justified, permits must include provisions to compensate for the detrimental aspects of the change.

The statute implies that there is never an absolute prohibition on the use of protected waters.

4. MS 103G.245, Subd. 8, states that permits that involve excavation in the beds of public waters may be granted only if the area is covered by a shoreland zoning ordinance and the permit includes provisions for the deposition of deposited materials. The City of Minitrista has a State approved shoreland ordinance.
5. 103G.301, Subd. 7, authorizes the commissioner to obtain written recommendations from municipalities, watershed districts, and soil and water conservation districts. In addition DNR permits are commented on internally by staff from the divisions of fisheries, wildlife, and ecological services. DNR has also in this matter provided a draft permit for review and comment to the parties mentioned above.
6. MS 103G.315, Denial and Issuance of Permits. This section describes the commissioners authority. The section also directs the DNR to adopt rules prescribing standards and criteria for issuing and denying water use permits.

MS 103G.315, Subd. 3. Issuance of Permit, states that if the commissioner concludes that the plans of the applicant are reasonable, practical, and will adequately protect public safety and promote the the public welfare, the commissioner shall grant the permit.

7. MR 6115.0200 Excavation of Protected Waters, is the rule authority under which DNR operates when issuing or denying a permit that involves excavation in a public water.

MR 6115.0201, Subp. 4., B. Provides specific authority to Dnr to permit excavations for navigation related purposes.

8. The MN Department of Transportation has designated Whaletail Lake for seaplane use.

CONCLUSION

Staff concludes that the law and rule define policy in this matter in sufficient detail so that the BWSR Board does not need to intervene in this case.

Thomas E. Casey

Attorney at Law
2854 Cambridge Lane
Mound, Minnesota 55364
(612) 472-1099
Fax: (612) 472-4771

February 15, 1994

Board of Water and Soil Resources
Attn: Ronald Harnack, Executive Director
155 South Wabasha, Suite 104
St. Paul, MN 55107 VIA FAX (297-5615) & U.S. MAIL

and

Department of Natural Resources
Attn: Rodney Sando, Commissioner
500 Lafayette Road, Box 37
St. Paul, MN 55155-4037 VIA FAX (296-4799) & U.S. MAIL

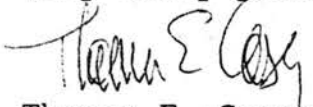
RE: Petition For Intervention
DNR Permit App. No. 93-6130

Dear Mr. Harnack and Mr. Sando,

Pursuant to Minnesota Statute 103A.301-.341, I submit the enclosed Petition For Intervention for the above-entitled matter. According to yesterday's telephone conversation with Mr. Doug Thomas, Water Planning Coordinator, this matter will be placed on BWSR's February 23, 1994 agenda. Please advise us of the exact time and place of the meeting.

Thank you for your consideration.

Very truly yours,


Thomas E. Casey

TEC:rf

cc: Mark Ten Eyck
Land Preservation Society
file

Enclosure

PETITION FOR INTERVENTION

TO: Board of Water and Soil Resources
Attn: Ronald Harnack, Executive Director
155 South Wabasha, Suite 104
St. Paul, MN 55107

and

Department of Natural Resources
Attn: Rodney Sando, Commissioner
500 Lafayette Road, Box 37
St. Paul, MN 55155-4037

Pursuant to Minnesota Statute 103A.301-.341, the undersigned petitioners state as follows:

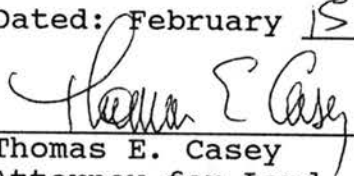
- A. Jurisdiction. The important question of water policy arises under Minn. Stat. 103G.245, an application to dredge a wetland area of Whaletail Lake (protected water #184P) for access by a seaplane from riparian land to the open water. The DNR permit application number is 93-6130.
- B. Project Proposer. Scott Powell, 2300 County Road 92, Minnetrista, MN 55359.
- C. Important Question of Water Policy. This protected waters permit application involves whether a riparian owner has any legal right to dredge a protected public water to access his seaplane from an upland area, through a sensitive wetland, to the open area of the lake, despite detrimental effects upon the environment. This is a case of first impression, with no legal precedent in Minnesota case law to grant the permit.
With the ever-increasing conflicts over water uses, the safety and environmental impacts of allowing seaplane owners to dredge public waters will be substantial.
- D. Petitioners' Right to Initiate Petition. Per Minn. Stat. 103A.311 Subd. 3(8), the undersigned petitioners are the attorney for the Land Preservation Society and a Minnetrista resident, respectively, who oppose the permit application.

THEREFORE, the undersigned request that the Board of Water and Soil Resources determine: (1) that an important question of water policy exists; (2) that intervention in the

public interest is justified; and (3) that a written recommendation be rendered regarding the question of water policy described in this petition.

Respectfully submitted,

Dated: February 15, 1994.



Thomas E. Casey
Attorney for Land
Preservation Society
2854 Cambridge Lane
Mound, MN 55364
(612) 472-1099

Dated: February __, 1994.

Mark Ten Eyck
Attorney Pro Se
7955 Deer Creek Road
Minnetrista, MN 55359
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LINDQUIST & VENNUM

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March 8, 1994

Mr. Doug Thomas
Water Planning Coordinator
Board of Water and Soil Resources
155 South Wabasha, Suite 104
St. Paul, MN 55107

Re: Petition for Intervention
DNR Permit Application No. 93-6130

Dear Mr. Thomas:

I represent Mr. and Mrs. Scott S. Powell who own a very large tract of land on the western shore of Whaletail Lake in Minnetrista, Minnesota. The area affected by the Permit Application, however, is only .23 acres, and the related channel opening is only 40 feet across. The Powells' land consists of approximately 120 acres, as shown on the half section map of the south one-half of Section 17, Township 117, Range 24, their property being both Government Lots 4 and 5, while the shoreline is meandering and therefore much longer than the north/south measurement of their property, the north/south measurement of the property is at least 2600 feet. Accordingly, what we have under consideration is 20 feet out of more than 2600 feet, and .23 acres out of total land holdings probably in excess of 120 acres. These facts alone indicate the special nature of what is under consideration, and while the petitioners for intervention would have the Board of Water and Soil Resources believe that the entire lake is being dredged to serve a flotilla of seaplanes, what is actually the case is that the Powells' plane will occasionally access their property from this 40 foot, .23 acre channel.

The Powells' first response, then, to the Petition for Intervention is that this is not the kind of issue that the Board of Water and Soil Resources should be spending its time on. Secondly, the Powells question how it is that the two individuals who signed the Petition have standing to raise this matter before the Board of Water and Soil Resources. Minnesota Statutes, Section 103A.311, sets forth a fairly limited number of persons who may petition for intervention. In this case, the two petitioners are a neighborhood attorney, in the person of Mr. Ten Eyck, and another attorney, Mr. Casey, who when addressing the City of Minnetrista City Council last night introduced himself as the attorney for another landowner in the

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BOARD OF WATER

LINDQUIST & VENNUM

Mr. Doug Thomas
March 8, 1994
Page 2

neighborhood, and not as someone having anything to do with the "Land Preservation Society".

Even if these two individuals do have standing to petition the Board for intervention, the Powells cannot understand what water policy is at issue here. The Petitioners Casey and Ten Eyck would have the Board believe that this case would somehow set precedent for all "seaplane owners to dredge public waters". Again, what is at issue here is only the Powells' request to excavate an area of only .23 acres, involving only 20 feet of shoreline to serve a single seaplane from a tract of land consisting of approximately 120 acres. There are enough facts involved in this case to distinguish it from any other case that the Board has seen or will see in the future.

Finally, we do not understand the jurisdiction of the Board in this matter. To our knowledge, the Department of Natural Resources has assumed jurisdiction of the matter, this being a case involving "public waters wetlands", and the DNR has already decided that there is no significant detrimental impact caused by this project. I quote from Mr. Rodney W. Sando's letter of February 18, 1994 addressed to petitioner Ten Eyck, as follows:

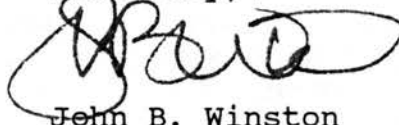
I am advised that DNR professional staff have not determined that the proposed project would cause significant detrimental impacts.

Unfortunately, the two individuals who have submitted the Petition for Intervention in this case are trying to use laws, rules and regulations designed for the protection of the state's water resources to delay a legitimate request involving an airplane and the air space over Whaletail Lake and its related wetlands.

Please provide the Board a copy of this letter, so that it is aware of the Powells' position. We honestly believe that public water and water resource policy is not involved, but rather aviation and air rights policies. Accordingly, we ask the Board to deny these individuals their request for intervention.

Thank you.

Sincerely, .



John B. Winston

JBW/tw

cc: Mr. and Mrs. Scott S. Powell

SNAKE RIVER WATERSHED MANAGEMENT BOARD

BACKGROUND:

The Joint Powers Agreement between the counties within the Snake River Watershed, include Aitkin, Mille Lacs, Pine and Kanabec Counties was formed to address non-point sources of pollution. The joint powers agreement was signed in May of 1993.

The purpose of the joint powers is to coordinate the four comprehensive county water plans and actions by providing a joint cooperative management of the plans. It will identify existing and potential problems and allow opportunities for protection of water and related land resources and develop objectives to promote sound management of the resources.

After a period of discussion the Snake River Watershed Management Board (SRWMB), along with recommendations from the Citizens Advisory Committee (CAC), approved the 1994 budget of \$40,405 cash and authorized a \$30,000 challenge grant application, totalling \$70,405 on December 13, 1993. There is a carryover of \$10,117 from 1993, thus the total budget available is \$80,522. Projects approved include hiring a part-time watershed coordinator, surface water monitoring conducted by the U.S. Geological Survey, completing a soil erosion inventory within the watershed and volunteer recruitment and educational programs.

PROJECTS TO BE COMPLETED IN 1994

Presently within the Snake River Watershed, the Soil and Water Conservation District's (SWCD), lake associations, and the counties are spending considerable time and money within the watershed.

The SWCD's annually contribute technical and financial assistance to landowners within the Snake River. Projects include pollution abatement systems, state cost-share program, streambank, lakeshore, and roadside (SLR) projects, RIM Reserve and Permanent Wetland Preserve (PWP) programs. Below is a listing of the proposed and approved projects within each SWCD:

DISTRICTS	FUNDS	PROJECTS
Aitkin SWCD	-	
Mille Lacs SWCD	-	
Kanabec SWCD	\$109,557	PWP/RIM, SLR, cost-share
Pine SWCD	17,603	SLR, cost-share
TOTAL	\$127,160	

Lake associations within the Snake River Watershed have become actively involved in protecting the resources. In Kanabec County, Fish Lake participated in MPCA's Lake Assessment Program in 1993. Knife Lake Improvement District was approved for a Clean Water Partnership Grant from MPCA for 1994. The project total is \$87,445 in which MPCA will contribute \$31,500 and Kanabec County, Kanabec SWCD, Knife Lake Improvement District and the MN DNR will contribute \$55,945 of in-kind

funds.

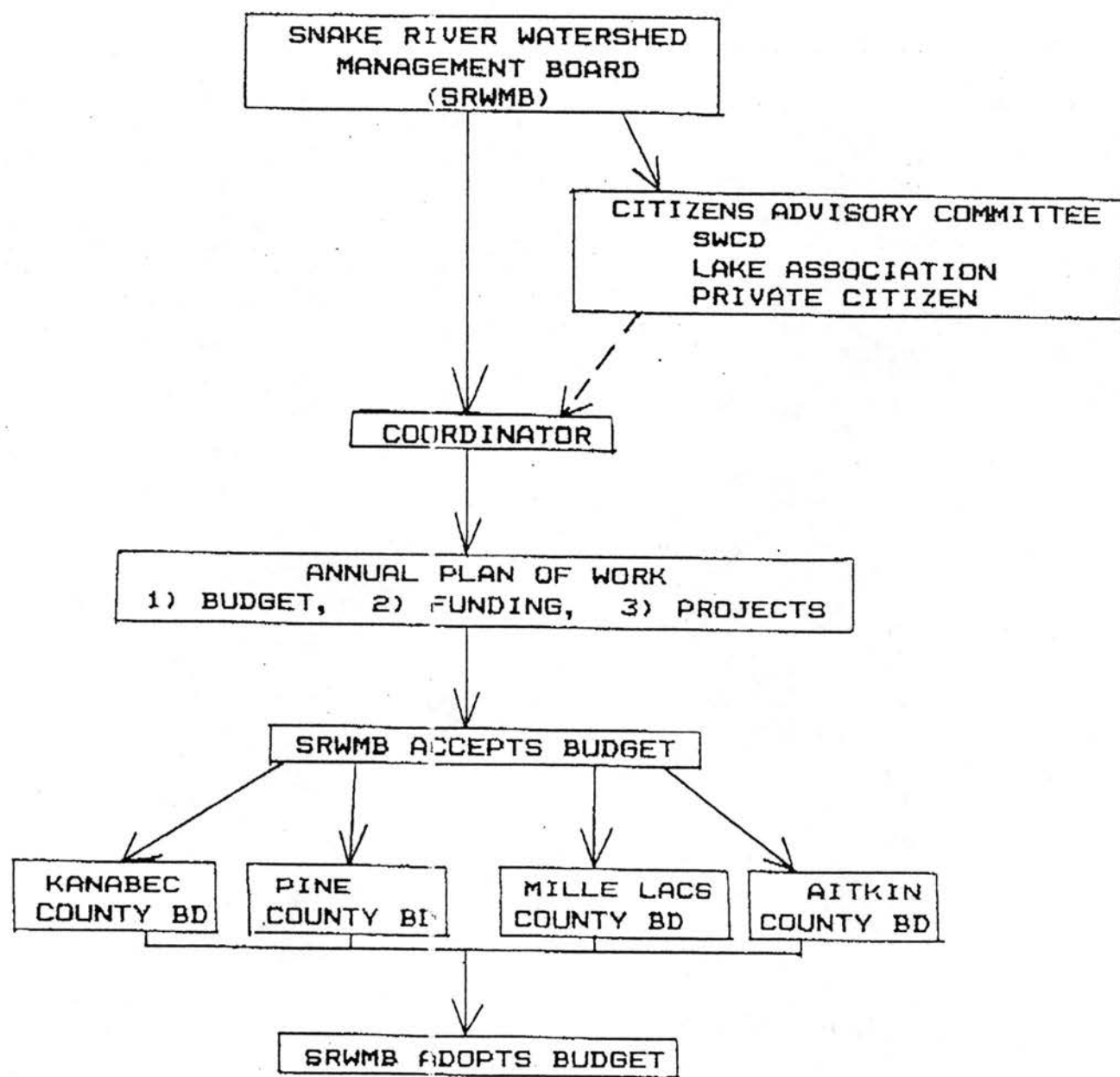
In Pine County the Pokegama Lake Association is contracting with the Pine SWCD to develop a water quality/quantity monitoring program for Pokegama Creek Watershed. The lake association is also working with the District to conduct a manure assessment program (MAP) on five feedlots within in the watershed. Pokegama Lake Association is contributing \$15,600 for these projects.

The counties involved in the Snake River Watershed all have approved Comprehensive Local Water Plans (CLWP). Mille Lacs county has identified \$6,000 for erosion inventory and surface water monitoring within the Snake River Watershed. 92% of Kanabec County is within the Snake River Watershed, all \$37,500 of the water plan will be spent this year in the Snake River Watershed. Projects to be implemented include cost-share assistance available for pollution abatement systems, well water testing, BMP's for shoreland, and soil survey. Aitkin County has identified \$3,500 to be used within the Snake River Watershed. Within Pine County \$4,000 will be used from the CLWP funds to help pay for the USGS monitoring in the Pokegama Creek Watershed.

BUDGET:

20.8%	Aitkin County	
	CLWP	\$ 3,500
9.2%	Mille Lacs County	
	CLWP	6,000
49.5%	Kanabec County	
	SWCD	109,557
	CLWP	37,500
	Lake Associations	87,445
20.5%	Pine County	
	SWCD	17,603
	CLWP	4,000
	Lake Associations	15,600
	Snake River Watershed Management Board	40,405
	BWSR Challenge Grant Application	30,000

TOTAL DOLLARS **\$351,610**





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DATE: February 14, 1994

TO: Board Members

FROM:  Ronald D. Harnack, Executive Director

SUBJECT: **RECOMMENDED BOARD MEMBER EXPENSE CRITERIA**

* **PER DIEM (\$55/DAY):** Per diem is authorized for Board members for those days where members are actively carrying out the business of the Board. This includes monthly board meetings; committee meetings; attendance at statewide conventions; attendance at regional or area association meetings; attendance at special meetings. Per diem is not authorized for members who are in travel status the day prior to or after authorized meetings.

A few of the Board Members have inquired regarding what meetings and activities are allowable for per diem and expenses. I have suggested that it is reasonable to include the following:

- Regular Board Meetings.
- Subcommittee meetings to which the member is appointed.
- Attendance at statewide conventions of the Association of Minnesota Counties (AMC), Minnesota Association of Soil and Water Conservation Districts (MASWCD), and Minnesota Association of Watershed Districts (MAWD). The Board members who already attend as part of their association are already compensated by their local government. At least one of the members from the other representative groups should attend. (These conferences are planned far enough in advance that the Board at its October meeting can authorize attendance).
- Attendance at regional or area association meetings (AMC, MASWCD, MAWD). A Board Member who is a member of the association may already be compensated by his or her local government. Board member participation should include some formal acknowledgement at the meeting and a report at the next Board meeting.
- Attendance at statewide special meetings (these types of events are known in advance and the Board can take action to authorize attendance and participation).

Board Members
February 14, 1994
Page Two

- Attendance at general meetings of special interest groups, local government meetings should not be eligible. These types of meetings are the responsibility of BWSR staff. There are some of these meetings at which Board presence and participation may be requested, which are eligible for expenses.

- * **MILEAGE REIMBURSEMENT (\$0.27/MILE):** Mileage is limited by the laws reference to the commissioner's plan that authorizes \$0.27/mile. Mileage reimbursement is limited to that necessary to conduct the business of the board.

- * **MEALS:** Breakfast - \$ 7.00
Lunch - \$ 8.50
Dinner - \$14.50

- * Refer to the attached statutes and the pages from the current commissioner's plan for more detail.

RDH:mja
Enc.

EXPENSE REIMBURSEMENT

General. The Appointing Authority may authorize payment of travel and other expenses and reimbursement of special expenses for managers in accord with the provisions of this Chapter, Chapter 8, and Administrative Procedure 4.4 for the effective conduct of the State's business. Such authorization must be granted prior to incurring the actual expenses.

Privately-Owned Vehicles and Aircraft. A manager shall be reimbursed for the use of privately-owned vehicles and aircraft under the situations, and at the rates specified below. In all cases, mileage must be on the most direct route according to Department of Transportation records.

<u>Situation</u>	<u>Rate Per Mile</u>
• Use of personal automobile when a State-owned vehicle is not available.	\$.27
• Use of personal automobile when a State-owned vehicle is available and declined by the manager.	\$.21
• Use of personal van or van-type vehicle specially equipped with a ramp, lift, or other level-changing device designed to provide wheelchair access.	\$.40
• Use of personal aircraft provided that the manager can demonstrate adequate liability coverage under the requirements of M.S. 360.59, subdivision 10.	\$.43
• Use of personal motorcycle or similar two-wheel motorized vehicle.	\$.13

When a manager does not report to the permanent work location during the day or makes business calls before or after reporting to the permanent work location, the allowable mileage is: (1) the lesser of the mileage from the manager's residence to the first stop or from his/her permanent work location to the first stop, (2) all mileage between points visited on State business during the day, and (3) the lesser of the mileage from the last stop to the manager's residence or from the last stop to his/her permanent work location.

Other Travel Expenses. Upon approval of the Appointing Authority, managers in travel status may be reimbursed for expenses described below in the amounts actually incurred not to exceed any maximum amounts specified below.

Where anticipated expenses total at least \$100.00, the Appointing Authority shall advance the manager the amount of the anticipated expenses upon the manager's request made a reasonable period of time prior to the travel date. If the amount advanced exceeds the actual expenses, the manager shall return the excess within two weeks of return from travel. The Appointing Authority may issue the manager a state-owned credit card in lieu of a travel advance.

Reimbursable expenses may include, but are not limited to, the following:

- Commercial transportation (air, taxi, rental car, etc.) provided that no air transportation shall be by first class (unless authorized by an Appointing Authority if no other seating is available) and that reimbursement for travel which includes more than one destination visited for State purposes and non-State purposes be in an amount equal to the cost of the air fare only to those destinations visited for State purposes.
- Meals including tax and a reasonable gratuity. Managers shall be reimbursed for meals under the following conditions:
 1. **Breakfast.** Breakfast reimbursements may be claimed if the manager leaves home before 6:00 a.m. or is away from home overnight.
 2. **Lunch.** Lunch reimbursements may be claimed if the manager is in travel status more than 35 miles away from his/her normal office or is away from home overnight.
 3. **Dinner.** Dinner reimbursements may be claimed if the manager cannot return home until after 7:00 p.m. or is away from home overnight.
 4. **Reimbursement Amount.** Except for the metropolitan areas listed below, the maximum reimbursement for meals including tax and gratuity shall be:

Breakfast	\$ 7.00
Lunch	8.50
Dinner	14.50

For the following metropolitan areas the maximum reimbursement shall be:

Breakfast	\$ 8.00
Lunch	9.50
Dinner	16.50

The metropolitan areas are:

Atlanta	Detroit	New York City
Boston	Hartford	Philadelphia
Chicago	Houston	San Diego
Cleveland	Los Angeles	San Francisco
Dallas	Miami	Seattle
Denver	New Orleans	Washington D.C.

Managers who are in travel status for two or more consecutive meals shall be reimbursed for the actual costs of the meals including tax and a reasonable gratuity, up to the combined maximum amount for the reimbursable meals.

- Hotel and motel accommodations provided that managers exercise good judgment in incurring lodging costs and that charges are reasonable and consistent with the facilities available.
- All work-related long distance telephone calls provided that the manager does not have a State telephone credit card or is unable to bill the call to the office telephone number.
- Actual, documented personal telephone call charges. The maximum reimbursement for each trip shall be the result of multiplying the number of nights away from home by two (2) dollars.
- Reasonable costs of dry cleaning and laundry services, not to exceed \$16.00 each week after the first week a manager is in continued travel status.
- Reasonable costs and gratuities for baggage handling.
- Parking fees and toll charges.

Receipts. The Appointing Authority may require receipts for any reimbursement requested by a manager under the provisions of this or any other chapter in this Plan.

To: Mary Jo From: Tom

record under state law; (3) The term "local record" means a record of an agency of a county, city, town, school district, municipal subdivision or corporation or other public authority or political entity; (4) The term "records" excludes data and information that does not become part of an official transaction, library and museum material made or acquired and kept solely for reference or exhibit purposes, extra copies of documents kept only for convenience of reference and stock of publications and processed documents, and bonds, coupons, or other obligations or evidences of indebtedness, the destruction or other disposition of which is governed by other laws; (5) The term "state archives" means those records preserved or appropriate for preservation as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of government or because of the value of the information contained in them, when determined to have sufficient historical or other value to warrant continued preservation by the state of Minnesota and accepted for inclusion in the collections of the Minnesota historical society.

Sec. 18. Minnesota Statutes 1988, section 138.17, is amended by adding a subdivision to read:

Subd. 9. OPTICAL DISK STANDARDS. The records disposition panel shall develop standards for storage of all government records on optical disk by January 1, 1991.

Sec. 19. Minnesota Statutes 1988, section 214.07, subdivision 2, is amended to read:

Subd. 2. SUMMARY OF BOARD REPORTS. Not later than December 15 of each even-numbered year, the commissioner of health with respect to the health-related licensing boards ~~and the commissioner of administration with respect to the non-health-related boards~~ shall prepare summary reports compiling the information required by subdivision 1, clauses (b) and (g) to (p) and contained in the reports submitted by the boards the preceding year pursuant to subdivision 1. The summary reports ~~shall~~ must also specify the staff and services provided by the ~~departments~~ department to each board. The summary reports ~~shall~~ must be distributed to the legislature ~~pursuant to~~ under section 3.195 and to the governor.

Sec. 20. Minnesota Statutes 1988, section 214.09, subdivision 3, is amended to read:

Subd. 3. COMPENSATION. Members of the boards ~~shall~~ must be compensated at the rate of ~~\$35 per~~ \$55 a day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner's plan adopted ~~according to~~ under section 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings, incur child care expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization. If members who are full-time state employees or employees of the political subdivisions of the state

New language is indicated by underline, deletions by ~~strikeout~~.

receive the ~~\$35 per day~~ daily payment, and occur during normal working hours for which state or political subdivision, the employer from the employee's compensation for that board member who is an employee of the state, loss in compensation or benefits as a result who are state employees or employees of the state may receive the expenses provided for in this section are reimbursed by another source. Members of political subdivisions of the state may receive expenses only for time spent on board activities during working hours.

Sec. 21. Minnesota Statutes 1988, section 60A.01, is amended to read:

Subd. 3. CHAIR. The chair of each agency shall be appointed by the governor with the advice and consent of the senate. The chair need only reside within the metropolitan area and shall be a resident of the state after a public meeting on the subject, shall preside at all meetings of the board and perform all other duties and functions assigned to the chair. The chair is responsible for providing leadership in the activities of the agency board, establishing a chairing the internal audit committee, or between the agency and other governmental entities, ensuring that the board is fully informed of the activities of the board and is held accountable to the board administrator's performance. Each agency may elect a vice-chair to act for the chair during temporary absences.

Sec. 22. Minnesota Statutes 1988, section 60A.02, is amended to read:

Subdivision 1. RECORDS; DESTRUCTION. If any business, institution, member of a department or agency of government, in the regular course of business has kept or recorded any memorandum, writing or combination thereof, of any act, transaction, or regular course of business has caused any or all copies to be made, copied or reproduced by any photographic, photostatic, miniature photographic, optical disk imaging, or other process, reproduces or forms a durable medium for so long as the original may be destroyed in the regular course of business.

New language is indicated by underline, deletions by ~~strikeout~~.

receive the ~~\$35 per day~~ daily payment, and if the major part of their activities occur during normal working hours for which they are also compensated by the state or political subdivision, the employer shall deduct the ~~\$35~~ daily payment from the employee's compensation for that day. In no other case ~~shall~~ may a board member who is an employee of the state or political subdivision suffer a loss in compensation or benefits as a result of service on the board. Members who are state employees or employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Members who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their normal working hours.

Sec. 21. Minnesota Statutes 1988, section 473.141, subdivision 3, is amended to read:

Subd. 3. CHAIR. The chair of each agency shall be appointed by the governor with the advice and consent of the senate, shall be the ninth voting member and shall meet all qualifications established for members, except the chair need only reside within the metropolitan area. The council, by resolution after a public meeting on the subject, shall provide the governor with a list of nominees for the position. Senate confirmation is as provided by section 15.066. The chair shall preside at all meetings of the agency, if present, and shall perform all other duties and functions assigned by the agency or by law. The chair is responsible for providing leadership in development policy, coordinating the activities of the agency board, establishing and appointing committees of the board, chairing the internal audit committee, ensuring effective communication between the agency and other governmental entities and the general public, ensuring that the board is fully informed of the activities of the chief administrator and the agency, ensuring that the chief administrator implements the policies of the board and is held accountable to the board, and evaluating the chief administrator's performance. Each agency may appoint from among its members a vice-chair to act for the chair during temporary absence or disability.

Sec. 22. Minnesota Statutes 1988, section 600.135, subdivision 1, is amended to read:

Subdivision 1. RECORDS; DESTRUCTION, PHOTOGRAPHIC COPIES. If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event, and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, optical disk imaging, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless held in a

New language is indicated by underline, deletions by ~~strikeout~~.



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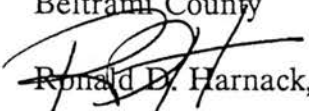
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DATE: March 10, 1994
TO: Gregory Lewis, Administrator
Beltrami County
FROM:  Ronald D. Harnack, Executive Director
SUBJECT: Response to February 24, 1994 Meeting

I appreciated the invitation to meet with you to discuss concerns relating to implementation of the Minnesota's Wetland Conservation Act (WCA). I recognize that some elements of the rules and the law are of real concern to some of the counties and that refinements to the law and rule will be needed to make the program more effective and efficient. Rule and law changes will be an outgrowth of your collective experiences with ongoing implementation of the program. The Board of Water and Soil Resources (BWSR) is committed to working with local governments to aid in implementation of the program and to help assess the concerns and defining alternatives to address those issues, including changes to rules and the law. The law and the rules are the result of a democratic process that involves negotiation and compromise and give and take among some 20 different interest groups. This process leaves room for refinement and improvement based on experience. I fully expect that after some months of implementation of the permanent program several areas of change will be identified and we can collectively seek appropriate changes.

I will attempt to answer the wetlands options that you identified and ranked by priority at your January 6, 1994 meeting and were the main focus of discussion on February 24, 1994.

Top Priority Level

1 - Consider developing a process for managing wetlands through a Wetlands Conservation Plan similar to a water management plan.

This is a very good idea and one that was brought up during the rule development and during the rule hearing process as well. It was judged to be premature to pursue this option until we had experience with administration statewide. The Aitkin County resolution that promotes the development of a wetlands conservation plan and program as part of the water plan is a good idea. Such a plan could be developed as part of the county's second generation plan and approved by BWSR as an alternative to strict compliance with the Wetland Conservation Act rules. The shoreland rules allowed for a similar process that has been proven to be successful for some counties. Implementation of this strategy would require a minor statute and rule amendments to the Wetland Conservation Act and minor amendments to water planning rules. This

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would allow local governments to address their unique situation and still meet the objectives of the Wetland Conservation Act.

2 - The complexity of the permanent wetlands regulations should be opposed before the state legislature and the Board of Water & Soil Resources. I agree that the rules are complex. The complexity of the rules are a reflection of the complexity of the law itself. The rule process attempted to create more flexibility than implied by the law and the hearing examiner stated that the law would not permit the flexibility options. A key to the Wetland Conservation Act is to ultimately permit one-stop-shopping for wetlands regulations at the local level. Some of the complexity reflects the need to be consistent with federal wetlands conservation policies to achieve the one-stop shopping desired for wetlands. The degree to which the complexity will hinder implementation is yet to be seen. The rules only went into effect in January and very little if any wetland activities have been addressed under the permanent rules. There are a few counties that adopted the permanent rules last year and have some brief experience with administration. To date, the notice has posed some problems, however, the appeal process has not posed a significant problem.

3 - What a wetland is should be redefined. The wetland definition in the law and rule is a scientific definition based on three parameters; hydric soils, hydric vegetation and hydrology. The definition is the same as used by the federal government under the 404 program and the United States Department of Agriculture (USDA) farm program. It is important to maintain a scientific approach to wetlands so that the definition does not change with the whim of politics. Political acceptance of the scientific definition then allows politicians to set policies relating to what wetlands under what circumstances are exempt from regulation. The wetland conservation act established some 25 exemptions, including several that benefit northern forested areas, high percentage wetland counties, roadways, and agriculture.

4 - The state legislature should be informed as to what a wetland is as it impacts the permanent wetland rules. I agree that policymakers, state and local, should be aware of the impact of the laws that are passed. During the past year some legislators and county commissioners have participated in meetings and field assessments of wetlands under the Wetland Conservation Act. I encourage and have invited legislators and county commissioners to participate in wetland technical panel wetland delineations so that greater understanding of wetlands is achieved.

5 - The Association of Minnesota Counties (AMC) should be requested to be more involved with regard to the Wetland Conservation Act and permanent regulations. This is probably most appropriately answered by the AMC. However, I believe that the AMC was very involved in the development of the law and the rules over the last 5 years. However, AMC was only one interest group that was involved in the deliberations and was quite effective in bringing forth issues and concerns and options to achieve a law and rule that would work

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effectively and efficiently. Many improvements were achieved through AMC's efforts. As Dave Weirens stated, improved communication between AMC and the counties would help keep individual counties informed. It is also important that counties communicate their concerns and alternatives so that your issues and options can be presented. **It is important to understand that the legislation and the rules were an evolution of negotiation and compromise among several interests.**

6 - The funding for the implementation of the Wetlands Conservation Act and permanent regulations should be supplied by the state and not counties or private property owners. The state did appropriate \$1,600,000 this year and \$2,000,000 next year and provides the base funding for future years for implementation of the Wetland Conservation Act. County allocations vary from a minimum of \$10,000 to a maximum of \$36,000 based on the number of wetlands on private lands in the county and the change in population as a reflection of development in the county. Most of the northern counties receive more than \$19,000 each year for wetlands as part of the natural resources block grant program. I have attached a copy of the allocation for all counties. Note that Koochiching County's allocation for block grant is lower because their water plan has not been approved and they are not eligible for the \$33,000 water plan portion of the block grant.

Based on an assessment of the implementation costs under the permanent program the \$400,000 additional available for Wetland Conservation Act implementation will be allocated to counties as part of the next block grant allocation.

The counties have been given considerable flexibility in the use of the natural resources block grant \$'s. This flexibility should help counties and soil & water conservation districts use the \$'s where needed most.

Next Lower Priority Level

1 - Adopt the following Aitkin County recommendations:

A. Address the appeal process under the Wetlands Conservation Act and regulation which is much too open. Appellants should be required to be more responsible in undertaking appeals with the requirements imposed of posting a bond. We recognize that the appeals process is very open and could result in a substantial number of appeals. The process could be abused by individuals who only want to delay a project rather than having a valid issue for appeal. However, to date there have not been any appeals filed and it is too early to judge the impact of the open appeals process. Some counties have established bond requirements for appeals at the county level that would help deter frivolous appeals. In addition, BWSR is developing procedures that would ensure that the appeals process does not become only a delay mechanism. It is our intent to keep decision-making accountability at the local level. If the local government has followed the proper process and

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has facts supporting their decision the local decision will generally be supported. However, if the process was not followed or there are no facts supporting the decision the BWSR will likely send the matter back to the local government to rehear the matter. It is our intent to minimize abuse of the appeals process. If based on our experience this year, the appeals process is a problem then we will pursue legislation to change the law and correct the problem. Documentation of problems with the appeals process at the county and at BWSR are important to support legislative and rule changes.

B. Address the notification under the Wetland Conservation Act rules which is too complicated. The notification requirements are very complicated. We were able to secure a more streamlined Environmental Quality Board (EQB) notification approach through the rule process. However, most of the notification procedures are from the statute not from the rule, therefore only limited refinement is permitted by rule. The diverse interests involved in the passage of the law wanted some ability to monitor the administration of the program at the local level and to hold BWSR accountable for proper oversight. I do believe that the rule and the law notification procedures will require some refinement based on county experiences. Some counties that adopted last year have experienced some problems with the complexity of the notification process already. The more successful the sequencing process the less the impact of the rigorous notification process, particularly where the alteration of the wetland can be avoided. Again, documentation of the problem will be crucial in securing changes.

C. Work with United States Army Corps of Engineers (USACoE) and delegate wetland authority to local government units. I agree that this is needed. BWSR has been working with the federal agencies and other state agencies to achieve this objective. As I discussed, we are very close to having the USCoE under the 404 program accept the local government Wetland Conservation Act decisions for wetland impacts under 1/2 acre and to pilot in several other local governments the acceptance of wetland impacts of under three acres. In addition, we have been able to get the other agencies to accept the wetland banking under the Wetland Conservation Act. I passed out a summary of the initiatives that were being proposed. I believe that implementation of these initiatives will greatly improve the efficiency of wetlands regulations [attached information relating to wetland regulatory simplification]. We have already seen the USACoE 404 process accelerated as the USACoE informally develops confidence in the local government administrations and accepts local delineations and wetland alteration and mitigation decisions. Examples are evident in working relations with the USACoE and Beltrami SWCD, the Cass SWCD, the Aitkin SWCD and a few others.

D. Add exemption with limits for county and township road improvements, possibly in 80% counties. (Counties having 80% of their presettlement wetlands.) Roadways already have several exemptions from the wetland conservation act rules. Repairs, minor

improvements, minor realignments, and some improvements for safety are exempt under the wetland conservation act under federal 404 permit provisions. New roads, public and private, are not exempt under the act. Many county engineers that we have dealt with find that the greatest problem is either finding mitigation sites or that the cost of mitigation is very high. This is particularly true in the counties with a large % of wetlands remaining. Restoration sites are few or do not exist and creation of wetlands is not very effective and is very costly. The other issue raised is that it is not very cost effective to go to southern Minnesota and purchase \$2,000 an acre land for restoration. The equity of land values between northern and southern Minnesota does not make this type of transaction very desirable. A couple of options that BWSR is pursuing: a) Requesting the Department of Transportation (DOT) to allow local governments to access DOT's wetland bank for public projects. This may require legislation and DOT will want to ensure that they have sufficient credits for their own projects; b) BWSR has also responded to legislative inquiries relating to using state \$'s to provide the seed for establishing credits for the state wetland bank. This would allow local governments and private landowners the opportunity to purchase credits for mitigation where appropriate. Although some counties already have banks established, none have an interest in selling credits to others at this point. Joint banking initiatives on a watershed basis through joint powers agreements between counties or between soil and water conservation districts to establish and share wetland credits may have some benefit to securing cost effective mitigation. Cooperation with Watershed Districts in development of wetland banking may also be very beneficial.

2 - With regard to road issues related to wetland, the U.S. Army Corps of Engineers rule should be the only rules required to be followed. In most cases for existing roads the federal 404 program nationwide permits do apply and therefore are exempt from the WCA. However, for new roads the statute does not exempt wetlands from the Wetland Conservation Act. Roads have historically been one of the major activities that impacts wetlands and the legislation required that new roads that fill wetlands be mitigated. The 80% counties can mitigate public road projects at 1:1 anywhere in the state. As discussed earlier the equity of land values does not make mitigating in southern Minnesota very desirable [note the attached assessment of exemptions relating to private and public roadways]. The nationwide permit #3 creates an exemption under the Wetland Conservation Act but is not used as frequently as it might be and could be an advantage to counties.

Next Lower Priority Level

1 - Adopt a policy for no net loss of wetlands in Minnesota upland counties. The current policy of no net loss established at the federal level and the state level already applies to every county in the state. In fact, the criteria for the counties that have lost a majority of their wetlands through drainage and filling are required to meet more restrictive standards than the 80% counties in Minnesota.

2 - Assist landowner associations in opposing the Wetlands Conservation Act and regulations. Advocating changes to elements of the Wetland Conservation Act based on experience with implementation is valid. However, to oppose the Wetlands Conservation Act based on perceptions only and not based on real experiences hinders future changes to the Wetland Conservation Act. The desire by many to streamline the wetlands regulation in Minnesota will only occur where local government and citizens want local control to work for wetlands. Opposition to the Wetland Conservation Act without specifics based on experience will only serve to cause federal agencies, other state agencies and conservation groups to question local government and BWSR motives for rule and statute changes and prevent streamlining of regulations in those areas.

3 - Make counties with 80% of their presettlement wetland exempt from mitigation as long as the counties maintain the 80% threshold. The state could through legislation adopt this policy for the 80% counties. However, doing so will not eliminate the requirement for mitigation. The federal regulation requires at least as restrictive mitigation when compared to the state's Wetland Conservation Act. Some might argue that the federal mitigation requires on-site mitigation rather than options for mitigation outside the county for the 80% counties. Certainly the streamlining as proposed would be jeopardized. An option, requiring rule change, that could be pursued is to assess the implications of giving greater credit for wetland enhancement in the 80% counties. Although increasing credits for wetland enhancement raises some concerns, there are situations that are unique enough to warrant continuing discussions. For example in Koochiching County, there is large number of similar wetlands creating somewhat of a monoculture of wetlands. Scientists and conservationists agree that individual wetlands have greater value when there is a diversity of types and sizes of wetlands. I feel that some room exists for compromise and negotiation in the specifics of mitigation where diversity and distribution of types and sizes of wetlands can be significantly enhanced.

4 - Oppose the ideas coming from the State Board of Water & Soil Resources with regard to wetlands. Each county will have to do what it believes is right for their county and citizens. However, wetlands conservation is here to stay, at the state and the federal level. In fact, we could see more prescriptive regulations coming from the federal government under the reauthorization of the clean water act. I believe that where state's have a comprehensive program in place that achieves no net loss that the federal government will likely accept the state program. I suggest that working with the BWSR to assess the problems of the northern counties and to develop options to address the problems is a more effective means than outright opposition and litigation.

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Based on the discussion from the meeting I would offer the following for consideration:

1 - I feel that BWSR could support amending the Wetland Conservation Act rules and the law to allow local governments to develop a wetland conservation plan and regulations that are not in strict compliance with the rules but meet the basic policies of no net loss of wetlands and incorporate the provisions for avoidance, minimization, and replacement. The local program would be developed as part of the counties second generation water plans and would be approved by BWSR. The experiences of the counties and districts in implementation of the interim and permanent program would provide good incites into development of a unique wetlands program for the county.

2 - I feel that we can continue to support assessing the mitigation options and process for the counties that have almost all of their presettlement wetlands still in place. The wetlands laws at the federal and state were intended to discourage the alteration of wetlands and to promote the avoidance of wetlands. However, it is not intended to prohibit all wetland alterations, only to ensure that wetlands lost are replaced. There may be options that can be assessed to help address the problems that the high percent wetland counties experience with mitigation. We have asked the Department of Transportation to consider permitting local governments the opportunity to purchase wetland credits from the DOT wetlands bank for local transportation projects. We are also responding to legislative inquiries regarding the possibility of establishing credits to the state wetland bank with state seed \$'s.

3 - I am supportive of formally establishing a wetlands committee that focuses on the northern counties. I would see representation of county commissioners, county engineers, county planning & zoning staff, soil & water conservation district supervisors, SWCD technical staff, BWSR board members and BWSR regional staff. The purpose of the work group would be to develop a greater understanding of the act and the rules, to address problems with implementation of the Wetlands Conservation Act, and to maintain communication between the counties, swcds, and BWSR on program implementation.

4 - Some counties are deciding whether or not to adopt the Wetland Conservation Act in the next couple months. I would encourage counties to adopt and work within the process to assess problems based on implementation experiences and pursue changes accordingly. Counties are asked to consider the following implications of not adopting the wetlands program:

a) A moratorium will exist for all activities impacting wetlands in the county. This includes both public and private activities. Activities in wetlands would result in issuance of enforcement actions creating greater conflict and frustration by landowners.

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b) The grant for wetland implementation could be withheld and the potential exists to have the entire block grant withheld pending adoption by the county. The decision on what is withheld is a decision of the BWSR Board not a staff decision. The BWSR Board will review the status of adoption during the regular monthly meetings.

c) There is potential liability for the county from landowners who cannot have projects approved under the Wetland Conservation Act. If the county does not adopt the wetland rules the authority for wetland drainage or fill does not shift to the state. If the county does not do the implementation nobody does and all projects suffer.

d) Counties that do not adopt the wetland rule do not have any experience in implementation on which to base changes to the rules and the law. Many northern counties are making the program work and in cooperation with BWSR field staff, have developed options to address some of the problems and concerns.

5 - I believe that there is still substantial confusion relating to what can and cannot be done under the Wetland Conservation Act. In many of the northern counties the act is being implemented quite effectively by the county and the soil and water conservation district. Some of the concerns voiced have been creatively addressed by some counties and districts. There have also been some concerns raised that are continuing to cause problems for counties and districts. Greater communication between the counties and districts regarding current implementation experiences is critical for assessment of what are real versus perceived problems with the Wetland Conservation Act. BWSR's field staff are available to sit down with individual counties to review issues and attempt to work through the problems. Before we change the law and the rules we must first understand what specifically causes the problem so that we can pursue specific changes. BWSR is willing and able to assist counties and SWCD's in implementation of the program. Our experiences with other counties and SWCD's in implementation can be beneficial in addressing many concerns. We also recognize that ongoing refinements to the rule and law will be necessary to make implementation more effective and efficient. A cooperative approach will help achieve these refinements.

6 - Wetlands regulation nationally and in Minnesota have been determined to be constitutional by the highest courts in the land. Minnesota's law does not prohibit reasonable use of property; the law provides for compensation when a replacement plan is denied; the law provides for appeals of decisions where the landowner is not satisfied with the decision. The fact that some do not agree with the provisions of the act does make the law unconstitutional.

7 - I came from the meeting with some feeling that there is a genuine mistrust for state government based on conflicts that have occurred in the past. I sense the feeling that some county commissioners do not believe that BWSR will cooperate with the counties in assessing the problems and supporting changes that will address the issues. I can't change

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that perspective overnight. I can only make a commitment to work with the counties to address your concerns and to help assess ways in which the issues can be addressed. BWSR will also work with the counties and districts to develop modified rule and law changes that are based on real situations and experiences rather than perceptions. BWSR staff have been available to meet with counties and districts, but some have not taken advantage of the assistance. Communication is key to development of and maintaining a good working relationship. BWSR will work with you to address implementation issues and concerns for which you can hold BWSR accountable. I also ask that counties give their best shot at implementation in cooperation with the SWCD's and show their commitment to work within the process to achieve appropriate changes to the wetlands program.

RDH:mja
Enclosures

- Wetland Simplification
- Interagency Memo of Understanding on Simplification
- Block Grant Allocation
- Wetlands/Road Options



WETLAND REGULATORY SIMPLIFICATION

Minnesota has a number of wetland regulatory programs which play a part in preserving the state's valuable water resources. Local government unit (LGU) administration of the recently developed state Wetland Conservation Act (WCA) Rule provides several opportunities for wetland regulatory simplification through intergovernmental coordination, without changes to existing regulations. The benefits of regulatory simplification are improved service to the public and increased government efficiency. Specific steps toward this objective are described below.

I. COMBINED PROJECT NOTIFICATION (CPN)

In use for over a year, the CPN has been revised so that it can be accepted as a permit application by all agencies that may have regulatory jurisdiction on a project proposal.

II. WETLAND BANKING

All federal and state regulatory and oversight agencies have tentatively agreed (through the deliberations of the Inter-Agency Wetlands Group) to allow project sponsors that cannot avoid wetland impacts to seek compensatory mitigation via the state wetland bank established by the WCA Rule. The benefits and terms of this agreement are spelled out in an interagency Memorandum of Understanding (MOU) with an implementation target date of April 1994.

III. STATE PROGRAMMATIC GENERAL PERMIT (GP)

The Inter-Agency Wetlands group has developed a draft GP agreement between the U.S. Corps of Engineers (Corps) and the State of MN that would eliminate the need for duplicate Corps Section 404 permit review and approval for a substantial number of projects already approved by the LGUs via WCA authority. Specifically:

1. For projects statewide impacting less than 1/2 acre of wetland, landowners who have obtained a LGU-approved WCA replacement plan would not need further approval from the Corps.
2. On a pilot basis, for projects in several LGUs, the acreage limit would be increased to 3 acres in item (1).
3. Landowners who obtain a Certificate of Exemption from the LGU would have the option of self-certifying a Corps Nationwide Permit (NWP) for their project according to the NWP guidelines and Regional Conditions.
- * Items (1) and (2) will require individual MPCA 401 certification for projects impacting wetlands within 1000 feet of outstanding resource value waters (calcareous fens, wild and scenic rivers, Scientific and Natural Areas), trout streams and trout lakes.
- * The LGUs participating in item (2) will be selected based on criteria outlined in the pilot program application form.
- * The Public Notice for the GP will be issued in mid-March with an expected date for implementation in April 1994.

LGU performance will be monitored to assess the resources and capabilities required to expand regulatory simplification efforts in the future to achieve true "one-stop-shopping".

For more information contact John Jaschke at the MN Board of Water and Soil Resources at (612)297-3432.

INTERAGENCY MEMORANDUM OF UNDERSTANDING for the State of Minnesota

WETLAND REGULATORY SIMPLIFICATION

I. WETLAND BANKING

WHEREAS, landowners that have received wetland project approvals, as required by state and federal laws, rules and regulations, should have access to all applicable replacement options; and

WHEREAS, the State Wetland Bank established by the Minnesota Wetland Conservation Act, Minn. Rules Chapter 8420, provides a potential option for compensatory mitigation through wetland replacement; and

WHEREAS, the participating Federal agencies concur that the State Wetland Bank is consistent with the Corps of Engineers (Corps) and Environmental Protection Agency (EPA) Mitigation Memorandum of Agreement dated February 7, 1990 and the Generic Mitigation Banking Guidelines promulgated by EPA - Region 5 and the Corps - St. Paul District on July 10, 1991; and,

WHEREAS, benefits of use of a wetland banking program include:

1. Appropriate and perpetual mitigation, pursuant to Wetland Conservation Act requirements, is assured as wetland replacement credits will meet the principles and procedures for review, deposit, auditing and monitoring as provided for in the Wetland Conservation Act.
2. More efficient and cost-effective mitigation will be realized as landowners will be able to seek wetland replacement that would likely meet all of the agencies' requirements for compensatory mitigation.
3. A positive balance of wetland acres will be realized as wetland restoration and creation projects must be completed and deposited before credits can be withdrawn; and

WHEREAS, Wetland bank credits provide a replacement option only where the proposed use of such credits meets all of the compensatory mitigation requirements (e.g., size, type and location) of the Federal, state or local approval agency(s); and

WHEREAS, the undersigned agencies concur that the consideration of state wetland bank credits should be allowed as a potential compensatory mitigation option by landowners if such option is consistent with the approval agency's applicable compensatory mitigation requirements; and

THEREFORE, the undersigned agencies concur that it is in the public's interest to allow use of the State Wetland Bank, where appropriate, as a compensatory option, and that the respective agencies will consider state wetland bank credits in applicable and appropriate situations.

II. STATE PROGRAMMATIC GENERAL PERMIT(s)

WHEREAS, federal wetland policy encourages the U.S. Army Corps of Engineers to issue Regional Programmatic General Permits where state and/or local government regulations duplicate those of the Clean Water Act; and

WHEREAS, Federal wetland policy (as issued on August 24, 1993) states that "...PGPs (Programmatic General Permits) are extremely useful in reducing unnecessary duplication between Federal and non-Federal regulatory programs and in generally enhancing the role of State and local governments...in decisions regarding wetlands and other aquatic resources."; and

WHEREAS, the Wetland Conservation Act, as administered by local governments and overseen by state government, overlaps the wetland protection provisions of the Federal Clean Water Act for many projects; and

WHEREAS, implementation of the Programmatic General Permit(s) is intended to provide:

- i.) increased efficiency for Federal, State and local government regulatory programs; and
- ii.) improved service to the regulated public by establishing "one-stop shopping", at the local government level, for seeking the approvals necessary to conduct many projects impacting wetlands; and,

WHEREAS, the Wetland Conservation Act requirements and the provisions of a Programmatic General Permit(s) provide for oversight of local government activities by the Federal and State Governments and affected members of the public; and

THEREFORE, the undersigned agencies concur that it is in the public's interest to develop a State Programmatic General Permit(s) that effectively protects wetlands while minimizing regulatory duplication.

III. COLLABORATIVE EFFORTS

WHEREAS, through Inter-Agency Wetlands Group and other joint efforts, further opportunities exist for wetland regulatory simplification and coordination, including:

1. Development and distribution of a interagency wetlands newsletter and brochures to a wide spectrum of public and private interests; and
2. Scientific training for agency staff (conducted by an interagency team) in wetland identification and delineation; and
3. Where appropriate, reciprocal acceptance of wetland delineations completed under each agency's respective authority, if they are conducted consistent with the techniques prescribed in the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989)* and the *U.S. Army Corps of Engineers Wetland Delineation Manual (1987)*; and,
4. Comprehensive administrative training and guidance for agency staff implementing and complying with wetland regulations; and
5. Continued acceptance of the combined project notification/application form as a permit application form to all agencies for wetland projects; and
6. State Wetland Planning efforts; and
7. Coordination of wetland preservation and incentive programs.

THEREFORE, the undersigned agencies direct their respective staff to initiate and continue these and other collaborative efforts resulting in effective wetland protection through regulatory simplification.

IV. GENERAL

1. The policy and procedures contained with this Memorandum of Understanding (MOU) do not create any rights, either substantive or procedural, enforceable by any party regarding an application for a permit or enforcement action brought by the United States or the State of Minnesota. Deviation or variance from the administrative procedures included in this MOU will not constitute a defense for violators or others concerned with any Federal Clean Water Act Section 404 or State Wetland Conservation Act enforcement action.

2. Nothing in this MOU is intended to diminish, modify, or otherwise affect statutory or regulatory authorities of any of the signatory agencies. All formal guidance interpreting this MOU and background materials upon which this MOU is based will be issued jointly by the agencies.
3. Nothing in this MOU will be construed as indicating a financial commitment by the signatory agencies for the expenditure of funds except as authorized by specific appropriations.
4. This MOU will take effect on the date of the last signature below and will continue in effect until modified or revoked by agreement of all signatory agencies. Any one of the signatory agencies may revoke its participation in this MOU by a 90 days prior written notice to all of the other signatory agencies. Modifications to this MOU may be made by mutual agreement and approval by all the signatory agencies. Such modifications will take effect upon signature of the modified document by all the signatory agencies.

[SIGNATURES]

Signature Date Ronald D. Harnack, Executive Director, BWSR

Signature Date Richard Craig, Colonel, Corps of Engineers, Division Engineer

Signature Date Chuck Williams, Commissioner, MPCA

Signature Date Rod Sando, Commissioner, MDNR

Signature Date Gary Nordstrom, SCS State Conservationist, USDA

Signature Date James N. Denn, Commissioner, MNDOT

Signature Date Valdus Adamkus, Regional Administrator, Region 5 - USEPA

a:bankgp.agr (3/8/94, BWSR/JJ)

PUBLIC & PRIVATE ROAD PROJECTS

MN Wetland Regulation Considerations



Minnesota Wetland Conservation Act (WCA)

- Exemption #16 allows for repair and maintenance of public roads consistent with the original construction limits within the existing right-of-way.
- Exemption #6 exempts activities permitted by the United States Corps of Engineers (USCOE) under NWP #3 for existing roads and NWP #14 for existing roads. (See NWP descriptions below)
- Exemption #5 allows some private roads associated with farming or silviculture to be exempt if they are also exempted by the USCOE under section 1344(f).
- Exemption #10 exempts wetlands that formed "accidentally" (where no wetland previously existed) as a result of road building, culvert blockage or beaver activity.
- Exemptions #14 and #15 allow the construction of permanent and temporary forestry roads for the primary purpose of providing access for the conduct of silvicultural activities.
- Non-exempt projects must replace lost wetland acres through direct replacement or via the state wetland bank.

USCOE Nationwide Permits (NWP) (All USCOE permits or authorizations must be obtained prior to commencing work.)

- NWP #3 allows up to 1/2 acre of fill -- without replacement -- for the repair, maintenance, reconfiguration and realignment of existing roads to address needed changes in construction techniques and materials and safety standards.
- NWP #14 allows up to 1/3 acre of fill along 200 lineal feet for road projects after notification process is completed.
- NWP #26 for placement of fill into headwaters and isolated wetlands is not exempt from the WCA.

USCOE Individual Permit

- Projects not eligible for a NWP must secure an individual permit.
- Replacement of lost wetland area is required by USCOE.

USDA Farm Program: SCS/ASCS

Enrolled farmers may be allowed to fill wetlands for road building, without replacement, after notifying SCS/ASCS. If approved by SCS/ASCS, this activity is then also exempt from the WCA (exemption #23).

MPCA 401 certification

The Minnesota Pollution Control Agency (MPCA) may prescribe water quality conditions on projects receiving USCOE individual permits. There is no need to contact the MPCA until required to by a USCOE permit.

DNR Protected Waters

Projects impacting Protected Waters Wetlands (types 3,4,5 larger than 10 acres and those larger than 2.5 acres within city limits -- as indicated on Protected Waters maps) must secure a permit from the DNR-Division of Waters and may have to replace lost wetland acres.

Scale Examples:

A fill 200 feet long by 20 feet wide $\approx$ 1/10 acre

A fill 1/4 mile long by 10 feet wide $\approx$ 1/3 acre

A fill 1/8 mile long by 30 feet wide $\approx$ 1/2 acre

All approvals must be obtained in advance and may be applied for using the **Combined Joint Notification form** (J1 5/18/93)

Application of Nationwide Permits to Roads and Other Linear Projects

Nationwide Permit Number	Applicability	Impact Allowed per Basin	Maximum Cumulative Impact Allowed per Project (acres)	PredischARGE Notification Required?	WCA Status
3	<u>Maintenance</u> - repair, rehab. or replacement of any previously authorized structure	0.5 acres	0.5	No	Exempt
14	<u>Road Crossings</u>	1/3 acre or 200 lineal feet	no maximum limit	Yes	Exempt (unless new road)
26	<u>Isolated Basins and Headwaters</u>	3 acres	3 acres	Yes - if indiv. or cumulative impacts exceed 0.5 acre	Not Exempt

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**BWSR NATURAL RESOURCES BLOCK GRANTS
BREAKDOWN BY TYPE**

COUNTY	LOCAL WATER PLANNING			WETLAND CONSERVATION ACT		DNR SHORELAND		TOTAL BWSR BLOCK GRANT
	TOTAL CLWP AMOUNT	REQUIRED LOCAL LEVY	BWSR BASE GRANT	BWSR WCA GRANT	LOCAL CASH & INKIND MATCH	DNR SHORELAND GRANT	LOCAL IN-KIND MATCH	
AITKIN	37,500.00	4,677.00	32,823.00	19,200.00	19,200.00	14,216.99	14,216.99	66,239.99
ANOKA	37,500.00	74,762.00	0.00	36,000.00	36,000.00	3,000.00	3,000.00	39,000.00
BECKER	37,500.00	7,140.00	30,360.00	16,700.00	16,700.00	14,152.82	14,152.82	61,212.82
BELTRAMI	37,500.00	6,362.00	31,138.00	36,000.00	36,000.00	6,969.40	6,969.40	74,107.40
BENTON	37,500.00	7,150.00	30,350.00	36,000.00	36,000.00	3,922.22	3,922.22	70,272.22
BIG STONE	37,500.00	1,640.00	35,860.00	10,000.00	10,000.00	3,104.51	3,104.51	48,964.51
BLUE EARTH	37,500.00	15,321.00	22,179.00	19,200.00	19,200.00	3,863.55	3,863.55	45,242.55
BROWN	37,500.00	6,562.00	30,938.00	10,000.00	10,000.00	3,084.34	3,084.34	44,022.34
CARLTON	37,500.00	6,830.00	30,670.00	19,200.00	19,200.00	4,802.27	4,802.27	54,672.27
CARVER	37,500.00	16,702.00	20,798.00	36,000.00	36,000.00	3,000.00	3,000.00	59,798.00
CASS	37,500.00	10,655.00	26,845.00	36,000.00	36,000.00	14,097.82	14,097.82	76,942.82
CHIPPEWA	37,500.00	4,050.00	33,450.00	10,000.00	10,000.00	3,014.67	3,014.67	46,464.67
CHISAGO	37,500.00	7,649.00	29,851.00	26,700.00	26,700.00	6,195.69	6,195.69	62,746.69
CLAY	37,500.00	10,370.00	27,130.00	16,700.00	16,700.00	3,452.86	3,452.86	47,282.86
CLEARWATER	37,500.00	2,442.00	35,058.00	19,200.00	19,200.00	3,753.54	3,753.54	58,011.54
COOK	37,500.00	2,745.00	34,755.00	12,200.00	12,200.00	5,170.79	5,170.79	52,125.79
COTTONWOOD	37,500.00	5,035.00	32,465.00	10,000.00	10,000.00	3,216.35	3,216.35	45,681.35
CROW WING	37,500.00	19,595.00	17,905.00	36,000.00	36,000.00	25,668.66	25,668.66	79,573.66
DAKOTA	37,500.00	115,176.00	0.00	36,000.00	36,000.00	3,000.00	3,000.00	39,000.00
DODGE	37,500.00	3,992.00	33,508.00	16,700.00	16,700.00	3,082.50	3,082.50	53,290.50
DOUGLAS	37,500.00	8,656.00	28,844.00	19,200.00	19,200.00	11,140.48	11,140.48	59,184.48
FARIBAULT	37,500.00	5,988.00	31,512.00	10,000.00	10,000.00	3,165.01	3,165.01	44,677.01
FILLMORE	37,500.00	4,384.00	33,116.00	10,000.00	10,000.00	3,106.34	3,106.34	46,222.34
FREEBORN	37,500.00	8,417.00	29,083.00	10,000.00	10,000.00	3,720.54	3,720.54	42,803.54
GOODHUE	37,500.00	21,427.00	16,073.00	16,700.00	16,700.00	3,216.35	3,216.35	35,989.35
GRANT	37,500.00	2,253.00	35,247.00	10,000.00	10,000.00	3,606.87	3,606.87	48,853.87
HENNEPIN	37,500.00	440,596.00	0.00	36,000.00	36,000.00	0.00	0.00	36,000.00
HOUSTON	37,500.00	3,401.00	34,099.00	12,200.00	12,200.00	3,152.18	3,152.18	49,451.18
HUBBARD	37,500.00	5,928.00	31,572.00	26,700.00	26,700.00	10,988.30	10,988.30	69,260.30
ISANTI	37,500.00	5,104.00	32,396.00	26,700.00	26,700.00	4,908.61	4,908.61	64,004.61
ITASCA	37,500.00	17,246.00	20,254.00	19,200.00	19,200.00	13,285.60	13,285.60	52,739.60
JACKSON	37,500.00	5,413.00	32,087.00	10,000.00	10,000.00	3,544.53	3,544.53	45,631.53
KANABEC	37,500.00	2,297.00	35,203.00	26,700.00	26,700.00	5,025.95	5,025.95	66,928.95
KANDIYOHI	37,500.00	10,861.00	26,639.00	19,200.00	19,200.00	8,681.83	8,681.83	54,520.83
KITTSOON	37,500.00	3,485.00	34,015.00	16,700.00	16,700.00	3,045.84	3,045.84	53,760.84
KOOCHICHING	37,500.00	4,136.00	N/E	19,200.00	19,200.00	3,146.68	3,146.68	22,346.68
LAC QUI PARLE	37,500.00	2,995.00	34,505.00	10,000.00	10,000.00	3,020.17	3,020.17	47,525.17
LAKE	37,500.00	2,475.00	35,025.00	16,700.00	16,700.00	5,746.49	5,746.49	57,471.49
LAKE OF THE WOODS	37,500.00	1,101.00	36,399.00	26,700.00	26,700.00	4,204.57	4,204.57	67,303.57
LE SUEUR	37,500.00	6,062.00	31,438.00	16,700.00	16,700.00	6,162.69	6,162.69	54,300.69
LINCOLN	37,500.00	2,131.00	35,369.00	10,000.00	10,000.00	3,210.85	3,210.85	48,579.85

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**BWSR NATURAL RESOURCES BLOCK GRANTS
BREAKDOWN BY TYPE**

COUNTY	LOCAL WATER PLANNING			WETLAND CONSERVATION ACT		DNR SHORELAND		TOTAL BWSR BLOCK GRANT
	TOTAL CLWP AMOUNT	REQUIRED LOCAL LEVY	BWSR BASE GRANT	BWSR WCA GRANT	LOCAL CASH & INKIND MATCH	DNR SHORELAND GRANT	LOCAL IN-KIND MATCH	
LYON	37,500.00	7,081.00	30,419.00	10,000.00	10,000.00	3,168.68	3,168.68	43,587.68
MCLEOD	37,500.00	7,122.00	30,378.00	16,700.00	16,700.00	3,513.36	3,513.36	50,591.36
MAHNOMEN	37,500.00	1,044.00	36,456.00	12,200.00	12,200.00	4,032.23	4,032.23	52,688.23
MARSHALL	37,500.00	4,595.00	32,905.00	19,200.00	19,200.00	3,000.00	3,000.00	55,105.00
MARTIN	37,500.00	9,257.00	28,243.00	10,000.00	10,000.00	3,562.87	3,562.87	41,805.87
MEEKER	37,500.00	4,927.00	32,573.00	19,200.00	19,200.00	5,911.50	5,911.50	57,684.50
MILLE LACS	37,500.00	3,739.00	33,761.00	19,200.00	19,200.00	6,012.34	6,012.34	58,973.34
MORRISON	37,500.00	5,790.00	31,710.00	26,700.00	26,700.00	4,826.11	4,826.11	63,236.11
MOWER	37,500.00	8,549.00	28,951.00	12,200.00	12,200.00	3,892.89	3,892.89	45,043.89
MURRAY	37,500.00	3,832.00	33,668.00	10,000.00	10,000.00	3,832.38	3,832.38	47,500.38
NICOLLET	37,500.00	7,054.00	30,446.00	16,700.00	16,700.00	3,091.67	3,091.67	50,237.67
NOBLES	37,500.00	6,237.00	31,263.00	10,000.00	10,000.00	3,064.17	3,064.17	44,327.17
NORMAN	37,500.00	2,997.00	34,503.00	12,200.00	12,200.00	3,012.83	3,012.83	49,715.83
OLMSTED	37,500.00	35,284.00	2,216.00	26,700.00	26,700.00	3,735.21	3,735.21	32,651.21
OTTER TAIL (2 SWCD'S)	37,500.00	13,029.00	24,471.00	19,200.00	19,200.00	23,774.72	23,774.72	67,445.72
PENNINGTON	37,500.00	2,255.00	35,245.00	16,700.00	16,700.00	3,300.68	3,300.68	55,245.68
PINE	37,500.00	5,096.00	32,404.00	26,700.00	26,700.00	7,508.43	7,508.43	66,612.43
PIPESTONE	37,500.00	2,469.00	35,031.00	10,000.00	10,000.00	3,000.00	3,000.00	48,031.00
POLK (2 SWCD'S)	37,500.00	9,557.00	27,943.00	16,700.00	16,700.00	4,156.90	4,156.90	48,799.90
POPE	37,500.00	2,798.00	34,702.00	12,200.00	12,200.00	5,245.97	5,245.97	52,147.97
RAMSEY	37,500.00	170,829.00	0.00	26,700.00	26,700.00	0.00	0.00	26,700.00
RED LAKE	37,500.00	1,038.00	36,462.00	12,200.00	12,200.00	3,355.69	3,355.69	52,017.69
REDWOOD	37,500.00	6,816.00	30,684.00	10,000.00	10,000.00	3,000.00	3,000.00	43,684.00
RENVILLE	37,500.00	8,130.00	29,370.00	10,000.00	10,000.00	3,066.00	3,066.00	42,436.00
RICE	37,500.00	10,846.00	26,654.00	19,200.00	19,200.00	5,161.63	5,161.63	51,015.63
ROCK	37,500.00	3,584.00	33,916.00	10,000.00	10,000.00	3,000.00	3,000.00	46,916.00
ROSEAU	37,500.00	3,380.00	34,120.00	26,700.00	26,700.00	3,113.67	3,113.67	63,933.67
ST. LOUIS (2 SWCD'S)	37,500.00	39,891.00	0.00	26,700.00	26,700.00	26,779.73	26,779.73	53,479.73
SCOTT	37,500.00	21,990.00	15,510.00	36,000.00	36,000.00	3,000.00	3,000.00	54,510.00
SHERBURNE	37,500.00	25,863.00	11,637.00	36,000.00	36,000.00	6,100.35	6,100.35	53,737.35
SIBLEY	37,500.00	3,909.00	33,591.00	12,200.00	12,200.00	3,117.34	3,117.34	48,908.34
STEARNS	37,500.00	28,456.00	9,044.00	36,000.00	36,000.00	11,771.18	11,771.18	56,815.18
STEELE	37,500.00	8,549.00	28,951.00	12,200.00	12,200.00	3,346.52	3,346.52	44,497.52
STEVENS	37,500.00	2,709.00	34,791.00	10,000.00	10,000.00	3,155.84	3,155.84	47,946.84
SWIFT	37,500.00	2,945.00	34,555.00	12,200.00	12,200.00	3,177.84	3,177.84	49,932.84
TODD	37,500.00	3,351.00	34,149.00	19,200.00	19,200.00	6,182.85	6,182.85	59,531.85
TRAVERSE	37,500.00	2,176.00	35,324.00	10,000.00	10,000.00	3,260.35	3,260.35	48,584.35
WABASHA	37,500.00	4,645.00	32,855.00	12,200.00	12,200.00	4,241.24	4,241.24	49,296.24
WADENA	37,500.00	1,892.00	35,608.00	16,700.00	16,700.00	3,645.37	3,645.37	55,953.37
WASECA	37,500.00	5,295.00	32,205.00	12,200.00	12,200.00	3,539.03	3,539.03	47,944.03
WASHINGTON	37,500.00	59,639.00	0.00	36,000.00	36,000.00	3,000.00	3,000.00	39,000.00

1994
BWSR NATURAL RESOURCES BLOCK GRANTS
BREAKDOWN BY TYPE

COUNTY	LOCAL WATER PLANNING				WETLAND CONSERVATION ACT			DNR SHORELAND		TOTAL BWSR BLOCK GRANT
	TOTAL CLWP AMOUNT	REQUIRED LOCAL LEVY	BWSR BASE GRANT		BWSR WCA GRANT	LOCAL CASH & INKIND MATCH		DNR SHORELAND GRANT	LOCAL IN-KIND MATCH	
WATONWAN	37,500.00	3,458.00	34,042.00		10,000.00	10,000.00		3,163.18	3,163.18	47,205.18
WILKIN	37,500.00	2,826.00	34,674.00		10,000.00	10,000.00		3,025.67	3,025.67	47,699.67
WINONA	37,500.00	9,388.00	28,112.00		12,200.00	12,200.00		3,051.34	3,051.34	43,363.34
WRIGHT	37,500.00	23,460.00	14,040.00		36,000.00	36,000.00		12,233.21	12,233.21	62,273.21
YELLOW MEDICINE	37,500.00	3,794.00	33,706.00		10,000.00	10,000.00		3,020.17	3,020.17	46,726.17
NORTH SHORE MGMT. BD.								50,000.00	50,000.00	50,000.00
TOTAL		1,494,782.00	2,410,247.00		1,629,500.00	1,629,500.00		518,000.00	518,000.00	4,557,747.00

4/27/94

**BOARD OF WATER AND SOIL RESOURCES
COUNTRY INN, MAPLEWOOD ROOM
6003 HUDSON ROAD
WOODBURY, MN 55125
APRIL 27, 1994**

APPOINTED MEMBERS PRESENT: Jim Nielsen, Jim Rossman, Howard Peterson, Glenn Annexstad, Barb Cobb, Kathleen Roer, Dwain Otte, Tim Hvisten, Ted Lovdahl, Barb Uppgaard, Marvell Tripp, and Warren Rodning.

AGENCY MEMBERS PRESENT:

Kim Benson-Johnson, Minnesota Department of Health (MDH)
Wayne Edgerton, Department of Natural Resources (DNR)
Wayne Anderson, Pollution Control Agency (PCA)
Fred Bergsrud, Minnesota Extension Service (MES)
Paul Burns, Minnesota Department of Agriculture (MDA)

OTHERS PRESENT:

Allan Oehlke and LeAnn Buck, Minnesota Association of Soil and Water Conservation Districts (MASWCD)
Dan Livdahl, Minnesota Association of Conservation District Employees (MACDE)
Franklin Denn, Minnesota Association of Townships (MAT)

STAFF:

Jim Birkholz
Doug Thomas
Al Kean
Dave Behm
Jeff Nielsen

Chairman Nielsen called the meeting to order at 9:05 a.m.

- ** 94-22 Adopt Agenda** - Moved by Dwain Otte, seconded by Ted Lovdahl, to adopt the agenda as presented. Affirmative: Annexstad, Cobb, Hvidsten, Lovdahl, Otte, Peterson, Rodning, Roer, Rossman, Tripp, Uppgaard, and Nielsen. Opposed: None. Carried.

- ** 94-23 Minutes of March 23, 1994** - Howard Peterson stated that corrections are needed on page four. The first correction relates to the Policy Intervention Appeal, point number three: it should state, "3) concern is relating use of airplane on Whale Tail Lake issue is plane, not policy". The other correction relates to the spelling of Lloyd Marier's name. Marier is involved in the Snake River Watershed Joint Powers Organization. Moved by Howard Peterson, seconded by Marvell Tripp, to correct and approve the minutes of March 23, 1994, as presented. Affirmative: Annexstad, Cobb, Hvidsten, Lovdahl, Otte, Peterson, Rodning, Roer, Rossman, Tripp, Uppgaard, and Nielsen. Opposed: None. Carried.

Chairman's Report - Chairman Nielsen reported that Ron Harnack is at the Capitol today, Jim Birkholz is here in Ron's place.

Chairman Nielsen commented that he received a thank you letter for the BWSR's support of the Blue Earth River Basin Initiative (BERBI).

Chairman Nielsen attended the Environmental Quality Board (EQB) meeting; the forestry Generic Environmental Impact Statement (GEIS) was adopted as adequate. The Giant's Ridge golf course proposal was discussed at the EQB meeting; the proposal has been waylaid because of possible effect on endangered flower species. The Farm Bill proposal was also discussed at the EQB meeting.

Chairman Nielsen is on the interview panel for the position of director of the Minnesota Geology Survey.

Executive Director's Report - Jim Birkholz commented on staff activities related to BWSR responsibilities for implementing the State Revolving Fund (SRF). The SRF will build toward \$10 million/year over the next few years. Recommendations will be brought to the BWSR for approval.

Jim mentioned that the St. Paul office lease is up for renewal in November; staff are looking at various options including space with a conference room adequate for Board meetings.

Jim stated that Gene Clark has been hired as the North Shore Engineer and will be working in Duluth.

Committee Reports

Education Committee - Tim Hvidsten reported that the Environmental Education Advisory Board has funding through July of next year. Susan Tsakakis has been attending the

meetings, they would like to see the Department of Education continue with the Environmental Education Advisory Board if possible, although the Department of Education has not expressed any interest in that. The Environmental Education Advisory Board is meeting tomorrow and Susan will be attending.

Dispute Resolution Committee (DRC) - Kathleen Roer said two DRC issues are pending:
 1) Jessen Farms appealed the Lac Qui Parle/Yellow Bank Watershed District permit decision. The DRC thought the issue had been resolved, but it was not and now it's back to square one. The watershed district board did not prepare an adequate record so the recommendation is to remand it back to the watershed district, however; now a culvert has been opened, which is a criminal violation not within BWSR's jurisdiction.

2) Churchill Co-op, in Renville County - brought the involved parties together regarding issuance of permit of a hog feedlot operation. The watershed district put restrictions on the permit which the co-op is appealing. Discussions will hopefully resolve the issue.

Per Diem Committee - Howard Peterson reported on the status of the Per Diem Committee proposal. Ron Harnack will take the proposal to the Attorney General's Office and the State Auditor's Office for review and then the BWSR will take formal action.

Cost-Share Funding for Sucker Bay Shoreline Stabilization Project - Al Kean said the total estimated project construction cost is \$178,000. Staff recommends approval for \$29,000 Streambank, Lakeshore and Roadside (SLR) project grant allocation and disbursement from currently available roll-over/special project funds to South St. Louis SWCD for construction of the Sucker Bay project. This grant would supplement and leverage approximately \$60,000 of a federal Great Lakes Commission grant to the BWSR for Lake Superior shoreline stabilization. Discussion followed. Moved by Ted Lovdahl, seconded by Howard Peterson, to approve staff's recommendation to fund the Sucker Bay Shoreline Stabilization Project. Affirmative: Annexstad, Cobb, Hvisten, Lovdahl, Otte, Peterson, Rodning, Roer, Rossman, Tripp, Uppgaard, and Nielsen. Opposed: None. Carried.

**
 94-24

Authorization of BWSR Challenge Grants - Doug Thomas updated members on legislative issues that will have an impact on block grants and challenge grants. A bill under discussion appropriates \$900,000 to MPCA for administration of local feedlot program grants to assist counties for implementation of local feedlot programs and inventory of feedlots. The bill stated that BWSR would administer the grants with input from MPCA. Doug explained the criteria for the grants. He stated that things are a bit tentative at this point because of legislative conference committees.

Doug stated that \$640,000 is available for challenge grants. Doug briefly explained the eligibility criteria. 86 counties would be eligible. Koochiching County has not completed a county water plan. Recommendation is to authorize staff to announce the challenge grant program, rank applications and make recommendation to BWSR for allocation at the July meeting. Moved by Dwain Otte, seconded by Ted Lovdahl, to approve and authorize staff

**
 94-25

to continue with the grant process. Affirmative: Annexstad, Cobb, Hvidsten, Lovdahl, Otte, Peterson, Rodning, Roer, Rossman, Tripp, Uppgaard, and Nielsen. Opposed: None. Carried.

- ** 94-26** **Jessen Appeal, Order to Remand and Dismiss Appeal** - Moved by Jim Rossman, seconded by Kathleen Roer, that the BWSR dismiss the Jessen Farm appeal of Lac Qui Parle/Yellow Bank permit number 2212 and remand this matter back to the watershed district for further proceedings. Affirmative: Annexstad, Cobb, Hvidsten, Lovdahl, Otte, Peterson, Rodning, Roer, Rossman, Tripp, Uppgaard, and Nielsen. Opposed: None. Carried.

- ** 94-27** **Reinvest In Minnesota (RIM) Reserve/Permanent Wetlands Preserve (PWP) Administrative Rule; Board's endorsement to initiate the formal rule revision process** - Dave Behm explained the non-substantive revision to rules governing RIM Reserve/PWP. Two additional proposed amendments were distributed. Discussion followed. Adequate attention to all lands needs to be included in the rules, and the original purpose/intent of the program that is a focus on marginal agricultural land, needs attention said Paul Burns. Chairman Nielsen asked about the assessed market value to determine payment rates and the process used. Dave explained the uniform process. Chairman Nielsen stated that the word "appraised" may be more accurate than "assessed". The distinction should be made that the county assessor is an appraiser. Moved by Dwain Otte, seconded by Warren Rodning, that Ron Harnack is hereby granted the authority and directed to sign the statement of need and reasonableness and to sign and give the Notice of the Board's Intent to Adopt Rules Without a Public Hearing governing the Reinvest In Minnesota (RIM) Reserve Program and the Permanent Wetlands Preserve Program, to all persons who have registered their names with the Board for that purpose and publish the Notice and rules in the State Register, and to perform any necessary acts to initiate the rulemaking comment period. Affirmative: Annexstad, Cobb, Hvidsten, Lovdahl, Otte, Peterson, Rodning, roer, Rossman, Tripp, Uppgaard, and Nielsen. Opposed: None. Carried.

Chairman Nielsen called recessed the meeting for a break at 11:00 p.m. The meeting reconvened at 11:15 a.m.

Big Fish Lake, destruction of wetland drainage area in Cold Spring - Chairman Nielsen introduced Mr. & Mrs. Peters, lakeshore owners, and Bob Mostad, administrator of Sauk River Watershed District. Mr. Peters explained the issue and requested that BWSR send a letter to the county to review and restore the area as a filter system to the lake. Chairman Nielsen stated that BWSR has no authority to tell the local government what to do in this instance; he suggested that staff look at this and provide practical assistance to resolve this issue. Mr. Peters said that Pat Wulff of Minnesota Lakes Association has been helpful. Wayne Edgerton commended the Peter's for their efforts and interest in the lake. While their jurisdiction is limited, DNR will assist where they can. Rodning commended the Peters' efforts.

Chairman Nielsen recessed the meeting for lunch at 12:05 p.m. The meeting reconvened

at 1:00 p.m.

Minnesota River Wrap-Up - Jeff Nielsen introduced Tim Koehler, Soil Conservation Service; Greg Payne, United States Geological Survey; and Tim Larson, Minnesota Pollution Control Agency. Tim Larson as project coordinator for the Minnesota River Assessment Project (MRAP), gave a slide presentation and explained the Minnesota River Assessment Program. Discussion followed. Wayne Anderson said that the good news is that attitudes are changing. Tim Koehler said the project's goals are attainable by working with local people. Chairman asked how do we proceed from here? Wayne Anderson said that the implementation planning phase is continuing. The initial action is happening in Blue Earth River basin; this will be a good experience base for what to do in the remainder of the MRAP territory. Wayne Edgerton asked about the River Warren Commission organization. Wayne Anderson said this is a vocal group that is against government and is negative about things we are working on. Barb Uppgaard said that this program should be the prototype for every river in Minnesota and we will then see its benefits everywhere. Fred Bergsrud said that MES hasn't received additional funding, but the education need is certainly there and they will participate in the process. Jeff Nielsen said that we need to be very conscious of ensuring that our programs help meet the needs for assistance throughout the Minnesota River basin. Members received a letter from Brown County SWCD stating not so many nice things about BWSR.

Advisor Comments

Minnesota Association of Soil and Water Conservation Districts (MASWCD): Allan Oehlke reported that he went to Washington, D.C., and met with legislators. There is interest and a lot of questions about the State Revolving Fund (SRF) among Minnesota's Congressional Delegation. Allan would like to have BWSR staff go to Washington with MASWCD and be able to assist in answering questions of the Congressional Delegation. Marketing SWCDs and making them visible is an issue. Allan reported that Paul Johnson, SCS Chief, will be holding twelve roundtable discussions, on the upcoming Farm Bill, and asked if BWSR, the Department of Agriculture, and the DNR would be interested in hosting a session with MASWCD. Allan, on behalf of MASWCD, commended Ron Harnack for the many hours he has been working for SWCDs during the legislative session. LeAnn Buck briefly commented on legislation, H.F. 3233, authored by Munger; and S.F. 2921, authored by Sams. LeAnn stated that MASWCD is tentatively planning a summer workshop on legislative issues. Barb Cobb stated that the urban brochure was excellent and Allan took that to Washington with him.

Minnesota Association of Conservation District Employees (MACDE): Dan Livdahl stated that this is SWCD employees' busiest time of the year -- spring construction season, working on Wetland Conservation Act, tree programs, etc. MACDE will be sponsoring a statewide Envirothon, regions will be participating and competing. MACDE training session has been scheduled for June 28-30, in Alexandria. Area 5 employees have set up an environmental fair in Madison.

Soil Conservation Service (SCS): Gary Nordstrom stated that legislation was passed for a buy-out retirement program. SCS lost 27 people in 24 hours, just one in the state office, others in the field. SCS is trying to put together an interim staffing plan that would meet the long-term planned reduction. USDA reorganization still waiting for congressional action. Gary reported that an article was published in the Minneapolis Star & Tribune regarding a wetland report done by two U.S. Fish & Wildlife Service (USF&WS) staff which was critical of SCS's wetland work. The USF&WS has been working with SCS on this issue recently. The report was not a valid study of the wetlands issue and the story should not have been run. An article in today's newspaper is more accurate and reflects that if the real facts had been considered, SCS is doing a good job on wetlands.

Minnesota Association of Townships (MAT): Franklin Denn reported that MAT just concluded short courses statewide to bring townships up-to-date on laws and compliance; education is still needed. More incentives and more land use planning for townships is needed.

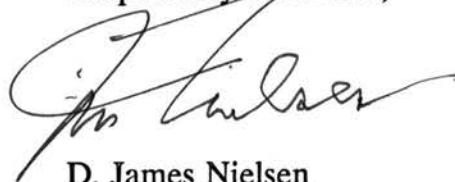
Minnesota Association of Watershed Districts (MAWD): Howard Peterson reported that the MAWD summer tour will be in the Big Stone Lake area and South Dakota. Howard reported that the MAWD legislative breakfast was successful.

Tim Hvidsten reported that Kittson County has adopted the WCA permanent rules; Marshall, Pennington, Koochiching, and Beltrami Counties have not adopted yet. Tim and Brian Dwight will be meeting with these counties.

Board members were interested in meeting outside the metro area for an upcoming BWSR meeting and tour. Chairman Nielsen said nothing has been planned, the fourth Wednesday of the month will still be the meeting date.

Chairman Nielsen adjourned the meeting at 2:10 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. James Nielsen", written over a horizontal line.

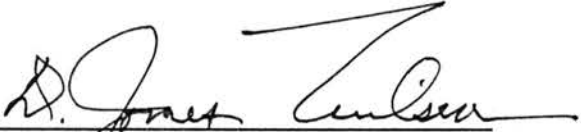
D. James Nielsen
Chairman

**CERTIFICATE OF THE
BOARD OF WATER AND SOIL RESOURCES
AUTHORIZING RESOLUTION**

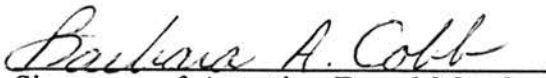
I, D. James Nielsen, do hereby certify that I am a member and the Chair of the Board of Water and Soil Resources, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Water and Soil Resources, duly and properly called and held on the 27th day of April, 1994, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

"RESOLVED, that Ronald D. Harnack, the Executive Director of the Board of Water and Soil Resources, is hereby granted the authority and directed to sign the statement of need and reasonableness and to sign and give the Notice of the Board's Intent To Adopt Rules Without a Public Hearing governing the Reinvest In Minnesota (RIM) Reserve Program and the Permanent Wetlands Preserve Program, to all persons who have registered their names with the Board for that purpose and publish the Notice and rules in the *State Register*, and to perform any necessary acts to initiate the rulemaking comment period."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 27th day of April, 1994.


D. James Nielsen, Chair
Board of Water and Soil Resources

Attest by one other Board Member:


Signature of Attesting Board Member

Barbara A. Cobb
Printed Name of Attesting Board Member

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

In the Matter of the Appeal of
Lac Qui Parle/Yellow Bank
Watershed District Permit #2212 by
Irv Jessen and Jeff Jessen d/b/a
Jessen Farms under Minn. Stat.
§ 103D.537

**ORDER DISMISSING
APPEAL**

WHEREAS, Jessen Farms appealed the Lac Qui Parle/Yellow Bank Watershed District (District) decision on permit number 2212 to the Board of Water and Soil Resources (Board or BWSR); and

WHEREAS, On April 8, 1994 the parties involved in the appeal agreed that the matter should be remanded to the District for further proceedings.

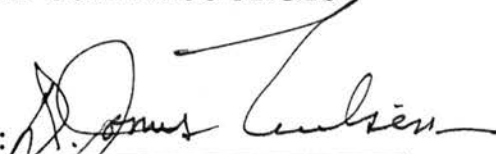
NOW THEREFORE, the Board hereby makes the following Order:

ORDER

The Board hereby dismisses the Jessen Farm appeal of Lac Qui Parle/Yellow Bank permit number 2212 and remands this matter back to the District for further proceedings.

Dated at St. Paul, Minnesota this 27 day of April, 1994.

MINNESOTA BOARD OF WATER
AND SOIL RESOURCES

By: 

D. JAMES NIELSEN, Chair

NON-SUBSTANTIVE REVISIONS TO RULES GOVERNING
RIM RESERVE/PWP

- Incorporates updated statutory references due to recodification
- Deletes unnecessary provisions resulting from statutory revisions since 1990
- Editorial changes to:
 - (a) clarify and improve readability of existing content of rule
 - (b) improve consistency in use of certain terms throughout rule
- Deletes administrative procedures which need not have effect of law; these will be incorporated into the revised "conservation easement handbook"
- Clarifies information and process necessary for any alteration, release or termination of conservation easements
- Incorporates, but does not modify, a statutory authority of RIM Reserve to provide "supplemental payments on federal and state programs"

SUBSTANTIVE REVISIONS TO RULES GOVERNING RIM RESERVE/PWP

- Incorporates Permanent Wetlands Preserve program into rule; establishes authority for 90% easement payment rate for "farmed wetlands"
- Expands scope of "marginal agricultural land" to address "off-site" impacts to ground and surface waters, and to adjoining landowners
- Incorporates "replacement wetland" into RIM Reserve; establish authorities regarding eligibility requirements
- Expands criteria the Board may consider in allocating program funds
- Establishes authority by which the Board may allow SWCDs to accept applications for limited duration RIM Reserve easements
- Expands scope of local priorities which the SWCD and its screening committee may consider by referencing use of certain local plans
- Authorizes SWCDs to waive minimum acreage requirements (i.e., 5 acres) for RIM Reserve and PWP under certain limited situations
- Clarifies opportunity for enrollment of lands already enrolled in other state or federal conservation programs (e.g., CRP)
- Authorizes SWCDs to delegate easement program administration to other willing SWCDs

SUBSTANTIVE REVISIONS TO RULES GOVERNING RIM RESERVE/PWP
(continued)

- Authorizes SWCDs to mutually decide which SWCD will accept (and process) an application when a proposed easement area lies in two or more contiguous SWCDs
- Clarifies landowner responsibility to remove any structures and hazardous materials and to properly seal all abandoned wells prior to easement conveyance; all costs are responsibility of landowner
- Requires Board to annually establish the basis of easement payment rates (township average OR actual assessed market value of agland)
- Establishes existing RIM Reserve easement payment rates as **maximum** levels for perpetual easements, but provides flexibility to consider **lower** payment rates, including differential rates for varying lengths of limited duration easements
- Clarifies specific limited situations when a landowner may be compensated for that portion of an easement area occupied by public waters, public waters wetlands, or public drainage ditches
- Establishes uniform easement payment schedules for RIM Reserve and PWP:
 - (a) lump sum, OR
 - (b) ten equal annual installments
- Establishes and clarifies violations process, including actions to be taken by the Board and, if necessary, by the Attorney General
- Establishes and clarifies an appeals process

1	8400.3700	Approved Practices	25-26
2		A. Criteria	25
3		B. Establishment of Approved Practices	25-26
4	8400.3710	Cost-Shared Practices	26-27
5		A. Approved Practices Eligible for Cost-Sharing	26
6		B. Eligible Costs for Cost-Shared Practices	27-28
7		C. Payment for In-Kind Services	28
8		D. Funds from Other Sources	28
9	8400.3730	Failure of Approved Practices	28-29
10		A. Cost-Shared Practices	28
11		B. All Other Approved Practices	28-29
12	8400.3800	Operation and Maintenance	29
13	8400.3830	Violations and Enforcement	29-30
14		A. District Board Action	29
15		B. State Board Action	29-30
16		C. Attorney General Action	30
17	8400.3900	Supplemental Payments on Federal and State Programs	30
18	8400.3930	Reconsideration and Appeal	30
19	8400.3960	Effective Date	32

Suggested Revisions to Permanent Rule
Please refer inquiries to David H. Behm, BWSR Programs & Policy Analyst
612-296-0880

8400.3000 Authority: [Lines 4-14]

- [Lines 5,6,14] Minnesota Statutes section 103F.531 authorizes BWSR to adopt rules to implement sections 103F.505 to 103F.531, but not for section 103F.535; reference to Minnesota Statutes section 103A.209 added since it refers to "marginal, erodible land policy"
- [Lines 7-8] Added "(a) acquire permanent easements on land containing type 1, 2, or 3 wetlands;" to clearly incorporate the purpose of PWP (as authorized by Minnesota Statutes, section 103F.516, subdivision 1) into the "Authority" part of the rule
- [Line 9] Replaced "permanent vegetative cover" with "perennial cover" to be consistent with revised definition in subpart 37 (which includes other types of "cover," thereby making the deleted passage about wetlands and windbreaks unnecessary)

8400.3030 Definitions:

- [Lines 23-27] Added "agricultural land" definition since that term is used in Authority and other parts of the rule and doing so will clarify "pasturing", "hayland", and "animal feedlots" as agricultural land uses for purposes of consideration for enrollment

1 Board of Water and Soil Resources

2 DRAFT REVISIONS to Permanent Rules Relating to Reinvest in Minnesota Conservation
3 Reserve and Permanent Wetlands Preserve Programs

4 **8400.3000 AUTHORITY.**

5 Minnesota Statutes, sections 103F.501 40.40 to 103F.531, 40.46 ~~and~~ 84.95, and
6 103A.209 authorize the state board, in consultation with districts, ~~state and local~~ private
7 groups, and state and federal agencies to implement a program ~~of~~ to (a) acquire permanent
8 easements on land containing type 1, 2 or 3 wetlands; (b) to retireing certain marginal
9 agricultural land from agricultural crop production or pasturing and to reestablishing on that
10 land permanent vegetative perennial cover on that land; restoring drained wetlands;
11 establishing windbreaks adjacent to highways, or and (c) to enhanceing and protecting other
12 private lands. Parts 8400.3000 to 8400.3930 provide procedures and criteria to be followed
13 by the state board and district boards in implementing Minnesota Statutes, sections 103F.501
14 40.40 to 103F.531 40.46.

15 **8400.3030 DEFINITIONS.**

16 Subpart 1. **Scope.** The definitions in this part apply to parts 8400.3000 to 8400.3930.

17 Subp. 2. **Agricultural crop production.** "Agricultural crop production" means an
18 agricultural activity:

19 A. including but not limited to tillage, planting, or harvesting operations;
20 and

21 B. devoted to the production of horticultural, row, close grown, introduced
22 pasture, or introduced hayland crops.

23 Subp. 3. ~~[Repealed 01/30/90.]~~ **Agricultural land.** "Agricultural land" means land
24 devoted for use as pasture or hayland, or to the production of horticultural, row, close
25 grown, introduced pasture, or introduced hayland crops, or to growing nursery stocks, or for
26 pasturing domestic livestock or dairy animals, or for use as animal feedlots, and may include
27 contiguous land associated with the production of the above.

28 Subp. 4. **Annual plan.** "Annual plan" means a plan prepared by the district under
29 Minnesota Statutes, section 103C.33140.07, subdivision 119, and according to the most recent

- [Lines 5-8] "Approved practice" definition broadened to allow for wildlife habitat enhancement and for inclusion of PWP program

- [Line 14] "Board" deleted and replaced with "state board"(see subpart 50); definition unchanged

- [Lines 15-17] "Conservation agreement" definition need not reference the conservation plan

- [Lines 21-25] "Conservation easement handbook" definition added to allow for reference to this compilation of administrative procedures so as to allow for the deletion of some administrative procedures from this rule

- [Lines 26-28] "Conservation easement program" definition added to allow for inclusion of PWP program

1 landowner's control.

2 ~~8400.3760~~ **MAXIMUM PAYMENT.**

3 ~~The commissioner may not pay more than \$50,000 total in RIM reserve program~~
4 ~~funds to a landowner for all approved practices and conservation easements. This is the~~
5 ~~maximum cumulative amount that may be received over the landowner's lifetime.~~

6 **8400.3800 OPERATION AND MAINTENANCE.**

7 A landowner is responsible for ~~planting, establishment, the~~ operation, and
8 maintenance of approved practices designated described in the conservation plan agreement
9 and for ensuring that easement restrictions are followed so that the ~~easement's conservation~~
10 ~~objective is met and the effective life of 20 or more years is achieved.~~

11 **8400.3830 VIOLATIONS AND ENFORCEMENT.**

12 Subpart 1. District board action. The district board may take such measures as are
13 necessary to ensure landowner compliance with the provisions of the conservation
14 agreement, conservation easement, and conservation plan. If the district board is
15 unsuccessful at obtaining landowner compliance, the district board shall notify the state
16 board of the violation and may recommend appropriate measures to be taken to correct
17 violations.

18 Subp. 2. State board action. Upon notification by the district board of a violation
19 of a conservation agreement, conservation easement, or conservation plan, the state board
20 shall take action to resolve the violation.

21 ~~The board may enforce the easement and agreement by the legal action in items A~~
22 ~~and B.~~

23 ~~A.~~ A landowner who violates~~d~~ the terms of a conservation agreement,
24 conservation easement, or conservation plan ~~or agreement~~ under this chapter, or induces,
25 assists, or allows another to do so, is liable to the state for treble damages if the ~~trespass~~
26 violation is willful, ~~but or liable for double damages only if the trespass violation is not~~
27 willful. The amount of damages is the amount needed to make the state whole or the
28 amount the landowner has gained due to the violation, whichever is greater.

29 If the state board is not successful in resolving the violation, it may request the State
30 Attorney General to commence legal action to enforce the provisions of the conservation

- [Lines 2-10] Revised language becomes "Subpart 3 - Attorney General Action" to:
[Line 2] 1) insert "state" for greater clarification and consistency throughout rule,

[Line 5] 2) reflect statutory recodification, and

- [Lines 8-9] 3) statement deleted here since it has been moved to lines 16-17 of preceding page, under the more appropriate subpart of "district board action"
- [Line 9] "conservation" inserted for greater clarification and consistency throughout the rule

8400.3860 Monitoring: [Lines 11-13]
• Entire part is deleted since unnecessary

8400.3900 Supplemental Payments on Federal and State Programs: [Lines 14-18]
• New part added to incorporate into rule a clarification of the role of Minnesota Statutes section 103F.525

8400.3900 District Board Records: [Lines 19-24]
• Entire part is deleted since unnecessary

8400.3930 Reconsideration and Appeal: [Lines 25-30]

- [Lines 26-27] Text of subpart 1 deleted since unnecessary
- [Lines 28-30] Subpart 2 renumbered as subpart 1; most text deleted to allow for broadening the scope of the SWCD administrative recommendations and decisions for which an affected landowner may request reconsideration by the district board (and which may ultimately be appealed to the state board)

1 agreement, conservation easement, or conservation plan.

2 Subp. 3. Attorney General action. B. Upon the request of by the state
3 board, the attorney general may commence an action for specific performances, injunctive
4 relief, damages, including attorney fees, and any other appropriate relief to enforce
5 Minnesota Statutes, sections 103F.501 40.41 to 103F.531 40.46 in district court in the county
6 where all or part of the violation is alleged to have been committed, or where the landowner
7 resides or has a principal place of business.

8 ~~The district board may recommend to the board appropriate measures to be taken~~
9 ~~to correct violations.~~ Easements Conservation easements remain in effect even if
10 maintenance violations have occurred.

11 **~~8400.3860 MONITORING.~~**

12 ~~The board may require reports from the district to monitor the progress of the RIM~~
13 ~~reserve program and the use of funds. The reports must be on forms provided by the board.~~

14 **8400.3900 SUPPLEMENTAL PAYMENTS ON FEDERAL AND STATE PROGRAMS.**

15 The state board may supplement payments made under federal or other state land
16 retirement programs to the extent of available appropriations other than bond proceeds.
17 The payments must be used to establish perennial cover on land or to supplement payments
18 for land enrolled in land retirement programs approved by the state board.

19 **~~8400.3900 DISTRICT BOARD RECORDS.~~**

20 ~~The district shall maintain a current ledger of easements on forms provided by the~~
21 ~~board. The ledger must specify the names of the landowners with whom the easements have~~
22 ~~been developed, the approved practices involved, the status of permanent cover~~
23 ~~establishment, the total of funds encumbered and expended, the size and type of easements,~~
24 ~~and their effective date.~~

25 **8400.3930 RECONSIDERATION AND REVIEW APPEAL.**

26 Subpart 1. ~~Procedures.~~ ~~Procedures for reconsideration and review of applications~~
27 ~~are in subparts 2 to 4.~~

28 Subp. 2. Reconsideration by district board. An affected landowner may request the
29 district board to reconsider its; ~~recommendations that deny landowner acceptance under the~~
30 ~~RIM reserve program by mailing a written request to the district within 15 days of receipt~~

- [Lines 1-3] Deleted to allow for broadening the scope of the SWCD administrative recommendations and decisions for which an affected landowner may request reconsideration by the district board (and which may ultimately be appealed to the state board)
- [Lines 4-5] Item A added to retain the issue of eligibility considerations as described in the existing rule
- [Lines 6-7] Item B added to provide a landowner with the opportunity to request the SWCD's reconsideration of a recommendation or determination regarding that landowner's conservation agreement
- [Lines 8-9] Item C added to provide a landowner with the opportunity to request the SWCD's reconsideration of a determination regarding that landowner's reimbursable practice costs
- [Lines 10-11] Item D added to provide a landowner with the opportunity to request the SWCD to reconsider its request for that landowner to correct any non-compliant conditions of the easement area
- [Lines 12-13] Item E added to provide a landowner with the opportunity to request the SWCD's reconsideration of a recommendation regarding that landowner's request to change an enrolled easement area
- [Lines 14-20] Subpart added to recapture the previously deleted text from subpart 2 of the existing rule which relates to process and timeliness of the landowner's request and the SWCD's response
- [Lines 21-30] Subpart 3 renamed and revised to address only appeals to the state board, including the process and timeliness of the landowner's request and the state board's response

1 of the notice of denial of ineligibility, stating the specific reasons for claiming eligibility or
2 a higher priority and including additional evidence to support the landowner's claims. The
3 district shall notify the landowner of the final recommendation of the district board.

4 A. recommendations or determinations regarding that landowner's application for
5 enrollment in a conservation easement program;

6 B. recommendation or determination to cancel that landowner's conservation
7 agreement;

8 C. determination regarding that landowner's eligible and allowable costs to be
9 reimbursed by the state board;

10 D. request to that landowner to correct any alleged non-compliant conditions
11 regarding that landowner's enrolled easement area; or

12 E. recommendations to disapprove that landowner's request to change an
13 enrolled easement area.

14 Subp. 2. Time for reconsideration by district board. A landowner requesting
15 reconsideration under subpart 1 shall mail a written request to the district board within 15
16 days of receipt of notice of the district board's determination or recommendation of the
17 matters specified in subpart 1. The request for reconsideration shall include the specific
18 reasons for the request and evidence to support the landowner's claims. The district board
19 shall notify the landowner in writing of its final recommendation and the reasons therefor
20 within 60 days of receipt of the landowner's request for reconsideration.

21 Subp. 3. Review by Appeal to state board. An affected landowner may request
22 appeal to the state board to review, on the record, the final recommendations of the district
23 board that deny a landowner eligibility under the RIM reserve program by a final
24 recommendation made by the district board pursuant to subpart 2. The landowner shall
25 mailing a written request appeal to the state board within 15 days of receipt of the final
26 recommendation of the district board's final recommendation, stating the specific reasons
27 for claiming eligibility, or a higher priority. The appeal shall include the specific reasons
28 for the request and evidence to support the landowner's claims. The state board shall notify
29 in writing the landowner and the district board of its final decision recommendations and
30 the reasons therefor within 60 days of receipt of the landowner's appeal.

8400.3960

• [Line 3]

Effective Date:

Revised rule becomes effective on October 1, 1994

1 Subp. 4. ~~[Repealed 01/30/90.]~~

2 **8400.3960 EFFECTIVE DATE.**

3 Parts 8400.3000 to 8400.3960, as revised, are effective on October 1, 1994.



MEMORANDUM

April 26, 1994

TO: Ron Harnack

FR: John Jaschke *JJ*

RE: JOE & DARLENE PETER'S: BIG FISH LAKE, STEARNS CO.

Southbridge Office Building
155 S. Wabasha Street
Suite 104
St. Paul, MN 55107
(612) 296-3767
Fax (612) 297-5615

Field Offices

Northern Region:

394 S. Lake Avenue
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Duluth, MN 55802
(218) 723-4752
Fax (218) 723-4794

3217 Bemidji Avenue N.
Bemidji, MN 56601
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Fax (218) 755-4201

217 S. 7th Street
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Brainerd, MN 56401-3660
(218) 828-2383
Fax (218) 828-6036

Southern Region:

P.O. Box 756
Highway 15 S.
New Ulm, MN 56073
(507) 359-6074
Fax (507) 359-6018

1200 S. Broadway
Room 144
Rochester, MN 55904
(507) 285-7458

P.O. Box 267
1400 E. Lyon Street
Marshall, MN 56258
(507) 537-6060
Fax (507) 537-6368

Metro Region:

Southbridge Office Building
155 S. Wabasha Street
Suite 104
St. Paul, MN 55107
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Fax (612) 297-5615

I spoke on the phone today with Jack Wimmer, Stearns County Environmental Office, regarding two wetland matters the Peter's will likely want to discuss at tomorrow's Board meeting. One site is on the east side of the lake adjacent to their home and the other on the west side of lake. *Both of these matters were addressed by Stearns County under the Interim WCA Program.*

EAST SIDE SITE (adjacent to Peter's property)

- A very small wetland was identified by the SWCD and the County between the road and an old ice ridge.
- The township (property owner) removed trees and brush from the area in and around the wetland for a winter public access site.
- The township removed a 10 to 12 foot wide part of the end of the ice ridge without any draining or filling of the wetland. Note: the adjacent property owner to the north had long ago removed their portion of the ridge so the ridge did not provide any impoundment.
- The county issued no wetland determinations for activity at this site since no wetland draining or filling occurred.

WEST SIDE SITE

- The Technical Evaluation Panel (TEP) recommended denial of a 2600 s.f. wetland fill in November 1992 because they determined that the filling could be avoided while still allowing the building to occur.
- Under the county's local (interim) appeal process, the matter was taken to the County Board where it was overruled and the filling was approved via a replacement plan which required the landowner to replace at 1:1.
- The landowner choose to use the interim Stearns County wetland bank to purchase "credits" from the county who is using this and other wetland banking money collected to complete a wetland restoration in Stearns County near Belgrade.

Let me know if you want me to attend the Board meeting or need more information.

c: Keith Grow, BWSR-Brainerd
Greg Larson, BWSR-St. Paul

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December 22, 1993

Ms. Darlene Peters
P.O. Box 454
Cold Spring, MN 56320

Dear Ms. Peters:

BIG FISH LAKE WETLAND - STEARNS COUNTY

After visiting with you numerous times and seeing your photos, I viewed the access alley adjacent to your property on 10/22/93. From our previous discussions, the fact about whether or not a wetland exists has been determined previously by the Stearns SWCD. The county, acting as the local government unit (LGU) for the Minnesota Wetland Conservation Act (WCA) is responsible for implementing the WCA law and rule. The WCA law contains an Exemption (#25) which allows landowners to fill up to 400 square feet without replacement. The WCA Rule further limits this amount to 400 square feet per landowner per year not to exceed 5% of the wetland area -- after the exemption is once exercised. The county environmental office has applied the law accurately in this case.

Your argument that the wetlands adjacent to a lake are of greater importance to the lake's water quality than those higher in the watershed is generally true. However, the law, as presently written, does not make such distinctions. Special regulations to give additional protection to shoreland wetlands is left to the local governments to enact through their official controls. There may be ways to replace the wetland water quality functions on the upstream (east) side of the road by creating an impoundment area. This would depend on the willingness of your neighbor to cooperate on such a project.

While supporting your desire to preserve the water quality of Big Fish Lake, the WCA law -- the implementation of which our agency oversees through LGUs -- contains an exemption which means that this law does not regulate the work done at the access alley adjacent to your property.

Sincerely,

A handwritten signature in dark ink, appearing to read "John Jaschke".

John Jaschke
Wetland Management Specialist

RECEIVED

DEC 27 1993

**BOARD OF WATER
& SOIL RESOURCES**

c: Ron Harnack, BWSR
Greg Larson, BWSR
Keith Grow, BWSR-Brainerd
Jack Wimmer, Stearns County Environmental Office
Joe Fitzgerald, Stearns SWCD

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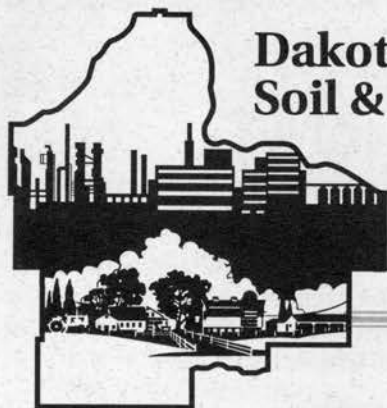
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Dakota County
Soil & Water Conservation District

News & Notes

Volume 13, Number 1 Spring, 1994

Update: Wetlands in Dakota County

by Lisa R. Rohr, District Administrator



Permanent rules regarding implementing the Wetland Conservation Act of 1991 went into effect on January 1, 1994. Under these rules (Minnesota Rules Chapter 8420), wetlands must not be drained or filled unless replaced by restoring or creating wetland areas of *at least equal public value*.

Back in February, the District notified each local government unit (LGU) that they should have notified the Minnesota Board of Water and Soil Resources (BWSR) that they have assumed or delegated responsibilities under this act. The District had also asked to be informed of the LGU's intentions and the local contact person. While many of you have responded to this request, some have still not indicated your intentions to BWSR or the Dakota SWCD. For cities or townships that have not, *a moratorium on all wetland activity is in effect*. If you have questions, we urge you to contact our office or the BWSR.

In an effort to assist LGU's with this law, the District is hiring a Wetland Specialist. We anticipate this individual will be on staff and available to provide technical and administrative assistance to LGU's and individuals regarding wetland laws and programs in early May. The Minnesota Board of Water and Soil Resources and Dakota County provided the funding for this position to assist individuals and organizations with the requirements of the Minnesota Wetland Conservation Act of 1991. For further information or assistance, contact our office.

Oak Wilt Assistance Available

by Lisa R. Rohr, District Administrator

Controlling the spread of Oak Wilt has just been made easier for residents in Dakota County. Financial assistance is available for the removal of spore-producing trees, as well as for controlling the spread of the disease. Oak Wilt is a fungus disease that infects the water conducting vessels of oak trees. Although there is no cure, it is possible to stop the disease from spreading by severing underground root grafts with a vibratory plow. Financial assistance to cover up to 50% of the cost of hiring a plow and operator is available to residents of Dakota County.

Through a cooperative agreement with the Department of Natural Resources and the Anoka and Washington Soil & Water Conservation Districts, technical assistance is also available to help you to identify and contain Oak Wilt Disease on your property. Signs of oak wilt are the visible wilting of green leaves which occur when the leaves no longer receive water and nutrients. They soon turn brown, and the entire tree can die within a matter of weeks. A professional

Forestry Consultant will help residents in the three counties with questions, concerns, and recommendations for the suppression of this devastating disease.

If you have questions about Oak Wilt on your property, need assistance to control its spread, or would like to apply for cost-share assistance, contact the Dakota County SWCD at 460-8004.



May is National Wetlands Month

Last Chance to Join Community Tree Program

by Lisa R. Rohr, District Administrator

For the past two year the Dakota County Soil & Water Conservation District has been providing a Rural Community Tree Program. The program allows individual rural communities to establish an ongoing tree program. The trees bring many benefits: reduced soil loss, wind and weather protection, and community beautification at a minimal cost.

This is what the city or township will receive:

- 🌱 Tree seedlings for field and roadside windbreaks and living snow fences.
- 🌱 Larger trees for boulevard plantings.
- 🌱 Technical assistance from the District for placement and planting, including species, soil, and site suitability.

The city or township must establish a tree committee. This committee will be responsible for the following:

- 🌱 Deciding what trees you would like and where to plant them.
- 🌱 Organizing a group and involving the community in planting the trees.
- 🌱 Providing proper care and maintenance of the trees to ensure their survival and growth.

If you would like your rural city or township to become involved, contact a representative as soon as possible. Time is running out! In addition to limited funding, the program will be ending this summer. Trees must be ordered within the next few weeks to obtain stock for this year.

For more information or to become involved in the program, contact Lisa Rohr at the Dakota County Soil and Water Conservation District.

Upcoming Events

April 25-May 1 — Soil & Water Stewardship Week.
This Year's Theme: Partners in Stewardship.

April 28-29 — Tree Pick-up at Dakota County Fairgrounds

April 29 — Arbor Day

May — Wetlands Month

May 30 — Memorial Day (Office closed)

July — Air Tour

July 4 — Fourth of July (Office closed)

April Showers ???

The Dakota SWCD would like to thank all of the Precipitation Network Volunteers for their contributions of high quality data for the archives. Listed below is the average monthly precipitation recorded in Dakota County for 1993 by network monitors:

January	— 1.21"	July	— 5.16"
February	— 0.46"	August	— 7.34"
March	— 1.50"	September	— 2.68"
April	— 2.67"	October	— 0.83"
May	— 4.76"	November	— 1.65"
June	— 7.66"	December	— 0.65"

In 1993, five months had more rain than April — but we still had May Flowers!

Don't Forget Arbor Day! *Plant A Tree On April 29*

With spring already here, I'm sure your thoughts have turned to outside activities. One activity that we all should take seriously is planting for our future and for our earth's future. April is Arbor Month and April 29 is Arbor Day.

Trees are removed or destroyed continuously for new residential or commercial development. Trees can also die as a result of disease, insects, drought, or other extreme stress. But trees are a renewable resource, so we have a chance to put back what we have removed from our earth.

Since April is Arbor Month, there could hardly be a better time to celebrate and plant trees. Here are some simple ways to get involved:

- 🌱 Plant a tree in your yard
- 🌱 Plant for energy conservation
- 🌱 Encourage your neighbor to plant a tree
- 🌱 Plant for erosion control
- 🌱 Plant to establish windbreaks or shelterbelts
- 🌱 Plant for reforestation
- 🌱 Plant trees for wildlife habitat
- 🌱 Plant for the environment

Dakota SWCD still has a some varieties of tree and shrub seedlings for sale. Call 460-8004 or stop by the office if you would like more information on the District's tree program.

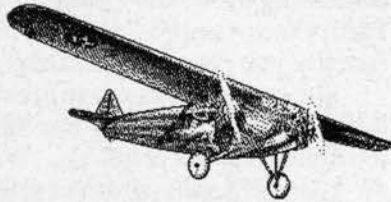
Air Tour Coming

by Lisa R. Rohr, District Administrator

Have you ever wanted to examine your land and your conservation practices from the air? Your chance may come soon! The Dakota County SWCD, in cooperation with the SWCDs of Goodhue and Rice Counties, is working to organize an air tour for 1994.

The event is tentatively scheduled to take place at the Stanton airport. Small aircraft will take individuals and groups up to view their land, conservation practices, or areas experiencing erosion.

More details will be released within the next month. Please watch your newspaper and look for another announcement in the Summer Edition of our newsletter.



CRP — What's Next?

by Dorothy Waltz, Supervisor

Nearly two million acres of Minnesota farmland are currently enrolled in the federal Conservation Reserve Program (CRP). The current ten-year contracts will begin expiring in 1996, with almost half coming out in 1997.

CRP was originally developed to reduce erosion, improve water quality, and create wildlife habitat, as well as to reduce commodity surpluses and provide some badly needed income support for farmers. In Minnesota, the federal government pays more than 105 million dollars for CRP contracts each year. While this is a relatively small portion of the estimated net farm income of \$2.5 billion (in 1990), for many participants the annual CRP check has been a great help in keeping up debt service and staying on the farm.

The environment has benefited as well. Soil erosion is reduced by the vegetation on the enrolled land. Water quality is improved from reduced sediment, less chemical pollution, and vegetative filterstrips along waterways. And wildlife has benefited from more habitat.

Even so, critics of the program say the cost is too high for the environmental benefits.

So what does the future hold? Debate is starting in Congress. Some interesting alliances are being formed in support of a continued CRP — ranging from such diverse groups as Pheasants Forever and the Izaak Walton League to the American Farm Bureau. How long should contracts run? What lands should be eligible? What types of plantings should be required?

If you have ideas about CRP, you may want to share them with your federal representatives and senators.

Sinkholes Develop in Urban Areas?

by Lisa R. Rohr, District Administrator

During the past two years, the District has received calls from concerned homeowners in Apple Valley, Eagan, and Rosemount about what appear to be sinkholes in their yards. While at first glance these areas look like sinkholes, further investigation has discovered that these depressions are caused by another situation.

Sinkholes are more common in the karst areas of Southeastern Minnesota. Karst topography is characterized by limestone and dolomite bedrock formations that are subject to weathering caused by reactions with chemicals in groundwater. It is this weathering that causes small depressions or sinkholes to develop. Although sinkholes are not as common here in Dakota County, we do have a few areas where sinkholes have been found. These areas are mostly in the southeastern sections of the County, especially in Douglas and Randolph Townships.

As we investigated these "depressional areas," we discovered that trees had often been buried on the site. Most homeowners told us that their homes were between ten and fifteen years old. Some bordered wooded areas, other showed no evidence of trees in the vicinity. After ten to fifteen years, buried tree stumps and roots begin to decay and decompose, causing the ground to sink. Most individuals reported that the "holes" developed in the spring during run-off periods or after a heavy rainstorm has occurred.

Unfortunately, there is no program currently available to assist with this type of problem. Filling in these depressions or holes with soil, followed by establishing a protective vegetative cover, should be done to ensure your own safety and prevent further problems from developing. If you suspect you have a similar situation, you may have to dig down as much as ten feet or more to check for decaying stumps and roots. In most cases, this will provide you with the quickest answer to your question "Sinkholes in my yard?"

The Dakota SWCD

**has a
VIDEO LIBRARY**

**and
EDUCATIONAL MATERIALS**

available for you to check out!

Call 460-8004.

Erosion Control for a Normal Year

by John P. Bilotta

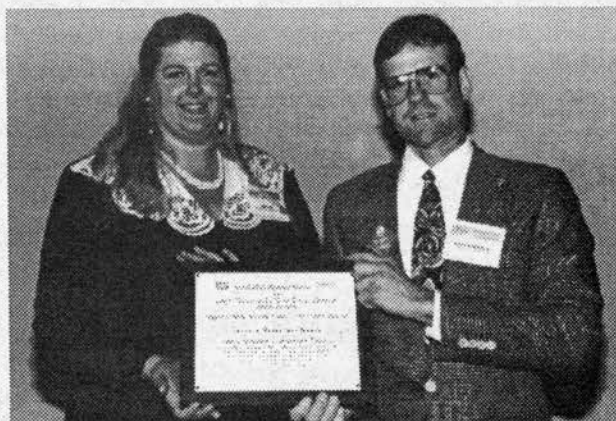
Whether you live on a farm or in a city, you may be experiencing soil erosion problems. Grassed waterways and water and sediment control basins are two good methods of controlling soil erosion caused by concentrated water flows. The Dakota District helps landowners and developers install these practices by offering technical assistance. Financial assistance may also be available.

Spring is a good time to construct most of these practices. In urban areas, developers are ready to begin a busy construction season. To help them control erosion problems, the district reviews plats for urban developments, making recommendations for proper erosion control measures.

In agricultural areas, the district assists landowners to install waterways or water and sediment control basins on their fields before planting begins. This spring, the district is assisting with the installation of nearly twenty waterways and several water and sediment control basins.

Combining these efforts with the district's tree, no-till drill, educational, and conservation easement programs, this will be a great spring for resource conservation and protection!

Dakota News Wins NACD Award



Dakota SWCD Administrator Lisa Rohr and Supervisor Kevin Chamberlain accepting a Regional Honor Award for the *Dakota News & Notes* at the National Association of Conservation Districts Annual Meeting.

The Earth Needs You — Join Our Team

by John Corrigan, SCS

Join the Earth Team and become a conservation volunteer. Who can volunteer? Anyone concerned about conservation, although the program may be most interesting to students and senior citizens.

For students, it's an opportunity to gain experience, something every job application asks for. Working as an Earth Team volunteer with the Soil Conservation Service can give you plenty of great experience for your résumé.

For senior citizens, it provides an opportunity to leave a lasting legacy for our land by helping to protect our soil and water resources. As a volunteer you:

- ✱ Gain professional work experience
- ✱ Receive training and earn academic credit
- ✱ Work on local conservation activities
- ✱ Help conserve natural resources for future generations.

For information on local volunteer opportunities, contact John Corrigan, our SCS District Conservationist.

"Partners in Stewardship"

by Lana Rotty, District Secretary

Forming partnerships to better serve the environmental needs of our community is this year's stewardship goal for the Dakota County Soil & Water Conservation District (SWCD). We encourage organizations and individuals to join the National Association of Conservation Districts in the April 25 to May 1 observance of Soil and Water Stewardship Week. The theme of the 1994 observance is "Partners in Stewardship."

While the Dakota County SWCD works throughout the year on soil and water conservation measures, during stewardship week we are also providing literature and educational materials to interested groups. The Dakota District is one of nearly three thousand conservation districts nationwide promoting the wise use of natural resources during this annual week-long observance.

Lisa Rohr, Administrator of the Dakota County SWCD, hopes Stewardship Week will challenge leaders to consider ways they can join with other conservation-oriented groups to provide a direct benefit to the environment. "While stewardship responsibility starts with each of us, there is always strength in numbers. And each organization can bring its own unique skills and resources to a partnership effort that will improve the success of the project," said Rohr.

Materials available for stewardship week include litanies, bulletin covers, placemats, children's activity books, and posters. To order, contact the Dakota County SWCD during business hours at 821 Third Street, Suite 100, Farmington, MN 55024 or calling 612-460-8004.

Conservation Compliance Deadline Looms

by John P. Corrigan, District Conservationist

Since the passage of the 1985 Farm Bill, producers who choose to participate in the USDA programs have known that the end of 1994 is the deadline for the application of conservation compliance plans on all Highly Erodible Land (HEL) they own or operate.

Here are some suggestions on what you can do to ensure that you will remain eligible for USDA program benefits.

Start by checking your records to see if you have HEL. This past year, the Soil Conservation Service (SCS) in Dakota County reviewed all of the HEL in the county and in many cases, reclassified land from HEL to NON-HEL. If you do not have HEL, you are not required to have a conservation plan. But the lack of HEL has limited significance. It means you are not required by law to have a conservation plan to be eligible for USDA program benefits. *It does not mean that your land will not experience soil erosion.*

Assuming you do have HEL, your next step is to read your conservation plan. Does the plan represent the way you are currently farming your HEL fields? If not, contact the SCS office in Farmington and arrange for a revision of your plan. A conservation plan can be revised at any time, except when you have been notified that you are on the compliance plan status review list, in which case you must wait until the status review is complete.

Having reviewed or revised your plan, check to see if there are conservation practices that you have agreed to apply by the end of 1994. In some cases the practices will take the form of changes in crop rotation. More common in Dakota County will be the practice of conservation tillage, also known as residue management. This practice involves leaving 30% or more crop residue after you plant corn, soybeans, or other crops. Crop residue management will involve the use of some kind of minimum tillage implement (or even no-till), so you need to be sure you have access to these implements before planting time comes.

Did you agree to install a waterway, sediment control basin, or other practice that will involve construction? If so, you should check with the SCS immediately so that we can get you on our list for job investigations. Staff are currently very busy with surveying and designing practices to be built this spring.

As a USDA program participant, you are the one ultimately responsible for the application of your conservation plan. You make the final decisions, and you will eventually see the benefits. The SCS is here to assist you with the development and application of your conservation plan, upon your request.

Call our office soon to review or revise your HEL conservation plan.

Erosion Control Assistance

by Tim Becket

Spring is here, and with it the hustle and bustle of spring field work. As important as it is to get the crops planted on time, it is just as important to control any erosion that is occurring on that cropland.

1992 and 1993 were very wet years, with storm frequencies exceeding the hundred year occurrence level. We received many calls from landowners with concerns about erosion.

Many gullies have shown up in places where erosion has never been seen before. Don't panic! Assistance is available. We will work with you and check to see if conservation practices such as a waterway, water and sediment basin, or a terrace system is needed. In many cases, crop rotation, residue management, or changes in your tillage operation may correct the problem.



Grassed waterways, such as the one shown here, will soon be under construction throughout Dakota County.

Based on the fact that the last two years have been extremely wet with frequent storms, chances are good that you will not see erosion in that area again.

When you are in the field this spring, take notice of those gullies that show up year after year in the same spot. An erosion control practice such as a waterway or water and sediment basin may be needed to control that gully erosion.

As a reminder, don't forget to inspect the previously installed waterways and structures that you have on your farm. Look for damage to these practices and take action right away to repair them and prevent further deterioration.

If you would like technical guidance and possibly cost-share assistance in solving your erosion control problems, contact the SWCD at 612-460-8004. We'll be happy to assist you.

GILMER EXCAVATING, Inc.

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Castle Rock, Minn. 55010

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Robert Warner — Agent • Manager

507-645-4378

Orin LeGare — Agent

507-263-3436

All programs and services of the U.S. Department of Agriculture, Soil Conservation Service, and the Dakota County SWCD are offered on a nondiscriminatory basis without regard to race, color, national origin, religion, sex, age, marital status, or handicap.

Dakota Soil & Water Conservation District

Phone: (612) 460-8004 / FAX: (612) 460-4801

Farmington Professional Building

821 Third Street, Suite 100

Farmington, Minnesota 55024

An Inside Glance...

- ✿ Wetland Rules Now In Effect
- ✿ Oak Wilt Assistance Available
- ✿ Conservation Compliance Deadline



Printed on recycled paper

Trees Arrive!



If you ordered trees from the Dakota County Soil and Water Conservation District, pickup will be on:

Thursday, April 28

11:00 a.m. to 5:30 p.m.

and

Friday, April 29

9:30 a.m. to 3:30 p.m.

at the Dakota County Fairgrounds. Make plans to pick up or arrange for someone to pick up your trees during those times.

Some tree and shrub seedlings will also be available for sale at the site.



Dakota County Soil & Water Conservation District

Supervisors

Dwain Otte

Chair

Kevin Chamberlain

Vice-Chair

Dorothy Waltz

Treasurer

Joseph Meyers

Secretary

Vernon Jensen

Member

District Employees

Lisa Rohr

District Administrator

Mitch Johnson

Urban Conservationist

Tim Becket

Resource Specialist

John Bilotta

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Lana Rotty

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John Corrigan

District Conservationist

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United States Department of the Interior

FISH AND WILDLIFE SERVICE
Bishop Henry Whipple Federal Building
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Fort Snelling, MN 55111-4056

IN REPLY REFER TO:

FWS/ARW-PL

APR 14 1994

Mr. Gary Nordstrom
State Conservationist
Soil Conservation Service
600 Farm Credit Services Building
375 Jackson Street
St. Paul, Minnesota 55101-1854

Dear Mr. Nordstrom:

Over the past few months, wetland delineations by the Soil Conservation Service (SCS) have been under intense discussion and criticism from some in the conservation community. A primary reason for this was the premature release of a study conducted by the U.S. Fish and Wildlife Service (Service) out of our Minnesota Wetlands and Waterfowl Management Complex in Fergus Falls, Minnesota.

As verified by an interagency review team that completed work on April 8, 1994, the findings and conclusions of the Service study entitled, "Comparison of FSM, NWI, and SCS Wetland Determinations" are invalid. We now know the maps obtained by the Service for comparison in the study were neither official wetland determination nor wetland inventory maps. In contrast to the conclusions of the study, the interagency review team found high degrees of correlation when the SCS wetland inventory maps were compared to those used by the Service in this evaluation.

In our view, the credentials of the members of the interagency review team are impeccable, both in their professionalism and dedication to wetland conservation, and we genuinely appreciate their assistance.

Mr. Nordstrom, it is both regrettable and unfortunate that the Soil Conservation Service and its employees have been unfairly criticized as the result of publicity associated with this invalid study. We have discussed this issue and will see to it that we rebuild and cultivate our partnership with your staff at all levels. While this episode has been unpleasant, we can only hope that the findings of the interagency review team serve to enhance the reputation of the SCS in Minnesota.

Sincerely,

Sam Marler
Regional Director

cc: Ms. Mollie Beattie, Director, FWS
Mr. Paul Johnson, Chief, MN SCS
Mr. Wayne Baron, Staff Director, NWF
Members of the Review Team



Department of the Interior, U.S. Fish & Wildlife Service, Bishop Whipple Federal Building, 1 Federal Drive, Fort Snelling, MN 55111-4056
Contact Susan Dreiband: Telephone: (612) 725-3519, TDD (612) 725-3131 FAX: (612) 725-3583

For Immediate Release: April 18, 1994
PA 94-14

Lance Kuester, FWS (612) 253-4682
Susan Dreiband, FWS (612) 725-3519
Michael Price, PAS, SCS (612) 290-3677

Soil Conservation Service Wetland Procedures Validated
By Federal Interagency Review Team

Minnesota Soil Conservation Service wetland mapping and inventory procedures, previously believed by critics to be in error, have been found to be a viable technique to identify wetlands, according to a Federal interagency review team.

The review team, representing the U.S. Fish and Wildlife Service (FWS), and the Soil Conservation Service (SCS), as well as the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency, reported on its review April 8. Findings were presented to FWS Regional Director Sam Marler and SCS State Conservationist Gary Nordstrom.

An earlier study released by the FWS Minnesota Waterfowl and Wetlands Complex, Fergus Falls, had suggested significant discrepancies between the SCS wetland maps and the wetland map products of the FWS. The interagency team found the FWS study to be invalid.

"The premature release of the FWS study resulted in unjust criticism of the Soil Conservation Service's ability to administer wetland identification and protection programs," Marler said.

Based on the team's independent review, it was determined that the FWS had not requested the correct SCS maps needed to make a valid comparison to its own maps. Further, the interagency team found the FWS study erroneously compared wetlands on noncropland areas with SCS maps that were designed to inventory wetlands in cropland areas only. As discovered during the review, use of any one map product out of context would lead to erroneous results.

--MORE--

2-2-2-2

"This review confirms that the Soil Conservation Service can be proud of the Federal leadership it is providing in the administration of farm programs that protect soil and wetland resources," Marler said. "I value the working relationship the Fish and Wildlife Service and the SCS have developed over the past several years and will do all I can to rebuild trust and cultivate an even more positive and productive partnership with the Soil Conservation Service at all levels."

-FWS-



Board member Update

April 1994

The mission of the Board of Water and Soil Resources is to provide leadership enabling local governments to properly manage water and soil resources and to help all citizens be stewards of our irreplaceable natural resources.

From the Southern Region...

- Keeping up-to-date with the latest information about the Wetland Conservation Act (WCA) seems to be an almost daily routine. Follow-up administrative sessions were held for local governmental units (LGUs) in Mankato, Rochester, and Marshall in late March and early April. There was excellent LGU participation. LGUs are very interested in the wetland banking program and continue to have questions and concerns about administering WCA. With spring and summer coming, WCA activities will no doubt increase.
- Reinvest in Minnesota (RIM) and Permanent Wetland Preserves (PWP) activities by the soil and water conservation districts (SWCDs) and board conservationists (BCs) from the special and regular sign-ups continued in March, but at a less hectic rate. New Ulm BCs Tom Fischer and Chris Hughes have been using a RIM Log software program developed by Brian Alpaugh, BWSR's data management specialist. This program is very useful in tracking RIM/PWP easements during the early stages of the easement process.
- McLeod County has taken legal action against the State of Minnesota regarding a violation concerning a ditch clean out.

This clean out could drastically drain an existing 60 acre type three wetland. LGU staff, Tom Fischer, and John Jaschke, BWSR wetlands specialist, conducted an on-site inspection and brief survey of the affected area. Follow-up research of the county ditch records and files was also done. Stay tuned for further details.

- Chris Hughes, Rochester BC Pete Waller, and Marshall BC David Sill attended a two-day wetland delineation refresher course in Chicago taught by the Wetlands Training Institute. Some of the presenters were the original authors of the Federal Wetland Delineation Manual. Everyone from Minnesota gave the course excellent marks.
- BWSR Accounting Specialist Sara Johnson has been reviewing SWCD financial reports for fiscal year 1993. The statewide summary of financial data is being compiled and will be distributed soon.
- Several SWCD staff and water plan coordinators from Kandiyohi, Renville, and Chippewa counties recently met with Southern Regional Supervisor Jeff Nielsen, Tom Fischer, and David Sill to discuss cooperative watershed efforts in the Hawk Creek watershed of the Minnesota River basin. The group discussed shared problems, needs, and opportunities. Additional technical assistance is an evident

need. The group plans on seeking further direction and support from the individual SWCDs and counties.

- Area II southern Minnesota River basin staff and board members met with BWSR Engineer Al Kean, Jeff Nielsen, David Sill and Marshall BC Tabor Hoek for an initial meeting as Area II begins development of a strategic plan. Many resource efforts and cooperative ventures with other local and state partners should be enhanced by the planning.
- Tabor Hoek and David Sill participated in a recent southwest Minnesota water planners conference. Coordinators and water plan task force members from ten counties shared information and ideas at a variety of round table discussions during the day. Doug Thomas presented an overview of some of the successes of water planning in this part of the state and also discussed new requirements that will be part of the water plan update.
- The final meeting (March 24th) of the Southeast Regional Groundwater Monitoring Project was organized by the Southeast Minnesota Water Resources Joint Powers Board and sponsored by BWSR. It was a good opportunity for agency researchers to present their regional interpretation of locally collected data. Topics discussed included factors affecting water quality in southeastern Minnesota aquifers, hydrogeologic studies of Rice and Fillmore counties, and karst hydrogeology in southeastern Minnesota. Research agencies participating included the Department of Natural Resources (DNR), the Pollution Control Agency (PCA), the Geological Survey (Minnesota and U.S.), and the University of Minnesota Geology and Geophysics Department.

Engineering and Technical Services Section

Lakeshore Engineering

- After a rather long advertisement and selection process, we are pleased to announce that Mr. Gene Clark has joined the BWSR team as our new lakeshore engineer. Gene's education includes a bachelor's degree in ocean engineering, and masters' degrees in coastal engineering and civil engineering. His work experience includes three years with the U.S. Army Corps of Engineers Coastal Engineering Research Center and approximately nine years with engineering consultant firms, the most recent being Woodward-Clyde Consultants here in the Twin Cities. He has worked as a design engineer and/or project manager on numerous projects, including Great Lakes harbors, marinas and shore protection projects. We are confident that Gene's knowledge and abilities will be assets to the BWSR and our clientele. Al Kean, Northern Regional Supervisor Ron Shelito and Duluth BC Mark Nelson have been providing Gene with orientation to our lakeshore engineering assistance program and current projects. Gene will be stationed at our Duluth office, but will work part time in both St. Paul and Duluth until he moves with his family to Duluth at the end of the school year.
- A preselection meeting was held with the low bid contractor for the Sucker Bay shoreline stabilization project on April 14 to clarify the contractor's qualifications and bid package information, including the rock buttress section alternative selected, rock sources and quantity estimates. The contractor has not constructed this type or size of project before, but provided reasonable assurance of his company's proposed methods and abilities. Those present at

the meeting included two of the project landowners, two So. St. Louis SWCD staff, an LHB Engineers Inc. staff engineer, the contractor, and both Al Kean and Gene Clark of the BWSR. A request for cost-share funding needed to hire the contractor to construct this project will be presented at the April board meeting.

- Other lakeshore stabilization projects that are currently in the analysis or design stages include the Two Harbors campground, Sewall's (in Duluth), and Hanging Horn Lake (four landowners near Barnum). Gene is becoming familiar with these projects, landowners and associated SWCDs for and through whom we are providing technical and financial assistance. Wayne Siedel of Lake and Cook SWCDs says that he has a list of about 10 more potential project sites that he'll share with Gene in the near future. We intend to work with the districts to clarify how projects will be prioritized (locally), analyzed, designed, and inspected.

Conservation Easements

- Easement Coordinator Marybeth Block continues to try to focus on completion of the program retooling and associated handbook preparation. Interruptions are many, but progress is being made. Rochester BC Dave Peterson, Bemidji BC Brian Dwight and RIM Engineer Tom Wenzel are also significant contributors at this stage of the updated handbook preparation. Although we are behind our schedule goals, we still hope to send the final version to the printers in June.
- After being away from the draft revised RIM rules for a number of weeks, we picked them up again in March with a fresh perspective and made some additional changes -- for the better, we

believe! Policy and Programs Analyst Dave Behm, Marybeth, Al, program supervisor Greg Larson, and Jennifer Park from the Attorney General's office contributed to this effort. The product of our work will be presented at the April board meeting.

- Bryan Alpaugh burned some after-hours oil recently to develop a new database for the RIM and PWP programs. He introduced program staff to it and initiated a test period. We believe that Bryan has effectively incorporated a number of our easement processing, monitoring and reporting needs into the new database. It should help make the program more efficient and our accomplishments easier to report.
- Al and Marybeth have begun to evaluate program functions, roles and staffing needs for the retooled program procedures and the anticipated future funding levels.

Feedlots

- Brad Matlock, feedlot specialist in Duluth, completed the final plan revisions for the Guggisberg feedlot pollution abatement project last month and delivered the construction plans to the landowner, Lincoln SWCD and the Soil Conservation Service (SCS). We hope that construction can be accomplished this summer.
- Brad is working with the So. St. Louis SWCD and the SCS Area III office to develop a feedlot pollution abatement plan for a producer in the St. Louis River Remedial Action Plan (RAP) area. The site is very flat, with a high groundwater table, which is presenting some design challenges.

- Last month, while completing the Guggisberg project design, Brad encountered some differing design criteria between the Minnesota Extension Service (MES) and SCS. This triggered some discussion with Fred Bergsrud (MES), John Brach (SCS) and Dave Peterson regarding ways to ensure that front-line designers have common and current design criteria. We have some ideas about how to best accomplish this, but believe some related role definitions and partnerships need to shake out from the current interagency feedlot and State Revolving Fund (SRF) initiatives before we pursue them in detail. We'll report back on these topics in the future.
- As you may have already heard, the recent federal early retirement window resulted in the loss of two SCS area engineers, and about 14 SCS technicians in Minnesota. This loss will surely have a significant negative impact on the number of feedlot pollution abatement systems that are designed and constructed in Minnesota this year. The recent improvements in surveying and computer-aided drafting and design (CADD) at SCS area offices has also made at least some SWCDs somewhat more dependent on the SCS for this type of technical assistance. The result of these situations is not so good for feedlot pollution abatement. The bottom line is that increased SWCD capability is needed more and more. We hope that the SRF and feedlot initiatives, as well as the recent SCS/Minnesota Association of Soil and Water Conservation Districts (MASWCD)/BWSR partnership agreement will help deal with these needs.

Area II

- Lyon County, with assistance from their project design consultant and Area II, held an informational meeting on April 2

for landowners in the RW-22 reservoir area and downstream of the proposed floodwater retention structure. Several area legislators also attended. This meeting gave both opponents and proponents another opportunity to voice their concerns and to better understand the ways that Lyon County, Area II and the project consultant, HDR Engineering, will address their concerns. The Corps of Engineers recently sent a letter to the BWSR expressing their support for local floodwater retention initiatives that meet environmental and social requirements. The letter also included the results of a 1988 hydraulic analysis that showed the effects of the RW-22 reservoir on reducing flood peaks at Marshall and the associated reduced overflows into the Cottonwood River basin.

- Area II is working with several county highway departments to allocate remaining FY94 general funds to the highest priority road retention projects. We are also working to clarify project selection and grant allocation procedures.
- About a year and a half ago, Area II and the regional offices of the DNR and PCA signed a memorandum of understanding (MOU) regarding how they would work together in the evaluation and development of Area II floodwater retarding and retention projects. These groups got together recently to discuss ongoing projects and meet new staff. Some disagreements surfaced, but the dialogue was productive. We are promoting more such dialogue and interaction during the analysis and design of Area II projects.
- Several BWSR staff met with several Area II board members and staff in late March to help accelerate Area II strategic planning efforts. Kerry Netzke, Area II coordinator, is in charge of these efforts and is working with other area LGUs, who are updating local water

plans, to coordinate efforts. BCs Tabor Hoek and Dave Sill will also be providing some assistance to Kerry. Area II received an approximately \$13,000 grant through the PCA this year to help fund this planning effort.

From the Northern Region...

WCA, WCA, WCA - what more can be said? The dozers are running and so are North Region field staff. WCA is the hot topic more often than not in the North. Technical Evaluation Panels (TEP) are in full swing and all board conservationists have been out on several in March and early April. So far, no major problems. BWSR field staff and LGU staff continue to do an excellent job of administering this complicated program.

- Brian Dwight spent considerable time in March making individual contacts with LGU board members and staff discussing "how WCA will actually affect you and your county." Brian took the time to make individual contacts to answer any lingering WCA questions and brush up everyone's WCA skills before the big spring workload hit. These visits were successful, although the northwestern counties still have serious concerns regarding WCA.
- Brainerd BC Keith Grow spent time working with the Minnesota Department of Transportation (MnDOT) on potential partnerships with county and township LGUs regarding WCA banking. MnDOT would handle technical design of larger projects and negotiate credit with the LGUs. Sounds promising. Keith's hot topic for the month: delays resulting from the notification process requirements of WCA replacement plans. This micro-management feature of the law is frustrating to LGU and BWSR staff, and in many cases, the notification requirements are just plain unrealistic. Hopefully, the Stumpf bill will alleviate

some of this burden. It's a good start anyway. Keith has also been planning a feedlot training session with Brad Matlock and John Archambo (Brainerd PCA) for counties in West Central Minnesota.

- Dan Steward, Brainerd BC, met with DNR Fisheries, Douglas SWCD staff, and Todd SWCD staff regarding alleged WCA enforcement problems. The "problem" turned out to be with the shoreland ordinance and the Board of Adjustment, not WCA. Dan also met with staff from Aitkin, Cass, Crow Wing, and Morrison SWCDs to plan a challenge grant application for livestock exclusion. The idea is to provide cost-share assistance to landowners for fencing and/or other measures to exclude livestock from waterbodies. It's been successfully tried in Aitkin County.
- Jim Lemmerman, staff forester in Duluth, says that his hottest topic is the Generic Environmental Impact Statement Study (GEIS) on Timber Harvest and Forest Management in Minnesota. The draft GEIS will go before the Environmental Quality Board (EQB) for approval at their April meeting. Jim expects a lot of discussion by the "environmental community." Jim also reports that the DNR Division of Forestry is being reinvented. He attended their annual Private Forest Management (PFM) meeting and found out that they will be cutting their private forestry management staff by five to ten positions. This will increase the need even more for management resource assistance on private forest lands. This translates to more opportunities for our active SWCDs.
- Barbara Liukkonen, water resources education coordinator in Duluth, reports that the Natural Resource Education Workshops held in Thief River Falls and Alexandria were a great success. Forty-

five SWCD technicians, managers, and support staff attended the sessions. 98 percent of them reported that the tips they learned at the sessions for reaching kids of different ages will be very helpful. Barb is also planning water testing clinics in Pine, Isanti, Chisago, and Kanabec counties. All four counties listed water testing and building their county water quality data base as priority items in their water plans. The clinics will be coordinated between the SWCDs, extension staff, county health departments, and local certified labs.

- Bemidji BC Dale Krystosek's wacky world of wetlands work consisted of coordinating a wetland banking meeting for counties, SWCDs, the Army Corps of Engineers, and the U.S. Fish and Wildlife Service. The meeting resulted in substantial progress toward working out wetland banking agreements under which Itasca and Cass counties could replace impacts in banks set up in Grant or other counties with less than 50 percent of their wetlands remaining.
- Duluth BC Mark Nelson had sort of a meeting March. He participated in planning the Fifth Annual Erosion Control Conference held this year in Minnetonka; he held a one-half day SWCD supervisor orientation session; and he met with the Nemadji River bunch. When Mark wasn't representing BWSR at meetings he was hiking two miles down into the Grand Canyon in Arizona. Mark says Arizona is nice, but not many wetlands there.

FOR YOUR INFORMATION

- Updated Board Member Listing
- Revised Biographies - BWSR Members
- Staff Education Biographies
- Letter to Steven Spartz, Landview Landscaping, Inc., from Ron Harnack
- "The Kiplinger Letter"
- "Letting Down the Levee"
- MPCA's General Construction Storm Water Permit for Minnesota
- "Author Writes Epitaph for Strategic Planning"

MINNESOTA BOARD OF WATER AND SOIL RESOURCES
155 SOUTH WABASHA STREET
SUITE 104
ST. PAUL, MINNESOTA 55107
612-296-3767

BOARD MEMBERS

<u>Name and Address of Member</u>	<u>Appt. Designation</u>	<u>Term Expires</u>	<u>Telephone</u>
D. James Nielsen, Chair, 1815 Meadowwoods Trail, Long Lake, 55356	Citizen	01-02-95	612-343-2806
Dwain Otte, 606 Zanmiller Drive West, Northfield, 55057	SWCD	01-01-96	507-645-4370
Ted Lovdahl, Jr., Route 1, Box 142, Effie, 56639	SWCD	01-14-97	218-743-3686
Tim Hvidsten, Route 1, Box 117, Stephen, 56757	SWCD	01-05-98	218-478-3503
Howard L. Peterson, 7021 Duck Lake Road, Eden Prairie, 55346	Watershed	01-02-95	612-934-2050
Barbara A. Cobb, 2170 Itasca Ave. S., St. Mary's Point, 55043	Watershed	01-01-96	612-436-8953
Marvell J. Tripp, 1422 So. Shore Dr., Worthington, 56187	Watershed	01-05-98	507-376-6975
Warren Rodning, Rt. #2, Box 158, Nicollet, 56074	Co. Commr.	01-02-95	507-246-5291
James Rossman, 7000 - 70th Street, Oronoco, 55960	Co. Commr.	01-05-98	507-282-2890
Barbara Uppgaard, HC83, Box 436, Pequot Lakes, 56472	Co. Commr.	01-14-97	218-828-3970
Glenn Annexstad, RFD 3, Box 35, St. Peter, 56082	Citizen	01-01-96	507-246-5207
Kathleen Roer, 2232 Tamarack Drive, Long Lake, 55356	Citizen	01-14-97	612-475-0789

In addition to the above members, five ex officio nonvoting members are provided by the Departments of Agriculture, Health, Natural Resources, the University of Minnesota, and the Pollution Control Agency.

BIOGRAPHIES - BWSR MEMBERS

By law, the 12 members of the BWSR appointed by the governor must include three county commissioners; three soil and water conservation district supervisors; three watershed district or watershed management organization representatives; and three citizens who are not employed by, or the appointed or elected officials of, a governmental office, board or agency. The board also has five ex-officio nonvoting members, representing the University of Minnesota, the Department of Health, the Department of Agriculture, the Department of Natural Resources, and the Pollution Control Agency.

Glenn Annexstad
Citizen Member
Nicollet County

Glenn started farming in 1955 and currently has a corn and soybean farm. He is a member of the Farm Bureau, the Corn Growers Association and the Soybean Growers. He served for six years on the state Agricultural Stabilization and Conservation Service (ASCS) Committee. He grew up on a dairy farm in Nicollet County. He and his wife, Hope, have two children.

Barbara A. Cobb
Watershed Representative
Washington County

Barbara is currently acting mayor of St. Mary's Point. In addition, she has served on the Middle St. Croix River Water Management Organization as a board member for six years. She has also been a council member for the City of St. Mary's Point since 1987.

Tim Hvidsten
SWCD Supervisor
Marshall County

Tim farms what, sugar beets, barley and potatoes in Stephen, Minnesota. He is president of Hvidsten Farms, Inc., and owner of the Stephen Potato Warehouse. He has a degree in elementary education from Concordia College in Moorhead and spent one year teaching. He and his wife, Cheryll, have four children.

Ted Lovdahl, Jr.
SWCD Supervisor
Itasca County

Ted has been a supervisor for Itasca SWCD since 1986, serving twice as chair. He

has owned a variety of companies, including a trucking company and a logging company. He attended the University of Minnesota-Duluth. He and his wife, Marie, have four sons and two grandchildren.

D. James Nielsen, Chair
Citizen Member
Hennepin County

Jim received his degree from the University of Minnesota in 1951. He graduated from the University's law school in 1955. He currently works for the law firm Gray, Plant, Mooty, Mooty and Bennett in Minneapolis. He specializes in the organization, development and management of business enterprises. Jim is also active in the Minnesota Chapter of the National Wild Turkey Federation and the Hennepin County Ground Water Advisory Committee.

Dwain Otte
SWCD Supervisor
Dakota County

Dwain has been an active member of the Advisory Council to the Minnesota Institute of Agriculture, Forestry and Home Economics and is a past president of the Minnesota Association of Soil and Water Conservation Districts. Dwain and his wife, Lorraine, have a 400 acre cash grain farm in Randolph.

Howard L. Peterson
Watershed Representative
Hennepin County

Howard is a vice-president of Riley-Purgatory-Bluff Creek Watershed District and treasurer of the Minnesota Association of Watershed Districts, an organization he helped establish. Before retiring, Howard worked as a mechanical engineer at Control Data Corporation. He and his wife, Grace, live on Duck Lake in Eden Prairie.

Warren Rodning
County Commissioner
Nicollet County

Warren has served as a Nicollet County Commissioner for 13 years. He has also served on the Gaylord School Board and is a past president of the Association of Minnesota Counties. Warren and his wife, Marilyn, live in Nicollet.

Kathleen Roer
Citizen Member
Hennepin County

Kathleen is an attorney and practiced law with a Wayzata, Minn., firm for 11 years.

She specialized in real estate law. She currently works part-time for the Minnesota Historical Society. She received her undergraduate degree from the University of Illinois and her law degree from the University of Minnesota. Kathleen and her husband, Kurt, have two children and live in Medina.

Jim Rossman
County Commissioner
Olmsted County

Jim graduated from Lourdes High School in Rochester and from Rochester Community College. Jim and his wife, Brenda, have farmed a livestock and grain farm for 25 years. In addition, he has served for five years as an Olmsted County Commissioner and has also been a member of the Farm Bureau County Board.

Marvell Tripp
Watershed Representative
Nobles County

Marv is the retired owner of the Tripp Insurance Agency. He has had more than nine years experience as a manager on the Okabena-Ocheda Watershed District Board. He also served as Nobles County Commissioner. He attended Carlton College and the University of Minnesota.

Barbara Uppgaard
County Commissioner
Crow Wing County

Barbara has served as a county commissioner since 1991. In the past, she has worked as a school social worker and a manager of her husband's dental practice. She also served as a school board member for nine years. Barbara received her degree from University of Minnesota. She and her husband, Bob, have six children and five grandchildren.



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155 S. Wabasha Street
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St. Paul, MN 55107
(612) 296-3767
Fax (612) 297-5615

Field Offices

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217 S. 7th Street
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Fax (218) 828-6036

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New Ulm, MN 56073
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Fax (507) 359-6018

1200 S. Broadway
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Fax (507) 280-2875

P.O. Box 267
1400 E. Lyon Street
Marshall, MN 56258
(507) 537-6060
Fax (507) 537-6368

Metro Region:

Southbridge Office Building
155 S. Wabasha Street
Suite 104
St. Paul, MN 55107
(612) 282-5116
Fax (612) 297-5615

April 4, 1994

Steven Spartz, President
Landview Landscaping, Inc.
3670 Highway 7
Excelsior, MN 55331

**RE: In the Matter of the Appeal of Landview Landscaping, Inc. from
an Order of the Minnehaha Creek Watershed District**

Dear Mr. Spartz:

As you know, the Board of Water and Soil Resources (BWSR) has denied your request to reconsider your appeal from the Order of the Minnehaha Creek Watershed District. Accordingly, the role of the BWSR in this matter has come to an end.

Since the time of the Board's final action, you have made a number of telephone calls to BWSR staff and others affiliated with BWSR. During some of these conversations you have been verbally abusive and threatening. This type of conduct need not be tolerated by our staff. Given that BWSR has no further role in your dispute with the Minnehaha Creek Watershed District, we have advised BWSR staff and Board members that all further contacts with you should be in writing. Accordingly, if there is anything further which you would like to communicate to BWSR, please address your comments in a letter to me.

Thank you very much.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ronald D. Harnack".

Ronald D. Harnack
Executive Director

RDH:mja

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Opportunity Employer

Printed on recycled paper

MF-

DRAFT

BWSR Letterhead

March 29, 1994

Steven Spartz
President
Landview Landscaping, Inc.
3670 Highway 7
Excelsior, MN 55331

Re: In the Matter of the Appeal of Landview Landscaping, Inc. from an Order of the
Minnehaha Creek Watershed District

Dear Mr. Spartz:

As you know, the Board of Water and Soil Resources (BWSR) has denied your request to reconsider your appeal from the Order of the Minnehaha Creek Watershed District. Accordingly, the role of BWSR in this matter has come to an end.

Since the time of the Board's final action, you have made a number of telephone calls to BWSR staff and others affiliated with BWSR. Given that BWSR has no further role in your dispute with the Minnehaha Creek Watershed District, we have advised BWSR staff and Board members that all further contacts with you should be in writing. Accordingly, if there is anything further which you would like to communicate to BWSR, please address your comments in a letter addressed to me.

Thank you very much.

* During ^{some} these conversations you have been verbally abusive and threatening. This type of conduct need not be tolerated by ~~any~~ ^{any} BWSR staff.

CC: Matt S.

Breese S.

. BWSR Members

STATE OF MINNESOTA
Office of the Attorney General

Via Facsimile

cc M Team
Ron - I rec. that
a letter from you
go out in these
situations S.O.P.
JB

TO : JAMES BIRKHOLZ
BWSR

FROM : MATTHEW B. SELTZER
Assistant Attorney General

SUBJECT: Steven Spartz d/b/a Landview Landscaping

DATE : March 29, 1994

PHONE: 296-0692 (Voice)
296-7000 (TDD)

I received a copy of Jim Haertel's incident report of March 25, 1994. It seems to me that two further measures are appropriate at this point. First, I recommend that staff document any further contacts with Mr. Spartz in writing. Jim and any others who receive further calls should keep a diary of dates, times, and what was said by each party. The diary should be limited to factual statements about the contacts. *

Second, I recommend that there be a letter from you or Ron informing Mr. Spartz that all further contacts with BWSR should be in writing. I have drafted for your possible use and attached a proposed form letter. *

If you have not done so already, please give me a call so that we can discuss this matter in further detail.

Attachment

cc: Ron Harnack w/att.

selt:AJ2

See draft letter on
reverse side

 The
KIPLINGER
AGRICULTURE
LETTER

Ron
RECEIVED
APR 06 1994
BOARD OF WATER

THE KIPLINGER WASHINGTON EDITORS INC.

1729 H ST., N.W., WASHINGTON, D.C. 20006-3938

CIRCULATED BI-WEEKLY VOL. 65, NO. 7

Dear Client:

Washington, April 1, 1994

If some politicians prevail in writing a new clean water law...
Environmentalists will have a new way to raise some big bucks.
They'll become bounty hunters...seeking out possible violations
of the proposed law's tough rules to control nonpoint source pollution.
And the face on the wanted poster will belong to agriculture.
Producers of crops and livestock found out of compliance will be subject
to harsh penalties, and the person who turns them in will get a share.

That's just ONE of the scary Clean Water Act proposals pushed
by Rep. Norman Mineta (D-CA), who heads a key congressional committee.
There are a score of others. Range from stipulating a broad goal
of making all waters in the U.S. drinkable to requiring the use of BMPs,
best management practices...latest technology, most effective methods...
by all producers in all watersheds even if there's no pollution problem.

Doubtless Congress will scuttle the worst of these proposals.
That's how past clean water legislation has been developed by lawmakers.
Starts off impossibly tough as proposed and winds up barely livable...
after successive compromises in committees, on the House and Senate floor
and finally in conferences between critical House and Senate members.

But that still leaves plenty of room for disaster. The proposal
pushed by Mineta and the bill agreed to by Senate environmental committee
are SO far out of line that even a compromise approach will be painful.

One of the biggest problems: An end zone that keeps moving.
Current proposals let EPA set increasingly tough water quality standards
over the years, including new rules on sediment, wildlife and its habitat.
That means a constant, increasing burden on producers. No sooner
might they reach the water quality target by implementing current BMPs
than EPA would move the goalposts, requiring cleaner water and new BMPs.

Another red flag: Programs would be mandatory, not voluntary.
Proposals would require producers to meet new water quality regulations...
no option for states to first try to meet goals with voluntary programs.

Fight over this will be brutal. Environmental groups plus allies
in Congress consider it a make-or-break provision...won't budge an inch.
But agriculture interests balk at that inflexibility...point out that 70%
of country's waters are not impaired and that even in problem watersheds,
voluntary compliance by producers would be sufficient to clean them up.

Deadlines are also too short. Will take years to implement BMPs,
more to adequately assess their effect on water quality. But lawmakers
want to check for results after just 5 years, require success after 10.

Bottom line is...the Clean Water Act is a disaster in the making.
Tough new rules on nonpoint source pollution ARE coming.
To make them livable, agriculture faces the battle of its life.

When it comes to the GATT bill...the legislation needed to put into place the tariff, quota changes, etc., required by world trade pact:

It's beginning to look a lot like a Christmas tree. Everyone and his brother has a pet project or a pet peeve they want addressed.

Interest groups and lawmakers are drawing up their wish lists. They figure GATT legislation offers a good chance to lock in a yes vote on their proposals. Lawmakers can't change the GATT legislative package once it's introduced...only allowed to vote yes or no on the whole deal. So if White House agrees, odds are pet projects will fly through Congress.

Some potential GATT ornaments: A Farm Credit System expansion giving the FCS Bank for Cooperatives (CoBank) authority to finance exports of any ag product, not just products from U.S. agricultural cooperatives. At present...can only finance sales of non-coop products to former USSR. CoBank also wants an OK to finance joint coop/foreign partner ventures.

A requirement to continue and modify the EEP program. Proponents want to ensure that the U.S. will spend everything it's allowed to spend under new GATT deal. That's a fair bet, but White House will say no dice to shifting savings earned from GATT subsidy cutbacks to other programs. Administration is counting on savings to help offset megabuck GATT cost.

Possibly...another swipe at Canada. If trade disputes over wheat, barley, sugar and peanut imports from Canada and limits on U.S. exports of eggs, poultry and dairy to Canada are still up in the air by then...lawmakers will likely press for provisions curbing imports to the U.S.

The odds are the wheat/barley fight will be over by then though. Off-and-on negotiations with Canadian officials are going slowly...little or no progress. But the U.S. is turning up the heat, actively exploring options for unilateral actions. It's likely to be several more weeks before U.S. makes a move or the Canadians blink. But drafting GATT bill will take much longer than that. At earliest...will be early summer before Congress gets the proposal, starts the 90-day countdown for action.

Maybe even an extension of the '90 farm bill. Some policymakers are toying with the notion of continuing all current commodity provisions beyond '95, when they are due to expire. The reasoning: Since GATT bill can't be amended by Congress, the provisions would be immune to attacks. Farm program opponents wouldn't have a chance to insist on cutbacks.

But that's a mighty slim possibility. Environmentalists, others who want to see changes in the scheduled '95 farm bill would go ballistic.

Meanwhile, USDA is starting to grease the wheels for GATT bill. It's spreading the word about how much the new pact means for agriculture.

Dep't says GATT will boost exports by \$4.7 billion a year by 2000, when the agreement is fully implemented. By 2005...an \$8.7-billion gain is possible. That would mean a jump of as many as 112,000 ag-related jobs by 2000. 190,000 potential new jobs in the agrifood industry by 2005.

Corn exports will gain 12% by 2005, pushing average prices up 9% and gross farm receipts up 12%. Beef exports will grow 14%. Poultry...a whopping 32%. And pork, 15%. But not much impact on domestic prices. Horticultural exports...apples, pears, raisins, grapes...will also gain.

Total cash receipts...up \$12 billion. But lower gov't payments, higher production costs will hold net farm income gain to \$2½ billion.

A million more acres of '94 soybeans than expected... 61.1 million compared with 60 million looked for in gov't plantings report. So prices will have less oomph this spring than anticipated. Boost old-crop sales to about 75% sold. Target \$6.50, Nov. futures, to price 20% of new crop.

But less corn than anticipated... just 7% more acres than in '93, at 78.6 million. That should help squeeze prices higher this spring.

Hold off on additional new-crop wheat sales. Spring plantings below expectations, dryness in winter wheat areas promise improvement.

Larger fed cattle supplies will work against seasonal demand jump. Modest improvement is still likely, but don't let marketings fall behind.

Slightly better cash hog prices into April as supplies ease up. Take a go-slow approach to marketings to take advantage of rising prices.

Take a look at these promising industrial agriculture products... new uses for old crops as well as new crops with the potential for profit:

A mix of soybean meal and newspapers called "Environ." Composite is a durable, easy-working material that looks like granite and behaves like wood. Potential uses include furniture, wall and floor coverings, counter tops and more. Made by Phenix Composites, Inc. of Minnesota.

Biodegradable packing "peanuts" made from whole kernels of corn, along with a soybean additive and newspaper mulch. "CornPak" is made by Ill.'s Arcola Grain Co. under license from Innovative Packaging Corp.

A sunflower seed oil lubricant for chainsaws. Called "ProForest," it's marketed by Husqvarna, a major forest and garden equipment maker.

"Microat," an oat-based microparticle that binds either water or oil-based liquids. Debuts this year in several personal care products. Still to come...use in ag chemical formulations and food manufacturing. Product is made by NURTURE, Inc. Company is located in Missoula, Mont.

Cheap, strong kenaf fiberboard. A waffled wood-panel substitute called "Gridcore." Being tested now for use in trade show displays, stage sets and so on. Later on...could be used as a building material. Gridcore is made by Gridcore Systems International of Carlsbad, Calif. Other ag fiberboard projects use wheat straw or other farm products. There are projects in the works in Ore., Iowa, Kan., Mont. and N. Dakota.

Kenaf newsprint. Proposed commercial plant would supply panels of kenaf fiber to make Gridcore and up to 30,000 tons of newsprint a year. Kenaf newsprint is stronger, whiter, yellows less and holds ink better than traditional stuff. Plant is planned by Kenaf International of Texas.

Agriculture in space? At least one major ag college, Colo. State, is thinking WAY ahead. Offers a class in the problems of growing plants on the moon or in space stations. So far, hasn't been too popular though.

Little change in energy prices this spring and summer. Gasoline, up slightly by late May, but less steamy than the usual summer rise. Flat diesel prices. Natural gas, a bit higher. Oil, stable till fall.

If you're getting started on estate planning... sorting out who will get what, guardianship issues, minimizing and paying taxes and so on:

Our new videotape & guidebook will help. A valuable introduction to complicated issues of wills, trusts and much more. Good preparation for talks with your lawyer, financial planner. If you're a professional, a terrific gift for new clients. Cost is \$24.45 plus \$2.50 for shipping. You can write to "Kiplinger's Estate Planning Guide" or call 800-368-9955.

One environmental issue on which farmers and "greens" agree:
The CRP is in jeopardy. Despite the program's great popularity, USDA's Conservation Reserve, which since '86 has retired 36½ million acres from production, will not survive the '95 farm bill in its current form.

Money is at the root of the problem. The CRP costs big bucks... \$1.8 billion last year. Contracts add up to nearly \$20 billion in total. Just no chance budget-minded lawmakers will again OK such expenditures.

The program is politically vulnerable as well. Monetary benefits of the CRP are fairly narrowly distributed. 10 congressional districts nab close to half...45%...of all CRP payments. Five states...N. Dakota, Iowa, Texas, Kan. and Mo...account for nearly \$8 billion in CRP payments. That's 41% of the total value of contracts. Iowa alone gets about 10%.

So ag lawmakers are struggling to figure out what to do in '95, when authority for the program runs out and contracts begin to expire. The decision affects an area of land the size of Iowa or Illinois. In FY '96, contracts on about two million acres of land expire. In FY '97 and '98...the floodgates open, releasing an additional 22 million acres from the CRP. By the early 2000s, CRP acreage dwindles to almost nothing.

At least half of this CRP land will be poured back into crops. CRP participants say if crop prices stay roughly as-is, they'll replant on 63% of former CRP acreage. If prices drop 20%...they'll plow and plant just 54% of acreage. If prices go up 20%...74% of acres will be planted.

That will slice deeply into farmers' net returns. Higher ARPs, annual Acreage Reduction Programs, will offset jumps in planted acreage. But the higher ARPs will slash average per-acre returns substantially.

So farmers...both in & out of the program...want to keep the CRP. Environmentalists just want the money. Greens are less concerned with losing the CRP itself than with losing billions in gov't funding dedicated to conservation programs. Want it maintained on some program.

Neither is going to get their way. Federal budget constraints are just too tough to allow a continuation of such big-money programs. But some pared-back version of the CRP is likely. One suggestion: Let producers re-enroll 25% of enrolled acres. But that's a long shot... green groups will object, since the most-sensitive areas aren't targeted.

A good bet: A smaller, highly focused CRP. Probably something in the 5 to 10-million-acre neighborhood. Designed to capture acreage that is the most environmentally fragile, with water quality concerns ranking high and wind erodibility, low. Means relatively more acreage from the Lake States and Corn Belt, less from the Great Plains states.

Maybe less-than-field-size parcels...filter strips, windbreaks, riparian areas and so on. Again trying to get the most bang for the buck.

And longer contracts...a compromise between farmers' reluctance to sell permanent conservation easements and the reluctance of budgeteers and environmentalists to pay more than once to retire the same acres.

Yours very truly,

The Kiplinger Editors
THE KIPLINGER WASHINGTON EDITORS

April 1, 1994



→ KCN

THE KIPLINGER WASHINGTON LETTER

Circulated weekly to business clients since 1923—Vol. 71, No. 13

THE KIPLINGER WASHINGTON EDITORS

1729 H St., N.W., Washington, D.C. 20006-3938

Dear Client:

Washington, April 1, 1994

Keep in mind that the economy is sound despite the stock market.
Business will be good the rest of the year but won't be boomy.
The overall mood is somewhere between guardedly optimistic and upbeat.
That's our judgment based on hundreds of letters and calls from readers
in response to our request for firsthand reports on conditions and plans.
Even the weakest industries will see SOME improvement this year.

Profits will be better, the result of moves to improve efficiency
and productivity and control costs, rather than simply jacking up prices.
However, many companies have squeezed costs as much as they can for now.

Spring weather is lifting sales after a bad winter in many areas.
March was much better than Jan.-Feb. for restaurants, stores and others.
Consumer confidence is up. "People feel they've held off long enough."

A fair amount of expansion ahead, adding facilities where needed.
But most capital spending will be for equipment to run more efficiently.
A lot of orders from steel, autos, food processing and other industries.

Top priority is customer service..."to stand out from the crowd."
"Our goal is to know our customers well, then give them what they want."
"We follow Nordstrom's policy of satisfying even unreasonable requests."
"We work hard to find first-rate customers and do anything to keep them."
That way, we don't spend as much time or money looking for replacements."

Much closer relations with key buyers. One machine-tool company
works on customers' shop floors to train workers and boost productivity.
A distributor puts employees in buyers' storerooms to manage inventories,
reducing the investment in stocks for his own business and for customers.
Others lend a hand with marketing advice, store layouts and distribution.

Hiring will be conservative. More overtime and temporary help,
even shifting employees to the payrolls of outside staffing specialists
or contracting out for data processing, accounting, legal and other work.
"Gov't rules are based on number of workers, an incentive to stay small."
"We hire top-quality people, treat them like family, and it pays off."

Pricing is touchy. Cost increases are difficult to pass along
because of cutthroat competition. "Customers will commit to big orders
but only if we agree to little or no price increase in the next year."
"We must raise prices to keep doors open. Everyone plays a waiting game."
No one wants to be first, but once price hikes start, they'll snowball."

Higher interest rates are a growing concern to many managers.
"They affect REAL business operations too, not just the stock market."

Mortgage-rate hikes to over 8% will take some edge off housing,
making it more difficult for marginal borrowers to qualify for loans.
But it will still be a strong year for sales of used and new houses.

Not much effect on new car & truck sales...best year since '86.
But higher rates will eat into dealer margins on leasing arrangements.

Feedback on particular industries, from people in those lines:
"Some labor shortages in construction...Idaho, Utah and Oregon."
"More private investors in development loans...less bank money."
"Cheap foreign oil will destroy small independent oil producers."
"Environmental engineering will grow for AT LEAST 10 more years."
"Machine-tool business is good and will probably get better."
"Railroad equipment and repair orders look strong through '95."
"More department store takeovers...independents can't hack it."
"Variable annuities are keeping many insurance agencies going."
"Some signs that orders for commercial airliners will pick up."
"Another bad crop year in Midwest would wipe out many farmers."
"GM won't allow cost pass-throughs...killing off its suppliers."
"High-end consumer electronics are selling...big-screen TVs."

Other comments from letters, faxes and phone calls we received:
"What was actually so terrible about interest rates going down?"
"Many buyers and manufacturers want to get rid of distributors."
"We're doing a better job of asking and listening to customers."
"Raising interest rates to slow inflation worsens Calif.'s bind."
"Quality trend is impacting services as well as manufacturing."
"Trend to fewer & fewer suppliers is a blessing and a scourge."
"Buyers are cautious...small orders and often 45-55 days to pay."
"Collecting bills is like catching a flea...always a jump ahead."
"Sales volume is up, but very competitive...squeezing margins."
"A lot of jokes about Whitewater, but it won't affect business."
"Biggest concern of employers is uncertainty over health care."
"Politicians still seem to think bleeding the patient is a cure."

Employers will continue to tighten up on retiree health coverage no matter WHAT Congress finally decides to do about Clinton's proposals.
Companies that already insure their retirees won't drop coverage, but they'll require more years on the job to qualify for full insurance. Early retirees and those working less than 15 years will have to chip in on copayments and pay higher deductibles to be included in company plans.

A fairly quiet year for labor negotiations. Here's the outlook:
Teamsters. Odds are against a nationwide disruption of trucking. The deadline has now been extended until April 5. Teamsters are weakened by failure of the UPS strike and defeat of their proposed dues increase.
Rubber, April 23. Big issues are plant closings and health care. Outside chance of strikes at Uniroyal, Goodyear and Bridgestone/Firestone.
Garment workers in May. Union will probably yield to employers on health insurance, fearing the loss of even more jobs to foreigners.
Postal workers in Nov. Labor will give in to post office demands for automation and temporary help. It's illegal for employees to strike.

Political turmoil in Mexico won't sidetrack the free-trade deal. Ernesto Zedillo is the odds-on favorite to win the presidency in August. He's a Yale-educated economist who will continue the free-market reforms.
Plenty of hurdles for U.S. firms eager to do business in Mexico. NAFTA has led to longer lines at the borders due to a lack of inspectors and different paperwork. It will take months to work out all the bugs. Lack of credit information on Mexican buyers also hinders transactions. Until sellers get a handle on Mexican customers, it will be cash only.
Long-term prospects are good as that country gets on its feet.

Not much bounce in energy prices through the spring and summer. Oil will hover around \$15 per barrel, then start edging upward next fall. Gasoline, up a nickle by Memorial Day but not the usual summer rebound. Diesel, flat. Heating oil, cheaper until fall. Natural gas, firming. We're importing more & more of the oil we use...over 50% now. Setting us up for another crisis by relying so much on foreign supplies. Prices of industrial materials will move up. Copper, near \$1. Steel, higher due to strong demand for autos, appliances and other goods. Smelter cuts will push aluminum up. Coated paper, increasing 5% in July. But some easing expected in scrap steel prices following a winter surge.

Voice-recognition PC software will catch on big... simply dictate instead of typing. It learns your voice quickly and then adapts to it. Many new computers will have a \$200-\$300 chip for hearing voice signals. With \$99 software, it recognizes 5000 words. Or 60,000 words for \$2000. Useful for dictating letters, taking inventory and assembly-line checks.

Other new technology that will be useful to a lot of businesses: Electronic blackboards that send handwritten text and pictures by phone to computer screens anywhere...works well for teleconferences. Drawings can be stored, edited or printed out. The device costs \$3000. Wireless computer networks are able to link personal computers that are up to 30 feet apart. Boss, secretary and staff can trade files or feed data from laptop into a desktop via a radio device and software. And fonts in 18 languages for firms that do business worldwide.

World War I veterans: A special commemorative medal is available to the 30,000 vets who are still living. To receive an application form, phone 800-827-1000 or get in touch with your nearest VA regional office.

Widows of Civil War veterans: There are still three survivors who receive VA pensions. They live in Colorado, Florida and Tennessee. All were young women who married very old vets earlier in this century.

Rules on repetitive-motion injuries will affect ALL businesses... office work as well as farms and factories. Plans will be set this fall by the Occupational Safety & Health Adm., with final regulations in '96. Employers with high injury rates will have to come up with solutions.

Earnings claims made by franchisors will be closely scrutinized by Federal Trade Comm...what would-be franchisees are told they'll earn. Most franchisors don't make such claims...to avoid legal repercussions. But if they do, the FTC will insist that there be a "reasonable basis." It will send agents to franchise fairs to listen for verbal promises.

New airport-security rules coming from the Federal Aviation Adm. A standardized access system for security gates and doors at all airports so that pilots and crews won't have to deal with different arrangements. Also fines for employees and passengers who don't follow security rules.

Home buyers can deduct points paid by sellers, according to IRS. It now assumes points paid by sellers are included in the purchase price and that buyers can deduct them the same as for points they pay directly.

The IRS decision is retroactive to purchases in '91 and later. Use IRS Form 1040X. In upper right margin write, "Seller-Paid Points." Attach a copy of Form HUD-1 or another statement you got at settlement. Private advisers say claims can be made for '90 too if filed by April 15.

Look for freight rates to move higher on long-haul trucking. Carriers will get increases of 4% and more to cover new wage contracts. Now's a good time to lock in discounted rates for a year or so, protect against increases from higher driver pay, fuel costs and taxes.

No changes in the Davis-Bacon law, which requires contractors dealing with the federal gov't to pay prevailing union wages for an area. Democrats will go along with efforts to leave out some smaller projects, but they insist on extending the wage standard to truckers and suppliers. Republicans want to exempt more projects, that's it. Thus a standoff.

Congress will make Social Security Adm. an independent agency. It will no longer be a part of the Dep't of Health and Human Services. Largely a symbolic move...intended to enhance the status of the agency and show that the system has support in Congress and at the White House. No change in the way the trust fund is run or in benefits and taxes.

A compromise product liability bill may make it through Congress. For years, manufacturers have been seeking some relief, without success. The compromise now in the works would encourage out-of-court settlements, set clear and uniform standards for damages, resolve disputes much faster and require proof that manufacturers flagrantly ignored customer safety.

Political earmarking of college research money won't be stopped. Legislation blocking facility grants to colleges receiving research aid without going through merit-based reviews will fall short in Congress. But the publicity is making lawmakers think twice before steering money to their favorite university...usually in their own district or state.

Legislation to improve drinking water will be approved this year, providing money to localities to build and repair treatment facilities. At the same time, Congress will ease some costly testing requirements.

A few observations on the stock market in times of turbulence:

1. Stock prices are largely determined by earnings prospects over the long haul. Other factors, such as tax changes, interest rates and inflation, matter only to the extent they affect future earnings. As we've mentioned before, the outlook for profits is quite favorable.
2. If earnings grow, market declines mean buying opportunities for wise, long-term investors, if not for market timers or speculators. Such investors don't buy stocks with money they'll need in a year or two, and they don't buy equities for current income, as with bonds and CDs.
3. Other quality assets fluctuate in value too...your own home, collectibles, etc. But you can't check their value in the daily paper, and they're difficult to sell quickly, thus discouraging panic selling. If stocks weren't so easy to SELL, there'd be more successful investors.

Yours very truly,

Knight/Kiplinger
THE KIPLINGER WASHINGTON EDITORS

April 1, 1994

P.S. Want to remind you again that we're not just a publication, we're a service, eager to help in any way we can. If you have questions about the economy, taxes, investments or events in Wash., drop us a line. We will do our best to dig out the answers and get back to you shortly.

Letting Down the Levee

by Scott E. Faber

Strange things are happening as the waters recede from the Great Flood of 1993. The river dwellers of the Midwest, people whose strong ties to the land have led them back to the river's edge for years after spring and summer flooding, are having second thoughts. Many say they have had enough.

The floods of 1993 have forced many communities along the river to reconsider whether levees protect them from flooding. This year, as the flood waters recede, more than 50 communities have taken the first steps to relocate out of floodplain areas. While this kind of a move is not completely unprecedented, never before have so many communities considered relocating, instead of rebuilding, after a flood.

Since the 1970s, a few communities have rejected traditional engineering approaches to flood control in favor of non-structural alternatives that move people and property out of harm's way and allow the river to spread out and use the natural flood control functions of the floodplain. Soldiers Grove, Wisconsin is one of the best known of these communities. After repeated flooding, the residents of Soldiers Grove relocated the entire business district from the floodplain of the Kickapoo River to an upland site. The land near the river was converted to a riverside park, and the relocation project now saves an estimated \$127,000 annually.¹

Before logging and farming cleared vegetation along the river, Soldiers Grove was not plagued by flooding.² By 1970, common flooding problems led the U.S. Army Corps of Engineers to propose a \$3.5 million levee and ask the town to pay \$220,000 for construction and \$10,000 annually for maintenance. The tiny village's taxing power at that time was only \$14,000 a year, and the total value of the floodplain property was about one million dollars — significantly less than the cost of the levee.³ Finally, after the record-breaking flood of 1978 and years of haggling with federal agencies, the town successfully relocated to higher ground. The project, completed in 1983, cost a total of \$6.6 million, \$4.4 of which came from federal agencies.

The Great Flood of 1993

Was the Great Flood of 1993 solely an act of nature or did land management practices and flood control projects contribute to the multi-billion dollar disaster? The conventional wisdom is that this summer's flooding was caused by a combination of a wet spring and a persistent summer rain created by the convergence of warm, moist air from the Gulf of Mexico and much cooler, drier air from Canada.⁴ In reality, water volume is only one of many variables contributing to this year's flooding. Many of the practices used to tame the river in the last 100 years may also have contributed. Channelization, both of the mainstem and the tributaries, and poor land-use practices, including wetlands drainage along the river banks, have reduced the storage capacity of river channels. In addition, levees raise flood heights by

cutting off the river from the floodplain and constricting the channel.

Several studies suggest that land management practices, including wetlands destruction, increased flooding along the upper Mississippi. Studies of wetland hydrology have shown that in a watersheds where lakes and wetlands are preserved, these natural systems act as sponges, absorbing large influxes of water and releasing it slowly. These areas act as a buffer, slowing the rate at which the storm water reaches the river channel. In contrast, a watershed engineered for agriculture, where water moves quickly off the land through drains and channels, pushes large volumes of water quickly toward the river and increases the likelihood of flooding.

The most recent study of this kind, an August, 1993 report prepared by the Illinois State Water Survey, again confirmed that wetlands act as natural sponges, storing water and releasing it over time. The Illinois study found that for every one percent increase in the area of a watershed's wetlands, a flood's peak flow in the streams that drain that watershed is reduced by an average of 3.7 percent.⁵

Consider then what might have happened if more than 19 million acres of wetlands had not been eliminated from the drainage basins of the Mississippi and Missouri rivers north of St. Louis since the late 1700s. Illinois, Iowa and Missouri — the states which sustained the majority of damage this summer — have lost 85 percent of their wetlands, most of them to agriculture.⁶

Wetland Hydrology

The Illinois study found that wetlands can affect flood heights in two ways: by intercepting and storing water and by slowing the rate at which water reaches the stream.⁷ Although hydrologic response may vary, there is one basic truth: streams that are adjacent to a wetland will have very different flow characteristics than streams denuded of riparian vegetation.⁸

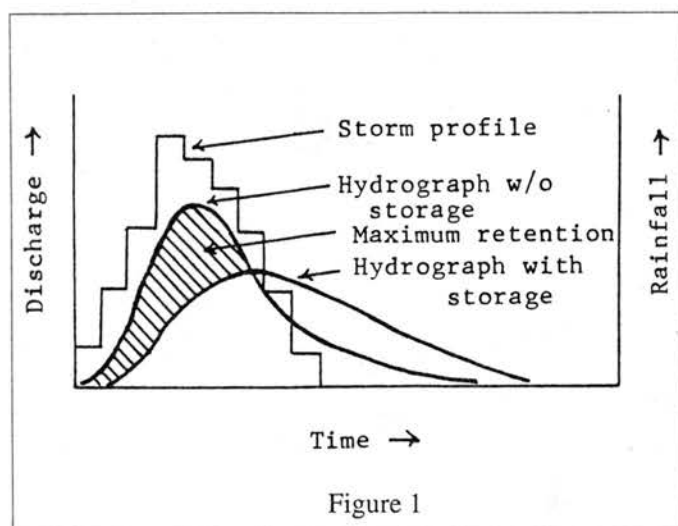
Other researchers have also found that peak flows increase substantially after adjacent wetlands are drained. One researcher studying the affect of wetlands losses on streamflows in Wisconsin found that flood peaks might be as much as 80 percent lower in basins with significant lake and wetland area.⁹ Others have come to similar conclusions, finding that the hydrologic detention function of wetlands reduces the size of flood pulses.¹⁰

Although wetlands types vary, the most common wetlands in the Midwest are depressions that temporarily detain water, known as shallow basins or prairie potholes.¹¹ Losing these wetlands has greatly increased the rate at which water moves off the landscape and into the floodplain.¹² This relationship is illustrated in Figure 1 (see page 4), which shows that the discharge of water occurs much more quickly in areas where the water is not stored temporarily.¹³

The Effect of Levees

By confining the water to the channel and preventing it from spreading over the floodplain, levees increase flood

Scott E. Faber is Director of Floodplain Programs for American Rivers, a major river conservation group in Washington, D.C. and a leading proponent of flood control policy reform.



Flood hydrographs for watershed with and without wetland storage capacity.¹⁴

heights.¹⁵ A study of the 1973 flood on the Mississippi attributed higher flood stages to a combination of levees and navigation projects.¹⁶ The study comparing the 1973 flood and the 1908 flood found that while the two floods had nearly the same volume of water, the 1993 flood crest was 8 feet higher.¹⁷ A study by the Corps indicates that the record 1844 flood would now crest about 10 feet higher at Boonville, Missouri, and 12 feet higher at Hermann, Missouri.¹⁸

Before channelization, the Mississippi eroded its bottom and banks during flood peaks, making room for floodwaters by increasing the storage capacity of the channel and by using the floodplain as a natural reservoir.¹⁹ By the time the Great Flood of 1993 arrived, the river channel had lost about one-third of its volume to channelization, sedimentation, and other effects of development, and the floodplain had been replaced by farms and cut off from the river by a canyon of sand and gravel.

In addition to the damage associated with the levees themselves, federal flood control projects have encouraged landowners to drain wetlands. Two economists have found that nearly one-third of the wetlands lost in the Mississippi Valley were lost because of private decisions induced by federal flood control projects.²⁰ Construction of flood control and drainage projects led to a higher rate of conversion than would have occurred if the projects had not been built, as these projects allowed farming in areas not previously suitable.²¹ In fact, of all the factors that landowners considered before draining wetlands, flood protection and drainage provided by federal projects had the largest impact. This incentive to farm the floodplain was not taken into consideration in making the decision to build a flood control project.²²

Non-structural Alternatives

Like Soldiers Grove, several communities in different parts of the country have used non-structural alternatives to levees to control flooding. These projects generally involve returning the floodplain to its natural state, and in some cases restoring the associated wetlands. A project similar to Soldiers Grove used the natural flood control functions of 8,500 acres of wetlands along the upper Charles River in Massachusetts. The cost of buying full title or easements to the wetlands was \$10 million, far less than the \$100 million needed to build upstream dams and levees. The wetlands store more than 50,000 acre-feet of water, as much as a

medium-sized reservoir.²³ The Corps' final report on the project found that "nature has already provided the least-cost solution to future flooding in the form of extensive wetlands which moderate extreme highs and lows in stream flow. Rather than attempt to improve on this natural protection mechanism, it is both prudent and economical to leave the hydrologic regime established over the millennia undisturbed."

The City of Littleton, Colorado established a 625-acre floodplain park and natural area along 2.5 miles of the South Platte River where water can be absorbed and temporarily stored during big floods.²⁴ Officials in Boulder, Colorado created a five-mile recreational greenway and bike path along Boulder Creek. In Boulder, wetlands have been created or restored to temporarily absorb and store stormwater. Meanwhile, the trout fishery has been restored and the park has become a central meeting point for the community.²⁵ In a similar project, the City of Tulsa, Oklahoma, after a series of floods, developed a greenway plan for Mingo Creek that links parks and trails with multipurpose flood control structures.²⁶

The Future of Flood Control

The current groundswell of support for relocation and wetlands restoration has not gone unnoticed. In August, the Clinton Administration instructed the Corps and other relevant federal agencies to consider "nonstructural alternatives and design modifications that could provide greater local benefits of flood control, reduction of future potential flood damages to the applicant and adjacent upstream and downstream localities, lower long-term costs to the federal government and natural resource protection."²⁷

The administration has created several task forces, including one specifically focused on the levee rebuilding issue. However, the guidance the administration has issued does not go far enough to encourage alternatives to levees. The guidance memo requires only a 24-hour review period for flood control projects by other federal and state agencies, hardly enough time to research and develop alternative flood control methods. The administration's guidance does not address the problem of lack of expertise in developing non-structural alternatives. Finally, the guidance affects only one-fifth of the failed levees and therefore does not provide realistic options for most floodplain farmers.²⁸ In addition, funds that have been earmarked for long-term flood-loss reduction activities like relocation and wetlands acquisition are hamstrung by conflicting rules and regulations.²⁹

The Federal Emergency Management Agency (FEMA), the agency ostensibly in charge of reducing long-term flood threats, and the Department of Housing and Urban Development, will likely spend less than \$400 million on such projects.³⁰ Perhaps \$15 million will be spent on wetlands restoration. In contrast, more than one-third of the relief — \$2.35 billion — will be delivered in the form of one-time crop-loss payments to farmers through the Commodity Credit Corporation.³¹

Traditionally, people in the Midwest have measured FEMA, the Corps, and other agencies by how quickly checks are cut and levees are rebuilt. But the true measure of their performance will be how well the Midwest withstands the next flood. It is too much to expect Congress and the administration to replumb the entire upper-Mississippi Basin. But the floods of 1993 have opened a window of opportunity to reverse a century of flood control policy that places too much faith in structural solutions and discounts the value of natural floodplains and wetlands. ■

Footnotes

1. Department of the Interior, National Park Service, *A Casebook in Managing Rivers for Multiple Uses*, p. 29 (1991) [hereinafter *Casebook*].
2. William Becker, *Noah's Architecture: Let's Not Rebuild on the Floodplain*, Washington Post, Sept. 12, 1993, at C5 [hereinafter *Noah's Architecture*].
3. *Noah's Architecture*, supra note 2, at 30.
4. Misganaw Demissie and Abdul Khan, *Influence of Wetlands on Streamflow in Illinois*, Illinois State Water Survey for the Illinois Department of Conservation, 49 (1993) [hereinafter *Influence of Wetlands*].
5. Thomas E. Dahl, *Wetlands Losses in the United States 1780s to 1980s*, Department of Interior, U.S. Fish and Wildlife Service, 21 (1990).
6. Kenneth L. Wahl, Kevin C. Vining, and Gregg J. Wiche, *Precipitation in the Upper Mississippi River Basin, January 1 through July 31, 1993*, U.S. Geological Survey circular 1120-B (1993).
7. *Influence of Wetlands*, supra note 3.
8. *Id.*
9. R.P. Novitski, *Hydrology of Wisconsin's Wetlands*, U.S. Geological Survey, Madison, Wisconsin (1982).
10. See generally C.H. Prior and J.H. Hess, *Floods In Minnesota, Magnitude and Frequency*, Minnesota Department of Conservation (1961); C.T. Haan and H.P. Johnson, *Hydraulic Model of Runoff from Depressional Areas*, American Society of Cultural Engineers, 11:364-367 (1968); D.W. DeBoer and H.P. Johnson, *Simulation of Runoff from Depression Characterized Watersheds*, American Society of Agricultural Engineers, 14(4):615-620 (1971); K.L. Campbell and H.P. Johnson, *Hydrologic Simulation of Watersheds with Artificial Drainage*, Water Resources Research 11(1):120-126 (1975); I.D. Moore and C.L. Larson, *Effects of Drainage Projects on Surface Runoff from Small Depressional Watersheds in the North Central Region*, Water Resources Research, Bulletin 99 (1979).
11. Orie L. Loucks, *Restoration of the Pulse Control Function of Wetlands and its Relationship to Water Quality Objectives*, in *Wetland Creation and Restoration: the Status of the Science*, 468 (1990).
12. *Id.*
13. R.T. Reppert, W. Sigleo, F. Stakhiv, L. Messuram, and C. Meyers, *Wetland Values: Concepts and Methods for Wetlands Evaluation*, (1979).
14. *Id.*
15. Charles B. Belt, Jr., *The 1973 Flood and Man's Constriction of the Mississippi River*, *Science*, Vol. 189:681 (1975) [hereinafter *The 1973 Flood*]; see also R.G. Kazmann, *Modern Hydrology*, 115-116 (1972).
16. *The 1973 Flood*.
17. *Id.*
18. Jerry L. Rasmussen and Jim Milligan, *The River Floodway Concept: A Reasonable and Common Sense Alternative for Flood Control*, Department of Interior, U.S. Fish and Wildlife Service (1993).
19. *The 1973 Flood*, supra note 15, at 684.
20. Robert N. Stavins and Adam B. Jaffe, *Unintended Impacts of Public Investments on Private Decisions: The Depletion of Forested Wetlands*, *The American Economic Review*, 80:337 (1990).
21. *Id.* at 349.
22. *Id.* at 349.
23. *Casebook*, supra note 1, at 5. The Corps study concluded that upstream wetlands played a critical role in reducing flooding further downstream, and that wetlands were found to act like a series of reservoirs, absorbing and storing flood waters, and then releasing water over time. See U.S. Army Corps of Engineers, New England Division, *Natural Valley Storage: A Partnership with Nature*. Public Information Fact Sheets, Spring 1976, Spring 1977, Spring 1978; and Arthur F. Doyle, *The Charles River Watershed: A Dual Approach to Floodplain Management*, Proceedings of the National Wetland Symposium: Wetland Hydrology, Association of State Wetland Managers (1988).
24. *Casebook*, supra note 1, at 13.
25. *Id.* at 39.
26. *Id.* at 69-73.
27. T.J. Glauthier and Katie McGinty, *Guidance Memorandum Regarding Procedures for Evaluation and Review of Repair and Restoration Projects for Levees*, Executive Office of the President, Office of Management and Budget (1993).
28. *Id.* see also statement of Edward Hecker, Chief, Readiness Branch, U.S. Army Corps of Engineers, Post Flood Recovery in the Mississippi River Basin Conference, St. Louis, Aug. 30, 1993. Four-fifths of the failed Midwest levees are not eligible for federal assistance from the Corps under Pub. L. No. 84-99.
29. Robert L. Koenig, *My People Prefer Leaving Floodplains to the Rivers: but Pot of Buyout Money May Run Dry*, St. Louis Post Dispatch, September 19, 1993, at 1.
30. 44 CFR sec. 204.400(m); see also statement of Larry Zenzinger, Chief of Public Assistance Programs, Federal Emergency Management Agency, Aug. 30, 1993, Post Flood Recovery in the Mississippi Basin Conference, Association of State Floodplain managers and Association of State Wetland Managers, *Federal Assistance to Midwest Communities for Relocation and Elevation of Flood Damaged Property*, Federal Emergency Management Agency (August 1993). The U.S. House of Representatives and U.S. Senate passed legislation which increased the amount of FEMA hazard mitigation funding from \$24 million to \$105 million.
- Other programs provide funding for relocation: under FEMA's National Flood Insurance Program and Individual and Family Grant Program, disaster housing assistance can be provided to individuals for up to 18 months while relocation and elevation programs are being developed and implemented. The Cora Brown Fund can be used for relocation out of hazardous areas, and for hazard mitigation and floodplain management.
- The Department of Housing and Urban Development's (HUD) Community Block Development Grant Program can fund acquisition, relocation, or elevation. The Small Business Administration (SBA) provides disaster loans to homeowners and businesses to repair or replace property damaged in a declared disaster.
- The Farmers Home Administration (FmHA) is authorized to make rural housing loans and grants to buy, build or repair homes in rural areas. The section 502, Home Ownership Loan Program for low income applicants can be used for elevation or relocation. Congress provided \$1.2 billion supplemental appropriations and the maximum loan amount is \$105,000. The section 504 Home Improvement Loans and Repair Loans and Grants Program can provide funds to elevate homes or farm structures: \$12.5 million was added to the loan program and \$12.5 million was added to the grant program through the appropriation. The maximum grant is \$5,000, and is only available to low income senior citizens. The maximum loan is \$15,000. FmHA emergency loans are available for family farmers and ranchers to refinance existing debt, and to clean up and restore farm structures. Loans are provided at 4.5 percent interest over a 3-40 year period for physical losses. The supplemental appropriation added \$80 million to the program.
31. Statement of Tom Wehri, Assistant Director, Watershed Projects Division, U.S. Department of Agriculture, Soil Conservation Service, Aug. 30, 1993.
- Note: The Soil Conservation Service received \$60 million for disaster relief and plans to spend up to \$15 million to enroll farmers in the Emergency Wetlands Reserve Program. See the News Briefs section for more details on the Emergency WRP.

continued from page 9

It is imperative that urban waterways be recognized as a key element of the urban infrastructure. Protection, enhancement and restoration of riparian and wetlands ecosystems represents a cost-effective, multiple value adjunct to traditional solutions to urban water quality problems. Urban waterway restoration will not only assist in cleaning up the nation's waters but will also create jobs, address environmental justice issues, improve fish and wildlife habitat, create a network of greenways, enhance riverfront economic development opportunities, provide recreational opportunities, enhance adjacent property values and improve the quality of life in our metropolitan centers.

Urban watersheds restoration will help to generate a parade of new constituencies for the protection of rural and wilderness ecosystems. There is little doubt that tomorrow's wild and scenic river advocates are today's urban youth—kids chasing butterflies along north Richmond's Wildcat Creek, leading nature study walks on Denver's Platte River Greenway, picking tires out of Washington's Anacostia River, and planting cottonwoods on Portland's Columbia Slough. ■

Restoring Urban Waterways

by Michael C. Houck

While the primary focus of this fall's American Rivers' conference, *The Future of America's Rivers*, was to celebrate the 25th anniversary of the National Wild and Scenic Rivers Act, speaker after speaker, from Jim Lyons, Assistant Secretary for Natural Resources and Environment of the USDA, to Department of Interior's Bureau of Reclamation's chief Dan Beard and Congressman George Miller (D-CA), waxed poetic about childhood memories from an urban river or stream. Even actor Michael Keaton, the gala banquet's master of ceremonies, commented on his youth on an urban stream.

Although only one conference workshop was devoted specifically to urban river restoration, the future of river restoration, at least in part, seems to lie in returning to our collective and individual past—to rivers and streams where most of us caught our first trout, dipped for polliwogs and bagged our first dragonfly. Given that more than 80 percent of us live in cities, it is not surprising that many advocates of river protection got their start on the ditch behind their school or the storm drain in back of the neighborhood supermarket.

At the conference, activists called repeatedly for the creation of a "parade" for national river protection. One way to produce a more powerful movement might be to put more resources into solving stream and river problems where the people are, in the nation's urban centers.

Why an Urban Waterway Agenda?

Many of our states and most cities are financially strapped. Nonprofit organizations fight over limited funding and all agencies, at all levels of government, lack staff. Why put resources into degraded urban watersheds? With our limited resources, would money not be better spent salvaging the few remaining pristine rural ecosystems? Why should we spend money on ecological restoration when the essentials of social services, police and fire protection, education, and decaying urban infrastructure are in such need of funds?

There are innumerable reasons that urban watersheds are worthy of protection in their own right. Two authors succinctly and passionately offer socioeconomic, ecological, and philosophical rationales for the protection and restoration of urban waterways. Charles Little's *Greenways for America* uses case studies to document the importance of urban streams and rivers, and other greenways, for the maintenance, renewal, and connectors of communities. Little argues that greenways should be incorporated into the urban fabric as an alternative infrastructure, receiving the same status as roads, sewers, and utilities. Urban streams are critical to maintaining the quality of life in our cities. They provide fish and wildlife habitat and open space where they are needed most: where the people live. They offer unparalleled recreational opportunities; provide effective open space; add to adjacent property values; and provide a natural, low-cost alternative for filtering polluted stormwater runoff.

Michael C. Houck is Director of the Urban Streams Council, a program of The Wetlands Conservancy, a nonprofit landtrust in Tualatin, Oregon. He also is the Urban Naturalist for the Audubon Society of Portland.

Robert Michael Pyle, in his book *The Thunder Tree*, describes the many philosophical reasons to protect and restore urban waterways. Chief among these is his fear that urban populations, especially children, will suffer an "extinction of experience," which is no less troubling than the extinction of flora and fauna. He illustrates through his own excursions on Denver's Highline Canal, that city kids can experience nature nearby. Pyle feels that if we lose touch with nature as youngsters we cease to care. Since most of us have access only to the urban ditches and streams that are typically culverted, channelized and cemented over, one of our most pressing challenges is to protect and restore these areas.

There are other reasons why urban waterways should not be written off. Most urban stream groups are grounded in the social equity issues associated with urban waterway restoration. Unlike many mainstream environmental causes, social and environmental justice issues are often integral to urban stream restoration. Urban stream restoration efforts in inner city areas are as much about the restoration of community, including reviving the local economy and creating jobs, as about ecological restoration.

Developing a National Urban Waterway Coalition

The epicenter of urban stream restoration and grassroots activism has been in Oakland, Berkeley, and north Richmond, California. The guru of the urban stream restorationists is Ann Riley, co-founder of California's Urban Creeks Council, a statewide urban stream network dedicated to the protection, daylighting (liberating culverted, buried streams and bringing them above ground), and rehabilitation of urban waters.

No urban waterway project better exemplifies the urban stream movement than Wildcat Creek, which originates in the Berkeley hills and flows through one of the region's poorest and most toxic-ridden communities, north Richmond. Wildcat Creek restoration began when the U.S. Army Corps of Engineers proposed a sterile flood control channelization project for the creek bed.

Fortunately, a coalition of north Richmond activists, the Urban Creeks Council, and a local consulting firm, Phil Williams Associates, formed an alliance with moxie, technical knowhow, and community organizing abilities to develop an alternative flood control and restoration design. This design was multi-objective in nature—combining low flow and high flow channels with riparian vegetation, a recreational trail, and non-structural elements. The citizen's design was eventually adopted and now adorns a new Corps' flood control manual.

In addition to being one of the nation's best known stream restorationists, a brewmistress, and co-founder of Berkeley's Yeast Bay Brewery, Ann Riley has a passion for sharing information and promoting "user friendly" small watershed grants programs for community-based urban stream restorationists. As with many good ideas, the blueprint for a national coalition of grassroots urban stream restorationists was outlined on a napkin in a Berkeley Thai restaurant. After discussions with grassroots organizations and national con-

Eric



Minnesota Pollution Control Agency

March 1994

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BOARD OF WATER
& SOIL RESOURCES

To People or Groups Who Will be Affected by the New Water Quality Permit:

As you may be aware, federal regulations require any construction activity that disturbs **five or more acres of total land area** to be covered under a permit which authorizes storm water runoff to leave the construction site. The Minnesota Pollution Control Agency has been delegated the authority to issue permits on behalf of the U.S. Environmental Protection Agency, and has developed a General Construction Storm Water Permit for Minnesota.

The General Construction Storm Water Permit offers a new approach to the protection of our state's water quality. The goal of the permit is to keep soil and sediment **on** construction sites and **out** of Minnesota's lakes, streams, rivers, and wetlands, but without the burden of traditional regulatory requirements.

Enclosed please find the following:

- 1) An informational **Fact Sheet** that summarizes the general storm water permit for construction activity,
- 2) a **poster** that we encourage you to post in a visible location so that as many people as possible can find out about our program, and,
- 3) **fliers** inviting your participation in one of the several "Informational Seminars" being offered around Minnesota in April. At these seminars, members of my staff will explain the application and permitting requirements, and they will also be available to answer any questions you may have. (Please feel free to reduplicate and distribute these fliers as you see necessary.)

We have an outstanding quality of life in Minnesota, and we welcome your participation in this program to maintain our water resources for the future. Should you have any questions after reading through the enclosed material, please feel free to write or contact Dan Sullivan of my staff at (612) 296-7219.

Sincerely,

Charles W. Williams
Commissioner

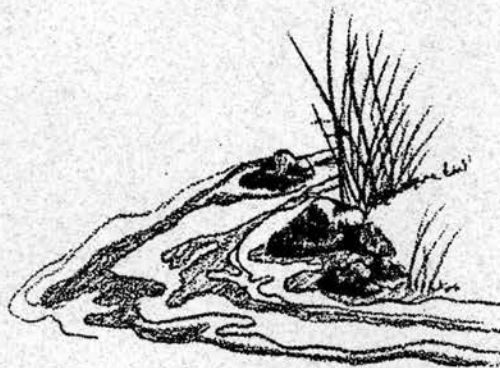
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Enclosures

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The Storm Water Permit Program

Construction Activity

Background

When land is cleared for the construction of roads and buildings, significant amounts of sediment and pollutants can clog the storm drain system and pollute downstream lakes and rivers. Even small construction sites have the potential to cause severe damage to water quality. Sediment losses from construction sites can range from 30 to 750 tons per acre. Sediment loading rates from construction sites are as high as 100 times that of agricultural lands, and 1,000 to 2,000 times that of forest lands. In a short period of time, construction sites can contribute more sediment to surface waters than was previously deposited over several decades. Removal of sediment from storm drain systems, and the rehabilitation of streams, lakes, and harbors can cost millions of dollars.

During a storm, silt, sediment, and other pollutants are washed off construction sites. Examples of other pollutants include: phosphorous, nitrogen, petroleum products, construction chemicals, and solid wastes. In urban areas, streets and other paved areas carry polluted storm water into storm sewer systems where, unless diverted to a storm water detention basin, it is directly released into surface waters. In rural areas, storm water runs off construction sites into drainage ditches and other conveyances where it is directly released into rivers, streams, lakes, and wetlands.

In addition to clogging storm sewers, ditches and other drainage systems, the sediment causes many other problems. Examples include; drinking water contamination, smothered aquatic habitats (which hinders or eliminates successful fish spawning), diminished plant productivity, reduced or eliminated accessibility of oxygen to fish, and degraded water quality for recreation and economic activity.

In response to this problem, Congress amended the Clean Water Act in 1987. The amended Clean Water Act required the U.S. Environmental Protection Agency (EPA) to develop regulations for storm water discharges. EPA's storm water regulations and Minnesota's storm water program are designed to protect the quality of surface waters by preventing or reducing soil erosion and other pollutants from leaving construction sites both *during* and *after* construction.

Current Status of MPCA's Construction Activity Permit:

EPA's original storm water regulations required that construction activities that disturb five or more acres of land after October 1, 1992, be authorized by a National Pollutant Discharge Elimination System (NPDES) permit, administered through the Minnesota Pollution Control Agency's Water Quality Division.

However, MPCA staff recognized that the permit would likely result in changes to ongoing construction projects. For administrative efficiency, MPCA staff are not requiring application for coverage for any projects starting before January 1, 1994. (This includes all ongoing projects that began *before*, but have continued *past*, January 1, 1994.) Anyone breaking ground and starting a new construction project after January 1, 1994, will be required to apply for coverage under the General NPDES Construction Storm Water Permit, prior to starting construction.

Who must apply?

Anyone conducting a construction activity that disturbs five (5) or more acres of total land area is required to apply for coverage under the MPCA's General NPDES Construction Storm Water Permit. Construction activity includes the following:

- ☐ Clearing
- ☐ Grading
- ☐ Excavation
- ☐ Road Building
- ☐ Construction of:
 - Residential Houses
 - Office Buildings
 - Commercial Facilities
 - Industrial Buildings
 - Landfills
 - Airports
 - Feedlots

March 1994



Minnesota Pollution Control Agency

What are the basic requirements of the permit?

The General Construction Storm Water Permit requires that a **Temporary Erosion and Sediment Control Plan** be developed for the project, in accordance with **Appendix A** of the permit.

The goals of this plan are to:

- 1) prevent erosion from occurring,
- 2) keep sediment on the site during construction, and,
- 3) minimize the tracking of soil and other sediment from the construction site onto paved surfaces by vehicles.

The permit also requires that a **Permanent Erosion and Sediment Control Plan** be developed for the project, in accordance with **Appendix B** of the permit. The goal of this plan is to minimize negative impacts caused by storm water runoff from the project's ultimate development.

The plans must contain **Best Management Practices (BMPs)** developed to meet the goals of each plan. Neither the project's plans and specifications, nor the Temporary or Permanent Erosion and Sediment Control Plans need to be submitted to the MPCA for review and approval. The *only* document that needs to be submitted is a completed application form certifying that the plans were completed and incorporated into the construction project's final plans and specifications.

Who is responsible for applying for the permit?

The owner will be responsible for completing the application form and certifying (signing) that the Temporary and Permanent Erosion and Sediment Control Plans have been prepared for the project. The owner is responsible for compliance with all parts of the permit.

At the owner's discretion, the general contractor will also be responsible for signing the application form prepared by the owner, certifying that the Temporary and Permanent Erosion and Sediment Control Plans will be implemented on the project. The general contractor is a co-permittee with the owner for certain parts of the permit.

Individuals seeking coverage should complete an application form and submit it to the MPCA. Application forms are available from the MPCA offices listed on this fact sheet.

Guidance Manuals

The MPCA and U.S. Environmental Protection Agency (EPA) have developed guidance manuals to assist applicants with developing Temporary and Permanent Erosion and Sediment Control Plans.

To obtain copies of these manuals, call the telephone numbers below each manual:

"Protecting Water Quality in Urban Areas"

MPCA
Water Quality Division
(612) 296-7220

"Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices"

(EPA document number:
832-R-92-005)

National Technical
Information Service
(703) 487-4650

Additional Questions?

Requests for application packets and questions regarding construction activity storm water permits should be directed to:



Northeast Region (218) 723-4660
Duluth

North Central Region (218) 828-2492
Brainerd

Northwest Region (218) 847-1519
Detroit Lakes

Southwest Region (507) 537-7146
Marshall

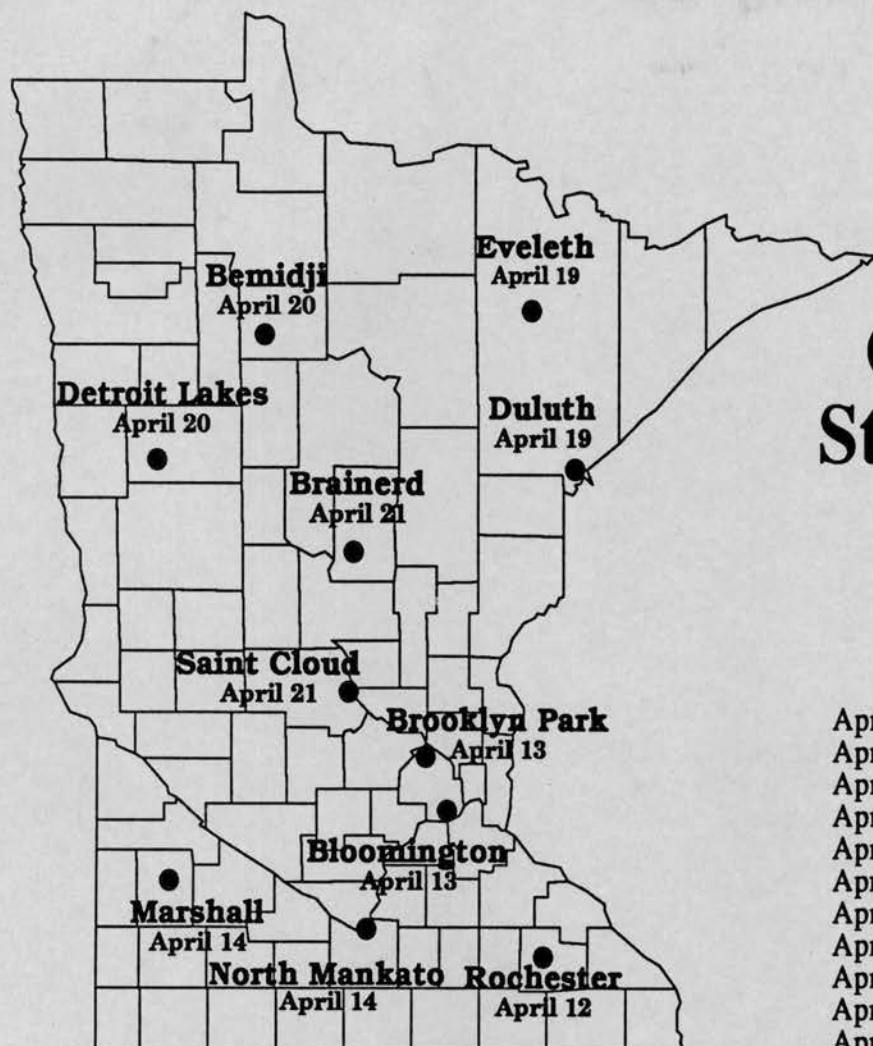
Southeast Region (507) 285-7343
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(800) 627-3529

Mailing Address:

**Storm Water
Permit Program**
Minnesota Pollution
Control Agency
Water Quality Division
Industrial Section
520 Lafayette Road North
Saint Paul, Minnesota 55155-4194



1994 NPDES Construction Site Storm Water Permit Informational Seminars

April 12 (AM), Holiday Inn South, Rochester
 April 13 (AM), Thunderbird Hotel, Bloomington
 April 13 (PM), Northwest Inn, Brooklyn Park
 April 14 (AM), Garden Inn, North Mankato
 April 14 (PM), Marshall Inn, Marshall
 April 19 (AM), Edgewater East, Duluth
 April 19 (PM), Holiday Inn, Eveleth
 April 20 (AM), Holiday Inn, Bemidji
 April 20 (PM), Holiday Inn, Detroit Lakes
 April 21 (AM), Holiday Inn, Brainerd
 April 21 (PM), Kelly Inn, Saint Cloud

Who Should Attend?

- | | |
|---|---|
| ☐ Architects | ☐ Public and Private Owners |
| ☐ Design Engineers | ☐ Environmental Consultants |
| ☐ Developers | ☐ Local Soil and Water Conservation District Staff |
| ☐ Contractors | ☐ City and County Planning and Zoning, Public |
| ☐ Inspectors | Works, and Engineering Department Staff |

These statewide seminars are open to *anyone* who wishes to learn more about the Minnesota Pollution Control Agency's (MPCA) new General Storm Water Permit requirements for construction activities that disturb **five or more acres** of total land area.

Participants will learn about: the impacts of erosion from construction sites, an overview of the MPCA's program, the basic structure and requirements of the MPCA's Permit, and what is required in the Permit's

Temporary and Permanent Erosion and Sediment Control Plans.

Co-sponsored by:



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Minnesota Pollution
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Council
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NPDES Construction Site Storm Water Permit Requirements 1994 Informational Seminars

Morning Seminars

7:00 A.M. Registration
7:15 A.M. Full Breakfast
8:00 A.M. Seminar Begins
10:00 A.M. Seminar Ends

Tuesday, April 12 • Holiday Inn South
U.S. 63 & 16th Street, Rochester
Wednesday, April 13 • Thunderbird Hotel
I-494 & 24th Avenue, Bloomington
Thursday, April 14 • Garden Inn
U.S. 169 & Webster, North Mankato
Tuesday, April 19 • Edgewater East
2400 London Road, Duluth
Wednesday, April 20 • Holiday Inn
U.S. 2 at Airport, Bemidji
Thursday, April 21 • Holiday Inn
U.S. 371, Brainerd

Afternoon Seminars

2:30 P.M. Registration and
Light Refreshments
3:00 P.M. Seminar Begins
5:00 P.M. Seminar Ends

Wednesday, April 13 • Northwest Inn
I-94 & County Road 81, Brooklyn Park
Thursday, April 14 • Marshall Inn
Mn 19 & Mn 23, Marshall
Tuesday, April 19 • Holiday Inn
U.S. 53, Eveleth
Wednesday, April 20 • Holiday Inn
U.S. 10, Detroit Lakes
Thursday, April 21 • Kelly Inn
Mn 23 & 4th Avenue, Saint Cloud

Registration: \$17 per person two days in advance of each date
\$20 per person less than two days in advance or at the door (if there is room available)
Includes either breakfast (morning seminars) or light refreshments (afternoon seminars), copies of the application packet, and an MPCA pocket *Inspector Compliance Guide for Erosion and Sediment Control*.

Questions: Tom Moore or Todd Goderstad (AGC) -- (612) 291-1102

✂ —————
MAIL this form to: AGC of Minnesota, 111 Kellogg Boulevard East, Suite #105, St. Paul, Minnesota 55101-1290
FAX this form to: AGC of Minnesota, (612) 291-0011

Enclosed in my check (\$17 per person 2 days in advance of each date, or \$20 afterwards) for _____ people to attend the following Informational Seminars:

7:00 A.M., April 12, Rochester	Names _____
7:00 A.M., April 13, Bloomington	Names _____
2:30 P.M., April 13, Brooklyn Park	Names _____
7:00 A.M., April 14, North Mankato	Names _____
2:30 P.M., April 14, Marshall	Names _____
7:00 A.M., April 19, Duluth	Names _____
2:30 P.M., April 19, Eveleth	Names _____
7:00 A.M., April 20, Bemidji	Names _____
2:30 P.M., April 20, Detroit Lakes	Names _____
7:00 A.M., April 21, Brainerd	Names _____
2:30 P.M., April 21, Saint Cloud	Names _____

Company or Organization: _____ Telephone Number: () _____

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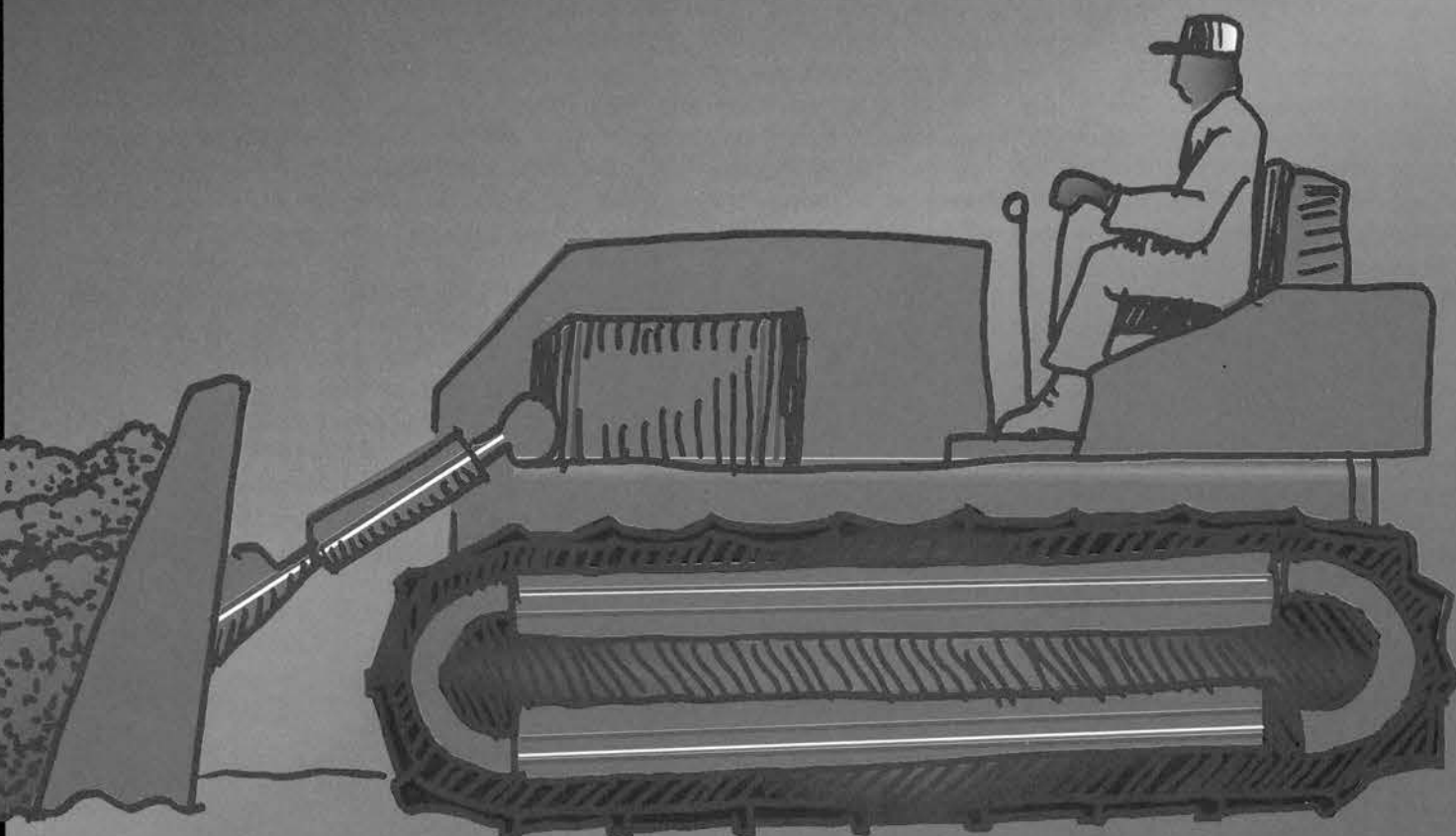
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disturbs five or more acres of total land area including grading, clearing, excavating or construction of roads, residential homes or commercial and industrial buildings —

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On excellence

Author writes epitaph for strategic planning

By Tom Peters

McGill University Prof. Henry Mintzberg, perhaps the world's premier management thinker, hammered the last nails in strategic planning's coffin in his just-released book, "The Rise and Fall of Strategic Planning."

In chapter after chapter, he meticulously exposes planning's problems. Consider just three:

■ **Process strangles.** Process was king for the champions of strategic planning. They are "more set on deciding rightly than upon right decisions," one commentator said. In the late '70s, Mariann Jelinek gushed about Texas Instruments' rococo Objectives, Tactics and Strategies system, a scheme one TI exec later described as "a paperwork mill that makes it absolutely impossible to respond to anything that moves quickly." Mintzberg views Jelinek's belief in "institutionalizing innovation" as the final performance of a long-running play. "The revolution that [time-and-motion study pioneer Frederick] Taylor initiated in the factory," he writes, "was [now] being repeated at the apex of the hierarchy, and the outcome would be fundamentally

no different."

■ **Hard data ain't.** Not surprising, process fanatics go gaga for factoids. Yet Mintzberg reveals the "soft underbelly of hard data," fied by the fallacy of "measuring what's measurable." The result is limiting, for example a pronounced tendency "to favor 'cost leadership' strategies [emphasizing operational efficiencies, which are generally measurable] over product-leadership strategies [emphasizing innovative design or high quality, which tends to be less measurable]."

Overall, Mintzberg opines, "While hard data may inform the intellect, it is largely soft data that generates wisdom. They may be difficult to 'analyze,' but they are indispensable for 'synthesis' — the key to strategic making."

■ **Detachment kills.** Mintzberg next pounces on the "assumption of detachment," quantification's close kin. "If the system does the thinking," he declares, "the thought must be detached from the action, strategy from operations, [and] ostensible thinkers from doers. ... It is this disassociation of thinking from acting that lies close to the root of [strategic planning's] problem."

With near disbelief, Mintzberg cites weeds. "They are not cultivated like roses in a hothouse. ... [They] grow in all kinds of places."

MT & Board packet
for April

Mintzberg's primary role as a planner: "finders" of opportunities, rather than designers of strategy. They may best serve organizations by discovering "fledgling" strategies in unexpected pockets of the organization so that competition can be given to [expand]."

Mintzberg observes, ironically, that our passion for planning flourishes during stable times, with discontinuities of change that have become routine. Planners have been caught in the boots, looking back over their shoulders, and routed. The role of greeting discontinuities with bold strategies is more

significant than ever. Just don't expect fast footwork and zany departures to emerge from closeted analysts promoting just-the-facts-ma'am, elaborate planning schemes.

Strategic planning as we knew you, R.I.P.

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For FYI
in case
you ever
think the
time
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With near disbelief, Mintzberg cites an "astonishing" statement by a British planner: "Through the [planning] process we can stop managers falling in love with their businesses." Such was the unabashed goal of yesterday's planning mavens, as another British exec reports with alarm: "The chief executive of a group of world-famous management consultants tried hard to convince me that it is ideal that top management ... should have as little knowledge as possible [of] the product."

To expose such problems with planning is important, but it still misses the point, implying that the process can be fixed. Forget it, Mintzberg snorts, challenging planning's "fundamental assumption," that analysis produces synthesis. "Planning by its very nature," he concludes, "defines and preserves categories. Creativity, by its very nature, creates categories or rearranges established ones. This is why strategic planning can neither provide creativity, nor deal with it when it emerges by other means."

Having demolished strategic planning, Mintzberg in the end throws a life ring to planners. Strategies that break the mold, he says, grow like

weeds. "They are not cultivated like tomatoes in a hothouse. ... [They] can take root in all kinds of places."

Thence Mintzberg's primary role for modern planners: "finders" of strategies, rather than designers of strategies. They may best serve their firms by discovering "fledgling strategies in unexpected pockets of the organization so that consideration can be given to [expanding] them."

Mintzberg observes, ironically, that historically our passion for planning mostly flourishes during stable times. Faced with discontinuities of the sort that have become routine today, planners have been caught in concrete boots, looking back over their shoulders, and routed. The importance of greeting discontinuities with bold strategies is more significant than ever. Just don't expect fast footwork and zany departures to emerge from closeted analysts promoting just-the-facts-ma'am, elaborate planning schemes.

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From F-4 I in case you ever think the time to do this again

5/25/94

**BOARD OF WATER AND SOIL RESOURCES
ROOM 107, STATE CAPITOL
75 CONSTITUTION AVENUE
ST. PAUL, MINNESOTA 55155
MAY 25, 1994**

APPOINTED MEMBERS PRESENT: Jim Nielsen, Jim Rossman, Barb Uppgaard, Warren Rodning, Barb Cobb, Ted Lovdahl, Dwain Otte, Glenn Annexstad, Marvell Tripp, Kathy Roer, Howard Peterson, and Tim Hvidsten.

AGENCY MEMBERS PRESENT:

Kim Benson-Johnson, Minnesota Department of Health (MDH)
Fred Bergsrud, Minnesota Extension Service (MES)
Wayne Edgerton, Minnesota Department of Natural Resources (DNR)
Paul Burns, Minnesota Department of Agriculture (MDA)
Wayne Anderson, Minnesota Pollution Control Agency (MPCA)

OTHERS PRESENT:

Jon DeGroot, Soil Conservation Service
Susan Schmidt, Legislative Water Commission
Dan Livdahl, Minnesota Association of Conservation District Employees (MACDE)
Franklin Denn, Minnesota Association of Townships (MAT)

STAFF PRESENT:

Ron Harnack
Jim Birkholz
John Jaschke
Marybeth Block
Mary Jo Anderson

Chairman Nielsen called the meeting to order at 9:05 a.m.

**** 94-28 Adopt Agenda** - Moved by Rodning, seconded by Lovdahl, to adopt the agenda as presented. Affirmative: Annexstad, Cobb, Hvidsten, Lovdahl, Otte, Peterson, Rodning, Roer, Rossman, Tripp, Uppgaard, and Nielsen. Opposed: None. Carried.

**** 94-29 Minutes of April 27, 1994** - Moved by Peterson, seconded by Tripp, to approve the minutes of April 27, 1994, as circulated. Affirmative: Annexstad, Cobb, Hvidsten, Lovdahl, Otte, Peterson, Rodning, Roer, Rossman, Tripp, Uppgaard, and Nielsen. Opposed: None. Carried.

Chairman's Report - Jim Nielsen attended the Environmental Quality Board (EQB) meeting. The Giant's Ridge golf course proposal was discussed; there seems to be a question as to which statutory process should be followed, that of St. Louis County or that of EQB. A special EQB meeting has been scheduled for June 7 to discuss this issue.

Chairman Nielsen stated that this was a busy legislative session that clearly demonstrated the cooperation between the agencies with environment responsibilities.

Executive Director's Report - Ron Harnack reported on the legislative session. BWSR was very successful in its issues. He discussed the General Fund supplemental appropriation for feedlots and staffing. The State Revolving Fund (SRF) loan program was enacted. The 1991 Feedlot Inventory Guidebook will be distributed to board members. Bonding, Reinvest In Minnesota (RIM) Reserve/Permanent Wetland Preserves (PWP) was consolidated with \$9 million appropriated; \$300,000 of the appropriation may be used to establish wetland banks that counties and landowners can draw on for mitigation. The Legislature appropriated \$800,000 for land acquisition on the Study Area II, RW-22 project. Ron said that the Wetlands Conservation Act, from a policy standpoint, had significant amendments; he summarized the amendments. Reorganization was not seriously discussed. The Waste Management Board and the Pollution Control Agency were bonded together, with the board chair to be appointed by the commissioner of PCA.

Ron extended a significant thank you to soil and water conservation districts; without them we could not have accomplished what we did during the legislative session. Chairman Nielsen said that we are going to come up with a plan to present to the BWSR and Legislature next session in getting additional staff to carry out programs.

Committee Reports

Dispute Resolution Committee (DRC) - Kathy Roer stated that the Churchill Co-op issue in Renville County appears to be resolved; now the co-op is waiting for the Buffalo Creek Watershed District to issue a permit. Kathy stated that the Lac Qui Parle-Yellow Bank Watershed District will re-hear the Jessen appeal in Lac Qui Parle County. Kathy said that the DRC has been meeting monthly with the Attorney General's office on rules. Chairman Nielsen suggested that the Dispute Resolution Committee seek comments from the

Minnesota Association of Watershed Districts.

Education Committee - Tim Hvidsten stated that they are scheduling a meeting soon.

Soil Committee - Glenn Annexstad said a meeting is scheduled for June 14.

Per Diem Committee - Ron Harnack said that he and the state auditor have had positive discussions; hope to have more to report next month.

Feedlots Committee - Jim Rossman reported that the Feedlot Advisory Group (FLAG) will meet on June 30; subcommittees are currently working on alternative methods to resolve issues. The subcommittees are finalizing recommendations and will bring to June 30 meeting. Jim stated he hopes that the group will be moving forward with getting a feedlot program that has worked better than in the past. The group is making progress on resolving issues on permitting largely because of the good communications and working relationship with staff. Wayne Anderson stated that FLAG will have a new name which will be established by the Legislature. In addition, the commissioners of PCA and MDA will be involved, which will bring some consistency and permanence to the program.

State Wetlands Program Update - John Jaschke reported that five counties have not yet adopted the Wetland Conservation Act (WCA). Ted Lovdahl briefed the BWSR on the meetings being held with these counties. Barb Uppgaard stated that political games are being played; this issue needs to be resolved in 30 days. Tim Hvidsten would also like to see this resolved in 30 days and see that the SWCDs get the \$5,000 allocated to counties for SWCDs. Barb Uppgaard stated that BWSR should send a letter to counties reminding them of the benefits of WCA, making them aware of options and liability, and request the transfer of money from county to SWCDs. Moved by Lovdahl, seconded by Uppgaard, to send a letter to the four counties that have not adopted the WCA, and a separate letter to Lake County, stating the following: • the moratorium will be extended until adoption of WCA; • BWSR is reviewing their contract for just cause of utilization of dollars; • BWSR requests ~~a statement of intent from the county within 30 days of adoption, dealing with issues and problems;~~ • the county ~~should address the issue~~ of allocating the minimum \$5,000 to SWCDs. The letter to be signed by Chairman Nielsen. Affirmative: Annexstad, Cobb, Hvidsten, Lovdahl, Otte, Peterson, Rodning, Roer, Rossman, Tripp, Uppgaard, and Nielsen. Opposed: None. Carried.

**
94-30

correction

McLeod County Lawsuit - John Jaschke reported on a cease and desist order to McLeod County regarding maintenance of a ditch system. The WCA has regulations that affect ditch procedures and rights. McLeod County claims the WCA is unconstitutional and filed a lawsuit against the state. John stated that he believes there's a simple solution to the issue although McLeod County does not agree with it since the county is the local governmental unit, the exempt order needs to be made by the BWSR. BWSR's attorney is confident that this will be resolved, hopefully out of court. John distributed a letter regarding this issue.

- BWSR requests, within 30 days, county resolution regarding their intent to adopt the WCA.
- the county allocate the minimum \$5,000 to SWCDs

Chairman Nielsen recessed the meeting at 10:40 a.m. The meeting reconvened at 11:00 a.m.

Reinvest In Minnesota (RIM) Administrative Grants - Marybeth Block briefed members on the RIM service grant formula. The database was just revamped to calculate service grants for the conservation easements. Considerable discussion was given to wetland easements and the Permanent Wetland Preserve Program. Chairman Nielsen asked if SWCDs were involved or if Marybeth had received input from them. There has been review and discussion with SWCDs and the allocation reflects the input. This grant would be combined with the general grant and will go out as one. Dan Livdahl, MACDE, stated that board conservationists have discussed the grants with MACDE, who have talked with SWCDs about this; this will make the budgeting issue easier for SWCDs.

Federal Farm Bill Issues Discussion - Jim Birkholz distributed a list of attendees and the information discussed at the April 8 meeting regarding the federal farm bill. Those in attendance at that meeting will be the "sounding board" for future meetings to discuss perspectives on the next farm bill. The "Soil and Water Quality" publication, published by National Research Council, is a good reference document being used by the committee said Jim. Dwain Otte said that this isn't new information; what's needed is technical expertise to start to implement the bill.

Staff recommends that BWSR endorse the committee findings of four major objectives for the management of soil and water resources: 1) Conserve and enhance soil quality as a fundamental first step to environmental improvement; 2) Increase nutrient, pesticide, and irrigation use efficiencies in farming systems; 3) Increase the resistance of farming systems to erosion and runoff; and 4) Make greater use of field and landscape buffer zones. Chairman Nielsen directs staff to continue and update BWSR at the June meeting to take action at the July or August meeting. Members will share broad discussion on the farm bill. Wayne Edgerton distributed DNR's recommendation.

Advisors' Comments

Minnesota Association of Townships (MAT): Franklin Denn reported that MAT will hold a legislative update meeting on June 6-7, in New Ulm. He is happy to learn that Ron Harnack will be in attendance.

Soil Conservation Service (SCS): Jon DeGroot, assistant state conservationist, stated that the SCS reorganization bill will be taken up next week; the bill proposes a name change for SCS. SCS will hold forums next fall for reinventing SCS. Jon reported that last fall the Environmental Protection Agency, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service, signed a memo of agreement regarding wetlands. The authority to make wetland determinations in agricultural areas was given to SCS.

Minnesota Association of Watershed Districts (MAWD): Howard Peterson briefly commented on an article in the Farm Journal regarding watershed management.

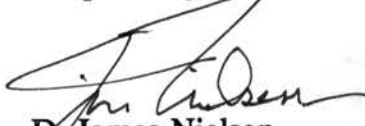
Chairman Nielsen stated that the next BWSR meeting is June 22.

Ron Harnack reported that the 1994 Envirothon was held May 18 at the Harriet Alexander Nature Center in Roseville. Cathedral High School in New Ulm was the winner. Mary Jo Anderson reported that eleven teams competed in the statewide competition; the teams were winners at the regional level. Each team visited five learning stations; soils, forestry, wildlife, floodplain, and water resources, and were quizzed on the information presented. It was a very successful and well-organized Envirothon, the students attending were enthusiastic, the weather was beautiful, and the winning team was very excited about their success. Cathedral High School will now compete in the national Envirothon in North Carolina in August.

Barb Cobb asked about the cost-share allocation. Ron Harnack stated that the cost-share formula is being reviewed in response to MASWCD's resolution and will be discussed at the June BWSR meeting.

Chairman Nielsen adjourned the meeting at 12:20 p.m.

Respectfully submitted,



D. James Nielsen
Chairman



Board member Update

May 1994

The mission of the Board of Water and Soil Resources is to provide leadership enabling local governments to properly manage water and soil resources and to help all citizens be stewards of our irreplaceable natural resources.

Engineering and Technical Services Section

Feedlots

- Brad Matlack, feedlot specialist, has been working on a number of projects and initiatives in the Minnesota River Basin and elsewhere around the state, including:
 - Working with the Blue Earth River Basin Initiative (BERBI) and Redwood River Clean Water Partnership to help identify and coordinate training for new technical staff in the area of feedlot pollution abatement. These staff are being hired with funding from the Minnesota River special cost-share program allocation for FY 94.
 - Assisting Redwood Soil and Water Conservation District (SWCD) in setting up a meeting in early June between the Pollution Control Agency (PCA), the Soil Conservation Society (SCS), BWSR and the operators of two large feedlots with a long history of runoff concerns in Redwood County.
 - Developing a preliminary runoff control system for a difficult feedlot in South St. Louis County.
 - Evaluating technical assistance needs for two feedlots upstream of

a proposed floodwater storage site on Lazarus Creek in Yellow Medicine County (Area II).

- The Minnesota Association of Soil and Water Conservation Districts (MASWCD) and the Minnesota Department of Agriculture (MDA) are working on a directory of resources available to feedlot operators. Chief Engineer Al Kean and Brad recently commented on the second draft and helped revise and simplify a permitting flow chart contained in the directory, which has taken shape into what should be a useful reference.

Conservation easements

- The draft of the retooled conservation easements program handbook is nearing completion. Marybeth Block, easement coordinator, and Tom Wenzel, BWSR engineer, are devoting as much time as possible to this long-awaited product. Communications Director Susan Tsakakis is also providing editing and formatting assistance. We are confident the product will be worth the wait.
- \$9 million of bonding funds were appropriated for the Reinvest in Minnesota (RIM) Reserve and Permanent Wetland Preserves (PWP) programs for the next biennium. Unlike some previous years,

no restrictions were placed on easement types to be acquired with this funding. Staff will be talking to the Board in the near future (June or July?) to help establish target allocations for RIM wetland restorations, RIM marginal lands and PWP. We will also need to identify any priority areas (Minnesota River basin?) or priority projects.

- There are currently about 340 easements in process. We intend to have the majority of these easements conveyed before the next planned application funding period in November.
- Jeff Hedtke, our wetland restoration technician funded by a North American Wetland Conservation Act (NAWCA) grant, was assigned to our New Ulm office last month. Jeff has been working with a number of SWCDs to provide technical assistance for wetland restorations.
- Since June 1993, BWSR staff (with some assistance from the Department of Natural Resources Bureau of Engineering via contract) have surveyed, designed and/or assisted SWCDs with the design and construction of 113 wetland restorations. There are currently 85 RIM wetland restoration project designs ready for construction this summer. Only 41 were constructed last year due to the very wet conditions.
- Tom and Marybeth are working with Kandiyohi SWCD on feasibility investigations for a potential 1,200 acre shallow lake/wetland restoration adjacent to Willmar (Grass Lake). Surveys were completed last fall. Some potential complications with a petroleum pipeline exist and, of course, funding for this large a project is a potential problem, as well.

Area II

- It sounds like the Department of Natural Resources (DNR) is nearing a decision on who will be the responsible government unit for the required Environmental Assessment Worksheet (EAW) for the proposed RW-22 reservoir project. If the grapevine is correct, Lyon County and their consultant, HDR Engineering, will prepare the first draft.
- Grant agreements for several "road retention" projects (usually culvert downsizing and/or road embankment raising) are currently being developed to help fund construction this season. Area II has helped define priorities and grant amounts. Area II staff and BWSR Area II engineer, Darrell Apelgrain, have helped design and coordinate these projects. Al Kean and Attorney General representative Jennifer Park are updating a generic grant agreement for Area II projects, as well as developing a generic resolution for local government units to use when requesting funding.
- Darrell is beginning coordination with several county engineers within Area II for development of a guidance manual for design of road retention projects. This effort was an outgrowth of the interagency flood hazard mitigation report developed for Minnesota last year.

Lakeshore engineering

- Gene Clark, lakeshore engineer, has been getting his feet on the ground, so to speak, and he and Al have developed a work plan and schedule to accelerate program efforts. Gene has begun design for the Two Harbors campground shore stabilization project, which should be ready for construction this fall.
- BWSR is working with So. St. Louis SWCD, landowners and a contractor to get grant agreements and other logistics

in place for the Sucker Bay project, which is scheduled for construction this summer.

State Revolving Fund (SRF)

- A task force of BWSR staff has been meeting on SRF implementation alternatives and recommendations. A specific focus has been on how to use and allocate the recent General Fund appropriations for SWCD and BWSR staff. We believe this new program implementation, along with SCS staffing cuts and other recent developments, accentuates the need for strong coordination and cooperation between SWCDs, BWSR and SCS for retooling of the technical assistance delivery system in Minnesota. This program presents a substantial opportunity to improve the delivery of technical assistance for a wide range of conservation and water quality improvement practices. However, the fact that the BWSR appropriation was much smaller than requested will present another major challenge for BWSR staff.

Northern Region

- Northern board conservationists (BCs) continue to spend most of their time on the Wetland Conservation Act (WCA), generating some interesting numbers:
 - So far this spring we've seen approximately 92 cease and desist orders (CDOs) issued in the north.
 - Northern field staff have been involved in 82 technical evaluation panels (TEPs).
 - Field staff report that from 30 to 60 percent of their time has been spent on WCA implementation.

The individual numbers look like this:

BC	TEPs	CDOs	% time on WCA
Keith	45	42	60
Mark	6	12	45
Bill	5	10	35
Dan	14	21	30
Brian	2	1	55
Dale	10	6	50

- What these numbers show is quite a variety in WCA workload, which is to be expected to some degree due the variety in Minnesota landscapes. Some other things reflected in the numbers are that the southern-most counties (Keith's region) got busy earlier; hence some higher numbers. Keith's area also has more rapid development than some other areas. In contrast, the arrowhead region and other northern counties (mostly Mark's and Brian's territory) just got the backhoes going a few weeks ago. We expect to see an increase in WCA activity as spring and summer progress. Also reflected in Brian's numbers is the fact that four of his seven counties have not adopted the permanent rules yet. You'd think that there would be more cease and desists in that area but so far it hasn't worked out that way. The numbers also show that WCA continues to be a major workload item for all field staff. I think that the TEPs and CDOs issued also show quite clearly that the law is being both administered and enforced locally.
- What these numbers don't show is the great amount of time field staff are spending on general WCA administration. Things like LGU training, prep time for TEPs, helping local governments interpret exemptions, answering banking questions, helping to set up local banks, and hours of phone time answering all the "what if" questions that still seem to be out there. Brian, for example, has spent a good share of his time visiting and revisiting the four counties in his area that

refuse to adopt. Dale has spent many hours helping Grant County set up a bank that will provide benefits to Cass and Itasca counties. This administrative time has not been wasted. Time spent with LGUs up front has put the majority of them in position to implement WCA as designed.

- In other news, Duluth Forester Jim Lemmerman was busy doing all the forestry stuff he gets paid to do. In particular, he did some follow up with Stevens SWCD regarding problems they've been having with willow post plantings. Jim participated as an instructor at two logger education workshops where he talked about (what else?) WCA. Jim also played schoolteacher at Vermillion Community College where he talked to the class about BWSR, WCA, and best management practices.

Metro Region

- Metro staff times continues to be consumed by implementation of the Wetland Conservation Act. To date, 66 percent (41) of the 62 projects noticed in the EQB Monitor have originated in the Metro Region. Violation activity has also picked up; nine cease and desist orders were issued in the first three weeks in May in Anoka County alone. Staff workload has been focused on technical evaluation panels and administrative guidance on such issues as wetland banking, delineation and replacement plan assessments.
- Staff have also been involved in the review of revised water management organization (WMO) plans and WMO and SWCD annual reports. Metro BC Barbara Ohman recently completed a status report on the condition of metro county ditches. The report includes recommended legislative changes that will be brought to the Board at a future date.

Barbara and Jim Haertel, the other metro BC, both assisted the DNR on an in-house WCA training session and received accolades from Commissioner Sando. Barbara also received written compliments from the Vadnais Lakes WMO for WCA assistance.

- Bruce Sandstrom, metro regional supervisor, continues to provide formal and informal guidance on a statewide basis on the "Reding Guidelines," which seem to be working quite well. Bruce also is actively involved on various inter-agency committees on wetlands, storm water design and watershed planning that meet at least once a month.

Southern Region

- SWCDs continue working on processing RIM easement paperwork. Quite a few RIM agreement packages remain to be reviewed by BCs. Many SWCD offices are getting a number of questions on RIM and PWP from potential applicants. Looks like it could be another BIG sign-up!
- Mankato State University Water Resources personnel are installing ARCVIEW software on all 13 south central Minnesota county water planning coordinators' computers. Along with the installation, a training session is being held in each county on the use of digital surface water atlas information within ARCVIEW. (The digitized information was funded through a grant from the Legislative Commission on Minnesota Resources.) The training is excellent, and the information will be very useful for local governments as well as folks like DNR hydrologists.
- The BWSR, on behalf of the Blue Earth River Basin Initiative (BERBI), held a meeting with local government officials from the five-county BERBI area and

state and federal government officials to learn about existing programs and how they can be used to complement the ongoing BERBI efforts. With the departure of the Area VI SCS engineer, the group is left in somewhat of a lurch for technical sign-off and training. The BERBI technical and policy committees are working on this situation.

- At its April meeting, the BERBI signed its first contracts to encumber funds through its Minnesota Pollution Control Agency Minnesota River Implementation Project Accelerated State Programs grant. Contracts were approved to install one septic system demonstration (a drain-field with cost-sharing set at 50 percent up to \$1,000); establish 15 acres of tile intake buffers (dollars encumbered for these 10-year contracts total \$15,000); and establish 30.2 acres of open drainage ditch buffers (dollars encumbered for these eight-year contracts total \$26,576).
- Doug Thomas (central office water planning coordinator), Keith Grow, Dan Steward, and Thomas Fischer (New Ulm BC) presented the first orientation session for watershed districts. Managers and staff from five central Minnesota watershed districts attended. Comments written on the session evaluation form indicate an overall success in BWSR's efforts. A copy of orientation materials will be finalized and provided to BWSR field and central offices so that future watershed district orientation sessions can be planned.
- Marshall BC Tabor Hoek continues to work with priority watershed projects in his area. Most recently he facilitated discussions in the Heron Lake Watershed that will potentially lead to a federal NAWCA grant to accelerate wetland restoration and preservation activities through BWSR's easement programs.
- Tabor, with the help of many agencies, has also put together information on conservation practices for flood plain acreage enrolled in BWSR easement programs. This guidance document will be incorporated into the new easement handbook and will assist conservation planners working on riparian floodplain areas to most effectively develop these sites for their perpetual duration.
- March and April were busy months on the telephone for Sara Johnson, SWCD accounting coordinator. There were many questions about the year-end financial reports -- both before and after they were due (March 15th). Once received in the New Ulm office, they were checked over for completeness and correctness, then forwarded to the State Auditor's office. Unacceptable reports are returned for corrections and often assistance is needed to make those corrections.
- When out of the office, Sara visited Beltrami, Sibley, Renville, and Itasca SWCDs; met with staff at the Office of the State Auditor, Keith Brown at The Software Library, and Wayne Zellmer at the St. Paul BWSR office; attended a training session in Bloomington; and worked on resource sheets on various topics for use by the SWCDs.