



Minnesota Board of Water and Soil Resources.
Minutes.

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10/25/95

**BOARD OF WATER AND SOIL RESOURCES
ONE WEST WATER STREET, CONFERENCE ROOM
ST. PAUL, MINNESOTA
OCTOBER 25, 1995**

BOARD MEMBERS PRESENT:

Barbara Cobb, Dwain Otte, Ted Lovdahl, Tim Hvidsten, Ginny Imholte, Barbara Uppgaard, Marvell Tripp, Darrell Bruggman, Jim Rossman, LeRoy Stensgaard, Glenn Annexstad, and Kathleen Roer.

AGENCY MEMBERS PRESENT:

Paul Burns, Department of Agriculture
Wayne Anderson, Pollution Control Agency
Wayne Edgerton, Department of Natural Resources
Jim Anderson, Minnesota Extension Service

AGENCY MEMBERS ABSENT:

Kim Benson-Johnson, Department of Health

OTHERS PRESENT:

Jim Schafer, MASWCD
Franklin Denn, MAT
Ray Bohn, MAWD
Joe Duggan, Pheasants Forever

STAFF PRESENT:

Ron Harnack, Ron Shelito, Doug Thomas, Jim Birkholz, Bruce Sandstrom, John Jaschke, and Char Sokatch.

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Chair Cobb called the meeting to order at 9:00 a.m.

95-66 **Adopt Agenda** - A change in order was proposed by Barb Cobb that #2 under "Old Business" be moved to after lunch. Moved by Marv Tripp, seconded by Darrell Bruggman, to adopt the agenda. Motion passed on a voice vote.

95-67 **Minutes of September 27, 1995** - Moved by Dwain Otte, seconded by Barb Cobb, to approve the minutes of September 27, 1995, as circulated. A change in the way a voice vote is recorded was also approved: now if there is opposition it will be noted in the meeting minutes who was opposed. This motion was passed by a voice vote.

Chair's Report - ~~Barb told her story of just turning 50 years old and the boy scouts that earned their badges by helping the "old" woman across the street.~~ Barb attended a meeting initiated by Joe Newberg, Metro Association of SWCDs chair, that was attended by Metro Watershed Districts. This was an innovative way that BWSR can work together in partnership with others. Barb also attended a number of reorganization meetings.

Executive Director's Report - Ron Harnack told of the field staff working to keep people informed at the legislative hearings (Republican, House Caucus, DFL) and mini-sessions. Attendance was generally made up of local landowners concerned about too much regulation. Generally there is a misunderstanding of the relationship between the Wetland Conservation Act (WCA), the Farm Bill and the Corps of Engineers requirements. Field staff had an opportunity to explain the BWSR revised WCA bill. The Senate Republican caucus is holding five meetings and Ron circulated a handout of when these will be. BWSR's main focus is to pass amendments to WCA early in session, and have things in place for construction season. Greg Larson and Ron Harnack spoke with 14 special interest groups and their leadership. The Reinvest In Minnesota (RIM) Reserve 10th Anniversary Celebration was a success.

Dispute Resolution Committee (DRC) - Kathy Roer reported that the Ewing District appeal has been withdrawn; Valley Branch Watershed District vs. Citizens of Mahtomedi WCA hearing is set for December. BWSR has hired a new half-time person to help the DRC; Jim Haertel was unanimously chosen.

Cost-Share/Soil Conservation Committee - Dwain Otte announced that the next joint meeting held with the MASWCD will be November 8, 1995, at the BWSR Conference Room from 8:30 A.M. - 2:00 P.M.

Administrative Advisory Committee - Barb Cobb reported that this Committee has developed a Board Policy Handbook. It is hoped that the continually updated handbook will be a good tool for the Board and staff when questions of policy arise.

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Recommendation of Water Plan Review Committee to Approve Benton County Water Plan

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95-68 - Ginny Imholte, committee chair, voiced strong support and recommends plan approval recommended by the review committee for the Benton County Water Plan. Moved by Ginny Imholte, seconded by Jim Rossman. Motion passed by voice vote.

WCA exemption #3

McLeod County Court Decision - The Wetland Conservation Act (WCA) was deemed constitutional in a court challenge to the WCA in McLeod County. This was the first court challenge of the WCA. The Judge upheld the WCA and deemed that ~~20 years~~ is reasonable for repairing a ditch; this ruling has been appealed. Matt Seltzer, Attorney General's Office, feels it will be upheld by the Court of Appeals. This ruling has reinforced the WCA.

WCA Resolution - John Jaschke introduced a consolidated resolution that reflects five previous individual resolutions. ~~the County Planning and Zoning and possibly County Sheriffs to the copy list.~~ Dwain Otte also mentioned that it should be clear that this resolution makes the other five resolutions null and void. It was moved by Kathy Roer and seconded by Glenn Annexstad to accept the formal WCA Resolution regarding non - complying counties. Motion passed by a voice vote.

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95-69

Chair Cobb called for a break at 10:15 a.m. The meeting reconvened at 10:25 a.m.

WCA - John Jaschke reviewed the handouts on roles of counties, cities, SWCDs and BWSR under the law. Agricultural provisions were also reviewed with changes recommended. The ability to do a wetland plan in an existing plan should not institute much change, but will give more flexibility. Discussion followed.

Legislative Initiatives - Ron Harnack says that we have approval for initiatives relating to the Reinvest in Minnesota (RIM) Reserve Program, Wetland Conservation Act, and the acceptance of gifts. Funding for cost-share will not be approved at this time. The WCA amendments are still under review at the Governor's office.

County Water Plan Extensions - Doug Thomas requested approval for the following extensions: Crow Wing County, 12 months; Jackson County, 12 months; Morrison County, 1 month; Polk County, 12 months; Stearns County, 2 months; Rice County, 18 months; Waseca County, 2 years. Both Rice County and Waseca County have recently hired new staff. Moved by Darrell Bruggman, seconded by Marvell Tripp, to approve the County Water Plan extensions. Motion carried on voice vote.

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95-70

Pheasants Forever - Joe Duggan presented an overview of Pheasants Forever philosophies. They are looking for Reinvest in Minnesota (RIM) Reserve funding and have given their commitment to BWSR. Pheasants Forever's goal is to restore habitat. Their key philosophy is separate local chapters within local fundraising.

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95-71**

Metro Water Plan Implementation - Bruce Sandstrom reviewed the priority schedule for watershed management organizations (WMO) second generation plans. Acceptance of the priority schedule was moved by Dwain Otte and seconded by Ted Lovdahl. Motion carried on voice vote. The grants funding will be discussed further at the December Board Meeting. Bruce also touched on the need for a working Memorandum of Understanding between agencies.

Department of Natural Resources (DNR): Wayne Edgerton informed the Board of a property rights initiative to post private land against deer hunting in protest of the Wetland Conservation Act (WCA). New legislation that may be brought up is a change to no trespassing without permission.; He will keep BWSR posted on the development of this law.

Minnesota Pollution Control Agency (MPCA): Wayne Anderson announced the hiring of two new regional managers due to upgrading the positions; in Brainerd the new regional manager will be Linda Hulland and in Duluth the new regional manager will be Susan Hansen.

Minnesota Extension Service (MES): Jim Anderson spoke on working with Doug Thomas (BWSR) and Greg Larson (BWSR) on digitizing the state-wide soil surveys.

Department of Agriculture (MDA): Paul Burns announced the replacement of Earl Renneke by Will Anthony and also mentioned the continuation of Conservation Reserve Program (CRP) mapping. The funding deadline is December 1, 1995. Last time 50 responded and 45 were funded. He is hoping for more this time.

Minnesota Association of Soil and Water Conservation Districts (MASWCD) - Jim Schafer reported that he was pleased to receive a Reinvest in Minnesota (RIM) Reserve 10th Anniversary award on behalf of the MASWCD and commended BWSR on our joint partnership.

Minnesota Association of Townships (MAT) - Franklin Denn reported on the Townships.

The next BWSR Meeting is scheduled for December 20, 1995

95-72**

Moved by Marvell Tripp, and seconded by Jim Rossman, to adjourn the meeting at 12:30 p.m. Motion passed on voice vote.

Respectfully Submitted,



Barbara Cobb
Chair



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MEMORANDUM

Date: October 27, 1995

To: County Board Commissioners
Soil & Water Conservation District Supervisors
Watershed District Managers
Cities Administering the WCA
Townships Administering the WCA

From: Barbara Cobb, Chair, MN Board of Water and Soil Resources *BC*

Subject: **WETLAND CONSERVATION ACT - LOCAL GOVERNMENT OBLIGATIONS**

As you are aware, the Board of Water & Soil Resources continues to promote changes to the Wetland Conservation Act (WCA) to address concerns that have been raised by local government during the first few years of program implementation. Changes are needed to provide the streamlining and flexibility necessary to make the act work effectively and efficiently. These changes are reflected in the draft compromise bill, dated August 8, 1995, which you received previously. The involvement and support of counties and other local governments is imperative in making these changes become law. I encourage you and your staff to contact the BWSR regional staff (list attached) to discuss, in detail, the proposed changes to the Act and any ideas you have for making it work better.

There continue to be efforts underway to persuade counties to cease their implementation of the WCA as a show of support for changes. The model resolution that is being circulated contains several errors and false statements and does not acknowledge the changes that are being proposed to address many of the concerns of local governments. Non-implementation of the WCA can have a significant impact on your constituents' ability to conduct their construction activities and, consequently, may subject local governments to litigation. Therefore, I ask that you thoroughly review and consider the attached BWSR resolution as well as the following legal and practical consequences if you are contemplating a decision regarding your implementation of the WCA.

1. **LEGAL OBLIGATION TO IMPLEMENT.** Implementation of the WCA is not optional under state law. Minnesota Statute 103G.2242, Subd. 1, item (d) states "If a local government unit fails to apply the rules or fails to implement a local program..., the government unit is subject to a penalty as determined by the board." The penalty is a moratorium that exists on the local governments unit's jurisdiction on exemption, no-loss, replacement plan, and wetland banking determinations as prescribed in Minnesota Rule Chapter 8420.0260.

2. **MORATORIUM.** The WCA gave responsibility for administration of the program to local governments units (LGUs), specifically; counties and cities, and in the metro area; water management organizations, cities and towns. If the LGU does not acknowledge its responsibility for implementation the program, or if the LGU rescinds its previously acknowledged responsibilities, a moratorium exists on the LGU's jurisdiction for determinations on exemptions, no-loss, replacement plans, and wetland banking. The effect of the moratorium is that all non-exempt wetland projects are prohibited as landowners and project sponsors will have no place to get approvals for replacement plans or determinations for exemption/no-loss. Non-exempt activities conducted in areas where the LGU is not implementing the program are subject to the issuance of cease and desist orders by DNR Conservation Officers, County Sheriffs, city police and other peace officers with restoration orders to correct the situation issued shortly thereafter. Wetland banking projects or approvals of replacement plans cannot occur if a LGU is not implementing the WCA.

3. **LIABILITY.** To date, no legal claims have been filed against local governments because of the WCA. However, since landowners cannot conduct activities that would otherwise be allowable under the WCA if a local government is not implementing the WCA, the local government is at risk of lawsuits for its lack of implementation. The proposed changes to the WCA include provisions for state acceptance of liability caused through proper LGU administration of the program.

4. **FUNDING.** Pursuant to BWSR decisions at the September 27, 1995 Board meeting, LGUs that are not implementing the WCA will be required to return the WCA portion of the Natural Resources Block Grant (NRBG) funds and will be ineligible to receive WCA funds. Counties must acknowledge implementation of the WCA by January 16, 1996, as part of the NRBG application deadline or the FY96 WCA portion of the NRBG will be withheld and reallocated to other LGUs for this grant cycle. If a county rescinds WCA after they have received an NRBG grant they will be required to return the WCA funding.

5. **BWSR COMPROMISE PROPOSAL.** The BWSR compromise WCA amendments proposal is just that, a compromise proposal. We believe that it reflects the significant negotiation and compromise between the numerous interest groups last year. Everybody supports change, however, the "devil is in the details" and we feel the details of this proposal deserve your consideration and support. BWSR's plan of action would have the compromise WCA proposal passed by the legislature and signed by the Governor early in the 1996 legislative session so that the changes are in place for the 1996 spring construction season. Emergency rule provisions would provide for quick adoption of rules (60 days) that reflect the legislative changes. If the legislative process does not acknowledge the effort put into negotiations and compromises last year, but instead chooses to start again from the beginning, it will be difficult to achieve passage and signing of a bill to meet spring construction timeframes. Therefore, it is critical that each local government look closely at the BWSR compromise proposal, review it with your staff, and make recommendations for the components you support.

Most local governments have taken a strong role in water resources management and have put forward a solid effort to make the WCA work in spite of the need for changes. The BWSR acknowledges the need for changes to the WCA and strongly encourages local governments to review the proposed WCA compromise amendments with their staff and judge for themselves what will be acceptable and offer *specific* ideas to change provisions that are not acceptable.

As I stated earlier, if you have any questions or would like to have a detailed discussion about the proposed changes to the WCA, please contact our Regional Staff to make arrangements for them to attend a meeting with you.

BC/JJ

Attachments

1. BWSR Resolution (dated 10/27/95)
2. listing of BWSR Regional Staff

c: County Attorneys
County Engineers
SWCD Offices
County Planning and Zoning Administrators
Wetland Heritage Advisory Committee Members
Ron Harnack, BWSR Executive Director
BWSR Staff
BWSR Board Members
Ron Nargang, DNR Deputy Commissioner
DNR Wetland Enforcement Officers
Ben Wopat, Regulatory Chief, U.S. Army Corps of Engineers
Nick Riley, MN Association of Minnesota Counties
Dave Weirens, MN Association of Minnesota Counties
Ray Bohn, MN Association of Watershed Districts
D'Wayne DeZiel, MN Association of Soil and Water Districts
Joel Jamnik, League of Minnesota Cities
David Fricke, Minnesota Association of Townships
Matt Seltzer, Attorney Generals Office
Governor Carlson's Office

s:comm.wca

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

RESOLUTION NO. 95-70

RECITALS:

A. Minn. Stat. Sec. 103G.005, subd. 10a (1994) provides that the local government unit ("LGU") for the implementation of the Wetland Conservation Act ("WCA") will be "a city council or county board of commissioners" outside of the seven-county metropolitan area and "a city council, town board, or a watershed management organization" in the seven-county metropolitan area.

B. Minn. Stat. Sec. 103G.2242, subd. 1(d) (1994) provides that, if a LGU fails to implement WCA, the LGU will "be subject to penalty" as determined by the Board of Water and Soil Resources ("BWSR").

C. Minn. Stat. Secs. 103B.3355(a), 103G.2242, subd. 1(a) (1994) require BWSR to adopt rules to implement WCA. BWSR has adopted these rules, and they appear in Chapter 8420 of Minnesota Rules. The rules adopted by BWSR have the force and effect of law. See Minn. Stat. Sec. 14.38, subd. 1 (1994).

D. Minn. R. 8420.0260 (1993) requires each LGU to acknowledge by January 1, 1994 that it is assuming its responsibilities under WCA statutes and rules. A LGU which does not provide this acknowledgment is subject to a 60-day moratorium on the LGU's jurisdiction on exemption, no-loss, replacement plan, and banking determinations. BWSR can extend the 60-day moratorium until the LGU acknowledges its responsibilities under WCA statutes and rules.

E. Five county boards (Beltrami, Koochiching, Lake, Marshall, and Pennington) did not acknowledge their responsibilities under WCA statutes and rules by January 1, 1994. These county boards became subject to the 60-day moratorium on their LGU jurisdiction. The 60-day moratorium was extended by BWSR until the county boards acknowledge their responsibilities under WCA statutes and rules.

F. A number of additional county boards which originally acknowledged their responsibilities under WCA statutes and rules now indicate that they may or will rescind their previous actions. A LGU which rescinds its acknowledgment will be subject to the 60-day moratorium on its LGU jurisdiction. BWSR can extend the moratorium until the LGU acknowledges its responsibilities under WCA statutes and rules.

G. A LGU which has never acknowledged its responsibilities under WCA statutes and rules or which rescinds its acknowledgment is in violation of state law.

H. BWSR makes grants to county boards under the Natural Resource Block Grant (NRBG) program. A portion of the funds granted to county boards under the NRBG program is for the implementation of WCA. County boards which have never acknowledged their responsibilities under WCA statutes and rules or which rescind their acknowledgments are ineligible to receive funds for the implementation of WCA under the NRBG program.

I. This Resolution is adopted to confirm the status of the moratorium for the county boards that never acknowledged their responsibilities under WCA statutes and rules, confirm the status of the moratorium for any LGU which rescinds its acknowledgment, and confirm the status of NRBG grants. This resolution is also adopted to commend the numerous county boards and other LGUs throughout the state that have acknowledged their responsibilities under WCA statutes and rules and are doing an excellent job in the implementation of WCA.

NOW, THEREFORE, BE IT RESOLVED:

1. The county boards that have never acknowledged their responsibilities under WCA statutes and rules (Beltrami, Koochiching, Lake, Marshall, and Pennington) will continue to be subject to the moratorium on their LGU jurisdiction pursuant to Minn. R. 8420.0260 (1993) until they acknowledge their responsibilities. The moratorium with respect to any of these county boards will automatically terminate without further action by BWSR at such time as the county board adopts a resolution consistent with Minn. R. 8420.0260 (1993) acknowledging that it is assuming its responsibilities under WCA statutes and rules.

2. If a LGU that originally acknowledged its responsibilities under WCA statutes and rules acts to rescind its acknowledgment, then the LGU will be subject to the 60-day moratorium on its LGU jurisdiction pursuant to Minn. R. 8420.0260 (1993). The 60-day moratorium will automatically go into effect without further action by BWSR on the effective date of the rescission. The 60-day moratorium will automatically terminate without further action by BWSR at such time as the LGU adopts a resolution consistent with Minn. R. 8420.0260 (1993) acknowledging that it is assuming its responsibilities under WCA statutes and rules. If the LGU does not adopt such a resolution prior to the end of the 60-day period, then the moratorium will automatically be extended without further action by BWSR. The extended moratorium will automatically terminate without further action by BWSR at such time as the LGU adopts the required resolution.

3. A LGU which is subject to a moratorium on its LGU jurisdiction will not have jurisdiction on exemption, no-loss, replacement plan, and banking determinations under WCA statutes and rules for the duration of the moratorium. Nothing in Minn. R. 8420.0260 (1993) or in this Resolution shall be deemed to prevent or limit the conduct of activities within the scope of the exemptions under WCA statutes and rules. See Minn. Stat. Sec. 103G.2241; Minn. R. 8420.0120 (1993). Non-exempt activities may be subject to cease and desist and restoration or replacement orders pursuant to Minn. Stat. Sec. 103G.2372 (1994) and Minn. R. 8420.0290 (1993).

4. County boards which have never acknowledged their responsibilities under WCA statutes and rules or which rescind their acknowledgments are ineligible to receive funds for the

implementation of WCA under the NRBG program. In order to receive funds for the implementation of WCA under the NRBG program for Fiscal Year 1996, a county board must acknowledge its responsibilities under WCA statutes and rules and fulfill all other requirements for its NRBG application by January 16, 1996. Any county board which rescinds its acknowledgment of its responsibilities under WCA statutes and rules is required to return to BWSR any grant funds for the implementation of WCA that are not expended as of the effective date of rescission.

5. BWSR commends the numerous county boards and other LGUs throughout the state that have acknowledged their responsibilities under WCA statutes and rules and are doing an excellent job in the implementation of WCA.

6. This Resolution restates, amends, and controls over anything which may be deemed to be to the contrary in any previous BWSR resolutions, actions, notices, or communications on the matters addressed by this Resolution.

UNANIMOUSLY ADOPTED OCTOBER 25, 1995
BY THE
MINNESOTA BOARD OF WATER AND SOIL RESOURCES

Barbara Cobb, Chair, Washington County
Dwain Otte, Dakota County
Ted Lovdahl, Jr. Itasca County
Tim Hvidsten, Marshall County
Ginny L. Imholte, Becker County
Barbara Uppgaard, Crow Wing County
Marvell J. Tripp, Nobles County
Darrell Bruggman, Aitkin County
James Rossman, Olmsted County
LeRoy Stensgaard, Pipestone County
Glenn Annexstad, Nicollet County
Kathleen Roer, Hennepin County


Barbara Cobb
Chair, MN Board of Water & Soil Resources

10-27-95
Date



MINNESOTA BOARD OF WATER AND SOIL RESOURCES

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Darrell Apelgrain, Area Engineer - 537-6125
VACANT - Feedlot Specialist - 537-6067
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Keith Grow, Board Conservationist - 828-6035
Pete Waller, Board Conservationist - 828-2564
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Mary Kells, Board Conservationist - 280-2873
Jolaine Bowman, Secretary - 285-7458

for more labels at once,
keep adding all the #'s
before printing.

BWSR MAILING DATA BASE Parent Group and Sub Group Master

Lorie

SUB GROUPS		A	103 PROJECT MANAGERS ✓
1	EAST CENTRAL SWCD OFFICES	AA	+ 3000 METRO CITIES
2	BWSR FIELD STAFF	AA1	- 3000 METRO CITIES
3	BWSR CENTRAL OFFICE STAFF	B	500 TECH
4	MASWCD E. CENT. REG. NOTICE		CITIES
5	RIM COALITION		CITIES
6	RIM WORK GROUP		COMMITTEE
6A	RIM RESERVE TECH WORK GROUP		GENERAL
7	CANNON RIVER		WCDs
8	COUNTY AUDITORS		ING - whole packet
9	WMO TECHNICIANS		IS (17)
10	WMO OFFICES		ES ONLY + agenda
11	WMO CHAIRS		
11A	WMO MEMBERS		
12	REGIONAL DEV. COMMISSIONER		
13	URBAN UPDATE SUPPLEMENT		
14	STATE REPRESENTATIVES		
15	STATE SENATORS		
16	METRO SWCD OFFICES		
17	SWCS OFFICERS		
18	OUTDOOR/SPORTS PUBL.		
19	MINN. CONSTRUCTION SITES	PA	WATERSHED DISTRICT MANAGERS
20	CLWP NOTICE OF FILING	Q	WATERSHED DISTRICT ADMINISTRATOR
21	METRO COUNTY ADMINISTRATORS	R	PLANNING AND ZONING ADMIN.
22	METRO GROUND WATER PLAN ALLIANCE	R1	WATERSHED DISTRICT OFFICE
23	SUPPLEMENTARY MENTOR LIST	S	METRO WD MANAGERS
24	METRO SWCD SUPERVISORS	T	WD PRESIDENTS
25	METRO ZONING ADMINISTRATORS		WD SECRETARIES
26	METRO COUNCIL MEMBERS	V	WD ENGINEER
27	CHAPTER 40.46 WORKGROUP	W	WD ATTORNEY
28	WATER BILLBOARD SUPPLEMENT	X	NEWSPAPERS AND BROADCASTERS
29	COUNTY AG INSPECTORS	Y	COUNTY WATER PLANNING COORD
30	COUNTY COMMISSIONERS	Z	MACDE DIRECTORS
31	METRO COUNTY COMMISSIONER		
32	DIRECTORY MAILING SUPPLEMENT <i>deleted</i>	CG	1993 CHALLENGE GRANTS
33	CHALLENGE GRANT CONTACTS	IA	INTERAGENCY WETLAND GROUP
34	SINKHOLE COUNTIES-SWCDs	MCSA	MCSA ADMIN. COMMITTEE
35	MN OFFICE OF ENVIRONMENTAL ASSISTANCE	MCST	MCCS TECH COMMITTEE
36	LGU WETLAND CONTACT	MNRB	MN RIVER BASIN SWCD's
37	ABANDONED WELL GRANTEES '92	TWET	WETLAND TRAINING TEAM
38	COUNTY HIGHWAY ENGINEERS	WEO	WETLAND ENFORCEMENT OFFICERS
39	WETLAND HAC MAILING LIST		
39A	WETLAND HAC MEMBERS		
40	WETLAND SUPPLEMENT		
41	WCA - ADMINISTRATION MANUAL		
42	WETLANDS NEWSLETTER		
43	WETLAND CONSULTANTS	P1	WATER BILLBOARD
44	ADVANCED WETLAND TRAINING	P2	MENTOR
45	COUNTY BOARD CHAIRS	P3	URBAN UPDATE
46	Well Sealing Cost-SHARE		

done 11/1/95
Lorie
10/23/95
this item and others need
to be copied & sent to the group/persons
on the above list & cc list as
the highlighted. Count up the
of copies (it will be a lot) &
divide whether to copy in house
or send out. It is a
high priority item.
gg.

wmo's are
metro on

PARENT GROUPS

36A - LGU - GP (General Permit) 17

for different counties put
in subparent group -
newspapers - etc.
a then select
counties

Louise

for different countries put
in Subparent group -
newspapers - etc.
a then select
countries

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BC/JJ

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2. listing of BWSR Regional Staff

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Joel Jamnik, League of Minnesota Cities
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Matt Seltzer, Attorney Generals Office
Governor Carlson's Office

FACSIMILE TRANSMITTAL COVER SHEET



DATE SENT: 10/20/95

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(Including This One)

FROM: MINNESOTA BOARD OF WATER AND SOIL RESOURCES
One West Water Street
SUITE 200
ST. PAUL, MN 55107

*Please deliver
A.S.A.P.!*

FAX NO. (612) 297-5615

TO: Matt Seltzer, A.G.

FAX: 297-4139

FROM: John Jarcke, BWSR

ph: 297-3432

REMARKS/COMMENTS: Attached are the Board resolutions
re: WCA non-implementation. As discussed earlier today, please
draft a resolution for the board comprehensively stating the
LGO implications of non-implementation of the WCA based on
statute & rule language. Parameters of the resolution are 1) A
decision is akin to non-acknowledgement, and 2) the moratorium is
automatic and continues until LGO implements. Will put this on the
agenda for Wed. Board mtg right ~~after~~ after your scheduled cu. update
TRANSMISSION PROBLEMS: CALL LORRIE (612) 296-3767
and right before our WCA presentation. FAX to me when its
ready.

*W. Mary Jo A.
Greg*

Bar H.

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BWSR Meeting Minutes

September 27, 1995

Page Four

Chair Cobb called for a break in the meeting at 10:10 a.m. The meeting reconvened at 10:20 a.m.

New Business

Chair Cobb introduced Dan Larson, the lobbyist representing the northern non-adopting counties. He invited board members and staff to meet with him and his constituents to discuss the wetland issues.

WCA Eligibility: Natural Resource Block Grant Issues - Greg Larson explained the Natural Resource Block Grant (NRBG) Program. He provided a number of alternatives that the BWSR Grants Team developed. Much discussion followed. Board members were concerned that linking water planning funds with the WCA funds would hurt those conservation programs and employees. However, some felt contempt with the premise of disobeying the law, stating WCA is not optional, the law is mandatory. Moved by Marv Tripp, seconded by Darrell Bruggman, to accept alternative #2 -- Continuation of the moratorium on projects that impact wetlands with DNR enforcement of violations. (This is the policy adopted at the July, 1995 BWSR meeting. Local governmental units (LGU's) that rescind will be required to return grant funds and will be ineligible to receive WCA funds until WCA is implemented. Acknowledgement by county of WCA adoption must occur by January 16, 1996 (NRBG application deadline) or the FY96 WCA portion of the NRBG is reallocated to other LGUs. (This is essentially the WCA fiscal policy of last year). If a county rescinds WCA after they have received an NRBG grant they will be required to return the WCA funding. Motion passed on voice vote.

BWSR strongly encourages counties to go through the WCA amendments with their staff and judge for themselves what will be acceptable. BWSR staff is available to meet with LGU's to discuss the changes proposed.

Ron said that SWCDs will receive \$5,000 regardless if the county rescinded WCA; as they are required by law to support enforcement actions under the WCA. Rossman asked Ron to demonstrate at the October meeting how the procedures work for SWCDs to administer the WCA program. BWSR acknowledged need for changes in WCA.

Natural Resources Block Grants (NRBG) - Wayne Zellmer explained the proposed 1996 NRBG. Staff requests that the BWSR approve the revised NRBG program and authorize staff to issue the allocations for the 1996 base grants according to Board policy. Ron thanked Department of Natural Resources (DNR) and Pollution Control Agency (PCA) for coordination among agencies for this grant program. Moved by Barbara Uppgaard, seconded by Marv Tripp, to authorize the 1996 NRBG allocation outlined and in accordance to the WCA grant eligibility motion previously passed. Motion passed on voice vote.

95-57

95-58

\$400. Affirmative: Annexstad, Bruggman, Cobb, Hvidsten, Imholte, Lovdahl, Otte, Roer, Rossman, Stensgaard, Tripp, and Uppgaard. Opposed: None. Carried.

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95-40

Moved by Jim Rossman, seconded by Bard Uppgaard, to endorse the Memorandum of Understanding between the BWSR and MNDOT, with the executive director to sign for BWSR. Affirmative: Annexstad, Bruggman, Cobb, Hvidsten, Imholte, Lovdahl, Otte, Roer, Rossman, Stensgaard, Tripp, and Uppgaard. Opposed: None. Carried.

WCANon-Adopting Local Governmental Unit (LGU) Policy - Greg Larson explained that staff have developed some options for consideration by the BWSR. The three options are: 1) A moratorium exists in any LGU that has not adopted the WCA. Therefore, no wetland activities other than exemptions are legal. The Department of Natural Resources enforcement officers and other local peace officers have the responsibility and authority to enforce the moratorium. The LGU attorney has the responsibility to enforce the actions of the peace officers. Currently five counties have not adopted and we have no indication that they will in the near future. 2) Take legal action to secure local administration of the program. This would involve the Attorney General's office filing suit against the local government in an effort to get the court to order administration of the program. 3) Cancel the natural resources block grant and ask other agencies to withhold financial assistance from those counties. The BWSR previously acted to only withhold the WCA funds from the LGUs. Greg stated that staff supports the first option. The moratorium, with proper enforcement, is the most efficient means to address the issue. Ron stated that it's BWSR ongoing policy to withhold their WCA funds if they continue not to adopt WCA. Greg stated that BWSR staff need to play a bigger enforcement role with the five non-adopting counties. Discussion followed. Moved by Marvell Tripp, seconded by Dwain Otte, to accept staff recommendation as status quo to continue with moratorium. Affirmative: Annexstad, Bruggman, Cobb, Hvidsten, Imholte, Lovdahl, Otte, Roer, Rossman, Stensgaard, Tripp, and Uppgaard. Opposed: None. Carried.

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95-41

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95-42

WCA Non-Complying LGUs Policy - Greg Larson commented on the draft BWSR policy WCA implementation corrective action policy; three-step process - staff to staff; staff to local officials; BWSR to remedy. Moved by Barb Uppgaard, seconded by Darrell Bruggman, to accept staff's recommended draft WCA implementation correction action policy. Affirmative: Annexstad, Bruggman, Cobb, Hvidsten, Imholte, Lovdahl, Otte, Roer, Rossman, Stensgaard, Tripp, and Uppgaard. Opposed: None. Carried.

Coastal Zone Management Report - Dan Retka, Department of Natural Resources, explained the Coastal Zone Management (CZM) program in Minnesota. The federal CZM program offers grants as incentives to keep the state CZM program active. The non-point pollution control program was evaluated in Minnesota and they are awaiting the national

Dec. 1994 mtg. 1/2

district. Affirmative: Annexstad, Hvidsten, Lovdahl, Otte, Rodning, Roer, Rossman, Tripp, and Uppgaard. Abstained: Peterson and Nielsen. Opposed: None. Carried.

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94-67

2) The second appeal was the League of Women Voters vs. City of Coon Rapids. This matter was heard on 12/6/94. The appeal was whether or not the local governmental unit (LGU) met BWSR terms of process. Matt Seltzer, Attorney General's Office, recommended that the DRC review additional documents to be included as matter of record. The DRC's unanimous vote was to affirm the LGU's decision; and to exclude exhibit G and H from the record. Moved by Roer, seconded by Otte, to affirm the DRC's recommendation. Affirmative: Annexstad, Hvidsten, Lovdahl, Otte, Peterson, Rodning, Roer, Rossman, Tripp, Uppgaard, and Nielsen. Opposed: None. Carried.

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94-68

Roer said that the Trout Unlimited vs. Shakopee appeal was somewhat premature. The DRC decided to dismiss the appeal at this time without prejudice. Moved by Roer, seconded by Tripp, that the Board recommend dismissal of the appeal without prejudice. Affirmative: Annexstad, Hvidsten, Lovdahl, Otte, Peterson, Rodning, Roer, Rossman, Tripp, Uppgaard, and Nielsen. Opposed: None. Carried.

Chairman Nielsen instructed staff to prepare orders consistent with board's decisions.

Roer commented that there have been genuine differences regarding interpretations of some wetland rule and law provisions. Ron stated that several of these issues have been brought up before Wetland Heritage Advisory Committee (WHAC) and will be part of WHAC's report brought before the BWSR in January. Roer stated that interpretations need to be consistent.

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94-69

Water Plan Review Committee - Warren Rodning reported that the Water Plan Review Committee met on December 6, 1994, to review Koochiching County Water Plan; Wild Rice Watershed District Water Plan; Pelican River Watershed District Water Plan. The Review Committee recommended that the full BWSR approve these plans. Moved by Rodning, seconded by Lovdahl, to approve the Koochiching County Water Plan; Wild Rice Watershed District Water Plan; and the Pelican River Watershed District Water Plan. Affirmative: Annexstad, Hvidsten, Lovdahl, Otte, Peterson, Rodning, Roer, Rossman, Tripp, Uppgaard, and Nielsen. Opposed: None. Carried.

1995 Natural Resource Block Grant Allocation - Wayne Zellmer asked BWSR to authorize grants as proposed. Staff recommendation is to only withhold the Wetland Conservation Act (WCA) portion for next year if the county has not adopted the WCA; or if they have not returned the funds to withhold the entire block grant until the WCA 1994 funds are returned. Discussion followed. Moved by Tripp, seconded by Uppgaard, to withhold block grant from three counties - discussion followed. Uppgaard withdrew her second to the motion. Moved by Lovdahl, seconded by Rodning, to accept the block grant, except withhold 1995 WCA funds if they have not adopted, withhold 1994 amount owed. Discussion followed. Rodning withdrew his second to the motion. Moved by Lovdahl,

Dec. 1994 mtg. 2/2.

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seconded by Otte, to authorize 1995 block recommendations as made by staff subject to withholding 1995 WCA portion of block grants for those counties who have not adopted WCA; pursue collection efforts; and to give legal counsel authority to commence legal action if necessary. Discussion followed; motion withdrawn. Roer offered another motion, seconded by Tripp, to authorize 1995 grants as prepared by staff, with assumption that WCA funds will be withheld from the five counties that have not adopted; counties that have not adopted WCA and not returned their 1994 WCA grant monies will have their entire block grant withheld until monies are returned.

Chairman Nielsen called for a recess in the meeting to correct language in Roer's motion.

Chair recessed the meeting at 10:40 a.m. The meeting reconvened at 11:00 a.m.

94-70

94-70

The motion by Roer, seconded by Tripp, will read, "Authorize 1995 grants as prepared by staff and withhold 1995 WCA portion from those counties that have not adopted WCA. If by December 15, 1994, any county which has not adopted WCA has not returned the 1994 WCA portion of its 1994 grant, the entire 1995 block grant to that county will be withheld until such time as those funds are returned. Rodning said he opposes this motion, due to legal, moral and political reasoning. Affirmative: Annexstad, Otte, Peterson, Roer, Tripp, and Nielsen. Opposed: Hvidsten, Lovdahl, Rodning, Rossman, and Uppgaard. Carried.

Wetland Heritage Advisory Committee (WHAC) Status Report and Status of Non-Adoption Counties - Greg Larson said WHAC met on November 2 and 14. Joan Miska asked Greg to set up ad hoc committee to embellish on issues. It was reported that Joan Miska will be retiring as member of the WHAC. The WHAC will make recommendations to full BWSR at January meeting. Chairman Nielsen said once we have legislative agenda, and we understand what administration's position is, we may have to be active to get support.

Status of Appeals Before the Board - Jim Birkholz gave an update on an appeal complaint filed, Audubon vs. Nine Mile Creek Watershed District.

Jim gave a synopsis of the agreement:

BWSR will expedite review of Nine Mile Creek Watershed District Water Management plan in cooperation with commenting agencies; BWSR will temporarily stay a decision on the Audubon complaint; parties will share information on progress at least monthly; BWSR will approve the water management plan when the law and rule requirements are met; the watershed district will adopt and implement the water management plan within 120 days of Board approval.

1. Approve the basis of the draft agreement between BWSR, Audubon and Nine Mile Creek WD;

2. ~~Appoint an ad hoc committee to work with staff regarding guidance for approval of~~

Oct. 1994 mtg.

Committee Reports -

Feedlot Advisory Committee - Jim Rossman reported that the new feedlot committee is in the process of being formed, nothing to report at this time.

Dispute Resolution Committee (DRC) - Kathy Roer reported that the DRC met on October 13 to hear WCA appeals. The next scheduled meeting of the DRC is November 10 when four appeals may be heard, depending upon the process. The committee's December 8 meeting has been rescheduled for the afternoon of Tuesday, December 6, since the committee needs to meet the day before the full BWSR.

Wetland Conservation Act (WCA) Grant Agreements - Greg Larson and Matt Seltzer, Attorney General's office, discussed the issue of the three counties (Beltrami, Marshall, and Pennington) that have not adopted WCA or returned the grant fund. Lake County did not request funding and Koochiching County returned funds, although they have not adopted the Wetland Conservation Act. Matt sent a letter to each county attorney regarding the grant issue. He stated that there are two issues here; one is contractual related to the return of funds and the other is the basic issue of counties implementing the act as required by law and rule. Rossman suggested getting the parties together possibly at the Association of Minnesota Counties (AMC) convention in December, to address this issue. Chairman Nielsen asked Matt to follow up with the county attorneys involved to see where they are on this. Kathy suggested also meeting with Lake and Koochiching Counties. Discussion followed. Moved by Otte, seconded by Lovdahl, that BWSR would obligate the counties to fulfill the law, to pursue discussion with five counties in terms of adopting, and also pursue parallel actions to get funds returned, with a deadline of December 15. Affirmative: Cobb, Hvidsten, Lovdahl, Otte, Peterson, Rodning, Roer, Rossman, Tripp, and Nielsen. Opposed: None. Carried. Chairman Nielsen instructed Matt Seltzer to contact the county attorneys to set up a meeting. Ron and Matt will report back to full BWSR at the December board meeting.

94-60

Revised Draft of Rules Regarding Watershed District Appeals - Doug Thomas and Matt Seltzer introduced and discussed the draft. There are two components: one, a formal appeal process and two, an informal dispute resolution role. Matt explained the appeal process structure. Kathleen Roer and Howard Peterson have met with Matt and Doug on this process and thanked them for their time. Kathy said the draft is for information and comment. Doug said the outside solicitation process for comments will close at the end of January.

Chairman Nielsen called for a break in the meeting at 10:20 a.m. The meeting reconvened at 10:30 a.m.

Watershed District Overall Plan Guidelines - Doug Thomas reviewed the guidelines for the board. Doug thanked the BWSR Bemidji office for meetings held in the northern region. Two districts responded with specific changes. Staff recommends and requests approval of the guidelines. Moved by Tripp, seconded by Cobb, to approve the watershed district

94-61

Sept. 1994 mtg.

2

Chairman Nielsen called the meeting to order at 8:35 a.m.

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94-50 **Adopt Agenda** - Moved by Otte, seconded by Tripp to adopt the agenda as presented. Affirmative: Annexstad, Cobb, Hvidsten, Lovdahl, Otte, Rodning, Roer, Rossman, Tripp, Uppgaard, and Nielsen. Opposed: None. Carried.

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94-51 **Minutes of August 24, 1994** - Moved by Tripp, seconded by Cobb, to approve the minutes of August 24, 1994 as circulated. Affirmative: Annexstad, Cobb, Hvidsten, Lovdahl, Otte, Rodning, Roer, Rossman, Tripp, Uppgaard, and Nielsen. Opposed: None. Carried.

Reports

Chairman's Report - Chairman Nielsen received a letter from Pine County regarding their water plan, this will be on an upcoming agenda.

Chairman Nielsen briefly reported on the Redwood County feedlot problem. He has been in contact with Elton Redalen, Commissioner of the Department of Agriculture. Chairman Nielsen stated that there is a need to encourage SWCDs to address these matters before they become problems; BWSR should develop a policy to address this.

Chairman Nielsen received the Legislative Auditor's Report regarding BWSR's LCMR programs. Jim Rossman reported that BWSR probably got a B+; he was surprised to see five auditors at the meeting. Ron Harnack stated that the audit report that BWSR members received was a follow-up from last years audit of LCMR (Environmental Trust) programs. We have not yet received the Legislative audit report from this years agency audit.

Chairman Nielsen thanked Bruce Sandstrom, Jim Haertel and Barbara Ohman for the tour.

Executive Director's Report - Ron Harnack reported that the Wetland Heritage Advisory Committee (WHAC) met. The WHAC will meet two more times before December. Based on the WHAC report, the desire is to develop a consensus bill by January, for Wetland Conservation Act changes.

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94-52

Ron stated that Koochiching County returned \$15,000 WCA funds to BWSR. The other three counties (Beltrami, Pennington, Marshall) are still in default of the contract; the counties signed the agreement and received money. Discussion followed. Chair referred this back to staff to come up with appropriate plan for BWSR's review and action at October meeting. Ron has been in contact with Matt Seltzer to discuss options. Moved by Roer, seconded by Cobb, to direct legal council to draft a legal document and letter to the county attorney stating obligations and accountability. Affirmative: Annexstad, Cobb, Hvidsten, Lovdahl, Otte, Rodning, Roer, Rossman, Tripp, Uppgaard. Opposed: Nielsen. Carried.

Conventions - members interested in attending the conventions of the Minnesota Association of Soil and Water Conservation Districts, the Association of Minnesota

May 1994 mtg.

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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.

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94-30

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

correction

MN Wetland Conservation Act (WCA)

Questions and Answers - Agricultural Issues

11/11/90

Q: Does the WCA allow public access onto private land.

A: No. the WCA explicitly does not:

- (1) grant the public additional or greater right of access to the wetlands;
- (2) diminish the right of ownership or usage of the beds underlying the wetlands, except as otherwise provided by law;
- (3) affect state law forbidding trespass on private lands;
- (4) require the DNR to acquire access to the wetlands.

Q: Are normal farming practices regulated by the WCA?

A: No. (a) Tillage, cropping and pasturing are not regulated.

(b) A property owner may use the bed of wetlands for pasture or cropland during periods of drought if:

- (1) dikes, ditches, tile lines, or buildings are not constructed; and
- (2) the agricultural use does not result in the drainage of the wetlands.

(c) A landowner may fill a wetland to accommodate wheeled booms on irrigation devices if the fill does not impede normal drainage.

Q: Are farmers enrolled in the USDA Federal Farm Program subject to the WCA?

A: No. Enrolled farmers conducting agricultural activities in compliance with USDA program requirements are exempt from the WCA.

Q: Which agricultural activities are exempt from the WCA?

A: Wetland Conservation Act exemptions allow:

- i. drainage system maintenance which drains wetlands to a level that existed 20 years prior to the drainage request;
- ii. drainage system maintenance which fills wetlands that have been in existence for more than 20 years when the wetlands are located within the right-of-way acreage of the ditch or within a one rod width on either side of the ditch, whichever is greater, and the filling is limited to the side casting of spoil materials resulting from the maintenance and the spoil deposition area is permanently seeded into grass after maintenance activities are completed;
- iii. lowering the elevation of previously placed tile when made necessary by land subsidence provided the lowering does not drain wetlands;
- iv. drainage of wetlands that have formed in the bottom of ditches or were created solely as a result of beaver dam construction;
- v. maintenance of ditches affecting land that was planted with annually seeded crops, was in a crop rotation seeding of pasture grasses or legumes, or was required to be set aside to receive price supports or other payments under United States Code, title 7, sections 1421 to 1469, in *six of the last ten years* prior to January 1, 1991;
- vi. drainage of type 1 wetlands on agricultural land; and,
- vii. drainage of type 2 wetlands less than two acres in size on agricultural land.

Q: Can local government decisions on WCA matters be appealed?

A: Yes. Appeal may be made by the wetland owner, by any of those to whom notice of project decisions is required to be mailed or by 100 residents of the county in which a majority of the wetland is located. All appeals must be heard by the committee for dispute resolution of the board, and a decision made within 60 days of the appeal. Appeals of BWSR decisions are appealed to the State Court of Appeals.

Q: Who enforces the WCA?

A: DNR Conservation Officers, and local peace officers. A DNR Conservation Officer, or a local peace officer may issue a cease and desist order to stop any illegal activity adversely affecting a wetland. The order, or a separate order issued by the officer may require restoration or replacement of the wetland, as determined by the local soil and water conservation district.

Q: Are farmers compensated for wetlands that must be preserved?

A: A person whose replacement plan is not approved must be compensated if the person:

- (1) the person applies for replacement plan approval
- (2) the replacement plan is not approved or the plan conditions make the proposed use unworkable or not feasible;
- (3) the person appeals the disapproval of the plan;
- (4) the proposed use would otherwise be allowed under federal, state, and local laws, rules, ordinances, and other legal requirements;
- (5) the person has suffered or will suffer damages;
- (6) disallowing the proposed use will enhance the public value of the wetland; and
- (7) the person applies to the board for compensation.

The board shall award compensation in an amount equal to 50 percent of the average equalized estimated market value of agricultural property in the township as established by the commissioner of revenue at the time application for compensation is made.

Q: How will the proposed changes to the WCA provide relief beyond the existing law for agricultural activities? *referring to bill 8/8/95*

A: 1.) Agricultural land is defined more broadly as:

- (a) land used for horticultural, row, close grown, pasture, and hayland crops; growing nursery stocks, and animal feedlots; and
- (b) contiguous land and buildings under the same ownership, including farmyards, associated with the lands listed in clause (a).

2.) Exempts type 6 wetlands less than 2 acres on ag land.

3.) Exempts type 1, type 2 and type 6 parts of larger wetlands on ag land (as per an approved conservation plan) to allow for efficient farming operations. *grasses shrubs*

4.) Exempts impacts to wetlands that have existed for less than 25 years as part of a ditch maintenance project and affirms other drainage exemption language. *extension from 20 yrs*

5.) Allows replacement and wetland banking credit for vegetative restoration of farmed wetlands.

6.) Allows replacement and wetland banking credit for maintaining wetlands restored under an expiring conservation agreement.

Detailed Assessment of
BWSR 8/07/95 Draft Bill
Minnesota Wetland Conservation Act



Provides relief beyond the existing law for:

COUNTIES WITH MORE THAN 80 PERCENT PRESETTLEMENT WETLANDS

- * **Deminimus.**
 - Exempts 10,000 square feet of wetland, except for types 3,4 and 5, regardless of the size of the project, outside of *shoreland wetland protection zones* defined as 1000 feet from a lake and 300 feet from a river or stream.
 - the local government may increase the deminimus amount to 1000 square feet in counties with more than 80 percent of their presettlement wetlands remaining in the shoreland wetland protection zone in areas beyond the building setback if the wetland is isolated and is determined to have no surficial hydrologic connection to the public water.
- * **Public Roads.**
 - Exempts two acres outside of shoreland areas within existing right-of-way for existing roads.
 - allows cash banking for road projects at a subsidized rate requiring a payment of only twice the land value of the impacted wetland, meaning road authorities would pay about 10% of actual cost.
- * **Replacement.** Allows replacement credit for the installation of upland buffer areas and water quality treatment ponds adjacent to wetlands. (In all counties, not just those with more than 80 percent of wetlands remaining.)
- * **Wetland Planning:** may classify wetlands based on wetland function to:
 - o varying the application of sequencing standards;
 - o varying wetland replacement standards based on a functional assessment; and then
 - replace wetlands at less than a 1 acre for 1 acre ratio, provided there is no net loss of public values and biological diversity within the plan area;
 - allow additional replacement credit for any project that increases the public value of wetlands including those activities on adjacent uplands; and
 - o varying wetland exemption standards based on a functional assessment:
 - adjust the application of the type 1 and type 2/6 exemptions to non-ag

- * streamlines notification and approval process.
- * **Sequencing:** Provides for determination without written alternatives analysis for small projects impacting less than 20,000 square feet. (In all counties, not just the counties with greater than 80 percent of their wetlands remaining.)
- * **Wildlife Habitat Improvement.** Exempts deposition of one-half acre of spoil resulting from excavation within a wetland for wildlife habitat improvement purposes. (In all counties, not just those with greater than 80 percent of their wetlands remaining.)

Provides relief beyond the existing law for:

SMALL LANDOWNERS & DEVELOPERS

- * streamlines notification and approval process.
- * exemptions are simplified and categorized for better understanding.
- * exempts incidental wetlands for private landowners.
- * exempts repair and updating of existing individual sewage treatment systems as necessary to comply with local, state and federal regulations.
- * **Deminimus.** Exempts the following amounts of wetlands as part of a project, that are not type 3, 4, or 5, regardless of the total amount of wetlands filled as part of a project:
 - (i) 10,000 square feet outside of shoreland wetland protection zones in counties or watersheds with more than 80 percent of their presettlement wetlands remaining;
 - (ii) 5,000 square feet of wetland outside of shoreland wetland protection zones in counties or watersheds with more than 50 percent and less than 80 percent of their presettlement wetlands remaining;
 - (iii) 2,000 square feet of wetland outside of shoreland wetland protection zones in counties or watersheds with less than 50 percent of their presettlement wetlands remaining; or
 - (iv) 400 square feet of wetland in shoreland wetland protection zones except that in counties with greater than 80 percent of their presettlement wetlands remaining the local government may increase the deminimus amount to 1000 square feet in counties with more than 80 percent of their presettlement wetlands remaining in the shoreland wetland protection zone in areas beyond the building setback if the wetland is isolated and is determined to have no surficial hydrologic connection to the public water.
- * Allows replacement credit for:
 - 1. the installation of upland buffer areas; and
 - 2. water quality treatment ponds adjacent to wetlands; and
 - 3. for vegetative restoration of farmed wetlands; and
 - 4. for maintaining wetlands restored under an expiring conservation agreement.
- * Provides for Sequencing determination without written alternatives for small projects.
- * **Wildlife Habitat Improvement:** exempts deposition of one-half acre of spoil resulting from excavation within a wetland for wildlife habitat improvement purposes
- * Requires the Lincoln-Pipestone rural water district and the DNR to develop a management plan to ensure adequate domestic water supply and environmental protection for the Burr Well Field operation.

Provides relief beyond the existing law for:

AGRICULTURAL ACTIVITIES

- * **Agricultural land is defined more broadly as:**
 - (1) land used for horticultural, row, close grown, pasture, and hayland crops; growing nursery stocks, and animal feedlots; and
 - (2) contiguous land and buildings under the same ownership, including farmyards, associated with the lands listed in clause (1).
- * **Exempts type 6 wetlands less than 2 acres on ag land.**
- * **Exempts type 1, type 2 and type 6 parts of larger wetlands on ag land (as per an approved conservation plan) to allow for efficient farming operations.**
- * **Exempts impacts to wetlands that have existed for less than 25 years as part of a ditch maintenance project and affirms other drainage exemption language.**
- * **Allows replacement credit for vegetative restoration of farmed wetlands.**
- * **Allows replacement credit for maintaining wetlands restored under an expiring conservation agreement.**

Provides relief beyond the existing law for:

PUBLIC ROADS

- * **reduces minimum replacement ratio** from 2:1 to 1:1 statewide when replacement is done via restoration of wetlands. The replacement ratio in counties with more than 80 percent of their presettlement wetlands remaining can be lower than 1:1 if adjusted via a local wetland plan.
- * **allows greater than 80 percent counties to do subsidized cash banking** for road projects at a reduced rate requiring a payment of only twice the land value of the impacted wetland (approx. 10 percent of actual cost).
- * **exempts projects within the right-of-way on existing roads as follows;**
 - (a.) **two acres** outside of shoreland wetland protection zones in counties and watersheds with greater than 80 percent of their presettlement wetlands remaining; and
 - (b.) **one acre** outside of shoreland wetland protection zones in counties and watersheds with greater than 50 percent and less than 80 percent of their presettlement wetlands remaining; and
 - (c.) **one-half acre** outside of shoreland wetland protection zones in counties and watersheds with less than 50 percent of their presettlement wetlands remaining.
- * **streamlines notification and approval process.**
- * **Allows replacement credit for:**
 - 1. the installation of upland buffer areas; and
 - 2. water quality treatment ponds adjacent to wetlands; and
 - 3. for vegetative restoration of farmed wetlands; and
 - 4. for maintaining wetlands restored under an expiring conservation agreement.

Provides relief beyond the existing law for:

LOCAL GOVERNMENT FLEXIBILITY

Allows local governments to adopt local **comprehensive wetland protection and management plans** which, after approval by the board of water and soil resources, provide an alternative to the rules governing the wetland conservation act while retaining no-net-loss of public values. The plans offer the following specific relief from the rules *beyond* that provided by changes elsewhere as noted above:

* local governments may **classify wetlands** based on wetland function; this assessment forms the basis for:

- varying the application of **sequencing** standards;
- varying wetland **replacement** standards; based on the functional assessment local governments may replace at less than a 1 acre for 1 acre ratio, provided that there is no net loss of public values;
- allowing local governments to:
 - (i) allow **additional replacement credit** for any project that increases the public value of wetlands including those activities on adjacent uplands; and
 - (ii) **adjust** the application of the type 1 and type 2/6 **exemptions** to non-ag land.
 - (iii) **adjust** the application of the road and de minimus **exemptions**.

* To ensure local governments that **state agencies will participate in the planning process**, state agencies may only comment on issues outside of their authority if they participate in the planning process from the outset. Further, in determining the merit of an agency comment, the board of water and soil resources must consider the involvement of a state agency in the development of a local wetland plan.

* State agencies operating within the plan area must notify the local government of their actions.

* Board **rules are not required** to guide the development or approval of a local wetland plan.

* Plans will be consistent with the local water planning process and incorporated into ordinances.

* Board disapproval of a plan requires a statement of deficiency and will result in a hearing in the local government. The board's decision can be appealed to court.

* Counties are given the **option** of participating in the Wetland Preservation Program which provides a property tax exemption to landowners owning wetlands in High Priority Areas as identified in their local water plans. The state reimburses the county for the lost tax revenue.

Provides relief beyond the existing law for:

LOCAL GOVERNMENT COMPENSATION

Requires the state to pay claims against, and assist in the defense of, the local government if they are properly implementing the law and a court awards a takings or damages claim against the local government.

s:relief.WCA
BWSR/JJ 8-7-95

ENVIRONMENTAL REORGANIZATION

Section 1. FINDINGS.

The legislature finds as follows: the current assignment of environmental and natural resources programs among many state agencies creates confusion and frustration for citizens and decision makers. The environmental and natural resources services provided by these programs can be better delivered by reorganizing related functions so that citizens of Minnesota have easier access to the programs. Reorganization can provide more responsiveness to citizens, will ensure less fragmentation of environmental and natural resources policies, will minimize overlapping responsibilities among agencies, and will ensure better coordination of environmental and natural resources policies.

Sec. 2. REORGANIZATION.

Subdivision 1. GOALS. The legislature finds that it is desirable to develop a plan to reorganize state services relating to the protection of the environment, protection of farmland, and the management of natural resources to achieve the following goals:

- (1) sustainable development throughout all regions of the state and all sectors of the economy;
- (2) improved delivery of services;

New language is indicated by underline, deletions by strikeout.

- (3) a preventative, precautionary approach to environmental degradation;
- (4) citizen participation in relevant decision-making processes; and
- (5) progressively less air, land, and water pollution.

Subd. 2. DEFINITION. "Sustainable development" means management and development of environmental resources to ensure both sustainable human progress and environmental protection by meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Sec. 3. OUTCOMES.

A reorganization plan must show how state agencies can be reorganized to achieve the following outcomes:

- (1) consolidation, where appropriate, of many of the state's diverse environmental and natural resource programs;
- (2) better coordination of programs and activities relating to environmental and natural resource matters;
- (3) improved citizen access to pertinent, understandable information;
- (4) establishment of an expeditious review process for agency actions;
- (5) establishment of a policy planning framework for sustainable development;
- (6) integrated licensing and permitting through a single access point;
- (7) identification and review of specifications and programs that should be eliminated or accomplished by different means;
- (8) decentralization of the service-delivery system for the benefit of citizens of the state as consumers of services;
- (9) management based on appropriate geographical natural resource characteristics;
- (10) development of the polluter-pays principle through a balanced system of regulatory controls and financial incentives; and
- (11) the flexibility to enable state and local governments to coordinate and cooperate as well as identify and address existing and emerging environmental issues of state, national, and international import.

Sec. 4. REORGANIZATION STUDY.

Subdivision 1. GOVERNOR'S DESIGNEES. Within 30 days of the effective date of this section, the governor shall designate a commissioner or group of commissioners to develop a plan to reorganize state services relating to the pro-

New language is indicated by underline, deletions by strikeout.

tection of the environment and the management of natural resources. The governor's designee or designees shall consult with legislators designated by the legislative coordinating commission under subdivision 2 in developing the plan.

Subd. 2. LEGISLATIVE DESIGNEES. Within 30 days of the effective date of this section, the legislative coordinating commission shall designate a group of legislators to develop a plan to reorganize state services relating to the protection of the environment and the management of natural resources. The designees must include the chairs of the house and senate committees on environment and natural resources, unless the chairs decline. The legislative designees shall consult with the governor's designee or designees named under subdivision 1 in developing the plan.

Subd. 3. PUBLIC, STATE EMPLOYEE INPUT. The designees of the governor and the legislative coordinating commission may appoint stakeholder advisory councils to facilitate public input and state employee input on state services relating to the protection of the environment and the management of natural resources.

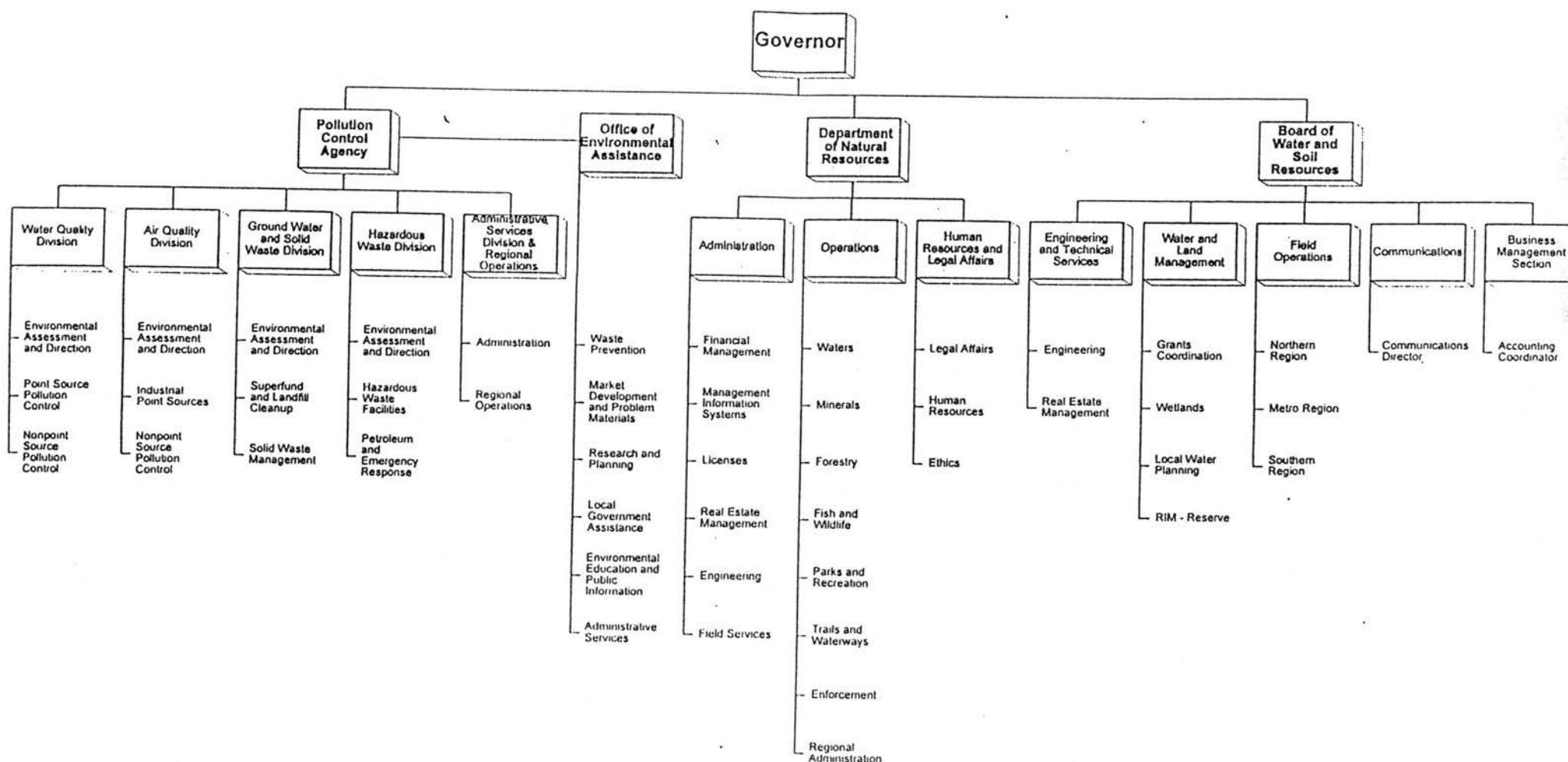
Subd. 4. ACTIVITIES. (a) The designees named under subdivisions 1 and 2 shall serve as partners in studying the delivery of state services and the performance of state functions and shall recommend changes that would achieve the goals and outcomes outlined in sections 2 and 3. These recommendations must be submitted to the legislature by December 15, 1996.

(b) As part of their study, the designees shall examine special purpose districts, including soil and water conservation districts, watershed districts, lake improvement districts, lake conservation districts, and water management organizations, and shall recommend steps to eliminate overlapping jurisdictions, duplicative responsibilities, and duplicative funding mechanisms. These recommendations must be submitted to the legislature by December 15, 1995.

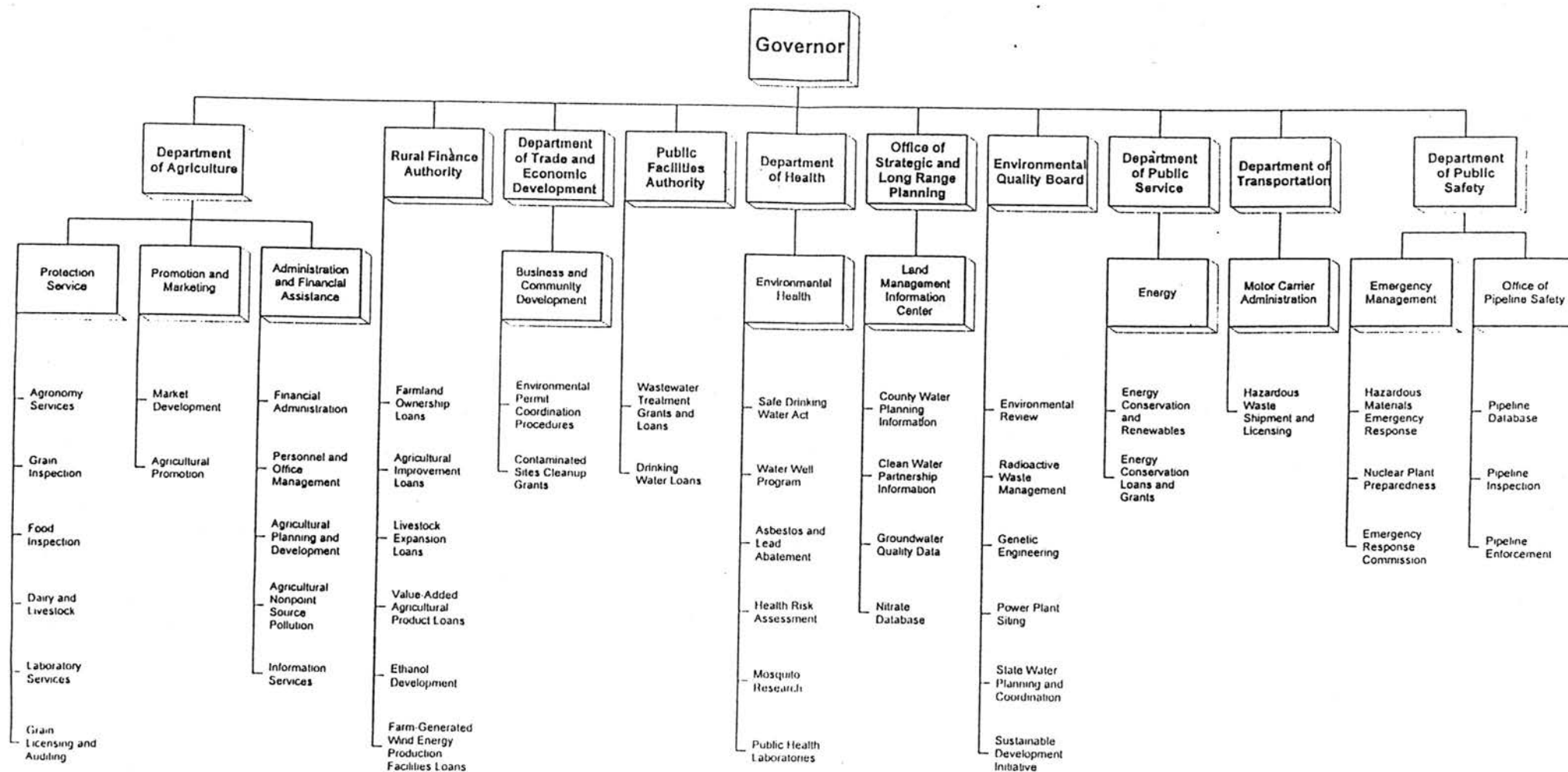
(c) As part of their study, the designees shall examine boards, commissions, councils, and task forces, including the office of environmental assistance and the board of water and soil resources and other organizations and advisory bodies providing or regulating state services relating to the protection of the environment, protection of farmland, and the management of natural resources, and shall recommend steps to increase accountability and eliminate overlapping jurisdictions, duplicative responsibilities and programs, and duplicative funding mechanisms.

10/11/1995

Environment, Natural Resource, and Farmland Protection State Program Overview



Environment, Natural Resource, and Farmland Protection State Program Overview



Wetland Conservation Act (WCA)
County/LGU Status
October 16, 1995

Non-implementing Counties

Never acknowledged responsibilities

Beltrami
Koochiching
Marshall
Pennington
Lake

Rescissions (effective date)

Kittson (?) 11/1/95
Lac Qui Parle (?)
Roseau (11/1/95)
Pope (8/23/95)
Big Stone (11/1/95, considering date change)
Clay (11/15/95)
Clearwater (11/15/95) - nothing to do w/ WCA
Lake of the Woods (11/1/95)
Itasca (11/1/95, considering revoking rescission at 10/24/95 meeting)

Recision revoked - implementing

Stevens (9/5/95 resolution reversed in early October)

Considered Recision

Crow Wing - tabled
Cook - tabled

PROCEDURE AND CRITERIA FOR
REQUESTING PLAN EXTENSIONS
UNDER THE COMPREHENSIVE LOCAL WATER MANAGEMENT ACT

Summary - 1995 amendments to the Comprehensive Local Water Management Act, M.S. 103B.301, gave the Board of Water and Soil Resources (BWSR) authority to grant extensions to counties for the purpose of extending the ending date of their local water plans. These extensions must be requested in writing and cannot be for more than two years. Please note that during the extension period counties cannot order or commence projects that would require them to establish a special taxing district, assesses the costs of the project to benefitted properties, or pay for the project through the collection of user fees as provided for in M.S. 103B.331 subd. 3 and 4.

Procedure & Criteria

Step 1. County Board passes a resolution requesting extension.

Criteria: Board resolution must include:

- (1) The amount of time requested (2 year maximum).
- (2) A list of water planning activities that will require additional time to complete.
- (3) A statement that the county will insure continued public participation.
- (4) A statement that no projects, using the authorities under 103B.331 subd. 3 and 4., will be ordered or commenced during the extension period.

Step 2. County submits resolution to BWSR Board Conservationist

Criteria:

- (1) The resolution must be received by BWSR prior to the expiration date of the plan.
- (2) The resolution must be properly certified.

Step 3. BWSR Board Conservationists reviews and recommends action.

Criteria:

- (1) Board Conservationist reviews request for extension.
- (2) Board Conservationist recommends, in writing, approval or denial to the BWSR Water Planning Coordinator in St. Paul.

Step 4. BWSR Board action:

Criteria:

- (1) Request for extensions that are recommended for approval by the Board Conservationist will be placed on the consent agenda of the next regular scheduled meeting of the Board as a non-controversial decision item.
- (2) Request for extensions that are not recommended for approval will be placed on the agenda as new business of the next regular scheduled meeting of the Board and the county will be notified so that it may be present to present its arguments to the Board.

Step 5. BWSR notifies county of Board action and informs county of the new effective date of the plan.

Editorials

Wetlands regulations should be consistent

For years property rights activists have inflamed the passions of farmers with horror stories about the Wetlands Conservation Act, a state law aimed at preserving important wildlife habitat and improving water quality.

The act requires landowners to replace wetlands destroyed by development, which can make a simple project expensive.

Consequently, nothing spoils a good dinner conversation like a debate over wetlands regulation. There is plenty for farmers to complain about. The plethora of state and federal agencies that claim responsibility for protecting wetlands have farmers running in circles trying to keep up with their demands.

Farmers have long complained about the inconsistency of wetlands regulation. One agency says one thing and another says the opposite. That's why farmers have begged lawmakers to give them one-stop shopping when it comes to wetlands regulation.

Why, then, would many farmers step behind the efforts of property rights groups and state lawmakers from the north who want to turn wetlands regulation over to local governments?

Several lawmakers, led by Sen. LeRoy Stumpf, DFL-Thief River Falls, want to reform the WCA by giving counties regulatory oversight. One approach would have counties include wetlands regulations in their local water plans, which would be put together with the help of state officials.

This approach sounds appealing. Give the power back to the people, proponents say. That philosophy is in keeping with the conservative tide sweeping the country.

But this approach would most likely make a serious problem worse. With each county making separate rules, farmers would soon miss the good old days when one state law blanketed the countryside.

What property rights activists don't want farmers to know is that the WCA has very little, if any, impact on their farming operations. As one state official put it, "It real-

ly hasn't been an agricultural law." Actually, the act contains many exemptions for farmers.

But the act has been lumped together with a myriad of federal wetlands regulations that often do cause farmers headaches. Ironically, zoning decisions and other rules implemented at the local level are often behind farmer frustration when it comes to wetlands as well. However, none of these have anything to do with the WCA.

Even so, no one disputes that the WCA needs to be reformed. At the very least, the law should recognize that there are three distinct regions in the state when it comes to wetlands.

Counties to the north, where wetlands are abundant, should be given more flexibility under the law. As it stands, the WCA makes development an expensive undertaking as local governments and landowners struggle to replace wetlands destroyed by every road or driveway that gets built. These changes should have been made years ago, but belligerent lawmakers have refused to compromise.

For that we can blame a small group of lawmakers who would like to see the wetlands debate become part of a larger argument over local versus state authority. Led by Stumpf, they managed to kill a wetlands reform bill last year that had overwhelming support in the House. Only four lawmakers voted against what was a not perfect but workable piece of legislation.

All indications are that this year will be no different. Lawmakers on both sides of the issue are already letting the rhetoric fly. But too much is riding on this to further delay reform while politicians fight over who should hold the reigns of power.

We urge lawmakers to save the debate over local-versus-state supremacy for another day. In the meantime, fix this wetlands debacle. Finally.

The above editorial is the opinion of the Agri News editorial board consisting of Kelly J. Boldan, editor; Chris Frye, managing editor; Mychal Wilmes, senior writer; and Paul Adams, staff writer.



"EITHER YOU SWEAR TO AG"

Concerned about bill

The Minnesota Wheat Growers Association was organized in the late 1970s for the sole purpose of lobbying for higher wheat prices. My main concern is the 1995 farm bill.

As a director of the Minnesota Wheat Growers board, I represent District 3, which is the south half of Minnesota.

In this regard, I apologize to all growers of small grains that I have not been able to persuade my fellow members on the Minnesota Wheat Growers Board to work for higher wheat supports and to protect our markets from imports.

I became involved with the Minnesota Wheat Growers Association the same fall when the following resolution was adopt-

MN Wetland Conservation Act: Wetland Banking Report

October 23, 1995



I. Projects deposited in the bank.

Water—						
Location (Co.)	shed #	Size (ac.)	Balance	Type	Account Holder	Phone #
Aitkin	10	132.4	92.4	1/2/3	Warren Enevoldsen	(507) 835-3055
Anoka	37	0.13	0.13	2	Gerald Sygulla	(612) 464-5007
Anoka	21	0.32	0.32	3	Russ Johansen	(612) 434-4640
Beltrami	7	2.2	0	3	City of Bemidji	(218) 751-3196
Cass	41	6.97	5.12	3	Cass County Env. Serv.	(218) 547-3300
Cass	9	2.2	2.2	3	Cass County Env. Serv.	(218) 547-3300
Dodge	41	45	41.87	2	Co. Hwy. Dept.	(507) 374-6694
Douglas	14	14	5.6	2/3/6	Co. Hwy. Dept.	(612) 763-6001
Douglas	16	9.1	9	3	Gregory Larson	(612) 763-4733
Grant	55	14	14	3	Theodore Myron	(218) 589-8546
Hennepin	20	1.6	1.6	3	City of Minnetonka	(612) 939-8200
Mille Lacs	21	8.36	5.12	3	Co. Hwy. Dept.	(612) 983-3146
Morrison	15	36.4	36.4	6	Co. Hwy. Dept.	(612) 632-0120
Morrison	10	2.2	2.2	4	Harold Strom	(612) 749-2910
Pope	26	13.1	13.1	3	Co. Hwy. Dept.	(612) 634-4561
Pope	26	2	2	4	Co. Hwy. Dept.	(612) 634-4561
Pope	26	0.5	0.5	3	Co. Hwy. Dept.	(612) 634-4561
Scott	33	1.3	1.3	3	Messenbrink Const.	(612) 447-5058
Waseca	32	21.3	21.3	1/2/3	Curt Russell	(507) 465-8052
Waseca	39	60	31.8	1/2/4	Dixie Enevoldsen	(507) 835-3055
Wright	18	11.2	11.2	2/3/4	Co. Hwy. Dept.	(612) 682-1933
Wright	18	0.63	0.63	3	Co. Hwy. Dept.	(612) 682-1933
Wright	17	1.7	1.7	4	Co. Hwy. Dept.	(612) 682-1933
Wright	18	5.8	5.2	4	Hank Potter	(612) 963-5476
Wright	18	12.6	12.6	2/3/4	Christian (Roger Larson)	(612) 428-4281
Itasca	3	43.1	43.1	4	MNDOT	
Todd	14	208	208	3/4	MNDOT	
Douglas	26	3.1	3.1	3	MNDOT	
Otter Tail	56	13	13	3/4	MNDOT	
Scott	33	12.6	12.6	3	MNDOT	
Cottonwood	31	11.6	11.6	2/3	MNDOT	
Dakota	20	7.5	7.5	3/4	MNDOT	
Subtotal		703.91	616.19			

II. Projects ready for deposit.

Water—						
Location (Co.)	shed #	Size (ac.)	Type	Account Holder	Phone #	
Sherburne	17	0.78	5	City of Elk River	(612) 441-7420	
Itasca	7	5.1	3	Tom Hammerlund		
Polk		53	2/3	Dennis Niklayson	(218) 687-3386	
Chisago	37	8	4	Sandager		
Subtotal		66.88				

III. Potential and Commenced Projects

<u>Location (Co.)</u>	<u>Size (ac.)</u>	<u>Type</u>	<u>Project Sponsor</u>
Aitkin	640	2/6	private
Aitkin	65	2/6	Co. Hwy. Dept.
Anoka	25	2/3	Co. Hwy. Dept.
Blue Earth	60	2/3/4	Co. Hwy. Dept.
Becker	52	2/3/4	SWCD
Becker	3	3	private
Benton	40	3/4	Co./SWCD/DNR Wildlife
Benton	43	3	private
Big Stone	37.5	3	Co. Hwy. Dept.
Clearwater	?	?	SWCD
Dakota	9	2/3	Co. Hwy. Dept.
Dodge	?	?	private
Douglas	24	3	private
Douglas	5.3	4	private
Fillmore	30	1/2	Co. Hwy. Dept.
Freeborn	3.7	3	City of Albert Lea
Freeborn	35	4	Freeborn County
Goodhue	0.1	2	private
Hubbard	?	3	Co.
Itasca	10	3	Co. - wetland restored - Grant Co.
Lake of the Woods	3	3	private
Lake of the Woods	6	3	Co.
Lake of the Woods	4	4	DNR Forestry
Le Sueur	45	3	private
Martin	40	3	undetermined
Martin	3	3	undetermined
Morrison	7	?	private
Morrison	43.1	2/3/6	Robert Hobson
Norman	240	2/3/4	Co./Hwy. Dept.
Otter Tail	65	2/3/4	Otter Tail Co.
Rice	?	?	Co. Hwy. Dept.
Ramsey	3.4	3/5	private (Rice Creek WD)
Roseau	1500	2/3/6	Roseau River WD
Scott	0.45	3	Messenbrink
Scott	2.95	2/7/3/4	Carron
Scott	10	5	Van Zec
St. Louis	20	2/3/4	County
St. Louis	10	4/5	private
Wadena	6	2/3/4	private
Waseca	15	2	private
Waseca	10	2	private
Washington	2	3	private
Winona	4	3	private
Winona	3.6	2	private
Wilkin	1.5	3	Wilkin Co.
Wright	13.8	3/4	private
Subtotal	3141.4		

IV. Potential Projects/Credit Availability.

Potential for wetland restoration projects is great in the agricultural areas of the state (<50% counties) and very limited in the northern forested areas (>80% counties).

MNDOT has enrolled their credits into the state banking system but will likely use them all for state highway projects. Similarly, County Highway Department credits are not generally for sale as the credits are needed for road projects. However, some counties may sell credits to landowners in the county. Privately held credits are available for sale unless the account holder has anticipated need for the credits.

V. Cost of Credits.

"What will wetland banking credits cost?" is a question asked frequently. Market forces of supply and demand combined with the site specific factors of location, land value, and construction methods will determine the price. Currently, banking credits range from about \$500 to \$15,000 per acre and may be substantially higher in the Twin Cities and other metro areas.

prepared by: John Jaschke, MN Board of Water and Soil Resources, (612)297-3432 

s:5bank.wk1

BWSR RESPONSIBILITIES

MN WETLAND CONSERVATION ACT (WCA)

- Develop Administrative Procedures and Rules
- Oversight of Local Government Unit (LGU) Implementation
- LGU Implementation Grant allocation and oversight (\$2M/yr)
- LGU Technical/Delineation and Administrative Training
- Adjudicate administrative appeals of LGU decisions
- Assist LGUs and DNR with enforcement
- Participate as member of Technical Evaluation Panels
- Administer State Wetland Banking Program
- Provide Wetland Regulatory Coordination: federal/state/local
- (Review/Approve LGU Comprehensive Wetland Protection and Management Plans)

MN WETLAND CONSERVATION ACT (WCA)

ROLE OF LGUs

- **Exemption and No-loss Determinations**
- **Delineation Checks**
- **Replacement Plan Review and Approval**
- **Banking Plan Review and Approval**

**Technical Panel: LGU
SWCD
BWSR**

- **Restoration Orders**
(work with DNR C.O.'s)
- **Technical Information**
 - NWI maps**
 - Soil Survey**
 - aerial photos**
- **Public Coordination**
 - joint notification form**

DRAFT

FACTS ABOUT AGRICULTURAL WETLANDS IN MINNESOTA

	WETLAND CONSERVATION ACT	USDA (1990 Farm Bill)	US CORPS of ENGINEERS
Wetland Definition	Wetlands are defined by M.S. 103G.005, Subd. 19, and exclude public waters and public waters wetlands regulated by the MN Dept. of Natural Resources. "Wetlands" are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes: 1) have a predominance of hydric soils; 2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and 3) under normal circumstances support a prevalence of such vegetation.	Wetlands are lands that; 1) have a predominance of hydric soils; 2) are inundated or saturated by surface water or groundwater.....; and 3) support a prevalence of hydrophytic vegetation.	Wetlands are defined by Federal Regulations 33 CFR 328.3(b) as those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.
Farmability & Exemptions	The Wetland Conservation Act (WCA) does not prevent landowners from farming or pasturing wetlands. Additionally, several <i>agricultural exemptions</i> exist: 1) Wetlands that have been cropped 6 out of the 10 years prior to 1/1/91; 2) Land cropped 6 of 10 years that is enrolled in CRP; 3) Drainage system maintenance and repair that doesn't affect wetlands that have existed for more than 20 years; 4) Wetlands classified as "Prior Converted" by the USDA; 5) Type 1 wetlands on Ag land; 6) Type 2 wetlands less than 2 acres on Ag land; 7) Activities on land enrolled in the Federal Farm Program.	The "Swampbuster" provision of the Farm Bill prohibits a landowner enrolled in the program from draining, dredging, filling or otherwise altering a wetland to make crop production possible. <i>Persons enrolled in the USDA Federal Farm Program are exempt from the State Wetland Conservation Act.</i>	USCOE does not regulate farming wetlands as long as existing conditions allow. Activities which involve the discharge of dredged or fill material into wetlands may require Corps permits. There are also exemptions for some normal farming activities and several Nationwide Permits that may apply to certain ag activities. Wetland delineations on ag-land are done by USDA staff.
Mitigation	Under M.S. 103G.222, non-exempt wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetlands of at least equal public value under an approved replacement plan.	The loss of wetlands can be mitigated by restoring a converted wetland that has an equivalent value.	In order to receive a Section 404 permit to fill, or excavate in a non-exempt wetland, an applicant is generally required to perform compensatory mitigation in the form of restoring drained wetlands or the purchase and conversion of upland areas into wetlands.
Wetland Banking	Landowners may replace unavoidable wetland impacts using the state wetland bank. Landowners may restore or create wetlands, deposit them in the bank and sell credits to persons impacting wetlands elsewhere.	The USDA will consider mitigation of wetlands using the state wetland bank if the appropriate credits are available.	The USCOE will consider replacement of wetlands using the state wetland bank if the appropriate credits are available.

DRAFT

FACTS ABOUT AGRICULTURAL WETLANDS IN MINNESOTA

	WETLAND CONSERVATION ACT	USDA (1990 Farm Bill)	US CORPS OF ENGINEERS
Taxes	BWSR does not have any taxing authority in Minnesota.	The NRCS and CFSA do not have taxing authority in Minnesota	The USCOE does not have any taxing authority in Minnesota.
Compensation	BWSR provides compensation to eligible landowners who preserve types 1, 2, 3 & 6 wetland through the Permanent Wetland Preserve Program(PWP). Reinvent in Minnesota (RIM) provides cost-share funding to landowners who propose to establish or restore wetlands. Property tax exemptions for wetland preservation is available after high priority areas are identified in local water plans. Persons denied a valid replacement plan by the local government unit may appeal to the BWSR and receive compensation if their claim is upheld.	1) CRP (Conservation Reserve Program) gives landowners a monetary incentive to take environmentally sensitive land out of production for 10 years. 2) Wetlands Reserve Program (WRP) provides a 30 year or permanent easement options for farmed or converted wetlands, and for other wetlands if the functional values are enhanced.	The USCOE has no known compensation program relative to wetland management.
Violation Penalties	Violations of M.S. 103G are punishable as a misdemeanor with fines up to \$700 and/or 90 days in jail. (M.S. 103G.2372)	Retroactive graduated penalties from \$750 to \$10,000. Loss of all farm program benefits.	Criminal: Fines up to \$100,000 per day and 6 years in jail. Civil: Fines up to \$25,000 per day. Administrative: a) Class 1, \$10,000 per violation; b) Class 11, \$10,000 per day.
Appeal Process	1) Appeal of wetland replacement plan decision by mailing notice of appeal to board within 30 days of receipt of decision; 2) appeal heard by committee for dispute resolution; 3) ALJ hearing; 4) final order; 5) court of appeals; and 6) higher court.	1) Reconsideration by DC; 2) appeal to AC; 3) appeal to state conservationist; 4) appeal to NRCS Chief for final decision.	1) District may reconsider permit action based on new information; 2) Suit in Federal Court. Note: Administrative process are being developed.

Note: None of the wetland regulations allow public access or trespass.

For more information contact:

Wetland Conservation Act:

MN Board of Water and Soil Resources
One West Water Street, Suite #200
St. Paul, MN 55107 (612) 296-3767

USDA - Federal Farm Program:

Natural Resources Conservation Service
375 Jackson Street, Suite #600
St. Paul, MN 55101 (612) 290-3675

Section 404 of the Clean Water Act:

US Army Corps of Engineers
190 E. Fifth Street
St. Paul, MN 55101 (612) 290-5375

Note: The Minnesota Department of Natural Resources regulates all Protected Waters. Wetlands on their inventory are defined as all types 3, 4, and 5 wetlands, as defined in US Fish & Wildlife Service Circular No. 39 (1971 edition), not included within the definition of public waters, that are ten or more acres in size in unincorporated areas or 2-1/2 or more acres in incorporated areas.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

RESOLUTION

RECITALS:

A. Minn. Stat. Sec. 103G.005, subd. 10a(1) (1994) provides that, outside of the seven-county metropolitan area, the local government unit ("LGU") for the implementation of the Wetland Conservation Act ("WCA") will be "a city council or county board of commissioners."

B. Minn. Stat. Sec. 103G.2242, subd. 1(d) (1994) provides that, if a LGU fails to implement WCA, the LGU will "be subject to penalty" as determined by the Board of Water and Soil Resources ("BWSR").

C. Minn. R. 8420.0260 (1993) requires each LGU to acknowledge by January 1, 1994 that it is assuming its responsibilities under WCA statutes and rules. An LGU which does not provide this acknowledgment is subject to a 60-day moratorium on the LGU's jurisdiction on exemption, no-loss, replacement plan, and banking determinations. BWSR can extend the 60-day moratorium until the LGU acknowledges its responsibilities under WCA statutes and rules.

D. Five county boards (Beltrami, Koochiching, Lake, Marshall, and Pennington) did not acknowledge their responsibilities under WCA statutes and rules by January 1, 1994. These county boards became subject to the 60-day moratorium on their LGU jurisdiction. The 60-day moratorium was extended by BWSR until the county boards acknowledge their responsibilities under WCA statutes and rules.

E. A number of additional county boards which originally acknowledged their responsibilities under WCA statutes and rules now indicate that they may or will rescind their previous actions. A county board which rescinds its acknowledgment will be subject to the 60-day moratorium on its LGU jurisdiction. BWSR can extend the moratorium until the county board acknowledges its responsibilities under WCA statutes and rules.

F. This Resolution is adopted to confirm the status of the moratorium for the county boards that never acknowledged their responsibilities under WCA statutes and rules and to address issues regarding the moratorium for any county board which rescinds its acknowledgment.

NOW, THEREFORE, BE IT RESOLVED:

1. The county boards that have never acknowledged their responsibilities under WCA statutes and rules (Beltrami, Koochiching, Lake, Marshall, and Pennington) will continue to be subject to the moratorium on their LGU jurisdiction pursuant to Minn. R. 8420.0260 (1993) until they acknowledge their responsibilities. The moratorium with respect to any of these

county boards will automatically terminate without further action by BWSR at such time as the county board adopts a resolution consistent with Minn. R. 8420.0260 (1993) acknowledging that it is assuming its responsibilities under WCA statutes and rules.

2. If a county board that originally acknowledged its responsibilities under WCA statutes and rules acts to rescind its acknowledgment, then the county board will be subject to the 60-day moratorium on its LGU jurisdiction pursuant to Minn. R. 8420.0260 (1993). The 60-day moratorium will automatically go into effect without further action by BWSR on the effective date of the rescission. The 60-day moratorium will automatically terminate without further action by BWSR at such time as the county board adopts a resolution consistent with Minn. R. 8420.0260 (1993) acknowledging that it is assuming its responsibilities under WCA statutes and rules. If the county board does not adopt such a resolution prior to the end of the 60-day period, then the moratorium will automatically be extended without further action by BWSR. The extended moratorium will automatically terminate without further action by BWSR at such time as the county board adopts the required resolution.

3. The penalty prescribed by Minn. R. 8420.0260 (1993) and this Resolution is to impose a moratorium on the LGU jurisdiction of an affected county board. This means that, for so long as the county board is subject to the moratorium, the county board will not have jurisdiction on exemption, no-loss, replacement plan, and banking determinations under WCA statutes and rules. Nothing in Minn. R. 8420.0260 (1993) or in this Resolution shall be deemed to prevent or limit the conduct of activities within the scope of the exemptions under WCA statutes and rules. See Minn. Stat. Sec. 103G.2241; Minn. R. 8420.0120 (1993). Non-exempt activities may be subject to cease and desist and restoration or replacement orders pursuant to Minn. Stat. Sec. 103G.2372 (1994) and Minn. R. 8420.0290 (1993).

4. This Resolution restates, amends, and controls over anything which may be deemed to be to the contrary in any previous BWSR resolutions, actions, notices, or communications on the matters addressed by this Resolution.

AG:13958 v1

Wetland Conservation Act (WCA)
County/LGU Status
October 24, 1995

Non-implementing Counties

Never acknowledged responsibilities

Beltrami
Koochiching
Marshall
Pennington
Lake

Rescissions (effective date)

Kittson (?)
Lac Qui Parle (11/1/95)
Roseau (11/1/95)
Pope (8/23/95, changed to 11/1/95)
Big Stone (11/1/95, considering date change)
Clay (11/15/95)
Clearwater (11/15/95)
Lake of the Woods (11/1/95)
Itasca (11/1/95, reconsidering rescission at 10/24/95 meeting)
Stevens (9/5/95)

Considered Recision

Crow Wing - tabled
Cook - tabled



October 18, 1995

TO: Commissioner, Minnesota Department of Agriculture
Commissioner, Minnesota Department of Health
Commissioner, Minnesota Department of Natural Resources
Commissioner, Minnesota Pollution Control Agency
Chair, Minnesota Environmental Quality Board
Director, Minnesota Geological Survey

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On October 13, 1995 the Minnesota Board of Water and Soil Resources (BWSR) began the official 90 day State review of the Aitkin County Comprehensive Local Water Plan. Pursuant to Minnesota Rules, Chapter 9300.0170 the BWSR is transmitting a copy of the Aitkin County water plan for your agency's review and comment. Your agency has 45 days from receipt of this letter to submit comments in writing to the BWSR identifying the portions of the plan that the agency has determined to be inconsistent with state law.

The Aitkin County water plan document itself is being sent to your agency's 103B Technical Review Committee Member under separate cover. The 103B Technical Review Committee Members are:

MDA, Mark Zabel
MDH, Kimberly Benson-Johnson
MDNR, Ken Wald/John Fax
MPCA, Celine Lyman
EQB, Marilyn Lundberg
MGS, Barb Palen

Thank you for your agency's continued assistance and commitment to make comprehensive local water planning the success that it has become. We also look forward to working with your agency as counties continue implementation of their updated water plans.

Sincerely,



Ron Harnack
Executive Director

cc: BWSR Board Members
BWSR M-Team
Dan Steward
Steve Hughes, Aitkin County SWCD

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h:Aitkin95.not/djt



October 18, 1995

TO: Commissioner, Minnesota Department of Agriculture
Commissioner, Minnesota Department of Health
Commissioner, Minnesota Department of Natural Resources
Commissioner, Minnesota Pollution Control Agency
Chair, Minnesota Environmental Quality Board
Director, Minnesota Geological Survey

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On October 16, 1995 the Minnesota Board of Water and Soil Resources (BWSR) began the official 90 day State review of the Itasca County Comprehensive Local Water Plan. Pursuant to Minnesota Rules, Chapter 9300.0170 the BWSR is transmitting a copy of the Itasca County water plan for your agency's review and comment. Your agency has 45 days from receipt of this letter to submit comments in writing to the BWSR identifying the portions of the plan that the agency has determined to be inconsistent with state law.

The Itasca County water plan document itself is being sent to your agency's 103B Technical Review Committee Member under separate cover. The 103B Technical Review Committee Members are:

MDA, Mark Zabel
MDH, Kimberly Benson-Johnson
MDNR, Ken Wald/John Fax
MPCA, Celine Lyman
EQB, Marilyn Lundberg
MGS, Barb Palen

Thank you for your agency's continued assistance and commitment to make comprehensive local water planning the success that it has become. We also look forward to working with your agency as counties continue implementation of their updated water plans.

Sincerely,

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

Ron Harnack
Executive Director

cc: BWSR Board Members
BWSR M-Team
Dan Steward
Art Norton, Itasca County SWCD

Contract Report 561

Influence of Wetlands on Streamflow in Illinois

10/12/95

To: BCI / Reg Supv. / Jim B. / Greg C. / Ron H. ✓

Fr: John Jarchka

"Proof" that wetlands contribute
to flood control.

by Misganaw Demissie and Abdul Khan
Office of Sediment & Wetland Studies

Prepared for the
Illinois Department of Conservation

October 1993

Illinois State Water Survey
Hydrology Division
Champaign, Illinois

A Division of the Illinois Department of Energy and Natural Resources

ABSTRACT

One of the major functions of wetlands is to store water for gradual release to surface and ground-water bodies. It is generally assumed that wetlands reduce flooding, increase low flows, and serve as recharge areas for ground water. However, there have not been systematic studies to quantify the influence of wetlands on flooding and low flows. This research was initiated to investigate the hydrologic functions of wetlands in Illinois based on available streamflow records. The research was designed to answer the more general question, "how does the presence or absence of variable size wetlands in a watershed influence streamflow?"

Streamflow records from 30 gaging stations monitoring watersheds with variable wetland areas were analyzed to assess the influence of wetlands on streamflow. The main objective of the analysis was to determine if streamflow parameters of streams draining watersheds with varying percentage of wetland areas were related to the percentage of wetlands in the watersheds. The streamflow parameters analyzed included peakflow, floodflow volume, and low flow. From the results of this analysis, in general, it can be concluded that peakflow and floodflow volume decrease, and low flows increase with increasing percentage of wetlands in the watershed. The influence of wetlands was more noticeable on peakflow and low flow than on floodflow volume. For all the gaging stations analyzed, the peakflow to average precipitation ratio decreased on the average by 3.7 percent, floodflow volume to total precipitation ratio decreased by 1.4 percent, and low flow (represented by Q95) increased by 7.9 percent for an increase of one percent wetland area in a watershed. There were, however, significant regional and seasonal differences in the rate of change.

Regionally, wetland influence was more noticeable in central and northern Illinois than in southern Illinois for both peakflow and floodflow volume. The influence of wetlands on low flow was more noticeable in southern and northern Illinois than in central Illinois, however. The peakflow to average precipitation ratio decreased by 5.9 to 7.9 percent, while floodflow volume to total precipitation ratio decreased by 4.5 and 2.3 percent in central and northern Illinois, respectively. For low flow, Q95 increased by 15.9 and 15.0 percent in southern and northern Illinois, respectively.

Seasonally, for the state as a whole, wetland influence was the most prominent in fall for the peakflow to average precipitation ratio (5.7 percent decrease) and in summer for the floodflow volume to total precipitation ratio (3.1 percent decrease). For low flow, the influence of wetlands was equally noticeable in fall (8.4 percent increase in Q95) and summer (8.0 percent increase in Q95).



October 18, 1995

TO : Local Water Planning Coordinators
FROM : Wayne Zellmer, ^{Wayne} Grants Coordinator
RE : 1996 Natural Resources Block Grant Application

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The Board of Water and Soil Resources is now accepting applications from counties for the 1996 Natural Resources Block Grant(NRBG). The NRBG is formulated to assist local governments in the following four programs: implementing comprehensive local water plans, administration of the Wetland Conservation Act, DNR shoreland management, and the local MPCA Feedlot Permit Program.

The 1996 NRBG is a base grant is that is available to each county administering these programs. This grant is not competitive. The application period for the competitive "Challenge" grant portion will be held separately in the spring of 1996.

1996 NRBG Schedule

September 1995
October 1995

January 16, 1996

February 1996

March 1996

July 1, 1996

August 28, 1996
September 1996

Grant agreements sent to counties

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The base grant components of the 1996 NRBG are highlighted as follows:

Comprehensive Local Water Plan Implementation

This component is for implementation of comprehensive water plans. A local levy match is required. The grant amount is derived from the formula of \$37,500 - local levy, but all counties are eligible for a minimum of \$18,750 (1995 legislative change).

<over>



October 18, 1995

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TO : Local Water Planning Coordinators
FROM : Wayne Zellmer, ^{Wayne} Grants Coordinator
RE : 1996 Natural Resources Block Grant Application

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1996 NRBG Schedule

	<u>Base Grants</u>
September 1995	BWSR requested to approve revised NRBG
October 1995	1996 NRBG published in State Register
	1996 NRBG application sent to counties
January 16, 1996	1996 NRBG applications due in Central Office
February 1996	Grant agreements sent to counties
	<u>Challenge Grants</u>
March 1996	1996 NRBG published in State Register
	1996 NRBG application sent to counties
July 1, 1996	1996 NRBG applications due in Central Office
August 28, 1996	BWSR requested to approve grants
September 1996	Grant agreements sent to counties

The base grant components of the 1996 NRBG are highlighted as follows:

Comprehensive Local Water Plan Implementation

This component is for implementation of comprehensive water plans. A local levy match is required. The grant amount is derived from the formula of \$37,500 - local levy, but all counties are eligible for a minimum of \$18,750 (1995 legislative change).

<over>

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WCA Implementation

This component is for the local administration of the WCA. A local 1:1 cash and/or in-kind match is required. The grant amount is derived from a base estimated amount of WCA activity. Grant amounts are the same as last year plus any demonstrated need for an increase, such as, the 1995 category 1 WCA challenge grant. SWCDs are eligible to receive at least \$5,000 of this grant. At the September 1995 BWSR meeting, policy was set on certain grant eligibility parameters for counties not implementing the WCA (see accompanying memo from Greg Larson).

DNR Shoreland

This component is for the administration of state approved shoreland management programs. A local 1:1 cash and/or in-kind match is required. Grant amounts are slightly less than last year due to reduced DNR funding.

MPCA County Feedlot Program

This component is for county administration of the feedlot program. A local 1:1 cash and/or in-kind match is required. This grant is calculated by a formula revised in 1995 legislation. Generally, grant amounts are substantially higher than last year.

Proposed base grants for the 1996 NRBG are listed by county on pages 14-16 in the enclosed NRBG Base Grant Application.

New Addition to Grant Agreement

In FY 96 SWCDs received a legislative appropriation increase in their service grants. In light of this increase, if a county reduces its service grant to a SWCD, this appropriation also directs the BWSR to reduce a county's NRBG by an equal amount. This language provides that county funding levels to the SWCD will be maintained. This language will be included in the NRBG agreement.

County Resolution

A county resolution authorizing the signing of the NRBG agreement and match was required with past NRBG applications. This resolution is not required as part of this year's NRBG application, but will be required later, as part of the grant agreement. More details on this will follow at a later date. This change is expected to expedite the application approval and granting process.

If there are any questions concerning the 1996 Natural Resources Block Grant application, please contact your Board Conservationist.

c: Board Conservationists
SWCDs



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October 12, 1995

TO: Natural Resources Block Grant Applicants; Fiscal Year 1996

FROM: Greg Larson, Administrator-Water and Land Management Section

RE: Wetland Conservation Act Funds

The purpose of this memorandum is to advise applicants of the financial implications of not implementing the Wetland Conservation Act (WCA).

At their September 27th meeting, the BWSR adopted the following policy with respect to WCA funding. "If a local government refuses to implement the WCA, the local government will be required to return unspent WCA grant funds. Moreover, the local government will not be eligible for 1996 WCA grant funds if the local government has not acknowledged its obligation to implement WCA by January 16, 1996 which is the date for submission of the Natural Resources Block Grant application."

In anticipation of questions concerning this policy, I offer the following additional specifics:

→ This policy does not affect the other categories of the NRBG such as water planning, shoreland and feedlots.

→ Local governments who have been implementing the WCA but have recently resolved to cease their implementation, will be required to return WCA funds remaining as of the effective date of their resolution.

→ Unlike last year, a decision to implement after the "deadline" does not afford an opportunity for pro-rata funding. A decision to implement must be received by January 16, 1996.

→ Local governments that decide to not implement after January 16, 1996 will be required to return WCA funds remaining as of the effective date of their resolution.

→ Wetland funds available from non-implementing local governments will be made available to implementing local governments through wetland challenge grants to be announced in early 1996.

→ If necessary to ensure that WCA funding gets locally distributed to SWCDs and other implementers such as cities in a timely manner, we will provide WCA funding directly to SWCDs. This applies to implementing and non-implementing counties. This decision must be reflected in the

NRBG application.

We recognize that the politics of the WCA, have--in some locations--created personnel and funding problems. Board staff are willing to discuss issues and attempt within the confines of BWSR policy to reach a resolution.

CC: Board members and staff
County Board Chairpersons
Soil and Water Conservation Districts

Officials reveal wetland reform plan

ADAMS

largely aimed at placating county governments in northern Minnesota, where officials complained the WCA hampers development because it requires wetlands drained. The act also requires consideration and extensive review to draining a wetland.

most universal in their varying state and federal requirements and expensive regulations to farm near wet-

said the BWSR proposal who say there are three in the state with respect to wetlands. It should be treated differently in Minnesota counties still under presettlement wetlands, central Minnesota counties, and southern counties generally have less original wetlands.

in a state like Minnesota, a wetland bill that treats the same," Tsakakis said.

proposal would loosen wetland regulations in northern counties where governments complain that wetland and other development is nearly impossible because of the high cost of replacing drained wetlands.

Under the current law, developers can drain no more than 400 square feet of wetland without running afoul of the WCA. The BWSR plan would increase that

threshold to 10,000 square feet in counties with 80 percent of their presettlement wetlands, except in shoreland areas, Tsakakis said.

"That's enough to build a cabin or home, so that's a huge change," she said.

Current law gives the state authority to determine how many acres of wetland must be replaced for every acre destroyed by development. The reform plan would give local governments more power to determine replacement ratios based on local wetlands management plans. The plans would be subject to BWSR approval, something many northern lawmakers are opposed to.

Local governments would also be allowed to cut the amount of paperwork required of developers when they propose draining a wetland.

Currently, counties must restore two acres of wetlands for every one destroyed by road work. The BWSR plan would lower the cost of county road construction by only requiring them to restore one acre of wetland for every one destroyed. In addition, the state would foot 90 percent of the bill for restoring wetlands destroyed by road development.

Finally, the new proposal requires the state to pay any claims against a local government that is sued by an angry landowner for carrying out the WCA, as long as the law is being implemented properly.

If farmers are looking for a victory in the draft bill, they probably won't find anything new. Most of the concessions in

the proposed legislation will benefit developers in northern counties.

But Tsakakis said that shouldn't bother farmers because the WCA rarely impacts their operations, despite complaints to the contrary. While the BWSR does receive many complaints from farmers concerning the act, she said further investigation shows those complaints usually have nothing to do with the law. Typically, she said the complaints concern the Army Corps of Engineers or other federal agencies that regulate land use and wetlands.

"It really hasn't been an agricultural law," Tsakakis said. "... Farmers won't believe it, but it's true."

In fact, she said, the WCA contains many exemptions for agriculture and hasn't traditionally been a thorn in the side of farmers.

The BWSR continues to take public comment on the issue and hopes their proposal will be picked up by legislators in 1996, Tsakakis said.

In a statement, the governor agreed that the act is in need of fine-tuning.

"I certainly agree that some changes are necessary to make the Wetland Conservation Act more workable, particularly in some parts of the state," Carlson said. "I think this draft bill makes those changes, yet still maintains a high level of protection for our wetlands. It is a reasonable compromise."

17
Board members

Tsakakis, a BWSR official, concedes the proposal probably isn't "radical enough" for many northern lawmakers. Northern lawmakers and landowner rights activists are accused by some lawmakers of refusing to compromise on last year's reform bill.

Tsakakis said the BWSR proposal is

Officials reveal wetland reform plan

By PAUL ADAMS
Agri News Staff Writer

ST. PAUL — State conservation officials have released draft legislation that would make Minnesota's controversial Wetland Conservation Act more flexible and give local governments more control over how it's implemented.

The proposal, which has the support of Gov. Arne Carlson, is the opening salvo in what state lawmakers promise will become one of the first and most controversial issues taken up in the 1996 legislative session.

The draft is similar to a bill that was defeated on a procedural vote last year after months of bickering among lawmakers. The latest reform measure was drafted by the Board of Water & Soil Resources with input from land owners, environmentalists and local government officials.

Despite their input, few are rallying to support the proposal and some are openly opposed (see related story). BWSR officials say they expect it to be an uphill battle.

"Call us eternal optimists," said Susan Tsakakis, a BWSR spokeswoman. She concedes the proposal probably isn't "radical enough" for many northern lawmakers. Northern lawmakers and landowner rights activists are accused by some lawmakers of refusing to compromise on last year's reform bill.

Tsakakis said the BWSR proposal is

largely aimed at placating county governments in northern Minnesota, where officials have long complained the WCA hampers development because it requires landowners to replace wetlands drained for development. The act also requires developers to consider and extensively document alternatives to draining a wetland before doing so.

Farmers are almost universal in their cry for reform, saying state and federal government red tape and expensive regulations make it difficult to farm near wetlands.

But Tsakakis said the BWSR proposal answers critics who say there are three distinct regions in the state with respect to wetlands and all should be treated differently. Northern Minnesota counties still have most of their presettlement wetlands, followed by central Minnesota counties, which have 50 percent or more. Southern Minnesota counties generally have less than half their original wetlands.

"It's difficult in a state like Minnesota to have one wetland bill that treats the entire state the same," Tsakakis said.

The BWSR proposal would loosen wetlands regulations in northern counties where local governments complain that road projects and other development is nearly impossible because of the high cost of replacing drained wetlands.

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Wetland debate will be heated in 1996

By PAUL ADAMS
Agri News Staff Writer

Minnesota Board of Water & Soil Resources officials thought they might have finally struck the perfect balance between wetlands conservation and regulatory flexibility when they recently revealed their plan for reforming the Wetland Conservation Act.

But after more than a year of meetings, compromises and sometimes bitter debate, state lawmakers appear no closer to agreement on how to reform the nearly five-year-old law than they were last session.

"They have completely moved away from compromise," Sen. LeRoy Stumpf, DFL-Thief River Falls, said of the BWSR proposal. Stumpf sponsored reform legislation in the Senate last session, but failed to win passage in a close battle.

To succeed in the 1996 session, the BWSR reform plan will need the support of Stumpf and other northern lawmakers, who have long advocated increasing flexibility in the law and placing control over wetlands regulations in the hands of local governments.

The BWSR proposal attempts to do just that by loosening regulations in northern counties that still have 80 percent of their presettlement wetlands. It also gives local governments more say in how the law is implemented, but leaves oversight in the hands of the state.

Therein lies the problem.

"It's the old establishment and old power struggle," Stumpf said. "The outmoded state agency knows what's best."

Stumpf introduced a measure last session that would have allowed local governments to adopt wetlands management plans without state oversight. Gov. Arne Carlson and House lawmakers opposed the bill. Environmentalists complained it would create a "checkerboard" approach to wetlands protection.

But Stumpf says northern lawmakers haven't changed their minds about the need for local control, and he's not just talking about wetlands.

"This wetlands issue has gotten much bigger than just wetlands. We're going to see in this session more discussion about not just local control, but how to bring citizen involvement into the decision-making process," Stumpf said, sounding a theme popular with property rights activists



Sen. LeRoy Stumpf

and county government officials.

Advocates of local government supremacy and property rights have been buoyed by the conservative tide that has swept the country. They are using their newfound influence to pressure lawmakers to loosen the reins of state government, and activists say the Wetlands Conservation Act is their principal target.

"What would you think if tomorrow somebody told you that everything you have worked for in your life was gone and that your hopes and dreams all of the sudden had no value?" said Dan Larson, a lobbyist for the Minnesota Landowner's Rights Association and a group of counties opposed to the Wetlands Reform Act.

He says the act strips land of its value and places a financial burden on counties forced to replace wetlands destroyed by development. The property rights group is made up mostly of agricultural people, he said.

Without reform, more counties will refuse to participate with state officials in enforcing the WCA. Five counties declined to sign off on the legislation when it was passed in 1991 and eight more have since followed suit, Larson said.

At issue, he said, is the state's broad



Rep. Willard Munger

definition of a wetland and the overwhelming complexity of wetlands laws. However, Larson concedes that farmer complaints about wetland regulations often have nothing to do with the WCA.

"But you can't blame the farmer for learning there's a problem on his land and not immediately going to the right government agency when there is a myriad of agencies that could have some impact," Larson said.

Even so, northern lawmakers and county governments may have won all the concessions they're going to get from the BWSR and Carlson, who supports the draft bill and has promised to veto legislation that would result in more wetlands being drained.

They will also have to contend with Willard Munger, DFL-Duluth and chairman of the House Environment and Natural Resources Committee. Munger introduced a rival bill in the House last session that contained many similarities to the latest BWSR reform plan. The bill passed the House 127-4, but was defeated in a conference committee that Munger says was stacked with anti-wetlands activists who refused to compromise.

Munger was reluctant to praise the

BWSR plan, saying it departs from language in the bill he supported last session. But he is adamant that lawmakers not give in to activists.

"I'm not willing to give away the farm," Munger said. Still, he agrees that some type of compromise must be reached in order to "take the wind out of the sails of the fanatics who say we don't need a wetlands law."

"We have to modify it to satisfy the critics because they probably have enough votes to repeal the whole thing, and that would be tragic," he said.

The battle for compromise will be a test for environmental groups, who have been struggling to hold the line against local government and property rights interests.

Don Arnosti, Minnesota director of the National Audubon Society, complained that such activist groups are trying to turn the wetlands debate into a referendum on state mandates and property rights. Both are legitimate issues, he said, but should be separate from wetlands reform.

"The reason (reform) has taken so long is because the people who would like to open a debate over those issues and further their particular agenda are using the wetlands issue ... and making it a bitter assault in hopes of starting a revolution," Arnosti said.

The National Audubon Society and other environmental groups support loosening wetland bureaucracy and giving local governments more flexibility in the law, Arnosti said, but are not willing to give up state oversight. Even the new BWSR proposal goes too far, he said, and could lead to regional differences in wetlands regulations.

The environmental group doesn't support the plan, despite having supported similar legislation last session. Arnosti said the group's support last session was motivated out of a desire to reach a last-minute compromise and avoid further erosion of wetlands protections.

"We're not at all supportive of initiating three more months of discussion on the basis of that flawed proposition," he said.

That leaves the BWSR proposal with no strong supporters — except the governor — and raises the question of whether any lawmakers will carry the bill in its current form for the agency when the session begins.

Congressman wants changes in wetlands law

Critics complain about high cost of mitigation

By GARY GUNDERSON
Agri News Staff Writer

DETROIT LAKES, Minn. — Landowner dissatisfaction with current wetland regulations could lead to dumping almost all protections unless reforms are made, says U.S. Rep. Collin Peterson, D-Minn.

Speaking at a recent Minnesota Senate Agriculture and Rural Development Committee hearing on property rights, Peterson said fine-tuning is needed if wetland regulations are to become more fair for property owners, and to allow flexibility for special circumstances. Without these changes, which Peterson said would do little to hurt wetland protections overall, Congress may severely limit wetland regulations as a backlash to what many see as unfair government intrusions into land ownership, he said.

Peterson said his efforts to reform wetland regulations have met with stiff opposition from environmental groups, many of which have run radio ads attacking him and others who want to change wetland regulations. The resulting animosity between some lawmakers and environmentalists has increased the chances that wetland protections will be curtailed and their efforts will end up hurting wetlands instead of helping, he said.

"The debate is getting polarized, and we may have a revolution and get rid of all protections," Peterson said.

The meeting was the last of three held in Thief River Falls, Crookston and Detroit Lakes. The next series of Agriculture and Rural Development Committee hearings on land rights will be Oct. 17, 7 p.m. at the Cow Palace at the University of Minnesota-Morris, and Oct. 19, 7 p.m. at Atwood Center at St. Cloud State University.

Peterson attributes much of the friction to what he characterizes as the arrogance and lack of on-the-ground knowledge among the environmental lobbies. Claims that regulatory changes he and others endorse would allow 90 percent of America's remaining wetlands to be drained are false, Peterson said, because most would still be protected by Swampbuster.

"And they probably don't know the difference," Peterson said.

Wetland protection reforms Peterson and others in the House are pushing include:

- Requiring federal government to purchase or make other payments to landowners whose property values have been decreased by 20 percent or more due to national wetland regulations.

- Reforming the Clean Water Act to make it easier for cities to comply with regulations dealing with pollutants generally perceived to



Rep. Collin Peterson

be minor health risks. Reforms would also allow the Environmental Protection Agency to be more flexible in how cities and other local governments can meet clean water standards.

- Introducing farm bill changes that would decrease some protections for Type I and II wetlands, which in general are low areas covered with water for only short periods of time each year, and designate only one federal agency to handle all wetland regulation issues.

- Revising the Conservation Reserve Program to allow wetlands and attached uplands that can't be farmed to be enrolled in CRP. Currently, only cultivated land can be enrolled in CRP.

Most of these ideas, endorsed by some House members, have not attracted much interest in the Senate, something Peterson attributes to environmentalist lobbying. "It appears they're afraid over there, so we're stalled," Peterson said.

Environmentalists are especially concerned about requiring payments to land owners whose property values have been affected by wetland regulations, Peterson said, because they know money to buy wetlands or make payments would be a difficult sell given the current budget atmosphere.

But if wetland protections are important, payments should be made, Peterson said, so the only ones paying for wetland regulations "are not just some poor farmer who didn't get his wetlands drained on time."

Others who testified at the hearing complained about state wetland regulations, especially the 1991 Wetlands Protection Act. Several complained about the act's protections of Types I and II wet-

"The debate is getting polarized, and we may have a revolution and get rid of all protections."

— Collin Peterson

lands, as well as the required mitigation, or reconstruction, of wetlands destroyed during road building.

Several speakers said they want a return to standards that protect only Types II, IV and V wetlands that cover 10 acres or more, which are more or less permanently wet areas featuring cattails and other exclusively aquatic vegetation.

Complying with wetland regulations can be onerous for county highway departments, especially in northern Minnesota where a majority of counties have 50 percent or more of their original wetland acres remaining, said Dave Heyer, Becker County engineer.

Wetland mitigations should not usually be necessary, because most road projects are simply enlarging existing highways and little actual wetland area is destroyed, Heyer said. But wetlands covered during road enlargements must be mitigated, often at great expense to taxpayers.

Mitigating wetlands is a safety issue, because money spent to rebuild wetlands means less cash spent on making highways safer, said Ed DeLaHunt, Hubbard County commissioner. There is also a fairness issue, DeLaHunt said, because southern Minnesota and the Twin Cities have drained most of their wetlands, so mitigation is less of an issue there. But northern Minnesota counties must mitigate wetland losses on almost every highway project because of the great percentage of wetlands remaining.

"Southern Minnesota and the metro have already drained everything already," DeLaHunt said. "Now they want to put everything on us. The last time we had intrusions like this, there was tea dumped into the harbor. We need flexibility and trust from the state."

Heyer added that in principle, wetland mitigation is supposed to be done in the same watershed as where the wetland was lost to road building. But several metro and southern Minnesota county highway departments are rebuilding wetlands in northern Minnesota, where land costs are much cheaper.

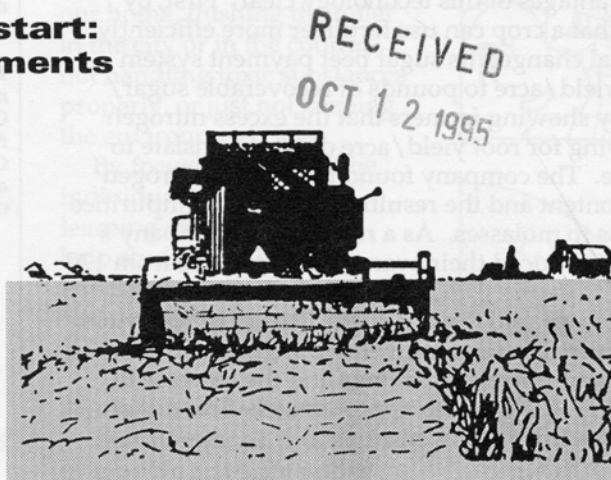
CONSERVATION IMPACT

CONSERVATION TECHNOLOGY INFORMATION CENTER

Crop Residue Management (CRM) begins at harvest

Getting a good start: Combine adjustments and accessories

By Pete Hill
Purdue University
Extension Specialist
Indiana T-by-2000



Combines that are adjusted properly and utilize crop residue spreading attachments are essential.

Keep an eye on windrows

The most common mistake made in the harvesting operation is to allow crop residue to accumulate in windrows behind the combine. This accumulation causes the soil under the windrows to stay wetter and cooler longer into the spring. In most no-till systems (and other conservation tillage systems), planting into windrows results in uneven stands as the planted seed takes longer to germinate and grow. Uneven no-till corn stands in the Midwest have sometimes contributed to significant yield reductions. In the Pacific Northwest, negative effects of heavy straw and chaff rows have been observed even where the moldboard plow is used.

Problems

Other reported problems associated with improper combine residue distribution include the following:

- unsatisfactory weed control from herbicide interception,
- poor performance of planters and tillage implements,
- increased demands on planter equipment,
- poor seed-to-soil contact (from "hairpinning" of residue into the seed row, for example),
- excessive residue lying directly over the seed furrow (allelopathic effects),
- increased pest infestation (for example, from insects and rodents),
- increased weed seed concentration, and
- poor plant nutrient uptake (from fertilizer tie-up or interception)

These problems are usually associated with small grains, such as wheat, but the effects of concentration of residues by a combine can be a problem with almost any crop. For example, combines with large corn heads or bean heads, but without a chopper or spreader, can create heavy windrows of residue. In several regions of the United States,

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producers remove the chopper or spreader when weed populations become too large to easily pass through the combine.

Larger combine heads need help

As with other types of equipment, the type of combine used—rotary or cylinder—has little influence on residue cover when adjusted properly. Always check residue distribution patterns of newly purchased combines, whether used or delivered new from the factory or dealership.

The widths of typical combine heads have increased from about 6-8 feet in the early 1950s to more than 20 feet today; combines with header widths of 30 feet or more are also available. Without special attachments or modifications, most standard combines with these header widths are not adequately equipped to spread the larger volumes of residue uniformly. Consequently, a wide variety of attachments are available to help producers manage crop residues more effectively.

Crop residue spreading attachments

Most combines are equipped with straw choppers which consist of long, angular deflector blades that, combined with high rotational speeds, spread residues over a large area. Some combines offer a straw spreader in place of the chopper. Spreaders use rotating blades or rubber bats to throw or deflect large pieces of crop residue. While the spreader typically distributes the residue more uniformly than the chopper, the chopper can provide more cover, since it chops the residue into small pieces

(Continued, page 7)

DIRECTOR'S NOTES



By John Hebblethwaite
Executive Director

"The lower rates, geared toward sugar instead of root yield /acre, helped farmers increase recoverable sugar by 50 lbs./ton. The combined input (nitrogen) savings and the increase in recoverable sugar/acre is worth approximately \$76 million annually to Crystal Sugar growers.

Crystal Sugar didn't stop there."

- Mention of product name or company does not constitute an endorsement by CTIC.

Convincing precision

I recently attended an Ag-Chem Equipment Company forum and visited the American Crystal Sugar Company (both in Minnesota) to find out more about precision farming. They offered a very convincing real-life scenerio to support predictions that site specific or precision farming will allow more cost effective and environmentally beneficial use of inputs.

A definition

Ag-Chem defines site specific farming as the practice of applying crop production inputs in each part of a field, according to its own set of needs. Ag-Chem's Soilection™ technology is able to apply variable rates of fertilizer and herbicides across a field to meet the nutrient and herbicide rates in each part of the field.

An example

American Crystal Sugar Company has made the commercial advantages of this technology clear. First, by demonstrating that a crop can use fertilizer more efficiently. American Crystal changed its sugar beet payment system from total root yield /acre to pounds of recoverable sugar /acre. It did so by showing farmers that the excess nitrogen they were applying for root yield /acre did not translate to sugar yield /acre. The company found that excess nitrogen reduces sugar content and the resulting increase in impurities causes sugar loss to molasses. As a result of the company's findings, farmers reduced their average nitrogen use from 170 to 120 lbs./acre.

The lower rates, geared toward sugar instead of root yield /acre, helped farmers increase recoverable sugar by 50 lbs./ton. The combined input (nitrogen) savings and the increase in recoverable sugar /acre is worth approximately \$76 million annually to Crystal Sugar growers.

There's more...

Crystal Sugar didn't stop there. With grid sampling and Soilection equipment and software, the company used variable rates of nitrogen and phosphorus to meet the needs of each part of the field and compared it with a standard nonvariable application. Again, the results demonstrated fertilizer savings and a significant increase in recoverable sugar /acre worth an additional \$141 of net profit /acre!

Fertilizer dealers commercially treated 13,000 acres with variable fertilizer rates for Crystal Sugar growers in 1995. This is expected to grow to 150,000 acres (35% of the total crop) in 1996.

The wave of the future?

This type of fine-tuned fertilizer management ensures that nutrients are applied only as needed by the crop for maximum economic yield, leaving very little to find its way into surface and groundwater. While the benefits of variable rate technology for sugar beets are clear, the practice is also catching on in the midwest where variable rate technology was used on 1.3 million acres this year. That could grow to 3 million acres in 1996 as more benefits are demonstrated for corn.

Based on my visit to Minnesota, it's obvious that, if the commitment and the motivation are there, the benefits can be demonstrated very convincingly.

Welcome new CTIC members!

Welcome to our newest members Data Transmission Network (DTN), represented by Kurt Wullschleger, and Dealer Progress magazine, represented by Bob Wanzel!

CONSERVATION IMPACT

ISSN 1056-9707

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Jim Mitchell: Editor/layout



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CTIC's Mission...

Promote the advancement of environmentally beneficial and economically viable natural resource systems.

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Water Quality Handbook

A teacher resource for water quality improvements

The Cuyahoga Soil and Water Conservation District in Valley View, Ohio, has developed an action-oriented, video-supported, water quality handbook for teachers.

Video-linked learning

The *Water Quality Handbook, A Teacher Resource for Water Quality Improvements*, uses eight activities that individuals do every day (as illustrated on a video, included with the handbook) to help explain the affect all of us have on the quality of water in our streams, lakes, and groundwater.

What's on the tape

Each video vignette is about four minutes long and is designed to provide as much guidance as possible, while leaving enough flexibility to help teachers adapt activities to their own students and situations.

The vignettes cover:

- Household Hazardous Wastes
- Lawn Care
- Trash and Litter
- Road Salt
- Composting Yard Waste
- Stormwater and Sewer Drains
- Home Combustion Engines
- Home Septic Systems

The video-linked activities help students develop an awareness of their actions as well as the actions of others and consider their stewardship responsibilities for the care of our earth.

Purposes

Funded through the Great Lakes Commission, the video-supported teachers aid was developed for several

reasons. Foremost is the need for all citizens to become involved in improving the quality of our water. We all contribute to the problems that surround the use of water, whether it's pouring hazardous substances down the drains of our home, flushing the toilet in the city or in the country, not handling toxic substances properly, or just not keeping the environment clean.

By focusing on what the individual can do, the learning experiences will help students to be more environmentally aware of how their actions will begin to have an impact.

Student involvement

This handbook is designed to provide an easily understood level of information that can be used to introduce students to the learning process. Each case study provides sample learning opportunities through student involvement.

Extras

Each section of the handbook has a list of references for further study for the class or for the individual that has a desire to learn more about the topic.

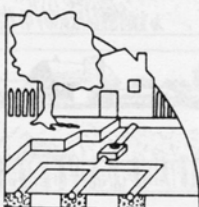
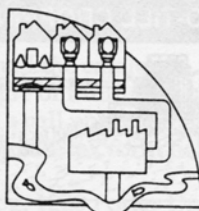
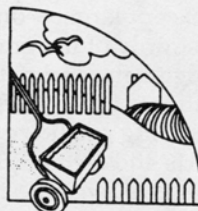
Each teaching moment also includes the chance to present a career opportunity by offering several career choices to the student.

The library section of the handbook offers a wide, variety of books that can be read by different age groups to learn about resource management.

—For information, contact Jim Storer (216) 524-6580.



Graphics featured in handbook.



CLEAN WATERS



By L.T. Kirschner
CTIC Water Quality Specialist

GIS for Public Agencies

The information in this 102-page publication is based on experiences people had using Geographic Information Systems (GIS). It can help decision makers understand what GIS can be used for, handle data quality issues, learn how to successfully implement a GIS, and use GIS in water resources management. Available from CTIC: \$20 per copy. Phone: (317) 494-9555.

NATIONAL SURVEY



Precision Farming to the MAX Conference! Learn How and Why to Make Precision Farming work for you!

A conference to help you get started in Precision Farming and improving your bottom line!

How do you make an informed decision when you may not know the right questions to ask?

Attend the Precision Farming to the MAX conference, set for December 7-8 in Indianapolis, IN. Hear from leading pioneers in precision farming. You'll learn what to do and what not to do and how to go about making this new technology profitable for you!

Great for farmers, farm managers, consultants, dealers and program managers.
Phone: (515) 284-3013
for more information!

The CRM survey is coming!

We can help you publicize your local efforts.

In October, the Conservation Technology Information Center will be equipping state NRCS offices with the graphics you see on this page (except larger—on 8½" X 11" sheets). A supply of the graphics, state-specific tillage data, and national and regional highlights will be sent to state offices for use in helping publicize state/local survey efforts and farmer progress. Next month's *Conservation Impact* will also include survey information you can use.

The materials should reach state offices

well ahead of the nationwide release of survey highlights (news release), tentatively scheduled for October 19, 1995.

The camera-ready graphics are ideal for use in weekly newspapers or any publication. Each sheet gives an editor the choice of using graphics depicting row crops or small grains (whichever is most appropriate for the region).

We invite you to contact your NRCS state office first, to find out about availability. Should your state office run out, please contact CTIC at (317) 494-9555.

One (8½" X 11") sheet will feature these two graphics on no-till planting and benefits.

NO-TILL PLANTING PROCESS

STEP 1 - AT HARVEST The stems, stalks and leaves from a newly harvested crop are left in the field.

Some No-till Benefits:

- Protects the soil from erosion by wind and rain
- Reduces water runoff from the field during rains
- Conserves water
- Adds organic matter to the soil
- Reduces labor, fuel, and equipment wear
- Provides habitat for wildlife
- Prevents release of carbon gases

STEP 2 - AT PLANTING Instead of disturbing (plowing or tilling) the whole field, seeds are planted in very small grooves or strips. This keeps most of the old stems, stalks, and leaves (crop residue) intact on the soil surface to protect the soil while new plants are growing.

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Another (8½" X 11") sheet will feature these two graphics, outlining the year-round system.

NO-TILL CROPPING SYSTEM

Stems, stalks and leaves (crop residue) are left on the soil surface at harvest, providing a protective blanket for the soil.

The crop residue protects the soil from wind and rain and provides shelter and food for wildlife.

Seeds are planted directly into the crop residue in small grooves or strips. The protective blanket remains in place.

The crop residue provides organic matter for the soil and conserves moisture that is used by growing plants.

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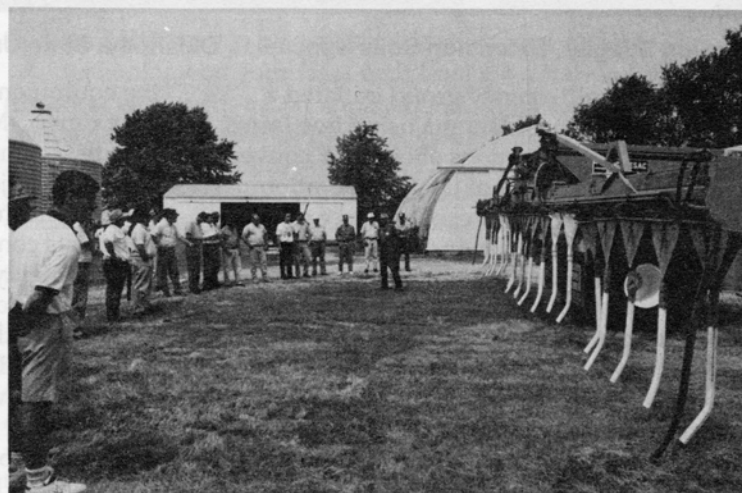
The crop residue provides organic matter for the soil and conserves moisture that is used by growing plants.

McCain serves as tour guide

C TIC Field Specialist (retired) Dan McCain is giving farmers from other countries an "up close" look at how it's done in the U.S.

McCain is working with CTIC to offer an open invitation to foreign agriculturalists and agribusiness representatives to arrange tours of U.S. farms. The tours are intended to promote international cooperation and create an exchange of information on such topics as crop residue management, precision farming technologies, watershed management, etc. McCain is establishing a fee structure for the tours.

In June, Dan coordinated a tour for a group of 17 Argentinian farmers who are members of the Producer Conservation Foundation there. The 14-day tour covered seven states in the Midwest and Great Plains.



In June, Dan McCain coordinated a 14-day tour for a group of Argentinians with the Producer Conservation Foundation.

Photo: CTIC/Mitchell

Tour stops included innovative farmers, researchers, and individuals in agribusiness. The 3- to 4-hour farm stops gave the delegation an opportunity to visit and get to know U.S. farm families.

Marketing and production cost comparisons were also among the highlights.

—You can reach Dan McCain by phone or fax number at this number: (317) 564-6297.

CENTER NEWS



JUST ARRIVED!

Crop Residue Management (CRM) to Reduce Erosion and Improve Soil Quality for the Northwest is now available from CTIC.

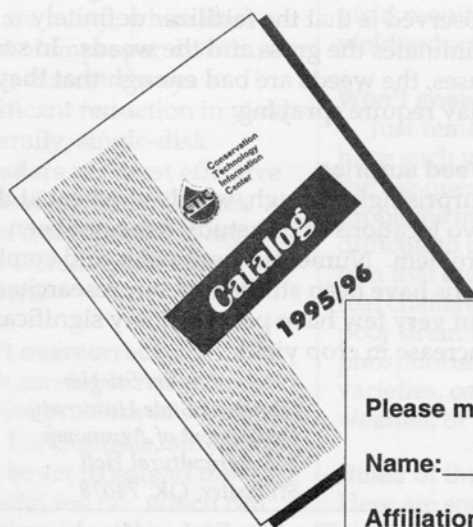
Also available for:

- Southeast
- Northern Plains,
- Southern Plains.

\$10 per each regional edition.

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FAX (317) 494-5969
or write: CTIC/
CRM, 1220 Potter
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Lafayette, IN
47906-1383

You deserve a peek at the *new* CTIC catalog for '95-'96



Here's an eight-page catalog for anyone interested in crop residue management, watershed management, water quality, wetlands, nutrient management, and pest management. The catalog is packed with publications, videos, fact sheets, kits, booklets, brochures, manuals and data sheets!

CTIC will mail the catalog to you—free—in single or multiple copies. Just give us a call at (317) 494-9555, or fill out the fast fax form below, or write:
CTIC Catalog, 1220 Potter Dr. Rm.170,
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at meetings, special
events, and functions etc.

GUEST COLUMN



About the CRP conversion sites in Oklahoma:

One is located in a semi-arid region on a wind-erosion-prone fine sandy loam soil in northwestern Oklahoma. The average rainfall is 18-inches annually. The other site is located in a subhumid region on a water-erosion-prone clay loam soil in southwestern Oklahoma. The average rainfall is 26-inches annually.

- Mention of product name or company does not constitute an endorsement by CTIC.

READER'S REGIONAL REPORT

CRP conversion in the Southern Great Plains

By Jim Stiegler, Extension Soils Specialist, Oklahoma State University

In 1994, a multi-agency group initiated a 3-year project in Oklahoma using two farms to help answer questions about CRP conversion (taking land out of the Conservation Reserve Program) and economics of grass vs. grain. We are well beyond the speculation stage and have already noted a few things.

Deadline dancing

One of our goals in the Southern Great Plains is to try to develop a tillage and cropping system that will permit producers to plant wheat the same fall as the CRP contracts expire. Otherwise, they will lose a full year of production, since dryland, summer crops do not do that well. That means we cannot plant until after September 30th and currently the grass cannot be destroyed until July 1st.

Roundup-tough grass

We are finding that Old World Bluestem (one of our major grass plantings) is very difficult to kill with Roundup® and is making our system of no-till planting wheat into the sod rather costly. Our researchers have looked at rates up to 1 quart applied early and late with different amounts of water, surfactant and ammonium sulfate with little success. It takes two - 1 quart applications made about 3 weeks apart to do an effective job but that costs more money than tillage. We have also looked at Roundup treatment in undisturbed, mowed and burned sod. None of the treatments have given us an adequate kill of the sod, unless we go to higher rates. We do get significant suppression—but not kill. By spring of the next year or after a good rain, the grass begins to grow again.

V blade works

We have been very successful using the large V blade to kill the sod (90% or better). This creates a loose soil surface, high amounts of residue remain to provide an excellent minimum till environment. The tillage has to be done later in the summer when the plants can be easily stressed and the tillage dries out the soil. Early tillage merely transplants the grass.

Moldboard, first year

While we have not tried chisel plowing, I suspect that it will create an extremely rough soil surface with massive clumps of grass roots. Disking has worked for us, but it takes so much down pressure to cut the sod that on a large scale, producers would not do this tillage because it would be extremely hard on

the equipment. It also makes the soil surface very rough. Moldboard plowing followed by one disking has been a tillage practice that has done a good job of killing the sod and creates a nearly clean tillage system. Despite conservationists concerns about moldboard plows, there is plenty of residue, including massive amounts of roots to provide good soil protection from both wind and water erosion the first season. In subsequent years, we anticipate that we will meet requirements for developing a good residue management system to protect the soil. Our first year wheat yields have ranged from 30 bu./ac. from moldboard, 27 bu./ac. for disk, and 18 bu./ac. for sweep and no-till.

CRP soils

Contrary to what some may think, the soils coming out of CRP are not fertile here. Generally, we have had to apply significant P (phosphorus) with the wheat seed. In addition, because of the large amount of decaying grass and roots, up to 100 lbs./ac. of nitrogen was required for good wheat yields the first year.

Nitrogen requirements

A good fertility program is also essential to maximize the forage potential of the Old World Bluestem grasses. Generally 60-100 lbs. of N (nitrogen) per acre seems to provide good forage yields. Our data is not complete for this season, however one thing that was observed is that the fertilizer definitely stimulates the grass and the weeds. In some cases, the weeds are bad enough that they may require spraying.

Weed surprise

Surprisingly enough, weeds in wheat at the two locations of our study have not been a problem. Numerous herbicides and combinations have been studied by our researchers but very few have provided any significant increase in crop yield.

—Jim Stiegler

Oklahoma State University
Department of Agronomy
368 Agricultural Hall
Stillwater, OK, 74078

Editor's note: Thanks to Jim for adding his region to our CRP perspective. You can help too, by writing us with information from your region. What's working, what's not in CRP, CRM, watershed management, water quality, nutrient and pest management, etc. Send to: CTIC Editor, 1220 Potter Dr., Room 170, West Lafayette, IN 47906, or fax us: (317) 494-5969.

(Combines, from page 1) before spreading. The spreader attachment, by design, spreads whole pieces of residue (soybean stems, wheat straw, partial corn stalks) and consequently does not cover as much of the surface.

Chaff spreaders

Another combine attachment that is effective in handling small grains or soybeans is the chaff spreader. Chaff makes up nearly half of the harvested material and does not usually reach the straw spreader or straw chopper because it drops to the ground from the combine sieves. For high yielding crops or crops that have high biomass production, the potential for creating heavy windrows is great. Chaff is easily spread but because it is lightweight, it is difficult to spread beyond 10-25 feet using chaff spreaders.

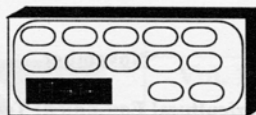
The most commonly used chaff-spreading attachment is hydraulically driven single or dual spinning disks that have rubber bats attached. Most farmers find that the return on investment is quite high; the benefits of even distribution are many, while the effect of improper distribution is almost always a significant reduction in yield. Generally, single-disk spreaders are most effective for headers under 20 feet, while dual spreaders are most effective for wider headers.

Don't overcorrect

Be careful to not overcorrect the problem of windrowing. For example, spreaders may be set to spread the crop material too far, which can create windrows outside the harvested swath. Proper harvesting methods will result in maximum erosion control and seedbeds ideal for planting with a conservation tillage system. - Pete Hill, (317) 494-4795

Yield monitors

Precision Farming Starting Point



You don't have to be a rocket scientist to use satellite technology on your farm or at least get a start in that direction with earth-based applications. More and more farmers are getting a start by using yield monitors. The monitors are available for use with or without the aid of global positioning systems (GPS) to help you detect yield variations in a field. Such variations can be significant.

New level of field management

The detailed yield information from the monitors can take field management to a new level. Instead of managing an entire field the same, you may be able to modify management for different areas of the field, resulting in improved overall efficiency. This is what the term "precision farming" is all about—greater accuracy in the field and greater efficiency in the use of inputs. The long-term prospects could be good for your pocketbook and for the environment. You'll pay for only the amount of fertilizer you need while losing less to runoff from fields and thus improving water quality.

Most yield monitors with global positioning attachments are priced around \$7,000. The monitors have proven accurate to within 2 percent of actual yields, as measured with weigh wagons.

Learning tool

Most experts agree that the grain yield monitor is the device of choice to use in exploring the world of precision farming. Whether GPS or earth-based, it will enable you to start the process of identifying problem areas in the field. The basic yield monitor (without GPS) will give you a digital display as you go through the field. The addition of the GPS receiver allows you to collect that data on a computer disk and use the disk with mapping software to produce a color-coded yield map of the field. For some, the results have been startling. For example, a field may average 160 bu./ac. but the map generated shows areas varying from 220 to 100 bu./ac. right next to each other. In regions plagued by rain this season, the GPS yield monitors should give you a good picture of the severity of yield reductions.

Won't answer "why?."

Just remember, the yield monitor does not tell you *why* you have such variations in the field. If you don't know why, then the big question is: **What are you going to do about it?** Some problems may be readily apparent while others may be very difficult to diagnose. There are so many variables in production that analyzing the data from the yield map could be the real challenge. Was the difference in yield caused by soil type, poor drainage, difference in organic matter, nitrogen rate, phosphorus or potassium level, pH, herbicide used, seed varieties, compaction, poor weed control, insect damage, weather, or some other unknown variable?

Rules of thumb

Here are some good rules of thumb for trying to decipher the yield map results:

- Keep analysis simple and quantify the obvious, ex. compare hybrids, nitrogen rates, or herbicide treatment
- Avoid hasty judgements; 3-5 years of data may be needed before making major management decisions
- Use a consultant to make your yield maps
- Check with a specialist to help interpret the data with earth-based applications.

AG-TECH NOTES



By Dan Towery
CTIC Natural
Resources
Specialist

National Agricultural Ecosystem Management Conference

December 13-15
New Orleans, LA.

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Also includes a December 12 preconference workshop on Wetland Management.

ON THE CALENDAR



November

1-4
Agricultural Equipment Technology Conference, Chicago, IL. Contact: American Society of Ag Engineers, (616) 428-6333.

2-5
ASFMRA 66th Annual Meeting, New Orleans, LA. Contact: John Ross, (303) 758-3513.

4-5
North American Agricultural Equipment Conference, Chicago, IL. Hyatt Regency. Phone: 1-800-343-1468.

5-9
AWRA 31st Annual Conference and Symposia, Houston, TX. Contact: Mark L. Loethen, Pate Engineers, (713) 462-3178.

6-8
Association for Farming Systems Research and Extension (AFSRA) North American Meeting, Ames, IA. Contact: Charles Persinger, (515) 294-5063.

6-11
15th International Symposium on Lake, Reservoir and Watershed Management, Toronto, Ontario,

CANADA. Phone NALMS: (608) 233-2836.

9
Stormwater Management Symposium, Linthicum, MD. Contact: Lynne Hoot, Maryland Association of Soil Conservation Districts, (401) 956-5771.

10-12
Tenth Annual Sustainable Agriculture Conference of the Carolina Farm Stewardship Association, Black Mountain, NC. Contact: Kate Cahow, (919) 968-1030.

15-16
25th North Central Extension-Industry Soil Fertility Conference, St. Louis, MO. Contact: Mary Hughes, Potash and Phosphate Institute, (913) 776-0273.

30-Dec. 2
Agricultural Retailers Association's Convention and Expo, St. Louis, MO. Contact: Kim Graves, 1-800-844-4900.

December

12-15
National Agricultural Ecosystem Management Conference, New Orleans, LA. Contact: CTIC, (317) 494-9555.

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OVERVIEW OF THE KANDIYOHI COUNTY COMPREHENSIVE WATER PLAN
FOR THE OCTOBER 25, 1995 BWSR MEETING

INTRODUCTION

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

Kandiyohi County is part of the Mid-Minnesota Joint Powers Board formed to write comprehensive local water plans.

Kandiyohi County began its original planning in February 1990. The BWSR approved plan was adopted by the county in December 1991.

This recent planning revision process began on December 21, 1994. State agency review period began September 21, 1995.

PHYSICAL DESCRIPTION OF COUNTY

There are two principal aquifers in Kandiyohi County, both being glacial outwash aquifers--a surficial drift aquifer and a buried drift aquifer. Well depths in the surficial drift aquifer range from 30 - 240 feet. The water is generally of good quality, however nitrate contamination is present in some areas. Well depths in the buried drift aquifer range from 80-380 feet. The water is commonly hard with sulfate and chloride concentrations present. Both drift aquifers produce from 100- 600 gallons per minute (GPM).

The depth to bedrock in Kandiyohi County is at least 200 feet. The county has two minor aquifers both being bedrock aquifers--a Cretaceous aquifer and a Precambrian igneous and metamorphic aquifer. The range of well depths in the Cretaceous aquifer is 200-450 feet. The water is commonly hard, has large sulfate, chloride and dissolved solids concentrations, and produces 10-250 GPM. Although no such wells are on file at the Minnesota Geological Survey, well depths in the Precambrian rock aquifer are at least 300 feet and produce 5-25 GPM.

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

Most of Kandiyohi County is considered a recharge area meaning areas receive and hold relatively large amounts of recharge from precipitation and slowly release it as year round discharge to streams, rivers, lakes and aquifers.

There are three major watersheds in the county: the Crow River; Minnesota - Hawk Creek; and Chippewa River. The Crow River is located in the Mississippi River Basin; the other two in the Minnesota River Basin. These three are divided into sixteen separate minor watersheds.

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

The southern half of the county is a gently undulating till plain that is intensively row cropped and has dark loamy soils. Because the topography is fairly flat, water erosion from cropland is not a major problem. However, because the cropland is intensively row cropped and the fields are quite large and unprotected, wind erosion can be a problem. Corn, soybeans, sugar beats and small grains are the most common crops.

The northern half of the county is dominantly a rolling moraine characterized by forested areas, lakes and swamps having dark and light colored loamy soils. Because of its rolling type topography, the northern area is more vulnerable to water erosion from cropland. Dairy farming is quite common in the northern half.

Kandiyohi County is affected by wind and water erosion with approximately the same amount of areas in the county being affected by these two types of erosion. Average tolerable soil loss due to erosion in the county is 3 to 5 tons per acre per year. Forty percent of the county's soils have a high water erosion severity with averages over 10 tons per acre per year. The critical water erosion period occurs between April and June of each year.

Wind erosion usually occurs in the winter and early spring when field surfaces may be dry and wind velocities reach or exceed 12-13 miles per hour. Forty-five percent of the county has soils associated with wind erosion having a high severity classification and an average soil loss of over 10 tons per acre per year. The critical wind erosion period is late winter and early spring when field surfaces may be dry and strong northwest winds blow.

Land use practices in agriculture have changed significantly in the last 25 years. In the past, agriculture was quite diversified with livestock and dairy operations being quite numerous. Most of the crops produced feed for the livestock and were considered high residue crops offering protection to the soil from erosion. Presently, the land uses in agriculture are primarily cash grain operations with most being considered low residue crops which offer little protection to the soil from erosion.

The State of Minnesota is divided into seven separate ecoregions. Approximately 2/3 of the northern part of Kandiyohi County is in the North Central Hardwood Forests Region. The southern 1/3 is in the Western Corn Belt Plains Region. In the North Central Hardwood Forests Region, lakes are generally small and deep, and are characterized as eutrophic in nature. There are a variety of land uses in this region. Nonpoint Pollution Source (NPS) problems are limited to areas with intensive agricultural and urban development.

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

Much of the natural drainage network has been increased by county ditches, field ditches and tile lines, especially in the southern part of the county. Kandiyohi County has over 500 miles of public drainage systems. The average cost for maintenance and improvements is about \$235,000 per year. Approximately \$35,000 a year is spent on weed spraying alone in the public ditch systems.

In 1988, through the cooperation of many private landowners and various agencies, over 300 acres of Timber Lake were restored to bring back a productive area for wildlife. The Kandiyohi County plan lists 15 more drained or partially drained lakes which have the potential for restoration. One major effort now under way involving the cooperation of many private landowners, various local/state/federal agencies and the City of Willmar is the restoration of Grass Lake. Once completed, the restoration will provide wildlife habitat, stormwater basin for the City of Willmar, and downstream flooding protection.

ACCOMPLISHMENTS

During the four years since adopting the original plan, numerous activities have been evaluated and implemented by the county with cooperation of local units of government, county residents, and private groups. Some accomplishments are:

1. Adoption and implementation of the Shoreland Ordinance and a revised Floodplain Management Ordinance.
2. Wetland management activities including administration of the Minnesota Wetland Conservation Act (WCA) and the cooperative efforts towards the restoration of Grass Lake.
3. A cost-share program administered by the Kandiyohi County Water Planning Task Force which has increased local participation in water management activities. Lake Association activities and cost-share assistance to water resource projects include: 2 diagnostic feasibility studies; 5 lake assessments; 2 aeration systems; several sediment and erosion control structures; water testing; a weed control program on one lake; educational programs by the lake associations.
4. Groundwater protection activities including abandoned well inventory and cost-share program for proper sealing, waste pesticide container collection program, and extensive recycling program.
5. Increased activities and expansion of lake associations taking on responsibilities in local resource management.
6. Financial, technical and educational assistance from local governmental units to local residents.
7. An active Kandiyohi County Water Planning Task Force that continues to lead water planning activities.

STAFF REVIEW

The plan revision lists many strategies which indicate the proactive approach that Kandiyohi County is proposing to address problems, opportunities and needs. Some of the strategies are:

1. Cooperate with the Buffalo Creek and North Fork Crow River Watersheds in implementing existing watershed district defined activities and in updating their plans to reflect specific policies of the county water plan.
2. After adoption of WCA guidelines by the BWSR, the county shall identify high priority wetland preservation areas.
3. The county shall identify those major (>10 acres) drained wetlands that can be restored and consider alternative means to achieve proper restorations through state or county land purchases, easements, or restoration incentives for landowners.
4. Support state, federal and private efforts to restore the Grass Lake wetland area.
5. Promote the creation of sediment basins or traps along drainage courses prior to entering lakes.
6. Continue to support assistance to local landowners for agricultural erosion and sediment control.
7. Work with Kandiyohi County Lake Improvement Association (KCLIA) to re-establish trees and buffer strips on lakeshore properties, to restore lake water quality, fish and wildlife habitat, and aesthetics.
8. Promote and cooperate with the efforts of the MPCA to regulate feedlots and reduce related water resource contamination.
9. Provide water planning funds through a cost-share program to local organizations for local projects.
10. Identify and inventory known or likely aquifer recharge areas.
11. Provide available information to municipalities for development of wellhead and aquifer protection plans. Provide review comments on final plans.
12. Continue to inventory existing abandoned wells.
13. Provide cost-share assistance to local residents for proper sealing of abandoned wells, pending availability of funds.
14. Maintain a system of inspecting and upgrading nonconforming on-site sewage treatment systems.
15. Continue support of unsewered communities in their efforts in gaining local, state, and federal funds for installation of community wastewater systems.
16. Implement the solid waste abatement and disposal strategies outlined by the Kandiyohi County Solid Waste Management Plan.
17. Encourage the development of lake associations or improvement districts to organize water quality and maintenance activities and apply for available grant monies.
18. Identify Andrew, Big Kandiyohi, Diamond, Eagle, Elkhorn, Florida, Foot, Games, Grass, Green, Long, Long (Hawick), Monengalia, Nest, Norway, Wagonga, and Willmar Lakes as priority lakes for water quality improvements.
19. Shoreland zoning/land use regulations shall be strictly enforced and possibly amended to protect water quality and habitat areas.
20. Promote improved communication and cooperation between public agencies regarding all areas of water and environmental management.

Kandiyohi County submitted its plan revision to BWSR on September 19, 1995. On September 21, 1995, BWSR distributed the plan revision to the state agencies for their review. Staff will continue to work with Kandiyohi County to address any state agency comments that are presented during the final review process. Information in this overview was obtained from the original Kandiyohi County Water Plan and the proposed plan revision.

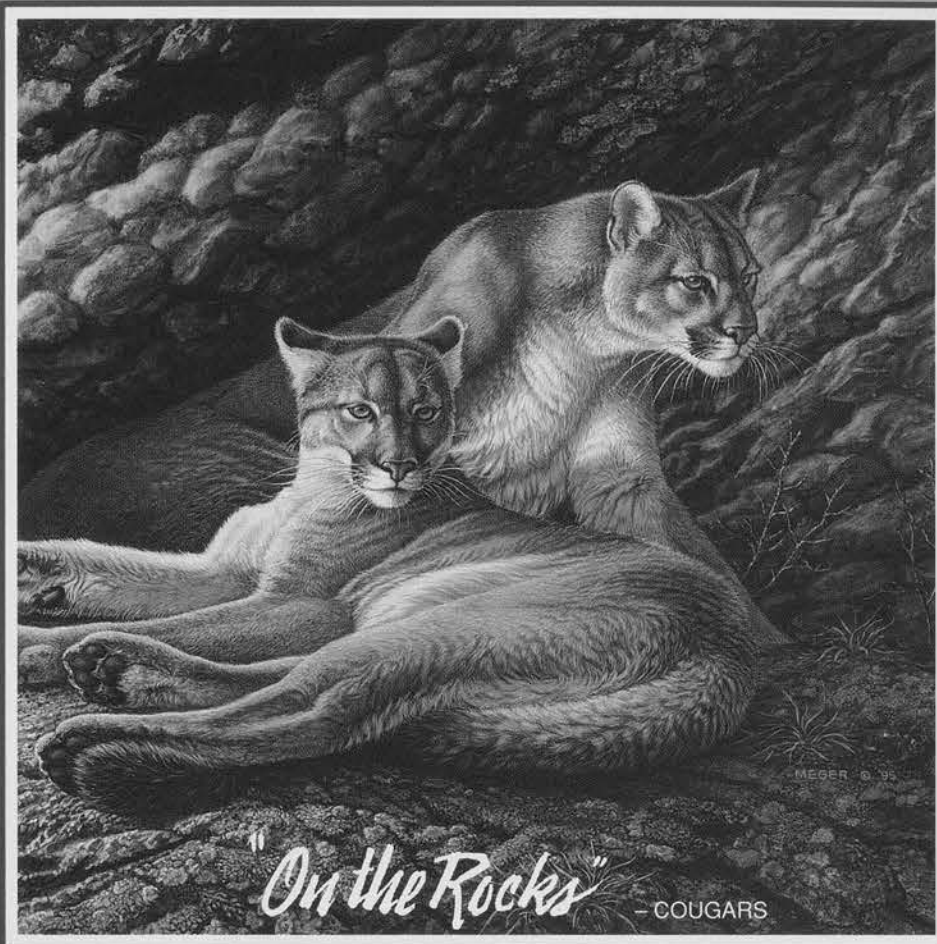
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SPRING 1995



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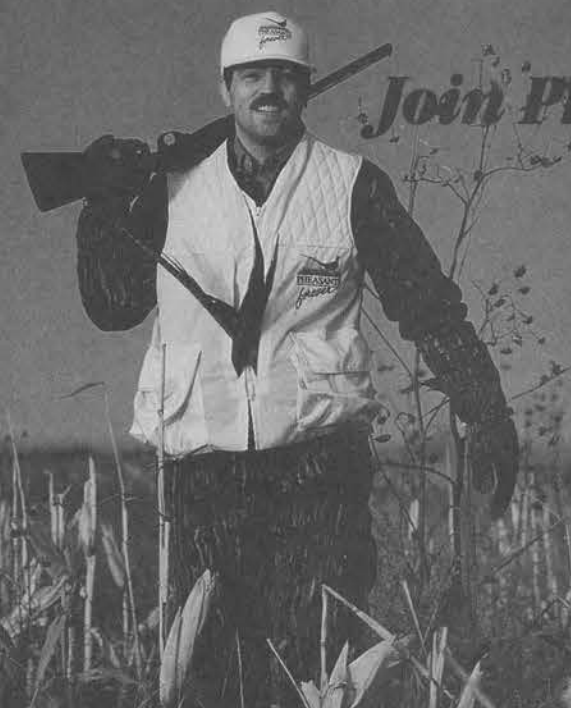


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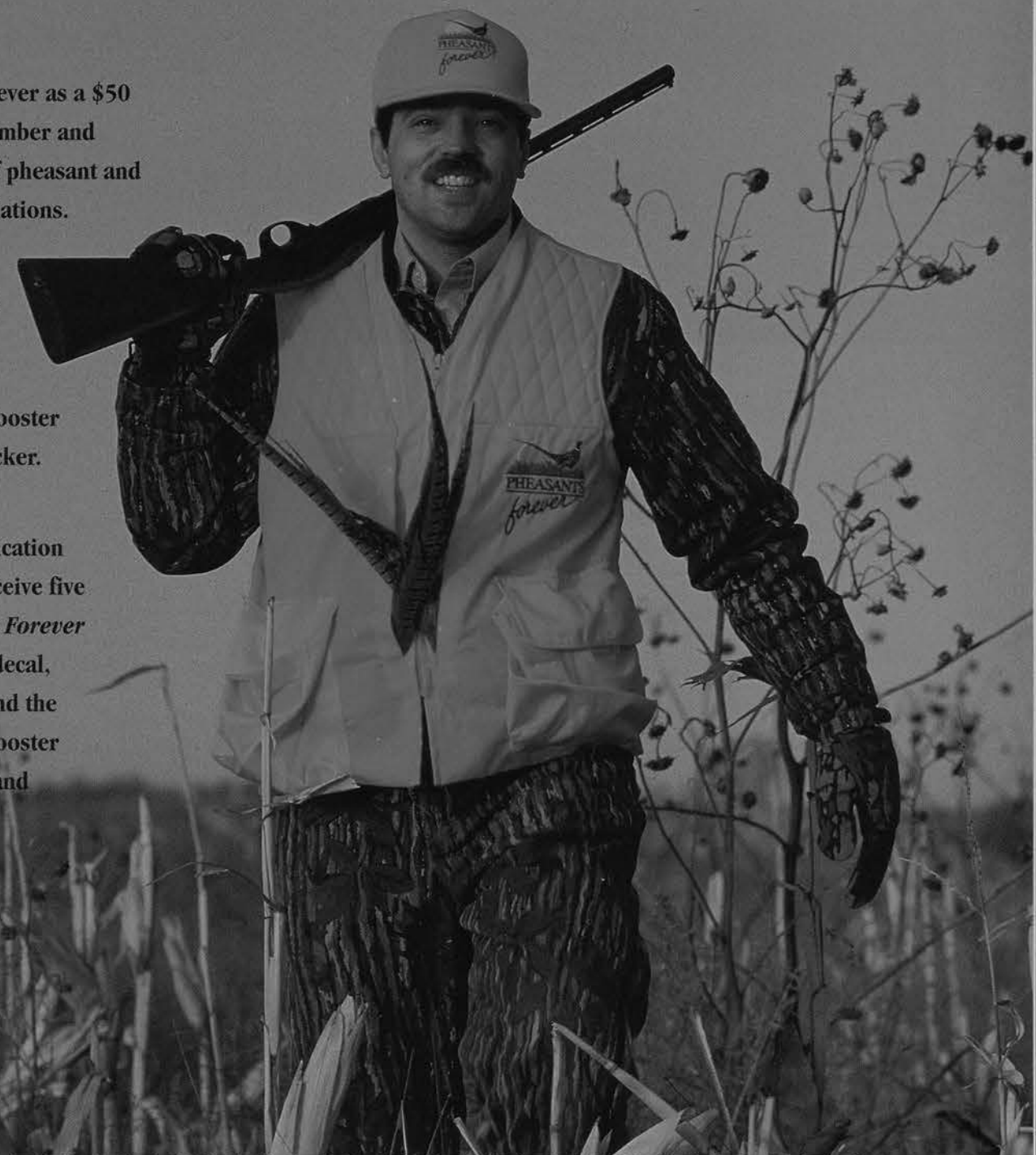
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ABOVE AND
OPPOSITE:

Birds were abundant in 1994 — a year that was also good for Pheasants Forever members. Annual Report, Page 19.

BELOW: Sage grouse, sharp-tailed grouse and gray partridge leave their marks on the prairie. Page 44.

COVER PHOTO:
Ron Spomer.



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DECEMBER 20, 1995**

BOARD MEMBERS PRESENT:

Barbara Cobb, Barb Uppgaard, LeRoy Stensgaard, Marvell Tripp, Ted Lovdahl, Dwain Otte, Darrell Bruggman, Tim Hvidsten, Ginny Imholte, Jim Rossman, Kathleen Roer, and Glenn Annexstad.

AGENCY MEMBERS PRESENT:

Paul Burns, Department of Agriculture (MDA)
Wayne Edgerton, Department of Natural Resources (DNR)
Wayne Anderson, Pollution Control Agency (PCA)
Jim Anderson, Minnesota Extension Service (MES)

AGENCY MEMBERS ABSENT:

Kim Benson-Johnson, Department of Health (MDH)

OTHERS PRESENT:

Jim Schafer, Minnesota Association of Soil and Water Conservation Districts (MASWCD)
Rick Reimer, Minnesota Association of Conservation District Employees (MACDE)
Don Wodek, Hennepin Soil and Water Conservation District (SWCD)
Ray Bohn, Minnesota Association of Watershed Districts (MAWD)
Roger Mussetter, Natural Resources Conservation Service (NRCS)
Dave Weirens, Association of Minnesota Counties (AMC)
Franklin Denn, Minnesota Association of Townships (MAT)

STAFF PRESENT:

Ron Harnack, Jim Birkholz, Al Kean, Doug Thomas, Marybeth Block, Dave Johnson, Wayne Zellmer, Keith Grow, Jim Haertel, and Mary Jo Anderson

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Chair Cobb called the meeting to order at 9:30 a.m.

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95-73 **Approve Agenda** - Motion made by LeRoy Stensgaard, seconded by Barb Uppgaard, to approve the agenda as presented. Motion passed on a voice vote.

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95-74 **Minutes of October 25, 1995** - Changes on page three, regarding the WCA Resolution - delete the statement "the County Planning and Zoning and possibly County Sheriffs to the copy list." Also, on page three, regarding the McLeod County Court Decision, delete the statement "20 years" and replace with "WCA exemption #3." Motion made by LeRoy Stensgaard, seconded by Tim Hvidsten, to approve the above changes to the minutes of October 25, 1995. Motion passed on a voice vote.

Chair's Report - Chair Cobb appreciated board members' and staff participation at the AMC, MAWD, and MASWCD conventions; their attendance is very important to support our partnerships. LeRoy Stensgaard, on behalf of AMC, appreciated BWSR attendance at their convention.

Executive Director's Report - Ron Harnack introduced Dave Johnson, newly hired board conservationist for the metro region. Ron stated that the AMC, MAWD, and MASWCD conventions were very successful. He also appreciated board members attendance at the conventions. Ron attended two regional meetings to discuss various issues. He spent one day at the Rochester BWSR office and one day at New Ulm BWSR office.

Ron reported that a "Stakeholder's Roundtable on the Wetland Conservation Act" will be held January 4-5, in St. Cloud. The anticipated outcome of the two-day session is a resolution of the key issues that present obstacles to an agreement. Those invited include representatives from counties, farm organizations, conservation groups, local units of government, and state agencies.

Dispute Resolution Committee (DRC) Report - Kathy Roer reported that the DRC met to discuss an appeal from Concerned Citizens of Mahtomedi vs. Valley Branch Watershed District. This appeal settled before the DRC met. Two appeals were just received and will be heard after the first of the year.

Education and Public Relations - Tim Hvidsten stated that the Education and Public Relations Committee will meet in January.

Wetlands Committee - Darrell Bruggman reported that the Wetlands Committee met in St. Cloud. John Jaschke wrote a synopsis of the meeting, if you would like a copy of the synopsis contact John.

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Consent Agenda

County Water Plan Extensions - Doug Thomas stated that the list of requested county water plan extensions (board members received this listing in the mail) is recommended for approval, according to criteria adopted by the BWSR in September.

Local Water Plan Approvals - Recommendations of Review Committee - the plans were reviewed by two water plan review committees: Ted Lovdahl presented Aitkin, Itasca, and Todd County Water Plans and recommended approval of the plans. Marv Tripp presented Mower and Kandiyohi and recommend approval of the plans. Motion made by Ted Lovdahl, seconded by Marv Tripp, to approve the Aitkin, Itasca, Todd, Mower, and Kandiyohi County Water Plans. Motion passed on voice vote. Board members stated that they thought the area committee format for review of the plans was very good.

95-75

Cost-Share Rule Adoption - Marybeth Block presented the resolution for adoption. Ron Harnack commended staff for their work. Motion made by Glenn Annexstad, seconded by Darrell Bruggman, to approve and adopt the November 29, 1995, Revisor of Statutes draft copy of the permanent rules on the state cost-share program and authorize Ron Harnack, executive director, to sign the Findings of Fact, Conclusions and Order Adopting Rules Without a Public Hearing. Motion passed on voice vote.

95-76

Cost-Share Committee Policy Issues - Dwain Otte presented the Cost-Share Committee's recommendation pertaining to the distribution of program funds to districts. Chair Cobb stated that the committee worked very hard on developing fair and clear policy guidelines and commended committee chair Dwain Otte and staff Keith Grow, Marybeth Block and the MASWCD cost-share committee. Motion made by Kathy Roer, seconded by LeRoy Stensgaard, to endorse the committee's recommendation. Motion passed on voice vote.

95-77

AMC Wetland Protection Sub-Committee Meeting - Chair Cobb reported that AMC has scheduled a meeting with AMC's Wetland Protection Sub-Committee and BWSR Wetlands Committee for December 28 from 1:00 p.m. - 4:00 p.m. at the AMC office in St. Paul. Darrell Bruggman, Kathy Roer, Jim Rossman and Chair Cobb will attend.

Chair Cobb called for a break in the meeting at 10:35. The meeting reconvened at 10:45 a.m.

Natural Resources Block Grant (NRBG) - Wetland Conservation Act (WCA) Grant Policy Revisited - Chair Cobb explained that this issue involves the BWSR decision of September 27, 1995, concerning the eligibility of counties for Natural Resources Block Grant funding. The BWSR decision requires a county to acknowledge their responsibility to implement the WCA by January 16, 1996, which is the deadline for application of 1996 NRBG funding. Failure to comply with that date results in forfeiture of the WCA portion of the block grant. Pope County Commissioner Arne Stoen, who is also chair of the Association of Minnesota Counties (AMC)

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Wetland Protection Sub-Committee, requests that BWSR reconsider that action. Discussion followed.

95-78

Ron Harnack called Commissioner Arne Stoen regarding the NRBG - WCA grant policy. Mr. Stoen stated that he appreciated the opportunity to discuss this with the BWSR Board over the telephone. Mr. Stoen also appreciated Chair Cobb's dialogue at the AMC convention in St. Cloud. Motion made by Ted Lovdahl, seconded by Jim Rossman, to hold the WCA grant allocation dollars of rescinding counties in reserve until sixty days after enactment of WCA amendments or 60 days after the end of the session, whichever occurs first. Local units of government (LGUs) would be required to acknowledge implementation of WCA within that timeframe or lose eligibility until 1997 and funding would be allocated through the challenge grant process to other LGUs. Motion passed on a voice vote (Ginny Imholte opposed). Commissioner Dennis Berg from Anoka County briefly commented. Commissioner Stoen stated that he looks forward to the meeting on December 28 with the BWSR wetlands committee.

Minnesota Department of Transportation (MNDOT) Permitting by Watershed Districts - Ron Harnack introduced Ray Bohn, MAWD. Mr. Bohn introduced Woody Love, Minnehaha Creek Watershed District; Jerry Bennet, Wild Rice Watershed District; Art Nobel, Gerry VanAmBurg, Susan Scribner, and Vern Johnson, MAWD Board of Directors. Ray Bohn stated MAWD's position and its concern that MNDOT is no longer applying to the watershed districts for permits. MAWD has adopted resolutions to change the current MNDOT position. Ron Harnack introduced Lawrence Foote, who commented on MNDOT's position. Mr. Foote introduced Nick Tiedeken, who distributed MNDOT's promotion of constructive relations with local water planning organizations. Discussion followed. Ron Harnack stated that cooperation is needed in this effort; state agencies need to work with local units of government, the conflicts need to be resolved before this is a legislative issue. Ron stated that MNDOT should take a proactive role to bring this issue to resolution. MNDOT district meetings with watershed districts was strongly encouraged.

Reorganization Report - Chair Cobb attended the EQB meeting yesterday; at which time the reorganization efforts for special districts was delayed until December 1996 when the state agency reorganization report is due. Chair Cobb stated that education on the functions of special districts is clearly needed. Meetings with the environmental cluster group will continue to discuss these issues. A meeting with Commissioner Williams and Commissioner Sando was supported.

Presentation of By-Laws Draft, Executive Director Personnel Review Draft and Policy Manual - Chair Cobb stated that the administrative committee has been working on draft by-laws; a draft annual performance review of the executive director; and a draft policy handbook - which will be distributed soon.

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Chair Cobb requested that Sara Johnson, BWSR staff in the New Ulm office, who is the SWCD Accounting Coordinator, send her a memo stating what innovative training she is working on. Sara responded and explained that she trains SWCD bookkeepers, and is now also gearing training sessions to SWCD board treasurers and district managers that centers around understanding annual financial reports and oversight responsibilities of managers. Chair Cobb stated that Sara does an excellent job working with SWCDs.

509 Plan Grants Policy - Jim Haertel explained that the 1995 Legislature authorized BWSR to award grants directly to watershed management organizations, including planning grants for the development of second generation plans. Jim stated that the BWSR Metropolitan Surface Water Management "509" Coordination Committee will come before the BWSR in February with a recommendation for the BWSR's decision.

Governor's Round Table on January 4-5, in St. Cloud. Ron Harnack reported that a "Stakeholders Roundtable on the Wetland Conservation Act" has been scheduled for January 4-5, at the Holiday Inn in St. Cloud, to bring reconciliation to the ongoing debate about WCA. The Roundtable has been coordinated by BWSR, DNR, and AMC. Organizations will designate a representative to attend the session, Ron suggested that he and representatives of the BWSR wetlands committee attend. Motion made by Ted Lovdahl, seconded by Barb Uppgaard, to designate Ron Harnack to represent the BWSR at the Governor's Roundtable with authority to negotiate. Motion passed on a voice vote. BWSR Wetland Committee Members are requested to attend the meeting.

95-79

Advisory Comments

Minnesota Department of Agriculture (MDA): Paul Burns reported that applications for the second round of the Agricultural Best Management Practices (AG BMP) loan program are in. The applications exceed the amount of allocations available. Paul stated that Wayne Zellmer has been a big help to MDA on this program.

Minnesota Extension Service (MES): Jim Anderson stated that MES has been working with MDA on the Minnesota River computer system.

Pollution Control Agency (PCA): Wayne Anderson reported that PCA is providing financial assistance (grant and loan funds) for the Clean Water Partnership Program on water quality and development. Wayne stated that like MDA, applications exceed the amount available.

Minnesota Department of Natural Resources (DNR): Wayne Edgerton reported that legislators are interested in introducing a trespass law. Wayne said that signs are posted stating private property no hunting without permission due to government land use over-regulation - this idea is to give landowners an opportunity to explain their views on WCA when the hunter asks for

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permission - not to stop hunting outright. Wayne reported that DNR is working with the Department of Health on a feedlot issue regarding disease biosecurity measures.

Minnesota Association of Townships (MAT): Franklin Denn stated that at the MAT annual meeting cooperative planning was discussed.

Minnesota Association of Watershed Districts (MAWD): Ray Bohn thanked board members who attended the MAWD annual meeting in Alexandria, he also thanked Ron and BWSR staff for their assistance on training programs. MAWD is having a special meeting this afternoon on WCA amendments.

Minnesota Association of Soil and Water Conservation Districts (MASWCD): Jim Schafer stated that he had an opportunity to do some quality bonding at the MASWCD annual meeting. MASWCD talked about marketing at their annual meeting.

Natural Resources Conservation Service (NRCS): Roger Mussetter stated that the Farm Bill will affect swampbuster. NRCS is continually reorganizing. Cost-share dollars are definitely down.

Minnesota Association of Conservation District Employees (MACDE): Rick Reimer stated that the MACDE directors met recently to discuss WCA. Rick stated that the MASWCD had good attendance and productive mini-sessions at their convention.

Dan Larson stated that the rescinded counties will be pleased with the BWSR action taken today as a good faith gesture.

Next BWSR meeting is January 24.

95-80

Moved by Marv Tripp, seconded by Dwain Otte, to adjourn the meeting at 12:25 p.m.

Respectfully submitted,



Barbara Cobb, Chair

1/24/96

**BOARD OF WATER AND SOIL RESOURCES
ONE WEST WATER STREET, CONFERENCE ROOM
ST. PAUL, MINNESOTA 55107
JANUARY 24, 1996**

BOARD MEMBERS PRESENT:

Barbara Cobb, Barb Uppgaard, Darrell Bruggman, Dwain Otte, Ted Lovdahl, Ginny Imholte, Glenn Annexstad, Marv Tripp, Tim Hvidsten, Jim Rossman, and Kathy Roer

BOARD MEMBERS ABSENT:

LeRoy Stensgaard

AGENCY MEMBERS PRESENT:

Jim Anderson, Minnesota Extension Service (MES)
Wayne Anderson, Pollution Control Agency (PCA)
Paul Burns, Department of Agriculture (MDA)

AGENCY MEMBERS ABSENT:

Department of Health (MDH)
Department of Natural Resources (DNR)

OTHERS PRESENT:

Vern Johnson, Minnesota Association of Watershed Districts (MAWD)
Jim Schafer, Minnesota Association of Soil & Water Conservation Districts (MASWCD)
Rick Reimer, Minnesota Association of Conservation District Employees (MACDE)
Gwen Wild, Natural Resources Conservation Service (NRCS)

STAFF PRESENT:

Doug Thomas, Mark Nelson, Greg Larson, Jim Birkholz, Eric Mohring, Wayne Zellmer, and Mary Jo Anderson.

Chair Cobb called the meeting to order at 9:05 a.m.

96-01 **Adopt Agenda** - Moved by Marv Tripp, seconded by Ginny Imholte, to approve the agenda as presented. Motion passed on a voice vote.

96-02 **Minutes of December 20, 1995** - Moved by Barbara Uppgaard, seconded by Marv Tripp, to adopt the minutes of December 20, 1995, as circulated. Motion passed on a voice vote.

Chair's Report - Chair Cobb commended Ron Harnack, Greg Larson and John Jaschke for their assistance at the Roundtable on the Wetland Conservation Act, January 4-5, in St. Cloud. She also thanked Glenn Annexstad, Tim Hvidsten, and Darrell Bruggman for their attendance and support at the meeting.

Chair Cobb reported that she and Ron Harnack met with Rod Sando, Commissioner of DNR and Chuck Williams, Commissioner of PCA. Strong reciprocal communications levels are open.

Chair Cobb announced that the May BWSR meeting will be May 21-22, in Mankato, with a tour of the Blue Earth River Basin.

Chair Cobb would like to receive fax numbers from all board members, so important information during the legislative session can get to them promptly.

Chair Cobb reported that the BWSR Policy Handbook has been completed. A motion was made by Chair Cobb that "the BWSR policy handbook is designed as a perpetual informative tool that will reflect the policies, both past and current, adopted by the Board. Policies will be cataloged by subject matter with the most current policy last in the sequence of pages. It will be the continual responsibility of the executive assistant to prepare in a timely matter all future policy declarations and forward them to each office for inclusion in the BWSR Policy Handbook." Seconded by Ted Lovdahl. Barbara Uppgaard said that policies should be generic, names of people should be omitted in the policy statements; and also list an appendix. Barbara Uppgaard commended Chair Cobb and Mary Jo Anderson for putting the Policy Handbook in place. Motion carried on a voice vote.

96-03

Chair Cobb reported that Ron Harnack is at the House Environment and Natural Resources Finance Committee hearing this morning. The Committee will hear the BWSR's bonding bills on well sealing, cost-share, and Study Area II initiatives.

Cost-Share Committee Report - Dwain Otte reported that the Attorney General's Office approved the cost-share rules. The draft administrative guidelines for the State Cost-Share Program are available for board members review and information.

Consent Agenda

County Water Plan Extensions - Doug Thomas stated that Beltrami, Blue Earth, Meeker, Roseau, and Wilkin Counties have requested water plan extensions. Doug reported that the respective board conservationists have reviewed the requests and staff recommend approval based on the criteria adopted by the BWSR in September. Moved by Ted Lovdahl, seconded by Jim Rossman, to approve the Beltrami, Blue Earth, Meeker, and Wilkin county water plan extensions; and also approve the Roseau County water plan extension, with a requirement that the county report in writing on its activities at the end of twelve months. Motion passed on a voice vote.

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96-04

Local Water Plan Approvals - Jim Rossman reported that he, Dwain Otte and Glenn Annexstad met on January 11 to review Houston, Fillmore, Dodge, and Wabasha county water plans. Jim stated that this review process of the county water plans works very well; the second generation plans are much more specific in their goals. It was suggested that one county commissioner be invited to attend this review process. Moved by Jim Rossman, seconded by Dwain Otte, to approve the Houston, Fillmore, Dodge, and Wabasha County water plans. Motion passed on a voice vote.

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96-05

Barbara Uppgaard reported that she, Darrell Bruggman, Ted Lovdahl, and Ginny Imholte met with Ron Shelito and Pete Waller on January 12 to review the Pope and Stearns county water plans. She also reiterated that this process for review is very good. Barbara encouraged agencies to submit their comments for final review in a timely manner. Doug Thomas stated that the most substantive review is done during the 45-day local review timeframe. He stated that with the importance of the preliminary review delays in getting agency comments is not as crucial as past review periods, however staff try to do everything possible to get reviews submitted in the required timeframe. Moved by Barbara Uppgaard, seconded by Ted Lovdahl, to approve the Pope and Stearns County water plans. Motion passed on a voice vote.

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96-06

Old Business

Policy for Executive Director's Annual Performance Review - Chair Cobb stated that Question #10 on the Executive Director's Performance Appraisal form should read, "is visionary in the big picture in resource management." Motion made by Barbara Uppgaard, seconded by Ted Lovdahl, that the following policy statement be adopted: "Annually, the board members of BWSR will conduct a performance review of the executive director. The process -- each board member will complete and send a performance review to the board chair or designated evaluator. The chair (or evaluator) will compile a composite summary of board member's evaluations and comments. The executive director may respond in writing, if desired." The evaluation will be included in the executive director's personnel file; the evaluation would not be circulated at the BWSR table. Rossman asked that the executive director set goals annually and distribute those to board members for review. The executive committee of BWSR will meet with the executive director for his performance review. Motion passed on a voice vote.

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96-07

Chair Cobb stated that board members are to use the expense reports that have been distributed.

Update on Natural Resources Block Grant (NRBG) Applications - Wayne Zellmer reviewed the granting timeline for NRBG applications and summarized the non-implementing Wetland Conservation Act (WCA) counties applications for the Board's information. Discussion followed. Kathy Roer suggested prorating the counties that are intending to rescind WCA. This issue will be brought up again at the March BWSR meeting.

Chair Cobb called for a break in the meeting at 10:05 a.m. The meeting reconvened at 10:15 a.m.

Roundtable Update - Greg Larson updated the Board on the Roundtable that was held January 4-5 in St. Cloud to discuss the Wetland Conservation Act. Those present included Association of Minnesota Counties (AMC) leadership staff, DNR, PCA, MDA, the Governor's Office, and BWSR. Facilitator Sue Laxdahl assisted in the discussion at the two-day meeting. Six issues were the main topics of concern: 1) maintenance and repair of public roads; 2) streamlining the appeal process; 3) local wetland planning; 4) deminimus; 5) drainage ditch maintenance; and 6) compensation. Sue Laxdahl prepared a draft report. A legislative hearing was held last week to specifically discuss the roundtable issues. Greg concluded that the final report will be available next week; the round table served as a good method to more clearly understand the various parties' positions. It was also an opportunity to prepare language to bridge the gap between where we were and where we need to be. Greg distributed and briefly reviewed a packet of information to board members regarding the proposed amendments to the WCA legislation. Discussion followed. Greg said that the BWSR WCA bill is House File #2166; Munger's bill is House File #2006.

Update on Partnership Agreement - Gwen Wild, NRCS, reported that the partnership agreement between the U.S. Department of Agriculture, the State of Minnesota, and the Soil and Water Conservation Districts was sent to Washington, D.C., and is waiting for signature.

New Business

Delegation to Executive Director to Amend Metro Water Plan Priority Schedule - Chair Cobb stated that the draft resolution was sent to board members to delegate the authority to the BWSR's executive director to adjust the priority review schedule for the review of metropolitan watershed management plans in order to accommodate early plan submittals. Moved by Jim Rossman, seconded by Ginny Imholte, to adopt the resolution. Motion passed on a voice vote.

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96-08

FY1996 State Cost-Share Roll-Over Grant - Wayne Zellmer reported that according to the State Cost-Share Program Administrative Rules, conservation districts must return to the BWSR cost-share grants that are not encumbered at the end of the grant period, or if funds become unobligated after the grant period. These funds are collectively known as "roll-over" and are available for re-allocation. A statewide competitive application period was held to re-allocate these roll-over funds. Wayne gave a brief synopsis of the applications; staff requests Board approval of these grants. Moved by Dwain Otte, seconded by Ted Lovdahl, to approve the FY 1996 State Cost-Share Roll-Over Grant Allocations. Motion passed on a voice vote.

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96-09

Well-Sealing Cost-Share Update - Eric Mohring gave an update on the Ground Water Protection Act of 1989 which established the well-sealing program and directed BWSR to, in consultation with other agencies to select counties to receive grant monies for well sealing, and to establish priorities for well sealing. The grants to counties are used for sharing with landowners the cost of sealing high-priority abandoned wells. Cost-sharing may provide up to 75 percent of the total well-sealing cost, not to exceed \$2,000 per well. Eric reported that the Department of Health will update the Board at a future meeting on the issue of well delegation, which is a costly concern that involves nine counties plus Bloomington and Minneapolis.

Legislative Process/Update - Doug Thomas updated board members on BWSR legislation. 1) BWSR gift, grant and donation authority: Gives BWSR broad authority to receive gifts, federal grants, and donations from individuals, organizations, for all activities relating to BWSR programs. This bill passed the House Environment Committee, referred to the Floor, and is now in the House Appropriations Committee. 2) RIM Reserve Amendments - eliminating five acre provision for wetland restoration and riparian lands; eliminating the provision that no easement be larger than 20 percent of the average farm size in the county; allowing the program to acquire flowage easements; and modifying the payment options for wetland restorations. This bill passed the House Environment Committee and was referred to the House Agriculture Committee. 3) Watershed amendments - no hearings scheduled to date; however, we're optimistic that this will meet the deadlines. 4) Bonding - RIM and Study Area II have been recommended for \$7.5 million and \$600,000 respectively. The first hearing before the House Environment Finance is scheduled for today.

Chair Cobb reported that she received correspondence on the Republican Party Task Force regarding Property Rights; she distributed this for board members information.

LCMR Budget Requests - Doug Thomas updated board members on the 1997 Request for Legislative Commission on Minnesota Resources (LCMR) Proposals. The BWSR M-Team plans to submit the following proposals: Mentoring of Local Officials and Staff; Metro GIS Application Project; Soils Mapping/Digitization Management; Forestry Management; Drainage Inventory/Digitization; Accelerated Cost-Share for Whitewater Area; Life After the Conservation Reserve Program (CRP); Local Government Efficiency. Chair Cobb is interested in board involvement in the proposals; if you have ideas let Ron Harnack know your thoughts.

Chair Cobb asked board members to review the capitol budget.

Chair Cobb introduced Mark Nelson, Ron Shelito, and Vicky Erbele BWSR northern region staff. Darrell Bruggman asked members to notice the letter in their packet of information that refers to the letter of commendation to the northern staff.

Advisory Comments

Minnesota Association of Watershed Districts (MAWD): Vern Johnson stated that there is a need to resolve the WCA this year.

Minnesota Association of Soil and Water Conservation Districts (MASWCD): Jim Schafer thanked Ron Harnack, Doug Thomas, and Jim Birkholz for their assistance and support at the National Association of Conservation Districts (NACD) North Central meeting in Chicago. Jim reported that MASWCD committees have been formed; on behalf of MASWCD, he appreciates BWSR staff assistance on their committees. Jim stated that the 50th Annual NACD Convention is February 4-7 at the Riveria Hotel in Las Vegas.

Minnesota Extension Service (MES): Jim Anderson reported that MES is working on an LCMR proposal on soils digitization. He stated that MES is also working on a potential soil survey update program with NRCS.

Minnesota Department of Agriculture (MDA): Paul Burns stated that Assistant Commissioner Sharon Clark (who was a former BWSR member) was unable to attend the meeting today due to a prior commitment, but she plans to attend a future meeting.

Pollution Control Agency (PCA): Wayne Anderson reported that the Youth River Congress will be held February 27. PCA supports this statewide program of junior and senior high school students involved in river research. Wayne stated that the high-profile finding of the deformed frogs in the Henderson area was found by students' research.

Minnesota Association of Conservation District Employees (MACDE): Rick Reimer reported that MACDE has scheduled their annual training session to be held in June in Alexandria. MACDE has also scheduled a field windbreak session in Kandiyohi County in August. Rick thanked Ron Harnack for his assistance at a recent wetland meeting in Willmar, which cleared the air and gave people a better understanding of WCA.

Natural Resources Conservation Service (NRCS): Gwen Wild reported that Bill Hunt is in Washington, D.C., this week. They still have no word on their budget; however Minnesota will receive \$2 million from the Food Security Act (FSA) for the Agricultural Conservation Program (ACP), and that no long-term agreements will be funded this year..

96-10 Moved by Marv Tripp, seconded by Darrell Bruggman, to adjourn the meeting at 11:55 a.m.
 Motion passed on a voice vote.

Respectfully submitted,

Barbara Cobb
 Chair