



Minnesota Board of Water and Soil Resources.
Minutes.

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One West Water Street
Suite 200
St. Paul, MN 55107
(651) 296-3767
Fax (651) 297-5615

Field Offices

Northern Region:

394 S. Lake Avenue
Room 403
Duluth, MN 55802
(218) 723-4752
Fax (218) 723-4794

3217 Bemidji Avenue N.
Bemidji, MN 56601
(218) 755-4235
Fax (218) 755-4201

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Suite 202
Brainerd, MN 56401-3660
(218) 828-2383
Fax (218) 828-6036

Southern Region:

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New Ulm, MN 56073-8915
(507) 359-6074
Fax (507) 359-6018

40--16th Street SE
Suite A
Rochester, MN 55904
(507) 285-7458
Fax (507) 280-2875

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

Metro Region:

One West Water Street
Suite 250
St. Paul, MN 55107
(651) 282-9969
Fax (651) 297-5615

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DATE: June 19, 2000
TO: Board of Water and Soil Resources Members, Advisors, Staff
FROM: Ronald D. Harnack, Executive Director *RDH*
SUBJECT: June 28-29 BWSR Tour and Meeting

The Board of Water and Soil Resources will hold their summer tour on Wednesday, June 28 in Lac Qui Parle and Yellow Medicine Counties. See the attached tour summary and map.

The Board of Water and Soil Resources will meet on Thursday, June 29 at 9:00 a.m. at the Lac Qui Parle Wildlife Refuge Center, 14047 20th Street, in Watson (ten miles from the Country Inn in Montevideo, see attached map).

The following information pertains to agenda items:

Committee Recommendations Wetlands Committee

1. WCA Rule Amendments: As required by Senate File 83 (2000 Laws of Minnesota, Chapter 382), the board must adopt amendments of the Wetland Conservation Act (WCA) Rules by July 14, 2000. These rules are being developed under exempt rule making procedures prescribed in Minnesota Statute 14.386. The wetland committee will review the draft rule in detail at their June 22nd meeting and participated in various stakeholder meetings prior to that. Because the rule must be subsequently reviewed for technical editing by the Office of the Revisor of Statutes and for legal corrections by an Administrative Law Judge with the Office of Administrative Hearings, the order adopting the rule will authorize the Executive Director to make any changes required following these reviews. DECISION

Old Business

1. Limited Duration of Easements for CREP: See attached. DECISION

New Business

1. FY01 SWCD Grant Allocations: The annual allocations to SWCDs for Cost-Share Base Grants, Special Project Grants, Special Minnesota River Basin Grants, Feedlot Water Quality Improvement Grants, General Services Grants, and RIM Reserve Services Grants are recommended for approval. The enclosed information provides detail and summaries of applications and recommended allocations. DECISION

2. Area II Minnesota River Basin Projects, FY01 Work Plan: Tabor Hoek and Area II representatives will be presenting their annual work plan. The work plan serves as the foundation for the \$189,000 they receive from the state as a 75% grant. They must match the grant by at least 2% local funding. Additional funding via bonding has been the primary source of funding for projects coordinated by Area II.

Key points for FY01:

- a. Lazarus Creek project was not funded again this year. Alternatives are being looked at with NRCS and the U.S. Army Corps of Engineers for funding.
- b. Area II has been working to replace their engineer. They currently have secured the services of Bolton and Menk, Inc. on a contract basis during the interim.
- c. Many road retention structures are planned for the 2000 season. This should fully utilize the remaining 1998 bonding appropriation. Future funding will be needed for continued work on flood control in the Area II watersheds.

Staff recommends approval of this work plan and the release of \$143,268.75 for the Technical Office Grant. The remaining \$45,731.25 is to be encumbered and distributed via individual project grant agreements as projects are initiated. **DECISION**

Room reservations have been made for the nights of June 27 and June 28 at the Country Inn & Suites in Montevideo (see attached list and map). The rooms have been direct billed (which means you do not pay for the room). If you do not need a room reservation, please contact Mary Jo Anderson immediately at 651-297-4290 to cancel your room.

Tour Itinerary (Wednesday, June 28)

A coach bus will arrive at the Country Inn & Suites in Montevideo at 8:15 a.m. and drive you to the Chippewa County Courthouse, arriving at the Courthouse at 8:30 a.m. A tour preview will be presented, and the Lac Qui Parle and Yellow Medicine SWCD staff will explain the educational activities and programs they are conducting in their districts. The coach bus will promptly depart from the Chippewa County Courthouse at 9:25 a.m. for a tour of western Minnesota (see attached tour summary).

The tour will conclude at the Chippewa County Courthouse at 2:50 p.m. A roundtable discussion will be held regarding the many programs available to SWCDs and landowners and the challenges of making them work in rural Minnesota. The coach bus will return to the Country Inn at 3:40 p.m. Jim Dahlvang has graciously invited board members to his home for socializing and dinner on Wednesday night after the tour. (A map to Jim's home is attached).

If you have any questions please feel free to give me a call. Travel safely, I look forward to seeing you in Montevideo!

Please Note: Highway 212 is under construction, and detoured. It's suggested that you take Highway 7 at Hutchinson into Montevideo.

**BOARD OF WATER AND SOIL RESOURCES
LAC QUI PARLE WILDLIFE MANAGEMENT REFUGE CENTER
14047 20TH STREET, NW
WATSON, MINNESOTA 56295
(320) 734-4451
Thursday, June 29, 2000**

PRELIMINARY AGENDA

9:00 a.m. Call Meeting to Order

Adopt Agenda

Minutes of May 24, 2000

**50th Anniversary Recognition of Lac Qui Parle, Swift, and Yellow
Medicine SWCDs**

Reports

- ☐ Chair – Kathleen Roer
- ☐ Executive Director – Ron Harnack
- ☐ Dispute Resolution Committee – Jim Haertel
- ☐ Wetlands Committee – Darrell Bruggman
- ☐ Cost-Share/Soil Conservation Committee – Dwain Otte
- ☐ Education and Public Relations Committee – Paul Krabbenhoft
- ☐ Financial Oversight Committee – Ginny Imholte
- ☐ Administrative Advisory Committee – Kathleen Roer

Agency Reports

- ☐ Department of Agriculture
- ☐ Department of Health
- ☐ Department of Natural Resources
- ☐ Minnesota Extension Service
- ☐ Pollution Control Agency

Committee Recommendations

Wetland Committee

1. WCA Rule Amendments – John Jaschke – DECISION

Old Business

1. Limited Duration of Easements for CREP – Ron Harnack - DECISION

New Business

1. FY01 SWCD Grant Allocations – Wayne Zellmer – DECISION
2. Area II Minnesota River Basin Projects, FY01 Work Plan – Tabor Hoek – DECISION

Advisory Comments

- ☐ Minnesota Association of Townships (MAT)
- ☐ Minnesota Association of Conservation District Employees (MACDE)
- ☐ Minnesota Association of Soil and Water Conservation Districts (MASWCD)
- ☐ Minnesota Association of Watershed Districts (MAWD)
- ☐ Natural Resources Conservation Service (NRCS)

Upcoming Meetings

- ☐ Minnesota River Basin Joint Powers Board Conference, July 12-13, Chaska
- ☐ Local Water Planners Conference, July 17-19, Bemidji
- ☐ Next BWSR Meeting, July 26, St. Paul
- ☐ BWSR Retreat, August 23, Riverwood Conference Center, Monticello

Adjourn

**Lac qui Parle Soil and Water
Conservation District
525 First Street East
Madison, MN 56256
Phone 320-598-7321, Ext. 3**

**Yellow Medicine Soil and Water
Conservation District
Post Office Box 545
Clarkfield, MN 56223
Phone 320-669-4442**

**Lac qui Parle – Yellow Medicine Tour
June 28, 2000**

This tour will take you into Western Minnesota to highlight some of the many programs administered by the Lac qui Parle and Yellow Medicine Soil and Water Conservation Districts and explore some of the challenges faced in rural Minnesota.

We will start with Coffee and Muffins at the Chippewa County Courthouse (lower level). Our Education Specialists will lead you through several educational activities conducted in our Districts. Both SWCDs have active education – promotion programs and we want to share some of those successes with you

Boarding a bus, the first stop will be in the Ten Mile Creek Watershed – the catalyst that sparked the formation of both SWCDs. We will share some of our history with you there. A trip through the area toward Madison will highlight practices that landowners have installed to protect soil and water.

A stop at the Lac qui Parle SWCD tree storage building will allow you to see first-hand some of the equipment used by the SWCDs and learn how partners helped fund its purchase.

After lunch we will proceed west to within 2 miles of the South Dakota state line and into the shadow of the Coteau des Prairies. Travelling south parallel to the state line, we will gradually climb onto the Coteau to share its beauty and the challenges of this land formation. We will point out the site for the proposed Lazarus Creek flood control structure.

A drive through the park at Del Clark Lake will impress you with this multiple-purpose project that protects the City of Canby from flooding.

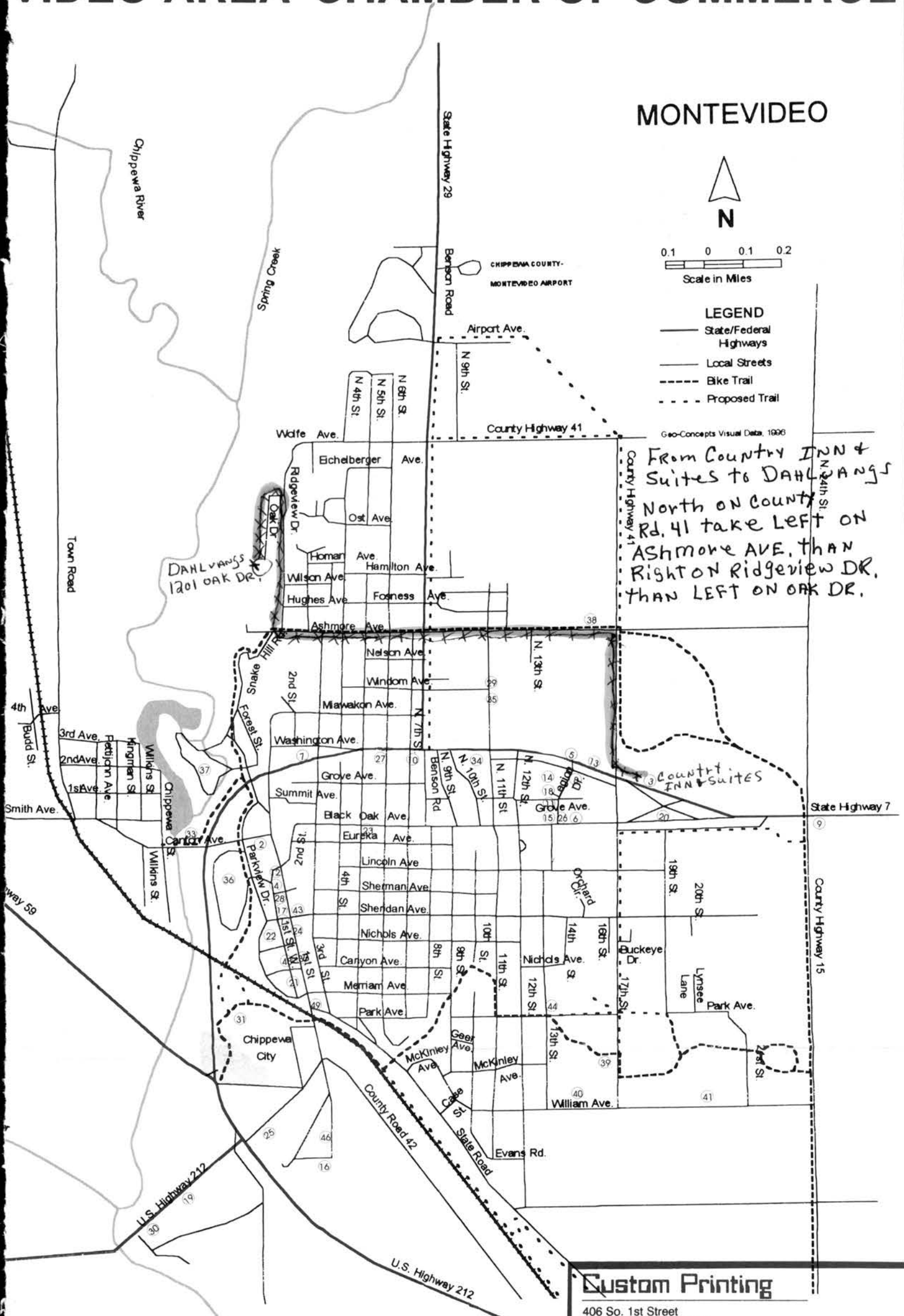
Traveling back to Montevideo, we will more closely view a terrace site. The Conservation Reserve Enhancement Program (CREP) is very successful in Lac qui Parle and Yellow Medicine. This tour will allow you to see several sites. We will briefly stop at one in the Lac qui Parle River floodplain where use of the existing lift station is part of the conservation plan.

The tour will conclude back at the Chippewa County Courthouse with ice cream treats served by Minnesota's Dairy Princess, Renae Jorgens, and round table discussions about the many programs available to SWCDs and landowners and the challenges of making them work in a very rural part of Minnesota.

This City of Montevideo Map
Brought to You
by

JUN 01 2000

VIDEO AREA CHAMBER OF COMMERCE



MONTEVIDEO



0.1 0 0.1 0.2
Scale in Miles

LEGEND

- State/Federal Highways
- Local Streets
- - - Bike Trail
- - - Proposed Trail

Geo-Concepts Visual Data, 1996

From Country INN & Suites to DAHLVANGS
North on County Rd. 41 take LEFT ON ASHMORE AVE. then RIGHT ON RIDGEVIEW DR. then LEFT ON OAK DR.

COUNTRY INN & SUITES

DAHLVANGS
1201 OAK DR.

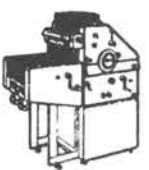
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|------------------------|---------------------------------|
| 36. Smith Park | 41. Middle School |
| 37. Lagoon Park | 42. Camp Release |
| 38. Bike Trail | 43. Montevideo Chamber Office |
| 39. TACC Center | 44. Sanford School |
| 40. Senior High School | 45. Ramsey School |
| | 46. Montevideo Community Center |

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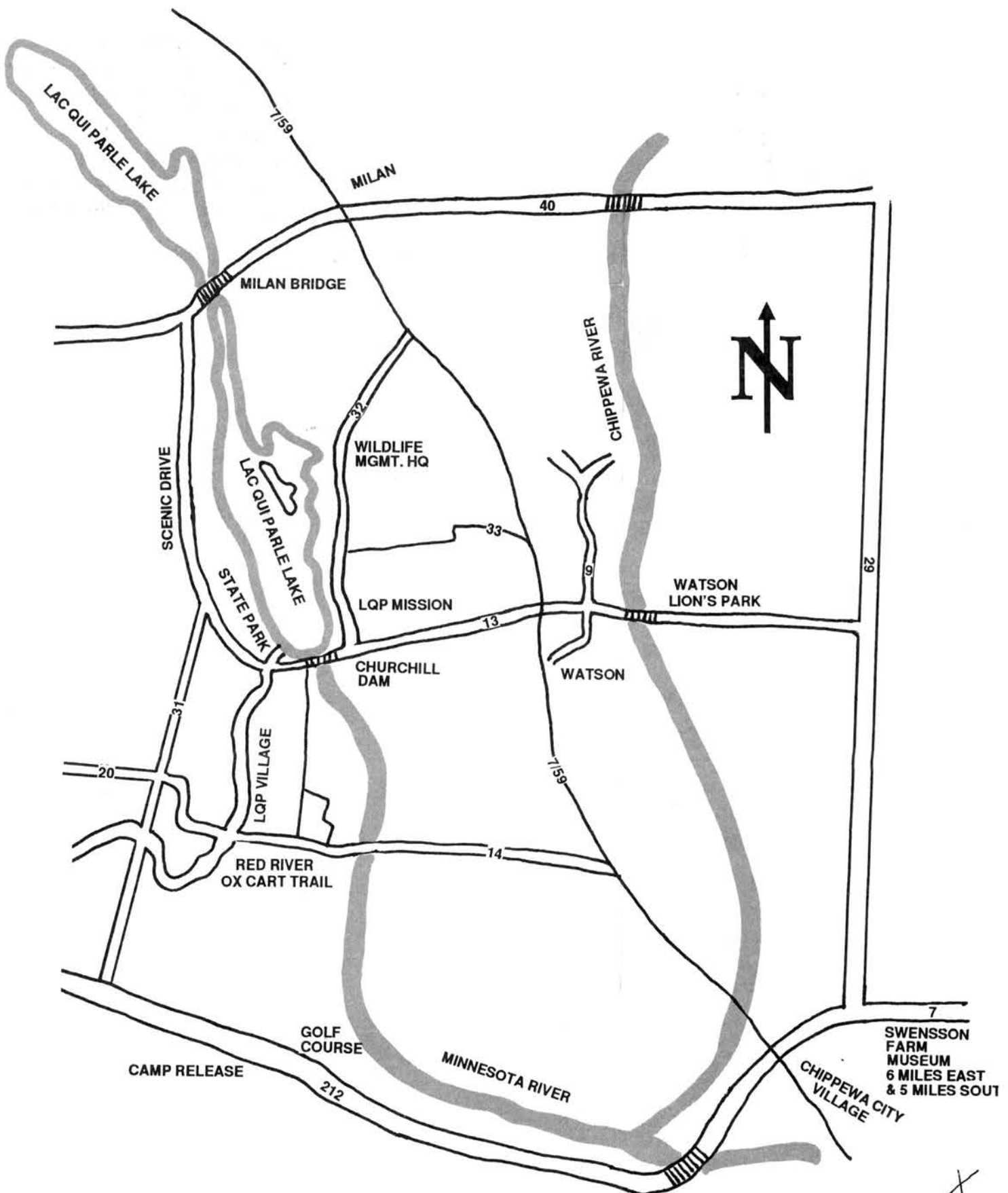
DAVID RODEBERG
Owner
Res.: 320-269-6605



WELCOME TO THE MONTEVIDEO AREA MAP

This City of Montevideo Map
Brought to You
by

MONTEVIDEO AREA CHAMBER OF COMMERCE



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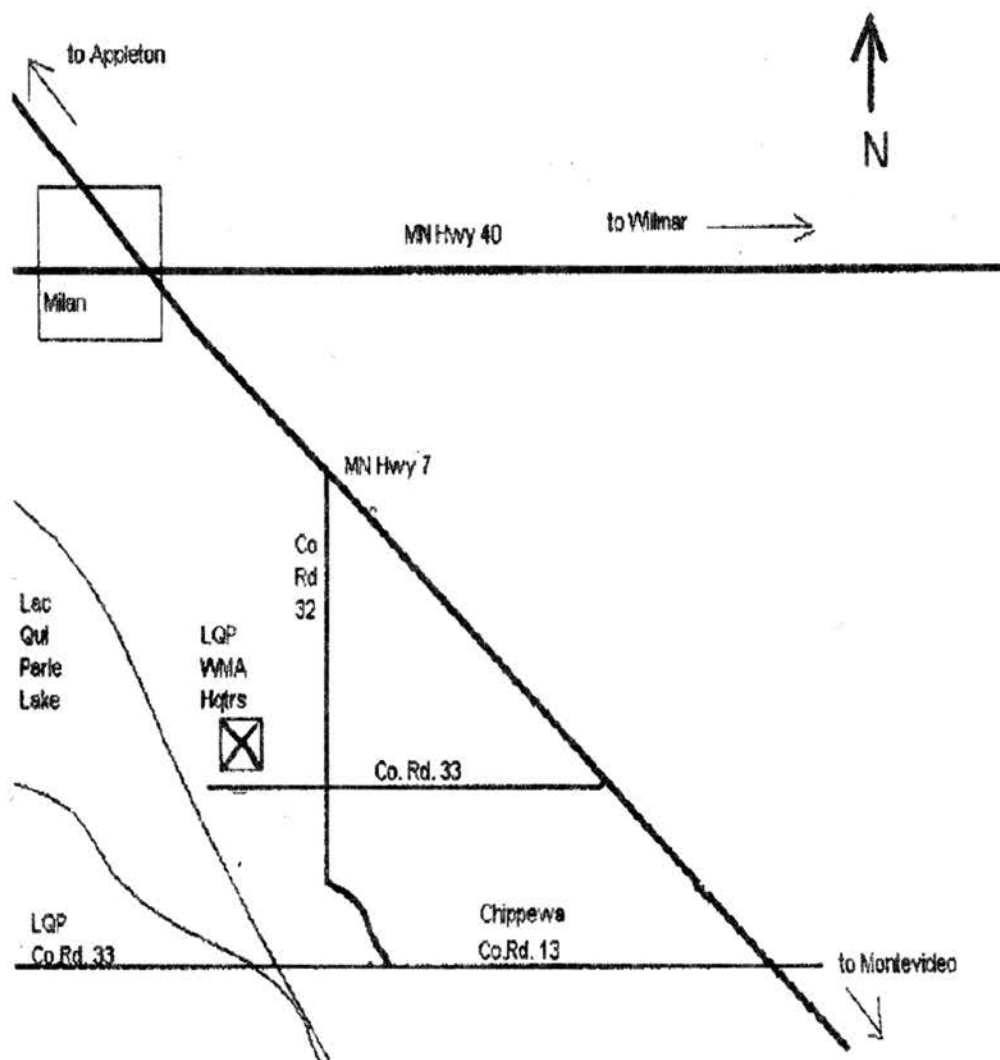
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Directions to LQP Wildlife Refuge on June 29th

Committee Recommendations

Wetland Committee

1. WCA Rule Amendments

DECISION

CHAPTER 382, LAWS 2000 (SF83)

BWSR/DNR IMPLEMENTATION PLAN

Steering Committee: Ron Harnack, Kent Lokkesmoe, Lee Pfannmuller, Matt Seltzer, John Linc Stine, John Jaschke, Bruce Gerbig, Doug Norris

Stakeholders: Same group that worked with BWSR and DNR in 1999 on proposed legislation

<u>Date</u>	<u>Activity</u>
March	
3/22	Steering committee formed up
3/23	Interagency Wetlands Group (IWG) briefed on draft plan schedule Brief agency leadership
April	
4/10	Steering Committee meets Finalize work group membership
4/26	Stakeholders meeting
May	
5/4	IWG meeting
5/8	Steering Committee meeting
5/17-18	Meeting of DNR and BWSR field staff
5/24	DNR work group meeting
5/24	Stakeholders meeting, at BWSR, 1-4 pm
5/25	IWG meeting
5/30-6/1	Local Government Info. Workshops - BWSR, DNR, Corps, NRCS 5/30 in Minneapolis, 6/1 in Marshall, 6/2 in Rochester
June	
6/6-6/8	Local Government Info. Workshops - BWSR, DNR, Corps, NRCS 6/6 in Bemidji, 6/7 in Duluth, 6/8 in St. Cloud
6/8	DNR work group meeting
6/8	Stakeholders meeting, 1-4 pm
6/20	IWG meeting
6/23	Draft rule to Revisor of Statutes office and Governor's office
6/22	BWSR Wetland Committee Meeting to recommend rule adoption
6/28	BWSR Board Meeting, adopt rule
July	
by 7/14	BWSR adoption of any rule changes identified at 6/28 Board meeting
by 7/14	DNR adoption of rule
by 7/14	After BWSR and DNR adoption, transmit adopted rule to Office of Administrative Hearings
by 7/14	Transmit adopted rule changes to Senate and House environment and natural resource and agriculture committees at least 30 days before published in the State Register
August	
8/4	Adopted Chapter 8420 and Chapter 6115 rules to State Register by noon
8/16	State Register rule publication, rule implementation five days after date of publication; training (local and agency) to be scheduled

COMMENTS

8420.0100 PURPOSE.

This chapter implements the Wetland Conservation Act of 1991, Laws 1991, chapter 354, as amended by Laws 1993, chapter 175; Laws 1994, chapter 627; ~~and~~ Laws 1996, chapter 462; and Laws 2000, chapter 382. This chapter shall be interpreted to implement the purpose of the act, which is to:

A. achieve no net loss in the quantity, quality, and biological university of Minnesota's existing wetlands;

B. increase the qua
diversity of Minnesota's we
diminished or drained wetla

C. avoid direct or
that destroy or diminish th
biological diversity of wet

D. replace wetland
activity is not feasible ar

STAT AUTH: MS s 14.06;

HIST: 18 SR 274; 22 SR 1877
Current as of 04/24/00

8420.0102 INTRODUCTION.

The Wetland Conservation Act achieves the purpose in part 8420.0100 by requiring persons proposing to impact a wetland by draining, excavating or filling to first, attempt to avoid the impact; second, attempt to minimize the impact; and finally, replace any impacted area with another wetland of equal function and value. As specified in greater detail in part 8420.0122, certain projects are exempt from the requirement for a replacement plan under the Wetland Conservation Act.

Sec. 5, Chap. 382

8420.0100 PURPOSE.

COMMENTS

This chapter implements the Wetland Conservation Act of 1991, Laws 1991, chapter 354, as amended by Laws 1993, chapter 175; Laws 1994, chapter 627; ~~and~~ Laws 1996, chapter 462; and Laws 2000, chapter 382. This chapter shall be interpreted to implement the purpose of the act, which is to:

A. achieve no net loss in the quantity, quality, and biological university of Minnesota's existing wetlands;

B. increase the quantity, quality, and biological diversity of Minnesota's wetlands by restoring or enhancing diminished or drained wetlands;

C. avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality, and biological diversity of wetlands; and

D. replace wetland values where avoidance of activity is not feasible and prudent.

STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

HIST: 18 SR 274; 22 SR 1877

Current as of 04/24/00

8420.0102 INTRODUCTION.

The Wetland Conservation Act achieves the purpose in part 8420.0100 by requiring persons proposing to impact a wetland by draining, excavating or filling to first, attempt to avoid the impact; second, attempt to minimize the impact; and finally, replace any impacted area with another wetland of equal function and value. As specified in greater detail in part 8420.0122, certain projects are exempt from the requirement for a replacement plan under the Wetland Conservation Act.

Sec. 5, Chap. 382

The Wetland Conservation Act is administered by local government units with oversight provided by the Board of Water and Soil Resources. Enforcement of the act is provided by Department of Natural Resources conservation officers and other peace officers. The Wetland Conservation Act became effective on January 1, 1992, and this chapter and portions of Minnesota Statutes, chapters 103A, 103B, 103E, 103F, and 103G, govern its implementation. The public is encouraged to contact their local government unit or soil and water conservation district for general information on wetlands and the interpretation of this chapter. This part is for general introductory information only. The other parts of this chapter shall control over this part.

STAT AUTH: MS s 103B.101; 103B.3355; 103G.2242

HIST: 22 SR 1877

Current as of 04/24/00

8420.0103 WETLAND FUNCTIONS FOR DETERMINING PUBLIC VALUES.

The public values of wetlands must be based upon the functions of wetlands ~~for~~ including:

A. water quality, including filtering of pollutants to surface and groundwater, utilization of nutrients that would otherwise pollute public waters, trapping of sediments, shoreline protection, and utilization of the wetland as a recharge area for groundwater;

B. flood water and storm water retention, including the potential for flooding in the watershed, the value of property subject to flooding, and the reduction in potential flooding by the wetland;

COMMENTS

C. public recreation and education, including
hunting and fishing areas, wildlife viewing areas, and
nature areas;

D. commercial uses, including wild rice and
cranberry growing and harvesting and aquaculture;

E. fish, wildlife, and native plant habitats;

F. low-flow augmentation; and

G. other public uses.

STAT AUTH: MS s 103B.101; 103B.3355; 103G.2242

HIST: 22 SR 1877

Current as of 04/24/00

8420.0105 SCOPE.

Wetlands must not be drained, excavated or filled
wholly or partially unless replaced by restoring or
creating wetland areas of at least equal public value.

This chapter does not prevent the use of the bed of
wetlands for pasture or cropland during dry periods if
dikes, ditches, tile lines, or buildings are not
constructed and the agricultural use does not result in the
drainage of the wetlands. This chapter does not prevent
filling a wetland to accommodate wheeled booms on
irrigation devices if the fill does not impede normal
drainage. This chapter does not prevent control of noxious
weeds if the control does not drain or fill the wetland.
This chapter ~~does not prevent~~ regulates excavation only in
the permanently and semi-permanently flooded areas of type
3, 4, and 5 wetlands if done in a the same manner as such
~~that the wetlands that~~ are not wholly or partially drained
or filled.

Sec. 5, Chap. 382

COMMENTS

1 This chapter does not apply to the public waters and
2 public waters wetlands as defined in Minnesota Statutes,
3 section 103G.005, subdivisions 15 and 15a, which have been
4 inventoried by the commissioner of natural resources
5 according to Minnesota Statutes, section 103G.201- except
6 that: (a) for projects affecting public waters wetlands,
7 when the commissioner waives the requirement for a public
8 waters work permit consistent with Minnesota Rules, Chapter
9 6115, the local government unit will make replacement,
10 banking, wetland boundary, or wetland type, no-loss or
11 exemption determinations; or (b) for projects affecting both
12 public waters and wetlands, the local government unit may,
13 by written agreement with the commissioner, waive the
14 requirement for a replacement plan, no-loss or exemption
15 determination if a public waters work permit is required
16 and the commissioner includes the provisions of Minnesota
17 Rule Chapter 8420 in the public waters work permit. This
18 chapter is in addition to other regulations including those
19 of the United States Army Corps of Engineers, United States
20 Department of Agriculture, Minnesota state agencies,
21 watershed districts, and local governments.

Sec. 17, Chap. 382

22
23 This chapter does not apply to peat mining as defined
24 in Minnesota Statutes, section 93.461, which is subject to
25 the permit to mine and reclamation requirements of
26 Minnesota Statutes, sections 93.44 to 93.51, and the rules
27 of the commissioner adopted under those sections.

28
29 This chapter does not require state agencies to obtain
30 local government unit approvals. However, state agencies
31 shall coordinate with local government units when
32 conducting activities in wetlands within the jurisdiction
33 of the local government unit. The state agencies shall
34 follow the same sequencing and replacement requirements as
35 prescribed by this chapter.

36
37 In addition to the provisions of this chapter,
38 governmental decisions on draining, excavating and filling
39 of wetlands are subject to Minnesota Statutes, chapters

Sec. Chap. 382

COMMENTS

1 116B and 116D, which provide that an action which is likely
2 to have material adverse effects on natural resources must
3 not be allowed if there is a feasible and prudent
4 alternative consistent with the requirements of the public
5 health, safety, and welfare and the state's paramount
6 concern for the protection of its natural resources.
7 Economic considerations alone do not justify adversely
8 effective actions.

9
10 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

11
12 HIST: 18 SR 274; L 1996 c 462 s 43; 22 SR 1877
13 Current as of 04/24/00

14
15 8420.0110 DEFINITIONS.

16
17 Subpart 1. Scope. The terms used in this chapter
18 have the meanings given them in this part.

19
20 Subp. 1a. Account or wetland bank account. "Account"
21 or "wetland bank account" means a record of wetland banking
22 debits and credits established by an account holder within
23 the state wetland banking system.

24
25 Subp. 1b. Account holder. "Account holder," in the
26 state wetland banking system, is a person, corporation,
27 government agency, or organization that is the owner of
28 credits.

29
30 Subp. 2. Act. "Act," when not used in reference to a
31 specific state or federal act, means the Wetland
32 Conservation of 1991, Laws 1991, chapter 354, as amended by
33 Laws 1993, chapter 175; Laws 1994, chapter 627; and Laws
34 1996, chapter 462.

35
36 Subp. 3. Activity. "Activity" means draining or
37 filling a wetland wholly or partially, or excavating in
38 permanently and semi-permanently flooded areas of type 3,
39 4, and 5 wetlands.

Sec. 5, Chap. 382

COMMENTS

Subp. 4. Agricultural land. "Agricultural land," means land used for horticultural, row, close grown, pasture, and hayland crops; growing nursery stocks; animal feedlots; farmyards; associated building sites; and public and private drainage systems and field roads located on any of these lands.

Subp. 5. [Repealed, 22 SR 1877]

Subp. 5a. Applicant. "Applicant" is a person, corporation, government agency, or organization that makes an application to withdraw wetland banking credits from the wetland bank.

Subp. 6. Aquaculture. "Aquaculture" means to cultivate plants and animals in water for harvest, including hydroponics and raising fish in fish farms.

Subp. 7. Best management practices. "Best management practices" means state-approved and published practices associated with draining, filling, or replacing wetlands that are capable of preventing and minimizing degradation of surface water and groundwater.

Subp. 8. Board. "Board" means the board of water and soil resources under Minnesota Statutes, section 103B.101.

Subp. 9. City. "City" means a home rule charter or statutory city.

Subp. 10. Commissioner. "Commissioner" means the commissioner of the Department of Natural Resources.

Subp 10a. Contractor. "Contractor" means an individual business or other organization providing a product or service to landowner or their authorized agent.

Needed for Sec. 4,
Chap. 382

1 Subp. 11. Creation. "Creation" means construction of
2 wetlands in an area that was not wetlands in the past.

COMMENTS

3
4 Subp. 12. Day. "Day" or "Days" means working days
5 when used in a time period of 15 days or less and calendar
6 days when used in a time period greater than 15 days. The
7 day of the event shall not be used in counting any period
8 of time.

9
10 Subp. 13. ~~{Repealed, 22 SR 1877}~~ Degraded Wetland.
11 "Degraded Wetland" means a wetland that provides minimal
12 wetland function and value due to human activities such as
13 drainage, diversion of watershed, filling, excavating,
14 pollutant runoff, and vegetative or adjacent upland
15 manipulation.

Needed for replacement
credits.

16
17 Subp. 14. Ditch. "Ditch" means an open channel to
18 conduct the flow of water, as defined in Minnesota
19 Statutes, section 103E.005, subdivision 8.

20
21 Subp. 15. Drain or drainage. "Drain" or "drainage"
22 means any method for removing or diverting waters from
23 wetlands. The methods shall include, but are not limited
24 to, excavation of an open ditch, installation of subsurface
25 drainage tile, filling, diking, or pumping.

26
27 Subp. 16. Drainage system. "Drainage system" means a
28 system of ditch or tile, or both, to drain property,
29 including laterals, improvements, and improvements of
30 outlets.

31
32 Subp. 17. Excavation. "Excavation" means the
33 displacement or removal of ~~the~~ substrate, sediment or other
34 materials by any method.

35
36 Subp. 18. Fill. "Fill" means any solid material
37 added to or redeposited in a wetland that would alter its
38 cross-section or hydrological characteristics, obstruct
39 flow patterns, change the wetland boundary, or convert the

1 wetland to a nonwetland. It does not include posts and
2 pilings for linear projects such as bridges, elevated
3 walkways, or power line structures, or structures
4 traditionally built on pilings such as docks and
5 boathouses. It does include posts and pilings that result
6 in bringing the wetland into a nonaquatic use or
7 significantly altering the wetland's functions and values,
8 such as the construction of office and industrial
9 developments, parking structures, restaurants, stores,
10 hotels, multifamily housing projects, and similar
11 structures. It does not include slash or woody vegetation,
12 if the slash or woody vegetation originated from vegetation
13 growing in the wetland and does not impair the flow or
14 circulation of water or the reach of the wetland.

15
16 Subp. 18a. 50 to 80 percent area. "50 to 80 percent
17 area" means a county or watershed with at least 50 percent
18 but less than 80 percent of the presettlement wetland
19 acreage intact.

20
21 Subp. 19. Floodplain wetland. "Floodplain wetland"
22 means a wetland located in the floodplain of a watercourse,
23 with no well defined inlets or outlets, including tile
24 systems, ditches, or natural watercourses. This may
25 include the floodplain itself when it exhibits wetland
26 characteristics.

27
28 Subp. 20. Flow-through wetland. "Flow-through
29 wetland" means a wetland with both a well defined outlet
30 and one or more well defined inlets, including tile
31 systems, ditches, or natural watercourses.

32
33 Subp. 20a. Greater than 80 percent area. "Greater
34 than 80 percent area" means a county or watershed where 80
35 percent or more of the presettlement wetland acreage is
36 intact and:

37
38 A. ten percent or more of the current total land
39 area is wetland; or

COMMENTS

B. 50 percent or more of the current total land area is state or federal land.

Subp. 20b. Hayland. "Hayland" means an area that was mechanically harvested or that was planted with annually seeded crops in a crop rotation seeded to grasses or legumes in six of the last ten years prior to January 1, 1991.

Subp. 21. Hydric soils. "Hydric soils" means soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

Subp. 22. Hydrophytic vegetation. "Hydrophytic vegetation" means macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

Subp. 23. Impact. "Impact" means a loss in the quantity, quality, or biological diversity of a wetland caused by draining or filling or by excavating in the permanent and semi-permanently flooding areas of Type 3, 4, and 5 wetlands.

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Subp. 24. Impacted wetland. "Impacted wetland" means a wetland that has been drained, excavated or filled, partially or wholly, and is subject to replacement.

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Subp. 25. Infrastructure. "Infrastructure" means public water facilities, storm water and sanitary sewer piping, outfalls, inlets, street sub base, roads, and ditches, culverts, bridges, and any other work defined specifically by a local government unit as constituting a capital improvement within the context of an approved development plan.

Subp. 26. [Repealed, 22 SR 1877]

1
2 Subp. 27. [Repealed, 22 SR 1877]
3

4 Subp. 28. Isolated wetland. "Isolated wetland" means
5 a wetland without well defined inlets or outlets, including
6 tile systems, ditches, or natural watercourses.
7

8 Subp. 29. Landowner. "Landowner" means a person or
9 entity having the rights necessary to drain, excavate or
10 fill a wetland, or to establish and maintain a replacement
11 or banked wetland. Typically, the landowner is a fee title
12 owner or a holder of an easement, license, lease, or rental
13 agreement providing the necessary rights. The right must
14 not be limited by a lien or other encumbrance that could
15 override the obligations assumed with the replacement or
16 banking of a wetland.
17

18 Subp. 29a. Less than 50 percent area. "Less than 50
19 percent area" means a county or watershed with less than 50
20 percent of the presettlement wetland acreage intact or any
21 county or watershed not defined as a greater than 80
22 percent area or 50 to 80 percent area.
23

24 Subp. 30. Local government unit. "Local government
25 unit" means:
26

27 A. outside of the seven-county metropolitan area, a
28 city council or county board of commissioners or their
29 delegate;
30

31 B. in the seven-county metropolitan area, a city
32 council, town board, or watershed management organization
33 under Minnesota Statutes, section 103B.205, subdivision 13,
34 or their delegate; and
35

36 C. in those cases where an activity or replacement
37 will occur on state land, the agency with administrative
38 responsibility for that land.
39

1 Subp. 31. Mining. "Mining" means the removal of peat
2 and metallic minerals as provided in Minnesota Statutes,
3 sections 93.461 and 93.481.

4
5 Subp. 31a. Minor Watershed. "Minor watershed" means
6 a subwatershed within a watershed as established by the
7 Minnesota Department of Natural Resources.

8
9 Subp. 31ab. New wetland credit or NWC. "New wetland
10 credit" or "NWC" means wetland replacement credit that can
11 be used for any portion of wetland replacement.

12
13 Subp. 31c. Native vegetation. "Native vegetation"
14 means plant species that are indigenous to Minnesota, or
15 that expand their range into Minnesota without being
16 intentionally or unintentionally introduced by human
17 activity.

18
19 Subp. 32. Nondegraded wetland. "Nondegraded wetland"
20 means a wetland that has not been partially drained,
21 excavated, or filled or otherwise adversely affected by
22 human activities.

23
24 Subp. 32a. Non-invasive vegetation. "Non-evasive
25 vegetation" means plant species that do not typically
26 invade or rapidly colonize existing, stable plant
27 communities.

28
29 Subp. 32b. On-site. "On-site" means within or
30 directly adjacent to a project.

31
32 Subp. 33. Pasture. "Pasture" means an area that was
33 grazed by domesticated livestock or that was planted with
34 annually seeded crops in a crop rotation seeded to grasses
35 or legumes in six of the last ten years prior to January 1,
36 1991.

37
38 Subp. 34. Peace officer. "Peace officer" has the
39 meaning given it in Minnesota Statutes, section 626.84.

1
2 Subp. 34a. Presettlement wetland. "Presettlement
3 wetland" means a wetland or public waters wetland that
4 existed in this state at the time of statehood in 1858.
5

6 Subp. 35. Project. "Project" means a specific plan,
7 contiguous activity, proposal, or design necessary to
8 accomplish a goal as defined by the local government unit.
9 As used in this chapter, a project may not be split into
10 components or phases for the sole purpose of gaining
11 additional exemptions.
12

13 Subp. 36. Project-specific. "Project-specific" means
14 the applicant for the replacement plan approval will
15 construct the replacement as part of the project, rather
16 than obtain the replacement from a wetland bank.
17

18 Subp. 37. Public transportation project. "Public
19 transportation project" means a project conducted by a
20 public agency involving transportation facilities open to
21 the public.
22

23 Subp. 37a. Public value credit or PVC. "Public value
24 credit" or "PVC" means wetland replacement credit that can
25 only be used for the portion of wetland replacement
26 requiring ~~ingred greater than~~ above a 1:1 ratio.
27

28 Subp. 38. Public value of wetlands. "Public value of
29 wetlands" means the public benefit and use of wetlands as
30 determined based upon an assessment of the wetland
31 functions listed in part 8420.0103.
32

33 Subp. 39. Public waters wetlands. "Public waters
34 wetlands" means all types 3, 4, and 5 wetlands, as defined
35 in United States Fish and Wildlife Service Circular No. 39
36 (1971 edition), that were inventoried by the Department of
37 Natural Resources as public waters under Minnesota
38 Statutes, section 103G.201.
39

1 Subp. 39a. Public Waters. "Public Waters" means
2 waters as defined in Minnesota Statutes, Section 103G.005,
3 Subd. 15.

4
5 Subp. 40. Replacement wetland. "Replacement wetland"
6 means a wetland restored or created or an area designated
7 in part 8420.0540, subpart 2, items D and E, to replace
8 area or public values lost at an impacted wetland.

9
10 Subp. 41. Restoration. "Restoration" means
11 reestablishment of an area that was historically wetlands
12 or remains as a degraded wetland. ~~but currently provides no~~
13 ~~or minimal wetland functions due to manmade alteration such~~
14 ~~as filling or drainage.~~

15
16 Subp. 42. Right-of-way acreage. "Right-of-way
17 acreage" has the meaning given it in Minnesota Statutes,
18 section 103E.285, subdivision 6.

19
20 Subp. 43. Riverine wetland. "Riverine wetland" means
21 a wetland contained within the banks of a channel that may
22 contain moving water or that forms a connecting link
23 between two bodies of standing water.

24
25 Subp. 44. Set aside. "Set aside" means the cropland
26 acreage annually retired as a condition to landowner
27 participation in United States Department of Agriculture
28 commodity programs.

29
30 Subp. 44a. Shoreland wetland. "Shoreland wetland"
31 means a wetland located in the shoreland wetland protection
32 zone.

33
34 Subp. 44b. Shoreland wetland protection zone.

35
36 A. For local government units that have a shoreland
37 management ordinance approved under Minnesota Statutes,
38 sections 103F.201 to 103F.221, "shoreland wetland
39 protection zone" means:

(1) 1,000 feet from the ordinary high water level of a water basin that is a public water identified in the shoreland management ordinance or the shoreland area approved by the commissioner as provided in the shoreland management rules adopted under Minnesota Statutes, section 103F.211, whichever is less; or

(2) 300 feet from the ordinary high water level of a watercourse identified in the shoreland management ordinance or the shoreland area approved by the commissioner as provided in the shoreland management rules adopted under Minnesota Statutes, section 103F.211, whichever is less; and

B. For local government units that do not have a shoreland management ordinance approved under Minnesota Statutes, sections 103F.201 to 103F.221, "shoreland wetland protection zone" means:

(1) 1,000 feet from the ordinary high water level of a water basin that is a public water that is at least ten acres in size within municipalities and at least 25 acres in size in unincorporated areas; or

(2) 300 feet from the ordinary high water level of a watercourse identified by the public waters inventory under Minnesota Statutes, section 103G.201.

Subp. 45. Silviculture. "Silviculture" means the management of forest trees.

Subp. 46. Soil and water conservation district. "Soil and water conservation district" means a legal subdivision of state government under Minnesota Statutes, chapter 103C.

Subp. 47. [Repealed, 22 SR 1877]

1 Subp. 47a. State wetland banking system, wetland
2 bank, or bank. "State wetland banking system," "wetland
3 bank," or "bank" means a system of identifying wetlands
4 restored or created for replacement credit, providing for,
5 and facilitating and tracking the exchange of wetland
6 banking credits for projects that require replacement plans
7 or wetland mitigation required by other local, state or
8 federal authorities.

9
10 Subp. 48. Tributary wetland. "Tributary wetland"
11 means a wetland with a well defined outlet, including tile
12 systems, ditches, or natural watercourses, but without a
13 well defined inlet.

14
15 Subp. 49. Utility. "Utility" means a sanitary sewer,
16 storm sewer, potable water distribution, and transmission,
17 distribution, or furnishing, at wholesale or retail, of
18 natural or manufactured gas, electricity, telephone, or
19 radio service or communications.

20
21 Subp. 50. Watershed. "Watershed" means the 81 major
22 watershed units delineated by the map "State of Minnesota
23 Watershed Boundaries - 1979" as produced by the Minnesota
24 Department of Natural Resources, Office of Planning and
25 Research, Water Policy Planning Program, with funding from
26 the Legislative Commission on Minnesota Resources.

27
28 Subp. 51. Watershed management organization.
29 "Watershed management organization" means a watershed
30 district wholly within the metropolitan area or a joint
31 powers entity established wholly or partly within the
32 metropolitan area by special law or by agreement that
33 performs some or all of the functions of a watershed
34 district for a watershed and that has the characteristics
35 and the authority specified under Minnesota Statutes,
36 section 103B.211. Lake improvement or conservation
37 districts are not watershed management organizations.

COMMENTS

1 Subp. 51a. Wetland banking credits. "Wetland banking
2 credits" means acres or parts of acres of restored or
3 created wetland described by type and topographic setting,
4 or areas as described in part 8420.0540, subpart 2, that
5 have been approved for deposit in the wetland bank.

6
7 Subp. 52. Wetlands, a wetland, the wetland, or
8 wetland area.

9
10 A. "Wetlands" means lands transitional between
11 terrestrial and aquatic systems where the water table is
12 usually at or near the surface or the land is covered by
13 shallow water.

14
15 For purposes of this subpart, wetlands must:

16
17 (1) have a predominance of hydric soils;

18 (2) be inundated or saturated by surface water or
19 groundwater at a frequency and duration sufficient to
20 support a prevalence of hydrophytic vegetation typically
21 adapted for life in saturated soil conditions; and

22
23 (3) under normal circumstances, support a
24 prevalence of hydrophytic vegetation.

25
26 B. "A wetland" or "the wetland" means a distinct
27 hydrologic feature with characteristics of item A,
28 surrounded by nonwetland and including all contiguous
29 wetland types, except those connected solely by riverine
30 wetlands. "Wetland area" means a portion of "a wetland" or
31 "the wetland."

32
33 C. Wetlands does not include public waters wetlands
34 and public waters ~~that are unless~~ designated ~~on the public~~
35 ~~waters inventory maps prepared by the commissioner~~ under
36 Minnesota Statutes, section 103G.201.

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37
38 D. The wetland size is the area within its
39 boundary. The boundary must be determined according to the

1 United States Army Corps of Engineers Wetland Delineation
2 Manual (January 1987). The wetland type must be determined
3 according to United States Fish and Wildlife Service
4 Circular No. 39 (1971 edition). The local government unit
5 may seek the advice of the technical evaluation panel as to
6 the wetland size and type.

7
8 Subp. 53. Wetlands in a cultivated field. "Wetlands
9 in a cultivated field" means a wetland where greater than
10 50 percent of its boundary abuts land that was in
11 agricultural crop production in six of the ten years before
12 January 1, 1991.

13
14 Subp. 54. Wetlands located on agricultural land.
15 "Wetlands located on agricultural land" means a wetland
16 where greater than 50 percent of its boundary abuts
17 agricultural land.

18
19 Subp. 54a. Wetland type. "Wetland type" means a
20 wetland type classified according to Wetlands of the United
21 States, United States Fish and Wildlife Service Circular 39
22 (1971 edition), as summarized in this subpart.

23
24 A. "Type 1 wetlands" are seasonally flooded basins
25 or flats in which soil is covered with water or is
26 waterlogged during variable seasonal periods but usually is
27 well-drained during much of the growing season. Type 1
28 wetlands are located in depressions and in overflow
29 bottomlands along watercourses, and in which vegetation
30 varies greatly according to season and duration of flooding
31 and includes bottomland hardwoods as well as herbaceous
32 growths.

33
34 B. "Type 2 wetlands" are inland fresh meadows in
35 which soil is usually without standing water during most of
36 the growing season but is waterlogged within at least a few
37 inches of the surface. Vegetation includes grasses,
38 sedges, rushes, and various broad-leafed plants. Meadows

1 may fill shallow basins, sloughs, or farmland sags, or may
2 border shallow marshes on the landward side.

3
4 C. "Type 3 wetlands" are inland shallow fresh
5 marshes in which soil is usually waterlogged early during a
6 growing season and often covered with as much as six inches
7 or more of water. Vegetation includes grasses, bulrushes,
8 spikerushes, and various other marsh plants such as
9 cattails, arrowheads, pickerelweed, and smartweeds. These
10 marshes may nearly fill shallow lake basins or sloughs, or
11 may border deep marshes on the landward side and are also
12 common as seep areas on irrigated lands.

13
14 D. "Type 4 wetlands" are inland deep fresh marshes
15 in which soil is usually covered with six inches to three
16 feet or more of water during the growing season.
17 Vegetation includes cattails, reeds, bulrushes,
18 spikerushes, and wild rice. In open areas, pondweeds,
19 naiads, coontail, water milfoils, waterweeds, duckweeds,
20 water lilies, or spatterdocks may occur. These deep
21 marshes may completely fill shallow lake basins, potholes,
22 limestone sinks, and sloughs, or may border open water in
23 such depressions.

24
25 E. "Type 5 wetlands" are inland open fresh water,
26 shallow ponds, and reservoirs in which water is usually
27 less than ten feet deep and is fringed by a border of
28 emergent vegetation similar to open areas of type 4
29 wetland.

30
31 F. "Type 6 wetlands" are shrub swamps in which soil
32 is usually waterlogged during growing season and is often
33 covered with as much as six inches of water. Vegetation
34 includes alders, willows, buttonbush, dogwoods, and swamp
35 privet. This type occurs mostly along sluggish streams and
36 occasionally on floodplains.

37
38 G. "Type 7 wetlands" are wooded swamps in which
39 soil is waterlogged at least to within a few inches of the

1 surface during growing season and is often covered with as
2 much as one foot of water. This type occurs mostly along
3 sluggish streams, on floodplains, on flat uplands, and in
4 shallow basins. Trees include tamarack, arborvitae, black
5 spruce, balsam, red maple, and black ash. Northern
6 evergreen swamps usually have a thick ground cover of
7 mosses. Deciduous swamps frequently support beds of
8 duckweeds and smartweeds.

9
10 H. "Type 8 wetlands" are bogs in which soil is
11 usually waterlogged and supports a spongy covering of
12 mosses. This type occurs mostly in shallow basins, on flat
13 uplands, and along sluggish streams. Vegetation is woody
14 or herbaceous or both. Typical plants are heath shrubs,
15 sphagnum moss, and sedges. In the north, leatherleaf,
16 Labrador-tea, cranberries, carex, and cottongrass are often
17 present. Scattered, often stunted, black spruce and
18 tamarack may occur.

19
20 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

21
22 HIST: 18 SR 274; 22 SR 1877

23 Current as of 04/24/00

24
25 8420.0112 INCORPORATION BY REFERENCE.

26
27 This chapter incorporates by reference the following
28 documents and any subsequent updates or addendums to them:

29
30 A. Wetlands of the United States (United States
31 Fish and Wildlife Service Circular No. 39, 1971 edition).

32
33 B. United States Army Corps of Engineers Wetland
34 Delineation Manual (January 1987).

35
36 C. Classification of Wetlands and Deepwater
37 Habitats of the United States (Cowardin, et al., 1979
38 edition).

1 D. Criteria and Guidelines for Assessing Geologic
2 Sensitivity of Groundwater Resources in Minnesota
3 (Minnesota Department of Natural Resources, 1991).
4

5 E. United States Geological Survey Hydrologic Unit
6 Map for Minnesota (1974).
7

8 F. Minnesota Routine Assessment Methodology for
9 Evaluating Wetland Functions (Board of Water and Soil
10 Resources, Version ~~4~~2.0 - ~~May~~ September 19968).
11

12 G. Minnesota Wetland Evaluation Methodology for the
13 North Central United States (United States Army Corps of
14 Engineers, September 1988).
15

16 H. The Hydrogeomorphic Functional Assessment
17 Methodology (as developed by the United States Army Corps
18 of Engineers based on Wetlands Research Program Technical
19 Report WRP-DE-3, August 1993).
20

21 I. Oregon Freshwater Wetland Assessment Methodology
22 (Oregon Division of State Lands, December 1993).
23

24 J. Method for the Comparative Evaluation of
25 Nontidal Wetlands in New Hampshire (New Hampshire
26 Department of Environmental Services, March 1991).
27

28 K. National Wetland Inventory maps (United States
29 Fish and Wildlife Service).
30

31 L. ~~Anderson and Craig, 1984~~, Growing Energy Crops
32 on Minnesota Wetlands: The Land Use Perspective, Anderson
33 and Craig, 1984.
34

35 M. Wetland Restoration Guide, Minnesota Board of
36 Water and Soil Resources (December 1982).
37

38 These documents are available through the state law
39 library, except the National Wetland Inventory maps, which

are available at Minnesota soil and water conservation district offices. None of the documents are subject to frequent change.

N. Native Vegetation in Restored and Created Wetlands, Minnesota Board of Water and Soil Resources (draft version July 2000).

STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

HIST: 18 SR 274; 22 SR 1877

Current as of 04/24/00

8420.0115 SCOPE OF EXEMPTION STANDARDS.

When considering if a drain, excavate or fill activity qualifies for an exemption listed in a specified clause of Minnesota Statutes, section 103G.2241, the exemption standards in part 8420.0122 apply.

Persons proposing to conduct an exempt activity are encouraged to contact the local government unit or the local government unit's designee for advice on minimizing wetland impacts.

An activity is exempt if it qualifies for any one of the exemptions, even though it may be indicated as not exempt under another exemption.

These exemptions do not apply to calcareous fens as identified by the commissioner.

No exemptions apply to wetlands that have been previously restored or created as a result of an approved replacement plan. All such wetlands are subject to replacement on subsequent drainage, excavation or filling.

COMMENTS

~~Nonexempt~~ Wetlands cannot be partially drained, excavated or filled in order to claim an exemption or no-

Clarification that one exemption cannot be applied in order to gain another on a project.

1 loss determination on the remainder. Therefore, no
2 exemptions or no-loss determinations can be applied to the
3 remaining wetland that would not have been applicable
4 before the impact. Exemptions may not be combined on a
5 project.
6
7

8 Present and future owners of wetlands drained or
9 filled without replacement under an exemption in part
10 8420.0122, subparts 1 and 2, item B, can make no use of the
11 wetland area after it is drained, excavated or filled,
12 other than as agricultural land, for ten years after the
13 draining or filling, unless it is first replaced under the
14 requirements of Minnesota Statutes, section 103G.222.
15 Also, for ten years the wetland may not be restored for
16 replacement credit. At the time of draining or filling,
17 the landowner shall record a notice of these restrictions
18 in the office of the county recorder for the county in
19 which the project is located. At a minimum, the recorded
20 document must contain the name or names of the landowners,
21 a legal description of the property to which the
22 restrictions apply, a statement of the restrictions, the
23 date on which the ten-year period expires, the name of the
24 local government which certified the exemption, if such
25 occurred, the signatures of all owners, and an
26 acknowledgment.
27

28 A person conducting an activity in a wetland under
29 an exemption in part 8420.0122 shall ensure that:
30

31 A. appropriate erosion control measures are taken
32 to prevent sedimentation of the water;
33

34 B. the activity does not block fish activity in a
35 watercourse; and

36 C. the activity is conducted in compliance with all
37 other applicable federal, state, and local requirements,
38 including best management practices and water resource

1 protection requirements established under Minnesota
2 Statutes, chapter 103H.

3
4 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

5
6 HIST: 18 SR 274; 22 SR 1877
7 Current as of 04/24/00

8
9 8420.0120 [Repealed, 22 SR 1877]
10 Current as of 04/24/00

11
12 8420.0122 EXEMPTION STANDARDS.

13
14 Subpart 1. Agricultural activities.

15
16 A replacement plan for wetlands is not required for:

17
18 A. activities in a wetland that was planted with
19 annually seeded crops, was in a crop rotation seeding of
20 pasture grass or legumes, or was required to be set aside
21 to receive price support or other payments under United
22 States Code, title 7, sections 1421 to 1469, in six of the
23 last ten years prior to January 1, 1991. Documentation,
24 such as aerial photographs, United States Department of
25 Agriculture records, or affidavit of landowner must be
26 required by the local government unit to show and use as
27 evidence for this exemption. Set aside land used for this
28 exemption must be wetland types 1 and 2;

29
30 B. activities in a wetland that is or has been
31 enrolled in the federal Conservation Reserve Program under
32 United States Code, title 16, section 3831, that:

33
34 (1) was planted with annually seeded crops, was in
35 a crop rotation seeding, or was required to be set aside to
36 receive price support or payment under United States Code,
37 title 7, sections 1421 to 1469, in six of the last ten
38 years prior to being enrolled in the program; and

(2) has not been restored with assistance from a public or private wetland restoration program.

Federal documentation that the wetland is or has been enrolled in the federal Conservation Reserve Program may be used as evidence for this exemption. The landowner must also meet the same requirements of item A, except that the years required are at least six of the ten years preceding the year of enrollment in the federal Conservation Reserve Program. The landowner must also state in writing that the wetland was not restored with assistance from a public or private wetland restoration fund, or that the restoration was done under a contract or easement providing the landowner with the right to drain the restored wetland;

C. activities in a wetland that has received a commenced drainage determination provided for by the federal Food Security Act of 1985, that was made to the county USDA office prior to September 19, 1988, and a ruling and any subsequent appeals or reviews have determined that drainage of the wetland had been commenced prior to December 23, 1985. The landowner must provide United States Department of Agriculture documents confirming that the county USDA office determined before September 19, 1988, that drainage had begun before December 23, 1985, and that the determination has not been overturned by subsequent appeal or review and is not currently under administrative review;

D. (1) activities in a type 1 wetland on agricultural land, except for bottomland hardwood type 1 wetlands, and activities in a type 2 or type 6 wetland that is less than two acres in size and located on agricultural land;

COMMENTS

(2) this exemption may be expanded to additional acreage, including types 1, 2, and 6 wetlands that are part of a larger wetland system, when the additional acreage is part of a conservation plan approved by the local soil and

1 water conservation district, the additional draining or
2 filling is necessary for efficient operation of the farm,
3 the hydrology of the larger wetland system is not adversely
4 affected, and wetlands other than types 1, 2, and 6 are not
5 drained or filled;

6
7 (3) the exemption in subitem (2) is subject to the
8 size limits included in subitem (1);
9

10 E. aquaculture activities including pond excavation
11 and construction and maintenance of associated access roads
12 and dikes authorized under, and conducted in accordance
13 with, a permit issued by the United States Army Corps of
14 Engineers under section 404 of the federal Clean Water Act,
15 United States Code, title 33, section 1344, but not
16 including construction or expansion of buildings;
17

18 F. wild rice production activities, including
19 necessary diking and other activities authorized under a
20 permit issued by the United States Army Corps of Engineers
21 under section 404 of the federal Clean Water Act, United
22 States Code, title 33, section 1344;
23

24 G. normal agricultural practices to control noxious
25 or secondary weeds as defined by rule of the commissioner
26 of agriculture, in accordance with applicable requirements
27 under state and federal law, including established best
28 management practices; and
29

30 H. agricultural activities in a wetland that is on
31 agricultural land annually enrolled in the federal ~~Food,~~
32 ~~Agricultural, Conservation, and Trade Act of 1990, United~~
33 ~~States Code, title 16, section 3821, subsection (a),~~
34 ~~clauses (1) to (3), as amended, Agriculture Improvement and~~
35 ~~Reform Act of 1996 and is subject to sections 1421 to 1424~~
36 ~~of the federal act~~ United States Code, title 16, sections
37 3821 to 3823 or subject to subsequent federal farm program
38 restrictions that meet minimum state standards under this
39 chapter and sections 103A.202 and 103B.3355 and that have

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1 been approved by the board of water and soil resources, the
2 commissioners of natural resources and agriculture, and the
3 pollution control agency in effect on January 1, 1991,
4 ~~except that 2000.~~ Land enrolled in a federal farm program
5 is eligible for easement participation for those acres not
6 already compensated under a federal program. The federal
7 ~~Food, Agricultural, Conservation, and Trade Act of 1990 has~~
8 ~~been replaced with the federal Agriculture Improvement and~~
9 ~~Reform Act of 1996.~~ This exemption may be applied to
10 agricultural land annually enrolled in the federal
11 Agriculture Improvement and Reform Act of 1996 as long as
12 wetlands are not drained, excavated or filled beyond what
13 ~~would have been allowed under the federal Food,~~
14 ~~Agricultural, Conservation, and Trade Act of 1990, United~~
15 ~~States Code, title 16, section 3281, subsection (a),~~
16 ~~elauses (1) to (3), as amended, subject to sections 1421 to~~
17 ~~1424 of the federal act in effect on January 1, 1991. is:~~
18 (i) allowed under the other exemptions in this part; (ii)
19 necessary to repair existing private drainage
20 infrastructure; or (iii) replaced at a ratio of 1:1 or
21 greater under United States Department of Agriculture
22 provisions. Documentation from the United States
23 Department of Agriculture ~~may~~ must be used as evidence to
24 support this exemption. If the activity would result in
25 loss of eligibility, the landowner cannot qualify for the
26 exemption ~~by withdrawing from the program.~~

27
28 Subp. 2. Drainage.
29

30 A. For the purposes of this subpart, "public
31 drainage system" means a drainage system as defined in
32 Minnesota Statutes, section 103E.005, subdivision 12, and
33 any ditch or tile lawfully connected to the drainage
34 system.
35

36 B. A replacement plan is not required for draining
37 of type 1 wetlands, or up to five acres of type 2 or type 6
38 wetlands, in an unincorporated area on land that has been

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*Explains what
specific activities
are eligible in order
to expedite and unify
decisions made by
USDA local government
units.*

1 assessed drainage benefits for a public drainage system,
2 provided that:

3
4 (1) during the 20-year period that ended January
5 1, 1992:

6
7 (a) there was an expenditure made from the
8 drainage system account for the public drainage system;

9
10 (b) the public drainage system was repaired or
11 maintained as approved by the drainage authority; or

12
13 (c) no repair or maintenance of the public
14 drainage system was required under Minnesota Statutes,
15 section 103E.705, subdivision 1, as determined by the
16 public drainage authority; and

17
18 (2) the wetlands are not drained for conversion
19 to:

20 (a) platted lots;

21
22 (b) planned unit, commercial, or industrial
23 developments; or

24
25 (c) any development with more than one
26 residential unit per 40 acres.

27
28 If wetlands drained under this item are converted to
29 uses prohibited under subitem (2) during the ten-year
30 period following drainage, the wetlands must be replaced
31 under Minnesota Statutes, section 103G.222.

COMMENTS

32
33 C. A replacement plan is not required for draining,
34 excavating or filling of wetlands, except for draining
35 types 3, 4, and 5 wetlands that have been in existence for
36 more than 25 years, resulting from maintenance and repair
37 of existing public drainage systems sponsored by the public
38 drainage authority.

Sec. 5, Chap. 382,
also clarifies
distinction between
Item C. and Item D.

1 D. A replacement plan is not required for draining,
2 excavating or filling of wetlands, except for draining
3 wetlands that have been in existence for more than 25
4 years, resulting from maintenance and repair of existing
5 drainage systems other than public drainage systems.
6

7 For items C and D, the landowner must provide
8 documentation that the wetlands which will be partially or
9 completely drained by the maintenance have not existed for
10 more than 25 years. Documentation may include, but is not
11 limited to: aerial photographs, climatologically records,
12 soil borings, vegetative analysis, elevation surveys, or
13 sworn affidavits.
14

15 E. A replacement plan is not required for draining,
16 excavating or filling of wetlands resulting from activities
17 conducted as part of a public drainage system improvement
18 project that received final approval from the drainage
19 authority before July 1, 1991, and after July 1, 1986, if:
20

21 (1) the approval remains valid;
22

23 (2) the project remains active; and
24

25 (3) no additional drainage will occur beyond that
26 originally approved.
27

28 F. The public drainage authority may, as part of
29 the repair, install control structures, realign the ditch,
30 construct dikes along the ditch, or make other
31 modifications as necessary to prevent drainage of the
32 wetland.
33

34 G. Wetlands of all types that would be drained as a
35 part of a public drainage repair project are eligible for
36 the permanent wetlands preserve program established under
37 Minnesota Statutes, section 103F.516. The board shall give
38 priority to acquisition of easements on types 3, 4, and 5
39 wetlands that have been in existence for more than 25 years

on public drainage systems and other wetlands that have the greatest risk of drainage from a public drainage repair project.

Subp. 3. Federal approvals. A replacement plan for wetlands is not required for:

A. activities exempted from federal regulation under United States Code, title 33, section 1344(f), as in effect on January 1, 1991.

The local government unit may certify the exemption only if the landowner furnishes proof of qualification for one of the exemptions from the United States Army Corps of Engineers.

This exemption does not apply to a project with the purpose of converting a wetland to a nonwetland, either immediately or gradually, or converting the wetland to another use, or when the fill will result in significant discernible change to the flow or circulation of water in the wetland, or partly draining it, or reducing the wetland area;

~~B. activities authorized under, and conducted in accordance with, an applicable general permit issued by the United States Army Corps of Engineers under section 404 of the federal Clean Water Act, United States Code, title 33, section 1344, except the nationwide permit in Code of Federal Regulations, title 33, section 330.5, paragraph (a), clauses (14), limited to when a new road crosses a wetland, and (26), as in effect on January 1, 1991.~~

COMMENTS

~~This exemption is for the following nationwide permits as they existed on January 1, 1991, and includes the associated regional conditions: 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, and 25, issued under Code of Federal Regulations, title 33, section 330.5. The local government unit may certify such an exemption only if the~~

~~applicant furnishes proof of qualification for one of these nationwide permits from the United States Army Corps of Engineers. Nationwide permit 14 for a new road does not qualify for this exemption, nor do nationwide permits under numbers not listed in this exemption.~~

~~To qualify for a nationwide permit, the applicant for a United States Army Corps of Engineers permit must meet any regional conditions imposed by the United States Army Corps of Engineers, and must obtain from the Minnesota Pollution Control Agency an individual section 401 certification when required.~~

B. activities authorized under the federal Clean Water Act, section 404, or the Rivers and Harbors Act, section 10, regulations that meet minimum state standards under this chapter and that have been approved by the board of water and soil resources and agriculture, and the pollution control agency.

Section 6, Chap. 382

Subp. 4. Wetland restoration. A replacement plan for wetlands is not required for activities in a wetland restored for conservation purposes under a contract or easement providing the landowner with the right to drain the restored wetland.

The landowner must provide a contract or easement conveyance or affidavit demonstrating that the landowner or a predecessor restored the wetland for conservation purposes but retained the right to subsequently drain the restored wetland.

COMMENTS

Subp. 5. Incidental wetlands. A replacement plan for wetlands is not required for activities in a wetland areas created or reestablished solely as a result of:

A. beaver dam construction;

Clarifies that the term "create" here is broader than rule definition and thus this exemption can apply to wetlands that have reformed subsequent to effective drainage.

1 B. blockage of culverts through roadways maintained
2 by a public or private entity;

3
4 C. actions by public or private entities that were
5 taken for a purpose other than creating the wetland; or

6
7 D. any combination of items A to C.
8

9 Wetland areas created by beaver activities may be
10 drained by removing those materials placed by beaver.
11 Drainage is permitted by removing or moving materials
12 blocking installed roadway culverts and drainage
13 structures. Additional excavation or removal of other
14 materials is not permitted unless it can be shown by aerial
15 photographs that the proposed activity will not drain or
16 fill wetland that was there before the beaver dam was built
17 or before the culvert became plugged.
18

19 Wetlands areas may be drained, excavated or filled if
20 the landowner can show that the wetland was created or
21 reestablished solely by actions, the purpose of which was
22 not to create or reestablish the wetland.
23

24 Impoundments or excavations constructed in nonwetlands
25 solely for the purpose of effluent treatment, storm water
26 retention, soil and water conservation practices, and water
27 quality improvements, and not as part of a compensatory
28 wetland mitigation process that may, over time, take on
29 wetland characteristics, are also exempt.
30

31 Subp. 6. Utilities; public works. A replacement plan
32 for wetlands is not required for:

33
34 A. placement, maintenance, repair, enhancement, or
35 replacement of utility or utility-type service if:

36
37 (1) the impacts of the proposed project on the
38 hydrologic and biological characteristics of the wetland
39 have been avoided and minimized to the extent possible; and

(2) the proposed project significantly modifies or alters less than one-half acre of wetlands;

B. activities associated with routine maintenance of utility and pipeline rights-of-way, provided the activities do not result in additional intrusion into the wetland;

C. alteration of a wetland associated with the operation, maintenance, or repair of an interstate pipeline within all existing or acquired interstate pipeline rights-of-way;

D. emergency repair and normal maintenance and repair of existing public works, provided the activity does not result in additional intrusion of the public works into the wetland and does not result in the draining or filling, wholly or partially, of a wetland;

E. normal maintenance and minor repair of structures causing no additional intrusion of an existing structure into the wetland, and maintenance and repair of private crossings that do not result in the draining or filling, wholly or partially, of a wetland; or

F. repair and updating of existing individual sewage treatment systems as necessary to comply with local, state, and federal regulations.

For new placement and enhancement of existing facilities, the utility must demonstrate that the character and extent of the impacts of the proposed project on the wetlands have been minimized.

For maintenance, repair, and replacement, the local government unit may issue a seasonal or annual exemption certification or the utility may proceed without local government unit certification if it is carrying out the

1 work according to best management practices. Work of an
2 emergency nature may proceed as necessary and any drain or
3 fill activities shall be addressed with the local
4 government unit after the emergency work has been
5 completed.

6
7 Subp. 7. Forestry. A replacement plan for wetlands
8 is not required for:

9
10 A. temporarily crossing or entering a wetland to
11 perform silvicultural activities, including timber harvest
12 as part of a forest management activity, so long as the
13 activity limits the impact on the hydrologic and biologic
14 characteristics of the wetland; the activity does not
15 result in the construction of dikes, drainage ditches, tile
16 lines, or buildings; and the timber harvesting and other
17 silvicultural practices do not result in the drainage of
18 the wetland or public waters; or

19
20 B. permanent access for forest roads across
21 wetlands so long as the activity limits the impact on the
22 hydrologic and biologic characteristics of the wetland; the
23 construction activities do not result in the access
24 becoming a dike, drainage ditch, or tile line; filling is
25 avoided wherever possible; and there is no drainage of the
26 wetland or public waters.

27
28 This exemption is for roads constructed for the
29 primary purpose of providing access for the conduct of
30 silvicultural activities.

COMMENTS

31
32 Subp. 8. Approved development. A replacement plan
33 for wetlands is not required for development projects and
34 ditch improvement projects in the state that have received
35 preliminary or final plat approval or have infrastructure
36 that has been installed or has local site plan approval,
37 conditional use permits, or similar official approval by a
38 governing body or government agency, within five years
39 before July 1, 1991. As used in this subpart,

1 "infrastructure" means public water facilities, storm water
2 and sanitary sewer piping, outfalls, inlets, culverts,
3 bridges, and any other work defined specifically by a local
4 government unit as constituting a capital improvement to a
5 parcel within the context of an approved development plan.
6

7 Subdividers who obtained preliminary plat approval in
8 the specified time period, and other project developers
9 with one of the listed approvals timely obtained, provided
10 approval has not expired and the project remains active,
11 may drain and fill wetlands, to the extent documented by
12 the approval, without replacement. Those elements of the
13 project that can be carried out without changing the
14 approved plan and without draining or filling must be done
15 in that manner. If wetlands can be avoided within the
16 terms of the approved plan, they must be avoided.
17

18 For county, joint county, and watershed district ditch
19 projects, this exemption applies to projects that received
20 final approval in the specified time period.
21

22 Subp. 9. De minimis.

Sec. 8, Chap. 382

23
24 A. Except as provided in items B ~~to D~~ and C, a
25 replacement plan for wetlands is not required for draining
26 or filling the following amounts of wetlands as ~~part of a~~
27 ~~project, regardless of the total amount of wetlands~~
28 ~~filled as part of a project.~~
29

30 (1) 10,000 square feet of type 1, 2, 6, or 7
31 wetland, excluding white cedar and tamarack wetlands,
32 outside of the shoreland wetland protection zone and that
33 are not directly adjoined to type 3, 4, and 5 wetlands in a
34 greater than 80 percent area;
35

Clarification
of wetland
typing method.

36 (2) 5,000 square feet of type 1, 2, 6, or 7
37 wetland, excluding white cedar and tamarack wetlands,
38 outside of the shoreland wetland protection zone and that

are not directly adjoined to type 3, 4, and 5 wetlands in a
50 to 80 percent area;

(3) 2,000 square feet of type 1, 2, or 6 wetland,
outside of the shoreland wetland protection zone and that
are not directly adjoined to type 3, 4, and 5 wetlands in a
less than 50 percent area;

(4) 400 square feet of wetland types not listed in
subitems (1) to (3) outside of shoreland wetland protection
zones in all counties; or

(5) 400 square feet of type 1, 2, 3, 4, 5, 6, 7,
or 8 wetland, in the shoreland wetland protection zone,
except that in a greater than 80 percent area, the local
government unit may increase the de minimis amount up to
1,000 square feet in the shoreland wetland protection zone
in areas beyond the building setback if the wetland is
isolated and is determined to have no direct surficial
connection to the public water. To the extent that a local
shoreland management ordinance is more restrictive than
this subitem, the local shoreland ordinance applies.

B. The amounts listed in item A may not be combined
on a project.

C. This exemption no longer applies to a
landowner's portion of a wetland when the cumulative area
of the landowner's portion drained or filled since January
1, 1992, is the greater of:

COMMENTS

(1) the applicable area listed in item A, if the
landowner owns the entire wetland;

(2) five percent of the landowner's portion of the
wetland; or

(3) 400 square feet.

~~D. Persons proposing to conduct an activity under
this subpart shall contact the board at a toll-free
telephone number to be provided for information on
minimizing wetland impacts. Failure of the person to call
does not constitute a violation of this subpart.~~

~~—E.~~ This exemption may not be combined with another
exemption on a project in this part.

Subp. 10. Wildlife habitat. A replacement plan for
wetlands is not required for:

A. deposition of spoil resulting from excavation
within a wetland for a wildlife habitat improvement
project, if:

(1) the area of deposition does not exceed five
percent of the wetland area or one-half acre, whichever is
less, and the spoil is stabilized and permanently seeded to
prevent erosion;

(2) the project does not have an adverse impact on
any species designated as endangered or threatened under
state or federal law; and

(3) the project will provide wildlife habitat
improvement as certified by the soil and water conservation
district; or

B. duck blinds.

STAT AUTH: MS s 103B.101; 103B.3355; 103G.2242

HIST: 22 SR 1877

Current as of 04/24/00

8420.0200 DETERMINING LOCAL GOVERNMENT UNIT.

1 The local government unit responsible for making
2 exemption, wetland type, wetland boundary and no-loss
3 determinations and approving replacement plans shall be
4 determined according to items A to C.

5
6 A. Outside the seven-county metropolitan area, the
7 local government unit is the county or city in which the
8 drain or fill activity is located, or its delegate.

9
10 B. In the seven-county metropolitan area, the local
11 government unit is the city, town, or water management
12 organization regulating surface-water-related matters in
13 the area in which the drain or fill activity is located, or
14 its delegate. The watershed management plan adopted under
15 Minnesota Statutes, section 103B.231, and related board
16 rules will normally indicate the appropriate local
17 government unit. Lacking an indication, the local
18 government unit must be the city, town, or its delegate.

19
20 C. If the activity in a wetland is located in two
21 jurisdictions, the local government unit shall be the one
22 exercising zoning authority over the project or if both
23 have zoning authority, the one in which most of the wetland
24 loss will occur. If no zoning permits are required, the
25 local government unit shall be the one in which most of the
26 wetland loss will occur. If an activity will affect
27 wetlands in more than one local government unit, the board
28 will coordinate the project review to ensure consistency
29 and consensus among the local government units involved.
30 If a local government unit does not provide knowledgeable
31 and trained staff to manage the program, or secure a
32 qualified delegate, the board may designate another
33 eligible local government unit to manage the program.

COMMENTS

34
35 The board will resolve all questions as to which
36 government entity is the responsible authority, applying
37 the guidelines in items A to C.
38

1 Notwithstanding items A to C, the Department of
2 Natural Resources shall be the approving authority for
3 activities associated with projects requiring permits to
4 mine under Minnesota Statutes, section 93.481 and for
5 projects affecting calcareous fens.

6
7 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

8
9 HIST: 18 SR 274; 22 SR 1877

10 Current as of 04/24/00

11
12 8420.0210 EXEMPTION DETERMINATIONS.

13
14 A landowner intending to drain or fill a wetland
15 without replacement, claiming exemption under part
16 8420.0122, may contact the local government unit before
17 beginning draining or filling activities for determination
18 whether or not the activity is exempt. A landowner who
19 does not request a determination may be subject to the
20 enforcement provisions in part 8420.0290 and Minnesota
21 Statutes, section 103G.2372. The local government unit
22 must keep on file all documentation and findings of fact
23 concerning exemption determinations for a period of ten
24 years.

25
26 Local government units may ~~offer~~ make exemption
27 ~~certificates~~ determinations as part of the wetland program
28 within their jurisdiction. An exemption applies whether or
29 not the local government unit chooses to ~~issue certificates~~
30 ~~of~~ make an exemption determination. If the wetland
31 qualifies for an exemption, and the landowner requests a
32 ~~certificate of an~~ exemption determination, then the local
33 government unit must ~~issue~~ make one.

Makes language
consistent as
"determination" is
used elsewhere.

COMMENTS

34
35 The landowner applying for exemption is responsible
36 for submitting the proof necessary to show qualification
37 for the particular exemption claimed.
38

1 The local government unit may place the decision
2 authority for exemption applications with the zoning
3 administrator, or establish other procedures it considers
4 appropriate.

5
6 The local government unit decision shall be based on
7 the exemptions standards in part 8420.0122. If the
8 decision requires a finding of wetland size or type, the
9 local government unit should seek the advice of the
10 technical panel as described in part 8420.0240. The local
11 government unit decision must be made in compliance with
12 Minnesota Statutes, section 15.99, which generally requires
13 a decision to be made within 60 days of receipt of a
14 complete application. The local government unit decision
15 must be mailed to the landowner, members of the technical
16 evaluation panel, the watershed district or water
17 management organization if there is one, the commissioner
18 of natural resources, and individual members of the public
19 who request a copy within ten days of the decision. The
20 local government unit shall advise the person receiving the
21 decision that the decision is subject to appeal for 15
22 working days.

Needed to avoid
applicant potentially
having to undo a project

23
24 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

25
26 HIST: 18 SR 274; 22 SR 1877
27 Current as of 04/24/00

28
29 8420.0220 NO-LOSS DETERMINATIONS.

30
31 A landowner unsure if proposed work will result in a
32 loss of wetland may apply to the local government unit for
33 a determination. A landowner who does not request a
34 determination may be subject to the enforcement provisions
35 in part 8420.0290 and Minnesota Statutes, section
36 103G.2372. The local government unit must keep on file all
37 documentation and findings of fact concerning no-loss
38 determinations for a period of ten years.

COMMENTS

1 The landowner applying for a no-loss determination is
2 responsible for submitting the proof necessary to show
3 qualification for the claim.
4

5 The local government unit may place the decision
6 authority for no-loss applications with the zoning
7 administrator, or establish other procedures it considers
8 appropriate. The local government unit decision must be
9 made in compliance with Minnesota Statutes, section 15.99,
10 which generally requires a decision to be made within 60
11 days of receipt of a complete application. The local
12 government unit decision must be mailed to the landowner,
13 members of the technical evaluation panel, the watershed
14 district or water management organization if there is one,
15 the commissioner of natural resources, and individual
16 members of the public who request a copy within ten days of
17 the decision. The local government unit shall advise the
18 person receiving the decision that the decision is subject
19 to appeal for 15 working days.
20

21 The local government unit shall ~~issue~~ make a no-loss
22 ~~certificate~~ determination if the landowner requests, if the
23 project is consistent with part 8420.0520, Subp. 5, and if
24 either:
25

26 A. the work will not drain, excavate or fill a
27 wetland, except for removal of debris such as trees, logs,
28 stumps, and trash provided such removal does not alter the
29 original cross-section of the wetland;
30

31 B. water level management activities will not
32 result in the conversion of a wetland to another land use;
33

34 C. the activities are in a surface impoundment for
35 containment of fossil fuel combustion waste or water
36 retention, and are not part of a compensatory wetland
37 mitigation program; ~~or~~
38

COMMENTS

1 D. the activity is being conducted as part of an
2 approved replacement or banking plan or is conducted or
3 authorized by public agencies for the purpose of wetland
4 restoration ~~and the activity is restricted to placing fill~~
5 ~~in a previously excavated drainage system to restore a~~
6 ~~wetland to its original condition;~~ or

7
8 E. the activity is limited to excavation and removal
9 of deposited sediment in stormwater management basins or to
10 excavation and removal of contaminated substrate, and the
11 excavated area is stabilized so as to prevent water quality
12 degradation and the excavation is limited to the minimum
13 dimensions necessary for achieving the desired purpose.

14
15 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

16
17 HIST: 18 SR 274; 22 SR 1877

18 Current as of 04/24/00

19
20 Subd.2a. [8420.0225 WETLAND BOUNDARY OR TYPE
21 DETERMINATION.] (a) A landowner may apply for a wetland
22 boundary or type determination from the local government
23 unit. The landowner applying for the determination is
24 responsible for submitting proof necessary to make the
25 determination, including, but not limited to, wetland
26 delineation field data, observation well data, topographic
27 mapping, survey mapping, and information regarding soils,
28 vegetation, hydrology, and groundwater both within and
29 outside of the proposed wetland boundary.

30
31 (b) A local government unit that receives an
32 application under paragraph (a) may seek the advice of the
33 technical evaluation panel as described in subdivision 2,
34 and , if necessary, expand the technical evaluation panel.
35 The local government unit may delegate the decision
36 authority for wetland boundary or type determinations with
37 the zoning administrator, or establish other procedures it
38 considers appropriate.

1 (c) The local government unit decision must be made
2 in compliance with section 15.99. Within ten calendar days
3 of the decision, the local government unit decision must be
4 mailed to the landowner, members of the technical
5 evaluation panel, the watershed district or watershed
6 management organization if there is one, and individual
7 members of the public who request a copy. The local
8 government unit shall advise the person receiving the
9 decision that the decision is subject to appeal for 15
10 working days.

11
12 (d) The local government unit decision is valid for
13 three years unless the technical evaluation panel
14 determines that natural or artificial changes to the
15 hydrology, vegetation, or soils of the area have been
16 sufficient to alter the wetland boundary or type.

17
18 8420.0230 REPLACEMENT PLAN DETERMINATIONS.

19
20 Subpart 1. Application. A landowner intending to
21 drain or fill a wetland who does not qualify for an
22 exemption or no-loss determination shall obtain approval of
23 a replacement plan from the local government unit before
24 beginning draining or filling. A person who does not do so
25 is subject to the enforcement provisions in this chapter
26 and Minnesota Statutes, section 103G.2372. Within ten days
27 of receipt of an application for an activity affecting less
28 than 10,000 square feet of wetland, the local government
29 unit must mail a summary of the application, which includes
30 information to identify the applicant and the location and
31 scope of the project, to members of the technical
32 evaluation panel, the commissioner of natural resources,
33 and individual members of the public who have requested a
34 copy. The project notification must state when the comment
35 period ends.

36
37 Within ten days of receipt of an application for
38 approval of a replacement plan for an activity affecting
39 10,000 square feet or more of wetland, the local government

unit must mail a copy of the application and an invitation to submit comments to members of the technical evaluation panel; the watershed district or water management organization, if there is one; the commissioner of natural resources and individual members of the public who request a copy. Individual members of the public who request a copy must be sent a summary of the application that includes information to identify the applicant and the location and scope of the project. The project notification must state when the comment period ends.

An application for approval of a replacement plan includes a revised application for replacement plan approval and an application for a revision to an approved replacement plan if:

(1) the wetland area to be drained or filled under the revised replacement plan is at least ten percent larger than the area to be drained or filled under the original replacement plan; or

(2) the wetland area to be drained or filled under the revised replacement plan is located more than 500 feet from the area to be drained or filled under the original replacement plan.

Subp. 2. Decision. The local government unit decision shall be based on the replacement standards in parts 8420.0500 to 8420.0630, and on the technical evaluation panel's determination, if there is one, concerning the wetland function and resulting public values, location, size, and type of the wetland being altered. The local government unit decision must be made in compliance with Minnesota Statutes, section 15.99, which generally requires a decision to be made within 60 days of receipt of a complete application. The local government unit shall consider and include the technical evaluation panel's recommendation, if there is one, to approve, modify, or reject the proposed replacement plan. The local

1 government unit decision must be mailed to the landowner
2 within ten days of the decision. A summary of the
3 government unit decision must be mailed within ten days of
4 the decision to those required to receive notice of the
5 application. The local government unit shall advise the
6 person receiving the decision that the decision is subject
7 to appeal for 15 working days.

8
9 For wetland replacement plans involving more than one
10 local government unit, approval of all local government
11 units involved or as specified in part 8420.0200 shall
12 constitute final approval of the replacement plan and is
13 required before the project may proceed. The local
14 government unit with jurisdiction for the impact site must
15 approve all components of the replacement plan, following
16 the procedures in parts 8420.0500 to 8420.0630. The local
17 government unit with jurisdiction for the replacement site
18 shall limit the review to evaluation of the replacement
19 site as in parts 8420.0540 to 8420.0630 and make a decision
20 accordingly.

21
22 As part of the approval of the replacement plan, the
23 local government unit with jurisdiction for the replacement
24 site assumes responsibility for ensuring compliance with
25 monitoring provisions according to parts 8420.0600 to
26 8420.0630. The local government unit with jurisdiction for
27 the replacement site may enter into joint powers agreements
28 with a local government unit with jurisdiction for the
29 impact site, assess fees, or develop other procedures
30 considered necessary to facilitate the process.

31
32 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

33
34 HIST: 18 SR 274; 22 SR 1877

35 Current as of 04/24/00

36
37 8420.0235 WETLAND BANKING PROCEDURES.
38

For wetland banking procedures, refer to parts
8420.0700 to 8420.0760. Appeals of the local government
unit banking decisions are taken according to part
8420.0250.

STAT AUTH: MS s 14.06; 103B.101; 103B.3355

HIST: 18 SR 274

Current as of 04/24/00

8420.0240 TECHNICAL EVALUATION PANEL PROCEDURES.

For each local government unit, there is a technical
evaluation panel of three persons: a technical
professional employee of the board, a technical
professional employee of the soil and water conservation
district of the county in which the activity is occurring,
and a technical professional with expertise in water
resources management appointed by the local government
unit. For projects affecting public waters or public
waters wetlands or affecting wetlands adjacent to the
public waters or public waters wetlands, the technical
evaluation panel shall also include a technical
professional employee of the department of natural
resources. For purposes of this section, adjacent means
within the shoreland wetland protection zone or one
thousand feet, whichever is less. One member selected by
the local government unit shall act as the contact person
and coordinator for the panel. Two members of the panel
must be knowledgeable and trained in applying methodologies
of the "United States Army Corps of Engineers Wetland
Delineation Manual" (January 1987), "Wetlands of the United
States" (United States Fish and Wildlife Service Circular
39, 1971 edition), and "Classification of Wetlands and
Deepwater Habitats of the United States" (Cowardin, et al.,
1979 edition), and including updates, supplementary
guidance or replacements of these methods provided by the
board. The panel shall also be knowledgeable and trained
in evaluation of wetland functions and the resulting public

1 values. The technical evaluation panel may invite
2 additional wetland experts to help the panel in its work.

3
4 The panel shall make technical ~~determinations~~
5 recommendations on questions of wetland functions and the
6 resulting public values, location, size, and type for
7 replacement plans, wetland banking plans, exemption and,
8 no-loss ~~requests~~, and wetland boundary or type
9 determinations avoidance and minimization requests, and for
10 comprehensive wetland protection and management plans if
11 requested to do so by the local government unit, the
12 landowner, or a member of the technical evaluation panel.
13 The panel may review replacement plans exemption, no-loss,
14 wetland banking, and wetland boundary and type proposals
15 and recommend to the local government unit either approval,
16 approval with changes or conditions, or rejection. The
17 local government unit must consider and include the
18 recommendation of the technical evaluation panel in their
19 approval or denial of a plan or determination. The panel
20 shall make no determinations or recommendations without at
21 least one member having made an on-site inspection. Panel
22 determinations and recommendations must be documented and
23 endorsed by at least two a majority of the three members.

Sec. 10, Chap. 382

24
25 Applicants for exemption, no-loss, wetland boundary,
26 wetland type, replacement plan and banking determinations
27 must reasonably cooperate in providing technical evaluation
28 panels and local government units and agents and employees
29 with access to proposed project sites for investigation,
30 testing, and monitoring. Reasonable attempts must be made
31 to notify applicant prior to any visits. If an applicant
32 refuses to allow access the local government unit may deny
33 an application.

Access to site usually
necessary for local
government units to make
determinations.

34
35 If the local government unit has a comprehensive
36 wetland protection and management plan that delineates
37 location, size, and type for all wetlands, approved by the
38 technical evaluation panel, and subsequently incorporated
39 into local ordinance, then the local government unit can

1 make determinations ~~in place of~~ without calling the
2 technical evaluation panel.

3
4 ~~The panel, or one of its members when so authorized by~~
5 ~~all of the members, may assist the local government unit in~~
6 ~~making wetland size and type determinations when asked to~~
7 ~~do so by the local government unit as part of making an~~
8 ~~exemption or no loss determination.~~

9
10 If requested by the local government unit, the
11 landowner, or a member of the technical evaluation panel,
12 the panel shall answer technical questions or participate
13 in the monitoring of replacement wetlands according to
14 parts 8420.0600 to 8420.0630, and shall similarly
15 participate in the monitoring of banked wetlands according
16 to parts 8420.0700 to 8420.0760.

17
18 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

19
20 HIST: 18 SR 274; 22 SR 1877
21 Current as of 04/24/00

22
23 8420.0245 OTHER LOCAL GOVERNMENT UNIT WETLAND RULES AND
24 ORDINANCES.

25
26 This chapter and the act provide minimum standards.
27 Local government units may require more procedures and more
28 wetland protection, but not less.

29
30 STAT AUTH: MS s 14.06; 103B.101; 103B.3355

31
32 HIST: 18 SR 274
33 Current as of 04/24/00

34
35 8420.0250 APPEALS.

36
37 Subpart 1. Appeal of replacement plan, public road
38 project notices; banking plan, exemption, ~~and no-loss,~~ and
39 wetland boundary or type decisions. The decision of a

Sec. 13 and 5, Chap. 382

1 local government unit to approve, approve with conditions,
2 or reject a replacement plan, banking plan, exemption, ~~or~~
3 no-loss, or wetland boundary or type request becomes final
4 if not appealed to the board within 15 working days after
5 the date on which the decision is mailed to those required
6 to receive notice of the decision. This section also
7 applies to decisions made under comprehensive wetland
8 protection and management plans and public transportation
9 project notifications.

10
11 Appeal may be made by the landowner, by any of those
12 required to receive notice of the decision, or by 100
13 residents of the county in which a majority of the wetland
14 is located.

15
16 Appeal is effective upon mailing of the petition and
17 payment of a nonrefundable filing fee of \$200 to the board
18 with evidence that a copy of the petition has been mailed
19 to the local government unit. Subsequent to receipt of a
20 petition, the local government unit may require the
21 petitioner to post a letter of credit, cashier's check, or
22 cash in an amount not to exceed \$500 per appeal. The
23 amount posted must be returned to the petitioner unless
24 there is a finding under subpart 3 that the appeal is
25 meritless, trivial, or brought solely for the purposes of
26 delay. The local government unit shall then mail a copy of
27 the petition to all those to whom it was required by part
28 8420.0230 to mail a copy of the notice of decision.

COMMENTS

29
30 Subp. 2. [Repealed, 22 SR 1877]
31

32 Subp. 3. Board appeal procedures. Within 30 days
33 after receiving the petition, the board or its dispute
34 resolution committee or executive director shall decide
35 whether to grant the petition and hear the appeal. The
36 board or its dispute resolution committee or executive
37 director shall grant the petition unless the appeal is
38 deemed meritless, trivial, or brought solely for the
39 purposes of delay. ~~that~~ the board or its dispute

1 resolution committee or its executive director may remand
2 the appealed decision back to the local government unit if:
3 the petitioner has not exhausted all local administrative
4 remedies such as a local government unit public hearing;
5 expanded technical review is needed; the local government
6 unit's record is not adequate; or that the petitioner has
7 not posted a letter of credit, cashier's check, or cash if
8 required by the local government unit.
9

10 The appeal will be heard by the dispute resolution
11 committee and decided by the board within 60 days after
12 granting the petition-, except that wetland boundary or
13 type appeals may be decided by the board or its dispute
14 resolution committee or by its executive director. Parties
15 to the appeal are the appellant, the landowner, the local
16 government unit, and in the case of replacement plan
17 appeals, all those required to receive notice of the local
18 government unit decision.
19

20 The board or its dispute resolution committee or
21 executive director may elect to combine related appeals and
22 process, as one decision, either multiple appeals on the
23 same project or appeals of different local government unit
24 decisions on the same project.
25

26 Upon appeal, the local government unit shall forward
27 to the board the record on which it based its decision.
28 The board will make its decision on the appeal after
29 hearing. Thirty days' notice of the hearing shall be given
30 by the board to the parties. The parties may present
31 written and oral argument. When the local government unit
32 has made formal findings contemporaneously with its
33 decision and there is an accurate verbatim transcript of
34 the proceedings and the proceedings were fairly conducted,
35 the board will base its review on the record. Otherwise it
36 may take additional evidence, or remand the matter.
37

38 The board will affirm the local government unit's
39 decision if the local government unit's findings of fact

1 are not clearly erroneous; if the local government unit
2 correctly applied the law to the facts, including this
3 chapter; and if the local government unit made no
4 procedural errors prejudicial to a party. Otherwise, the
5 board will reverse the decision, amend it, or remand it
6 with instructions for further proceedings.

7
8 Subp. 4. County or watershed reclassification.
9

10 A. A local government unit may request the board to
11 reclassify a county or watershed on the basis of its
12 percentage of presettlement wetlands remaining. After
13 receipt of satisfactory documentation from the local
14 government, the board shall change the classification of a
15 county or watershed. If requested by the local government
16 unit, the board must assist in developing the
17 documentation. Within 30 days of its action to approve a
18 change of wetland classifications, the board shall publish
19 a notice of the change in the Environmental Quality Board
20 Monitor.
21

22 B. One hundred citizens who reside within the
23 jurisdiction of the local government unit may request the
24 local government unit to reclassify a county or watershed
25 on the basis of its percentage of presettlement wetlands
26 remaining. In support of their petition, the citizens
27 shall provide satisfactory documentation to the local
28 government unit. The local government unit shall consider
29 the petition and forward the request to the board or
30 provide a reason why the petition is denied.
31

32 Subp. 5. Metropolitan area public transportation
33 project replacement. Disputes about restoration
34 opportunities for wetland replacement sites for public
35 transportation projects in the seven-county metropolitan
36 area (1) in a county as required in part 8420.0540, subpart
37 5, (2) using created wetlands, or (3) using wetland banking
38 credits may be appealed to the board's committee for
39 dispute resolution.

1 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

2
3 HIST: 18 SR 274; 22 SR 1877

4 Current as of 04/24/00

5
6 8420.0260 PENALTY FOR LOCAL GOVERNMENT UNIT FAILURE TO
7 APPLY LAW.

8
9 By January 1, 1994, each local government unit of the
10 state, except tribal lands, shall acknowledge to the board
11 that it is assuming its responsibilities under this chapter
12 and the act. Local government units from which an
13 affirmative response is not received will be given notice
14 by the board that there is a 60-day moratorium in the local
15 government unit's jurisdiction on exemption, wetland
16 boundary, wetland type, no-loss, replacement plan, and
17 banking determinations. The board will end the moratorium
18 within the 60 days upon agreement by the local government
19 unit that it will assume its duties under this chapter and
20 the act. If at the end of the initial 60-day moratorium an
21 agreement has not been made for the local government unit
22 to apply the law, the board can extend the moratorium until
23 the local government unit agrees to apply the law.

24
25 If the board has information that a local government
26 unit is not following this chapter or the act in making
27 exemption, no-loss, replacement plan, public road project
28 notice, wetland boundary, wetland type or banking
29 determinations, or if the local government unit does not
30 have knowledgeable and trained staff, the board shall
31 notify the local government unit of its concerns. If not
32 satisfied with the local government unit's response, the
33 board shall ask the local government unit to appear at a
34 hearing before the board to discuss the matter. If it is
35 determined at the hearing, that corrective action is
36 necessary, the board shall write the local government unit
37 directing specific corrective action within 60 days. The
38 notice shall explain the reason for the action.

If, after the 60-day period described in this part the local government unit has not corrected the problem to the satisfaction of the board, the board shall declare a moratorium as prescribed above or take other appropriate legal action to ensure compliance.

STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

HIST: 18 SR 274; 22 SR 1877

Current as of 04/24/00

8420.0268 COMPENSATION CLAIMS AGAINST LOCAL GOVERNMENT
UNITS.

Subpart 1. Intervention. At the request of a local government unit against which a compensation action is brought based at least in part on the local government unit's application of Minnesota Statutes, section 103G.222, 103G.2241, 103G.2242, 103G.237, or 103G.2372, or rules adopted by the board to implement these sections, the state, through the attorney general, shall intervene in the action on behalf of the local government unit and shall thereafter be considered a defendant in the action. A local government unit making a request under this subpart shall provide the attorney general with a copy of the complaint as soon as possible after being served. If requested by the attorney general, the court shall grant additional time to file an answer equal to the time between service of the complaint on the local government unit and receipt of the complaint by the attorney general.

Subp. 2. Liability of state for certain costs. The state is liable for costs, damages, fees, and compensation awarded in the action based on the local government unit's adoption or implementation of standards that are required by state law, as determined by the court. The local government unit is liable for costs, damages, fees, and compensation awarded in the action based on local standards that are more restrictive than state law and rules.

1
2 Subp. 3. Definition. For purposes of this part,
3 "compensation action" means an action in which the
4 plaintiff seeks compensation for taking private property
5 under the state or federal constitution.
6

7 STAT AUTH: MS s 103B.101; 103B.3355; 103G.2242
8

9 HIST: 22 SR 1877
10 Current as of 04/24/00
11

12 8420.0270 COMPENSATION.
13

14 Replacement plan applicants who have completed the
15 local government unit process and the board appeal process,
16 and the plan has not been approved as submitted, may apply
17 to the board for compensation under Minnesota Statutes,
18 section 103G.237.
19

20 The application must identify the applicant, locate
21 the wetland, and refer the board to its appeal file in the
22 matter.
23

24 The application must include an agreement that in
25 exchange for compensation the applicant will convey to the
26 state a perpetual conservation easement in the form
27 required by Minnesota Statutes, section 103F.516. The
28 applicant must provide an abstract of title demonstrating
29 the ability to convey the easement free of any prior title,
30 lien, or encumbrance. Failure to provide marketable title
31 negates the state's obligation to compensate.
32

33 The applicant must submit official documentation from
34 the United States Army Corps of Engineers, the Minnesota
35 Pollution Control Agency, the watershed district or water
36 management organization if any, the county, and the town or
37 city, as applicable, that the proposed drain or fill
38 activity and the proposed subsequent use of the wetland are
39 lawful under their respective legal requirements.

1
2 The landowner must demonstrate that the proposed drain
3 or fill is a feasible and prudent project and that the
4 replacement plan as proposed is a reasonable good faith
5 effort to fulfill the replacement requirements of parts
6 8420.0500 to 8420.0630 and the act.

7
8 If the plan was approved, but with conditions or
9 modifications, the applicant must show that the conditions
10 or modifications make the replacement unworkable or not
11 feasible. A plan is unworkable or not feasible if the
12 replacement must be on land that the applicant does not
13 own, the applicant has made good faith efforts to acquire a
14 replacement site and not succeeded, and there is not a
15 qualifying replacement available in a wetland bank. A plan
16 is also unworkable or not feasible if it is not possible to
17 carry out for engineering reasons. The applicant must show
18 that not going ahead with the proposed project will cause
19 the applicant damages and that disallowing the proposed use
20 will enhance the public values of the wetland.

21
22 The applicant must submit the requirements in this
23 part in writing, by certified mail, to the board. If the
24 applicant wants to make oral argument to the board, it must
25 be indicated as part of the application. The board may
26 require that the applicant appear before the board.

27
28 If the board finds that the applicant has submitted a
29 complete application and proved the requirements in this
30 part, the board shall compensate the applicant as required
31 by law within 90 days after the board received a completed
32 application, provided that within the same time period the
33 applicant must convey to the board a conservation easement
34 in the form required by Minnesota Statutes, section
35 103F.516. If the board does not provide the required
36 compensation in exchange for the conservation easement, the
37 applicant may drain or fill the wetland in the manner
38 proposed, without replacement.

1 STAT AUTH: MS s 14.06; 103B.101; 103B.3355

2
3 HIST: 18 SR 274

4 Current as of 04/24/00

5
6 8420.0280 APPEAL FROM BOARD DECISIONS.

COMMENTS

7
8 An appeal of a board decision is taken to the state
9 court of appeals and must be considered an appeal from a
10 contested case decision for purposes of judicial review
11 under Minnesota Statutes, sections 14.63 to 14.69.

12
13 STAT AUTH: MS s 14.06; 103B.101; 103B.3355

14
15 HIST: 18 SR 274

16 Current as of 04/24/00

17
18 8420.0290 ENFORCEMENT PROCEDURES.

19
20 Subpart 1. Enforcing authorities. The commissioner,
21 conservation officers, and other peace officers may issue
22 cease and desist orders and restoration and replacement
23 orders—to contractors and to landowners or their
24 authorized agents.

Sec. 4, Chap. 382

25
26 Subp. 2. Cease and desist orders. ~~Site-specific~~
27 ~~e~~Cease and desist orders may be issued ~~when~~ by the
28 enforcement authority ~~has when probable cause that~~ a drain,
29 excavation or fill activity is being or has been conducted
30 in a wetland and does not qualify for an exemption or a no-
31 loss determination under parts 8420.0210 and 8420.0220 and
32 is being or has been conducted without prior approval of a
33 replacement plan by a local government unit under part
34 8420.0230.

35
36 A cease and desist order must not be issued if the
37 contractor, landowner or their authorized agent has a valid
38 certificate of exemption, or no-loss or replacement plan
39 determination from the local government unit that has not

Sec. 4, Chap. 382

COMMENTS

1 been appealed under provisions of part 8420.0250, or has
2 sufficient evidence to support an exemption. Otherwise,

3
4 ~~_____ A. the enforcement authority may issue a cease and~~
5 ~~desist order upon discovery of the drain or fill activity,~~

6
7 ~~_____ B. the order may be withheld to give the~~
8 ~~contractor, landowner or their authorized agent time to~~
9 ~~produce the evidence required by part 8420.0122 to the~~
10 ~~enforcement authority of qualification for an exemption or~~
11 ~~no-loss determination; or~~

12
13 ~~_____ C. a cease and desist order may be issued with an~~
14 ~~effective date three weeks from the date of issuance. The~~
15 ~~enforcement authority shall exercise this option when the~~
16 ~~enforcement authority cannot readily make a determination~~
17 ~~on the facts and circumstances to deny a landowner's claim~~
18 ~~of exemption or no loss, and continued drain or fill~~
19 ~~activity would not cause irreparable harm to the wetland.~~

20
21 ~~The enforcement authority~~ cease and desist order shall
22 advise inform the contractor, landowner or their authorized
23 agent that ~~the landowner's~~ written application, if any, for
24 an exemption, ~~or~~ no-loss or replacement plan determination,
25 should be made immediately to the local government unit and
26 that whatever drain, and fill or excavation work the
27 landowner has done may require restoration ~~according to a~~
28 ~~restoration plan designed by the soil and water~~
29 ~~conservation district,~~ if the application for exemption, ~~or~~
30 no-loss or replacement plan determination is denied or
31 remanded or reversed an appeal.

Sec. 5, Chap. 382

32
33 The enforcement authority issuing a cease and desist
34 order shall promptly submit copies to the soil and water
35 conservation district, local government unit, and
36 Department of Natural Resources.

37
38 ~~If an application for an exemption or no-loss~~
39 ~~determination is triggered by a cease and desist order, the~~

~~local government unit or the technical evaluation panel~~
~~shall make a decision within three weeks from the date of~~
~~the application.~~ The local government unit or technical
evaluation panel shall review evidence of exemption or no-
loss produced by the landowner or their authorized agent,
inspect the site if necessary, and determine:

(1) if the area in question is a wetland and
determine the wetland type; and

(2) if the activity qualifies for an exemption or
no-loss determination under parts 8420.0210 and 8420.0220.

In cases where the cease and desist order has been
issued to a local government unit, the determination of
exemption or no-loss shall be made by the board.

If the decision is that the activity is exempt or
results in a no-loss determination, the decision maker
shall ~~issue~~ make an certificate of exemption or no-loss
determination, request that the enforcement authority
rescind the cease and desist order, pending the outcome of
any decision that is appealed, and notify the soil and
water conservation district, the Department of Natural
Resources, and the landowner.

If the application is denied, the decision-maker shall
immediately notify the soil and water conservation
district, the enforcement authority, and the landowner.

Subp. 3. Restoration and replacement orders. The
enforcement authority shall issue a restoration order or
replacement order when the drain, excavation or fill has
already been completed when discovered, or after a cease
and desist order has been issued and the landowner does not
seek apply for an exemption, replacement plan or no-loss
determination ~~within three weeks~~, or the local government
unit denies the application.

Promptly upon being informed ~~by the enforcement~~
authority of the need, the soil and water conservation
district staff person shall inspect the site and prepare a
plan in consultation with the local government unit for
restoring the site to its prealtered condition⁷.
Restoration shall be ordered unless the soil and water
conservation district person, with the concurrence of the
technical evaluation panel and the enforcement authority,
concludes that restoration is impossible. The landowner or
their authorized agent may submit an after-the-fact
replacement plan for consideration by the local government
unit. The soil and water conservation district shall
incorporate its restoration plan into a restoration order
or incorporate an approved replacement plan into a
replacement order and send it either or both to the
enforcement authority ~~for service in person or by certified~~
~~mail to be issued in person or by certified mail to the~~
contractor, the landowner, or their authorized agent.

The ~~restoration~~ order must specify a date by which the
contractor, landowner or their authorized agent must
either:

A. restore the wetland according to the soil and
water conservation district plan and obtain a certificate
of satisfactory restoration from the soil and water
conservation district; or

B. ~~submit a replacement plan to the local~~
~~government unit.~~ Replace the wetland according to the
approved replacement plan and obtain a certificate of
satisfactory replacement from the soil and water
conservation district.

The restoration order shall state that it will be
~~annulled~~ rescinded when the landowner obtains a certificate
of replacement plan, exemption or no-loss determination
from the local government unit and the appeal period has
expired, or a certificate that replacement has been

1 ~~completed according to an approved replacement plan.~~
2 ~~Otherwise, the landowner must restore the wetland in the~~
3 ~~manner required by the restoration order.~~
4

5 If the soil and water conservation district, with the
6 concurrence of the technical evaluation panel and the
7 enforcement authority, determines that restoration will not
8 restore all the loss caused by the drain, excavation or
9 fill activity, the enforcement authority may order a
10 combination of restoration and replacement, or may order
11 replacement rather than restoration, ~~as determined by the~~
12 ~~soil and water conservation district with the concurrence~~
13 ~~of the technical panel and the enforcement authority.~~ The
14 order must direct the landowner to obtain replacement plan
15 approval from the local government unit. The order must
16 specify that if replacement plan approval is not obtained,
17 the landowner must restore the wetland ~~in a manner~~
18 ~~determined by the soil and water conservation district as~~
19 ordered.
20

21 Each cease and desist, restoration, and replacement
22 order shall tell the contractor or landowner or their
23 authorized agent that violation of the order is a
24 misdemeanor.
25

26 If, as part of a misdemeanor proceeding, the court
27 orders restoration or replacement, the soil and water
28 conservation district, with the concurrence of the
29 technical evaluation panel and the enforcement authority,
30 shall determine which is appropriate, and if it is
31 restoration, the method of restoration. If the court
32 orders replacement, the landowner must follow the
33 replacement plan process in parts 8420.0500 to 8420.0630
34 and 8420.0290, Subp. 4 unless the court orders otherwise.
35

36 Subp. 4. After-the-fact replacement. If a landowner
37 or their authorized agent seeks approval of a replacement
38 plan after the proposed project has already impacted the
39 wetland, the local government unit ~~may~~ shall require the

landowner to replace the impacted wetland at a ratio not to exceed twice the replacement ratio otherwise required unless good faith intent can be demonstrated.

COMMENTS

Subp. 5. Misdemeanor. A violation of an order issued under this part is a misdemeanor and must be prosecuted by the county or city attorney where the wetland is located or the illegal activity occurred.

From existing language in M.S. 103G.2372.

Subp. 6. [CONTRACTOR'S RESPONSIBILITY WHEN WORK DRAINS OR FILLS WETLANDS.]

Sec. 4, Chap. 382.

Subdivision 1. [CONDITIONS FOR EMPLOYEES AND AGENTS TO DRAIN OR FILL WETLANDS.] An agent or employee of another may not drain or fill a wetland, wholly or partially, unless the agent or employee has:

(1) obtained a signed statement from the property owner stating that the wetland replacement plan required for the work has been obtained or that a replacement plan is not required; and

(2) mailed a copy of the statement to the local government unit with jurisdiction over the wetland.

Subdivision 2. [VIOLATION IS SEPARATE OFFENSE.] Violation of this section is a separate and independent offense from other violations of sections 103G.2212 to 103G.237.

Subdivision 2. [FORM FOR COMPLIANCE WITH THIS SECTION.] The board shall develop a forum to be distributed to contractors' associations, local government units, and soil and water conservation districts to comply with this section. The form must include:

(1) a listing of the activities for which a replacement plan is required;

(2) a description of the penalties for violating sections 103G.2212 to 103G.237;

(3) the telephone number to call for information on the responsible local government unit;

COMMENTS

1 (4) a statement that national wetland inventory maps
2 are on file with the soil and water conservation district
3 office; and

4 (5) spaces for a description of the work and the
5 names, mailing addresses, and telephone numbers of the
6 person authorizing the work and the agent or employee
7 proposing to undertake it.

8
9 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

10
11 HIST: 18 SR 274; 22 SR 1877
12 Current as of 04/24/00

13
14 8420.0300 MINING.

15
16 Wetlands may not be drained, ~~ex~~ filled or excavated as
17 part of a project for which a permit to mine is required by Sec. 5, Chap. 382.
18 Minnesota Statutes, section 93.481, except as approved by
19 the commissioner. Draining, excavating or filling of
20 wetlands created by pits, stockpiles, or tailing basins by
21 actions whose purpose was not to create the wetland are
22 exempt under part 8420.0122.

23
24 A. For new mining operations that are permitted and
25 initiated after July 1, 1993:

26
27 (1) mining shall not be conducted without first
28 receiving a permit to mine issued under chapter 6130 for
29 iron ore and taconite or chapter 6132 for nonferrous
30 metallic minerals; and

31
32 (2) the mining and reclamation operating plans or
33 annual reports submitted by the applicant as required in
34 the permit to mine shall include an approved wetland
35 replacement plan that meets the same principles and
36 standards for replacing wetlands under parts 8420.0500 to
37 8420.0630.

B. For mining operations in existence before July 1, 1993, and operated on or after that date under a permit to mine issued under chapter 6130 for iron ore and taconite or chapter 6132 for nonferrous metallic minerals:

(1) no draining, excavating or filling activities shall be conducted within wetlands for which these activities were approved but not initiated before July 1, 1993, until the operating plan or annual report as required in the permit to mine includes an approved wetland replacement plan for the undisturbed wetlands. The wetland replacement plan shall meet the same principles and standards for replacing wetlands under parts 8420.0500 to 8420.0630;

(2) for filling activities that were approved and initiated before July 1, 1993, the placement of fill atop a stockpile, roadway, or other mining-related facility that occupies a wetland filled before July 1, 1993, shall be allowed to continue within the areal extent, as it existed on July 1, 1993, of the stockpile, roadway, or other mining-related facility without the requirement of a replacement plan or amendment of the permit to mine. An expansion of the areal extent of the fill in the wetland requires an approved replacement plan in the operating plan or annual report as required in the permit to mine, according to subitem (1);

(3) for draining activities that were approved and initiated before July 1, 1993, the draining of a wetland to facilitate mining, using ditches and other drainage facilities that existed on July 1, 1993, shall be allowed to continue without the requirement of a replacement plan or amendment of the permit to mine. Maintenance of the ditches and structures shall be allowed without the requirement of a replacement plan or amendment of the permit to mine, provided that as a result of the maintenance, wetlands are not drained beyond the extent that existed as of July 1, 1993. Otherwise, the permit to

mine must be amended to provide for replacement according to subitem (1).

C. Applicable procedures are those required for permits to mine.

D. This part shall not apply to peat mining as defined under Minnesota Statutes, section 93.461, that is subject to the mine permit and reclamation requirements under Minnesota Statutes, sections 93.44 to 93.51 and the rules of the commissioner adopted under those sections.

E. Mining that is not subject to the permit and reclamation requirements under Minnesota Statutes, sections 93.44 to 93.51, must replace drained and filled wetlands according to parts 8420.0500 to 8420.0630.

STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

HIST: 18 SR 274; 22 SR 1877

Current as of 04/24/00

8420.0350 HIGH PRIORITY REGIONS AND AREAS.

Subpart 1. High priority regions. Parts of the state that are high priority regions for preservation, enhancement, restoration, and establishment of wetlands include all of the ~~counties that have lost~~ less than 50 percent or more of their presettlement wetland base areas, which are those listed in part 8420.0540, subpart 5, item B.

In all other counties of the state, high priority regions are high priority areas approved as such by the board according to subpart 2.

Subp. 2. High priority areas.

1 A. Water management plans prepared by water
2 management organizations in the metropolitan area under
3 Minnesota Statutes, section 103B.231, by counties outside
4 the metropolitan area under Minnesota Statutes, section
5 103B.311, and by watershed districts outside the
6 metropolitan area under Minnesota Statutes, sections
7 103D.401 and 103D.405, must identify those areas that
8 qualify as high priority areas for wetland preservation,
9 enhancement, restoration, and establishment. These
10 priority areas shall be included in the next scheduled
11 water management plan update.

12
13 B. Plans should give strong consideration to
14 identifying as high priority areas minor watersheds having
15 less than 50 percent of their original wetland acreages,
16 and intact wetlands, diminished wetlands, and the areas
17 once occupied by wetlands that have been diminished or
18 eliminated and could feasibly be restored taking into
19 account the present hydrology and use of the area. Plans
20 should give strong consideration to identifying as high
21 priority areas all type 1 or 2 wetlands, and other wetlands
22 at risk of being lost by permanent conversion to other
23 uses. When individual wetlands are identified as high
24 priority for preservation and restoration, the high
25 priority area shall include the wetland and an adjacent
26 buffer strip not less than 16.5 feet wide around the
27 perimeter of the wetland and may include up to four acres
28 of upland for each wetland acre.

29
30 C. In all counties, plans may identify additional
31 high priority areas where preservation, enhancement,
32 restoration, and establishment of wetlands would have high
33 public value by providing benefits for water quality, flood
34 water retention, public recreation, commercial use, and
35 other public uses. High priority areas should be
36 delineated by minor or major watershed. For the purposes
37 of this part, "watershed" means major or minor watershed or
38 subwatershed. To identify high priority areas, the local

1 government unit shall consider at least the landscape
2 characteristics in subitems (1) to (11).
3

4 (1) Land use and cover types. Wetlands located in
5 watersheds having a high proportion of cultivated land,
6 developed areas, or other intensive land use are likely to
7 have high value for water quality, flood water retention,
8 and public recreation. Watersheds with high proportions of
9 intensive land use should be considered as priority
10 preservation and restoration areas.
11

12 (2) Wetland and watershed ratio. Wetlands located
13 in watersheds having a low proportion of wetlands relative
14 to the size of the watershed are likely to have high value
15 for water quality, flood water retention, and public
16 recreation. Watersheds with a low wetland and watershed
17 ratio should be considered as priority preservation and
18 restoration areas.
19

20 (3) Soil erosion rates. Wetlands located in
21 watersheds where erosion rates are high are likely to have
22 high value for water quality. Watersheds with high erosion
23 rates should be considered as priority preservation and
24 restoration areas.
25

26 (4) Watershed gradient. Wetlands in watersheds
27 where the difference between the highest and lowest points
28 of the watershed is great are likely to have high value for
29 flood water retention and water quality. Watersheds with a
30 high gradient should be considered as priority preservation
31 and restoration areas.
32

33 (5) Surface water retention. Wetlands in
34 watersheds where direct runoff is high are likely to have
35 high value for flood water retention and water quality.
36 Watersheds with high levels of direct runoff should be
37 considered as high priority preservation and restoration
38 areas.
39

(6) Soil fertility. Wetlands in watersheds where soil fertility is high are likely to have high value for wildlife habitat and commercial uses. Watersheds with high soil fertility should be considered as high priority preservation and restoration areas.

(7) Geology. Wetlands in watersheds with high subsurface permeability are likely to have high value for groundwater recharge and water quality. Watersheds with high subsurface permeability should be considered as high priority preservation and restoration areas.

(8) Wetland complexes. Wetlands in watersheds where a diversity of wetland types and sizes are or were historically present are likely to have high value for public recreation. Watersheds with an existing or historical high diversity of wetland types should be considered as priority preservation and restoration areas.

(9) Proximity to population centers. Wetlands in watersheds that are close to population centers are likely to have high value for water quality, flood water retention, public recreation, and commercial uses. Watersheds near population centers should be considered as high priority preservation and restoration areas.

(10) Public ownership. Wetlands in watersheds with a high proportion of land in public ownership are likely to have high value for public recreation. These watersheds may be considered as high priority preservation and restoration areas.

(11) Significant wildlife use. Wetlands in watersheds with current or historical records of use by significant numbers or species of wildlife or fish are likely to have high value for public recreation and commercial uses. Watersheds with records of significant fish or wildlife use should be considered as high priority preservation and restoration areas.

COMMENTS

D. The board will review the inclusion of high priority areas in plans as part of the standard process for plan review established in statute. High priority areas approved by the board that are not in a high priority region listed in ~~item C~~ Subpart 1 become high priority regions with board approval.

Errata in current rule.

STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

HIST: 18 SR 274; 22 SR 1877

Current as of 04/24/00

8420.0400 WETLAND PRESERVATION AREAS.

Subpart 1. Purpose. Wetlands located in areas that are both high priority regions and high priority areas as identified in part 8420.0350 are eligible for enrollment as wetland preservation areas. A wetland so enrolled is exempt from property tax.

Subp. 2. Landowner application for wetland preservation area. A landowner may apply to the county, if the county chooses to accept wetland preservation areas, for designation of a wetland as a wetland preservation area on forms provided by the board. The applicant must include a strip of upland 16.5 feet wide around the perimeter of the wetland. The applicant may include up to four acres of upland for each acre of wetland.

The application must be accompanied by a restrictive covenant on a form provided by the board. The covenant will contain the same limitations on use that are provided in Minnesota Statutes, section 103F.515, subdivision 4, including a covenant that the enrolled upland area will be vegetated by the landowner to permanent vegetation other than noxious weeds. The covenant must be signed, acknowledged, and ready for recording.

1 Subp. 3. County review of application. The county
2 may accept the application if the wetland is in a high
3 priority region and high priority area, if it includes the
4 16.5 foot strip, and is accompanied by the proper covenant.
5

6 The county may limit or reject additional upland
7 proposed to be included according to standards the county
8 establishes.
9

10 The county may reject the application if the
11 application does not qualify, or send it back for
12 modification and resubmittal if that is appropriate. If
13 the application qualifies, the county may approve it and
14 mark the date of approval on the application. The county
15 shall notify the landowner of the acceptance or denial of
16 the application within 60 days from the date of the
17 application.
18

19 Within five days of approval of the application, the
20 county shall forward it to the county recorder for
21 recording of the restrictive covenant or memorialization of
22 the application on the certificate of title. The county
23 shall also send a copy of the approved application to the
24 county assessor for entry in the assessor's records as a
25 wetland preservation area. The county shall also send
26 copies of the approved application to the soil and water
27 conservation district, the local government unit, and the
28 board.
29

30 Subp. 4. Applicable statutes. In addition to this
31 chapter, wetland preservation areas are subject to
32 Minnesota Statutes, sections 103F.612 to 103F.616, and the
33 property tax provisions of Minnesota Statutes, section
34 272.02, subdivision 1, clause (10).
35

36 Subp. 5. Commencement of wetland preservation area.
37 The wetland is a wetland preservation area commencing 30
38 days from the date the county notifies the landowner of
39 acceptance of the application under subpart 3.

1
2 Subp. 6. Fee. The county may require an application
3 fee to defray administrative costs of the program.
4

5 Subp. 7. Maps. The county shall maintain wetland
6 preservation area maps illustrating land covenanted as
7 wetland preservation areas.
8

9 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242
10

11 HIST: 18 SR 274; 22 SR 1877
12 Current as of 04/24/00
13

14 8420.0500 PURPOSE.
15

16 Parts 8420.0500 to 8420.0630 specify the procedures
17 and criteria for avoiding and minimizing wetland impacts
18 and for ensuring adequate replacement of lost public values
19 for unavoidable wetland impacts.
20

COMMENTS

21 STAT AUTH: MS s 14.06; 103B.101; 103B.3355
22

23 HIST: 18 SR 274
24 Current as of 04/24/00
25

26 8420.0505 PREVIOUSLY APPROVED ~~REPLACEMENT PLANS~~
27 DETERMINATIONS.
28

29 Replacement plans, exemption, wetland boundary,
30 wetland type and no-loss determinations may be completed
31 under the laws, rules, conditions, and guidelines in effect
32 when they were approved.
33

*Prevents invalidation of
previous determinations.*

34 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242
35

36 HIST: 18 SR 274; 22 SR 1877
37 Current as of 04/24/00
38

39 8420.0510 PROCEDURES.

1 Subpart 1. Generally. No person shall drain or fill
2 a wetland, wholly or partially, or excavate in the
3 temporarily or permanently flooded areas of Type 3, 4 and 5
4 wetlands without first having a wetland value replacement
5 plan approved by the governing body of the local government
6 unit, or the lead local government unit if so designated by
7 the board, consistent with parts 8420.0122 to 8420.0290,
8 and provided that the activity is not prohibited under the
9 special considerations provisions in part 8420.0540,
10 subpart 9.

11
12 Subp. 2. Preapplication conference and site visit.
13 Before preparation of a wetland value replacement plan, it
14 is recommended that the landowner meet with the local
15 government unit for a preapplication conference and site
16 visit. The local government unit is encouraged to inform
17 the landowner of all sequencing requirements and the
18 criteria used to evaluate replacement plans. A landowner
19 may submit the information required in part 8420.0520 and
20 request a determination of compliance with the sequencing
21 requirements from the local government unit before
22 preparing a replacement plan.

23
24 Subp. 3. Evaluation. As provided for in part
25 8420.0240, technical questions concerning the public value,
26 location, size, and type of wetland shall be submitted to
27 the technical evaluation panel. The local government unit
28 may use a technical evaluation panel to predetermine public
29 value, location, size, or type of wetlands under its
30 jurisdiction and use this determination in administering
31 the act. Wetland boundaries must be determined using the
32 methodologies in the United States Army Corps of Engineers
33 Wetland Delineation Manual (January 1987). Wetland type
34 must be identified according to Classification of Wetlands
35 and Deepwater Habitats of the United States (Cowardin, et
36 al., 1979) and according to United States Fish and Wildlife
37 Service Circular No. 39 (1971 edition) "Wetlands of the
38 United States." The technical evaluation panel shall

1 provide its determinations to the local government unit for
2 consideration.

3
4 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

5
6 HIST: 18 SR 274; 22 SR 1877
7 Current as of 04/24/00

8
9 8420.0520 SEQUENCING.

10
11 Subpart 1. Requirement. Except for wetlands located
12 in cultivated fields that are subject to subpart 8, and
13 calcareous fens that are subject to subpart 9, the local
14 government unit may not consider or approve a wetland
15 replacement plan unless the local government unit finds
16 that the applicant has demonstrated that the activity
17 impacting a wetland has complied with all of the following
18 principles in descending order or priority:

19
20 A. avoids direct or indirect impacts to the wetland
21 that may destroy or diminish the wetland under the criteria
22 in subpart 3;

23
24 B. minimizes the impact to the wetland by limiting
25 the degree or magnitude of the wetland activity and its
26 implementation under the criteria in subpart 4;

27
28 C. rectifies the impact by repairing,
29 rehabilitating, or restoring the affected wetland under the
30 criteria in subpart 5

31
32 D. reduces or eliminates the impact to the wetland
33 over time by preservation and maintenance operations under
34 the criteria in subpart 6; and

35
36 E. replaces unavoidable impacts to the wetland by
37 restoring or, if wetland restoration opportunities are not
38 reasonably available, creating substitute wetland areas

1 having equal or greater public value as provided for in
2 parts 8420.0530 to 8420.0760.

3
4 Subp. 2. Application options. An applicant may
5 either submit the information required for sequencing
6 analysis as part of the application for replacement plan
7 approval or apply for a preliminary sequencing
8 determination from the local government unit before
9 preparing a replacement plan. The local government unit
10 may request additional information needed to make a
11 determination. For projects impacting wetland areas less
12 than 10,000 square feet more than the de minimis amount
13 listed in part 8420.0122, subpart 9, item A, the local
14 government unit may provide an on-site sequencing
15 determination without written documentation from the
16 applicant.

17
18 Subp. 3. Determination of impact avoidance.

19
20 A. Avoidance must be required when indicated by
21 part 8420.0540, subpart 9.

22
23 B. Wetland dependence determination:

24
25 (1) Based on information provided by the
26 applicant, the local government unit shall determine if the
27 proposed project is wetland dependent. A project is
28 wetland dependent if wetland features, functions, or values
29 are essential to fulfill the basic purpose of the project.
30 A wetland present at the site of a proposed project does
31 not make that project wetland dependent.

32
33 (2) A project that has been determined by the
34 local government unit to be wetland dependent is exempt
35 from the analysis of avoidance alternatives in item C.

36
37 C. Alternatives analysis:
38

(1) The applicant shall provide the local government unit with documentation describing at least two alternatives in addition to the proposed project, one of which may be the no-build alternative, that would avoid impacts to wetlands, except that for repair or rehabilitation projects on existing infrastructure only one alternative is required. The alternatives may include consideration of alternate sites or alternative project configurations on the proposed site. The alternatives must be judged by the local government unit as good faith efforts, or the local government unit may require the applicant to redraft them for reconsideration.

(2) The local government unit shall determine whether any feasible and prudent alternatives are available that would avoid impacts to wetlands. An alternative shall be considered feasible and prudent if it is capable of being done from an engineering point of view, is in accordance with accepted engineering standards and practices, is consistent with reasonable requirements of the public health, safety, and welfare, is an environmentally preferable alternative based on a review of social, economic, and environmental impacts, and would create no truly unusual problems. The local government unit shall consider the following in evaluating alternatives as applicable:

(a) whether the basic project purpose can be reasonably accomplished using one or more other sites in the same general area that would avoid wetland impacts. An alternate site may not be excluded from consideration only because it includes or requires an area not owned by the applicant that could reasonably be obtained, used, expanded, or managed to fulfill the basic purpose of the proposed project;

(b) the general suitability of alternate sites considered by the applicant;

(c) whether reasonable modification of the size, scope configuration, or density of the project would avoid impacts to wetlands;

(d) efforts by the applicant to accommodate or remove constraints on alternatives imposed by zoning standards or infrastructure, including requests for conditional use permits, variances, or planned unit developments; and

(e) the physical, economic, and demographic requirements of the project. Economic considerations alone do not make an alternative not feasible and prudent.

(3) If the local government unit determines that a feasible and prudent alternative exists that would avoid impacts to wetlands, it shall deny the replacement plan. If no feasible and prudent alternative is available that would avoid impacts to wetlands, the local government unit shall evaluate the replacement plan for compliance with subparts 4 to 6.

Subp. 4. Determination of impact minimization.

A. The applicant shall demonstrate to the local government unit's satisfaction that the activity will minimize impacts to wetlands. In reviewing the sufficiency of the applicant's efforts to minimize wetland impacts, the local government unit must consider:

(1) the spatial requirements of the project;

(2) the location of existing structural or natural features that may dictate the placement or configuration of the project;

(3) the purpose of the project and how the purpose relates to placement, configuration, or density;

(4) the sensitivity of the site design to the natural features of the site, including topography, hydrology, and existing vegetation;

(5) the value, function, and spatial distribution of the wetlands on the site;

(6) individual and cumulative impacts; and

(7) an applicant's efforts to:

(a) modify the size, scope, configuration, or density of the project;

(b) remove or accommodate site constraints including zoning, infrastructure, access, or natural features; and

(c) otherwise minimize impacts.

B. If the local government unit finds that an applicant has not complied with the requirements to minimize wetland impacts, the local government unit shall list, in writing, its objections to the project. If, within 30 days, the applicant does not withdraw the project proposal or indicate intent to submit an amended project proposal satisfying the local government unit's objections, the statement of objections shall constitute a denial.

Subp. 5. Determination of impact rectification. Temporary impacts to a wetland must be rectified by repairing, rehabilitating, or restoring the affected wetland.

A. Activities may qualify for a no-loss determination in part 8420.0220 by meeting all of the following conditions:

(1) the physical characteristics of the affected wetland, including ground elevations, contours, inlet dimensions, outlet dimensions, substrate, and hydrologic regime, are restored to preproject conditions sufficient to ensure that all preproject functions and values are restored;

(2) the activity is completed and the physical characteristics of the wetland are restored within six months of the start of the activity; and

(3) the party responsible for the activity provides a performance bond to the local government unit for an amount sufficient to cover the estimated cost to restore the wetland to preproject conditions. The local government unit shall return the performance bond to the responsible party upon a determination by the local government unit that the conditions in this item and item B have been met.

B. An applicant shall be granted a no-loss determination under the criteria in item A once in a ten-year period for a particular site within a wetland, except that repairs to the original project shall be allowed under the no-loss determination, if the local government unit determines the request to be necessary and reasonable.

C. Wetland impacts that do not qualify for a no-loss determination according to the criteria in item A are subject to replacement under the criteria in parts 8420.0530 to 8420.0630.

Subp. 6. Determination of reduction or elimination of impacts over time. After an activity is completed, further wetland impacts from the draining or filling must be reduced or eliminated by maintaining, operating, and managing the project in a manner that preserves and maintains remaining wetland functions and values. The local government unit must require applicants to implement

1 best management practices to protect wetland functions and
2 values.

3
4 Subp. 7. Unavoidable impacts. Unavoidable wetland
5 impacts that remain after efforts to minimize, rectify, or
6 reduce or eliminate them must be replaced according to
7 parts 8420.0530 to 8420.0630.

8
9 Subp. 7a. Sequencing flexibility.

10
11 A. Sequencing flexibility cannot be implemented
12 unless alternatives have been considered and unless the
13 proposed replacement wetland is certain to provide equal or
14 greater functions and public values as determined based on
15 a functional assessment reviewed by the technical
16 evaluation panel using a methodology approved by the board.
17 The project sponsor must provide the necessary information
18 and the local government unit must document the application
19 of sequencing flexibility in the replacement plan approval.

20
21 B. Flexibility in application of the sequencing
22 steps may be applied, subject to the conditions in item A,
23 as determined by the local government unit if:

24
25 (1) the wetland to be impacted has been degraded
26 to the point where replacement of it would result in a
27 certain gain in function and public value;

28
29 (2) preservation of a wetland would result in
30 severe degradation of the wetland's ability to function and
31 provide public values, for example, because of surrounding
32 land uses and the wetland's ability to function and provide
33 public values cannot reasonably be maintained through other
34 land use controls or mechanisms;

35
36 (3) the only feasible and prudent upland site
37 available for wetland replacement or development has
38 greater ecosystem function and public value than the
39 wetland. Although this is a rare circumstance since there

1 will usually be several options for siting the replacement
2 wetland or development, it may be appropriate if the
3 project sponsor:

4
5 (a) demonstrates impact minimization to the
6 wetland;

7
8 (b) agrees to perpetually preserve the
9 designated upland site; and

10
11 (c) completely replaces the impacted wetland's
12 functions and public values;

13
14 (4) alternatives are demonstrably cost prohibitive
15 such that the only available alternatives would make the
16 projected cost substantially greater than the costs
17 normally associated with similar projects; or

18
19 (5) the wetland is a site where human health and
20 safety is a factor.

21
22 Subp. 8. Wetlands on cultivated fields. If the
23 wetland is located on a cultivated field, replacement must
24 be accomplished through restoration without regard to the
25 priority order in subpart 1. A wetland drained or filled
26 under this provision must not be converted to
27 nonagricultural land for ten years. The landowner must
28 execute and record a notice of this requirement in the
29 office of the county recorder for the county in which the
30 property is located.

31
32 Subp. 9. Calcareous fens. Calcareous fens, as
33 identified by the commissioner, may not be filled, drained,
34 or otherwise degraded, wholly or partially, by any action,
35 unless the commissioner, under an approved management plan,
36 decides some alteration is necessary, as provided in part
37 8420.1010.

1
2 HIST: 18 SR 274; 22 SR 1877
3 Current as of 04/24/00
4

5 8420.0530 REPLACEMENT PLAN COMPONENTS.
6

7 On an application form provided by the local
8 government unit, and with needed attachments supplied by
9 the applicant, the following documentation must be
10 provided, except that for replacement plans utilizing the
11 wetland bank in parts 8420.0700 to 8420.0760, items B(1)
12 and D do not apply; instead the applicant shall submit the
13 wetland banking credit withdrawal form prescribed in part
14 8420.0740, subpart 2, item E:
15

16 A. organizational information, including the
17 following:
18

19 (1) the post office address of the applicant;
20

21 (2) for corporations, the principal officers of
22 the corporation, any parent companies, owners, partners,
23 and joint venturers, and a designated contact person;
24

25 (3) managing agents, subsidiaries, or consultants
26 that are or may be involved with the wetland draining or
27 filling project;
28

29 B. either; (1.) a signed statement confirming that
30 the wetland acres and values will be replaced before or
31 concurrent with the actual draining or filling of a
32 wetland, or (2.) an irrevocable bank letter of credit, a
33 performance bond or other security acceptable to the local
34 government unit in an amount sufficient to guarantee the
35 successful completion of the wetland value replacement;
36

37 C. for the impacted wetland:
38

(1) a recent aerial photograph or accurate map of the impacted wetland area;

(2) the location of the wetland, including the county, watershed name or number, and the quarter section public land survey coordinate of the wetland;

(3) the size of the wetland, in acres or square feet;

(4) the type of wetland using United States Fish and Wildlife Service Circular No. 39 (1971 edition) and National Wetland Inventory mapping conventions (Cowardin et al., 1979);

(5) a list of the dominant vegetation in the impacted wetland area;

(6) a soils map of the site showing soil type and substrate, where available;

(7) the estimated size of the watershed that drains surface water into the wetland as determined from a United States Government Survey topographical map or other suitable topographical survey;

(8) the locations of any surface inlets or outlets, natural or otherwise, draining into or out of the wetlands, and if the wetland is within the shoreland wetland protection zone or floodplain of a stream, river, or other watercourse, the distance and direction to the watercourse;

(9) a map, photograph, or written description of the land use of the immediate watershed;

(10) the nature of the proposed project, its areal extent, and the impact on the wetland must be described in sufficient detail to allow the local government unit to

1 determine the amount and types of wetland to be impacted
2 and to demonstrate compliance with the replacement
3 sequencing criteria in part 8420.0520, if applicable;
4

5 (11) evidence of ownership or rights to the
6 affected areas, including a legal description. When two or
7 more landowners are involved, including both the impact
8 site and the proposed replacement site, a contract or other
9 evidence of agreement signed by all landowners and
10 notarized must be included with the replacement plan. The
11 contract or agreement must contain an acknowledgment of the
12 covenant provisions in item D, subitem (6), by landowners
13 on which a replacement wetland is proposed and the location
14 and acreage of replacement wetlands. The contract becomes
15 binding upon final approval of the replacement plan;
16

17 (12) a list of all other local, state, and federal
18 permits and approvals required for the activity; and
19

20 (13) other information considered necessary by the
21 local government unit for evaluation of the activity;
22

23 D. for the replacement wetland, item C, subitems
24 (1) to (9) and (11) to (13), and:
25

26 (1) an explanation of the size and type of wetland
27 that will result from successful completion of the
28 replacement plan;
29

30 (2) scale drawings showing plan and profile views
31 of the replacement wetland and fixed photo-reference points
32 for monitoring purposes. Photo-reference points should
33 include views of any control structures and enough
34 additional points to adequately depict the entire project;
35

36 (3) how the replacement wetland shall be
37 constructed, for example, excavation or restoration by
38 blocking an existing tile; the type, size, and
39 specifications of outlet structures; elevations, relative

1 to Mean Sea Level or established bench mark, of key
2 features, for example, sill, emergency overflow, and
3 structure height; and best management practices that will
4 be implemented to prevent erosion or site degradation;
5

6 (4) for created wetlands only, additional soils
7 information sufficient to determine the capability of the
8 site to produce and maintain wetland characteristics;
9

10 (5) a timetable that clearly states how and when
11 implementation of the replacement plan shall proceed, and
12 when construction of the replacement wetland shall be
13 finalized;
14

15 (6) a notice in a form provided by the board
16 attached to and recorded with the deed for lands containing
17 a replacement wetland, specifying the following:
18

19 (a) the location of the replacement wetland;
20

21 (b) that the wetland is subject to the act;
22

23 (c) that the fee title owner is responsible for
24 the costs of repairs or reconstruction, if necessary, or
25 for replacement costs;
26

27 (d) that reasonable access to the replacement
28 wetland shall be granted to the proper authorities for
29 inspection, monitoring, and enforcement purposes;
30

31 (e) that costs of title review and document
32 recording is the responsibility of the fee title owner; and
33

34 (f) that the local government unit or board can
35 require necessary repairs or reconstruction work to return
36 the wetland to the specifications of the approved
37 replacement plan and require reimbursement of reasonable
38 costs from the wetland owner, or can require replacement of
39 the wetland according to the act;

1
2 (7) a statement that the replacement wetland was
3 not previously restored or created under a prior approved
4 replacement plan;

5
6 (8) a statement that the replacement wetland was
7 not drained or filled under an exemption during the
8 previous ten years;

9
10 (9) a statement that the replacement wetland was
11 not restored with financial assistance from public
12 conservation programs;

13
14 (10) a statement that the replacement wetland was
15 not restored using private funds other than those of the
16 landowner unless the funds are paid back with interest to
17 the individual or organization that funded the restoration
18 and the individual or organization notifies the local
19 government unit in writing that the restored wetland may be
20 considered for replacement;

21
22 (11) a plan for monitoring the success of the
23 replacement plan in meeting the project goal in subitem
24 (1), and as specified in parts 8420.0610 and 8420.0620; and
25

26 (12) evidence that a person proposing to create or
27 restore a wetland within the easement of a pipeline as
28 defined in Minnesota Statutes, section 299J.02, subdivision
29 11, has first notified the easement holder and the director
30 of the Office of Pipeline Safety in writing. The person
31 may not create or restore the wetland if, within 90 days
32 after receiving the required notice, the easement holder or
33 the director of the Office of Pipeline Safety provides to
34 the person a written notice of objection that includes the
35 reasons for the objection; and
36

37 (13) other information considered necessary for
38 evaluation of the project by the local government unit.
39

COMMENTS

E. The applicant must provide information known to the applicant or readily available concerning the special considerations criteria in part 8420.0540, subpart 9.

STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

HIST: 18 SR 274; 22 SR 1877

Current as of 04/24/00

8420.0540 REPLACEMENT PLAN EVALUATION CRITERIA.

Subpart 1. Sequencing. Before consideration or approval of a replacement plan, the local government unit must ensure that the applicant has exhausted all possibilities to avoid and minimize adverse wetland impacts according to sequencing in part 8420.0520.

The applicant must demonstrate to the local government unit that the replacement plan complies with this part and part 8420.0550.

8420.0540. Subp. 2. **Type of replacement.**

A. The order of preference for the method of replacement, from most preferred to least preferred, is restoration, then creation.

B. Modification or conversion of non-degraded wetlands from one wetland type to another, for example by impoundment of additional water or excavation, does not constitute ~~adequate~~ replacement credit.

C. Wetlands drained or filled under an exemption may not be restored for replacement credit for ten years after draining or filling.

D. The following actions are eligible for replacement credit or wetland banking credit as determined by the local government unit in parts 8420.0500 to 8420.0760:

(1) wetland creation and restoration of the natural hydrology regime and vegetation on completely drained or filled wetlands and created wetlands in upland areas may receive new wetland credit in an amount not to exceed 100 percent of the total wetland area hydrologically restored;

(2) restoration of the natural hydrology regime and vegetation of jurisdictional wetlands that have been degraded by prior drainage, diversion of the natural watershed, or filling may;

a. in a less than 80 percent areas , receive public value credit in an amount up to 50 percent of the degraded wetland area; and

b. in a greater than 80 percent area, receive new wetland credit in an amount not to exceed 25 percent of the total wetland area hydrologically restored.

~~(1)~~ (3) reestablishment of permanent native, non-invasive vegetative cover on a wetland that was planted with annually seeded crops, was in a crop rotation seeded to 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 twenty years prior to January 1, 1991. the date of application for a replacement plan or bank plan in accordance with one of the following considerations: Replacement credit consists of new wetland credits and may not exceed 50 percent of the total wetland area vegetatively restored;

a. if the wetland was annually seeded, in rotation, or set aside for six or more of the last twenty years, the wetland is eligible for public value credit not to exceed 50 percent of the wetland area; or

COMMENTS

Note: Current rules allow 50 percent new wetland credit for a wetland area that was annually seeded, in rotation, or set aside for 6 or more years out of 10 years.

b. if the wetland was annually seeded, in rotation,
or set aside for ten or more years of the last twenty
years, the wetland is eligible for new wetland credit based
on the percent of the time the wetland area was annually
seeded, in rotation, or set aside during the prior twenty
year period.

~~(2)~~ (4) buffer areas of permanent native, non-
invasive vegetative cover established or preserved on
upland adjacent and contiguous to replacement wetlands and
adjacent existing wetlands, provided that the upland buffer
must be established at the time of wetland replacement,
must have a minimum width of 16.5 feet and the buffer
vegetative establishment or preservation plan must be
approved by the Technical Evaluation Panel. ~~Replacement~~
credit for the buffer may not exceed 75 percent of the
replacement wetland area and may only be used as **public**
value credits for replacement above a 1:1 ratio;

~~(3)~~ (5) wetlands areas restored for conservation
purposes under terminated easements or contracts, provided
that are eligible for up to 75 percent of the restored
wetland area is eligible for new wetland credit and
adjacent upland buffer areas reestablished to permanent
native, non-invasive vegetative cover are eligible for
public value credit above a 1:1 ratio in an amount not to
exceed 25 percent of the post-restoration wetland area; and

~~(4)~~ water quality treatment ponds constructed
to pretreat storm water runoff prior to discharge to
wetlands, public waters, or other water bodies,
provided that the water quality treatment ponds must be
associated with an ongoing or proposed project that
will impact a wetland and replacement credit for the
treatment ponds may not exceed 75 percent of the
treatment pond area and may only be used for public
value credit above a 1:1 ratio.

COMMENTS

1 (6) reestablishment and maintenance of permanent
2 native, non-invasive vegetation cover on a wetland that is
3 dominated by invasive or exotic species may receive public
4 value credit. Replacement credit may not exceed 25 percent
5 of the total wetland area vegetatively restored and the
6 vegetative restoration and maintenance plan must be
7 approved by the Technical Evaluation Panel. The Technical
8 Evaluation Panel may require a monitoring period in excess
9 of 12 months after the vegetative restoration is completed
10 before approving the site for replacement credit); and
11
12

13 (7) wetland areas established in non-wetland areas
14 due to mineral extraction activities may be allowed for new
15 wetland credits if all of the following criteria are met:
16

17 a. Application for replacement credit is made within
18 ten years after the last day that extraction activities
19 have taken place; and
20

21 b. The COE has approved the use of the area for
22 wetland replacement; and
23

24 c. A wetland establishment and management plan have
25 been approved by the TEP and implemented by the landowner
26 or authorized; and
27

28 d. The wetland area meets the criteria in standards
29 in part 8420.0550; and
30

31 e. If the land is not state owned, a conservation
32 easement in favor of the state has been accepted by the
33 state and recorder's in the county recorder's office or if
34 the land is state owned, covenants and restrictions are
35 recorded that identify the wetland area is a replacement
36 wetland subject to the provisions of this chapter.
37

38 ~~E. The local government unit may allow constructed~~
39 ~~storm water detention basins constructed in non-wetlands~~

COMMENTS

Note: The following
Section E. was
deleted in entirety
and replaced with a
new Section E. for
ease of reading.

~~for new wetland credit if the basin conforms to the
following specifications:~~

~~(1) the basin design uses a two cell system in which
the upstream cell has a 24 hour retention time for a
two year storm event;~~

~~(2) the downstream cell is designed for a maximum
12 inch rise in water level for a ten year storm
event;~~

~~(3) the standards in part 8420.0550 are followed; and~~

~~(4) the design goal is a palustrine emergent wetland.~~

~~Only the downstream cell can be counted for new wetland
credit, and the replacement plan must include a plan and
schedule for maintenance of the storm water basin system.
Storm water detention basins allowed for replacement are
not eligible
for the exemptions in part 8420.0122 and are subject to
parts 8420.0500 to 8420.0630.~~

~~Storm water management basins constructed for the
primary purpose of controlling or treating storm water
runoff from impervious surfaces or developed areas, not
conforming to the specifications in subitems (1) to (4),
are not considered wetlands eligible for replacement
credit.~~

E. The local government unit may allow constructed
storm water treatment basins for replacement credit
provided:

(1) the local governmental unit has adopted,
implemented, and funded a storm water management plan that
provides for the removal of sediments whenever the
phosphorus removal efficiency drops below 50 percent
efficiency based on actual water quality monitoring data,
calibrated modeling, or physical measurement of the pond
volume,

1 (2) the basins are constructed in non-wetland areas
2 that are directly tributary to public waters, wetlands or
3 other waters of the state that are not storm water
4 treatment ponds, and

5
6 (3) the basins are associated with an ongoing or
7 proposed project that will impact a wetland.

8 Credits are determined according(a)through (d) below:

9
10 (a) public value credit may be allowed for up
11 to 75 percent of the normal pool area of a isolated
12 one-cell, wet detention basin or the upper cell of a
13 two-cell system provided the basin is designed and
14 constructed to retain at least 60 percent of the
15 phosphorus loading expected in the runoff from a one
16 year - 24 hour storm based on the fully developed
17 watershed tributary to the basin.

18
19 (b) public value credit may be allowed for up
20 to 75 percent of the one-year design pool area of a
21 storm water infiltration area that also has an
22 established native, non-invasive vegetative cover.

23
24 (c) new wetland credit may be allowed for up
25 to 100 percent of the normal pool area of the
26 downstream cell of a two-cell, wet detention system
27 provided:

28
29 1. the two cells are completely separated by a
30 barrier for up to the ten-year critical event;

31
32 2. the upstream basin meets the criteria in E.,
33 (3), (a), above;

34
35 3. the downstream cell is designed for a
36 maximum 24-inch rise in water level for the ten-year
37 critical storm event;
38

COMMENTS

1 4. the standards in part 8420.0550 are
2 followed; and

3
4 5. the design goal is a palustrine emergent
5 wetland for the downstream cell.

6
7 (d) Buffer areas installed adjacent to two-celled
8 systems that are consistent with 8420.0540, Subp. 2 may be
9 allowed for *public value credit* in an amount up to 75
10 percent of the acreage of the downstream cell of a two-cell
11 system, provided the buffer is applied only to the
12 downstream cell, is no narrower than 16.5 feet at any one
13 location, and is adjacent to the entire periphery of the
14 downstream cell.

15
16 (e) Storm water detention basins allowed for
17 replacement are not eligible for the exemptions in part
18 8420.0122 and are subject to parts 8420.0500 to 8420.0630.

19
20 Subp. 3. Timing of replacement. Replacement of wetland
21 values must be completed before or concurrent with the
22 actual draining or filling of a wetland, unless an
23 irrevocable bank letter of credit or other security
24 acceptable to the ~~responsible~~ local government unit is
25 submitted to the ~~responsible~~ local government unit to
26 guarantee successful completion of the replacement. All
27 wetlands to be restored or created for replacement must be
28 designated for replacement before restoration or creation.
29 Submission to the local government unit of the information
30 required in part 8420.0530 and subsequent approval shall be
31 considered evidence of designation for replacement,
32 provided the information is submitted before the actual
33 restoration or creation. The exceptions contained in
34 subpart 5 do not apply to replacement completed using
35 wetland banking credits established by a person who
36 submitted a complete wetland banking application
37 to a local government unit by April 1, 1996.

COMMENTS

Sec. 5, Chap. 382.

Subp. 4. ~~Location of replacement wetlands.~~

~~Replacement wetlands shall be located within the same watershed or county as the impacted wetlands, except that greater than 80 percent areas may accomplish replacement in less than 50 percent areas. When environmentally preferable, replacement wetlands should be located as close to the impacted wetland as possible, preferably in the same watershed.~~ [WETLAND REPLACEMENT SITING.] (a) Siting wetland replacement must follow this priority order:

(1) on site or in the same minor watershed as the affected wetland;

(2) in the same watershed as the affected wetland;

(3) in the same county as the affected wetland;

(4) in an adjacent watershed or county to the affected wetland; and

(5) statewide, for: (i) wetlands affected in greater than 80 percent areas; and (ii) for public transportation projects, except that wetlands affected in less than 50 percent areas must be replaced in less than 50 percent areas, and wetlands affected in the seven-county metropolitan area must be replaced in the affected county or, if no restoration opportunities exist in the county, in another seven-county metropolitan area county.

(b) The exemption in paragraph (a), clause (5), does not apply to replacement completed using wetlands banking credits established by a person who submitted a complete wetland banking application to a local government unit by April 1, 1996.

(c) When reasonable, practicable, and environmentally beneficial replacement opportunities are not available in siting priorities listed in paragraph (a), the applicant may seek opportunities at the next level.

(d) For the purposes of this section, "reasonable, practicable, and environmental beneficial replacement opportunities" are defined as opportunities that:

(1) take advantage of naturally occurring hydrogeomorphological conditions and require minimal landscape alteration;

1 (2) have a high likelihood of becoming a functional
2 wetland that will continue in perpetuity;

3 (3) do not adversely affect other habitat types of
4 ecological communities that are important in maintaining
5 the overall biological diversity of the area; and

6 (4) are available and capable of being done after
7 taking into consideration cost, existing technology, and
8 logistics consistent with overall project purposes.

9 (e) Regulatory agencies, local government units, and
10 other entities involved in wetland restoration shall
11 collaborate to identify potential replacement opportunities
12 within their jurisdictional areas.

13
14 Subp. 5. Replacement for public transportation
15 projects.

16
17 A. Wetlands impacted by public transportation
18 projects may be replaced statewide, except that wetlands
19 impacted in a less than 50 percent area must be replaced in
20 a less than 50 percent area, and wetlands impacted in the
21 seven-county metropolitan area by public ~~highways~~ roads
22 must be replaced in the affected county, or, if no
23 restoration opportunities exist in the county, in another
24 seven-county metropolitan area county.

25
26 B. The board must maintain a public list of
27 restoration opportunities within the seven-county
28 metropolitan area. The list will be maintained for
29 informational purposes only. Replacement of wetlands may
30 be accomplished under the rules for wetland banking as
31 provided for in parts 8420.0700 to 8420.0760

32
33 C. For projects involving draining, excavating or
34 filling of wetlands associated with a new public
35 transportation project in a greater than 80 percent area,
36 public transportation authorities, other than the state
37 department of transportation, may purchase wetland banking
38 credits if available from the state wetland bank
39 established with proceeds from Laws 1994, chapter 643,

section 26, subdivision 3, paragraph (c). Wetland banking credits may be purchased at the least of the following, but in no case shall the purchase price be less than \$400 per acre:

(1) the cost to the state to establish the credits;

(2) the average estimated market value of agricultural land in the township where the road project is located, as determined by the commissioner of revenue; or

COMMENTS

(3) the average value of the land in the immediate vicinity of the road project as determined by the county assessor.

Public transportation authorities in a less than 80 percent area may purchase wetland banking credits from the state at the state's cost to establish wetland banking credits.

D. A replacement plan for wetlands is not required for individual projects that result in the filling, or excavating or draining of wetlands for the repair, rehabilitation, reconstruction, or replacement of a currently serviceable existing state, city, county, or town public road necessary, as determined by the public transportation authority, to meet state or federal design or safety standards or requirements, excluding new roads or roads expanded solely for additional traffic capacity lanes. This item only applies to authorities for public transportation projects that:

(1) minimize the amount of wetland filling, excavating or draining associated with the project and consider mitigating important site-specific wetland functions on site; and

(2) except as provided in clause (3), submit
annual project-specific reports by January 15 to the board,
the technical evaluation panel, the commissioner of natural
resources, and members of the public requesting a copy at
least 30 days prior to construction that indicate the
location, amount, and type of wetlands that have been
filled or drained during the previous year and a projection
of the location, amount, and type of wetlands filled or
drained by the project or, alternatively, convene an annual
meeting of the parties required to receive notice to review
projects to be commenced during the upcoming year.
Alternatively for minor and emergency maintenance work
impacting less than 10,000 square feet, the public road
authority may submit project-specific reports, within 30
days of commencing the activity, to the board that indicate
the location, amount, and type of wetlands that have been
filled, excavated or drained.

E. The technical evaluation panel shall review
minimization and delineation decisions made by the public
transportation authority and provide recommendations
regarding on-site mitigation if requested to do so by the
local government unit, a contiguous landowner, or a member
of the technical evaluation panel.

F. Those required to receive notice of public
transportation projects may appeal minimization,
delineation, and on-site mitigation decisions made by the
public transportation authority to the board according to
the provisions of part 8420.0250.

G. Except for state public transportation projects,
for which the state Department of Transportation is
responsible, the board must replace the wetlands and
wetland areas of public waters if authorized by the
commissioner or a delegated authority, drained, excavated
or filled by local government public transportation
projects on existing roads. Replacement of the wetlands
must occur in critical rural and urban watersheds.

1
2 H. Public transportation authorities at their
3 discretion may deviate from federal and state design
4 standards on existing road projects when practical and
5 reasonable to avoid wetland filling or draining, provided
6 that public safety is not unreasonably compromised. The
7 local road authority and its officers and employees are
8 exempt from liability for any tort claim for injury to
9 persons or property arising from travel on the highway and
10 related to the deviation from the design standards for
11 construction or reconstruction under this item. This item
12 does not preclude an action for damages arising from
13 negligence in construction or maintenance on a highway.
14

15 Subp. 5a. Presettlement wetland acres and areas.
16

17 A. For purposes of this part, the following
18 counties are greater than 80 percent areas: Aitkin;
19 Beltrami; Carlton; Cass; Clearwater; Cook; Crow Wing;
20 Hubbard; Isanti; Itasca; Kanabec; Koochiching; Lake; Lake
21 of the Woods; Mille Lacs; Pine; ~~and~~ St. Louis; and Wadena.
22

Based on data
approved by BWSR.

23 B. For purposes of this part, the following
24 counties are less than 50 percent areas: Big Stone; Blue
25 Earth; Brown; Carver; Chippewa; Clay; Cottonwood; Dakota;
26 Dodge; Douglas; Faribault; Fillmore; Freeborn; Goodhue;
27 Grant; Hennepin; Houston; Jackson; Kandiyohi; Kittson; Lac
28 Qui Parle; Le Sueur; Lincoln; Lyon; Mahnommen; Marshall;
29 Martin; McLeod; Meeker; Mower; Murray; Nicollet; Nobles;
30 Norman; Olmsted; Pennington; Pipestone; Polk; Pope; Ramsey;
31 Red Lake; Redwood; Renville; Rice; Rock; Roseau; Scott;
32 Sibley; Stearns; Steele; Stevens; Swift; Traverse; Wabasha;
33 Waseca; Washington; Watonwan; Wilkin; Winona; Wright; and
34 Yellow Medicine.
35

36 C. For purposes of this part, the following
37 counties are 50 to 80 percent areas: Anoka; Becker;
38 Benton; Chisago; Morrison; Otter Tail; Sherburne; and Todd;
39 ~~and Wadena~~.

COMMENTS

WETLAND AREAS

Figure 1.

Graphic to go here currently not available h/s

Subp. 6. Size of replacement wetlands. Replacement wetlands must be of a size sufficient to ensure that they provide equal or greater public value than the wetland that was drained or filled. Except in greater than 80 percent areas, for a wetland located on nonagricultural land, the minimum size of the replacement wetland must be in the ratio of two acres of replaced wetland for each acre of drained or filled wetland. For a wetland located on agricultural land, or in greater than 80 percent areas, the minimum size of the replacement wetland must be in the ratio of one acre of replaced wetland for each acre of drained or filled wetland. The actual replacement ratios required for a replacement wetland may be more than the minimum, subject to the evaluation of wetland functions and values in subpart 10.

Except in greater than 80 percent areas, future owners may make no use of the wetland after it is altered, other than as agricultural land for a period of ten years unless future replacement to achieve a 2:1 ratio occurs. The landowner shall record a notice of this restriction in the office of the county recorder in which the project is located.

Subp. 7. Carbon balance. When it is necessary to replace a drained or filled peatland, the replacement wetland must be revegetated with planted or naturally invading vegetation established within three growing seasons.

Subp. 8. Ecological consistency. Restoration and replacement of wetlands must be accomplished according to

1 the ecology of the landscape area affected. A replacement
2 plan that would result in wetlands or wetland
3 characteristics that do not naturally occur in the
4 landscape area in which the replacement will occur will not
5 be approved.

6
7 Subp. 9. Special considerations. The factors in
8 items A to I, when identified as being applicable to an
9 impact site or a replacement site, must be considered by
10 the local government unit in the review of replacement
11 plans.

12
13 A. Federal or state-listed endangered species. A
14 replacement plan for activities that involve sites where
15 species listed in parts 6134.0200 to 6134.0400 are known to
16 be present will not be approved if it is determined that
17 the proposed activities will constitute a taking of those
18 listed species under Minnesota Statutes, section 84.0895.
19 Limited information on the presence of listed species at a
20 particular site is available from the Department of Natural
21 Resources' natural heritage program. Activities that
22 involve taking listed species are subject to Minnesota
23 Statutes, section 84.0895.

24
25 B. Rare natural communities. A replacement plan
26 for activities that involve the modification of a rare
27 natural community as determined by the Department of
28 Natural Resources' natural heritage program will not be
29 approved if the local government unit determines that the
30 proposed activities will permanently adversely affect the
31 natural community.

32
33 C. Special fish and wildlife resources. A
34 replacement plan for activities that would have a
35 significant adverse impact that cannot be mitigated on a
36 special or locally significant fish and wildlife resource
37 will not be approved. These activities include, but are
38 not limited to:

-
- (1) fish passage and spawning areas;
 - (2) colonial waterbird nesting colonies;
 - (3) migratory waterfowl concentration areas;
 - (4) deer wintering areas; and/or
 - (5) wildlife travel corridors.

Activities involving streams must not block fish passage unless approved by the Department of Natural Resources.

D. Archaeological or historic sites. A replacement plan for activities that involve the modification of known archaeological or historical sites on or eligible for the National Register of Historic Places, as designated by the state historic preservation officer, will not be approved if the local government unit determines that the proposed activities will have a significant adverse impact on the archaeological or historical value of the site.

E. Groundwater sensitivity. A replacement plan for activities will not be approved if the local government unit determines the activities would have a significant adverse impact on groundwater quality. The publication "Criteria and Guidelines for Assessing Geologic Sensitivity of Ground Water Resources in Minnesota" (MDNR, 1991) may be used as a guide in determining potential impacts.

F. Sensitive surface waters. A replacement plan will not be approved if the local government unit determines the activities will have a significant adverse impact on the water quality of outstanding resource value waters listed in part 7050.0180 or on trout waters designated by the commissioner.

1 G. Education or research use. Wetlands known to be
2 used for educational or research purposes must be
3 maintained or adequately replaced.

4
5 H. Waste disposal sites. The local government unit
6 must evaluate the type and amount of waste material found
7 at the site. Activities involving known or potential
8 hazardous wastes or contaminants must be conducted
9 according to applicable federal and state standards.

10
11 I. Consistency with other plans. The local
12 government unit must consider the extent to which proposed
13 activities are consistent with other plans, such as
14 watershed management plans, land use plans, zoning, and
15 master plans.

16
17 Subp. 10. Evaluation of wetland functions and values.

18
19 A. Evaluation options. Replacement wetlands must
20 replace the functions and values that are lost from a
21 wetland that is drained or filled. When environmentally
22 preferable, a replacement wetland should replace the same
23 combination of functions and values provided by the
24 impacted wetland. Replacement of wetland functions and
25 values may occur at more than one location. The wetland
26 type index system in items D and E uses relative values of
27 wetland functions compared across wetland types to evaluate
28 the adequacy of wetland replacement. The local government
29 unit may allow the evaluation of wetlands by measuring and
30 comparing public values specified in Minnesota Statutes,
31 section 103B.3355, with a scientifically accepted
32 methodology in items G and H.

33
34 B. Wetland types: wetlands classification
35 equivalency chart. For purposes of this part, the
36 following table serves as a key for using Table 2 (item D,
37 subitem (1)) and Table 4 (part 8420.0550, subpart 3) and as
38 a wetland classification equivalency chart for the wetland
39 classification developed by the United States Fish and

Wildlife Service (Cowardin et al. 1979), and the
approximate wetland type from the United States Fish and
Wildlife Service Circular No. 39 (1971 edition).

Table 1. Wetland Classification Equivalency Chart. The
Cowardin classification includes system, subsystem, class,
subclass, and/or water regime. The Circular 39 wetland
type is approximated.

	Cowardin System	Circular 39
	L1 (all)	5*
	L2ABF	4
	L2ABG	5
	L2ABH	5
	L2EMA	5
	L2EMB	5
	L2EMF	4
	L2EMG	4
	L2EMH	5
	L2RS	5
	L2UB	5
	L2US	4
	PABF	4
	PABG	4
	PABH	5
	PEMA	1
	PEMB	2
	PEMC	3
	PEMD	3
	PEME	2
	PEMF	3
	PEMG	4
	PEMH	4
	PEMJ	1
	PEMU	3
	PEMW	1
	PEMY	3
	PEMZ	4
	PFOA	1L**

1	PFO1B	7
2	PFO2B	8
3	PFO4B	8
4	PFO5B	7
5	PFO6B	7
6	PFO7B	8
7	PFOC	7
8	PFOD	7
9	PFOF	7
10	PFOJ	1L**
11	PFOU	1L**
12	PFOW	1L**
13	PFOY	7
14	PRB (all)	5
15	PSSA	6
16	PSS1B	6
17	PSS2B	8
18	PSS3B	8
19	PSS4B	8
20	PSS5B	6
21	PSS6B	6
22	PSS7B	8
23	PSSC	6
24	PSSD	6
25	PSSF	6
26	PSSG	6
27	PSSH	6
28	PSSJ	6
29	PSSW	6
30	PSSY	6
31	PSSZ	6
32	PSSU	6
33	PUBB	4
34	PUBF	4
35	PUBG	5
36	PUBH	5
37	PUS (all)	1
38	R1	R2***
39	R2 (all)	R2***

1	R3 (all)	R3***
2	R4 (all)	R4***
3	R5	R4***

4

5 * Circular No. 39 does not classify deep water as a
6 wetland type, but for purposes of this table, these areas
7 can be approximated as a type 5.

8

9 ** 1L wetlands by Circular No. 39 are Type 1 Bottomland
10 Hardwoods.

11

COMMENTS

12 *** No equivalent. Circular No. 39 does not address
13 riverine wetlands.

14

15 "K" water regimes are often municipal/industrial water
16 facilities.

17

Insert map.

18 NOTE: In the case of wetland identified using the
19 Cowardin system with both numerator and denominator wetland
20 types, the numerator type is considered the dominant
21 wetland type, with the exception that the denominator
22 wetland type is to be used when the numerator wetland type
23 vegetation is dead.

24

25 STATE OF MINNESOTA WATERSHED BOUNDARIES - 1979

26

27 (81 MAJOR WATERSHED UNITS)

28

29 Figure 2.

30

31 Graphic to go here currently not available here. no
32 h/s

33

34 LIST OF 81 MAJOR WATERSHED UNITS OF MINNESOTA

35

1 Lake Superior (north)

36

2 Lake Superior (south)

37

3 St. Louis River

38

4 Cloquet River

39

5 Nemadji River

1	7	Mississippi River (Headwaters, Lake
2		Winnibigoshish)
3	8	Leech Lake River
4	9	Mississippi River (Grand Rapids)
5	10	Mississippi River (Brainerd)
6	11	Pine River
7	12	Crow Wing River
8	13	Redeye River (Leaf River)
9	14	Long Prairie River
10	15	Mississippi River (Sartell)
11	16	Sauk River
12	17	Mississippi River (St. Cloud)
13	18	North Fork Crow River
14	19	South Fork Crow River
15	20	Mississippi River (Metro)
16	21	Rum River
17	22	Minnesota River (Headwaters)
18	23	Pomme de Terre River
19	24	Lac qui Parle River
20	25	Minnesota River (Granite Falls)
21	26	Chippewa River
22	27	Redwood River
23	28	Minnesota River (Mankato)
24	29	Cottonwood River
25	30	Blue Earth River
26	31	Watonwan River
27	32	Le Sueur River
28	33	Minnesota River (Shakopee)
29	34	St. Croix River (Upper)
30	35	Kettle River
31	36	Snake River
32	37	St. Croix River (Stillwater)
33	38	Mississippi River (Red Wing) and Lake Pepin
34	39	Cannon River
35	40	Mississippi River (Winona)
36	41	Zumbro River
37	42	Mississippi River (La Crescent)
38	43	Root River
39	44	Mississippi River (<u>HRevo</u>)

1	46	Upper Iowa River
2	47	Wapsipinican River (Headwaters)
3	48	Cedar River
4	49	Shell Rock River
5	50	Winnebago River (Lime Creek)
6	51	West Fork des Moines River (Headwaters)
7	52	West Fork des Moines River (Lower)
8	53	East Fork des Moines River
9	54	Bois de Sioux River
10	55	Mustinka River
11	56	Otter Tail River
12	57	Red River of the North (Headwaters)
13	58	Buffalo River
14	59	Marsh River
15	60	Wild Rice River
16	61	Sandhill River
17	62	Upper and Lower Red Lake
18	63	Red Lake River
19	65	Thief River
20	66	Clearwater River
21	67	Grand Marais Creek (Red River of the North)
22	68	Snake River
23	69	Tamarack River (Red River of the North)
24	70	Two River
25	71	Roseau River
26	72	Rainy River (Headwaters)
27	73	Vermillion River
28	74	Rainy River (Rainy Lake)
29	75	Rainy River (Manitou)
30	76	Little Fork River
31	77	Big Fork River
32	78	Rapid River
33	79	Rainy River (Baudette)
34	80	Lake of the Woods
35	81	Big Sioux River (Medary Creek)
36	82	Big Sioux River (Pipestone)
37	83	Rock River
38	84	Little Sioux River
39		

C. Replacement ratios for in-kind replacement.

When wetland functions lost as a result of drainage, excavation or filling are replaced by restoring, or creating a wetland of the same type, ~~and having or within~~ the same ~~topographic setting~~ county or, in the same watershed and ~~with the same topographic setting ratio as~~ described in item D, subitem (2), and related definitions, the replacement shall be considered to be in-kind and the minimal replacement ratio shall be used to determine the necessary size of the replacement wetland. For impacted wetlands on agricultural land, or in counties or watersheds in which greater than 80 percent or more of the ~~presettlement wetland acreage exists~~ areas, the minimum replacement ratio is 1:1, requiring an equal area be replaced for the area impacted. ~~Except for~~ For counties or watersheds in which less than 80 percent or more of the ~~presettlement wetland acreage exists~~ areas and, for impacted wetlands on nonagricultural land, the minimum replacement ratio is 2:1, requiring two times the impacted area be replaced.

D. Out-of-kind replacement ratios. If the wetland functions lost as a result of drainage or filling are to be replaced by creating a wetland or restoring a wetland of a different type or in a different ~~topographic setting~~ county than the impacted wetland, or if the replacement wetland is in a different watershed ~~other~~ than the impacted wetland ~~or had different inlet and outlet characteristics than the impacted wetland~~, the replacement shall be considered to be out-of-kind and the local government unit shall use the replacement ratios in ~~this subpart~~ Table 2 to determine the amount of replacement wetland needed to replace the lost wetland values.

~~(1) Wetland type ratio. Differences in wetland functions and values among wetland types are to be evaluated and replaced using the wetland type ratio table in this part, to be applied as specified in subitem (4). The wetland type ratio table incorporates an evaluation of~~

COMMENTS

~~public values as specified in Minnesota Statutes, section 103B.3355, for the purposes of comparison among wetland types.~~

If a wetland to be drained or filled exhibits more than one wetland type as determined by the technical evaluation panel, and more than one wetland type is proposed to be drained or filled, the local government unit shall use the following procedure to determine needed replacement. The acreage of each wetland type to be ~~converted to nonwetland~~ impacted shall be determined. The ~~wetland type ratio table shall then be used to determine the amount of replacement wetland for each wetland type.~~ The sum of the replacement for each wetland type shall be the resultant acreage requirement ~~for the wetland type ratio.~~

Table 2. ~~Wetland type ratio values for use in determining wetland replacement ratios for out of kind replacement. Circular No. 39 wetland types include Type 1 (seasonally flooded basin or flat), Type 1L (bottomland hardwoods), Type 2 (wet meadow), Type 3 (shallow marsh), Type 4 (deep marsh), Type 5 (shallow open water), Type 6 (shrub swamp), Type 7 (wooded swamp), Type 8 (bog), R2 (lower perennial river), R3 (upper perennial river), and R4 (intermittent river).~~

Impacted	Replacement					
Wetland	Wetland					
	1	1L	2	3	4	5
1	1.0	1.5	1.0	1.0	1.0	1.5
1L	3.0	1.0	1.5	1.0	1.0	1.5
2	1.0	1.5	1.0	1.0	1.0	1.5
3	3.0	1.5	1.5	1.0	1.0	1.5
4	3.0	1.5	1.5	1.0	1.0	1.5
5	3.0	1.5	1.5	1.0	1.0	1.0
6	2.0	1.5	1.0	1.0	1.0	1.5

COMMENTS

1	7	2.0	1.5	1.0	1.0	1.0	1.5
2	8	1.0	1.0	1.0	1.0	1.0	1.5
3	R2	3.0	1.5	1.5	1.0	1.0	1.0
4	R3	3.0	1.5	1.5	1.0	1.0	1.0
5	R4	2.0	1.5	1.5	1.0	1.0	1.0
6							
7	Impacted						Replacement
8	Wetland						Wetland
9							
10		6	7	8	R2	R3	R4
11							
12	1	2.0	1.0	1.5	3.0	1.5	3.0
13	1L	2.0	1.5	3.0	2.0	1.5	2.0
14	2	2.0	1.0	2.0	3.0	1.5	3.0
15	3	3.0	1.5	3.0	3.0	1.5	3.0
16	4	3.0	1.5	3.0	3.0	1.5	3.0
17	5	3.0	1.5	3.0	2.0	1.0	2.0
18	6	1.0	1.0	2.0	2.0	1.5	2.0
19	7	2.0	1.0	2.0	3.0	1.5	3.0
20	8	2.0	1.0	1.0	2.0	1.5	2.0
21	R2	3.0	1.5	3.0	1.0	1.0	1.5
22	R3	3.0	1.5	3.0	2.0	1.0	2.0
23	R4	3.0	1.5	2.0	1.0	1.0	1.0
24							

Replacement Type	Impact Location	
	>80% Area or Ag Land	<80% Area
In-kind (same wetland type or same watershed or same county).	1:1	2:1
Out-of-Kind: direct replacement	1.5:1	2.5:1
Out-of-Kind: banking	1.25:1	2.25:1

*See Table 1 of item B for wetland classification equivalency.

(2) Topographic setting ratio. If the topographic setting characteristics of a replacement wetland differ and are from those of the impacted wetland,

~~the following ratios shall be applied describes, as
specified in subitem (4). Below:~~

~~The topographic setting ratio does not apply when
replacement for impacts within a greater than 80 percent
area is accomplished in a less than 50 percent area or to
wetland replacement projects conducted by the board for
public transportation projects on existing roads.~~

~~Table 3. Topographic Setting Ratios.~~

~~Impacted Replacement
Wetland Wetland~~

~~Topographic Shoreland Riverine
Floodplain
Setting~~

Shoreland	0	0.2	0.4
Riverine	0	0	0.2
Floodplain	0	0	0
Flow Through	0	0	0
Tributary	0	0	0
Isolated	0	0	0

~~Impacted Replacement
Wetland Wetland~~

~~Topographic Flow Through Tributary Isolated
Setting~~

Shoreland	0.6	0.8	1.0
Riverine	0.4	0.6	0.8
Floodplain	0.2	0.4	0.6
Flow Through	0	0.2	0.4
Tributary	0	0	0.2
Isolated	0	0	0

~~(3) Local public value ratio. A local government unit may by ordinance establish additional local public value ratios to address wetland conservation or preservation issues of local concern. These ratios must have a minimum value of zero and should be based on wetland management objectives of a local water management plan adopted under Minnesota Statutes, chapter 103B or 103D. The local public value ratios must be applied as specified in subitem (4).~~

~~(4) Application of replacement ratios. The required replacement ratio for out of kind replacement shall be the sum of the wetland type ratio plus the topographic setting ratio plus the local public value ratio. When this ratio is less than the minimum in-kind ratio of 1:1 for wetlands on agricultural land or in greater than 80 percent areas, or 2:1 for wetlands on nonagricultural lands in less than 80 percent areas, the minimum in-kind ratio shall be the required replacement ratio.~~

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E. Determining impacts of partial drainage. In cases where wetlands will be partially or incompletely drained, the amount of wetland to be replaced must be determined as follows:

Consistency with federal requirements.

The area impacted by partially draining a wetland is determined in two parts. The wetland area where the hydrology is totally removed must be replaced in its entirety. The area that is partially drained must be replaced in an amount that is at least 50 percent of the acreage of the remaining wetland area or determined by an assessment of the wetland functions listed in part 8420.0103, using a methodology chosen by the technical evaluation panel from one of the methodologies established or approved by the board.

~~Calculation of partial drainage is explained by the following example:~~

~~Partial drainage of a ten-acre Type 3 (PEMC) wetland to a five-acre Type 1 (PEMA) wetland would require replacing five acres of Type 3 wetland plus 2.5 acres of Type 3 wetland for a total of 7.5 acres of Type 3 acres of replacement wetland.~~

~~F. Determining credit for restoration of partially drained wetlands.~~

~~The determination of acres credited for fully restoring the hydrology of a wetland that has been partially, but demonstrably, affected by drainage, is in two parts. The first is the new wetland credit (NWC) caused by the restoration, for example, if the preresoration wetland is one acre and postrestoration will be three acres, the new wetland credit is two acres. The second credit is for the change in value of the preresoration wetland acres. This is the public value credit (PVC) and is equal to 50 percent of the acreage of the preresoration wetland.~~

~~The credit for increase in new acres can be used in its entirety. The public value credit can only be used for that portion of wetland replacement requiring greater than a 1:1 ratio.~~

~~Calculation of partial restoration credits is explained by the following example.~~

~~A partially drained five-acre Type 1 (PEMA) wetland is to be restored to its former state, which would be a ten-acre Type 3 (PEMC) wetland.~~

~~New Wetland Credit = five acres of Type 3 (PEMC) wetland~~

~~Public Value Credit - 2.5 acres of Type 3 (PEMC)
wetland (50 percent of five acres of preresoration
acreage)~~

G. Alternative Evaluation Methodologies. The local government unit may evaluate the replacement plan using a scientifically accepted methodology that evaluates all wetland functions specified in Minnesota Statutes, section 103B.3355, for both the impacted and replacement wetlands. Such alternative methodologies must be approved by the board, in consultation with the commissioners of natural resources and agriculture, and local government units. Currently acceptable alternative methodologies include: "Minnesota Routine Assessment Methodology for Evaluating Wetland Functions" (Board of Water and Soil Resources, Version 12.0 - ~~May~~ September 1996~~8~~); "Minnesota Wetland Evaluation Methodology (for the North Central United States)" (United States Army Corps of Engineers, September 1988); The Hydrogeomorphic Functional Assessment Methodology (as developed by the United States Army Corps of Engineers based on Wetlands Research Program Technical Report WRP-DE-3, August 1993); Oregon Freshwater Wetland Assessment Methodology (Oregon Division of State Lands, December 1993); and Method for the Comparative Evaluation of Nontidal Wetlands in New Hampshire (New Hampshire Department of Environmental Services, March 1991). Other methodologies may be used following board approval and publication in the Environmental Quality Board Monitor.

When using alternative evaluation methodologies to evaluate replacement plans, the ratio of impact wetland to replacement wetland must not be less than the minimum acreage requirements as listed in subpart 6, except as provided for in part 8420.0650, subpart 2. When using an alternative evaluation methodology to evaluate a wetland replacement plan, the replacement wetland must be projected to have an equal or greater functional level than the impacted wetland for each of the functions listed in part 8420.0103, unless the technical evaluation panel determines

1 that the overall functional level for each of the functions
2 will be maintained within the local government unit's
3 jurisdiction.

4
5 H. Special cases or appeals. For projects of
6 unusual complexity, or replacement plans that have been
7 denied and are being appealed, and for which the local
8 government unit believes an alternative evaluation process
9 may produce a substantially different replacement
10 requirement, the local government unit may evaluate the
11 replacement plan using the current version of the Minnesota
12 wetland evaluation methodology or another scientifically
13 accepted methodology approved by the board, in consultation
14 with the commissioner, that evaluates all wetland functions
15 and values for both the impacted and replacement wetlands.

16
17 When using a board-approved methodology to evaluate
18 replacement plans, the ratio of impact wetland to
19 replacement wetland must not be less than the minimum
20 acreage requirements as listed in subpart 6. Further, the
21 topographic setting ratio in item D, subitem (2), and the
22 local public value ratio, if any, in item D, subitem (3),
23 must also be considered when using a board-approved
24 methodology.

25
26 I. Adequacy decision. A replacement plan that
27 fails to meet the requirements in items A to H must be
28 considered inadequate in replacing lost functions and
29 values and shall not be approved by the local government
30 unit. A replacement plan that has been considered by the
31 local government unit and not approved may be revised and
32 resubmitted for consideration by the local government unit.
33 As required by part 8420.0250, the decision of a local
34 government unit to approve, approve with conditions, or not
35 approve a replacement plan becomes final if not appealed to
36 the board within 15 days after the date on which the
37 decision is mailed to those required to receive notice of
38 the decision. ~~Before~~ Within 30 days of completing
39 construction of the a replacement wetland ~~may proceed~~, the

notice specified in part 8420.0530, item D, subitem (6),
must be recorded and proof of recording provided to the
local government unit.

STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

HIST: 18 SR 274; 22 SR 1877

Current as of 04/24/00

8420.0550 WETLAND REPLACEMENT STANDARDS.

Subpart 1. General requirements. The standards and
guidelines in this part shall be used in wetland creation
and restoration efforts to ensure adequate replacement of
wetland functions and values.

Table 4, in subpart 3, provides technical
specifications for constructing wetland types. In
evaluating a wetland replacement plan, the local government
unit must determine whether the wetland type stated as the
replacement plan goal will result from the replacement plan
specifications. If a wetland type other than the
replacement plan goal is likely to result, the local
government unit must evaluate the plan based on this
determination.

Subp. 2. Specific requirements. The standards in
items A to H shall be followed in all wetland replacements
unless the technical evaluation panel determines that a
standard is clearly not appropriate.

A. Water control structures must be constructed
using specifications provided in the Minnesota Wetland
Restoration Guide or their equivalent. Control structures
may be subject to the Department of Natural Resources dam
safety regulations.

1 B. Best management practices must be established
2 and maintained adjacent to the entire perimeter of all
3 replacement wetlands.

4
5 C. For replacement wetlands where the dominant
6 vegetation of the wetland type identified as the
7 replacement goal in part 8420.0530, item D, subitem (1), is
8 not likely to recover naturally in a five-year period,
9 wooded and shrub wetlands especially, the replacement
10 wetland must be seeded or planted with appropriate species,
11 as determined by the technical evaluation panel. If the
12 replacement wetland is seeded or planted, the seed or
13 planting stock should be of local wetland origin to
14 preserve local genotypes. During the monitoring period,
15 the applicant must take reasonable steps to prevent
16 invasion by any species, for example, purple loosestrife
17 and Eurasian water milfoil, that would defeat the
18 revegetation goal of the replacement plan.

19
20 D. Erosion control measures as determined by the
21 soil and water conservation district must be employed
22 during construction and until permanent ground cover is
23 established to prevent siltation of the replacement wetland
24 or nearby water bodies.

25
26 E. For all restored wetlands where the original
27 organic substrate has been stripped away and for all
28 created wetlands, provisions must be made for providing an
29 organic substrate. When feasible, the organic soil used
30 for backfill should be taken from the drained or filled
31 wetland.

32
33 F. The bottom contours of created types 3, 4, and 5
34 wetlands should be undulating, rather than flat, to provide
35 a variety of water depths to be consistent with part
36 8420.0540, subpart 8.

37
38 G. Sideslopes of created wetlands and buffer strip
39 must not be steeper than 5:1, five feet horizontally for

every one foot vertically as averaged around the wetland.
Sideslopes of 10:1 to 15:1 are preferred.

H. Created wetlands should have an irregular edge
to create points and bays to be consistent with part
8420.0540, subpart 8.

Subp. 3. Table 4. Physical characteristics of
wetlands referencing the wetland classification equivalency
chart found in part 8420.0540, subpart 10, item B.

WETLAND	MEAN	WATERSHED	DOMINANT	
DEPRESSIONAL?				
TYPE	DEPTH*	RATIO	VEGETATION**	
FORESTED				
(T1)	INTMTNT	---	TREES	
SOMETIMES				
(T7)	SATUR'D	>3:1	TREES	YES
(T7)	6" - 3'	>5:1	TREES	YES
SCRUB-SHRUB				
(T6)	INTMTNT	---	SHRUBS	YES
(T6)	SATUR'D	>3:1	SHRUBS	YES
(T8)	SATUR'D	>3:1	SHRUBS	
SOMETIMES				
(T6)	SAT.-INT.	---	SHRUBS	YES
EMERGENT				
(T1)	INTMTNT	---	HERB/EMERG	YES
(T2)	SATUR'D	>3:1	HERB/EMERG	YES
(T3)	6" - 2'	>5:1	HERB/EMERG	YES
(T4)	2' - 4'	>10:1	HERB/EMERG	YES
DEEP MARSH				
(T5)	4' - 6'	>15:1	AQUATIC BED	YES
(T5)	4' - 6'	>15:1	ALGAE/FLOATG	YES
LAKES				
(T5)	>6'	>25:1	ALGAE/FLOATG	YES
(T5)	<6'	>25:1	HERB	YES

RIVERINE

R2	> 2'	---	ALGAE, SUB	FLOWAGE
R3	6" - 2'	---	ALGAE, SUB	FLOWAGE
R4	INTMTNT	---	RIPARIAN	FLOWAGE

* INTMTNT = Intermittent or temporarily flooded, SATUR'D

=

Saturated in the rooting zone

** HERB = Herbaceous, EMERG = Emergent, SUB = Submergent,
FLOATG

= Floating-leaved

STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

HIST: 18 SR 274; 22 SR 1877

Current as of 04/24/00

8420.0600 MONITORING.

The purpose of wetland value replacement monitoring is
to ensure that the replacement wetland achieves the goal of
replacing lost functions and values.

STAT AUTH: MS s 14.06; 103B.101; 103B.3355

HIST: 18 SR 274

Current as of 04/24/00

8420.0610 DURATION OF MONITORING.

Monitoring shall be by means of an annual report as
specified in part 8420.0620 and shall continue for five
years following completion of the wetland replacement
project, or until the technical evaluation panel deems the

1 replacement wetland to be fully functional. Through
2 written notification to the applicant, the local government
3 unit may extend the required monitoring period for not more
4 than an additional five-year period if the goal of the
5 replacement plan has not been achieved, but may be achieved
6 with more time.

7
8 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

9
10 HIST: 18 SR 274; 22 SR 1877

11 Current as of 04/24/00

12
13 8420.0620 MONITORING ANNUAL REPORT.

14
15 Subpart 1. Purpose. The purpose of the annual report
16 is to describe actual wetland restoration or creation
17 activities completed during the past year, activities
18 planned for the upcoming year, and the information in
19 subpart 2. The applicant shall submit the annual report to
20 the local government unit where the replacement wetland is
21 located on a date determined by the local government unit
22 until the applicant has fulfilled all of the requirements
23 of the local government unit. The local government unit,
24 at its discretion, may prepare the annual report for the
25 applicant.

26
27 Subp. 2. Report content. The annual report shall
28 include the following information and other site-specific
29 information identified by the local government unit:

30
31 A. a description of the project location, size,
32 current wetland type (Cowardin classification), and desired
33 wetland type (goal);

34
35 B. a comparison of the as-built specifications
36 versus the design specifications (first annual plan only)
37 and a rationale for significant changes;

1 C. hydrology measurements: at least three seasonal
2 water level elevations during the period April through
3 October (msl or referenced to a known bench mark);
4

5 D. a list of the dominant vegetation in the
6 wetland, including common names of the vegetation exceeding
7 20 percent coverage and an estimate of coverage, for
8 example, 50 percent willow, 20 percent cattail, and 30
9 percent sedge; and
10

11 E. color photographs of the project area taken
12 anytime during the period June through August, referenced
13 to the fixed photo-reference points identified on the
14 wetland replacement plan and labeled accordingly.
15

16 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242
17

18 HIST: 18 SR 274; 22 SR 1877
19 Current as of 04/24/00
20

21 8420.0630 MONITORING DETERMINATIONS BY THE LOCAL
22 GOVERNMENT UNIT
23

24 The local government unit responsible for monitoring
25 as determined under part 8420.0230:
26

27 A. must inspect the project when construction is
28 complete and certify compliance with construction
29 specifications, and may inspect the project at any time
30 during the construction and monitoring period, and any time
31 after that to assess the long-term viability of the
32 replaced wetland. When the local government unit certifies
33 that the construction specifications have been met, the
34 local government unit shall so advise the applicant and
35 return any bond or other security that the applicant had
36 provided;
37

38 B. may order corrective action at any time during
39 the required monitoring period if it determines that the

goal of the approved replacement plan will not be met, and may require the applicant to prepare an amended wetland value replacement plan for review and approval by the local government unit, which describes in detail the corrective measures to be taken to achieve the goal of replacing lost wetland functions and values;

C. shall make a finding based on a site visit at the end of the monitoring period as to whether the goal of the replacement plan has been met. If the goal of the replacement plan has not been met, the local government unit shall order corrective action and extend the monitoring period; and

D. shall require one or more of the following actions if during the monitoring period the local government unit finds that the goal of the replacement plan will not be met:

(1) order the applicant to prepare and implement a new replacement plan;

(2) issue a cease and desist order on the draining and filling activity if it has not been completed;

(3) order restoration of the impacted wetland;

(4) obtain forfeiture of a bond or other security and use the proceeds to replace the lost wetland values;

(5) ask the district court to order the applicant to fulfill the replacement plan; or

(6) other actions that the local government unit determines necessary to achieve the goal of the replacement plan

STAT AUTH: MS s 14.06; 103B.101; 103B.3355

HIST: 18 SR 274
Current as of 04/24/00

8420.0650 LOCAL COMPREHENSIVE WETLAND PROTECTION AND
MANAGEMENT PLANS.

Subpart 1. General requirements; notice and
participation.

A. As an alternative to the rules adopted under
Minnesota Statutes, section 103G.2242, subdivision 1, and
the public value criteria established or approved under
Minnesota Statutes, section 103B.3355, a comprehensive
wetland protection and management plan may be developed by
a local government unit, or one or more local government
units operating under a joint powers agreement, provided
that:

(1) a notice is made at the beginning of the
planning process to the board, the commissioner of natural
resources, the Pollution Control Agency, local government
units, and local citizens to actively participate in the
development of the plan; and

(2) the plan is implemented by ordinance as part
of the local government unit's official controls under
Minnesota Statutes, chapter 394, for a county; Minnesota
Statutes, chapter 462, for a city; Minnesota Statutes,
chapter 366, for a town; and by rules adopted under
Minnesota Statutes, chapter 103D, for a watershed district;
and Minnesota Statutes, chapter 103B, for a watershed
management organization.

B. An organization that is invited to participate
in the development of the local plan, but declines to do so
and fails to participate or to provide written comments
during the local review process, waives the right during
board review to submit comments, except comments concerning
consistency of the plan with laws and rules administered by

1 that agency. In determining the merit of an agency
2 comment, the board shall consider the involvement of the
3 agency in the development of the local plan.
4

5 Subp. 2. Plan contents. A comprehensive wetland
6 protection and management plan may:
7

8 A. provide for classification of wetlands in the
9 plan area based on:
10

11 (1) an inventory of wetlands in the plan area;
12

13 (2) an assessment of the wetland functions listed
14 in ~~Minnesota Statutes, section 103B.3355~~ part 8420.0103,
15 using a methodology chosen by the technical evaluation
16 panel from one of the methodologies established or approved
17 by the board ~~under that section~~; and
18

19 (3) the resulting public values;
20

21 B. vary application of the sequencing standards in
22 ~~Minnesota Statutes, section 103G.222, subdivision 1,~~
23 ~~paragraph (b)~~ part 8420.0540, Subp. 6, for projects based
24 on the classification and criteria set forth in the plan;
25

26 C. vary the replacement standards of ~~Minnesota~~
27 ~~Statutes, section 103G.222, subdivision 1, paragraphs (f)~~
28 ~~and (g)~~, part 8420.0540, Subp. 6 based on the
29 classification and criteria set forth in the plan, for
30 specific wetland impacts provided there is no net loss of
31 public values within the area subject to the plan, and so
32 long as:
33

34 (1) in a 50 to 80 percent area, a minimum acreage
35 requirement of one acre of replaced wetland for each acre
36 of drained or filled wetland requiring replacement is met
37 within the area subject to the plan; and
38

(2) in a less than 50 percent area, a minimum acreage requirement of two acres of replaced wetland for each acre of drained or filled wetland requiring replacement is met within the area subject to the plan, except that replacement for the amount above a 1:1 ratio can be accomplished as described in part 8420.0540, subpart 2;

D. in a greater than 80 percent area, allow replacement credit, based on the classification and criteria set forth in the plan, for any project that increases the public value of wetlands, including activities on adjacent upland acres; and

E. in a greater than 80 percent area, based on the classification and criteria set forth in the plan, expand the application of the exemptions in ~~Minnesota Statutes, section 103C.2241, subdivision 1, paragraph (a), clause (4)~~ part 8420.0122, Subp. 1, Item D, to also include nonagricultural land, provided there is no net loss of wetland values.

Subp. 3. Board review and approval; mediation; judicial review.

A. The plan is deemed approved 60 days after the local government unit submits the final plan to the board, unless the board disagrees with the plan as provided in item D.

B. The board may not disapprove a plan if the board determines the plan meets the requirements of this part.

C. In its review of a plan, the board shall advise the local government unit of those elements of the plan that are more restrictive than state law and rules.

D. If the board disagrees with the plan or any elements of the plan, the board shall, in writing, notify

1 the local government unit of the plan deficiencies and
2 suggested changes. The board shall include in the response
3 to the local government unit the scientific justification,
4 if applicable, for the board's concerns with the plan.
5 Upon receipt of the board's concerns with the plan, the
6 local government unit has 60 days to revise the plan and
7 resubmit the plan to the board for reconsideration, or the
8 local government unit may request a hearing before the
9 board. The board shall hold a hearing within the
10 boundaries of the jurisdiction of the local government
11 within 60 days of the request for hearing. After the
12 hearing, the board shall, within 60 days, prepare a report
13 of its decision and inform the local government unit.
14

15 E. If, after the hearing, the board and local
16 government unit disagree on the plan, the board shall,
17 within 60 days, initiate mediation through a neutral party.
18 If the board and local government unit agree in writing not
19 to use mediation or the mediation does not result in a
20 resolution of the differences between the parties, then the
21 board may commence a declaratory judgment action in the
22 district court of the county where the local government
23 unit is located. If the board does not commence a
24 declaratory judgment action within the applicable 60-day
25 period, the plan is deemed approved.
26

27 F. The declaratory judgment action must be
28 commenced within 60 days after the date of the written
29 agreement not to use mediation or 60 days after conclusion
30 of the mediation. If the board commences a declaratory
31 judgment action, the district court shall review the
32 board's record of decision and the record of decision of
33 the local government unit. The district court shall affirm
34 the plan if it meets the requirements of this part.
35

36 Subp. 4. Effective date; replacement decisions.
37

1 A. The plan becomes effective as provided in
2 subpart 3, items D to F, and after adoption of the plan
3 into the official controls of the local government unit.
4

5 B. After the effective date of the plan, a local
6 government unit shall make replacement decisions consistent
7 with the plan.
8

9 Subp. 5. Plan amendments. Amendments to the plan
10 become effective upon completion of the same process
11 required for the original plan.
12

13 Subp. 6. Water planning processes apply. Except as
14 otherwise provided for in this part, all other requirements
15 relating to development of the plan must be consistent with
16 the water plan processes under Minnesota Statutes, sections
17 103B.231 and 103B.311.
18

19 STAT AUTH: MS s 103B.101; 103B.3355; 103G.2242
20

21 HIST: 22 SR 1877
22 Current as of 04/24/00
23

24 8420.0700 PURPOSE.

COMMENTS

25
26 The purpose of parts 8420.0700 to 8420.0760 is to
27 provide standards for the establishment and administration
28 of a state wetland banking system as authorized by
29 Minnesota Statutes, section 103G.2242.
30

31 STAT AUTH: MS s 14.06; 103B.101; 103B.3355
32

33 HIST: 18 SR 274
34 Current as of 04/24/00
35

36 8420.0710 [Repealed, 22 SR 1877]
37 Current as of 04/24/00
38

39 8420.0720 PRINCIPLES OF WETLAND BANKING

1
2 Subpart 1. Goal. Implementation of a wetland banking
3 system must comply with the purposes and goals of the act
4 by achieving a no-net loss in the quantity, quality, and
5 biological diversity of Minnesota's existing wetlands.
6

7 Subp. 2. Sequencing prerequisite. The state wetland
8 banking system may only be used for replacement of drained
9 or filled wetlands when the local government unit
10 determines that the applicant has complied with all of the
11 sequencing requirements of part 8420.0520, ~~that the project~~
12 ~~would otherwise be allowed if adequate replacement could be~~
13 ~~secured by the applicant, that project specific replacement~~
14 ~~is not reasonable or desirable,~~ and that the owner of the
15 account agrees to the withdrawal of wetland banking credits
16 from the account.
17

18 Subp. 3. Geographic limitations. Wetland banking is
19 allowed for any impact, ~~however, wetland impacts should be~~
20 ~~replaced in a location that either most closely resembles~~
21 ~~lost functions and public values at the impact site or in a~~
22 ~~location that maximizes important wetland functions and~~
23 ~~public values~~ subject to the requirements of part
24 8420.0540, Subp. 4.
25

26 Subp. 4. Eligible wetlands. Restored wetlands are
27 eligible for deposit into the wetland bank. Created
28 wetlands are eligible for deposit in the wetland bank in
29 counties in which 80 percent or more of the presettlement
30 wetlands are intact. In other counties, created wetlands
31 are eligible for deposit in the bank only if they are
32 created by excavation in nonwetlands, by dikes or dams
33 along public or private drainage ditches, or by dikes or
34 dams associated with the restoration of previously drained
35 or filled wetlands.
36

37 Subp. 5. Ineligible wetlands. Wetlands that are
38 drained or filled under an exemption in part 8420.0122 and
39 subsequently restored are not eligible for deposit in the

1 wetland bank. Modification or conversion of nondegraded
2 naturally occurring wetlands from one type to another are
3 not eligible for enrollment in a statewide wetlands bank.
4

5 Subp. 6. Account balance. Accounts must maintain a
6 positive balance. A wetland bank account shall specify
7 acreage by wetland type deposited by the account holder
8 minus subsequent withdrawals.
9

10 Subp. 7. Wetland banking credit transfers. Wetland
11 banking credits may be transferred to another account
12 holder providing the fee title or easement is transferred
13 also, and providing all the remaining wetland banking
14 credit for a wetland remains in one account. Wetland
15 banking credits may be withdrawn by an applicant and
16 partial withdrawals are allowed. The account holder is
17 responsible for the success of the wetland until completion
18 of monitoring. After completion of monitoring, the fee
19 title owner or easement or license holder and anyone who
20 has contracted with the owner is responsible for
21 maintaining the wetland and replacing it according to this
22 chapter if the wetland is subsequently drained or filled,
23 by structural failure, or otherwise.
24

25 Subp. 8. Deed recording. For wetlands proposed for
26 deposit, a deed covenant on a form provided by the board
27 must be recorded stating that the subject wetland was or
28 will be restored or created for mitigation banking
29 purposes.
30

31 Subp. 9. Qualification. A wetland cannot be
32 deposited for wetland banking credit that cannot, under
33 parts 8420.0500 to 8420.0630, be used for replacement.
34

35 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242
36

37 HIST: 18 SR 274; 22 SR 1877
38 Current as of 04/24/00
39

8420.0730 ADMINISTRATION AND MANAGEMENT AUTHORITY.

Subpart 1. Establishment. The board shall establish a state wetland bank. The board or the board's assignee is responsible for management of the bank including recording all bank transactions, maintaining bank records, and ensuring that the operation of the bank complies with parts 8420.0700 to 8420.0760. The board shall notify all local government units upon establishment of the bank. Any separate banking system including those established by local governments must comply with parts 8420.0700 to 8420.0760 and must be approved by the board and the commissioner.

Subp. 2. Deposit prerequisites. To be deposited into the wetland bank, a wetland must be certified as eligible for deposit by the local government unit in which it is located, according to part 8420.0740, subpart 1. The method of certification by local government units is optional, but wetland banking credits may not be deposited into the bank within that local government units jurisdiction without certification. If a local government unit elects to certify wetlands for the wetland bank, the local government unit is also responsible for ensuring that the monitoring provisions in part 8420.0750 are fulfilled. A local government unit may decline to certify all wetlands within its jurisdiction or, based on a comprehensive local water plan, a local government unit may elect to certify wetlands for deposit into the wetland bank only in selected areas, for example, high priority regions and areas. If the local government unit elects to reject or limit banking, it must do so by rule or ordinance, as applicable.

Subp. 3. Annual report. Each local government unit participating in the wetland bank shall submit an annual report to the board on a form prescribed by the board.

STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

HIST: 18 SR 274; 22 SR 1877

Current as of 04/24/00

8420.0740 PROCEDURES.

Subpart 1. Deposits and credits.

A. Restored wetlands are eligible for deposit into the wetland bank. Created wetlands are eligible for deposit in the wetland bank in counties in which 80 percent or more of the presettlement wetlands are intact. In other counties, created wetlands are eligible for deposit in the bank only if they are created by excavation in nonwetlands, by dikes or dams along public or private drainage ditches, or by dikes or dams associated with the restoration of previously drained or filled wetlands. Modification or conversion of nondegraded naturally occurring wetlands from one type to another are not eligible for enrollment in a the statewide wetlands bank.

B. Wetland replacement credits approved before July 1, 1993, are eligible for deposit into the state wetland banking system if the wetland replacement credit was authorized by a public agency specifically for a wetland bank that has been approved by the commissioner. Also, wetland replacement credits that have been deposited in a local government unit bank before July 1, 1993, and after January 1, 1992, are eligible for deposit into the state wetland banking system if the deposit meets all the criteria in parts 8420.0700 to 8420.0760 based on a site inspection and review by the board and the commissioner.

C. After July 1, 1993, wetlands restored or created without prior local government unit approval as specified in this part are not eligible for deposit into the wetland bank.

D. The minimum wetland acreage eligible to establish an account in the wetland bank is 0.1 acres.

1
2 E. There is no maximum wetland acreage eligible for
3 deposit in the wetland bank. The local government unit,
4 upon recommendation of the technical evaluation panel, must
5 identify the acreage that will receive credit. ~~As an~~
6 ~~incentive to encourage the deposit of small wetlands, the~~
7 ~~local government unit shall assign wetland banking credit~~
8 ~~to wetland acreage as follows:~~

9	Wetland	Wetland
10	Acreage	Banking
11		Credit
12	0 to 10 acres	100 percent
13	over 10 acres	90 percent

14
15 ~~The local government unit may modify the credit given,~~
16 ~~up to a maximum of 100 percent, if agreed to by the~~
17 ~~technical evaluation panel.~~

18
19 F. The initial deposit of wetland banking credits
20 must be done by the fee title owner or easement or license
21 holder of the wetland.

22
23 G. Except as provided for in item B, in order to
24 deposit wetland acres into the wetland bank, the depositor
25 must notify the local government unit in writing, before
26 restoration or creation, that the proposed wetland is
27 specifically designated for deposit into the wetland bank.
28 This notification may be part of the documentation
29 requested in item H. In cases where excess wetland acreage
30 is expected to result from a specific replacement plan
31 according to parts 8420.0530 to 8420.0550, the owner must
32 indicate on the replacement plan that the excess acreage is
33 to be considered available for wetland banking.

34
35 H. In cases where a wetland is proposed to be
36 restored or created solely for wetland banking purposes,
37 that is, the wetland is not part of a project-specific
38 wetland replacement plan, the depositor must submit to the

1 local government unit a bank plan containing the
2 information required in part 8420.0530, items A and D.

3
4 A copy of the bank plan shall be mailed to members of
5 the technical evaluation panel, members of the public who
6 have requested a copy, and members of the watershed
7 district or watershed management organization if there is
8 one. Based on input from the technical evaluation panel
9 and other comments received, the local government unit must
10 determine the likelihood that the restoration or creation
11 will be successful and, if affirmative, approve the plan
12 and advise the depositor of the wetland banking credits
13 likely to be accepted into the wetland bank. Approval of
14 the plan shall be considered official acknowledgment that
15 the wetland is designated for replacement.

16
17 I. In cases where a wetland is to be restored or
18 created by an agency, department, or subdivision of the
19 local government unit for deposit into the wetland bank,
20 the local government unit must prepare the information
21 required in part 8420.0530, items A and D, and notice this
22 information according to item H.

23
24 J. The proposed wetland must be restored or created
25 within two years of approval or the bank plan must be
26 resubmitted for consideration. Upon approval, the
27 depositor shall restore or create the wetland and notify
28 the local government unit when construction has been
29 completed. The technical evaluation panel shall inspect
30 the site when construction is completed to ensure that
31 construction specifications have been followed. Failure to
32 follow approved construction specifications is sufficient
33 grounds for the local government unit to deny consideration
34 of the wetland for banking.

35
36 K. No sooner than six months after construction has
37 been completed and approved for restored wetlands, and no
38 sooner than one year after construction has been completed
39 and approved for created wetlands, the depositor shall

1 contact the local government unit to request a final
2 determination of wetland bank acceptability and approved
3 quantities of wetland banking credits for deposit. The
4 technical evaluation panel shall ensure that sufficient
5 time has been allowed for the wetland to become
6 established, especially vegetation and hydrology, before
7 making this determination. If the technical evaluation
8 panel has reason to believe that the wetland
9 characteristics may change substantially, the panel must
10 postpone its recommendation to the local government unit
11 until the wetland has stabilized.

12
13 Based on a site visit, the technical evaluation panel
14 will determine the size and type of wetland as well as
15 topographic setting characteristics and, if applicable, the
16 new wetland credits and public value credits resulting from
17 the to be deposited wetland. The technical evaluation
18 panel will provide the information to the local government
19 unit.

20
21 L. The local government unit shall notify the
22 depositor of its findings as to the suitability of the
23 wetland and approved wetland banking credits. If the
24 depositor chooses to proceed with a deposit into the bank,
25 the depositor must record the notice specified in part
26 8420.0530, item D, subitem (6), and submit proof of the
27 recording to the local government unit for the wetlands to
28 be deposited. If the depositor chooses not to proceed with
29 the deposit, the depositor may return the wetland to its
30 preconstruction condition without replacement within five
31 years. At any time within the five-year period, the
32 depositor may request certification for deposit into the
33 bank or may amend the bank plan and submit the plan to the
34 local government unit for approval and subsequent
35 certification. After five years, any activity in the
36 wetland is subject to this chapter.

37
38 M. To be deposited into the bank, the following
39 information concerning the wetland must be submitted to the

board by the local government unit in which the wetland is located:

(1) name, address, and telephone number of the depositor;

(2) location of the wetland, including legal description, public land survey coordinates, county, and watershed;

(3) a copy of the deed for the property containing the wetland with the required covenant recorded;

(4) size of the wetland acreage to be deposited, to the 0.1 acre, by wetland type and topographic setting characteristics and, if applicable, the new wetland credits and public value credits; and

(5) certification that the wetland is approved for deposit into the bank.

N. The board shall acknowledge the deposit to the depositor and local government unit and officially enter the information in item M into the wetland bank. Information on deposited wetlands shall be available from the board on request according to subpart 2, item D.

O. Wetlands deposited into the wetland bank, on which withdrawals have occurred, are subject to replacement for any subsequent drainage or filling.

P. Wetlands deposited into the wetland bank are subject to the monitoring provisions in part 8420.0750.

Subp. 2. Withdrawals.

A. Before consideration of use of the wetland bank, applicants must satisfy the requirements of part 8420.0520. It must be clearly demonstrated that the applicant has made

1 a good faith effort to avoid, minimize, rectify, or reduce
2 or eliminate over time the impact on the wetland, and that
3 no feasible and prudent alternative to the impact exists.
4 The local government unit must certify that the project
5 would otherwise be allowed if adequate replacement could be
6 secured by the applicant and that the applicant has made a
7 good faith effort to do so and has not succeeded in
8 locating a site.

9
10 B. The use of the wetland bank is allowed.

11
12 C. When using the wetland bank to replace drained
13 or filled wetlands, the replacement must comply with part
14 8420.0540.

15
16 D. The board, on request, will provide the
17 following information to persons making inquiries
18 concerning available wetland bank deposits with a local
19 government unit jurisdiction, county, or watershed:

20
21 (1) account holder: name, address, and telephone
22 number;

23
24 (2) available wetlands: wetland acres by type and
25 topographic setting characteristics, and, if applicable,
26 the new wetland credits and public value credits;

27
28 (3) location: section, township, range, county,
29 and watershed.

30
31 E. The applicant may then contact, negotiate, and
32 purchase the required wetland banking credits from the
33 account holder. When the account holder and applicant come
34 to agreement, the applicant will provide requested
35 information on a notarized wetland banking credit
36 withdrawal form developed by the board, and include the
37 wetland banking credit withdrawal form as part of the
38 wetland replacement plan transmitted to the local
39 government unit. The wetland banking credit withdrawal

1 form will include information indicating the wetland type
2 by acres for withdrawal, location of banked wetland, and
3 the topographic setting characteristics and, if applicable,
4 the new wetland credits and public value credits of the
5 banked wetland.

6
7 F. The local government unit must circulate the
8 applicant's wetland replacement plan and the wetland
9 banking credit withdrawal form to identify specific wetland
10 banking credits as the applicable replacement wetland,
11 using the public comment and review process in part
12 8420.0230 and to the local government unit whose
13 jurisdiction covers the location of the wetland banking
14 credits. The local government unit must contact the board
15 to verify that replacement credits indicated on the wetland
16 banking credit withdrawal form are available before final
17 approval of wetland bank withdrawals.

18
19 G. On approval of the applicant's wetland
20 replacement plan using wetland banking credits as wetland
21 replacement, the local government unit shall notify the
22 board to debit the appropriate banked wetland by type and
23 acreage. The board will complete the accounting
24 transactions and send a notice of wetland banking credit
25 withdrawal to the account holder and the applicant.

26
27 H. The applicant shall not be allowed to begin
28 proposed drain or fill activities until the local
29 government unit formally approves the wetland replacement
30 plan using the acknowledged wetland banking credits as
31 replacement and the applicant has received notice of
32 withdrawal of the wetland banking credits from the board or
33 local government unit.

34
35 I. An individual, corporation, local government
36 unit, or other organization may buy and hold wetland
37 banking credits from account holders in the bank for later
38 use or resale. Transfer of wetland banking credits must be
39 accomplished through use of a board wetland banking credit

1 transfer form, and must be maintained in an account in the
2 state wetland banking system. An account will be
3 established for the individual or organization on
4 presentation to the board of a wetland banking credit
5 transfer form, and required organization information. The
6 board will notify both account holders on transfer of the
7 wetland banking credits. An account transfer must be
8 accompanied by transfer of the fee title or easement. A
9 wetland banking credit for a wetland may not be split
10 between accounts. Wetland banking credits may also be
11 transferred between banks approved by the board.
12

13 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242
14

15 HIST: 18 SR 274; 22 SR 1877
16 Current as of 04/24/00
17

18 8420.0750 AUDITING AND MONITORING.
19

20 Subpart 1. Annual report and audit.
21

22 A. The board will develop wetland bank deposit,
23 withdrawal, and credit transfer and withdrawal forms and
24 distribute them to local government units indicating a
25 desire to certify restored wetland banking credits for
26 deposit in the wetland bank.
27

28 B. The wetland bank data file maintained by the
29 board will contain at least the following information:
30

31 (1) wetland acres by type, topographic setting
32 characteristics, restoration or creation date, and bank
33 acceptance date, fee owner, location by (public land survey
34 coordinates, local government unit, county, and watershed
35 of the banked wetland); and
36

37 (2) previous withdrawals against each banked
38 wetland by impact wetland (wetland acres by type,
39 topographic setting characteristics, and, if applicable,

1 the new wetland credits and public value credits, date of
2 wetland impact), ownership (fee owner, address, telephone
3 number) and location (public land survey coordinates, local
4 government unit, county, and watershed of the impacted
5 wetland).

6
7 C. The board may periodically inspect wetland bank
8 records and correspondence maintained by a local government
9 unit to determine compliance with this par.

10
11 D. An annual wetland bank report shall be prepared
12 and distributed by the board to applicable local government
13 units, soil and water conservation districts, watershed
14 districts, watershed management organizations, the
15 departments of natural resources and agriculture, and on
16 request.

17
18 Subp. 2. Monitoring.

19
20 A. After the wetland is entered into the bank, the
21 local government unit responsible for monitoring under part
22 8420.0230 and the account holder shall continue monitoring
23 according to parts 8420.0600 to 8420.0630. The account
24 holder is responsible for the success of the wetland until
25 completion of monitoring, even after all the credit has
26 been withdrawn.

27
28 B. The board shall inspect wetlands deposited into
29 the wetland bank at least once each five years to ensure
30 that the wetlands conform to conditions specified in the
31 approved bank plan, and to make a determination of needed
32 corrective action.

33
34 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

35
36 HIST: 18 SR 274; 22 SR 1877
37 Current as of 04/24/00

38
39 8420.0760 ENFORCEMENT AND CORRECTIVE ACTIONS.

1
2 A. Enforcement of parts 8420.0700 to 8420.0750 is
3 governed by part 8420.0290 and Minnesota Statutes, section
4 103G.2372.

5
6 B. If, on inspection, the board determines that
7 wetlands deposited in the wetland bank are not in
8 compliance with this chapter, the board must prescribe
9 corrective measures to the local government unit to bring
10 the wetland into compliance.

11
12 C. If satisfactory remediation does not result, the
13 board may refuse future wetland bank certifications by the
14 local government unit and require all wetland replacements
15 to be on a project-specific basis.

16
17 D. If a local government unit determines that a
18 banked wetland does not substantially meet the
19 specifications in the approved bank plan, the local
20 government unit must notify the board, and the board shall
21 restrict further withdrawals from the account until the
22 local government unit notifies the board that the wetland
23 has been brought into compliance. The board may also
24 restrict withdrawals when a local government unit is the
25 account holder and the board determines that a banked
26 wetland does not substantially meet the specifications in
27 the approved bank plan.

28
29 E. The local government unit or the board can
30 undertake reconstruction work and require reimbursement of
31 reasonable costs from the fee title owner or easement or
32 license holder.

33
34 STAT AUTH: MS s 14.06; 103B.101; 103B.3355

35
36 HIST: 18 SR 274
37 Current as of 04/24/00

38
39 8420.1010 PURPOSE.

1
2 The purpose of parts 8420.1010 to 8420.1060 is to
3 provide minimum standards and criteria for the
4 identification, protection, and management of calcareous
5 fens as authorized by Minnesota Statutes, section 103G.223.
6 Calcareous fens may not be drained or filled or otherwise
7 altered or degraded except as provided for in a management
8 plan approved by the commissioner.

9
10 Part 8420.0122 does not apply to calcareous fens.

11
12 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242

13
14 HIST: 18 SR 274; 22 SR 1877
15 Current as of 04/24/00

16
17 8420.1020 IDENTIFYING CALCAREOUS FENS.

18
19 A calcareous fen is a peat-accumulating wetland
20 dominated by distinct groundwater inflows having specific
21 chemical characteristics. The water is characterized as
22 circumneutral to alkaline, with high concentrations of
23 calcium and low dissolved oxygen content. The chemistry
24 provides an environment for specific and often rare
25 hydrophytic plants.

26
27 STAT AUTH: MS s.14.06; 103B.101; 103B.3355

28
29 HIST: 18 SR 274
30 Current as of 04/24/00

31
32 8420.1030 PROCEDURES TO LIST CALCAREOUS FENS.

33
34 A. The commissioner shall investigate wetlands to
35 determine if the wetland is properly identified as a
36 calcareous fen.

37
38 B. The commissioner shall maintain a current list
39 of known calcareous fens in the state and their location.

1
2 C. The commissioner shall provide an updated list
3 of calcareous fens to the board for further distribution.
4

5 STAT AUTH: MS s 14.06; 103B.101; 103B.3355
6

7 HIST: 18 SR 274
8 Current as of 04/24/00
9

10 8420.1040 MANAGEMENT PLANS.
11

12 Calcareous fens may not be drained or filled or
13 otherwise altered or degraded except as provided for in a
14 management plan approved by the commissioner. The
15 commissioner will provide technical assistance to
16 landowners or project sponsors in the development of
17 management plans.
18

19 STAT AUTH: MS s 14.06; 103B.101; 103B.3355; 103G.2242
20

21 HIST: 18 SR 274; 22 SR 1877
22 Current as of 04/24/00
23

24 8420.1050 RESTORATION.
25

26 The commissioner may approve management plans to
27 restore or upgrade a previously damaged calcareous fen.
28

29 STAT AUTH: MS s 14.06; 103B.101; 103B.3355
30

31 HIST: 18 SR 274
32 Current as of 04/24/00
33

34 8420.1060 APPEALS.
35

36 A. A landowner or project proposer may challenge
37 the commissioner's determination that a wetland is a
38 calcareous fen or the commissioner's calcareous fen
39 management plan by demanding a hearing. The hearing will

1 be carried out in the same manner as water permit hearings
2 under Minnesota Statutes, chapter 103G.

COMMENTS

3
4 B. The hearing must be demanded within 30 days
5 after mailed notice of the commissioner's decision to the
6 project proposer, otherwise the decision becomes final and
7 may not be challenged by the project proposer.

8
9 C. Appeal of the commissioner's decision after the
10 hearing must be done in the manner provided for appeals
11 from contested case decisions in Minnesota Statutes,
12 chapter 14.

13
14 STAT AUTH: MS s 14.06; 103B.101; 103B.3355

15
16 HIST: 18 SR 274

17 Current as of 04/24/00

18
19 8420.1070. ENFORCEMENT PROCEDURES

20
21 Enforcement procedures shall be conducted consistent
22 with the provisions of part 8420.0290.

Clarifies that same
enforcement
procedures used as
for other wetlands.

Old Business

1. Limited Duration of Easements for
CREP
DECISION

June 16, 2000

TO: Board Members

FR: Tim Fredbo, Easement Program Manager

RE: Limited Duration Easements for CREP
- Strategy for policy adopted June 23, 1999

ISSUE

The Board adopted a policy for funding limited duration easements under CREP last June (a copy of the June 23, 1999 Board meeting minutes with the adopted policy is attached). The 2000 Legislature has made it clear throughout our capital budget request process that their intent is for the conservation easement programs to make perpetual easements for CREP a funding priority.

BACKGROUND

When the policy was adopted it was our intent to begin funding limited duration easement applications beginning on July 1, 2000 on a non-competitive basis as long as we had concurrence from the Legislature. It has been clear that legislative intent throughout the 2000 session has been that priority be given to perpetual easements.

When the BWSR adopted the limited duration easement payment rate policy it created the expectation that we would begin funding limited duration applications on July 1, 2000 when money from the 2000 appropriation would become available. At that time, the BWSR envisioned a far greater appropriation than was ultimately received. The USDA Farm Service Agency, and some landowners and some farm groups are clearly counting on the BWSR to fund some limited duration CREP easement applications. We currently have 8 limited duration CREP applications on 226 acres that are pending (\$26,000.00). These landowners and their respective SWCDs have been operating under the assumption that they would be funded once the 2000 appropriation became available.

Many SWCDs have routinely been presenting limited duration options to interested landowners. The fact that we only have 8 applications currently on the books tells me that limited options are not now, and will likely not become, that popular.

STAFF RECOMMENDATION

Option 1:

Fund the 8 applications we already have on the books. This is only fair to the landowners and SWCDs involved who were operating under the assumption that they would be funded come July 1. **Recommended option.**

Option 2:

Do not fund the 8 applications at this time. Wait until the next review and assessment by the RIM/CREP Advisory Committee. This will be in December or January. Refer to the following proposed policy.

POLICY RECOMMENDATION

No matter what is decided concerning the 8 limited duration applications we have already received, from this point forward I propose the BWSR operate under the following policy:

Limited duration easement applications received will be evaluated at a meeting of the RIM/CREP Advisory Committee on a semi-annual basis. Decisions to fund will be based on overall application numbers (both limited and perpetual) and whether or not we're on pace towards our 100,000 acre CREP enrollment goals.

This will help make it clear that in light of our less than ideal bond appropriation, and the legislative priority for perpetual easements, that limited duration CREP easements applications cannot be funded on the same non-competitive basis that perpetual applications currently are.

reported that MES has scheduled two tours to look at water treatment sites. The first site tour is July 20 in Apple Valley, and the second site tour is July 29 in Lino Lakes. A demonstration of drainage practices will be held August 10-11-12 at the Southern Service Research Center in Waseca. Jim reported that the Global Conference on Agriculture will be held at the St. Paul Campus the week of July 12-13-14.

Mark Dittrich, Department of Agriculture, reported that Farmfest will be held in July.

Wayne Edgerton, Department of Natural Resources (DNR) reported that Commissioner Garber is sending a letter of support to Washington, D.C. regarding the CRP federal program. Wayne announced that DNR will have a River Friendly Farmer Program display in the DNR building at the State Fair this year. Wayne invited board members to attend the DNR dairy farm at Nerstrand State Park. Tours of the rotational grazing farm will be conducted on August ~~27-28~~.

20-21.

Committee Recommendations

**
99-35 Cook County Water Plan - Ginny Imholte reported that the adhoc committee reviewed the Cook County Water Plan and recommends approval. Moved by Ginny Imholte, seconded by Paul Krabbenhoft, to approve the Cook County Water Plan. Wayne Edgerton reported that DNR is in support of the plan. Motion passed on a voice vote.

New Business

Minnesota River Watershed Conservation Reserve Enhancement Program (CREP) Conservation Easement Options and Payment Rates - Kevin Lines updated the board on CREP activities and accomplishments during the past three years. Kevin's last working day for BWSR, in partnership with DNR, will be tomorrow. Staff proposes BWSR concurrence and approval to enroll eligible lands under the following conservation easement options and payment rates for the Minnesota River Watershed CREP.

Option 1: CREP Permanent Conservation Easement

Option 2: CREP 35 Year Conservation Easement (15 year CRP enrollment + 35 year RIM Reserve Conservation Easement = 50 years total enrollment)

Method: CREP Permanent easement payment (option 1) x 75% = 35 year Conservation payment rate

Example: \$600/acre x 75% = \$450/acre

Option 3: CREP 20 Year Conservation Easement (15 year CRP enrollment + 20 year RIM Reserve Conservation Easement = 35 years total enrollment)

Method: CREP Permanent easement payment (option 1) x 50% = 20 year Conservation Easement payment rate

Example: \$600/acre x 50% = \$300/acre

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Option 4: Marginal Pastureland for CREP 15 year CRP enrollment + 35 year RIM Reserve Conservation Easement = 50 years total enrollment
Method: CREP Permanent easement payment rate (option 1) x 25% = 35 year marginal pasture conservation easement payment rate
Example: \$600/acre x 25% = \$150/acre

Option 2 and Option 3 beginning July 1, 2000 with legislative concurrence; and Option 4 beginning July 1, 1999.

Discussion followed. Option 4 effective date would be July 1, 1999. Kevin acknowledged Greg Larson's and Ron Harnack's efforts and the support of DNR, PCA and Agriculture on the CREP/RIM program. Kevin also acknowledged board conservationists Tom Fischer, Peter Waller, Chris Hughes, Dave Peterson, David Sill and Tabor Hoek for their efforts in administering the CREP. Kevin stated that Minnesota can achieve the 100,000 acres if fully funded, this is a great program. Moved by Allan Oehlke, seconded by Glenn Annexstad, to approve the four options for CREP. Motion passed on a voice vote. Ron stated that Kevin has been an asset to CREP, this has been a great joint cooperative effort with DNR.

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99-36

Ron thanked Kevin for all his commitment and motivation to securing approval of CREP and in getting the program up and operational. He also thanked DNR for allowing Kevin the mobility assignment to work on CREP.

Chair Roer called for a break at 10:30 a.m. The meeting reconvened at 10:40 a.m.

Sunrise Watershed District Establishment Petition - Ron Harnack reported that staff have reviewed the establishment petition and requests the Board order the hearing for the establishment of the Sunrise Watershed District. Moved by Allan Oehlke, seconded by Jerome Deal, to order an establishment hearing for the Sunrise Watershed District in Anoka County. Motion passed on a voice vote.

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99-37

Doug Thomas reported that LCMR approved the BWSR work plan which included funding projects through the FY00 local water planning challenge grants, which the Board took action on at the May meeting.

Administrative Guidelines for Watershed Plan Content in the Red River Basin - Doug Thomas briefly summarized the administrative guidelines for watershed plan content in the Red River Basin and recommends adoption by the board. The guidelines have been reviewed and endorsed by the mediation group. Moved by Jerome Deal, seconded by Ginny Imholte, to approve the administrative guidelines for third generation watershed districts focused on Wild Rice, Roseau and Boise de Sioux watershed districts as high priority. Motion passed on a voice vote.

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99-38

New Business

1. FY01 SWCD Grant Allocations
DECISION

PROPOSED FY 01 SOIL and WATER CONSERVATION DISTRICT GRANTS

At the June 2000 Board Meeting, Members are requested to approve FY 01 Soil and Water Conservation District Grants for six BWSR grant programs. These grant programs are:

- A) Regular Statewide Cost Share Base Grants
- B) Special Projects
- C) Special MN River Basin
- D) Feedlot Water Quality Management Grants
- E) General Services
- F) RIM Reserve Services

A brief summary of each of these programs follows with highlights and topics of concern for this year.

A) Regular Statewide Cost Share Base Grants - \$1,899,188 - These base grants are for the installation of conservation practices. These grants have been allocated using a complex formula involving factors relating to physical conditions in the SWCD. These conditions include critical sedimentation, high priority feedlots within shoreland areas, and AG erosion needs. FY 01 Regular Statewide Cost Share Base Grant funding recommendations are listed on the enclosed spreadsheet.

B) Special Projects - \$400,000 - This Program is a provision of established FY 01 State Cost Share Policy. These grants are to address erosion, sediment control, or water quality protection or improvement measures. Innovative and unique projects are given highest priority. Applications are competitive and are accepted annually from SWCDs. Thirty-six of the highest ranking applications were considered for funding. These applications were reviewed by their Board Conservationist and the BWSR Grants Team. A brief synopsis of these and funding recommendations are included in the Board Packet. This recommendation reserves \$20,000 for pilot rock inlet projects.

C) Special Minnesota River Basin Grants - \$571,000 - This annual grant is to be used in the Minnesota River Basin for the accelerated application of water quality improvement practices. This \$500,000 grant Program includes \$71,000 of roll-over funds. Applications are competitive and may be received from single SWCDs or SWCD groups. The BWSR administers these grants via the State Cost Share Program. Thirteen applications were received requesting \$1,320,750. FY 01 application and funding recommendation summaries are attached.

D) Feedlot Water Quality Management Grant - \$1,348,558 - One hundred four applications were received requesting \$3,187,415. Grant funds must be used for waste management systems for small feedlots (less than 500 animal units) to benefit water quality. Grant funds may not be used for new or expansion feedlot projects. The State Cost Share Program is used to administer and implement this Program. The 2000 Minnesota legislature deleted the funding priorities for "Feedlot operators who have received a notice of violation" and "Feedlots in counties that are conducting or have completed a level 2 or level 3 feedlot inventory". However, the Cost Share Committee felt that these two funding priorities still have some merit and retained them as funding priorities #4 and #5, respectively.

Thus, funding priorities for this Program are ranked as follows:

Priority

- 1 Feedlot operations where FLEVAL indicates a high pollution potential
- 2 Feedlots in riparian locations
- 3 Practices that *will* be applied in calendar year 2000
- 4 Feedlot operators who have received a notice of violation
- 5 Feedlots in counties that are conducting or have completed a level 2 or level 3 feedlot inventory

SWCDs may request an amount for their technical and administrative costs up to ten % of individual project funds requested. Application reviews and funding recommendations are made by the BWSR Grants Team. The G - Team also recommends that for FY 02 allocations, funding priorities 1 and 2 should be reversed, as riparian feedlots are a higher resource concern than high FLEVAL ratings.

These FY 01 proposed grants are listed on the enclosed spreadsheet.

E) General Services Grant - \$1,984,764 - This base grant is for expenditures necessary to the operations of the district. It is noncompetitive. These FY 01 proposed grants are listed on the enclosed spreadsheet.

F) RIM Reserve Service Grant - \$748,738 - This grant is allocated to SWCDs as compensation for local delivery of the RIM Reserve Program and the conveyance of easements. The grant amount is calculated by a Board approved formula and reflects the amount of RIM Reserve activity in the SWCD. These FY 01 proposed grants are listed on the enclosed spreadsheet.

FY 01 SPECIAL PROJECT APPLICATIONS

SWCD	PROJECT	PURPOSE	FUNDING REQUESTED	FUNDING RECOMM.
Blue Earth	City of St. Clair Streambank Protection Reduce Sediment,	By stabilizing the bank, this will protect the landowners from losing their houses and garages. Along with protecting the landowners, it will help reduce sedimentation in the LeSueur River.	\$47,000	\$47,000
Blue Earth	Twp. Road 131 Erosion Control Structure	To stop the eroding of soil from the road ditch and hillside and to provide safety to road users as the embankment drops rapidly hundreds of feet to the edge of the Watonwan River. The erosion has threatened the township road and also the public utilities running along the road.	\$16,500	\$16,500
Carlton	Clear Creek Protection Project	To reduce nutrient and sediment loading to Clear Creek. To stabilize hoof erosion along the banks. To eliminate gully and rill erosion adjacent to the creek. To provide water-cooling shade to the creek and wildlife habitat.	\$2,550	\$0
Cass	Southwest Winnie Bioengineered Erosion Control Project	(a) To prevent erosion by establishing bioengineered toe slope protection and vegetative cover. (b) Eliminate sedimentation deliver to Lake Winnibigoshish. (c) Protect structures and banks on 12 leased properties.	\$18,000	\$0
Clearwater	Clearwater River Channel and Floodplain Stabilization Project - Greenwood 27	There are three purposes: Stabilization of 3,500' of channel bottom; Stabilization of three major streambank erosion sites through shaping, structural installations, and bioengineering, and; Floodplain Stabilization through bank armoring, grade stabilization, and floodplain subwatershed treatment.	\$40,000	\$25,000
Dakota	Low Impact Development Industrial-Park Retrofits for Trout Stream Protection	This project is part of a much larger Low Impact Development (LID) initiative to encourage incorporation of innovative urban stormwater management practices in new and existing developments. The purpose of the project is to retrofit LID stormwater management practices into an existing industrial park adjacent to the South Branch of the Vermillion River.	\$40,000	\$0
Dakota	Vermillion Buffer Initiative	The purpose of this project is to promote the establishment of ecologically viable riparian buffers along the Vermillion River. The Vermillion Buffer Initiative will complement efforts by the Friends of the Mississippi River, Dakota SWCD, DNR and others.	\$10,000	\$10,000
Dakota	Chub Lake Water Quality Improvement Project	The purpose of the project is to reduce the amount of sediment entering Chub Lake by reducing the runoff velocity and stabilizing the soils associated with concentrated flow along a road right-of-way.	\$40,000	\$0
Dodge	Streambank Restoration; Bryon Sportsman's Club	Demonstrate the use of bioengineering techniques to stabilize 300 feet of stream bank and create deep pools for improved small mouth bass habitat in a mid-sized southeastern MN stream.	\$18,100	\$18,100
Douglas	Alexandria Stormwater Control Basin	Treat the storm water before it enters Lake Henry, and to improve the water quality that leaves the city lakes and enters in the Douglas County chain of lakes.	\$40,000	\$0

FY 01 SPECIAL PROJECT APPLICATIONS

SWCD	PROJECT	PURPOSE	FUNDING REQUESTED	FUNDING RECOMM.
Goodhue	Bitter Creek Structure	To construct a runoff control structure on a 143 acre sub-watershed of Bitter Creek. This will fix an eroding gully, and reduce runoff from 4.9" (25 year frequency) rain from 170 cfs to 25 cfs.	\$14,250	\$14,250
Hennepin	Bassett Creek Streambank Stabilization and Restoration	The project will restore an eroded shoreline along the south bank of Bassett Creek located at the historic Glenwood Falls, including a 50-foot section of severely eroded shoreline resulting from a failed spillway. Partners include the MN Chapter of the American Society of Landscape Architects, Bassett Creek WMO, Bryn Mawr Neighborhood Group, City of Minneapolis Public Works, and Minneapolis Park and Recreation Board.	\$40,000	\$40,000
Hennepin	Elm Creek Mississippi River Streambank Stabilization - Phase 2	Special Project CS funded Phase 1 last year and protected 500 linear feet of stream bank from the confluence toward the dam. Phase 2 will complete the restoration from the Mill Pond dam by protecting the wing walls, spillway, and streambank. The area is located in a park and HCD macroinvertebrates monitoring site.	\$30,000	\$30,000
Kanabec & Pine	Shoreland Erosion and Sedimentation Control in Snake River Watershed	The purpose of the projects are to control and minimize the amount of erosion, sediment, and phosphorus loading into the receiving surface water bodies involved at each particular site.	\$40,000	\$0
Koochiching	City of Ranier - Seven Oaks Park - Shoreline Protection	Protect water quality and fisheries resources by reducing/eliminating erosion and sedimentation. Preserve this shoreline from further degradation in order to encourage continued public use and enjoyment of this site.	\$10,140	\$8,750
Lac Qui Parle	MN Riverbank Stabilization CSAH #18	The proposed scope of riverbank erosion control on this highway right-of-way will prevent soil loss and stabilize the riverbank. Preventing further erosion of the highway right-of-way will protect public safety.	\$27,400	\$0
Lake of the Woods	Dunnell Lakeshore Protection Project	The project will eliminate soil erosion at the site, reduce the amount of sedimentation and phosphorous entering Lake of the Woods, protect fish spawning habitat, and protect lakeshore property and neighboring landowners from erosion.	\$6,975	\$0
Lincoln	Medary Creek Protection (Continuation)	The construction of these Water and Sediment Control Basins will control the extreme gully erosion, thus, eliminating tons of sedimentation and protecting the overall water quality entering Medary Creek and then the Missouri River.	\$11,775	\$11,775
Lyon	Stabilization of River Bank; Yellow Medicine River	Streambank stabilization of a section of the Yellow Medicine River as it passes through the city of Minneota. Existing stabilization method of concrete retaining wall is failing and needs to be replaced.	\$40,000	\$0
McLeod	Streambank Stabilization	Protect the township road from the river. We will protect 405 feet of river bank. Approximately 40 tons of soil will be saved. (This is a well traveled township road being threatened by the river.	\$13,250	\$0

FY 01 SPECIAL PROJECT APPLICATIONS

SWCD	PROJECT	PURPOSE	FUNDING REQUESTED	FUNDING RECOMM.
McLeod	Streambank Stabilization	Protect the township from the creek. In years to come, the creek will endanger the road. We will protect 225 ft. of creek bank. Approximately 56 tons of soil will be saved.	\$24,750	\$0
Morrison	Two Rivers and Pike Creek feedlot and pasture impact reduction project.	Our goal is to reduce the size of the feedlots and pastures along the river by fencing out all livestock and creating vegetated buffer strips to reduce the degradation of Two Rivers and Pike Creek. This is a proven cost efficient manner of improving water quality and reducing pollution.	\$30,000	\$20,000
Murray	Currant Lake Shoreline Stabilization	This project aims to alleviate severe erosion conditions present along the western shore of Currant Lake. Historically, high lake water levels this decade, compounded by an improperly constructed spillway have resulted in very steep banks, thus, allowing continued shoreline and water quality degradation.	\$29,525	\$29,525
Pennington	Rondorf-Chapman Group	The desired outcome of this project is to protect water quality and safety of the landowners. Reducing the grade of the ditch will flatten the side slopes, decreasing the weight placed on the critical point with saturated soils. A rock chute will be placed near the end of the channel to convey water down approximately 15 feet in elevation.	\$30,000	\$20,000
Pine	Island Lake-Pine County	To stop the erosion of an active gully, improve the public safety of the immediate neighborhood, and eliminate a major source of sediment loading that has negative impacts on Island Lake's fishery.	\$18,750	\$18,750
Rice	Ron Kes Streambank Stabilization	The purpose of the project is to stabilize approximately 190 feet of Spring Brook by using a combination of rip rap and bioengineering techniques. Desired outcomes include preventing further soil loss and improving trout/wildlife habitat.	\$11,600	\$11,600
Scott	Dan Walcome Streambank Stabilization Project	The purpose of the project is to eliminate an actively eroding streambank site along the Credit River. Expected outcomes include elimination of sedimentation, protection of property, and as a demonstration site.	\$18,000	\$18,000
Scott	City of Jordan Streambank Stabilization Project	The purpose of the project is to eliminate an actively eroding streambank site along the Sand Creek. Expected outcomes include elimination of sedimentation, protection of property and as a demonstration site.	\$40,000	\$0
Sibley	Crow River Blind Intake Projects	Replace open tile inlets with blind intakes in the Buffalo Creek Watershed of the Crow River, reduce sedimentation, and to promote and increase the awareness of drainage issues, possible solutions and how sedimentation affects surface water quality through educational efforts.	\$5,000	\$0
So. St. Louis	Island Lake Shoreline Erosion Stabilization Demonstration Project	The purpose of this project is to install two quality shoreline stabilization projects and use the outcomes as demonstrations and examples for other Island lake landowners.	\$20,000	\$15,000

FY 01 SPECIAL PROJECT APPLICATIONS

SWCD	PROJECT	PURPOSE	FUNDING REQUESTED	FUNDING RECOMM.
Todd	Ag Waste Management System	The purpose of this project is to install a manure management system with a year's storage, which incorporates a nutrient management plan that will allow the producer to apply the livestock waste at the proper time to utilize the nutrients at agronomic rates.	\$40,000	\$10,000
Traverse	Sedimentation Reduction on Lake Travers (#1)	The project's purposes are to reduce sediment loading, improve and protect the water quality, and improve fish habitat of the lake, and also prevent further degradation of the shores of Lake Traverse.	\$27,500	\$0
Wadena	Wadena County Parks "Tree Farm Landing" Campsite Erosion Control Project	If completed, this project will stabilize and revegetate an excessively eroding 100' of very high streambank, where this spring alone, 3' of bank has already been lost, delivering 4,500 tons of soil directly to the Crow Wing River.	\$4,500	\$4,500
West Polk	Dufault Erosion Control Structure	Install a grade stabilization structure to control concentrated flow of runoff and prevent further damage to cropland, benefit water quality, and reduce excessive sediment from entering a creek and the Red Lake River.	\$11,250	\$11,250
Yellow Medicine	Blind Intake Cost Share Program	Improve water quality in new or existing subsurface drainage by installing blind intakes. Blind intakes will be installed in place of existing open tile intakes. The blind intakes will filter and reduce soil sediments that are presently flowing down the existing tile lines and directly into the rivers and streams. Reducing or eliminating sediment will directly improve the water quality in our country.	\$18,750	\$0
Yellow Medicine	Twp. Board-Yellow Med. Streambank Protection	Correct streambank erosion by stabilizing side slopes of channel with rock riprap and vegetative cover where needed.	\$27,430	\$0
TOTALS			\$862,995	\$380,000

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SPECIAL MINNESOTA RIVER BASIN COST SHARE - FY2001

FY2001 \$ 500,000 (up to 20% for Tech/Admin)
 Roll-over \$ 71,000 (No Tech/Admin allowed)
 Total \$ 571,000

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SWCD/LGU	PROJECT TITLE & INFORMATION	PROJECT COST	REQUEST Practice Tech/Admin	RECOMMEND Practice Tech/Admin	Comments
BERBI...Blue Earth River Basin Initiative (multiple SWCDs)	"Accelerated Implementation of Conservation Practices" ...reduce amounts of sediment and nutrient getting into the greater Blue Earth River system.	184,574,207	240,000 <u>60,000</u> 300,000	80,000 <u>20,000</u> 100,000	Continuation of project begun in FY94. Have received \$1,397,765 for FY94-FY00. As of 12/99: 136 projects done, 39 to do.
Chippewa, Swift, Douglas, and Pope SWCDs	"Chippewa River Watershed"...improve water quality by encouraging landowners to increase installation of conservation practices to address sediment and nutrient loading.	750,000	80,000 <u>20,000</u> 100,000	56,000 <u>14,000</u> 70,000	Continuation of project begun in FY97. Have received \$303,000 for FY97-FY99. As of 4/99: 18 projects done, 16 to do.
Lac qui Parle and Yellow Medicine SWCDs	"Lac Qui Parle River Sub-basin Project"...reduce the amounts of sediments and nutrients entering ditches, streams and LQP River through promotion and implementation of BMPs with emphasis on upland treatment.	179,000	107,400 <u>26,850</u> 134,250	48,000 <u>12,000</u> 60,000	Continuation of project begun in FY97. Have received \$340,000 for FY97-FY00. As of 3/00: 34 projects done, 6 to do.
LeSueur SWCD	"Ag Best Management Practices"...reduce sediment transport from cropland in the MN River Watershed areas of the county; to replace the \$200,000+ federal cost-share no longer available to the county.	150,000	92,000 <u>18,000</u> 110,000	85,700 <u>12,800</u> 98,500	Continuation of project started in FY99. Have received \$185,000 for FY99-FY00. As of 5/99: 39 done, 10 to do.
Lincoln SWCD	"Lake Hendricks / Lac qui Parle Watershed Project"...continue working downstream in the upper reaches of the lake watershed, implementing BMPs to reduce sedimentation, pollutants and peak flows entering ditches.	100,000	60,000 <u>15,000</u> 75,000	32,000 <u>8,000</u> 40,000	Continuation of project begun in FY98. Have received \$100,000 for FY98 & FY00. As of 4/00: 10 projects done, 2 to do.
SWCDs in the Cottonwood River Watershed	"Cottonwood River Watershed Project"...achieve the highest water quality attainable by the adoption of BMPs on sensitive areas to address high concentrations of total suspended solids, phosphorous, nitrates and bacteria affecting the river.		255,000 <u>45,000</u> 300,000	85,000 <u>15,000</u> 100,000	Continuation of project begun in FY00. Have received \$80,000 in FY00. As of 4/00: 17 projects done, 13 to do.
SWCDs in the Redwood River Watershed	"Redwood River Watershed Project"...address the amounts of sedimentation and nutrients carried down the river to Lake Rewood and MN River through the application of BMPs on agricultural land.		120,000 <u>20,000</u> 140,000	43,000 <u>7,000</u> 50,000	Continuation of project begun in FY94. Have received \$909,287 for FY94-FY00. As of 3/00: 85 projects done, 18 to do.
Scott SWCD	"Woody Peters Streambank Stabilization"...stabilization of an actively eroding streambank site to eliminate erosion and sedimentation from entering Sand Creek and MN River; protect the Peters' homesite.	35,000	22,500 <u>0</u> 22,500	22,500 <u>0</u> 22,500	Immediately adjacent to several other stream-bank stabilization initiatives completed by the SWCD in 1997, 1998 and working on in 2000. Will not except partial funding.
Scott SWCD	"Dan Ruehling Streambank Stabilization"...stabilization of a severely eroding streambank site to eliminate erosion and sedimentation from entering an unnamed tributary of the MN River; protect the farmstead buildings.	50,000	30,000 <u>0</u> 30,000	30,000 <u>0</u> 30,000	Will not accept partial funding.

SWCD/LGU	PROJECT TITLE & INFORMATION		REQUEST Practice Tech/Admin	RECOMMEND Practice Tech/Admin	COMMENTS
Blue Earth SWCD	"City of St. Clair Streambank Stabilization"...river is eroding a 400 feet stretch of LeSueur River streambank threatening local residences and a garage; reduce sedimentation and protect private property.	162,000	7,000 <u>0</u> 7,000	- 0 -	Several funding sources partnering on this: City/Landowners \$40,500, BERBI \$20,000, SWCD \$22,500, and Legislature/BWSR. C-S Special Project application submitted.
Scott SWCD	"Merlin Stier Water and Sediment Basins"...conservation tillage / cropping have reduced sheet/rill erosion, but not ephemial gully erosion; construct 5 water & sediment basins adjacent to J.D.#2, unnamed tributary of MN River.	15,000	9,000 <u>0</u> 9,000	- 0 -	Will not accept partial funding.
Sibley SWCD	"Sibley County - MN River Watershed Blind Intakes Program" ... replace open tile intakes with blind intakes to reduce sedimentation and nutrient levels entering drainage systems that discharge to streams and MN River.	53,333	40,000 <u>10,000</u> 50,000	- 0 -	
Watonwan SWCD	"Stewardship Incentives for Wind Erosion Control...provide a 3-tier incentives approach to manage soil susceptible to wind erosion; the more practices, the higher the C-S incentive (ie. 1 practice = 50%, 2 = 60%, 3 = 75%).	48,000	36,000 <u>7,000</u> 43,000	- 0 -	
			1,098,900 <u>221,850</u> 1,320,750	411,200 <u>88,800</u> 500,000 <u>71,000</u> 571,000	(17.88%) Roll-over

NOTE: The 71,000 C-S Roll-over which does not allow for any Technical/Administration use is to be allocated as follows:

22,500 Scott SWCD
30,000 Scott SWCD
18,500 LeSueur SWCD
71,000 Total Rollover

**County Summary for Recommended Feedlot Water Quality Management Grant Allocations
FY 2001 Final List: Fleva**

Sort Order is by Met Deadline, Fleva#, Riparian, Start Date, LOE or NOV, and MPCA Confirmed Inventory.

County Applicant	Appl #	Met Deadline	LOE or NOV	MPCA Confirmed Inventory	Fleva#	Riparian	Start Date	Total Project Cost	Requested Project Funds	Requested T/A Funds	Total Requested Funds	Recommended Funding Cap of \$50,000/Project	Number of Projects Funded	Funded	Funded Accum Total
CARVER	1	YES	NO	YES	32	NO	2000	\$6,800	\$5,100	\$510	\$5,610	\$5,610			
CARVER	2	YES	NO	YES	35	NO	2001	\$4,150	\$3,112	\$311	\$3,423	\$3,423			
CARVER	3	YES	NO	YES	20	NO	2000	\$2,820	\$2,115	\$211	\$2,326	\$2,326			
CARVER	4	YES	NO	YES	23	NO	2001	\$2,650	\$1,987	\$199	\$2,186	\$2,186			
CARVER	5	YES	YES	YES	50	NO	2001	\$52,500	\$39,375	\$3,937	\$43,312	\$43,312			
CARVER	6	YES	NO	YES	30	NO	2001	\$8,250	\$6,187	\$619	\$6,806	\$6,806			
CARVER	7	YES	NO	YES	20	NO	2001	\$12,500	\$9,375	\$937	\$10,312	\$10,312			
CARVER Total												\$68,365	1	\$43,312	\$43,312
DAKOTA	1	YES	YES	YES	41	YES	2000	\$24,450	\$18,338	\$1,834	\$20,172	\$20,172			
DAKOTA	2	YES	YES	YES	50	YES	2000	\$25,700	\$19,275	\$1,928	\$21,203	\$21,203			
DAKOTA	3	YES	YES	YES	0	NO	2000	\$64,300	\$48,225	\$4,822	\$53,047	\$50,000			
DAKOTA	4	YES	YES	YES	45	YES	2000	\$41,500	\$31,125	\$3,113	\$34,238	\$34,238			
DAKOTA Total												\$125,613	2	\$55,441	\$98,753
FAIRBAULT	1	YES	YES	YES	40	YES	2000	\$48,970	\$18,309	\$1,831	\$20,140	\$20,140			
FAIRBAULT Total												\$20,140	0	\$0	\$98,753
FILLMORE	1	YES	NO	YES	43	NO	2001	\$50,000	\$37,500	\$3,750	\$41,250	\$41,250			
FILLMORE	2	YES	NO	YES	24	NO	2000	\$50,000	\$37,500	\$3,750	\$41,250	\$41,250			
FILLMORE	3	YES	NO	YES	38	YES	2000	\$24,000	\$18,000	\$1,800	\$19,800	\$19,800			
FILLMORE	4	YES	NO	YES	58	NO	2001	\$30,000	\$22,500	\$2,250	\$24,750	\$24,750			
FILLMORE	5	YES	NO	YES	32	NO	2000	\$45,000	\$33,750	\$3,375	\$37,125	\$37,125			
FILLMORE	6	YES	NO	YES	55	YES	2000	\$50,000	\$37,500	\$3,750	\$41,250	\$41,250			
FILLMORE	7	YES	YES	YES	46	NO	2001	\$60,000	\$45,000	\$4,500	\$49,500	\$49,500			
FILLMORE Total												\$254,925	3	\$115,500	\$214,253
GOODHUE	1	YES	NO	YES	25	NO	2000	\$85,000	\$13,750	\$1,375	\$15,125	\$15,125			
GOODHUE	2	YES	NO	YES	49	YES	2000	\$35,000	\$26,250	\$2,625	\$28,875	\$28,875			
GOODHUE	3	YES	NO	YES	24	YES	2000	\$43,550	\$32,662	\$3,266	\$35,928	\$35,928			
GOODHUE	4	YES	NO	YES	26	NO	2000	\$13,333	\$10,000	\$1,000	\$11,000	\$11,000			
GOODHUE	5	YES	NO	YES	16	NO	2001	\$83,500	\$50,000	\$0	\$50,000	\$50,000			
GOODHUE	6	YES	NO	YES	38	NO	2000	\$130,000	\$50,000	\$0	\$50,000	\$50,000			
GOODHUE Total												\$190,928	1	\$28,875	\$243,128
KANDIYOHI	1	YES	NO	YES	27	YES	2001	\$45,000	\$33,750	\$3,375	\$37,125	\$37,125			
KANDIYOHI	2	YES	NO	YES	0	NO	2001	\$54,445	\$40,834	\$0	\$40,834	\$40,834			
KANDIYOHI	3	YES	NO	YES	0	YES	2001	\$55,000	\$41,250	\$0	\$41,250	\$41,250			
KANDIYOHI Total												\$119,209	0	\$0	\$243,128
LAC QUI PARLE	1	YES	NO	YES	26	YES	2000	\$20,000	\$15,000	\$1,500	\$16,500	\$16,500			
LAC QUI PARLE Total												\$16,500	0	\$0	\$243,128
LINCOLN	1	YES	YES	YES	50	NO	2000	\$93,000	\$47,999	\$2,000	\$49,999	\$49,999			
LINCOLN Total												\$49,999	1	\$49,999	\$293,127
MCLEOD	1	YES	NO	YES	44	YES	2000	\$39,512	\$29,634	\$0	\$29,634	\$29,634			
MCLEOD	2	YES	NO	YES	40	NO	2000	\$23,000	\$17,250	\$0	\$17,250	\$17,250			
MCLEOD Total												\$46,884	1	\$29,634	\$322,761
MORRISON	1	YES	YES	YES	82	YES	2000	\$75,000	\$35,000	\$3,500	\$38,500	\$38,500			
MORRISON	2	YES	YES	YES	41	YES	2000	\$15,000	\$11,250	\$1,125	\$12,375	\$12,375			
MORRISON	3	YES	NO	YES	42	YES	2000	\$47,000	\$25,250	\$2,525	\$27,775	\$27,775			
MORRISON Total												\$78,650	1	\$38,500	\$361,261
OLMSTED	1	YES	NO	YES	29	YES	2000	\$88,300	\$20,173	\$0	\$20,173	\$20,173			
OLMSTED	2	YES	NO	YES	18	YES	2000	\$69,000	\$7,600	\$0	\$7,600	\$7,600			
OLMSTED	3	YES	NO	YES	10	YES	2000	\$110,000	\$22,227	\$0	\$22,227	\$22,227			

**County Summary for Recommended Feedlot Water Quality Management Grant Allocations
FY 2001 Final List: Fleval**

Sort Order is by Met Deadline, Fleval#, Riparian, Start Date, LOE or NOV, and MPCA Confirmed Inventory.

County Applicant	Appl #	Met Deadline	LOE or NOV	MPCA Confirmed Inventory	Fleval#	Riparian	Start Date	Total Project Cost	Requested Project Funds	Requested T/A Funds	Total Requested Funds	Recommended Funding Cap of \$50,000/Project	Number of Projects Funded	Funded	Funded Accum Total
OLMSTED Total															
PINE	1	YES	NO	YES	9	NO	2000	\$30,000	\$7,500	\$0	\$7,500	\$50,000	0	\$0	\$361,261
PINE Total															
POPE	1	YES	YES	YES	52	YES	2000	\$58,000	\$43,500	\$4,000	\$47,500	\$47,500			
POPE	2	YES	YES	YES	20	YES	2000	\$5,000	\$3,750	\$500	\$4,250	\$4,250			
POPE Total															
RICE	1	YES	NO	YES	51	NO	2000	\$65,000	\$46,000	\$4,000	\$50,000	\$50,000			
RICE	2	YES	NO	YES	54	YES	2000	\$65,000	\$46,000	\$4,000	\$50,000	\$50,000			
RICE	3	YES	NO	YES	28	YES	2000	\$40,000	\$30,000	\$3,000	\$33,000	\$33,000			
RICE	4	YES	NO	YES	52	YES	2000	\$65,000	\$46,000	\$4,000	\$50,000	\$50,000			
RICE	5	YES	NO	YES	41	NO	2000	\$32,000	\$24,000	\$2,400	\$26,400	\$26,400			
RICE	6	YES	YES	YES	70	YES	2000	\$45,000	\$33,750	\$3,375	\$37,125	\$37,125			
RICE Total															
ROCK	1	YES	YES	YES	55	YES	2000	\$85,000	\$45,000	\$4,500	\$49,500	\$49,500			
ROCK	2	YES	YES	YES	55	YES	2000	\$20,000	\$15,000	\$1,500	\$16,500	\$16,500			
ROCK	3	YES	YES	YES	45	YES	2000	\$75,000	\$30,000	\$3,000	\$33,000	\$33,000			
ROCK	4	YES	YES	YES	38	YES	2000	\$20,000	\$15,000	\$1,500	\$16,500	\$16,500			
ROCK	5	YES	NO	YES	55	YES	2000	\$75,000	\$50,000	\$5,000	\$55,000	\$50,000			
ROCK	6	YES	NO	YES	25	NO	2000	\$15,000	\$10,000	\$1,000	\$11,000	\$11,000			
ROCK	7	YES	NO	YES	18	NO	2000	\$47,000	\$35,000	\$3,500	\$38,500	\$38,500			
ROCK Total															
ROOT RIVER	1	YES	YES	YES	53	NO	2000	\$21,300	\$15,975	\$1,597	\$17,572	\$17,572			
ROOT RIVER	2	YES	YES	YES	31	YES	2000	\$36,500	\$27,375	\$2,737	\$30,112	\$30,112			
ROOT RIVER	3	YES	YES	YES	31	NO	2000	\$61,459	\$46,094	\$3,600	\$49,694	\$49,694			
ROOT RIVER	4	YES	YES	YES	26	NO	2000	\$8,500	\$6,375	\$637	\$7,012	\$7,012			
ROOT RIVER	5	YES	NO	YES	0	NO	2000	\$21,000	\$15,750	\$1,575	\$17,325	\$17,325			
ROOT RIVER	6	YES	NO	YES	0	NO	2000	\$16,000	\$12,000	\$1,200	\$13,200	\$13,200			
ROOT RIVER Total															
SCOTT	1	YES	NO	YES	13	YES	2001	\$30,000	\$22,500	\$2,250	\$24,750	\$24,750			
SCOTT	2	YES	NO	YES	20	YES	2000	\$5,100	\$3,825	\$375	\$4,200	\$4,200			
SCOTT	3	YES	NO	YES	30	YES	2000	\$3,700	\$2,775	\$225	\$3,000	\$3,000			
SCOTT	4	YES	NO	YES	12	YES	2000	\$4,000	\$3,000	\$300	\$3,300	\$3,300			
SCOTT Total															
STEARNS	1	YES	YES	YES	42	YES	2000	\$75,000	\$45,455	\$4,545	\$50,000	\$50,000			
STEARNS	2	YES	YES	YES	0	NO	2000	\$61,000	\$45,455	\$4,545	\$50,000	\$50,000			
STEARNS	3	YES	YES	YES	52	YES	2000	\$50,000	\$37,500	\$3,750	\$41,250	\$41,250			
STEARNS	4	YES	YES	YES	56	NO	2000	\$115,000	\$45,455	\$4,545	\$50,000	\$50,000			
STEARNS	5	YES	YES	YES	47	NO	2000	\$81,000	\$45,455	\$4,545	\$50,000	\$50,000			
STEARNS	6	YES	YES	YES	65	YES	2000	\$61,000	\$45,455	\$4,545	\$50,000	\$50,000			
STEARNS	7	YES	YES	YES	42	YES	2000	\$70,000	\$45,455	\$4,545	\$50,000	\$50,000			
STEARNS	8	YES	YES	YES	30	NO	2000	\$61,000	\$45,455	\$4,545	\$50,000	\$50,000			
STEARNS	9	YES	YES	YES	12	NO	2000	\$61,000	\$45,455	\$4,545	\$50,000	\$50,000			
STEARNS	10	YES	YES	YES	11	NO	2000	\$61,000	\$45,455	\$4,545	\$50,000	\$50,000			
STEARNS	11	YES	YES	YES	5	NO	2000	\$61,000	\$45,455	\$4,545	\$50,000	\$50,000			
STEARNS	12	YES	YES	YES	36	YES	2000	\$45,000	\$33,750	\$3,375	\$37,125	\$37,125			
STEARNS	13	YES	YES	YES	24	YES	2000	\$61,000	\$45,455	\$4,545	\$50,000	\$50,000			
STEARNS Total															
STEELE	1	YES	NO	YES	46	YES	2000	\$80,000	\$45,500	\$4,500	\$50,000	\$50,000			

**County Summary for Recommended Feedlot Water Quality Management Grant Allocations
FY 2001 Final List: Fleval**

Sort Order is by Met Deadline, Fleval#, Riparian, Start Date, LOE or NOV, and MPCA Confirmed Inventory.

County Applicant	Appl #	Met Deadline	LOE or NOV	MPCA Confirmed Inventory	Fleval#	Riparian	Start Date	Total Project Cost	Requested Project Funds	Requested T/A Funds	Total Requested Funds	Recommended Funding Cap of \$50,000/Project	Number of Projects Funded	Funded	Funded Accum Total
STEELE Total												\$50,000	1	\$50,000	\$1,003,708
TODD	1	YES	NO	YES	24	YES	2000	\$42,000	\$31,500	\$3,150	\$34,650	\$34,650			
TODD Total												\$34,650	0	\$0	\$1,003,708
WABASHA	1	YES	YES	YES	37	NO	2001	\$10,000	\$7,500	\$375	\$7,875	\$7,875			
WABASHA	2	YES	NO	YES	36	NO	2000	\$66,000	\$47,000	\$2,350	\$49,350	\$49,350			
WABASHA	3	YES	NO	YES	33	YES	2001	\$25,000	\$18,750	\$937	\$19,687	\$19,687			
WABASHA	4	YES	NO	YES	60	NO	2001	\$125,000	\$47,619	\$2,381	\$50,000	\$50,000			
WABASHA	5	YES	NO	YES	40	NO	2001	\$100,000	\$47,619	\$2,381	\$50,000	\$50,000			
WABASHA	6	YES	NO	YES	52	NO	2000	\$24,000	\$18,000	\$900	\$18,900	\$18,900			
WABASHA	7	YES	NO	YES	42	NO	2001	\$30,000	\$22,500	\$1,125	\$23,625	\$23,625			
WABASHA	8	YES	NO	YES	37	NO	2001	\$26,000	\$19,500	\$975	\$20,475	\$20,475			
WABASHA	9	YES	NO	YES	33	NO	2001	\$60,000	\$45,000	\$2,250	\$47,250	\$47,250			
WABASHA	10	YES	NO	YES	53	NO	2001	\$32,000	\$24,000	\$1,200	\$25,200	\$25,200			
WABASHA	11	YES	NO	YES	23	NO	2001	\$14,000	\$10,500	\$525	\$11,025	\$11,025			
WABASHA Total												\$323,387	3	\$94,100	\$1,097,808
WATONWAN	1	YES	NO	YES	43	YES	2001	\$20,000	\$15,000	\$1,500	\$16,500	\$16,500			
WATONWAN	2	YES	NO	YES	38	YES	2001	\$27,000	\$20,250	\$2,025	\$22,275	\$22,275			
WATONWAN	3	YES	NO	YES	36	NO	2001	\$13,000	\$9,750	\$975	\$10,725	\$10,725			
WATONWAN	4	YES	NO	YES	0	NO	2001	\$13,000	\$9,750	\$975	\$10,725	\$10,725			
WATONWAN Total												\$60,225	1	\$16,500	\$1,114,308
WINONA	1	YES	YES	YES	55	NO	2000	\$95,000	\$40,000	\$4,000	\$44,000	\$44,000			
WINONA	2	YES	YES	YES	83	YES	2000	\$65,000	\$25,000	\$2,500	\$27,500	\$27,500			
WINONA	3	YES	YES	YES	78	YES	2001	\$105,000	\$40,000	\$4,000	\$44,000	\$44,000			
WINONA	4	YES	YES	YES	38	NO	2001	\$45,000	\$20,000	\$2,000	\$22,000	\$22,000			
WINONA	5	YES	NO	YES	32	NO	2001	\$65,000	\$35,000	\$3,500	\$38,500	\$38,500			
WINONA	6	YES	NO	YES	5	NO	2000	\$120,000	\$43,750	\$4,375	\$48,125	\$48,125			
WINONA	7	YES	YES	YES	61	NO	2002	\$85,000	\$30,000	\$3,000	\$33,000	\$33,000			
WINONA Total												\$257,125	4	\$148,500	\$1,262,808
WRIGHT	1	YES	NO	YES	61	YES	2000	\$65,000	\$32,500	\$3,250	\$35,750	\$35,750			
WRIGHT	2	YES	NO	YES	56	YES	2000	\$75,000	\$50,000	\$0	\$50,000	\$50,000			
WRIGHT	3	YES	NO	YES	36	YES	2000	\$65,000	\$32,500	\$3,250	\$35,750	\$35,750			
WRIGHT Total												\$121,500	2	\$85,750	\$1,348,558
Grand Total	104											\$3,187,415	35	\$1,348,558	

PROPOSED FY 2001 GRANTS TO SOIL AND WATER CONSERVATION DISTRICTS

SWCD	COST SHARE GRANTS				SERVICE GRANTS		GRANT TOTALS
	BASE GRANTS	SPECIAL PROJECTS	SPECIAL MN RIVER	FEEDLOT	GENERAL SERVICES	RIM SERVICES	
AITKIN	\$7,902				\$22,377	\$4,318	\$34,597
ANOKA	\$17,459				\$22,752	\$4,318	\$44,529
BECKER	\$39,711				\$21,573	\$1,818	\$63,101
BELTRAMI	\$15,423				\$21,492	\$1,318	\$38,233
BENTON	\$14,869				\$21,707	\$4,318	\$40,894
BIG STONE	\$22,600				\$20,903	\$4,318	\$47,821
BLUE EARTH	\$31,980	\$63,500			\$21,466	\$23,568	\$140,513
BROWN	\$19,842				\$21,519	\$23,568	\$64,929
CARLTON	\$7,698				\$21,332	\$1,068	\$30,098
CARVER	\$30,449			\$43,312	\$22,028	\$4,318	\$100,108
CASS*	\$10,107				\$18,957	\$1,186	\$30,250
CHIPPEWA	\$17,078				\$21,519	\$23,568	\$62,165
CHISAGO	\$17,961				\$22,055	\$4,318	\$44,334
CLAY	\$29,776				\$21,734	\$8,068	\$59,578
CLEARWATER	\$13,216	\$25,000			\$21,385	\$1,818	\$61,419
COOK	\$4,561				\$21,010	\$1,068	\$26,639
COTTONWOOD	\$24,034				\$21,519	\$36,068	\$81,621
CROW WING	\$9,220				\$21,117	\$1,068	\$31,405
DAKOTA	\$36,391	\$10,000		\$55,441	\$23,074	\$1,818	\$126,724
DODGE	\$17,633	\$18,100			\$21,787	\$1,818	\$59,338
DOUGLAS	\$27,897		\$70,000		\$22,350	\$4,318	\$124,565
EAST OTTER TAIL*	\$28,744				\$21,546	\$4,318	\$54,608
EAST POLK	\$17,187				\$21,439	\$4,318	\$42,944
FARIBAULT	\$21,497				\$21,787	\$13,068	\$56,352

PROPOSED FY 2001 GRANTS TO SOIL AND WATER CONSERVATION DISTRICTS

SWCD	COST SHARE GRANTS				SERVICE GRANTS		GRANT TOTALS
	BASE GRANTS	SPECIAL PROJECTS	SPECIAL MN RIVER	FEEDLOT	GENERAL SERVICES	RIM SERVICES	
FILLMORE	\$38,821			\$115,500	\$22,323	\$4,318	\$180,962
FREEBORN	\$27,677				\$21,653	\$13,068	\$62,398
GOODHUE	\$41,358	\$14,250		\$28,875	\$22,270	\$8,068	\$114,821
GRANT	\$17,347				\$21,573	\$4,318	\$43,237
HENNEPIN	\$18,072	\$70,000			\$27,202	\$8,068	\$123,342
HUBBARD	\$9,798				\$20,983	\$1,318	\$32,099
ISANTI	\$11,531				\$22,350	\$4,318	\$38,199
ITASCA	\$8,473				\$21,439	\$1,068	\$30,980
JACKSON	\$25,913				\$21,090	\$23,568	\$70,571
KANABEC*	\$7,865				\$21,358	\$1,318	\$30,542
KANDIYOHI	\$24,034				\$21,894	\$13,068	\$58,996
KITTSO	\$9,882				\$21,680	\$4,318	\$35,880
KOOCHICHING	\$4,719	\$8,750			\$21,198	\$1,818	\$36,485
LAC QUI PARLE	\$35,404				\$21,385	\$23,568	\$80,357
LAKE	\$7,370				\$21,090	\$1,068	\$29,528
LAKE OF THE WOODS	\$5,937				\$20,903	\$1,318	\$28,158
LE SUEUR	\$27,677		\$98,500		\$21,975	\$23,568	\$171,720
LINCOLN	\$20,062	\$11,775	\$40,000	\$49,999	\$22,162	\$23,568	\$167,567
LYON	\$25,250				\$21,707	\$23,568	\$70,525
MAHNOMEN	\$12,229				\$20,956	\$1,318	\$34,503
MARSHALL	\$14,867				\$21,144	\$8,068	\$44,079
MARSHALL-BELTRAMI	\$8,480				\$21,332	\$1,318	\$31,130
MARTIN	\$35,293		\$100,000		\$21,492	\$13,068	\$169,853
MC LEOD	\$23,039			\$29,634	\$21,412	\$4,318	\$78,403

PROPOSED FY 2001 GRANTS TO SOIL AND WATER CONSERVATION DISTRICTS

SWCD	COST SHARE GRANTS				SERVICE GRANTS		GRANT TOTALS
	BASE GRANTS	SPECIAL PROJECTS	SPECIAL MN RIVER	FEEDLOT	GENERAL SERVICES	RIM SERVICES	
MEEKER	\$28,665				\$21,251	\$8,068	\$57,984
MILLE LACS	\$13,771				\$21,466	\$1,818	\$37,054
MORRISON	\$35,068	\$20,000		\$38,500	\$22,404	\$4,318	\$120,290
MOWER	\$14,654				\$22,779	\$13,068	\$50,501
MURRAY	\$20,610	\$29,525			\$21,037	\$4,318	\$75,490
NICOLLET	\$15,082				\$21,707	\$23,568	\$60,357
NOBLES	\$38,038				\$21,224	\$4,318	\$63,580
NORMAN	\$24,254				\$21,546	\$4,318	\$50,118
NORTH ST. LOUIS	\$6,144				\$21,412	\$1,318	\$28,874
OLMSTED	\$51,281				\$23,422	\$4,318	\$79,021
PENNINGTON	\$15,674	\$20,000			\$21,358	\$4,318	\$61,350
PINE	\$15,424	\$18,750			\$21,546	\$1,318	\$57,037
PIPESTONE	\$22,044				\$21,332	\$4,318	\$47,693
POPE	\$33,968			\$47,500	\$21,278	\$23,568	\$126,314
RAMSEY	\$13,997				\$21,787	\$0	\$35,784
RED LAKE	\$9,907				\$20,929	\$1,318	\$32,155
REDWOOD	\$16,418		\$150,000		\$21,787	\$36,068	\$224,273
RENVILLE	\$16,082				\$21,894	\$36,068	\$74,044
RICE	\$25,345	\$11,600		\$187,125	\$24,226	\$8,068	\$256,365
ROCK	\$22,803			\$149,000	\$21,787	\$4,318	\$197,908
ROOT RIVER	\$31,311			\$17,572	\$23,932	\$4,318	\$77,133
ROSEAU	\$16,859				\$21,385	\$1,818	\$40,062
SCOTT	\$28,445	\$18,000	\$52,500		\$22,189	\$4,318	\$125,452
SHERBURNE	\$7,024				\$23,342	\$4,318	\$34,684

PROPOSED FY 2001 GRANTS TO SOIL AND WATER CONSERVATION DISTRICTS

SWCD	COST SHARE GRANTS				SERVICE GRANTS		GRANT TOTALS
	BASE GRANTS	SPECIAL PROJECTS	SPECIAL MN RIVER	FEEDLOT	GENERAL SERVICES	RIM SERVICES	
SIBLEY	\$18,806				\$21,466	\$4,318	\$44,589
SOUTH ST. LOUIS	\$10,978	\$15,000			\$21,412	\$1,318	\$48,708
STEARNS	\$62,883			\$191,250	\$23,610	\$8,068	\$285,811
STEELE	\$14,874			\$50,000	\$22,243	\$13,068	\$100,185
STEVENS	\$31,782				\$21,680	\$4,318	\$57,780
SWIFT	\$16,489				\$21,278	\$23,568	\$61,335
TODD	\$30,655	\$10,000			\$22,270	\$1,318	\$64,243
TRAVERSE	\$10,463				\$21,653	\$8,068	\$40,185
WABASHA	\$29,981			\$94,100	\$21,975	\$4,318	\$150,374
WADENA	\$9,024	\$4,500			\$21,358	\$4,318	\$39,200
WASECA	\$14,768				\$21,546	\$8,068	\$44,382
WASHINGTON	\$18,404				\$22,618	\$1,818	\$42,840
WATONWAN	\$12,887			\$16,500	\$21,144	\$23,568	\$74,099
WEST OTTER TAIL	\$34,212				\$21,546	\$8,068	\$63,826
WEST POLK*	\$25,071	\$11,250			\$21,439	\$1,318	\$59,078
WILKIN	\$16,199				\$21,734	\$4,318	\$42,250
WINONA	\$24,692			\$148,500	\$22,886	\$4,318	\$200,397
WRIGHT	\$25,896			\$85,750	\$23,154	\$4,318	\$139,118
YELLOW MEDICINE	\$23,926		\$60,000		\$21,734	\$23,568	\$129,227
ALLOCATED TOTALS	\$1,899,188	\$380,000	\$571,000	\$1,348,558	\$1,984,764	\$748,738	\$6,932,248

PROPOSED FY 2001 GRANTS TO SOIL AND WATER CONSERVATION DISTRICTS

SWCD	COST SHARE GRANTS				SERVICE GRANTS		GRANT TOTALS
	BASE GRANTS	SPECIAL PROJECTS	SPECIAL MN RIVER	FEEDLOT	GENERAL SERVICES	RIM SERVICES	

***NOTES:**

KANABEC COST SHARE BASE GRANT PENALIZED \$2,125 FOR COST SHARE PROGRAM VIOLATION.

WEST POLK COST SHARE BASE GRANT PENALIZED \$1,612 FOR COST SHARE PROGRAM VIOLATION.

EAST OTTER TAIL COST SHARE BASE GRANT PENALIZED \$3,900 FOR COST SHARE PROGRAM VIOLATION.

CASS BASE GRANTS PENALIZED 10% FOR LATE FINANCIAL REPORT.

New Business

2. Area II Minnesota River Basin
Projects, FY01 Work Plan
DECISION



JUN 09 2000

DATE: 6-6-00

TO: BWSR BOARD

FROM: TABOR HOEK *Tabor*

SUBJ.: AREA II MN RIVER BASIN PROJECTS, INC. FY 01 WORK PLAN

One West Water Street
Suite 200
St. Paul, MN 55107
(612) 296-3767
Fax (612) 297-5615

Field Offices

Northern Region:

394 S. Lake Avenue
Room 403
Duluth, MN 55802
(218) 723-4752
Fax (218) 723-4794

3217 Bemidji Avenue N.
Bemidji, MN 56601
(218) 755-4235
Fax (218) 755-4201

217 S. 7th Street
Suite 202
Brainerd, MN 56401-3660
(218) 828-2383
Fax (218) 828-6036

Southern Region:

261 Highway 15 S.
New Ulm, MN 56073-8915
(507) 359-6074
Fax (507) 359-6018

40--16th Street SE
Suite A
Rochester, MN 55904
(507) 285-7458
Fax (507) 280-2875

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

Metro Region:

One West Water Street
Suite 250
St. Paul, MN 55107
(612) 282-9969
Fax (612) 297-5615

Area II representatives and myself will be presenting their annual work plan at the June 29th board meeting. The work plan serves as the foundation for the \$189,000 they receive from the state as a 75% grant. They must match the grant by at least 25% local funding. Additional funding via bonding has been the primary source of funding for projects coordinated by Area II.

Key points for FY 01:

1. Lazarus Creek project was unfunded again this year. Alternatives are being looked at with NRCS and Army Corp of Engineers for funding.
2. Area II has been working to replace their engineer. They currently have secured the services of Bolton and Menk, Inc. on a contract basis during the interim.
3. Many road retention structures are planned for the 2000 season. This should fully utilize the remaining 1998 bonding appropriation. Future funding will be needed for continued work on flood control in the Area II watersheds.

Staff recommends approval of this work plan and the release of \$143,268.75 for the Technical Office Grant. The remaining \$45,731.25 is to be encumbered and distributed via individual project grant agreements as projects are initiated.

C: Kerry Netzke, Area II Coordinator

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ANNUAL PLAN – FISCAL 2001

JULY 1, 2000 – JUNE 30, 2001



AREA II MINNESOTA RIVER
BASIN PROJECTS, INC.



2000 BOARD OF DIRECTORS

BROWN COUNTY

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ANDREW LOCHNER

COTTONWOOD COUNTY

KENNETH ELG
MARLOWE NELSEN

LAC QUI PARLE COUNTY

ALBERT HOFFMAN
ARVID GOLLNICK

LINCOLN COUNTY

DUANE SCHALEK - TREASURER
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JASPER VANDELANOTTE

MURRAY COUNTY

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STEVE JOHNSON

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JOANN COOVER

AREA II MINNESOTA RIVER
BASIN PROJECTS, INC.

AREA II ANNUAL PLAN FISCAL 2001

> FUNDING

		<u>Local Match</u>
Annual Allocation from the State of Minnesota (75/25)	\$ 189,000.00	
Technical Services Agreement (details on Attachment I)	[143,268.75]	\$ 47,756.25
Available Project Funds	[45,731.25]	15,243.75
Remaining Project Funds from FY'00	52,856.25	17,968.75
1996 \$250,000 Bonding Allocation for Road Retentions - Balance Remaining (75/25)	0.00	0.00*
1998 \$500,000 General Appropriation for Floodwater Retention - Balance (60/40)	<u>243,202.95</u>	<u>136,540.00</u> **
FUNDING AVAILABLE FOR FISCAL 2001	\$ 485,059.20	\$ 217,508.75
	Total = \$702,567.95	

*Local match of \$195,426.47 was provided, surpassing required amount of \$83,333.00 by \$112,093.47.

**Local match of 196,460.00 has been provided to date of the \$333,000 required.

> 2001 WORK PLAN

Office staff:

Kerry Netzke, Coordinator

Joe DeSchepper, Engineering Technician

Jared Johnson, Summer Technician

Focus: Administratively, the staff has underwent some major changes in the last year with the retirement of the staff engineer in July 1999. Advertising of the position took place, however the interested parties did not have the qualifications and/or experience needed for this engineering specialization. The Board of Directors requested proposals from several engineering consultants to provide engineering services until a staff engineer can be located. The firm of Bolton & Menk, Inc. was selected and began their services in March 2000. This arrangement has been working wonderfully and we are currently able to provide and afford the same services as with an engineer on staff.

Another milestone in the past fiscal year was an agreement reached with the Department of Natural Resources addressing fisheries and fish passage concerns as related to retention projects. A tour of in-place projects was hosted by Area II in August 1999 as well as explanations of how these structures operate and the fundamental design behind them. Of biggest concern to the Fisheries Division, was the velocities of the water through and exiting the pipe culvert and the duration of those higher velocities. Through several iterations, the DNR provided guidelines which would minimize the adverse impacts for fish passage and yet would provide for a viable flood control structure. These guidelines will continue to be addressed on a case-by-case basis as it is not the intent of agreement to make site conditions better than what is already existing.

Financially, the 1996 Road Retention Bonding funds were expended in entirety. Another busy construction season is projected for summer 2000 and it is anticipated that the \$243,202.95 appropriation (1998 Floodwater Retention) will be encumbered and possibly paid out by the end of the calendar year. Additional funding is needed to continue the implementation of road retention projects as the interest only continues to grow. Area II will work with BWSR in an attempt to secure a general appropriation for continued floodwater retention projects. Controversy over the Marshall Flood Control Project is resulting in a cry for upstream retention above Marshall to prevent any floodwaters from having the opportunity to crossover into the Cottonwood River Basin.

AREA II ANNUAL REPORT FISCAL 2001

PROJECTS FUNDED

	<u>STATE</u>	<u>AREA II</u>	<u>MATCH SOURCE</u>
Coon Creek Dam Construction - Lyon County	\$ 104,099.78	\$ 0.00	\$ 42,103.00 Lyon County
Lake Marshall 19 Road Retention - Lyon County	58,284.00	0.00	19,784.55 Lyon County
Amiret 33E Road Retention - Lyon County	39,355.94	0.00	13,118.65 Lyon County
Amiret 33W Road Retention - Lyon County	39,871.08	0.00	13,290.36 Lyon County
Citterman Small Dam Repair - Lincoln County	3,281.25	0.00	1,093.75 YMRWD & landowner
Steffes Small Dam Repair - Lincoln County	1,970.00	0.00	4,949.81 YMRWD & landowner
Fairchild Small Dam Repair - Yellow Medicine County	6,435.00	145.00	2,000.00 LQP-YB Watershed District
Pankonin Dam Repair - Brown County	11,250.00	0.00	3,750.00 Landowner
Anderson Wetland Restoration - Lincoln County	2,500.00	0.00	4,099.28 Ducks Unlimited, USF&WS
	<u>\$ 267,047.05</u>	<u>\$ 145.00</u>	<u>\$ 104,189.40 (72/28 cost-share average)</u>

COMPLETED PROJECTS

- **Steffes Small Dam Repair - Lincoln County**
This former ACP dam was reconstructed with funding stemming from the Yellow Medicine River Watershed District and the landowner. Besides serving as a sediment basin, the dam will impound floodwaters in significant rainfall/snowmelt runoff periods, and will provide wildlife habitat.
- **Anderson Wetland Restoration - Lincoln County**
Partnered with U.S. Fish & Wildlife Service, Ducks Unlimited, and the landowner to restore a drained basin for waterfowl production purposes with additional floodwater retention built into the project. A sheetpile structure was designed by Area II to create a permanent pool of approximately 16 acres, which increases to 25 acres during rainfall/runoff to store 61 acre-feet of floodwaters.
- **Fairchild Small Dam Repair - Yellow Medicine County**
This former ACP dam, which was formerly used for livestock watering purposes, was reconstructed with funding stemming from the Lac qui Parle-Yellow Bank Watershed District and the landowner. Besides serving as a sediment basin, the dam will impound floodwaters in significant rainfall/snowmelt runoff periods, and will provide wildlife habitat. This project is located approximately one mile west of the proposed Lazarus Creek Floodwater Retention Project, approximately seven miles west from the City of Canby.

[CONTINUED]

COMPLETED PROJECTS [CONTINUED]

➤ **Citterman Small Dam Repair - Lincoln County**

This former ACP dam was reconstructed with funding stemming from the Yellow Medicine River Watershed District and the landowner. Besides serving as a sediment basin, the dam will impound floodwaters in significant rainfall/snowmelt runoff periods, and will provide wildlife habitat.

➤ **Coon Creek 28 Dry Dam Construction - Lyon County**

A 7' earthen embankment was constructed upon an open drainage way to impound up to 320 acre-feet of floodwaters, creating a temporary floodpool of 48 acres. Flood flows are reduced from 1405 cfs to 573 cfs (a 90% reduction). The project is located approximately 12 miles southwest of the City of Marshall, approximately one mile from Coon Creek, a major contributor to the Redwood River.

➤ **Lake Marshall 19 Road Retention - Lyon County**

The project involved a culvert downsizing, approximately two miles south of the City of Marshall, upon an unnamed tributary to Meadow Creek, a tributary of the Cottonwood River. Flood flows are reduced from 627 cfs to 347 cfs (a 45% reduction).

➤ **Amiret 33E Road Retention - Lyon County**

The project involved a culvert downsizing to create a temporary floodpool of 16.5 acres to impound 120 acre-feet of floodwaters. Flood flows are reduced from 390 cfs to 37 cfs (a 90% reduction). This project is located approximately ten miles southeast of the City of Marshall, upon an unnamed tributary to Meadow Creek, a tributary of the Cottonwood River.

➤ **Amiret 33W Road Retention - Lyon County**

The project involved a culvert downsizing to create a temporary floodpool of 21 acres to impound 212 acre-feet of floodwater. Flood flows are reduced from 595 cfs to 41 cfs (a 93% reduction). This project is located approximately ten miles southeast of the City of Marshall, upon an unnamed tributary to Meadow Creek, a tributary of the Cottonwood River.

Scheduled: The primary efforts of the office staff will be on the feasibility, design, and installation of road retention structures, small dams, and small dam repairs within the nine county area. Project prioritization includes: feasibility, cost, local support, emergency situations (such as bridge failures) and timing with scheduled construction plans. The following projects have been prioritized by the Area II Board of Directors and have been contracted with the engineering firm of Bolten & Menk, Inc. to be designed for construction.

> INITIAL AGREEMENT

Norman Township Section 16 - Yellow Medicine County

North Hero Township Section 35 - Redwood County

Sodus 4 Small Dam Repair - Lyon County

Sodus 5 Dam Construction - Lyon County

Charlestown 34 Dam Construction - Redwood County

Sodus 11 Small Dam Repair - Lyon County

Project Status

New Dam Construction - Awaiting soils report and WCA 15-day comment period. DNR and Corps permits and easements are approved. July construction.

Pre-Design complete, awaiting soils report to finalize design and initiate bidding process.

Finalization of design, construction quotes to be obtained. Pre-Design complete and approved by landowner who enrolling entire quarter section into CREP. Awaiting soils reports to finalize design and initiate bidding process.

Pre-Design complete. Arranging soil borings and final design. Late summer construction anticipated.

Design complete. Reviewing alternative repair methods.

Anticipated Funding

1998 Appropriation

FY'00 Project Funds

1998 Appropriation

1998 Appropriation

1998 Appropriation

FY'00 Project Funds

> AMENDMENT #1

Marble 14 Road Retention - Lincoln County

Germantown 4 - Cottonwood County

Lynd Township Section 20 - Lyon County

Lynd Township Section 16 - Lyon County

Monroe 10 Road Retention - Lyon County

Monroe 4 Road Retention - Lyon County

Failing culvert in need of repair. Preliminary Design Phase.

Township roadway is a new school bus route for the fall.

Roadway requires upgrading and is an excellent site for retention.

Preliminary Design Phase (downstream of Lynd 16).

Preliminary Design Phase, to be designed in conjunction with Lynd 20.

Preliminary Design Phase.

Preliminary Design Phase.

> ADDITIONAL PROJECTS WITH HIGH PRIORITY

Norman Township, Section 35N - Yellow Medicine County

Norman Township, Section 35S - Yellow Medicine County

Springdale Township, Section 21 - Redwood County

Springdale Township, Section 28 - Redwood County

Springdale Township, Section 32 - Redwood County

North Hero Township, Section 34 - Redwood County

Springdale Township, Section 30 - Redwood County

Hantho Township, Section 25 - Lac qui Parle County

Monroe Township, Section 10 - Lyon County

Nordland Township, Section 22 - Lyon County

Amiret Township, Section 17 - Lyon County

Monroe Township, Section 36 - Lyon County

Monroe Township, Section 30 - Lyon County

Ann Township, Section 2 - Cottonwood County

LARGE PROJECTS

➤ LQP-25 {LAZARUS CREEK} FLOODWATER CONTROL PROJECT

Project CoSponsors - *Lac qui Parle-Yellow Bank Watershed District and Yellow Medicine County.*

Project Status - Plans and specifications finalized by Houston Engineering, Inc. in December 1999.
Engineering fees in excess of \$146,799.90 have been funded through the Area II's project funds.
The DNR granted the Protected Waters/Dam Safety Permit in January 1999.

Funding Status - \$ 1.5 Million Requested from the 2000 Legislature. \$500,000 local match requirement (75/25).

May 1999 Vetoed by Governor Ventura.

May 10, 2000 Project was included in the Senate's Bonding Bill proposal for \$1.25 million, however was accidentally allowed to drop out due to the marathon committee meeting.

May 17, 2000 Representative Marty Seifert made an attempt upon the House floor to override the Governor's veto from the previous year, but the motion failed with 63-65 vote.

Next Step - The watershed district has requested the Natural Resources Conservation Service (NRCS) to reconsider the project for the P.L. 83-566 Small Projects Program. NRCS has agreed to review the project since the current design is greatly different from the original Soil Conservation Service design from the 1980's. The first checkpoint will be to determine a federal cost-benefit ratio for the project to determine federal involvement. A meeting with Mr. Bill Hunt, NRCS State Conservationist, was had on the evening of June 7, 2000 in Granite Falls. Despite the upcoming retirement of Bill Stoelkes, the NRCS Chief Economist, Bill Hunt committed NRCS to determine the federal feasibility within a period of two months. In the event that federal involvement is feasible, construction would possibly began as early as 2001 depending upon the availability of federal funds.

ROAD RETENTION BONDING FUNDS STATUS

- **APPROPRIATED AMOUNT:** \$ 250,000.00 (**\$0.00 Balance**)
- **STATUS OF 25% LOCAL MATCH:** Local match spent to date has surpassed the \$83,333.33 (required 25% local match) by \$112,093.47.
- **APPROPRIATION LANGUAGE:** For grant-in-aid on roadside storm water retention projects initiated by local governments in Area II in the Minnesota River Basin.
- **PROJECT STATUS:** The shaded rows indicate the projects reaching completion. Due to the snow and flood disasters of 1997, contractors and county governments found themselves overwhelmed with work, which delayed the completion progress for several projects. LCMR has allowed alternate sites to be added to this list due to the disaster consequences.

PROJECT	STATE SHARE	LOCAL SHARE	TOTAL	COMPLETION DATE
Hendricks 8 Road Retention - Lincoln County				<i>Questionable</i>
Lyons 3 Road Retention - Lyon County	\$ 53,125.00	\$ 96,186.78	\$149,311.78	November 1996
Monroe 24 Road Retention - Lyon County	\$ 30,000.00 -0-	\$10,000.00 -0-	\$ 40,000.00 -0-	Fall 1998 (funded 100% by MNDOT)
Amboy 8 Road Retention - Cottonwood				<i>No easement obtained</i>
Ann 6 Retention Modification - Cottonwood	\$ 22,500.00	\$ 12,105.00	\$ 34,605.00	November 1997
North Hero 10 Road Retention - Redwood	\$ 54,750.00	\$18,250.00	\$ 73,000.00	Fall 1998
Island Lake 22 Road Retention - Lyon	\$ 56,875.00	\$ 49,100.14	\$ 105,975.14	Fall 1998
Gales 31 Road Retention - Redwood County				<i>No easement obtained</i>
Alt #1 Gales 35 Road Retention - Redwood County				<i>No easement obtained</i>
Alt #2 Hansonville 23 Road Retention - Lincoln				<i>No easement obtained</i>
Alt #3 Coon Creek 28 Dam - Lyon County	4,466.00	- 0 -	4,466.00	Fall 1998
Alt #4 Lake Marshall 19 Road Retention - Lyon	58,284.00	19,784.55	78,068.55	Fall 1999
TOTALS Initial Project	\$ 250,000.00	\$ 83,333.33	\$ 333,333.33	
FINAL PROJECT	\$ 250,000.00	\$ 195,426.47	\$ 445,426.47	(56/44 cost-share average)

FLOODWATER RETENTION FUNDS STATUS

- **APPROPRIATED AMOUNT:** \$ 500,000.00 (\$ 243,202.95 Balance)
- **STATUS OF 40% LOCAL MATCH:** \$196,460.00 local match has been provided to date.
- **APPROPRIATION LANGUAGE:** For grants to assist local governments in acquiring and constructing floodwater retention systems in Area II of the Minnesota River Basin.
- **PROJECT STATUS:** With this new appropriation from the 1998 legislature, the following list of tentative projects has been submitted to LCMR for advisory approval. In similar fashion to the first bonding appropriation, the intent will be to distribute the funding to as many projects and counties as possible utilizing the sponsors contribution for local match.

PROJECT	LOCATION	STATE FUNDING	LOCAL FUNDING	STATUS
<i>Banks Small Dam Repair</i>	Lyon County	1,500.00	5,025.00	<i>Completed November 1998</i>
<i>Black Rush Lake Wetland Restoration</i>	Lyon County	51,000.00	106,815.00	<i>Completed Summer 1999</i>
<i>Anderson Wetland Restoration</i>	Lincoln County	2,500.00	4,099.25	<i>Completed Fall 1999</i>
<i>Amiret 33W Road Retention</i>	Lyon County	39,871.08	13,290.36	<i>Completed Fall 1999</i>
<i>Amiret 33E Road Retention</i>	Lyon County	39,355.94	13,118.65	<i>Completed Fall 1999</i>
<i>Coon Creek 28 Dam</i>	Lyon County	99,633.78	42,103.00	<i>Completed Fall 1999</i>
Pankonin Dam Repair	Brown County	11,250.00	3,750.00	Applying for permits.
<i>Steffes Small Dam Repair</i>	Lincoln County	1,970.00	4,950.00	<i>Completed Fall 1999</i>
<i>Fairchild Small Dam Repair</i>	Yellow Medicine County	6,435.00	2,145.00	<i>Completed Fall 1999</i>
<i>Citterman Small Dam Repair</i>	Lincoln County	3,281.25	1,093.75	<i>Completed Spring 2000</i>
		256,797.05	196,460.00	
Unappropriated Projects		243,202.95	136,540.00	
TOTAL		500,000.00	333,000.00	



ATTACHMENTS

ANNUAL PLAN – FISCAL 2001

ATTACHMENT I –
FISCAL 2001 TECHNICAL OFFICE BUDGET

ATTACHMENT II –
PAST FUNDING SCENARIOS FOR COST-SHARED ROAD RETENTION PROJECTS

AREA II MINNESOTA RIVER
BASIN PROJECTS, INC.

ATTACHMENT I

FISCAL 2001 TECHNICAL OFFICE BUDGET

OFFICE OPERATIONS

Personal Services:

Directors' Compensation.....	\$ 11,000.00
Directors' FICA.....	1,000.00
Employees' Salaries.....	70,000.00
Employees' FICA.....	5,300.00
Employees' Medical Insurance.....	3,000.00
Employees' Retirement.....	3,300.00
Employee' FlexPlan.....	250.00
Total Personal Services.....	\$ 93,850.00

Supplies:

Office.....	\$ 2,500.00
Field.....	1,000.00
Capital Outlay.....	1,000.00
Total Supplies.....	\$ 4,500.00

Other Services and Costs:

Directors' Expenses.....	\$ 5,500.00
Employees' Expenses.....	2,000.00
Continuing Education.....	1,000.00
Professional Services.....	40,000.00
Maintenance & Repairs.....	2,000.00
Telephone.....	1,000.00
Postage.....	1,500.00
Vehicle Expense.....	2,500.00
Director's Insurance.....	2,000.00
Other Insurance.....	9,000.00
Rent.....	6,675.00
Miscellaneous & Other Expenses.....	4,000.00
Miscellaneous Expenses - Directors.....	100.00
Subsurface Investigations.....	25,000.00
Other Technical Services and Testing.....	10,000.00
Total Other Services and Costs.....	\$ 112,275.00

TOTAL OFFICE OPERATIONS.....	\$ 210,625.00
Total Ineligible for Cost-Share by the State.....	19,600.00*
Total Eligible for Cost-Share by the State.....	\$ 191,025.00

STATE SHARE OF ELIGIBLE COSTS.....	\$ 143,268.75 (75%)
Local Share of Eligible Costs.....	47,756.25 (25%)
Costs Ineligible for Cost-Share.....	19,600.00*
NET BUDGETED LOCAL COSTS.....	\$ 67,356.25

* These items not cost-shared by the State

SUMMARY:

<i>Technical Office Grant</i>	<i>\$ 143,268.75</i>
<i>Projects Grant</i>	<i>45,731.25</i>
<i>Annual Allocation from State of Minnesota</i>	<i>\$ 189,000.00</i>

ATTACHMENT II
PAST FUNDING SCENARIOS FOR COST SHARED RETENTION PROJECTS

PROJECT	COMPLETION DATE & LOCATION	TOTAL ELIGIBLE COSTS	BWSR AMOUNT (% of Total)	OTHER STATE FUNDING	AREA II AMOUNT (% of Total)	LOCAL AMOUNT (% of Total)
Pankonin Small Dam Repair	Summer 2000 Brown County	15,000.00	11,250.00 (75%)	0.00	0.00	3,750.00 (25%)
Amiret 33W Road Retention	Fall 1999 Lyon County	53,161.44	39,871.08 (75%)	0.00	0.00	13,290.36 (25%)
Amiret 33E Road Retention	Fall 1999 Lyon County	52,474.59	39,355.94 (75%)	0.00	0.00	13,118.65 (25%)
Lake Marshall 19 Road Retention	Fall 1999 Lyon County	78,068.55	58,284.00 (74.6%)	0.00	0.00	19,784.55 (25.3%)
Coon Creek 28 Dam	Fall 1999 Lyon County	146,202.78	104,099.78 (71.2%)	0.00	0.00	42,103.00 (28.8)
Anderson Wetland Restoration	Summer 1999 Lincoln County	6,599.25	2,500.00 (37.9%)	0.00	0.00	4,099.25 (62.1%)
Fairchild Small Dam Repair	Summer 1999 Yellow Med. Co.	8,580.00	6,435.00 (75.0%)	0.00	145.00 (1.7%)	2,000.00 (23.3%)
Steffes Small Dam Repair	Summer 1999 Lincoln County	8,920.00	1,970.00 (22.1%)	2,000.00 ¹ (22.4)	0.00	4,950.00 (55.5%)
Black Rush Lake Wetland Restoration	Summer 1999 Lyon County	263,362.00	51,000.00 (19.4%)	105,547.00 ³ (40.0%)		106,815.00 (40.6%)
Banks Small Dam Repair	Fall 1999 Lyon County	13,727.6	1,500.00 (10.9%)	7,202.60 ¹ (52.5%)	0.00	5,025.00 (36.6%)
North Hero 10 Road Retention	Summer 1998 Redwood County	~\$84,318.00	\$54,750.00 (65.9%)	~\$11,318.00 ¹ (13.4%)	\$18,250.00 (21.6%)	In-kind construction inspection
Island Lake 22 Road Retention	Fall 1998 Lyon County	\$231,790.15	\$56,875.00 (24.5%)	\$125,815.00 ² (54.3%)	\$0.00	\$49,100.15 (21.2%)
Fortier 15 Road Retention	Summer 1997 Yellow Med. Co.	\$41,138.10	0.00	0.00	\$30,000.00 (73.0%)	\$11,138.10 (27.0%)
Ann 6 Modification	Fall 1997 Cottonwood Co.	\$30,235.00	0.00	\$22,500.00 ⁵ (74.4%)	\$5,000.00 (16.6%)	\$2,375.00 (9.0%)

continued on backside

ATTACHMENT II
PAST FUNDING SCENARIOS FOR COST SHARED RETENTION PROJECTS

Lyons 3 Road Retention	Fall 1996 Lyon County	\$202,408.30	\$11,232.52 \$41,864.00 ⁴ (26.2%)	\$53,125.00 ⁵ (26.2%)	\$10,444.17 (5.2%)	\$85,742.61 (42.4%)
North Hero 31 Road Retention	Fall 1996 Redwood County	\$103,820.59	\$21,242.48 (20.4%)	\$53,445.00 ² \$17,651.11 ¹ (68.5%)	\$7,080.83 (6.9%)	\$4,401.17 (4.2%)
Nordland 30/29 Road Retention	Summer 1996 Lyon County	\$30,172.15	\$21,000.00 \$4,500.00 ⁴ (84.5%)	0.00	0.00	\$4,672.15 (15.5%)
Nordland 7 Road Retention	Summer 1996 Lyon County	\$82,487.65	\$30,000.00 (36.4%)	26,000.00 ⁴ (31.5%)	0.00	\$26,487.65 (32.1%)
Lake Stay 9 Road Retention	Summer 1996 Lincoln County	\$142,030.00	\$18,750.00 (13.2%)	\$95,330.00 ² \$6,500.00 ¹ (71.7%)	\$6,250.00 (4.4%)	\$15,200.00 (10.7%)
Gorecki-Jeremiason Road Retention	Fall 1995 Lincoln County	\$113,970.25	\$20,625.00 ⁴ (18.1%)	\$3,000.00 ¹ (2.6%)	\$6,875.00 (6.0%)	\$83,470.25 (73.3%)
Hendricks 35 Road Retention	Fall 1995 Lincoln County	\$94,594.43	\$11,945.00 \$9,283.93 ⁴ (22.4%)	59,608.57 ² (63.0%)	\$4,473.00 (4.7%)	\$9,283.93 (9.8%)
Storden 2 Road Retention	Summer 1995 Cottonwood Co.	\$16,570.00	\$5,800.00 (35.0%)	0.00	\$1,926.00 (9.7%)	\$8,844.00 (53.3%)
Germantown 6 Road Retention	Fall 1994 Cottonwood Co.	\$43,797.95	12,736.50 (29.1%)	\$21,240.00 ² (48.5%)	\$4,245.50 (9.7%)	\$5,575.95 (12.7%)
CSAH 16 Road Retention	Fall 1994 Yel. Med. Co.	\$15,846.91	\$10,522.00 (66.4%)	0.00	0.00	\$5,324.91 (33.6%)
County Road 57 Road Retention	Fall 1994 Lyon County	\$268,375.00	\$75,245.00 (28.0%)	\$10,000.00 ¹ \$34,042.82 ³ (16.4%)	\$19,087.18 (7.1%)	\$130,000.00 (48.5%)
CSAH 19 Road Retention	Fall 1994 Lincoln County	\$140,000.00	\$22,500.00 (16.1%)	\$34,042.82 ³ \$10,000.00 ² (31.4%)	\$18,457.18 (13.2%)	\$55,000.00 (39.3%)
TOTALS		\$2,287,650.69	\$1,443,505.15 (63.1%)		\$844,145.54 (36.9%)	

NOTE: ¹ Water Plan Base Grant funds; ² MNDOT funds; ³ DNR FDR Grants funds; ⁴ BWSR Challenge Grant Funds; ⁵ Road Retention Bonding Funds

As of June 2000

FOR YOUR INFORMATION

June 29, 2000

- Letter to Catherine Anderson, Office of Administrative Hearings, from John Jaschke and John Linc Stine, regarding Exempt Rulemaking for Wetlands
- Letter to Governor Ventura from Carolyn Engebretson, Association of Minnesota Counties, regarding the proposed dairy feedlot Memorandum of Understanding (MOU) between the Pollution Control Agency (PCA) and the Minnesota Department of Agriculture (MDA)
- "Board Member Update" – Northern Region
- BWSR Staff Listing (phone/fax/cell/pager numbers)
- BWSR Education and Public Relations Committee Minutes of 5/24/00 Meeting



May 16, 2000



Handwritten note:
Read
for June

Catherine Anderson
Office of Administrative Hearings (OAH)
1700 100 Washington Square
Minneapolis, MN 55401

RON HARNACK
BWSR
ONE WEST WATER STREET
SUITE 200
ST. PAUL, MN 55107

Dear Ms. Anderson:

Subject: Exempt Rulemaking for Wetlands

2000 Laws of Minnesota, Chapter 382, section 20, orders the Board of Water and Soil Resources (BWSR) and the Department of Natural Resources (DNR) to develop exempt rules under M.S. 14.386 within 90 days from the effective date of the legislation (April 14th).

As we discussed on the telephone on May 11th, the process for exempt rulemaking described in MN Rule 1400.2400, Subp. 2, requires each agency to adopt rules before submitting them to the OAH. The significance of this distinction is that the agency adoption of the rule does not coincide with the effective date of the rule.

Thus, our plan is to have amendments to the Chapter 8420 and Chapter 6115 rules adopted by July 14, 2000. The rules would become effective shortly after August 1, 2000 (effective date of legislation) after receiving approval from your office and upon publication in the *State Register*.

If you have any questions please contact us at the phone numbers or e-mail locations listed below.

Attached is our planned schedule for adoption and implementation of these rules.

Attachment

Sincerely,

John Jaschke
BWSR Wetland Program Manager
Phone: 651-297-3432
john.jaschke@bwsr.state.mn.us

John Linc Stine, Administrator
DNR Waters/Water Mgmt. Section
Phone: 651-296-0440
john.stine@dnr.state.mn.us

c: Wetland Legislation 2000 Stakeholders
Judge Allan Klein, OAH

BWSR
Ron Harnack, Executive Director
RSSL Team
BWSR Board Members

DNR
Allen Garber, Commissioner
Kent Lokkesmoe, Director, DNR - Waters
Lee Pfannmuller, Director, Fish & Wildlife

CHAPTER 382, LAWS 2000 (SF83)

BWSR/DNR IMPLEMENTATION PLAN

Steering Committee: Ron Harnack, Kent Lokkesmoe, Lee Pfannmuller, Matt Seltzer, John Linc Stine, John Jaschke, Bruce Gerbig, Doug Norris

Stakeholders: Same group that worked with BWSR and DNR in 1999 on proposed legislation

<u>Date</u>	<u>Activity</u>
March	
3/22	Steering committee formed up
3/23	Interagency Wetlands Group (IWG) briefed on draft plan schedule Brief agency leadership
April	
4/10	Steering Committee meets Finalize work group membership
4/26	Stakeholders meeting
May	
5/4	IWG meeting
5/8	Steering Committee meeting
5/17-18	Meeting of DNR and BWSR field staff
5/24	DNR work group meeting
5/24	Stakeholders meeting, at BWSR, 1-4 pm
5/25	IWG meeting
5/30-6/1	Local Government Info. Workshops - BWSR, DNR, Corps, NRCS 5/30 in Minneapolis, 6/1 in Marshall, 6/2 in Rochester
June	
6/6-6/8	Local Government Info. Workshops - BWSR, DNR, Corps, NRCS 6/6 in Bemidji, 6/7 in Duluth, 6/8 in St. Cloud
6/8	DNR work group meeting
6/8	Stakeholders meeting, 1-4 pm
TBA	IWG meeting
by 6/21	Draft rule to Revisor of Statutes office
6/28	BWSR Board Meeting, adopt rule
July	
by 7/14	BWSR adoption of any rule changes identified at 6/28 Board meeting
by 7/14	DNR adoption of rule
by 7/14	After BWSR and DNR adoption, transmit adopted rule to Office of Administrative Hearings
by 7/14	Transmit adopted rule changes to Senate and House environment and natural resource and agriculture committees at least 30 days before published in the State Register
August	
8/4	Adopted Chapter 8420 and Chapter 6115 rules to State Register by noon
8/16	State Register rule publication, rule implementation on date of publication Training (local and agency) to be scheduled

ASSOCIATION OF

 MINNESOTA COUNTIES

May 22, 2000

The Honorable Jesse Ventura
 Governor
 State of Minnesota
 130 State Capitol
 75 Constitution Avenue
 St. Paul, MN 55155

Post-it® Fax Note	7671	Date	6/6	# of pages	2
To	Jim Brockholz	From	Dave Weirans		
Co./Dept.	BWSR	Co.	AMC		
Phone #		Phone #	224-3344		
Fax #	297-5615	Fax #			

Dear Governor Ventura:

As you recall, I last wrote to you in February regarding the proposed dairy feedlot Memorandum of Understanding (MOU) between the Pollution Control Agency (PCA) and the Minnesota Department of Agriculture (MDA). The discussions have reached a point where you should be informed on my opinion on the status of this proposal.

While the effort that has been made by the PCA and MDA in discussing the MOU with counties is appreciated, there still are a number of concerns that have not, and may not be able to be addressed in the current framework of the MOU. These concerns include the apparent high cost of bringing 20 dairy inspectors into the feedlot program with little apparent benefit, concerns over increasing confusion among dairy farmers and state and local government officials over regulatory standards, and the long-term impact this new relationship will have on the feedlot program.

With these concerns in mind, the Association of Minnesota Counties is proposing two actions to further the goals of the MOU. First, the Association of Minnesota Counties will promote and work to increase the number of counties who have been delegated regulatory authority under the PCA feedlot program. Our second proposal is to re-start the process of drafting a dairy pollution prevention MOU.

Regardless of whether or not an MOU is signed and implemented, it is important to achieving state goals for environmental protection that more counties become actively engaged in the regulation of animal agriculture. An MOU that appropriately integrates the MDA into feedlot regulation is more likely to occur if all the partners in feedlot management are involved from the beginning.

Thank you for your time in considering our concerns regarding the regulation of dairy feedlots. The Association of Minnesota counties will continue to work with the PCA, MDA and others to ensure that feedlot regulation is cost-effective, service oriented, and responsive to the needs of the public as well as farmers.

Sincerely,

Carolyn E. Engebretson
Carolyn Engebretson, President
Becker County Commissioner

cc: Commissioner Karen Studders, Pollution Control Agency
Commissioner Gene Hugoson, Department of Agriculture
Representative Tim Finseth
Representative Bob Ness
Senator Dallas Sams
Senator Jane Krentz

BOARD MEMBER UPDATE

Northern Region

Month: June 2000

LWP

On May 1, Dan Steward met with representatives of the Whitefish Lake Association, Crow Wing P & Z, and the City of Crosslake to discuss the ongoing septic upgrade project. This is a combination of LCMR and BWSR Challenge Grant dollars totaling \$141,250. This project is ahead of schedule, under budget and may be expanded to include small areas in Manhattan Beach and Fifty Lakes.

WCA

Keith Grow says that the WCA workload continues to increase. One of the main themes is ditches. It is very apparent in a number of counties that landowners and ditch authorities are not following the 103E process, i.e., contacting regulators or permit authorities before the draining or filling activities take place.

A WCA performance evaluation was completed, discussed and finalized with the Mille County Board and SWCD. The timelines for this evaluation are from May 15 to November 15, 2000. Every two months, BWSR is meeting with the chairs of the respective boards to update them on progress being made.

WCA "Back to Basics" administrative training sessions for Keith's LGU's in Brainerd, and Bill's and Dale's LGU's in Thief River Falls were conducted with Wetland Specialist Dan Eklund. The sessions were well received. Other state agency staff were present also. Lots of questions with good answers by Dan and the other agency folks present.

Dan Steward and Dan Eklund met with Bob Terrace of the City of Sartell to discuss the ongoing implementation of the WCA. Also attending the meeting were DNR Wetland Enforcement Officer Todd Manley and John Smythe, technical advisor to the city. They were positively impressed with the progress this rapidly growing city has made in catching up WCA administration. They will have regular check-ups with the city to ensure that everyone has the same information.

Mark Nelson reports another abuse of the forestry exemption regarding building a dike road across a flow-through wetland, a cease and desist order was issued. Mark attended a meeting at MNDOT in Duluth to coordinate environmental permitting activities for state road jobs. Mark related to the group that our biggest wetland problem is after the fill leaves the site and is deposited (sometimes) illegally in wetlands.

Bill continues to work on the Vesldahl Project west of Winger. He worked with Bruce Sandstrom and a landowner to develop an agreement to fill land adjacent to some of the basins. Construction is slated to begin in September or October.

Hot Topics

Mark Nelson said that basin planning is occurring in both the Lake Superior Basin and the Rainy Basin. Some northern counties are concerned about the basin plans circumventing the locally elected officials.

Other

Keith participated in his first environthon—subject, wetlands. He said that it was refreshing to see students deal with wetland issues minus politics, dollars and attitude

PHONE NUMBERS FOR BWSR STAFF

Updated 6/22/00

FAX NUMBER 651-297-5615

Anderson, Mary Jo	297-4290	Morrill, Ron	xxx-xxxx
Birkholz, Jim	296-0879	(in Bosnia for 9 months)	
(pager 612-510-0713)		Ogg, Tim	297-8024
Block, Marybeth	297-7965	Otte, Sheila	215-1703
Bohrer, Helen	282-2600	Remick, Polly	297-4365
Bonde, Karen	297-3998	Salinas, Debbie	297-8025
Computer Room	296-1349	Vacant (Bill Sand's old #)	282-3815
Conference Room	215-1521	Sandstrom, Bruce	297-4958
Devoe, Natasha	205-4664	Schwanke, Tom	297-5616
Donnelly, Conor	282-3815	Sokatch, Char	297-4016
Fredbo, Tim	296-0880	Thomas, Doug	297-5617
Haertel, Jim	297-2906	(pager 612-740-4613)	
Harnack, Ron	296-0878	Tschetter, Jeff	296-0884
(pager 612-740-2461; cell 612-202-3815)		Vacant (Susan Tsakakis' old #)	297-1893
Jaschke, John	297-3432	Vacant (Barbara Walther's old #)	297-1894
Jeffery, Justin	215-1202	Wenzel, Tom	296-0883
Kean, Al	297-2907	Wilson, Lori	296-3767
Larson, Greg	296-0882	Zellmer, Wayne	297-7361
Lenarz, John	297-4735		
(pager 612-589-2747)		METRO	
Lewis, Michelle	296-2428	Fax #	284-0000
Library	297-8028	Cell Phone	612-849-7616
Luniewski, Jim	297-2622	Anderson, Debbie	282-9969
Miller, Mary	296-0873	Belfiori, Phil	297-8026
(pager 612-589-0760; cell 612-240-5958)		Peterson, Lynda	215-1519
Miller, Steve	296-6908	Snyder, Doug (Doc)	215-1520
Moechnig, Howard	215-1529	Struss, Ron	215-1950
(Rochester 507-289-7454)		Woods, Steve	297-7748
Mohring, Eric	297-7360		
Molina, Robyn	296-2840		

Southern Regional Office

New Ulm

Fax # (507) 359-6018
Cell Phone (651) 485-8469
 Jeff Nielsen (507) 359-6075
 Chris Hughes (507) 359-6076
 Tom Fischer (507) 359-6091
 Jeff Hedtke (507) 359-6092
 Sara Johnson (507) 359-6077
 Carla Swanson-Cullen (507) 359-6074
 DNR Switchboard (507) 359-6000
 Derek Fischer (507) 359-6090

Rochester

Fax # (507) 280-2875
Cell Phone (651) 485-8472
 Dave Peterson (507) 280-2874
 Mary Kells (507) 280-2873
 Susan Watts (507) 285-7458

Marshall

Fax # (507) 537-6368
Cell Phone (651) 485-8471
 Tabor Hoek (507) 537-7260
 David Sill (507) 537-6374
 Roxie Serreyn (507) 537-6060
 Vacant (507) 537-6125

Northern Regional Office

Brainerd

Fax # (218) 828-6036
Cell Phone (218) 820-9381
 Ron Shelito (218) 828-2604
 Keith Grow (218) 828-6035
 Dan Steward (218) 828-2598
 Dan Eklund (218) 825-3015
 Vicky Erbele (218) 828-2383

Fergus Falls

Fax # (218) 736-7215
Cell Phone (218) 770-3802
 Pete Waller (218) 736-5445

Duluth Office

Fax # (218) 723-4794
Cell Phone (218) 343-6138
 Gene Clark (218) 723-2351
 Jim Lemmerman (218) 723-4996
 Mark Nelson (218) 723-4923
 Brad Matlack (218) 725-7747
 Kamal Alsharif (218) 723-2350
 Mary Jo Flemming (218) 723-4752

Bemidji Office

Fax # (218) 755-4201
 Brian Dwight (218) 755-3963
Cell Phone (651) 485-8489
 Bill Best (218) 755-4176
Cell Phone (651) 485-8490
 Dale Krystosek (218) 755-4236
Cell Phone (651) 485-8491
 Karen Johannsen (218) 755-4235

Education and Public Relations Committee Minnesota Board of Soil and Water Resources

Minutes of 5/24/00 Meeting

Attending

Members: Jim Anderson, Ginny Imholte, Paul Krabbenhoft, and Claire Nelson

Staff: John Jaschke, Derek Fisher, Ron Struss, and Susan Tsakakis

John Jaschke – Potential of drainage education in up-coming LCMR grant request

John shared information on a LCMR grant proposal that might provide a source of funding for the drainage education project that the Education Committee is considering. The grant asks for \$1.2 million to inventory public drainage systems and create an information system that will make this information readily available. The goals of the LCMR proposal are close enough to the Educational Committee's proposal, that of providing assistance to NE and N Central counties for establishing a drainage rule administrative system, that John feels a funding opportunity exists.

If the LCMR grant is not funded, or only funded in part, John suggests the drainage educational project be submitted into the BWSR budget process starting in June.

Susan Tsakakis – BWSR website review

Susan reviewed the BWSR Website, noting the objectives behind its design. Susan likes the look of the site and thinks that it is targeted well to its intended audience (LGUs). However, she pointed out several improvements that would make the site more fully supportive of BWSR clientele:

- Keep all information current
- Have all BWSR forms and fact sheets available on the site for download
- Include phone directories on the site
- Enable the site to collect information, such as LARS reports

Susan noted that other agencies, such as DNR and PCA, have recently revised their websites based on experiences with their first website designs. Such a revision is due for the BWSR site. Requests for revisions are coming in from clientele and staff.

A discussion was held about the ability for LGUs to assess websites. The feeling was that it is a capacity that LGUs need to have if they do not have already. We should assist LGUs with the change, and not enable them in resisting change.

Susan indicates it will take resources to revise the site and keep it current, more resources than BWSR has budgeted to date. It is an administrative decision on the role the website should serve and the amount of resources that are directed towards it.

Paul Krabbenhoft asked and received support from the committee to request that the website be placed on the Board's August agenda as an item of discussion.

Jaschke's and Fisher's comments on BWSR website

John Jaschke and Derek Fisher were in the meeting for other agenda items, but both encouraged the committee to expand the capacity of the BWSR website.

John would like the website to be a delivery method for wetlands information, greatly reducing the amount of paper mailing that need to be made. He feels a combination of the website and email should be his program's primary means of communications in the future.

Derek would like to be able to post information on the website, therefore reducing the amount of individual responses for information he has to make.

A discussion was made on how information should be posted on the website. Derek indicated that his job moves fast and the ability for him to post information directly (e.g., documents and presentations) would be useful. Software changes now allow for posting of information to websites without specialized skills.

Derek Fisher – Tillage and nutrient management education

Derek is one of the three educators in the BWSR / UM Extension partnership. His role is to assist LGUs with developing education programs in the area of conservation tillage and cropland nutrient management. He is located out of the New Ulm Regional Office.

Derek is the state coordinator for the Tillage Transect Program, and provided leadership in educational outreach on the new PCA feedlot rules. His current focus is assisting LGUs in expanding their tillage and nutrient management educational programs.

Although his position is to support LGUs, Derek finds himself increasing involved in efforts at the state level. He is concerned about this, but then realizes that until there are educational programs and policies developed at the state level, he will have limited materials and support to provide to LGUs.

His current challenge is engaging already overwhelmed BWSR and UM Extension staff in the effort to assist LGUs with expand tillage and nutrient management education. Derek can not do this job alone, and is strategizing on how best to enlist other in the effort.

Adjourn - Next meeting

No meeting will be held in June due to the planned tour.

A meeting will be held in July if there are agenda items to address.

Submitted by: Ron Struss – 5/25/00