



Minnesota Board of Water and Soil Resources.
Minutes.

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**BOARD OF WATER AND SOIL RESOURCES
ONE WEST WATER STREET
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55107
WEDNESDAY, JANUARY 23, 2002**

AGENDA

9:00 a.m. Call Meeting to Order

Pledge of Allegiance

Adopt Agenda

Minutes of December 19, 2001

Open Mike (10-minute agenda time, two-minute limit/person)

Reports

- Chair – Lee Coe
- Executive Director – Ron Harnack
- Dispute Resolution Committee – Lee Coe
- Wetlands Committee – Darrell Bruggman
- Cost-Share/Soil Conservation Committee – Dwain Otte
- Education and Public Relations Committee – Paul Krabbenhoft
- Administrative Advisory Committee – Lee Coe

Agency Reports

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

Consent Agenda

1. Clearwater County Request for Comprehensive Local Water Plan Extension – DECISION

Committee Recommendations

Metro Water Planning Subcommittee

1. Order Withdrawal of Territory in the Comfort Lake Forest Lake Watershed District – DECISION
2. Black Dog Watershed Management Organization Plan – DECISION

3. Lower Minnesota River Watershed District Amendment to Watershed Management Plan - DECISION

Northern Water Planning Subcommittee

1. Stearns County Comprehensive Water Plan Update – DECISION

Southern Water Planning Subcommittee

1. Nicollet County Comprehensive Water Plan Update – DECISION
2. Sibley County Comprehensive Water Plan Update – DECISION

Information and Discussion

1. Schunk Petition – Keefe Schunk , citizen
2. Budget Reductions
 - Ron Harnack
 - Jim Anderson, MES
 - Sharon Clark, MDA
 - Wayne Edgerton, DNR
 - Lisa Thorvig, PCA
 - Dan Wilson, MDH

Noon

Lunch Break

1:00 p.m.

3. "Present-Day Agriculture in Southern Minnesota – Is it Sustainable?" – Giles Randall, Soil Scientist and Professor

Advisory Comments

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

Upcoming Meetings

- 2002 Legislative Session Begin, January 29, 2002
- NACD Annual Meeting, February 3-7, Reno, Nevada
- Next BWSR Meeting, February 27, 2002, St. Paul

2:00 p.m.

Adjourn



DATE: January 14, 2002

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

FROM: Ronald D. Harnack, Executive Director *RDH*

SUBJECT: January 23rd BWSR Meeting

The Board of Water and Soil Resources (BWSR) will meet on Wednesday, January 23, 2002, beginning at 9:00 a.m. The meeting will be held in the BWSR conference room, lower level, at One West Water Street, St. Paul. Parking is available across the street from the building. Please display the enclosed "temporary parking permit: on your vehicle's dashboard.

The following information pertains to agenda items:

Consent Agenda

1. Clearwater County Request for Comprehensive Local Water Plan Extension -- see attached. DECISION

Committee Recommendations

Metro Water Planning Subcommittee

1. Order Withdrawal of Territory in the Comfort Lake Forest Lake Watershed District – The City of Wyoming submitted a petition dated September 5, 2001, to withdrawal all territory from the Comfort Lake Forest Lake Watershed District that is within the City of Wyoming. The Metropolitan Water Planning Subcommittee presided over a public hearing held on November 13, 2001. At the public hearing information was presented that supported the withdrawal of territory from the watershed district. However, further review of one-foot contour information showed that the majority of one lot drains to the watershed district. The subcommittee met on January 7, 2002, and unanimously passed a resolution to withdraw all territory from the Comfort Lake Forest Lake Watershed District that is in the City of Wyoming except for Outlot "D" of the Fairview Hospital property, per the attached draft Order. DECISION
2. Black Dog Watershed Management Organization Plan - On January 7, 2002, the Metro Subcommittee recommended approval of the Black Dog Watershed Management Organization Plan. The Metro Region staff also recommends approval of the Plan. The Plan does comply with Minnesota Rules 8410 and the fundamental planning expectations articulated by BWSR. The Plan accurately reflects a focused

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fax (218) 723-4794

Fergus Falls
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Marshall
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Marshall, MN 56258
phone (507) 537-6060
fax (507) 537-6368

New Ulm
261 Highway 15 S.
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fax (507) 359-6018

Rochester
40 16th Street S.E.
Suite A
Rochester, MN 55904
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Saint Paul
One West Water Street
Suite 250
Saint Paul, MN 55107
phone (651) 282-9969
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management framework consistent with the recommendations provided by the Citizen Advisory Committee and interagency work team. DECISION

3. Lower Minnesota River Watershed District (LMRWD) Amendment to Watershed Management Plan – In May 2000, BWSR ordered that the boundary of the LMRWD be enlarged by approximately 3,346 acres, including properties of the Minneapolis-St. Paul International Airport, Fort Snelling State Park, Fort Snelling National Cemetery, the Department of Veteran's Affairs, the U.S. Air Force, the U.S. Army Reserve, the Minnesota Air National Guard, the U.S. Naval Reserve, the General Services Administration, the U.S. Bureau of Mines, the Minnesota Department of Transportation, and the Minneapolis Park and Recreation Board. The BWSR Metro Water Planning Subcommittee and BWSR staff met with the LMRWD on January 8, 2002. The subcommittee and staff recommends approval of the LMRWD's amendment to the Watershed Management Plan. DECISION

Northern Water Planning Subcommittee

1. Stearns County Comprehensive Water Plan Update – Stearns County has completed the update of their "third generation" water plan. On January 11, 2002, Merle Anderson, Chairman of Stearns Comprehensive Local Water Planning Advisory Committee, Rob Sip and Chelle Benson, Stearns County Environmental Services staff, met with the BWSR Northern Water Planning Subcommittee to review the plan and provide a recommendation, see attached. DECISION

Southern Water Planning Subcommittee

1. Nicollet County Comprehensive Water Plan Update – see attached. DECISION
2. Sibley County Comprehensive Water Plan Update – see attached. DECISION

Information and Discussion

1. Budget Reductions – Ron Harnack and agency representatives will address budget reduction initiatives and related impacts on natural resources and local governmental units. Attached is BWSR's Supplemental Budget Recommendation. The Governor's "Big Fix" plan for tax and spending changes is located on the Department of Finance's web-site at: <http://www.finance.state.mn.us/budget/recommendations.pdf> The Environment and Natural Resources section begins on page 32 with BWSR on page 36.

Principles that have guided staff discussions are:

- a) Commitment to ongoing capacity of local governments.
 - b) Preserve the base level funding for local governments.
 - c) Commitment to natural resources outcomes..
 - d) Commitment to legislative mandates.
 - e) Commitment to reform for efficiency and effectiveness of delivery and realization of outcomes.
2. Schunk Petition – Keefe Schunk, citizen – see attached.
 3. "Present-Day Agriculture in Southern Minnesota – Is it Sustainable?" – Giles Randall, Soil Scientist and Professor, will present information – see attached.

If you have any questions regarding the agenda, please feel free to give me a call at 651-296-0878. If bad weather conditions exist in your area and you are unable to attend the meeting due to travel restrictions, please notify the Board office by noon on Tuesday, if possible. I look forward to seeing you on January 23!

RDH:mja
Enclosures

**BOARD OF WATER AND SOIL RESOURCES
ONE WEST WATER STREET
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55107
WEDNESDAY, JANUARY 23, 2002**

PRELIMINARY AGENDA

9:00 a.m. Call Meeting to Order

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Adopt Agenda

Minutes of December 19, 2001

Open Mike (10-minute agenda time, two-minute limit/person)

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1. Clearwater County Request for Comprehensive Local Water Plan Extension – DECISION

Committee Recommendations

Metro Water Planning Subcommittee

1. Order Withdrawal of Territory in the Comfort Lake Forest Lake Watershed District – DECISION
2. Black Dog Watershed Management Organization Plan – DECISION

3. Lower Minnesota River Watershed District Amendment to Watershed Management Plan - DECISION

Northern Water Planning Subcommittee

1. Stearns County Comprehensive Water Plan Update – DECISION

Southern Water Planning Subcommittee

1. Nicollet County Comprehensive Water Plan Update – DECISION

2. Sibley County Comprehensive Water Plan Update – DECISION

Information and Discussion

1. Budget Reductions
 - ☐ Ron Harnack
 - ☐ Jim Anderson, MES
 - ☐ Sharon Clark, MDA
 - ☐ Wayne Edgerton, DNR
 - ☐ Lisa Thorvig, PCA
 - ☐ Dan Wilson, MDH
2. Schunk Petition – Keefe Schunk , citizen

Noon

Lunch Break

1:00 p.m.

3. "Present-Day Agriculture in Southern Minnesota – Is it Sustainable?" – Giles Randall, Soil Scientist and Professor

Advisory Comments

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

Upcoming Meetings

- 2002 Legislative Session Begin, January 29, 2002
- NACD Annual Meeting, February 3-7, Reno, Nevada
- Next BWSR Meeting, February 27, 2002, St. Paul

2:00 p.m.

Adjourn

CONSENT AGENDA

1. Clearwater County Request for
Comprehensive Local Water Plan
Extension – DECISION

(For Board Action)

Clearwater COUNTY COMPREHENSIVE LOCAL WATER PLAN EXTENSION

Clearwater County has a current Comprehensive Local Water Plan (CLWP) approved by the Minnesota Board of Water and Soil Resources (BWSR). The effective or end date of this CLWP is February 26, 2002.

The 1995 amendment to the Comprehensive Local Water Management Act, M.S. 103B.301 gives BWSR authority to grant an extension of a CLWP ending date. A County's request, which has a two-year limit, must be in writing. On December 18, 2001, the Clearwater County Board of Commissioners passed a resolution requesting the extension. On January 2, 2002, BWSR staff reviewed the extension request.

Clearwater County has been involved in several recent major planning efforts on an area and regional scale. These include the Red River Basin Plan, the Upper Mississippi Basin Plan, the Mississippi Headwaters Board Long Range Plan, the Red Lake Watershed District Water Quality Project, the Clearwater Lake Management Plan and the Upper Rice/Minerva Watershed Management Plan. These efforts have provided valuable information and a regional platform for local planning efforts. The extension request is based upon the need to incorporate information gathered through these planning processes into the Comprehensive Local Water Plan update with the expectation that the additional information and plan coordination will benefit the CLWP update. CLWP public participation, water plan task force meetings and public information meetings will continue during the extension period.

In order to allow adequate time to incorporate this additional information into the Clearwater County CLWP update, Board Conservationist Jeff Hrubes recommends approval of Clearwater County's CLWP extension request until December 31, 2003.

**RESOLUTION REQUESTING AN EXTENSION OF THE
CLEARWATER COUNTY COMPREHENSIVE LOCAL WATER PLAN**

Commissioner Hayes offered the following resolution and moved its adoption.

WHEREAS, 1995 amendments to the Comprehensive Local Water Planning Act, M.S. 103B.301 gave the Board of Water and Soil Resources (BWSR) authority to extend the ending date of local water plans for a period not to exceed two (2) years; and

WHEREAS, Clearwater County has a State approved and locally adopted Comprehensive Local Water Plan with an end date of February 26, 2002; and

WHEREAS, Clearwater County is an active participant in several major planning efforts and studies that include the Upper Mississippi River Headwaters Basin Planning, the Mississippi Headwaters Board Long Range Plan, the Red River Basin Plan Update, the Upper Rice/Minerva Lake Challenge Grant, the Red Lake Watershed District Water Quality Project; and the Clearwater Lake Management Plan; and

WHEREAS, although participation in these efforts provides valuable information and will allow for a more integrated approach to the Comprehensive Local Water Plan Update process, it also means additional time will be needed to complete planning activities.

NOW, THEREFORE BE IT RESOLVED, that the Clearwater County Board of Commissioners requests that the Board of Water and Soil Resources grant an extension up to December 31, 2003 to complete the update of the Clearwater County Comprehensive Local Water Plan; and

BE IT FURTHER RESOLVED, that Clearwater County will assure continued public participation in the form of the Water Plan Task Force and public information meetings; and

BE IT FURTHER RESOLVED, that no projects will be ordered or commenced under M.S. 103B.331 subdivision 3 and 4 during the extension period.

Commissioner Nelson seconded the adoption of the resolution and it was declared adopted by the following vote:

Ayes: all

Nays: none

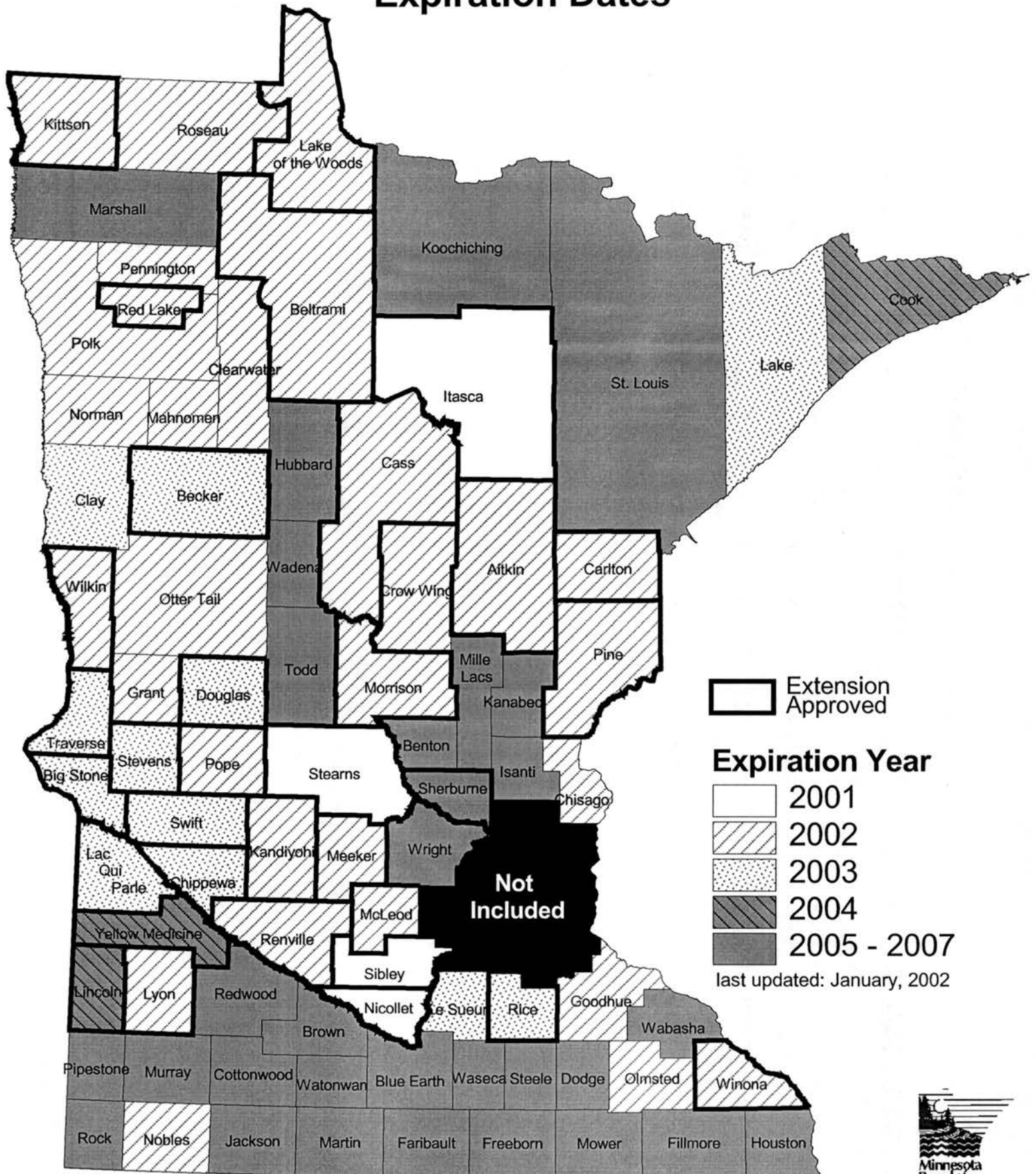
I, Jeanine Brand, Clearwater County Board Coordinator, do hereby certify that the foregoing resolution is a true and accurate copy of a resolution duly passed at a meeting of the Clearwater County Board of Commissioners held at Bagley, Minnesota on the 18th day of December, 2001.


Jeanine Brand, Board Coordinator

RECEIVED

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BOARD OF WATER & SOIL
RESOURCES - BEMIDJI

County Water Plan Expiration Dates



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Minnesota Board of Water and Soil Resources
One West Water Street
Suite 200
St. Paul, Minnesota 55107

In the Matter of Extending the Comprehensive Local
Water Plan for **Clearwater** County (1995 Minnesota
Session Law, Chapter 184, Section 24) authorizing
BWSR to grant extensions

ORDER
EXTENDING
COMPREHENSIVE
WATER PLAN

Whereas, Clearwater County has a state approved Comprehensive Water Plan that is effective until February 26, 2002, pursuant to Minn. Stat. 1990, Section 103B.301 and,

Whereas, the Clearwater County Board of Commissioners requested an extension of the Comprehensive Local Water Plan (Plan) to the Minnesota Board of Water and Soil Resources (Board) on January 2, 2002 pursuant to Minn. Session Law 1995, Chapter 184 Section 24 and,

Whereas, the Board has authorization to grant extensions pursuant to Minn. Session Law 1995, Chapter 184, Section,

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

Findings of Fact

1. On December 18, 2001, the Board received a resolution from Clearwater County requesting an extension of their Comprehensive Local Water Plan.
2. On January 2, 2002, the Board staff reviewed and recommended approval of the extension request by Clearwater County.

Conclusions

1. All relevant requirements of law and rule have been fulfilled. The Board has proper jurisdiction in the matter of extending the Comprehensive Local Water Plan of Clearwater County pursuant to Minn. Session Law 1995, Chapter 184 Section 24.

Order

The Board hereby approves the extension of the Clearwater County Comprehensive Local Water Plan until December 31, 2003. Dated at St. Paul, Minnesota this 23rd day of January 2002.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: Leland Coe, Chair

COMMITTEE RECOMMENDATIONS

Metro Water Planning Subcommittee

1. Order Withdrawal of Territory in the Comfort
Lake Forest Lake Watershed District -
DECISION

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Minnesota Board of Water and Soil Resources
One West Water Street, Suite 200
St. Paul, Minnesota 55107

DRAFT

In the Matter of the Petition for Withdrawal
of Territory in the Comfort Lake Forest Lake
Watershed District in the City of Wyoming, Chisago
County, pursuant to Minnesota Statutes § 103D.255

**ORDER WITHDRAWAL
OF TERRITORY**

Whereas, the City of Wyoming filed a Petition dated September 5, 2001 with the Board of Water and Soil Resources (Board) on September 7, 2001, to withdraw territory from the Comfort Lake Forest Lake Watershed District pursuant to Minn. Stat. § 103D.255, and;

Whereas, the Board has completed its review of the Petition;

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

FINDINGS

1. **Petition.** The Petition (See Exhibit 1) to withdraw territory from the Comfort Lake Forest Lake Watershed District was filed by the City of Wyoming with the Board on September 7, 2001.
2. **Property Description.** The territory proposed to be removed from the watershed district, the Petitioned Area, is located in the City of Wyoming in Chisago County and consists of all property currently located within the City of Wyoming which is part of the Comfort Lake Forest Lake Watershed District.
3. **No Benefits Received.** The Petition states that the Petitioned Area has not received and will not receive any benefits from the operation of the watershed district.

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4. **District Performance.** The Petition states that the watershed district can perform the functions for which it was established without the inclusion of the Petitioned Area.
5. **Territory not in Watershed.** The Petition states that the Petitioned Area is not, in fact, a part of the watershed for which the Comfort Lake Forest Lake Watershed District was formed.
6. **Filing Notice.** The Petition was served on the Board and the Comfort Lake Forest Lake Watershed District pursuant to Minn. Stat. § 103D.255, Subd. 1 (e).
7. **Public Hearing.** A public hearing was held on Tuesday, November 13, 2001 at 7:00 PM at the City of Wyoming City Hall, 26885 Forest Boulevard, Wyoming, Minnesota . The Board's Metropolitan Water Planning Subcommittee consisting of Dwain Otte, Jack Frost, and Karen Harder as Chair, presided over the hearing. The proceedings were tape recorded. The following exhibits were entered into the record at the hearing.

Exhibit 1. Petition for Withdrawal of Territory within the City of Wyoming from the Comfort Lake Forest Lake Watershed District dated September 5, 2001, together with City of Wyoming Resolution No. 9-5-01 unanimously supporting the Petition and forwarded under a cover letter dated September 6, 2001 from Thomas Miller including an affidavit of service of the Petition on the Comfort Lake Forest Lake Watershed District.

Exhibit 2. Board of Water and Soil Resources Order of Public Hearing dated September 26, 2001.

Exhibit 3. Letter from Jim Haertel, BWSR, dated October 22, 2001, to several addressees notifying of Public Hearing.

Exhibit 4. Affidavit of publication for Notice of Public Hearing in Chisago County Press on October 25 and November 1, 2001.

Exhibit 5. Affidavit of publication for Notice of Public Hearing in Forest Lake Times on October 25 and November 1, 2001.

Exhibit 6. Zoning map for the City of Wyoming revised October, 2001.

Exhibit 7. Memo from Jim Jacques, Houston Engineering, dated August 16, 2001, to Mark

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Deutschman regarding the watershed district boundary in the City of Wyoming.

Exhibit 8. Letter from Mike Mueller, DNR, dated November 13, 2001, to Mark Graham regarding Ashton Lake.

Exhibit 9. Watershed Base Map, figure 1, dated April 4, 2000 from Houston Engineering.

Exhibit 10. Chisago County Board Resolution No. 011107-3, dated November 7, 2001, supporting the proposed withdrawal of the City of Wyoming territory from the Comfort Lake Forest Lake Watershed District.

- End of hearing. The following exhibits were entered into the record after the hearing closed and before the record closed on December 4, 2001 at 4:30 PM CST.

Exhibit 11. Letter from Mark Graham, Howard R. Green Company, dated November 14, 2001, to Jim Haertel, regarding the watershed district boundary in the City of Wyoming.

Exhibit 12. Letter from Ben Montzka, Chisago County Commissioner, dated November 15, 2001, to Jim Haertel, regarding and including the Chisago County Comprehensive Local Water Plan for 1998-2002.

8. **Metropolitan Water Planning Subcommittee.** The Metropolitan Water Planning Subcommittee met on January 7, 2002. The Petitioned Area consists of two areas. One area is a residential subdivision around Ashton Lake. The other area is around the Fairview Hospital. Based on the oral and written record in this matter a unanimous decision was reached to recommend to the full Board that all of the Petitioned Area be released from the Comfort Lake Forest Lake Watershed District except for Outlot "D" of the Fairview Hospital property. None of the residential subdivision area around Ashton Lake drains into the Comfort Lake Forest Lake Watershed District. Based on one foot contour topographical data from the Preliminary Plat of the Fairview Hospital and Healthcare Services dated May 15, 1996, none of the Fairview Hospital area drains into the Comfort Lake Forest Lake Watershed District except for a majority of the area of Outlot "D" of the Fairview Hospital property. The Subcommittee also decided that the Petitioned Area to be released has not received and will not receive any benefits from the operation of the Comfort Lake Forest Lake Watershed District, that the watershed district can perform the functions for which it was established without the inclusion of the released area, that the released area is not a part of the watershed, that the released area has not been subject to benefits or damages for a project previously constructed by the watershed district, and that any outstanding indebtedness must be paid.

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CONCLUSIONS

1. The Petition for the withdrawal of territory in the Comfort Lake Forest Lake Watershed District is valid in accordance with Minn. Stat. § 103D.255.
2. All relevant substantive and procedural requirements of law and rule have been fulfilled.
3. The Board has proper jurisdiction in the matter of ordering a watershed district withdrawal of territory.
4. None of the Petitioned Area drains into the Comfort Lake Forest Lake Watershed District except for a majority of the area of Outlot "D" of the Fairview Hospital property.
5. The Petitioned Area to be released has not received and will not receive any benefits from the operation of the Comfort Lake Forest Lake Watershed.
6. The Comfort Lake Forest Lake Watershed District can perform the functions for which it was established without the inclusion of the released area.
7. The released area is not a part of the watershed of the Comfort Lake Forest Lake Watershed District.
8. The released area has not been subject to benefits or damages for a project previously constructed by the Comfort Lake Forest Lake Watershed District.
9. Any outstanding indebtedness must be paid. Property released remains liable for the proportionate share of any indebtedness existing at the time of this Order. Levies on property released continue in force until fully paid.

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ORDER

The Board hereby orders the withdrawal and release of all territory from the Comfort Lake Forest Lake Watershed District that is in the City of Wyoming, except that Outlot "D" of the Fairview Hospital property shall remain in the Comfort Lake Forest Lake Watershed District. Further, any outstanding indebtedness must be paid.

Dated this 23rd day of January, 2002.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

DRAFT

By: _____
Leland G. Coe, Chair

COMMITTEE RECOMMENDATIONS

Metro Water Planning Subcommittee

2. Black Dog Watershed Management
Organization Plan – DECISION

EXECUTIVE ORDER

Black Dog Watershed Management Organization Plan

Background

On January 7, 2002, the BWSR Metro Subcommittee recommended approval of the Black Dog Watershed Management Organization (BDWMO) Plan to the BWSR Board. The BWSR Metro Region Staff also recommends approval of the Plan.

Summary of Plan Review Process and Plan Strengths

In a letter dated December 28, 2000, the BWSR included the following initial comments: 1) The Plan did not describe how the BDWMO would evaluate and measure success and revise strategies over time; 2) The BDWMO should partner with local communities to identify the important recharge/discharge areas that are necessary to sustain critical regional resources; 3) The Plan should also include an education strategy in the implementation section or identify non-profits as partners to implement. In response, the BDWMO added a new activity to the implementation section for development of an annual evaluation checklist. The Plan was revised to require that cities develop wetland protection ordinances and comprehensive wetland management plans by 2005. The Plan also includes "action levels" for each high priority waterbody that incorporates trends to determine proper management levels. In a letter dated September 18, 2001, the BWSR stated: 1) that the wetland management section does not incorporate management standards for "protect" wetlands or include quantified standards for watershed-wide protection of critical wetland or upland areas. 2) The Plan should include quantified performance standards for the critical subwatersheds as defined by the proposed water quality model. 3) The Plan should set numeric performance standards for those "outfalls" from the Credit River watershed. The BDWMO final Plan dated November 2001, included changes in the Plan related to issues defined in the final BWSR draft plan review letter.

Highlights of the Plan include: 1) definition of specific projects, responsible parties and set time line, 2) identification of priority issues determined through citizen involvement and agency participation, 3) concise implementation section with identified management standards and activities, 4) communication partnership with cities on management and monitoring programs.

The Plan does comply with Minnesota Rules 8410 and the fundamental planning expectations articulated by BWSR. The Plan accurately reflects a management framework consistent with the recommendations provided by the Citizen Advisory Committee and interagency workteam.

Watershed Description

The BDWMO is approximately 29.9 square miles in size and includes parts of the Cities of Apple Valley, Burnsville, Eagan, Lakeville and Savage. The BDWMO focuses on establishing a management framework and performance standards for protection of several high priority waterbodies including Crystal, Keller, Orchard and Kingsley Lakes.

DRAFT

DRAFT

Minnesota Board of Water and Soil Resources
One West Water Street, Suite 200
St. Paul, Minnesota 55107

In the Matter of the review of the Watershed
Management Plan for the **Black Dog Watershed**
Management Organization pursuant to Minnesota
Statutes Section 103B.231, Subdivision 9

**ORDER
APPROVING
WATERSHED
MANAGEMENT PLAN**

Whereas, the Black Dog Watershed Management Organization (BDWMO) submitted a Watershed Management Plan (Plan) to the Minnesota Board of Water and Soil Resources (Board) pursuant to M.S. Section 103B.231, Subd. 9, and;

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

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

FINDINGS OF FACT

1. **District Establishment.** The BDWMO was established by the cities of Apple Valley, Burnsville, Eagan, Lakeville and Savage in June 1985, in response to the requirements of the Metropolitan Surface Water Management Act.
2. **Requirement to Plan.** The Metropolitan Surface Water Management Act requires the preparation of a watershed management plan for the subject watershed area which meets the requirements of Minnesota Statutes Sections 103B.201 to 103B.251. The BDWMO Plan focuses on establishing a management framework and performance standards for protection of several high priority waterbodies including Crystal, Keller, Orchard and Kingsley Lakes.
3. **Nature of the Watershed.** The BDWMO is approximately 29.9 square miles in size and includes parts of the Cities of Apple Valley, Burnsville, Eagan, Lakeville and Savage.
4. **Local Review.** The BDWMO circulated a copy of the draft Plan to local units of government for their review pursuant to Minnesota Statutes Section 103B.231, Subd. 7, prior to submittal to the Metropolitan Council.

5. **Metropolitan Council Review.** In a letter dated December 8, 2000, the Council suggested that BDWMO take more of a leadership role in ensuring the uniform application of BMP's during the development review process. In response to the Council's initial concerns, the BDWMO agreed to develop an annual evaluation checklist as one of it's first implementation tasks. In a letter dated September 7, 2001, the Council stated, "The Council staff commends the BDWMO for its efforts to manage stormwater runoff and to protect and improve water resources."
6. **Department of Agriculture Review.** The MDA did not provide comments on the BDWMO Plan.
7. **Department of Health Review.** The MDH did not provide comments on the BDWMO Plan.
8. **Department of Natural Resources Review.** The DNR did not provide initial comments on the BDWMO Plan. In a letter dated September 17, 2001, the DNR outlined the importance of ecological functions of lakes/ponds and that a classification system based simply on human use only tells part of the story. The DNR recommended using "previously-existing" functional conditions as the baseline from which to measure change in water-bodies. In response the BDWMO developed a lake classification system based on aesthetic and habitat monitoring. The BDWMO has also estimated the pre-development water quality of Crystal Lake and will perform similar estimates on an as-needed basis.
9. **Pollution Control Agency Review.** In a letter dated January 30, 2001, the MPCA recommended that the Plan include a monitoring strategy focused on the outlets of subwatersheds that are tributary to critical habitat. In response, the BDWMO stated that it recognizes that education and public involvement will be a major part of the NPDES Phase II program and revised the Plan to include education of all watershed citizens and member cities in the implementation section. The MPCA did not provide a 45-day comment letter.
10. **Board Review.** In a letter dated December 28, 2000, the BWSR included the following initial comments: 1) The Plan should incorporate information from the City of Burnsville Natural Resource and Wetland Management Plan, Scott County Water Management Plan, Dakota County Groundwater Management Plan and the Lower Minnesota Watershed District Watershed Management Plan. 2) The Plan did not describe how the BDWMO would evaluate and measure success and revise strategies over time. 3) The BDWMO should partner with local communities to identify the important recharge/discharge areas that are necessary to sustain critical regional resources. 4) The Plan should also include an education strategy in the implementation section or identify non-profits as partners to implement. In response, the BDWMO added a new activity to the implementation section for development of an annual evaluation checklist. The Plan was revised to reflect

information from the City of Lakeville wetland inventory and will now require that cities develop wetland protection ordinances and comprehensive wetland management plans by 2005. The Plan also includes "action levels" for each high priority waterbody that incorporates trends to determine proper management levels. The Plan was revised to include education of citizens/cities as a crucial component to the comprehensive management of the watershed.

In a letter dated September 18, 2001, the BWSR stated: 1) that the wetland management section does not incorporate management standards for "protect" wetlands or include quantified standards for watershed-wide protection of critical wetland or upland areas. 2) The Plan should include quantified performance standards for the critical subwatersheds as defined by the proposed water quality model. 3) The Plan should set numeric performance standards for those "outfalls" from the Credit River watershed.

The BDWMO final Plan dated November 2001, included changes in the Plan related to issues defined in the final BWSR draft plan review letter. The Plan does comply with Minnesota Rules 8410 and the fundamental planning expectations articulated by BWSR. The Plan accurately reflects a management framework consistent with the recommendations provided by the Citizen Advisory Committee and interagency workteam.

11. **Highlights of the Plan.** The critical elements included in the Plan are:
 - a. Definition of specific projects/actions, responsible parties and set time line,
 - b. Identification of priority issues determined through citizen involvement and agency participation,
 - c. Concise implementation section with identified management standards and activities,
 - d. Communication and partnership with cities on management and regulation programs.

CONCLUSIONS

1. All relevant substantive and procedural requirements of law and rule have been fulfilled.
2. The Board has proper jurisdiction in the matter of approving a Watershed Management Plan for the Black Dog Watershed Management Organization pursuant to Minnesota Statutes Sections 103B.201, Subd. 9.

3. The Black Dog Watershed Management Organization Plan attached to this Order defines water and water-related problems within the BDWMO boundaries, possible solutions thereto, and an implementation program.
4. The attached Plan is in conformance with the requirements of Minnesota Statutes Sections 103B.201 to 103B.251.

ORDER

The Board hereby approves the attached Plan dated November 2001, as the Watershed Management Plan for the Black Dog Watershed Management Organization.

Dated at Saint Paul, Minnesota this 23rd day of January, 2002.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Leland G. Coe, Chair

COMMITTEE RECOMMENDATIONS

Metro Water Planning Subcommittee

3. Lower Minnesota River Watershed District
Amendment to Watershed Management Plan –
DECISION

EXECUTIVE ORDER

Lower Minnesota River Watershed District Amendment to an Approved Water Management Plan

Background

The Lower Minnesota River Watershed District (LMRWD) was established in 1960 to be the legal entity for providing local participation to the U.S. Army Corps of Engineers to construct and maintain a navigation channel. The LMRWD is still actively involved in the maintenance of the channel today. LMRWD's role now encompasses more than commercial navigation. The LMRWD legal boundaries generally follow the subwatershed boundaries of the Minnesota River valley (up to the bluff line), encompassing the area that is directly tributary to the Minnesota River. The Minnesota River floodplain and bluff landforms are the dominant landforms in the LMRWD (small amount of upland). The LMRWD is a small, downstream portion of the greater Minnesota River watershed. Eleven watersheds are tributary to LMRWD, but under other watershed jurisdictions.

The Board of Water and Soil Resources (Board) approved the LMRWD's current plan on August 25, 1999. The LMRWD Managers officially adopted the District Plan on September 14, 1999. The LMRWD Plan, as adopted, focuses on four main initiatives: commercial navigation, resource evaluation and management, project review, and public information.

In the spring of 2000, the LMRWD petitioned the Board to add approximately 3,346 acres of land to the District's jurisdiction that would include properties of the Minneapolis - St. Paul International Airport, Fort Snelling State Park, Fort Snelling National Cemetery, the Department of Veteran's Affairs, the U.S. Air Force, the U.S. Army Reserve, the Minnesota Air National Guard, the U.S. Naval Reserve, the General Services Administration, the U.S. Bureau of Mines, the Minnesota Department of Transportation, and the Minneapolis Park and Recreation Board.

In May 2000, the Board ordered that the boundary of the LMRWD be enlarged as petitioned for by the LMRWD. In its order, the BWSR required the LMRWD to amend its Plan, within two years, to include this area.

Agency Review

The District circulated a copy of the draft amendment to the Plan to federal agencies, local units of government, the county, the state review agencies, the Metropolitan Council, and the Board for their review. In general, the respondents found the plan amendment to be consistent with the existing approved water management goals and policies. The LMRWD also received comments regarding its project review permit, permitting program, inspection program and joint and cooperative agreements.

Board Review

On December 19, 2001, the LMRWD submitted to the Board a revised final amendment to the Plan. The Metro Water Planning Subcommittee of the Board and Board staff met with the LMRWD on January 7, 2002. The LMRWD made a presentation of the final amendment of the Plan and requested the Board approve amendment of the Plan at the next Board meeting. Members of the Metro Water Planning Subcommittee of the Board unanimously voted to approve the amendment to the Plan.

Highlights of the Amendment to the Plan

The key highlights and implementation strategies of the Plan as amended are 1) The amendment incorporates existing LMRWD policies and standards, and applies them to an area that previously was not under watershed management, and 2) The amendment provides the LMRWD with increased opportunity to influence, reduce project related impacts through technical review, and joint and cooperative agreements.

DRAFT

DRAFT

Minnesota Board of Water and Soil Resources
One West Water Street, Suite 200
Saint Paul, Minnesota 55107

In the Matter of the review of the Watershed
Management Plan for the **Lower Minnesota River
Watershed District** pursuant to Minnesota Statutes
Section 103B.231, Subdivision 9 and Subdivision 11.

**ORDER
APPROVING AN AMENDMENT
TO A WATERSHED
MANAGEMENT PLAN**

Whereas, the Board of Water and Soil Resources (BWSR or Board) approved the Lower Minnesota River Watershed District (LMRWD or District) Watershed Management Plan (Plan) on August 25, 1999, and the District adopted the Plan on September 14, 1999, and;

Whereas, the LMRWD submitted an amendment to the District's Plan to the Board pursuant to Minnesota Statutes Section 103B.231, Subd. 11, and;

Whereas, the Board has completed its review of the amendment to the Plan pursuant to Minnesota Statutes Section 103B.231, Subd. 7, 8, 9, & 11;

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

FINDINGS OF FACT

1. **Establishment.** The LMRWD was established in 1960 to be the legal entity for providing local participation to the U.S. Army Corps of Engineers to construct and maintain a navigation channel. The navigation channel continues to be an important part of the local and state economy. The District is still actively involved in the maintenance of the channel today. LMRWD's role now encompasses more than commercial navigation.

2. **Requirement to Amend the Plan.** The BWSR approved the LMRWD's current plan on August 25, 1999. The LMRWD Managers officially adopted the District Plan on September 14, 1999. The LMRWD Plan remains in effect for 10 years following the BWSR approval date, unless it is superseded by adoption and approval of a succeeding plan or amendments. The adopted LMRWD Plan reflects the goals of the LMRWD Managers, and incorporates the comments received from the citizens, local units of government and other entities. The LMRWD Plan, as adopted, focuses on four main initiatives: commercial navigation, resource evaluation and management, project review, and public information.

In the spring of 2000, the LMRWD petitioned the Board to add approximately 3,346 acres of land to the District's jurisdiction that would include properties of the Minneapolis - St. Paul

International Airport, Fort Snelling State Park, Fort Snelling National Cemetery, the Department of Veteran's Affairs, the U.S. Air Force, the U.S. Army Reserve, the Minnesota Air National Guard, the U.S. Naval Reserve, the General Services Administration, the U.S. Bureau of Mines, the Minnesota Department of Transportation, and the Minneapolis Park and Recreation Board. The Minnehaha Creek Watershed District also filed a petition to have lands added to the Minnehaha Creek Watershed District jurisdiction. Some of these lands were also in the LMRWD petition. This area on the northerly and easterly edge of the Minneapolis - St. Paul International Airport was referred to as the "Contested Area" and included properties of the Metropolitan Airports Commission, Minneapolis Park and Recreation Board, the Minnesota Department of Transportation, and several federal agencies.

In May 2000, the Board ordered that the boundary of the LMRWD be enlarged by approximately 3,346 acres, including the "Contested Area," to include properties of the Minneapolis - St. Paul International Airport, Fort Snelling State Park, Fort Snelling National Cemetery, the Department of Veteran's Affairs, the U.S. Air Force, the U.S. Army Reserve, the Minnesota Air National Guard, the U.S. Naval Reserve, the General Services Administration, the U.S. Bureau of Mines, the Minnesota Department of Transportation, and the Minneapolis Park and Recreation Board. In its order, the BWSR required the LMRWD to amend its Plan, within two years, to include this area.

3. Nature of the Watershed. The LMRWD legal boundaries generally follow the subwatershed boundaries of the Minnesota River valley (up to the bluff line), encompassing the area that is directly tributary to the Minnesota River. The Minnesota River floodplain and bluff landforms are the dominant landforms in the LMRWD (small amount of upland). The LMRWD is a small, downstream portion of the greater Minnesota River watershed. Several watersheds are tributary to LMRWD, but under other watershed jurisdictions.

4. Local and Agency Review. The District circulated a copy of the draft amendment to the Plan to federal agencies, local units of government, the county, the state review agencies, the Metropolitan Council, and the Board for their review pursuant to Minnesota Statutes Section 103B.231, Subd. 7.

Three state review agencies provided initial comments (60-day review) of the draft Plan to the Board. The following summarize each agency's key comments.

Metropolitan Council

Found the proposed amendment is consistent with the Council's *Water Resources Management Development Guide/Policy Plan*.

MDA

Found the amendment to be consistent with the laws and rules administered by the MDA and encouraged the LMRWD to include an action item to match the "identified" problem regarding glycol and de-icing activities at the Minneapolis - St. Paul International Airport.

BWSR

Found the plan amendment to be consistent with the existing approved LMRWD water management plan. The BWSR expressed concern that the LMRWD clarify its permit process and criteria.

6. Additional Review Comment

In addition to the state agency review, the District received comments from other state and federal agencies. The major concerns identified were:

Minnehaha Creek Watershed District (MCWD)

Requested the District develop a timeline for establishing project review and a permitting program. The MCWD also requested the District change the description of ground water movement from generally toward the Minnesota River to reflect that some area within the boundary change flows toward the Mississippi River.

Hennepin County, Department of Environmental Services

Supports the District efforts to develop cooperative agreements with the agencies affected by the boundary change and to develop a formal permit review process and permitting program. The department has some concerns that without written rules or agreements specifying permit requirements and criteria the District is vulnerable to charges of being arbitrary and capricious when, or if, the District denies a permit request.

Department of the Army, 88th Regional Support Command (RSC)

The RSC had several comments regarding the District project review and inspection program, and the standards and criteria that projects will be measured against. The RSC also raised the question of the District's authority to permit activities on federal lands.

Department of the Air Force, Air Force Reserve Command (AFRC)

The AFRC provided comments similar to the RSC's comments. They were concerned with the lack of defined process and timetable for project review and permitting within the boundary change area, and with intent of the "cooperative agreement vs. joint resolutions" provided in the plan appendices.

45-Day Review

At the end of the 45-day review the District and the BWSR had received written or oral comments from BWSR, MDA, and Metropolitan Council.

No new concerns were raised during the 45-day review. All Comments received found the plan amendment to be consistent with agency plans and policies.

7. Board Review. On December 19, 2001, the District submitted to the Board a revised final amendment to the Plan that addressed the above-noted agency concerns.

The Metro Water Planning Subcommittee of the Board and Board staff met with the District on January 7, 2002. The District made a presentation of the final amendment of the Plan and requested the Board approve the Plan at the next Board meeting. Members of the Metro Water Planning Subcommittee of the Board voted to approve the amendment to the District's Plan.

8. Highlights of the Amendment to the Plan. The following are the key highlights and implementation strategies of the Plan as amended:

The amendment incorporates existing District policies and standards, and applies them to an area that was previously not under watershed management.

Provides the District with increased opportunity to influence, reduce project related impacts through technical review, and joint and cooperative agreements.

CONCLUSIONS

1. All relevant substantive and procedural requirements of law and rule have been fulfilled.
2. The Board has proper jurisdiction in the matter of approving an amendment to the Watershed Management Plan for the Lower Minnesota River Watershed District pursuant to Minnesota Rules Chapter 8410 and Minnesota Statutes Section 103B.201, Subd. 9 & 11.
3. The Lower Minnesota River Watershed District amendment to the Watershed Management Plan attached to this Order defines water and related land use problems within the District's boundaries, possible solutions thereto, general objectives and policies of the District, and an implementation program.
4. The attached amendment to the Plan is in conformance with the requirements of Minnesota Rules Chapter 8410 and Minnesota Statutes Sections 103B.201 to 103B.251.

ORDER

The Board hereby approves the attached amendment, dated December 2001, to the Watershed Management Plan for the Lower Minnesota River Watershed District.

Dated at Saint Paul, Minnesota this 23rd day of January 2002.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Leland G. Coe
Chair

COMMITTEE RECOMMENDATIONS

Northern Water Planning Subcommittee

1. Stearns County Comprehensive Water Plan
Update – DECISION

OVERVIEW JANUARY 2002

THIRD GENERATION STEARNS COUNTY COMPREHENSIVE LOCAL WATER PLAN UPDATE

Background

BWSR approved the original Stearns County Water Plan in June 1991. Stearns County began work on their first update of their water plan in 1994. The first update was approved by BWSR in January 1996. The county began work on their third generation water plan in June 2000, after receiving a one-year extension.

Water Plan Highlights

Since approval of the first water plan, the county's Environmental Services Department has been responsible for implementation. Stearns County has an active water plan advisory board, which meets monthly. The task force met several times to address the update. The original water plan got the county moving toward a stronger role in management of local water resources. The second-generation plan outlined an aggressive list of actions in order to put in place the infrastructure the county would need if they were to successfully manage water resources. Following is a list of some of the highlights the county achieved over the past six years.

- New County Comprehensive Land Use Plan (1996 and 1997),
- County Feedlot Inventory (1997),
- County Feedlot Ordinance (1998),
- Countywide Zoning Ordinance (2000),
- Revision of the County Subdivision Ordinance (2001),
- Development of Lakeshed, an Approach to Lake Protection / Enhancement (1999 – 2000).
- MGS Review: exceptionally well researched ground-water quality section. The inventory and assessments of local controls could serve as a model for other counties.

Overall, of the 46 actions identified in the second-generation plan, the county completed 16; 25 are being implemented and are considered ongoing, and only five weren't addressed. The Stearns SWCD is a strong partner in implementing the plan. The SWCD was recently awarded \$75,000 for two challenge grant projects, both related to the Lakeshed Approach. The SWCD has been aggressive in applying for implementation funding, especially for feedlot projects. The SWCD also is host to the busy engineering staff of Joint Powers Board 5.

County Description

Stearns County is located in Central Minnesota. The county had a 2000 population of 133,000, 12% higher than its 1990 population, and 23% higher than its 1980 population. Eastern parts of the county are booming with the St. Cloud / Waite Park urban area the western end of the growth corridor, extending northwest of the Twin Cities. But Stearns County also has 3,000 farms, and ranks in the top ten agricultural counties in the United States, and the top farm county in Minnesota. Townships in the rural western part of the county are losing population, while the eastern part of the county struggles to keep up with the growth. Agriculture is the dominant land use in the county. The county also has 2,900 feedlots.

Stearns County is drained to the east by the Sauk River, and the North Fork Crow River. The Mississippi River forms the east boundary of the county, and receives runoff from all streams in the county. St. Cloud is the first city on the Mississippi River to receive its drinking water from the river. Stearns County has 294 lakes, which cover 34,000 acres. The largest lakes in the county are the Horseshoe Chain, Lake Koronis, and Sauk Lake. Stearns County includes parts of four watershed districts, Sauk River, North Fork Crow River, Clearwater River, and South Two Rivers. Merle Anderson, chair of the local water plan advisory committee, is also administrator of the Clearwater River Watershed District.

Stearns County Water Plan

EXECUTIVE SUMMARY

Natural resources management is the cornerstone of Water Planning efforts at the local level in Stearns County. Local management efforts have led to the development and implementation of various projects over the last five years, which have had direct impacts upon the ecological integrity of both urban and rural ecosystems. A primary goal of the Stearns County Comprehensive Local Water Plan (CLWP) is to focus on watersheds and larger planning efforts in the Upper Mississippi River Basin in order to better manage the County's surface and groundwater resources. The 2001 Water Plan update has been written to reflect a number of watershed issues and concerns as identified by the Stearns County CLWP Advisory Committee. A number of emerging environmental issues within watersheds are at the forefront of natural resources management in Stearns County (see Emerging Issues, Section IX, 2001 Update). Ecologically sensitive areas have been identified by Stearns County and its partners within the watersheds of the County. Water resources management at the watershed level is impacted by many factors as noted in Figure 2. The management of water resources has primarily been surface water related. However, with this water plan update groundwater issues have been renewed or refocused. The next five years will focus on these issues and the CLWP Advisory Committee is committed to the implementation of projects using the watershed approach.

With this third generation Water Plan, the County and its partners are focusing on implementation efforts that further enhance, sustain, preserve, and conserve water quality and natural features in our environment. The 2001 CLWP update emphasizes the accomplishments of the 1995 CLWP that set the foundation for more integrated water planning efforts and suggests areas that may need to be more critically assessed in the next review period (2005). Stearns County was granted a one-year extension for the CLWP update due to the development of the Countywide Zoning Ordinance as noted in Section VIII. As with any plan some general information requires periodic updating as noted by the corresponding section in the 1995 CLWP. Throughout the executive summary, the specific 1995 CLWP (goal, objective, and action) is referenced using the noted format. The enclosed supplemental documents replace the italicized information from the 1995 CLWP.

The facts contained in Section I. Introduction, need no revision at this time. An update of the population information in Section II. Description of Physical Features, is included in this update as a result of the 2000 Census. The map depicting pre-settlement vegetation is now available in a digital format and replaces the hand colored version.

Acknowledgement of the land use concerns in Stearns County as noted in the 1995 CLWP required significant changes to the information in Section III. Land Management and Pollutant Sources. Some of the new data includes information from the 1999 Solid Waste Management Plan Update and a summary of the Household Hazardous Waste Mobile Collection Unit.

Communication between local natural resources agencies and organizations is a critical component of the CLWP and is key to the overall success of the Plan. Bridging communication gaps, fostering working relationships, and renewing existing partnerships between all interested

Stearns County Water Plan

parties was a goal of the 1995 CLWP (Goal 1, Objective 1, Action 1) and continues to be a link to achieving future goals and objectives. Section IV. Surface Water Resources, part D. Watershed Districts and Soil & Water Conservation District, clarifies agency relationships to the CLWP noting their mission statements and long term planning goals. The other portions of this section should be reviewed for possible updates in 2005.

During the development of the 2001 CLWP goals, objectives, and actions a lot of discussion centered on surface and ground water data collection and management. Development of a standardized methodology for all data collectors and a standardized format for data management is a high priority in the next five years. Some local and State projects are noted in the additions to Sections V. Assessment of Surface Water Information and Expected Changes to Surface Water Resources, VI. Groundwater Resource Information and VII. Assessment of Ground Water Information and Expected Changes to Groundwater Resources. Substantial changes to these Sections will be made when unified data collection and management is employed. An integrated methodology will yield better information for the next CLWP update cycle.

Since the inception of Water Planning over a decade ago, Stearns County and its partners have developed a strong sense of Water Plan ownership yielding positive results. Water Planning has evolved into a tool that is used by local natural resources managers to guide yearly workplans, to achieve specific goals, and to further develop natural resources management philosophies. The implementation of the 1995 CLWP centered around its three goals and 46 associated actions; of those 46 actions, 16 were completed, 25 are being implemented and considered on-going and 5 were not addressed within the last 5 year period.

The County focused on the creation of a policy framework to more efficiently direct available resources, mainly the development of the County's Comprehensive Plan (Goal 1, Objective 1, Action 4). The Comprehensive Plan's overall purpose is to minimize land use conflicts by balancing urban and rural growth throughout the County and to sustain and enhance environmental quality by influencing and creating opportunities to incorporate sustainable development practices. This requires that land use decisions protect critical natural and cultural resources and balance the preservation of viable agricultural land uses with non-farm rural residential and other more intensive development types. This new policy document integrated the goals and objectives from all of the County's existing plans relating to the physical environment as well as created new goals, objectives and strategies to manage the emerging development issues (see Figure 3).

An anticipated outcome of Stearns County's Comprehensive Plan was the development of regulatory documents to implement the goals, objectives and strategies initiated in the Comprehensive Plan. A feedlot inventory was conducted in August of 1997 (Goal 3, Objective 1, Action 4) and subsequent Ordinance developed in 1998 (Goal 3, Objective 2, Action 4). The sewage treatment Ordinance was revised in 1998 to reflect changes in Minnesota Rule 7080 (Goal 2, Objective 2, Action 2). A Countywide Zoning Ordinance was adopted in the spring of 2000 (Goal 1, Objective 1, Action 8) and a new Subdivision Ordinance adopted in 2001 (Goal 2, Objective 2, Action 4).

Stearns County Water Plan

The creation of multiple resource documents aided in the development and implementation of the above noted Plans and Ordinances. The compilation and generation of these resource documents also fulfilled CLWP goals. The County Biological Survey (Goal 3 Objective 1 Action 7), digitization of the NWI Maps (Goal 3 Objective 2 Action 3), the Geologic Atlas, digitization of the soils maps (Goal 2 Objective 1 Action 6), and the Crop Residue Transects Survey (Goal 3 Objective 1 Action 11) are a few of the specific documents that were listed as Actions in the CLWP.

Other forms of control addressed in the 1995 CLWP included the Well Code (Goal 2, Objective 2, Action 1), Storm Water Control (Goal 3, Objective 2, Action 10), and Wellhead Protection (Goal 2, Objective 2, Action 5). During the last five years the Environmental Services Department has addressed the aforementioned issues and is working toward their implementation.

Supplemental information is being provided for Section X. Inventory of Habitat, Natural Areas, and Recreation. The Stearns County Biological Survey was completed in 1998, a new Scientific and Natural Area (SNA) was added to Stearns County in 2000, significant portions of the river segments in the County are being cleaned up through the Adopt a River Program, and the County is participating with other agencies in the Stearns County Lakeshed Project. A completed review and update of Section X. should be completed in 2005. 2007

The issues reflected in Section XI. Problem Identification and Needs Assessment, have not significantly changed in the last five years. However, the County is better able to manage these issues due to the completion of a majority of the inventory and regulatory actions associated with the 1995 CLWP. Just as it was suggested that Sections V-VII be revised in the next CLWP cycle, so should Sections IX- XI. The next five-year period will show how the creation of a regulatory framework influences the land use decisions, growth patterns and development practices within the County.

The preceding executive summary addresses the final section of the 1995 CLWP, Section XII. Goals and Objectives, Implementation Plan. After noting the accomplishments and reviewing the goals, objectives and actions within the 1995 CLWP, the Water Plan Committee proceeded to modify those goals, objectives and actions to recognize current and emerging issues.

DRAFT

Minnesota Board of Water and Soil Resources
One West Water Street
Suite 200
St. Paul, Minnesota 55107

DRAFT

In the Matter of Reviewing the Comprehensive Water Plan Update
for **Stearns County** (Minnesota Statutes 1990, Section 103B.311,
Subdivision 4 and Section 103B.315, Subdivision 5 and Minnesota
Rules 9300.0170)

ORDER
APPROVING
COMPREHENSIVE
WATER PLAN

Whereas, the Stearns County Board of Commissioners adopted a Comprehensive Water Plan (Plan) on February 27, 1996, under authority of M.S. 1990, Section 103B.301, which was approved by the Minnesota Board of Water and Soil Resources (Board) on June 16, 1991, pursuant to M.S. 1990, Section 103B.315, Subd. 5, and

Whereas, the Plan provided for updating in 1995 pursuant to M.S. 1990, Section 103B.311, Subd. 4, and

Whereas, the Stearns County Board of Commissioners submitted a Comprehensive Water Plan Update (Plan Update) to the Board on October 10, 2001, pursuant to M.S. 1990, Section 103B.315, Subd. 5, and

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

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

FINDINGS OF FACT

1. M.S. 1990, Section 103B.311, Subd. 4, requires adopted Comprehensive Water Plans to be updated on a recurring basis.
2. On December 21, 1999, Stearns County passed a resolution requesting from BWSR a one year extension on their timeframe to develop their Comprehensive Water Plan Update. On April 26, 2000, the BWSR approved the Stearns County request for an extension.
3. Stearns County completed a draft Plan Update on August 1, 2001, and submitted it to affected local units of government for review and comment pursuant to Section 103B.315, Subd. 1.
4. On August 1, 2001, Stearns County submitted a draft Plan Update to the Departments of Agriculture, Health, and Natural Resources, the Pollution Control Agency, the State Planning Agency and the Minnesota Geological Survey for preliminary review and comment.
5. On October 2, 2001, Stearns County held a public hearing on the Plan Update pursuant to Section 103B.315, Subd. 4, for the purpose of obtaining public input into the Plan Update.
6. On October 10, 2001, Stearns County submitted its Plan Update along with all written comments received on the Plan Update, and a record of the public hearing to the Board for final State review pursuant to Section 103B.315, Subd. 5.

7. On January 11, 2002, a written overview of the Stearns County Plan Update was presented to the Board for their information and review.
8. **Minnesota Department of Agriculture (MDA) Review:** No written preliminary or final review comments were received from the MDA.
9. **Minnesota Department of Health (MDH) Review:** No written preliminary or final review comments were received from the MDH.
10. **Minnesota Department of Natural Resources (DNR) Review:** In its final review dated November 15, 2001, the DNR provided written comments on the Plan Update. The DNR noted in particular the county's efforts collaborate among all levels of government and focus management strategies on a watershed basis. The DNR comments also noted that field staff have participated in the planning process at the advisory committee, and that many of their comments have already been built into the Update.
11. **Minnesota Pollution Control Agency (MPCA) Review:** In its final review comments dated November 13, 2001, the MPCA provided written comments on the Plan Update. The comments stated that the review was intended to identify any problems or conflicts with MPCA rules or statutes. The MPCA recommended the Update be approved.
12. **Minnesota State Planning Agency/Environmental Quality Board (EQB) Review:** In its final review comments dated November 20, 2001, The EQB noted that they found no areas that were inconsistent with state laws. The EQB also noted the importance of the county coordinating the Update process with other county planning work, especially in a rapidly growing area like Stearns County.
13. **Minnesota Geological Survey (MGS) Review:** In its review final comments dated December 4, 2001, the MGS provided written comments on the Plan Update. The MGS complimented the county on an exceptionally well researched ground-water quality section. The MGS also commented that the inventory and assessment of local controls was very well done, and could serve as a model for other counties. The MGS recommended approval of the update.
14. **Minnesota Board of Water and Soil Resources (BWSR):** On September 25, 2001, the BWSR provided written comments on the Plan Update. Comments provided included a summary of implementation actions over the past six years, and comments related to the executive summary, water resources directory, county land use plan, the lakeshed project, working to leverage private contributions, the North Fork Crow River Watershed District ditch inventory project, and full time water plan coordinators.

15. **County Response to Agency Comments:** In its final Plan Update submitted to the Board on January 11, 2002, Stearns County incorporated some of the changes and additions to the Plan Update as recommended in the agency and local comments. The BWSR concluded its final review of the Plan Update and state agencies' comments on January 10, 2002.
16. **Board Water Plan Review Committee Meeting:** On January 11, 2002, the Board committee met in Brainerd with Board staff and representatives from Stearns County to review and discuss the Plan Update. Those in attendance were Leland Cole, Jerome Deal, Darrell Bruggman and Paul Krabbenhoft of the Board of Water & Soil Resources Board; Ron Shelito, and Dan Steward of the Brainerd Regional Office; Merle Anderson, Chairman of the Stearns County Water Plan Advisory Committee; and Rob Sip, Chelle Benson, and Susan McGuire, staff with the Stearns County Environmental Services Department. The water plan review committee met to determine whether all relevant law and rule requirements had been met and to hear comments from the county on the planning process.
17. On January 11, 2002, the BWSR water plan review committee recommended that the Board of Water & Soil Resources Board approve the Stearns County Plan Update.

CONCLUSIONS

1. All relevant requirements of law and rule have been fulfilled. The Board has proper jurisdiction in the matter of approving a Comprehensive Water Plan Update of Stearns County pursuant to Minnesota Statutes 1990, 103B.311, Subd. 4, and Minnesota Rules 9300.0170, Subp. 4.
2. The Stearns County Plan Update attached to this Order states water and water-related problems within the county, possible solutions, general goals, objectives and actions of the county, and an implementation program. The attached Plan Update is in conformance with the requirements of Minnesota Statutes 1990, 103B.301 and Minnesota Rules Chapter 9300.

ORDER

The Board hereby approves the attached Plan as the Comprehensive Water Plan Update of Stearns County. Dated at St. Paul, Minnesota, this twenty third day of January, 2002.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Leland Coe, Chair

COMMITTEE RECOMMENDATIONS

Southern Water Planning Subcommittee

1. Nicollet County Comprehensive Water Plan
Update - DECISION

**Minnesota Board of Water and Soil Resources
One West Water Street
Suite 200
St. Paul, Minnesota**

NICOLLET COUNTY COMPREHENSIVE LOCAL WATER PLAN (FOR BOARD ACTION)

Nicollet County has a second generation Comprehensive Local Water Plan (Plan), which was approved by the Minnesota Board of Water and Soil Resources (BWSR) on December 18, 1996.

Nicollet County submitted its third generation Plan Update to the BWSR on August 23, 2001. The final, ninety-day state agency review process began on September 4, 2001.

This Plan Update covers the five-year period of January 2002 through December 2006.

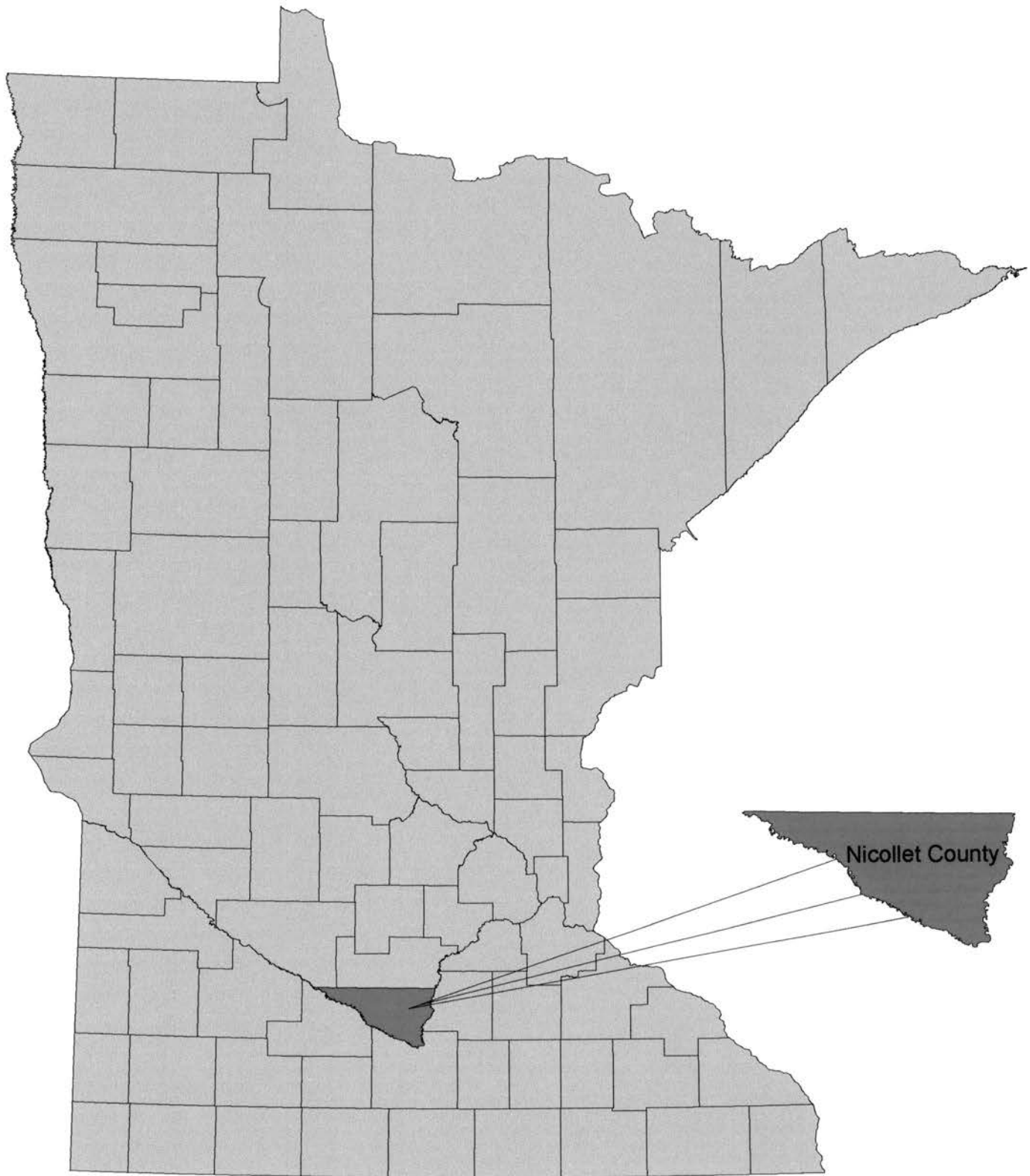
On September 4, 2001, BWSR staff provided a written overview of the Nicollet County Plan Update to be presented to the BWSR Board at their September 2001 Board meeting. This overview was provided for information and review.

On December 13, 2001, the BWSR Southern Region Water Plan Review Committee met in St. Peter, Minnesota, with BWSR staff and representatives of Nicollet County to review and discuss the Plan Update.

BWSR staff has reviewed the Nicollet County Plan Update and find that all relevant requirements of law and rule have been fulfilled and it is in conformance with the requirements of Minnesota Statutes 1990, 103B and Minnesota Rules Chapter 9300. BWSR Board Conservationist Thomas Fischer recommends approval of the third generation Nicollet County Comprehensive Local Water Plan.

Attached for your review is information about the third generation Nicollet County Comprehensive Local Water Plan.

Where in the world is Nicollet County?



OVERVIEW OF THE NICOLLET COUNTY THIRD GENERATION COMPREHENSIVE WATER PLAN FOR THE JANUARY 2002 BWSR MEETING

INTRODUCTION

Nicollet County's second generation Comprehensive Local Water Plan (Plan) was approved by the Board of Water and Soil Resources (BWSR) on December 18, 1996, and adopted by Nicollet County on January 28, 1997. This five-year Plan was to be effective through December 31, 2000.

On October 26, 1999, Nicollet County passed a resolution to revise and update its current Plan. Realizing it would not finish before December 31, 2000, Nicollet County requested a one-year extension on October 10, 2000. The request was granted by the BWSR on December 13, 2000. The Plan's effective date was extended to December 31, 2001.

Nicollet County has prepared their third generation Plan in accordance to Minnesota Statutes 103B and Minnesota Rule Chapter 9300. The Plan covers the five-year period of January 1, 2002 through December 31, 2006.

Nicollet County is a member of the thirteen county South Central Minnesota County Comprehensive Water Planning Project (SCMCCWPP), established in the late 1980s to ensure that water planning be implemented properly. The SCMCCWPP is a joint powers agreement with a thirteen county cooperative effort that is coordinated by the director of the Minnesota State University-Mankato, Water Resource Center. Over the past few years the development of watershed teams has come to the forefront, so the purpose of the SCMCCWPP is changing.

The development of watershed teams has grown out of the establishment of the thirty-seven counties Minnesota River Basin Joint Powers Board (MRBJPB). Nicollet County is a member of the MRBJPB. The purpose of the MRBJPB is to restore the water quality of the Minnesota River. Nicollet County is also a member of other watershed teams that have established over the past few years: the Lower Minnesota Watershed and the Middle Minnesota Watershed.

PHYSICAL DESCRIPTION OF COUNTY

Nicollet County is located in south central Minnesota surrounded by the counties of Sibley, Le Sueur, Blue Earth, Brown, and Renville. Triangular in shape, the county is bordered by 104 miles of the 335 mile long Minnesota River. The highest elevation is about 1,045 feet in the northwestern part of the county and is about 730 feet in the northeastern where the Minnesota River leaves the county. Most of the county is relatively flat—level to gently sloping terrain. A line of bluffs separates the Minnesota River valley from the upland that is and has historically been used for agriculture. The county has a total of 280,866 acres of land with approximately 245,000 acres farmland, 24,000 acres of forest land, and 12,000 acres of wetland. In the center of the county is Swan Lake, considered the largest fresh water prairie pothole marsh in America.

Approximately seventy percent of Nicollet County is located within the Middle Minnesota River Watershed. The north central and northeastern portions of the county are located in the Lower Minnesota River Watershed. Over fifty percent of the county's original wetlands have been drained or filled to accommodate agriculture and development. More than 325 miles of public open ditches and approximately 4,500 miles of tile help to drain the county.

U.S. Census Bureau data shows a total county population of 30,464 in 2000 as compared to 26,929 in 1990. Incorporated cities include Courtland, Lafayette, Nicollet, North Mankato, and St. Peter. Approximately seventy three percent of the population lives in these five cities. Other small rural communities include, Bernadotte, Klossner, New Sweden, Norseland, North Star, Oshawa, Saint George, and Traverse.

ACCOMPLISHMENTS

Examples of activities accomplished by Nicollet County and cooperating partners since 1996 are:

- Individual septic treatment systems inspector on staff (a certified soil scientist) working with homeowners to upgrade failing systems...also conducts soil classes for installers.
- A full-time feedlot officer now on staff.
- Amendments of the county zoning ordinance made to further define MPCA Feedlot Rules.
- Continue odor modeling with the assistance of U of M...odor ordinance adopted.
- Established safe, biological control method (European Flea Beetles) to eradicate noxious weeds.
- Chosen as a state pilot project for the wellhead protection program for the City of St. Peter.
- Red Top Farm Demonstration...a large-scale study of the quality and quantity of water and agricultural chemicals moving through tile drainage system on a long-term basis.
- Co-sponsor of the annual Brown-Nicollet-Cottonwood Children's Water Festival for all fourth grade students in the three counties...three successful one-day events held.
- Annual collection days for household hazardous waste, agricultural chemicals, tires and appliances.
- One-on-one education with individuals making application for permits, especially feedlots and ISTS.

STAFF REVIEW

Using the required "Board Conservationist Findings" form to conduct the preliminary and final reviews, BWSR staff has determined that the Nicollet County Comprehensive Local Water Management Plan does meet BWSR expectations and Minnesota Statutes 103B and Minnesota Rule Chapter 9300 requirements. This third generation Plan will be for the five-year period of January 1, 2002 through December 31, 2006.

The Plan's mission statement is to "protect, improve and enhance the water resources of Nicollet County." It also states that "the county will continue to emphasize the importance of education in all aspects of Water Management Planning" in its watershed priorities. The Plan comes across as focused on safe drinking water and ground water protection. This is due to the more than twelve-year track record of the Brown-Nicollet Environmental Health and the Brown-Nicollet-Cottonwood Water Quality Joint Powers Board, both staffed and located in the same office in Nicollet County.

The Plan is laid out in a watershed context—Lower Minnesota River Watershed and Middle Minnesota River Watershed—with the same six goals for each, summarized as follows: 1) organize and implement water quality projects; 2) to monitor groundwater and surface water systems; 3) inventory land and water influences; 4) management of land and environmental concerns, as they relate to water resources; 5) to administer implementation of Water Plan Management; 6) educate the public on the environmental and economic importance of water resources.

The BWSR distributed the Plan for final state agency review that began on September 4, 2001. The BWSR distributed the Plan for final state agency review that began on August 6, 2001. The BWSR Water Plan Review committee met with representatives of Nicollet County on December 13, 2001.

Information in this overview was obtained from the proposed Nicollet County third generation Comprehensive Local Water Plan for 2002 through 2006, and the Soil Survey of Nicollet County, Minnesota.

NICOLLET COUNTY WATER PLAN EXECUTIVE SUMMARY

The purpose of the Nicollet County Comprehensive Water Resources Management Plan (Water Management Plan) is twofold:

- * to identify existing and potential problems and opportunities for the protection, management, and development of water and related land resources; and
- * to develop objectives with a plan of action to promote efficient hydrologic management and effective environmental protection of water and related land resources.

The Water Management Plan describes surface water and groundwater issues and projects within our two major watersheds: the Middle Minnesota River Watershed and the Lower Minnesota River Watershed. This third generation plan is intended for use for the five year period of January 1, 2002 to December 31, 2006.

Since the Original Water Management Plan's adoption in 1990, the county has proceeded with the implementation of the Objectives and Actions as directed by the Water Planning and Implementation Task Force. As carried out through our Yearly Workplan.

Many Water Management Plan Actions have been accomplished or are being actively pursued with the participation of county citizens. This includes such activities as:

- * Upgrading Failing Individual Onsite Septic Systems. Of the estimated 2,048 rural households in the county the status of approximately 1,000 systems is unknown. Based on age of these residences, past experience of the county ISTS Inspector (compliance inspections at point of sale of property, etc.) most of these systems constitute an imminent threat to public health (ITPH) as defined by the State of Minnesota. At an average cost of \$5,500 per household, \$5.5 million would need to be spent to upgrade 1,000 ITPH at today's construction costs.
- * Feedlot Issues. In 2001 the county hired a full time feedlot officer to address problems in our county, and
 - Amendments of the Nicollet County Zoning Ordinance were made to further define new language from the new MPCA Feedlot Rules, setbacks, requiring all new and existing feedlots applying for building permits to meet odor annoyance free ratings, and
 - The county is also currently working with the cities to reach a consensus for the urban growth boundaries. This will set a beginning point of measurement for the setbacks, and
 - Environmental Services has also continued odor modeling with the assistance of Larry Jacobson, of the University of Minnesota Biosystems and Ag Engineering Department. The odor model was adopted with the new zoning ordinance language and will be combined with the new setbacks.
- * Establishing 55 Sites of European Flea Beetles to Combat Leafy Spurge. This safe biological control method was first tried in our county on Barber's Island in Swan Lake to test the viability of these beetles. It has been very successful in eradicating over 50 acres of this noxious weed in our county.
- * Establishing a test site for Musk Thistle Head Weevil to Combat Canada Thistle. In July 2001 a test site was established on Barber's Island on Swan Lake. This bug works on the same principle as the European Flea Beetle for biological control.

- * Completing a Nitrate Probability Mapping Project with the Department of Health. This project was suggested by the Department of Health because of the excellent data collected by the Brown-Nicollet Environmental Health Office over the last 12 years during the tri-year Township Drinking Water Wells Testing. This GIS technique could be used as one of the tools to determine land use decisions.
- * The Red Top Farm Demonstration is a joint project between the Minnesota Department of Agriculture and Red Top Farms, Blue Earth Agronomics, University of Minnesota, the Minnesota River Friendly Farmer Program, Brown-Nicollet Environmental Health, Nicollet Environmental Services, and the Brown-Nicollet Environmental Health Department. This project started as part of a Clean Water Partnership project on a 90-acre site located on the Red Top Farm near St. Peter. This site provides a unique opportunity to study the quality and quantity of water and agricultural chemicals moving through the subsurface tile drainage system on a long-term basis. Results from Red Top fills a critical gap between university research, which is typically conducted on a small-scale under a very controlled environment, and effectiveness on a production-scale.
- * We were chosen as a State Pilot Project for the Wellhead Protection Program in St Peter. While completing this pilot project, many of the issues faced by the City, Brown-Nicollet Environmental Health Office and the Department of Health helped to form the rules for further wellhead protection projects throughout the State.
- * Continuing a Project on Nitrate Best Management Practices. The result of the wellhead protection project demonstrated the location of the area needing to be protected. This has evolved into a project with state and federal agencies working with the farm producers within the wellhead protection zone. We are testing different fertilizer rates on their fields to establish the best rates and compare those rates with the University of Minnesota guidelines. This is a cooperative effort between the crop producers, farm supply cooperatives, crop consultants, MN Department of Agriculture, the University of Minnesota Extension Service in Nicollet County and the Waseca Experimental Station, MN Department of Health, MN Pollution Control Agency, Nicollet Soil and Water Conservation District, Natural Resources Conservation Service, Brown-Nicollet Environmental Health Office, and Nicollet County Environmental Services.
- * We have completed three annual Children's Water Festivals for all 4th graders of Brown, Nicollet and Cottonwood counties. This highly successful project was a joint effort of the water management planners of Brown, Nicollet and Cottonwood counties, county SWCDs, Board of Water and Soil Resources, Department of Health, Division of Natural Resources, the three county University of Minnesota Extension Offices, Department of Agriculture, Minnesota Pollution Control Agency and the Brown-Nicollet Environmental Health Office. Our presenters were from state and federal agencies, as well as citizens from the three counties.
- * On-Going Education. In the Environmental Services Department we have an on-going education program. Any time a citizen comes into our office for a permit or to make inquiries on land use issues, staff will take the time to explain and give out information as to why land use decisions were made and how they can help the environment. This is especially true with the Feedlot and Septic System permits, e.g. and
 - Our ISTS Inspector, a certified soil scientist, conducts soil classes for area installers as well as individual assistance with soil typing.

- * Solid Waste Efforts. Annually, there is a household hazardous waste collection, along with an agricultural chemical collection, and tire and appliance collections. There is a booth at the Nicollet County Fair with staff and information available to the public, as well as information shared with schools and the general public either through classroom experiences or by furnishing material to the teachers or citizens directly.

Many more exciting projects have been implemented, showing Nicollet County to be a leader in the State. Please see the information within the Water Management Plan on these successful projects.

The knowledge of Nicollet County citizens has broadened since 1990, as is shown by the responses we received in the 2000 Citizen's Survey and the number of surveys that were returned. (See Chapter 1 pages 24 - 26.) The written responses to the questions were thoughtful and well informed. The cooperation between neighboring counties, cities, county, state and federal agencies working together and citizen participation are other areas that have increased the efficiency and effectiveness of water planning and implementation.

The third generation of the Water Management Plan continues to expand from the original 1990 Plan. Many projects are ongoing with the implementation phase of activities proposed in the Plan. The revised Plan will continue implementation in those areas and expand activities, on a watershed basis, through new activities and advancement of knowledge.

This third generation Plan is organized into an introduction section and five chapters with the 55 information items as a separate list at the end of this chapter. Chapter One is a general description of the county.

Chapters Two and Three are dedicated to the two major watersheds that lie within our county. Information contained in these two chapters will tend to be repetitious due to the fact that there are very few differences between the two prairie pothole watersheds. The need to have the repetition is if you want to reference a single watershed all the information is available in that chapter. Chapter Four is general information that is required by statute with Chapter Five containing full page maps from throughout the Plan.

While it is very hard to venture a guess as to what the future will bring, the county is making concerted efforts to clean up potential and known sources of pollution and to educate our citizens. We feel that they must be informed as to how and why it is important to take a wide view on protecting, improving and enhancing the water resources of Nicollet County and to be aware that our activities affect those who live downstream. To that end we are committed to continuing the water management planning and implementation process in Nicollet County.

Prepared by:

Pamela S. Rivers, Coordinator
Local Comprehensive Water Resources Management Plan

DRAFT

Minnesota Board of Water and Soil Resources
One West Water Street
Suite 200
St. Paul, Minnesota 55107

DRAFT

In the Matter of Reviewing the Comprehensive Water Plan Update
for **Nicollet County** (Minnesota Statutes 1990, Section 103B.311,
Subdivision 4 and Section 103B.315, Subdivision 5 and Minnesota
Rules 9300.0170)

**ORDER
APPROVING
COMPREHENSIVE
WATER PLAN**

Whereas, the Nicollet County Board of Commissioners adopted its second generation Comprehensive Water Plan on January 28, 1997, under authority of M.S. 1990, Section 103B.301, which was approved by the Minnesota Board of Water and Soil Resources (Board) on December 18, 1996, pursuant to M.S. 1990, Section 103B.315, Subd. 5, and

Whereas, the Plan provided for updating in 2001 pursuant to M.S. 1990, Section 103B.311, Subd. 4, and

Whereas, the Nicollet County Board of Commissioners submitted a third generation Comprehensive Water Plan Update (Plan Update) to the Board on August 23, 2001, pursuant to M.S. 1990, Section 103B.315, Subd. 5, and

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

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

FINDINGS OF FACT

1. M.S. 1990, Section 103B.311, Subd. 4, requires adopted Comprehensive Water Plans to be updated on a recurring basis.
2. On October 26, 1999, Nicollet County (County) passed a resolution to develop a Comprehensive Water Plan Update to meet the Plan Update requirements.
3. On October 10, 2000, the Board received a resolution from Nicollet County requesting a one-year extension of their existing Plan to allow more time to complete the Plan Update process.
4. On December 13, 2000, the Board approved the extension of the second generation Nicollet County Plan until December 31, 2001. (The Board has authorization to grant extensions pursuant to Minn. Session Law 1995, Chapter 184, Section 24.)
5. On May 2, 2001, Nicollet County completed a preliminary draft Plan Update and submitted it to affected local units of government for review and comment pursuant to Section 103B.315, Subd. 1.

6. On May 2, 2001, Nicollet County submitted a preliminary draft Plan Update to the Departments of Agriculture, Health, and Natural Resources, the Pollution Control Agency, the Minnesota Geological Survey, and the Environmental Quality Board for preliminary review and comment.
7. On July 24, 2001, Nicollet County held a public hearing on the draft Plan Update pursuant to Section 103B.315, Subd. 4, for the purpose of obtaining public input into the Plan Update.
8. **Individual Comments:** The County submitted written request for local comments on May 2, 2001. Responses of "no comments to offer" were received from two township representatives and the Region 9 Development Commission. Written local comments were received from a neighboring county water plan coordinator, which provided editorial comments, language corrections, and brief suggestions on the discussion of ethanol production. Written local comments were also received from a Nicollet County commissioner. Comments submitted were concerning the need for so much detail, language corrections, need for clarification, need for updated data/information, and repetition of information in the watershed chapters.

County Response to Individual Comments: The County responded to the neighboring county water plan coordinator on June 20, 2001, thanking her for the review comments and noted that the suggested corrections to the Plan Update were addressed. The County responded to the Nicollet County commissioner on August 20, 2001, thanking the commissioner for the review and comments and noted that the commissioner's questions and concerns, provided clarification, and incorporated language corrections were addressed.
9. **Minnesota Department of Agriculture (MDA) Review:** MDA did not provide any preliminary or final review comments.
10. **Minnesota Department of Health (MDH) Review:** Preliminary - MDH provided preliminary review comments on June 18, 2001, which included updated information and specific comments on text and language corrections. They stated that they feel the County draft Plan Update presents a great opportunity to further public health protection through its proposed actions and that they look forward to working with County staff on implementing the Plan Update. Furthermore, the Plan Update is an excellent example of innovative approaches to understanding and protecting groundwater resources. Final - MDH did not provide any final review comments.

County Response to MDH Comments: The County responded on August 20, 2001, thanking them for the review and for providing helpful comments and information. The County noted that many of the comments were incorporated into the Plan Update.
11. **Minnesota Department of Natural Resources (DNR) Review:** DNR did not provide any preliminary or final review comments.
12. **Minnesota Pollution Control Agency (MPCA) Review:** Preliminary - MPCA's preliminary review comments were provided on September 13, 2001, but were submitted during the final state agency review period. The MPCA apologized for the lateness of their review. Comments provided were on plan readability, ground water resources, Clean Water Partnerships, citizen monitoring, editorial comments, language clarification and corrections, and numerous other specific comments. Final - MPCA did not provide any final review comments.

County Response to MPCA Comments: The County responded on November 27, 2001. Responses were that of thanking MPCA for the review, information provided, and suggestions for additions to the Plan Update. Because of the lateness of MPCA's written review, the County stated that many of the comments will be added to the idea file for the next Plan revision.

13. **Minnesota State Planning Agency/Environmental Quality Board (EQB) Review:** Preliminary - EQB preliminary review comments were provided on June 12, 2001. Comments included that the Plan Update seems to contain good information and technical data, relatively easy to read, presents information in a straightforward fashion, and offered editorial and language corrections. Final - EQB provided final review comments on September 10, 2001, which included appreciation for the opportunity to review, glad the County found the EQB's contributions helpful, and wished the County well in implementing the Plan Update.

County Response to EQB Comments: The County responded on August 20, 2001, thanking them for reviewing and providing information and noted that many of the suggestions were incorporated into the Plan Update.

14. **Minnesota Geological Survey (MGS) Review:** MGS did not provide any preliminary or final review comments.
15. **Minnesota Board of Water and Soil Resources (BWSR):** Preliminary - On June 13, 2001, the BWSR provided written comments on the draft Plan Update. A number of editorial suggestions, additions and corrections needed to be addressed. A one-on-one meeting was conducted on June 20, 2001, to address the items. In addition, the Board Conservationist Findings form was used at this meeting to review the draft Plan Update with the County. Final - On December 3, 2001, the BWSR conducted a final review of the Plan Update. Additional items needing to be addressed were found. The BWSR met one-on-one with the County on December 7, 2001, to review the Board Conservationist Findings, discuss the needed items, and review other agencies' comments. The County agreed to work on incorporating these items into the Plan Update.

County Response to BWSR Comments: Preliminary - The County responded on August 20, 2001, thanking the BWSR for all the help with the Plan Update. Comments, suggestions, additions, and corrections were incorporated into the Plan Update.

16. On August 23, 2001, Nicollet County submitted its Plan Update along with all written comments received on the Plan Update and a record of the public hearing to the Board for final State review pursuant to Section 103B.315, Subd. 5.
17. On September 4, 2001, Board staff provided a written overview of the Nicollet County Plan Update to the Board for their information and review.
18. On December 3, 2001, the overview, Board Conservationist Findings, executive summary, and other Plan Update information was provided to the Board Southern Region Water Plan Review Committee for their information in preparation for the meeting with the County.
19. **Board Water Plan Review Committee Meeting:** On December 13, 2001, the Board Southern Region Water Plan Review committee met in St. Peter, Minnesota with representatives of Nicollet County and

Board staff to review and discuss the Plan Update. Those in attendance were Char Kahler, Victor Ormsby, and Dan Wilson of the BWSR Board; BWSR Southern Region Supervisor Jeff Nielsen and Board Conservationist Thomas Fischer; Nicollet County Water Plan Coordinator Pamela Rivers; Bonnie Holz of the Brown-Nicollet Environmental Health; Tina Rosenstein, Nicollet County Environmental Services Director; Nicollet County Commissioners Judy Hanson and Dr. David Dehen; Eldon Brown, Nicollet SWCD supervisor, and Kevin Ostermann, Nicollet SWCD manager; and Chris Voeltz of the City of St. Peter. The committee met to determine whether all relevant law and rule requirements had been met and to hear comments from the County on the planning process. Board staff recommended approval of the Nicollet County Plan Update pending the County's addressing the needed items discussed on December 7, 2001, and incorporating them into the Plan Update prior to January 10, 2002.

20. On December 13, 2001, the BWSR Southern Region Water Plan Review Committee decision was to recommend that the BWSR Board approve the Nicollet County Plan Update pending the County's addressing and incorporating the needed items and final BWSR staff review and approval.
21. On January 4, 2002, Board staff met with the County to review the items added as a result of the December 2001 meetings.
22. On January 9, 2002, the County provided a revised copy of the Plan Update. Board staff conducted a final review on January 10, 2002, to assure all pertinent items are found within the Plan Update.
23. On January 11, 2002, Board staff provided the necessary information to the Board for decision action regarding the Nicollet County Plan Update to be conducted at the January 23, 2002, Board meeting.
24. At the BWSR Board meeting held on January 23, 2002, the BWSR Southern Region Water Plan Review Committee presented their findings and recommendation for approval of the Nicollet County Plan Update to the Board for final Board action.

CONCLUSIONS

1. All relevant requirements of law and rule have been fulfilled. The Board has proper jurisdiction in the matter of approving a Comprehensive Water Plan Update of Nicollet County pursuant to Minnesota Statutes 1990, 103B.311, Subd. 4, and Minnesota Rules 9300.0170, Subp. 4.
2. The Nicollet County Plan Update attached to this Order states water and water-related problems within the County, possible solutions, general goals, objectives and actions of the County, and an implementation program. The attached Plan Update is in conformance with the requirements of Minnesota Statutes 1990, 103B.301 and Minnesota Rules Chapter 9300.

ORDER

The Board hereby approves the attached Plan Update as the Comprehensive Local Water Plan of Nicollet County. Dated at St. Paul, Minnesota, this 23rd day of January 2002.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Leland Coe, Chair

COMMITTEE RECOMMENDATIONS

Southern Water Planning Subcommittee

2. Sibley County Comprehensive Water Plan
Update – DECISION

**Minnesota Board of Water and Soil Resources
One West Water Street
Suite 200
St. Paul, Minnesota**

SIBLEY COUNTY COMPREHENSIVE LOCAL WATER PLAN (FOR BOARD ACTION)

Sibley County has a second generation Comprehensive Local Water Plan (Plan), which was approved by the Minnesota Board of Water and Soil Resources (BWSR) on June 26, 1996.

Sibley County submitted its third generation Plan Update to the BWSR on August 6, 2001. The final, ninety-day state agency review process began on August 6, 2001.

This Plan Update covers the ten-year period of January 2002 through December 2011.

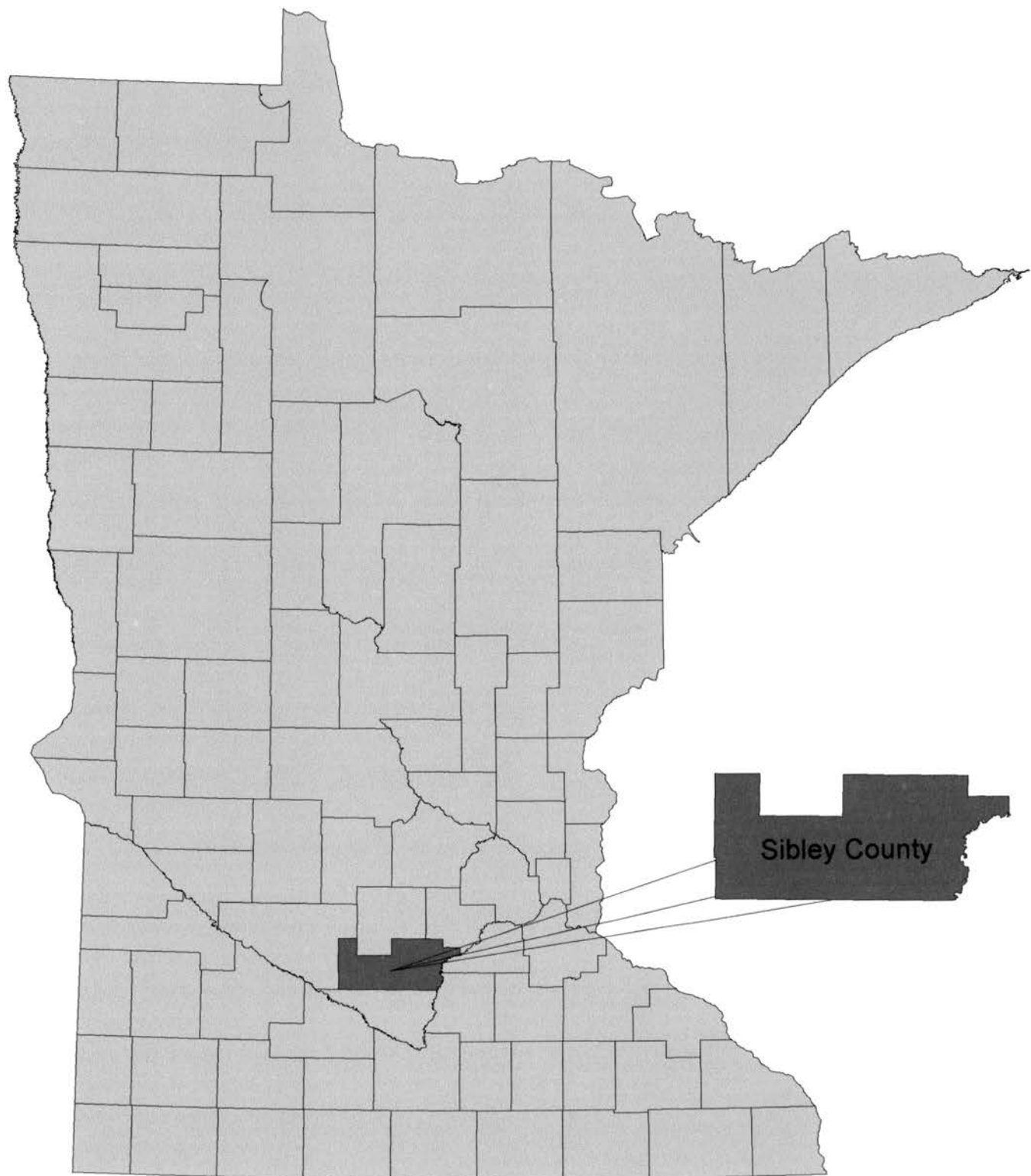
On September 4, 2001, BWSR staff provided a written overview of the Sibley County Plan Update to be presented to the BWSR Board at their September 2001 Board meeting. This overview was provided for information and review.

On December 13, 2001, the BWSR Southern Region Water Plan Review Committee met in St. Peter, Minnesota, with BWSR staff and representatives of Sibley County to review and discuss the Plan Update.

BWSR staff has reviewed the Sibley County Plan Update and find that all relevant requirements of law and rule have been fulfilled and it is in conformance with the requirements of Minnesota Statutes 1990, 103B and Minnesota Rules Chapter 9300. BWSR Board Conservationist Thomas Fischer recommends approval of the third generation Sibley County Comprehensive Local Water Plan.

Attached for your review is information about the third generation Sibley County Comprehensive Local Water Plan.

Where in the world is Sibley County?



OVERVIEW OF THE SIBLEY COUNTY THIRD GENERATION COMPREHENSIVE LOCAL WATER PLAN FOR THE JANUARY 2002 BWSR MEETING

INTRODUCTION

Sibley County's second generation Comprehensive Local Water Plan (Plan) was approved by the Board of Water and Soil Resources (BWSR) on June 26, 1996, and adopted by Sibley County on July 9, 1996. This five-year Plan was to be effective through December 31, 2000.

On February 8, 2000, Sibley County passed a resolution to revise and update its current Plan and immediately began the planning process. Realizing it would not finish before December 31, 2000, Sibley County requested a one-year extension on September 26, 2000. The request was granted by the BWSR on December 13, 2000. The Plan's effective date was extended to December 31, 2001.

Sibley County has prepared their third generation Plan in accordance to Minnesota Statutes 103B and Minnesota Rule Chapter 9300. The Plan covers the ten-year period of 2002 through 2011.

Sibley County is a member of the thirteen county South Central Minnesota County Comprehensive Water Planning Project (SCMCCWPP), established in the late 1980s to ensure that water planning be implemented properly. The SCMCCWPP is a joint powers agreement with a thirteen county cooperative effort that is coordinated by the director of the Minnesota State University-Mankato, Water Resource Center. Over the past few years the development of watershed teams has come to the forefront, so the purpose of the SCMCCWPP is changing.

The development of watershed teams has grown out of the establishment of the thirty-seven counties Minnesota River Basin Joint Powers Board (MRBJPB). Sibley County is a member of the MRBJPB. The purpose of the MRBJPB is to restore the water quality of the Minnesota River. Sibley County is also a member of other watershed teams that have established over the past few years: the Lower Minnesota Watershed, the Middle Minnesota Watershed, and the Crow River Watershed.

PHYSICAL DESCRIPTION OF COUNTY

Sibley County is located in south central Minnesota surrounded by the counties of Renville, McLeod, Carver, Scott, Le Sueur, and Nicollet. Its eastern border abuts the Minnesota River. The highest elevation in Sibley County is 1,085 feet, found in the northwest corner of the county. The lowest elevation, 700 feet, is at the point where the Minnesota River leaves the county along the northeastern border. More than eighty percent of the county consists of level to gently sloping terrain. The eastern portion of the county is dominated by influences of the Minnesota River valley. The county has a total of 386,480 acres of land of which approximately 381,230 acres (98+%) are privately owned.

Almost all of Sibley County is located within the Lower Minnesota River Watershed. The extreme southwestern corner of the county is located in the Middle Minnesota River Watershed. Small areas of the northern and northwestern parts of the county are located in the Crow River Watershed. Being a rural/agricultural county, over fifty percent of its original wetlands have been drained or filled to accommodate agriculture and development. The county has 566.9 miles of public open ditches and has an active ditch maintenance program.

U.S. Census Bureau data shows a total county population of 15,353 in 2000 as compared to 14,366 in 1990. Incorporated cities include Arlington, Gaylord (the County Seat), Gibbon, Green Isle, Henderson, New Auburn, and Winthrop. Other small communities include Assumption, New Rome, and Rush River. Having no cities with a population over 2,300 gives Sibley County the distinction of being designated a rural county. Eighty-four percent of the land use in Sibley County is agricultural.

ACCOMPLISHMENTS

Sibley County and cooperating partners have accomplished a number of successful activities since 1996. Shown below are examples of activities accomplished. They are listed under some of the specific categories found within a county water plan.

Education and Information

- Rivers of Life Program into schools
- Ag Field Day
- Manure Extravaganza Field Day
- MN New Country School Unspoken Partnership
- MRBJBP Youth Conferences

Inventory and Mapping

- Feedlot inventory & updates
- Tillage Transect Survey
- Digitized feedlots & manure spread fields
- Well inventory updates

Monitoring and Data Collection

- MDA Nitrate Testing
- High Island Creek Monitoring
- Rush River Monitoring
- DNA Fingerprinting of Fecal Coliform

Land and Water Treatment

- Chemical and Container Collection
- Household Hazardous Waste Collection
- ISTS State Revolving Loan Fund
- Bevens Creek Rock Tile Inlet Program

STAFF REVIEW

Using the required "Board Conservationist Findings" form to conduct the preliminary and final reviews, BWSR staff has determined that the Sibley County Comprehensive Local Water Plan does meet BWSR expectations and Minnesota Statutes 103B and Minnesota Rule Chapter 9300 requirements.

The Plan is well organized and easy to read and follow. It contains all the requirements to make it a stand-alone document. Its effective date of 2002 through 2011 is stated in several locations of the Plan. The Plan's purpose is to identify existing and potential problems and opportunities for the protection / management / development of water and related land resources; and develop objectives and carry out a plan of action to promote protection and management of those resources.

Soil erosion and sedimentation are the greatest non-point pollution problems in the county. Sibley County understands that if water quality or water management activities are to be successful, a well-coordinated education program must be implemented. The Plan is organized around twelve specific goals with numerous objectives and actions, as well as anticipated costs, to address water quality and quantity concerns and are summarized as follows: 1) obtain additional information; 2) promote resource planning and management on a watershed basis; 3) ensure an adequate supply of surface water is available; 4) protect groundwater quality and provide a safe water supply; 5) reduce the adverse effects of agricultural, industrial, and urban practices; 6) reduce the amount of soil erosion; 7) minimize the adverse effects of flooding and drainage; 8) prevent pollution from solid and hazardous waste; 9) preserve and promote open spaces; 10) preserve and improve waters, wetlands, and shoreland; 11) preserve existing woodlands; 12) provide safe and adequate water-related recreational opportunities.

The BWSR distributed the Plan for final state agency review that began on August 6, 2001. The BWSR Water Plan Review committee met with representatives of Sibley County on December 13, 2001.

Information in this overview was obtained from the proposed Sibley County third generation Comprehensive Local Water Plan for 2002 through 2011, and the Soil Survey of Sibley County, Minnesota.

SIBLEY COUNTY EXECUTIVE SUMMARY OF THE WATER PLAN

This water plan is the second revision and is the third generation water plan. The third generation CLWP will be effective January 2002.

The CLWP is reviewed annually when the Natural Resources Block Grant is submitted. The priorities are reviewed and high priority actions are put into the workplan. Medium priorities are occasionally put in the workplan because issues have changed since the revised water plan was adopted. The workplan is shown to the Water Resource Advisory Committee for comments. The WRAC amends the plan as issues and priorities change. This occurred once during 1995-2000 regarding septic systems.

Progress of implementing the water plan is communicated to the public through an annual news release. Progress of the plan is reported to the WRAC and to the Board of Commissioners through out the year. The WRAC meets quarterly and is open to the public. A presentation of current programs and projects is made to Township Board members at their annual meeting held in April at the Courthouse.

During the revision process, the WRAC met quarterly and communicated through the mail, surveys were randomly sent to landowners-rural and urban; the water plan coordinator attended local ag and civic organizations to distribute surveys. Surveys were also handed out to agricultural producers who visited the SWCD office. Surveys were also made available at the county fair. The townships that had concerns submitted their comments. A public input meeting also enabled citizen participation.

The major difference between the third generation water plan from the second-generation water plan is a more intensive watershed approach. The third generation survey shows that attitudes have changed directions since the first survey was done in 1988 with the first generation water plan. The 2000 survey is located in Section Nine on page 91.

Water Planning 1990-1995 First Generation Accomplishments

EDUCATION AND INFORMATION

Wetland Watch Folder Created

News releases and presentations on water quality, programs and projects

MONITORING AND DATA COLLECTION

Well Water Monitoring-200 wells were tested

Established a rain gauge network for precipitation monitoring

INVENTORY AND MAPPING

Well Inventory, contains 683 wells

ArcView GIS mapping

Feedlot Inventory

Feedlot Permit Update Program

LAND AND WATER TREATMENT

Well Sealing Cost Share Program (264 wells sealed)

Chemical and Container Collection

Bevens Creek Challenge Grant Project

Household Hazardous Waste Collections (Two collections per year)

REGULATIONS, ORDINANCES AND PLANNING

Worked with the Planning and Zoning Board to make sound environmental decisions

TECHNICAL STAFF SERVICES

ArcView and Technical Training

PLAN COORDINATION

Creation of the Water Resource Advisory Committee and Water Plan Coordinator Position

OTHER

Participates in the 13 SCMCCWPP

Participates in the 37 MRBJPB

Sibley County Geologic Atlas was completed. This document serves as a guide to subsurface geologic conditions and groundwater resources in the county.

Sibley County Surface Water Resources Hydrology Atlas was completed. This document mapped the county ditch system, delineated ditch-shed and lake-shed boundaries and updated minor watershed boundaries.

The first plan was completed in 1990, approved November 1990 by BWSR and adopted by the Sibley County Board of Commissioners in December 1990.

Water Planning 1995-2000 Second Generation Accomplishments

The revision of the 1990-1995 CLWP followed the same basic sequence as the preparation of the original water plan.

EDUCATION AND INFORMATION

Minnesota River Basin Clean Up Days (1996, 1997, 1998) with a running total of 150 participants with donations from local businesses.

Children's Water Festival (1999, 2000), Total youth involvement 2,100 in festival, youth who attended the WP's session-500 students.

Conservation Days (1998, 1999, 2000), Total youth involvement-1000 students

Rivers of Life brought into the schools within Sibley County

Manure Extravaganza field day (1999 EQIP Education Grant for \$2800, worked with Minnesota River Educational Initiative)

Ag Field Day (2000 EQIP Education Grant for \$3000)

Minnesota New Country School Unspoken Partnership

Hilltop Elementary Partnership-Presentations

MRBJPB Youth Conferences (1998 and 1999), attendance of 100 youth

News Releases and presentations to local civic groups on water quality issues

INVENTORY AND MAPPING

Feedlot Inventory, database created with 658 feedlot entries (\$10,000 MPCA Feedlot Challenge Grant)

Digitizing Feedlots and manure spread fields, linking the points to the Feedlot Database into ArcView, with a Feedlot Challenge Grant (\$10,000)

Additions to the Well Inventory bringing the total from 683 to 748 wells

MONITORING AND DATA COLLECTION

MDA Nitrate Testing

Transect Survey

Precipitation-Rain Gauge Network

High Island Creek Monitoring Efforts (Funding through MPCA)

Rush River Monitoring Efforts (Funding through MPCA)

DNA Fingerprinting of Fecal Coliform (funding through University of Minnesota)

LAND AND WATER TREATMENT

MDA Chemical and Container Collection

Work with LGU on Wellhead Protection Plans for Winthrop and Arlington

Countywide Household Hazardous Waste Collection

Developed Countywide ISTS SRLF Program and ISTS Ag BMP funds (\$220,000 MDA)

Bevens Creek Watershed Rock Tile Inlet Challenge Grant (\$10,000 project, \$5000 BWSR Challenge Grant)

RIM, CRP, CREP, WRP, Buffer Program, Living Snow Fences

REGULATION, PLANNING

High Island Clean Water Partnership (\$ 198,000 MPCA CWP grant, \$496,000 project)

Lobbying Efforts

Encouraged changes in septic system ordinance

PLAN COORDINATION

WRAC

13 SCMCLWPP

37 MRBJPB

Watershed Team Building in the Lower Minnesota, Middle Minnesota, and Crow River

The second-generation CLWP was completed and adopted July 9, 1996. The success of the water plan is based on achievement of goals and objectives. This is shown above by the list of accomplishments that has occurred with Water Planning. Water Planning has brought a large amount of funds into Sibley County. Limitations to the ability in achieving goals and objectives would include lack of appropriate funding, and lack of staff time to accomplish certain goals. In 2000 and 2001, a water planning increase in the Natural Resources Block Grant has been introduced to the legislature and both times has not made it to a committee for action.

Funds Brought into Sibley County Through Water Planning Efforts

Project/Grant Name	Amount Funded
Bevens Creek	\$ 35,210.00
Well Inventory	\$ 5,000.00
Center for Disease Control-Well Sealing	\$ 10,000.00
Well Sealing Challenge Grant	\$ 10,000.00
Feedlot Inventory- 1995 Challenge Grant	\$ 20,000.00
NRBG 1991-2000 Local Water Planning	\$ 540,476.00
NRBG 1995-2000 County Feedlot Program	\$ 127,450.00
NRBG 1994-2000 Wetland Conservation Act	\$ 85,400.00
NRBG 1994-2000 Shoreland	\$ 21,724.00
NRBG 1999-2000 ISTS	\$ 2,456.00
WCA Challenge Grant 1993	\$ 3,500.00
Septic Revolving Loan and ISTS Ag BMP 1998-2001	\$ 228,300.00
Digitizing Feedlots-Challenge Grant 1998	\$ 10,000.00
Rock Tile Intakes-Bevens Creek Challenge 1999	\$ 5,000.00
EQIP Education Grant 1999, 2000	\$ 5,800.00
High Island Creek Watershed Assessment 2000 Project (Clean Water Partnership)	\$ 198,000.00

Total Funds Received 1991-2000	\$ 1,308,316.00
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Grants submitted and not funded or partially funded

MN River Grant Offset slotted risers (Not funded)	\$ 10,000.00
ISTS/Well replacement (partial funding-this amount reflects the amount requested above what we received (\$120,000 requested, \$75,000 funded)	\$ 45,000.00
Challenge Grant-Well Sealing	\$ 10,000.00
MN River Blind Intake Grant	\$ 50,000.00
Crow River Blind Intake Grant	\$ 5,000.00

Total grant/loan dollars applied for through Water Planning

\$ 1,428,316.00

Local Dollars put into Water Planning:

Required Levy	\$ Above Levy	\$ Returned to County
		Early Years, funds were returned to the county.
\$ 36,998.00	\$ 47,962.00	\$ 21,884.00

Above Levy used toward WP	\$ 26,078.00
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Total County Dollars toward WP	\$ 63,076.00
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Total Water Planning Funds plus County Funds:

\$ 1,371,392.00

DRAFT

Minnesota Board of Water and Soil Resources
One West Water Street
Suite 200
St. Paul, Minnesota 55107

DRAFT

In the Matter of Reviewing the Comprehensive Water Plan Update
for **Sibley County** (Minnesota Statutes 1990, Section 103B.311,
Subdivision 4 and Section 103B.315, Subdivision 5 and Minnesota
Rules 9300.0170)

ORDER
APPROVING
COMPREHENSIVE
WATER PLAN

Whereas, the Sibley County Board of Commissioners adopted its second generation Comprehensive Water Plan (Plan) on July 9, 1996, under authority of M.S. 1990, Section 103B.301, which was approved by the Minnesota Board of Water and Soil Resources (Board) on June 26, 1996, pursuant to M.S. 1990, Section 103B.315, Subd. 5, and

Whereas, the Plan provided for updating in 2001 pursuant to M.S. 1990, Section 103B.311, Subd. 4, and

Whereas, the Sibley County Board of Commissioners submitted a Comprehensive Water Plan Update (Plan Update) to the Board on August 6, 2001, pursuant to M.S. 1990, Section 103B.315, Subd. 5, and

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

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

FINDINGS OF FACT

1. M.S. 1990, Section 103B.311, Subd. 4, requires adopted Comprehensive Water Plans to be updated on a recurring basis.
2. On February 8, 2000, Sibley County passed a resolution to develop a Comprehensive Water Plan Update to meet the Plan Update requirements.
3. On October 12, 2000, the Board received a resolution from Sibley County requesting a one-year extension of their existing Plan to allow more time to complete the Plan Update process.
4. On December 13, 2000, the Board approved the extension of the second generation Sibley County Plan until December 31, 2001. (The Board has authorization to grant extensions pursuant to Minn. Session Law 1995, Chapter 184, Section 24.)
5. On April 20, 2001, Sibley County completed a preliminary draft Plan Update and submitted it to affected local units of government for review and comment pursuant to Section 103B.315, Subd. 1.
6. On April 20, 2001, Sibley County submitted a preliminary draft Plan Update to the Departments of Agriculture, Health, and Natural Resources, the Pollution Control Agency, the Minnesota Geological Survey, and the Environmental Quality Board for preliminary review and comment.

7. On July 10, 2001, Sibley County held a public hearing on the Plan Update pursuant to Section 103B.315, Subd. 4, for the purpose of obtaining public input into the Plan Update.
8. **Individual Comments:** The County submitted written request for local comments for the preliminary draft Plan Update on May 2, 2001. Written responses were received from staff of two neighboring metro counties (Carver and Scott). Response received from Carver included comments relating to Bevens Creek Watershed (a watershed shared by both counties) water quality monitoring and wetland management, and looking forward to enhanced cooperation with Sibley County. Response from Scott County included comments of recommendation for clarification, additional language, suggestions for maps, and looking forward to further, positive collaboration with Sibley County.

County Response to Individual Comments: The County responded to Scott County water plan coordinator on June 20, 2001, thanking them for the review comments, stated they incorporated most of the suggestions into the Plan Update, and look forward to working with Scott County on the Lower Minnesota Watershed. County staff has confirmed that they responded to Carver County via e-mail, but were unable to provide any supporting documentation. County staff also asked Carver County if they could provide a copy of the e-mail, but Carver County could not. Response was that of thanking them for review and comments and incorporating most of the suggestions provided.

9. **Minnesota Department of Agriculture (MDA) Review:** MDA did not provide any preliminary or final review comments.
10. **Minnesota Department of Health (MDH) Review:** Preliminary - On June 4, 2001, MDH provided written comments on the preliminary draft Plan Update. MDH commended the County staff in their efforts, stated that the Plan presents a great opportunity to further public health protection through its proposed actions to protect water and related land resources, and looks forward to working with the County on implementation. MDH provided updated information and data, commented on wellhead protection, well sealing, source water assessments, and numerous corrections, additions, and suggestions for the text of the draft Plan Update. Final - MDH did not provide any final review comments.

County Response to MDH Comments: On August 6, 2001, the County responded thanking MDH for reviewing and providing updated information. The County also stated that most all of MDH's comments and suggestions were incorporated into the draft Plan Update.

11. **Minnesota Department of Natural Resources (DNR) Review:** Preliminary - This response came in after the end of the comment period and after the County sought out the DNR to provide review comments. On July 17, 2001, the DNR provided written comments on the preliminary draft Plan Update. The DNR thanked the County for seeking out their comments and offered updated information and data, a recommendation of using GIS data layering, other sources where the County can obtain updated data, to forward a number of studies that address the establishment of restoring wetland basins within a ditch system as a least cost means of improving ditch performance, and fisheries assessments for the Minnesota River. The DNR stated they would be happy to work with the County on flood damage reduction projects. Final - DNR did not provide any final review comments.

County Response to DNR Comments: On August 22, 2001, Sibley County responded to the DNR on its preliminary Plan Update review comments. The County extended its appreciation for comments and information received. The County incorporated as many of the comments as they could within the time frame allowed for the Plan Update process.

12. **Minnesota Pollution Control Agency (MPCA) Review:** Preliminary – On June 27, 2001, MPCA provided written comments on the draft Plan Update. Comments included the topics of plan readability, ground water resources, and numerous editorial suggestions, corrections, the need for clarifications, and recommendations. MPCA also provided updated information and data. Final – On September 14, 2001, MPCA provided final review comments, which stated that they reviewed the Plan Update and find that it is consistent with state law and recommend approval of the Plan Update.

County Response to MPCA Comments: On August 6, 2001, the County responded to the MPCA regarding the preliminary review comments thanking MPCA for the review and information provided and addressed each line item on the MPCA comment letter. The County noted that many of the recommendations, language clarifications, etc. were incorporated into the Plan Update.

13. **Minnesota State Planning Agency/Environmental Quality Board (EQB) Review:** Preliminary - On May 31, 2001, the EQB provided written comments on the preliminary draft Plan Update. Comments included that the plan appears to expand its scope to areas not previously addressed in the past, is easy to read, seems to be laid out quite well, presents information in a straightforward fashion, and noted that many of the strategies and actions center around education. The EQB also provided a brief collection of available resources and a listing of contacts and services available. Final – On September 10, 2001, EQB provided written comments on the Plan Update. EQB was glad that the County found the EQB's contributions to be helpful, thanked the County for the opportunity to review and comment, and wished the County well on implementation.

County Response to EQB Comments: On August 6, 2001, the County responded thanking EQB for reviewing and providing information. Most comments and information were incorporated into the draft Plan Update. Especially noted was the appreciation of the suggested comment about reporting progress, which the County will do annually to the water plan task force.

14. **Minnesota Geological Survey (MGS) Review:** MGS did not provide any preliminary or final review comments.
15. **Minnesota Board of Water and Soil Resources (BWSR):** Preliminary - On June 6, 2001, the BWSR provided written comments on the draft Plan Update, which stated that a number of editorial suggestions, corrections, and additions needed to be addressed. A one-on-one meeting with the County was conducted on June 8, 2001, to address the items. The Board Conservationist Findings form was used to review the draft Plan Update. Final – On November 30, 2001, the BWSR conducted a final review of the Plan Update. The BWSR met one-on-one with the County on December 6, 2001, to review the Board Conservationist Findings and agencies' comments.

County Response to BWSR Comments: In June 2001, the County responded several times via e-mail to the BWSR regarding the preliminary review comments and one-on-one meeting. The County incorporated many of the recommendations, language changes, clarifications and additions, and extended appreciation for one-on-one assistance, recommendations, office visits, and review.

16. On August 6, 2001, Sibley County submitted its Plan Update along with all written comments received on the Plan Update, and a record of the public hearing to the Board for final State review pursuant to Section 103B.315, Subd. 5.
17. On September 4, 2001, Board staff provided a written overview of the Sibley County Plan Update to the Board for their information and review.

18. On December 3, 2001, the overview, Board Conservationist Findings, executive summary, and other Plan Update information was provided to the Board Southern Region Water Plan Review Committee for their information in preparation for the meeting with the County.
19. **Board Water Plan Review Committee Meeting:** On December 13, 2001, the Board Southern Region Water Plan Review Committee met in St. Peter, Minnesota with representatives of Sibley County and Board staff to review and discuss the Plan Update. Those in attendance were Char Kahler, Victor Ormsby, and Dan Wilson of the BWSR Board; BWSR Southern Region Supervisor Jeff Nielsen and Board Conservationist Thomas Fischer; Sibley County Water Plan Coordinator Lauren Klement; Sibley County Commissioner Charles Woehler; Supervisor David Trebelhorn, District Manager Loren Evenson, and District Technician Kevin Pioske of the Sibley SWCD; and Ned Pilling of the City of Henderson. The committee met to determine whether all relevant law and rule requirements had been met and to hear comments from the County on the planning process. Board staff recommended approval of the Sibley County Plan Update.
20. On December 13, 2001, the BWSR Southern Region Water Plan Review Committee decision was to recommend that the BWSR Board approve the Sibley County Plan Update.
21. On January 11, 2002, Board staff provided the necessary information to the Board for decision action regarding the Sibley County Plan Update to be conducted at the January 23, 2002, Board meeting.
22. At the BWSR Board meeting held on January 23, 2002, the BWSR Southern Region Water Plan Review Committee presented their findings and recommendation for approval of the Sibley County Plan Update to the Board for final Board action.

CONCLUSIONS

1. All relevant requirements of law and rule have been fulfilled. The Board has proper jurisdiction in the matter of approving a Comprehensive Water Plan Update of Sibley County pursuant to Minnesota Statutes 1990, 103B.311, Subd. 4, and Minnesota Rules 9300.0170, Subp. 4.
2. The Sibley County Plan Update attached to this Order states water and water-related problems within the County, possible solutions, general goals, objectives and actions of the County, and an implementation program. The attached Plan Update is in conformance with the requirements of Minnesota Statutes 1990, 103B.301 and Minnesota Rules Chapter 9300.

ORDER

The Board hereby approves the attached Plan Update as the Comprehensive Local Water Plan of Sibley County. Dated at St. Paul, Minnesota, this 23rd day of January, 2002.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Leland Coe, Chair

INFORMATION AND DISCUSSION

1. Budget Reductions

2002-03 Supplemental Budget Recommendations
(\$ in Thousands)

Agency: Water & Soil Resources Board

<u>Current Budget</u>	<u>FY 2002</u>	<u>FY 2003</u>	<u>Total</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>Total</u>
General Fund Appropriations	\$19,054	\$18,936	\$37,990	\$18,940	\$18,945	\$37,885
Carry Forward	350	0	350	0	0	0
Total Current Budget	\$19,404	\$18,936	\$38,340	\$18,940	\$18,945	\$37,885
Recommended Change	\$ (0)	\$ (3,799)	\$ (3,799)	\$ (1,894)	\$ (1,894)	\$ (3,788)
Revised Budget	\$19,404	\$15,137	\$34,541	\$17,046	\$17,051	\$34,097
Percent Change			(9.9)%			(10.0)%

Agency Summary:

BWSR first reduced the administration budget. The competitive and challenge grants were cut next, then base programs.

<u>Change Item Description</u>		<u>FY 2002</u>	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>
1. Reduced Administration	Exp	\$ (0)	\$ (523)	\$ (523)	\$ (523)

Cuts of approximately 5.7 percent each year reduce the agency's overall capacity to provide technical support, coordination, and planning services to local government units. Reductions affect all areas of the budget, with the sole exception of CREP implementation. In total, staff will be reduced by 4.5 FTE's, 1 will be realized through attrition, and 3.5 through layoff.

2. Grant Reductions	Exp	\$ (0)	\$ (3,276)	\$ (1,371)	\$ (1,371)
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Because BWSR issues all its grants in the first few months of the fiscal year, the entire reduction in the 2002-03 biennium had to be taken in FY 2003. The reduction was evenly divided in '04-05, resulting in a 4.8 percent biennial reduction. Cost share, Natural Resources Block Grants, and General Services grants are all reduced. The fact that substantially more grant dollars were cut than administrative dollars reflects the large portion of the agency's budget that is passed-through to local governments.

Base Budget and Reduction Allocation

	FY 02	FY 03	FY 04	FY 05
Laws 1st Special Session, Chapter 2 Section 6				
Operations	4,125,000	4,231,000	4,231,000	4,231,000
RIM Admin	463,000	476,000	476,000	476,000
Grants				
NRBG	5,480,000	5,268,000	5,268,000	5,268,000
SWCD General Services	3,967,000	4,037,000	4,037,000	4,037,000
Cost Share	4,730,000	4,735,000	4,735,000	4,735,000
Area II	189,000	189,000	189,000	189,000
West Newton (St. George)	100,000			
Sub total Grants	14,466,000	14,229,000	14,229,000	14,229,000
General Fund Total	19,054,000	18,936,000	18,936,000	18,936,000
Biennial Total	<u>37,990,000</u>			
10% Reduction Target	3,799,000		1,893,600	1,893,600
			3,787,200	

Appropriation	FY 02 Current Law	FY 02 Reduction	FY 03 Current Law	FY 03 Reduction	FY 04 Current Law	FY 04 Reduction	FY 05 Current Law	FY 05 Reduction
Total Appropriation	19,054,000		18,936,000		18,936,000		18,936,000	
Cost Share	4,730,000		4,735,000		4,735,000		4,735,000	
Base Cost Share	1,806,000		1,806,000	737,700	1,806,000		1,806,000	
MN River	576,000		576,000	576,000	576,000	576,000	576,000	576,000
Special Projects	238,000		238,000	238,000	238,000	223,600	238,000	223,600
Feedlot Cost Share	2,110,000		2,115,000	0	2,115,000		2,115,000	
	4,730,000	0	4,735,000	1,551,700	4,735,000	799,600	4,735,000	799,600
Cost Share Rollover				499,800				
Total Cost Share	4,730,000	0	4,735,000	2,051,500	4,735,000	799,600	4,735,000	799,600
Percent of Reduction		0.00%		43.33%		16.89%		16.89%
Area II MN River	189,000	0	189,000	49,000	189,000	189,000	189,000	189,000
Percent of Reduction		0.00%		25.93%		100.00%		100.00%
NRBG	5,480,000		5,268,000		5,268,000		5,268,000	
Base Grant - Includes WCA, Shoreland, LWP	4,886,000	488,600	4,886,000	488,600	4,886,000		4,886,000	
Challenge Grants	382,000		382,000		382,000	382,000	382,000	382,000
North Shore Manangement Bd.	50,000		0		0		0	
St. Louis River Bd.	35,000		0		0		0	
MN River Basin Bd.	100,000		0		0		0	
SE MN Resources Bd.	27,000		0		0		0	
	5,480,000	488,600	5,268,000	488,600	5,268,000	382,000	5,268,000	382,000
Percent of Reduction		8.92%		9.27%		7.25%		7.25%
General Services	3,967,000		4,037,000		4,037,000		4,037,000	
SWCD Base Grants	2,087,000		2,157,000	198,300	2,157,000		2,157,000	
RIM Services	750,000		750,000		750,000		750,000	
NPEA	1,130,000		1,130,000		1,130,000		1,130,000	
	3,967,000	0	4,037,000	198,300	4,037,000	0	4,037,000	0
Percent of Reduction		0.00%		4.91%		0.00%		0.00%
Grants Sub-total	14,366,000	488,600	14,229,000	2,787,400	14,229,000	1,370,600	14,229,000	1,370,600
Percent of Reduction		3.40%		19.59%		9.63%		9.63%
Agency Administration								
RIM	463,000		476,000		476,000		476,000	
Operations	4,225,000		4,231,000	523,000	4,231,000	523,000	4,231,000	523,000
	4,688,000	0	4,707,000	523,000	4,707,000	523,000	4,707,000	523,000
Percent of Reduction		0.00%		11.11%		11.11%		11.11%
Agency Total	19,054,000	488,600	18,936,000	3,310,400	18,936,000	1,893,600	18,936,000	1,893,600
02-03 Biennial Total	37,990,000	3,799,000						
04-05 Biennial Total	37,872,000	3,787,200						
Reduced Base Appropriation	18,565,400		15,625,600		17,042,400		17,042,400	

INFORMATION AND DISCUSSION

2. Schunk Petition

28 December, 2001

To the Minnesota Board of Soil and Water Resources. Here are some written reasons why the Hennepin Soil and Water District should be discontinued. Although the statute does not require any petitioner to give reasons for signing the petition, in response to your letter, I will give you some of my reasons in the interest of forwarding this along. By accommodating your request, I do not concede that you have the authority to not advance my petition onto the ballot according to statute simply because you may not agree with my reasons. These may not be all of the reasons, but for the moment they are substantive and indicative of the reasons you requested.

1. HCD's domain is today urban not rural. They are using agricultural practices to try and solve urban problems. By trying to use agricultural principles they are not approaching urban problems with the proper background.
2. Over the past several years HCD has mismanaged it's operation. It has reverted to legal pressure to resolve it's problems rather than deal openly with their constituents. In recent years they have squandered over 1/2 million dollars in legal fees, instead of applying those funds to conservation projects as intended.
3. Some of these reasons have caused the Hennepin County Board of Commissioners to react. One by suspending a portion of HCD funding and two a concern by the Hennepin County Board of Commissioners with the activities of HCD.
4. HCD has refused to turn over public information and documents paid for by tax money. Even when requested under the Minnesota Government data practices act.
5. HCD has shown that they do not provide assistance to individuals on an equal basis.
6. HCD refused to accept competent and qualified testimony in defense of individuals HCD claims have violated rules and regulations which they are supposed to administer.
7. Findings made by HCD staff indicate that they are unqualified in their technical fields. HCD staff made some serious errors. They have made errors in establishing Boundary surveys and determining O. H. W. (ordinary high water) to the detriment of myself and others.
8. The mission of the S. W. C. D. in Hennepin County overlaps and duplicates the role of W. M. O.'s, Watershed Districts, Hennepin County's own water planning efforts, and the Metropolitan Council. The HCD is just an extra layer of Government in Hennepin County that is not needed.
9. In some cases HCD takes on the advisory responsibilities of some W.M.O.'s disallowing the W.M.O. the ability to act without HCD's concurrence.
10. The Hennepin County Board of Commissioners has indicated there is a good possibility that HCD activities should be incorporated into the County Government structure. The Hennepin County Board of Commissioners is looking into the duplication of effort by HCD in areas already served by Watershed Districts and Water Management Organizations.
11. HCD has completely circumvented the process of checks and balances that are supposed to exist within our Government. It is apparent that HCD wishes to be Judge and Jury. They wish to become an arm of the Law determining who shall be accused of crimes and what their sentence shall be. Long before the accused individual has an opportunity to refute their claims, denying the accused due process.

12. HCD was involved in the re-issue of complaints which were already adjudicated creating a double jeopardy situation, where the United States Constitution bars multiple legal actions for the same supposed violation.

13. HCD had been careless and reticence to have open meetings and "open mike" opportunities in their agendas. Meetings have been held in basement rooms where the building doors have been locked, denying citizens access to the meeting. Sometimes there is no public notice of special meetings and their agendas. Note this is in direct contrast to B.O.W.S.R. meetings which are held in the open and do have opportunities for guests to speak.

14. Although HCD may deny their writing of restoration orders by process of elimination and court testimony, it is apparent that they continue to do so.

15. HCD has shown that it is not a true soil and water district. The proof of this is that they changed their name from a soil and water district to just conservation district. By not addressing soil and water conservation in their title they have allowed themselves free reign over issues which they were not originally established to oversee, and have therefore become inefficient in all their activities.

16. I and others feel HCD eschews conservation. The word Conservation in the Hennepin Conservation District title today has no meaning except for the Conservation of the Districts perpetuation.

Hennepin County voters need to decide if the Hennepin Soil and Water Conservation District should be terminated as a District with a referendum on the Ballot in 2002 as required by Law.

Thank you,

Keefe Schunk
6705 Willow Drive
Corcoran, Mn. 55340
763 478 2322

INFORMATION AND DISCUSSION

3. "Present-Day Agriculture in Southern Minnesota – Is it Sustainable? – Giles Randall, Soil Scientist and Professor

UNIVERSITY OF MINNESOTA

Board Members
SMT

*Southern Research and Outreach Center
College of Agricultural, Food,
and Environmental Sciences*

35838-120th Street
Waseca, MN 56093-4521
507-835-3620
Fax: 507-835-3622
<http://sroc.coafes.umn.edu>

September 20, 2001

Greg Larson
Department of Soil, Water & Climate
1991 Upper Buford, Borlaug Hall
St. Paul, MN 55108

Dear Greg:

After growing up on a farm in southeastern Minnesota and now in the midst of conducting field research in my 30th growing season in south-central and southeastern Minnesota, I've seen tremendous changes in southern Minnesota agriculture. Some of the changes, largely driven by the present Farm Bill, have become quite disturbing and have led me to question the sustainability of present day agriculture. The enclosed document outlines my primary concerns, especially for southeastern Minnesota.

This document has been sent to Minnesota Senators Dayton and Wellstone and Congressmen Gutknecht and Kennedy, who are on the Senate and House Ag Committees. The following suggestions relating to the new Farm Bill were also included.

- 1) **Enforceable, compliance-based, conservation incentives need to be tied directly to LDPs or other production assistance programs.** In my opinion the NRCS must re-assume the role of soil stewardship watchdog. They must become visible and strong advocates for soil conservation and be ready to enforce the implementation of conservation practices while working in conjunction with FSA.
- 2) **LDPs should be expanded to other less erosive crops such as alfalfa or grass pastures.** This would be especially significant for the more highly erodible landscapes, which have been suitable for alfalfa and various grass pasture species for dairy enterprises. Presently, many of these smaller dairy enterprises are being replaced by corn and soybeans. In my opinion soybeans should not be grown on many of those southeastern Minnesota fields.
- 3) **Research must accompany landscape changes affected by the new Farm Bill to determine the economic, environmental, ecological, and social effects of strategies suggested or practices implemented as a result of the Bill.** Monitoring research to provide a temporal and spatial assessment of the practices is needed on a watershed and field-scale basis. Research and modeling efforts must be undertaken to understand the uncertainties, impacts, and processes associated with the implementation of "Farm Bill"

Greg Larson
September 20, 2001
Page 2 of 2

practices. This type of research is necessary to evaluate strategies associated with the new Farm Bill and to assist in the revision of these strategies as needed.

- 4) **Alternative uses for less traditional crops must be developed through public-supported research.** Much effort has been directed recently toward enhanced food and energy uses of corn and soybeans. This good work has been largely supported by private industry and the corn and soybean commodity organizations. However, I see very little being done to develop alternative uses for the less erosive, non-traditional crops. The new Farm Bill should contain language authorizing public-supported research to develop energy, quality components, nutraceuticals, etc. from these crops. In other words, we need to adjust our paradigm from "feeding the world" with annually planted feed grains and oil seeds to a paradigm that includes a broad array of uses for perennial crops that protect the environment and provide ecological diversity.

In my opinion, adopting more diversified cropping systems would move us to sustainability more quickly than any other practice. However, it would likely affect this country's "cheap food" policy. Also, these diversified annual and perennial cropping systems should be targeted in particular to those most sensitive agroecoregions or landscapes where the greatest return can be obtained for dollars invested.

Thought you may be interested in this subject.

Sincerely yours,



Gyles W. Randall
Soil Scientist and Professor

GWR:awb

Enclosure

PRESENT-DAY AGRICULTURE IN SOUTHERN MINNESOTA - - IS IT SUSTAINABLE?

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The makeup of the agricultural enterprise in southern Minnesota has changed greatly in the last 30 years. A dramatic shift from a mixed cropping system of corn, alfalfa, small grains, soybeans, and pastures accompanied by many smaller dairy herds to a simple corn and soybean cropping system with fewer small livestock enterprises has occurred and is of great concern. According to Minnesota Department of Agriculture Statistics, corn and soybeans occupied 80% of the crop acreage in the 9-county southeastern Minnesota area in 1999 compared to 64% in 1975. In the 6-county area closer to the Mississippi River (Fillmore, Goodhue, Houston, Olmsted, Wabasha, and Winona counties), marked by many steep, highly erosive soils, corn and soybean acreage has risen from 55% in 1975 to 72% in 1999. Soybean acreage in Houston and Wabasha counties has increased from 4,000 and 12,000 acres, respectively, in 1975 to 26,000 and 35,000 acres in 1999. Most of the shift to soybeans has been at the expense of large reductions in alfalfa, pastures, and small grains. Corn and soybean acreage in the 11-county area in south central Minnesota has increased from 87% in 1975 to 96% in 1999 primarily because of increasing soybean acreage.

The shift to greater soybean acreage in southern Minnesota has been accompanied by: (1) fewer and larger farm operations, (2) fewer livestock farms, (3) more pest problems, i.e., soybean cyst nematode, white mold disease, soybean aphid, and weed population shifts, (4) increased iron chlorosis pressure in south central and western Minnesota, (5) price challenges, and (6) increased soil erosion. In my travels throughout south central and southeastern Minnesota, I have never seen as much erosion as in the last few years. Yes, we've had some intense rainfall events, but we've also converted the landscape to a crop production system that is extremely susceptible to soil erosion. In my 30 years as a University of Minnesota soil scientist at Waseca, I've never heard so much concern registered over the tremendous amount of erosion as in the last two years - - from urban people as well as farmers.

The concerns and observations outlined above lead me to ask the question "*Is the corn-soybean crop production system as we know it today sustainable?*" I question whether present day agriculture in southern Minnesota is sustainable from economic, environmental, ecological, and sociological perspectives. If it is not sustainable, how can U.S. farm policy create a more sustainable agricultural system in this part of the Corn Belt? The following discussion will address sustainability.

Economics is a primary determinant as to whether an agricultural production system is sustainable - - to the producer, the agricultural infrastructure, and the surrounding community. Global competition, primarily from Argentina, Brazil, and China will put extreme pressure on the U.S. corn and soybean market. Visitors to Brazil indicate that there are upwards of 200 million acres of relatively flat land outside of the Amazon River Basin available to be cleared for crop production. This is more than the total acreage of corn and soybeans in the U.S. (about 140 M acres). Low prices for corn and soybeans have prevailed the last two years. Federal assistance in the way of loan deficiency payments (LDPs) has been the primary source of profit for most corn and soybean producers. Some have said that without them we would have witnessed the largest bankruptcy ever in American agriculture. Unfortunately, LDPs have stimulated all-out field edge to field edge production because the farmer is rewarded based on the number of bushels produced. Although economically good for the producer, this government policy has come at the expense of soil and water resource stewardship and has created severe long-term consequences. (More on that later.) Additionally, farmers are always looking for higher yielding hybrids and varieties. Higher yielding genetic material has been delivered consistently over time by private industry and land grant Universities through sophisticated research with emphasis on biotechnology and molecular approaches in recent years. Thus, the current agricultural research system is designed primarily to produce greater yields, which can easily lead to over-production in relationship to demand, and consequently, poorer prices. Coupled with global competition and the likelihood of the American taxpayer questioning government payments (LDPs) to produce products they perceive as not terribly essential to food purchased in grocery stores and restaurants, the economic picture of corn and soybean production as we presently know it becomes rather bleak.

Environmental factors have become more prominent in recent years when determining the sustainability of crop production systems. Soil erosion is a key environmental factor. Soybeans have been recognized for years as a crop that is highly susceptible to soil erosion losses. These losses are due to: (1) little crop growth and hence little soil surface protection from intense rainfall prior to mid-July in Minnesota, especially when planted in 15" or wider rows, (2) small amounts of evapotranspiration (water usage) prior to mid-July, which leads to greater runoff of spring rainfall, (3) small amounts of plant residue remaining on the soil surface after harvest, giving inadequate protection from water erosion late in the fall and in the spring before establishment of the next crop, and (4) the erosivity of soils is increased by soybeans due to their effect on soil tilth and structure.

Conservation tillage practices have been adopted throughout southern Minnesota in the last 30 years with the purpose of leaving plant residue on the soil to reduce soil erosion. However, little residue coverage exists with soybeans, and erosion has become excessive, especially in southeastern Minnesota. The impact of raindrops on bare soil dislodges soil particles resulting in silt and clay-sized particles being carried away in runoff to streams and rivers. Gullies are often formed in the erosion process - - some so large that they need to be avoided by harvest equipment and/or filled in by tillage equipment before they can be crossed.

Alfalfa, pastures, and other grass perennial cropping systems such as those planted in the Conservation Reserve Program (CRP) protect against soil erosion in various ways. First,

the vegetation intercepts rainfall and its energy preventing the raindrop from directly hitting the soil surface and dislodging soil particles. Second, these crops transpire more water in the spring than do corn or soybeans, thereby creating additional room for storage of rainfall in the soil. Third, the very fibrous root system holds the soil particles in place. These factors substantially buffer the landscape against the rapid runoff of water and soil erosion compared to row crops (soybeans and corn) especially in the spring. As a result, flooding and high peak flows are minimized in landscapes occupied by these perennial crops compared to row crops. I would argue that much of the flash flooding in southeastern and southcentral Minnesota in recent years has been the result of the shift to more soybeans at the expense of alfalfa, grass pastures, and other grass cropping systems.

Coupled with the shift to the corn-soybean rotation has been the growth in farm size. This has been accompanied by larger machinery to service the expanded acreage in a timely manner. Unfortunately, soil conservation practices such as grassed waterways, narrow contour strips, terraces, etc. are viewed too often as not being compatible with larger machinery. Consequently, the soil conservation practices are either removed from the landscape, or they are managed in a manner that does not protect against soil erosion. My observations in southeastern and southcentral Minnesota indicate that grassed waterways are being utilized very poorly in the prevention of soil erosion. For some reason I do not understand, these practices, particularly grassed waterways and terraces, seem to be much better utilized and even part of the culture of many northern Iowa farmers.

Rampant erosion and periodic flash flooding occurring in southern Minnesota does not lead to sustainable agriculture. The darker colored, most productive surface soils are being eroded away, exposing the less fertile and productive subsoils. The best soils are being deposited in flood plains and rivers, causing serious off-site siltation problems and economic consequences. Meanwhile, crop production in portions of the landscape will undoubtedly suffer and economic vitality will decline.

Nitrate-nitrogen loss from cropping systems to ground and surface waters is also an environmental indicator of sustainability. Nitrate is a form of nitrogen that is very mobile in the soil. Rainfall in excess of evapotranspiration can leach nitrate through the soil profile and into groundwater aquifers in southeastern Minnesota and into subsurface tile drainage in much of south central Minnesota.

Nitrates in the subsurface drainage from highly productive corn and soybean acreage in the Corn Belt are delivered to the Mississippi River and then deposited in the Gulf of Mexico where they are suspected as being the primary factor causing the oxygen-limiting conditions (hypoxia) in the Gulf of Mexico. The corn and soybean cropping system has been shown to be a very leaky system with respect to nitrates. University of Minnesota studies at Lamberton found nitrate-N losses in tile drainage water from corn and soybean row crop systems to be 30 to 50X greater than from perennial alfalfa and CRP grass/alfalfa systems. This was due to both more water per acre being drained from the row crops and higher concentrations of nitrate-N in that water compared to the perennial crops. Thus, row crops affect both the quality and the quantity of water leaving the landscape in subsurface tile drainage.

In summary, the sustainability perspective is questioned because of runoff water (surface and subsurface) grass perennials, and c) greater loss c

Ecological factors also need to diversity on the landscape is an indicator diversity generally means improved habitats for animals. Greater numbers and diversity in a rural ecosystem and presents an added value in American society. The corn-soybean rotation provides very little opportunity for an

Transportation of the raw product to New Orleans for overseas shipment and efficiently transport corn and soybeans down the Mississippi River needs to be reconstructed. Agricultural community claim the Mississippi River barge traffic needed for grain shipment is saying "NO" to these attempts. The Army Corps of Engineers found this to be true this last year as their attempts to reconstruct the river through the judicial branch. My guess is that the ecological debate.

Sociological impacts are also seen in agriculture. As farms get larger to support profitability in corn and soybean production systems, we see fewer farms and farm families. Rural populations decrease and with that, we see a decline of the rural community. Student numbers in schools and church membership are shrinking. Consolidation and merging of businesses are becoming deserted as the number of businesses decline. Few local rural youth remain in the rural community after high school graduation. Producers often bypass the local community outlets and are purchased at larger regional outlets, where they are purchased. As more production contracts are developed between the agribusiness sector and the farmer, the farmer will gradually assume the role of "custom operator" or "indentured servant" and he/she will not have the management freedoms previously enjoyed. These trends are likely to continue regardless of the cropping system being grown, but the corn-soybean rotation has speeded the process.

Based on the arguments and observations presented in the above discussion, the corn-soybean rotation cropping system with little livestock in the enterprise does not appear to be sustainable. Substantial changes in federal farm policy, cropping systems, and land use patterns will need to occur in order to sustain a healthy rural environment and rural community.

of the corn-soybean rotation from an environmental perspective is questioned because of a) greater soil erosion, b) greater and more flashy loss of nutrients compared to cropping systems containing alfalfa and grass perennials, and c) greater loss of nitrate-N to ground and surface waters.

Plant diversity on the landscape is an indicator that ecologists look to with favor. Increased plant diversity generally means improved habitat to support a wider variety of insects, birds, and other wildlife. Greater numbers and diversity of "wildlife" is generally considered highly favorable and presents an added value in American society. The corn-soybean rotation cropping system as currently practiced provides very little opportunity for animal and plant diversity on the landscape.

Transportation of the raw product, i.e., corn and soybeans, down the Mississippi River also presents an ecological challenge. To economically transport corn and soybeans to the Gulf on barges, the lock and dam system on the Mississippi River needs to be upgraded to accommodate the increased traffic. Arguments being made daily by the Army Corps of Engineers found this to be true this last year as their attempts to reconstruct the river through the judicial branch. My guess is that the ecological debate.

Seen as side effects of present day, corn and soybean production systems, we see fewer farms and farm families. Rural populations decrease and with that, we see a decline of the rural community. Student numbers in schools and church membership are shrinking. Consolidation and merging of businesses are becoming deserted as the number of businesses decline. Few local rural youth remain in the rural community after high school graduation. Producers often bypass the local community outlets and are purchased at larger regional outlets, where they are purchased. As more production contracts are developed between the agribusiness sector and the farmer, the farmer will gradually assume the role of "custom operator" or "indentured servant" and he/she will not have the management freedoms previously enjoyed. These trends are likely to continue regardless of the cropping system being grown, but the corn-soybean rotation has speeded the process.

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FOR YOUR INFORMATION

(January 23, 2002)

- ❑ "Board Member Update"
- ❑ Updated Board Member Listing
 - Karen Harder's fax number added
 - Lisa Thorvig, PCA, added, replacing Rod Massey
- ❑ Appeals filed in 2001
- ❑ Memo from John Jaschke, regarding Recent Wetland Cases – Appeals Court Results:
 - Anoka County Ditch No. 53-62
 - Big Stone County Ditch No. 2
- ❑ Notice of Filing – Ramsey-Washington Metro Watershed District and Valley Branch Watershed District Boundary Change Petition
- ❑ Memo from Marybeth Block to agencies regarding the 90-day review of the Itasca County Comprehensive Local Water Management Plan
- ❑ Letter to Minnesota Planning from Ronald Harnack, regarding Comments on Proposed Final GEIS on Animal Agriculture
- ❑ Farm Services Agency (FSA) State Committee Members
- ❑ "Minnesota Statutes Annotated Volume 8A and 8B – 2002 Cumulative Annual Pocket Part"
- ❑ Publication, "Focus on the Waters"
- ❑ Publication, "Land & Water Conservation"



Board of Water and Soil Resources U•P•D•A•T•E

A publication of the Minnesota Board of Water and Soil Resources

January 2002

SOUTH

The Basin Alliance for the Lower Mississippi in Minnesota (BALMM) Landscape

Buffer Initiative is shifting into overdrive with the goal of submitting a grant application for the Conservation Reserve Enhancement Program (CREP) early this year. At a recent meeting, BALMM discussed its draft initiative with area legislators, BWSR managers, and Farm Service Agency and NRCS staff. The BALMM buffer committee is working to shape a final proposal, while area legislators are consulting with the Board of Water and Soil Resources, BALMM representatives, and others to work out details.

Local support is materializing quickly. For example, at its Jan. 14 meeting, the Southeast Minnesota Water Resources Board voted to support the efforts of BALMM to submit a CREP application.

The proposal includes much more than riparian buffer strips, which is why it's called a landscape buffer initiative. The draft Landscape Buffer Initiative calls for the placement of multifunctional vegetated buffers in four types of strategic locations on the landscape to reduce runoff, soil erosion, and water contamination while providing high quality wildlife habitat and abatement of peak stream flows. These include:

- **Highly Erodible Land:** Use contour buffers and critical area seedings to protect the region's most erosive fields and sensitive cold-water trout streams and increase wildlife habitat, mainly in karst topography to the east. According to the National Resources Inventory of 1997, an estimated 60,000 acres are eroding at four times the replacement great (T) or more, and an additional 150,000 acres are eroding at 2T to 4T. These are the acres that would benefit from contour grass strips and critical area seedings of grass or trees.

- **Buffers for Groundwater Protection:** The Landscape Buffer Initiative is developing acreage need estimates for buffers to protect sinkholes, wellhead protection areas, and focused groundwater recharge zones such as the Decorah Shale outcroppings.

- **Riparian Zones:** The initiative would promote 100-foot vegetated buffers, especially in counties where the majority of stream miles are unprotected. This includes five counties in the western basin. However, land throughout the basin would potentially be eligible. This practice will be promoted in combination with upland conservation practices for maximum effectiveness.

- **Wetland Restoration:** The drainage, cultivation, and development of land have combined to greatly increase the speed of runoff and the peak flows of streams following significant snow melt and rainfall events. Restoration of wetlands in strategic locations can begin to reverse these adverse effects. Opportunities are greatest in the western basin, while more limited opportunities exist in the river valleys and elsewhere in the karst region. NRCS will be requested to evaluate how wetland restoration can be targeted to maximize reductions in peak streams flows.

The initiative will include a request for additional technical assistance required to implement these practices within a 5-7 year period. The BALMM Landscape Buffer committee is finalizing how many acres to request in each of these categories. Details will be shared after the CREP proposal has been finalized.

BALMM representatives are expected to give a presentation to the BWSR board at the February meeting.

-Information in this article was obtained from *BALMM Currents*, written by Norman Senjem, MPCA.

NORTH

The 2000 Minnesota Legislature appropriated \$2.65 million to BWSR to establish

an agricultural land set aside program to provide short-term economic assistance to landowners in 1999 Presidential Disaster Declaration counties in Northwest Minnesota.

BWSR staff met with SWCD representatives in the fall of 2000 to develop program guidelines, forms, and contracts. SWCDs completed application signups in late 2000 and submitted an application report form to Bemidji BWSR staff. Recommended allocation amounts were presented to and approved by the Board in February 2001.

To date, \$2,386,285 of the \$2,650,000 total allocation has been encumbered by participating SWCDs. A total of 155 contracts have been approved by SWCDs boards. Site inspections have been completed on all sites. Anticipating that some contract cancellations may occur, BWSR staff have instructed participating SWCDs to notify Bill Best by May 1 of any funds that are unencumbered due to cancellations. All funds must be encumbered by June 30.

Only a small portion of the woody vegetation has been planted by SWCDs due to the following reasons: priority on the planting of trees on continuous CRP land because of Farm Program policies; difficulty in hiring people to plant trees; and the shortage of tree stock for conservation planting. A minimum five percent woody planting is a requirement of the program.

Bill has scheduled a meeting with participating SWCD staff to evaluate the program to date and to ensure that districts are on track to encumber all their funds by June 30.

-Submitted by Ron Shelito

L & WS

Last June Lindberg Ekola, a private consultant, and Mark Wettlaufer, Morrison County

water planner, made a presentation to the board about linking local water plans and local comprehensive land use plans. BWSR had recently entered into an agreement with Morrison County to provide the board with several white papers, guidelines, and recommendations concerning that subject. The project is underway, albeit a bit delayed given the departure of Mark, who accepted a post with Minnesota Rural Water. But Lindberg remains a solid supporter of local water planning, and recently wrote an excellent article about comprehensive plans and water plans in "Focus on the Water." You can read the article (in Vol. 12, No. 7, Fall 2001 edition) included in the board packet.

This month Stearns County is seeking approval of their updated water plan. Board Conservationist Dan Steward noted, "In Stearns County we *may* have one of the first examples where the county water plan set the stage for the county comprehensive plan to be written, and then followed up with countywide zoning. Both are now in place — a result of an action spelled out in the 1995 Water Plan. This is a major success for water planning." Dan is quite familiar with this topic: Todd County recently adopted a comprehensive plan written in tandem with the water plan, and two other counties — Cass and Itasca — in Dan's work area have nearly completed *integrating* the two plans.

At a minimum, the water plan process helps to better define the predominant need for comprehensive land use management or protection (official controls) in the zoning ordinance. Often it goes beyond that with goals and actions of the water plan incorporated into county comprehensive plans, and ordinances adopted because they were identified in the local water plan, e.g., ISTS, feedlots, shoreland, and wetland protection.

The idea of closely coordinating, and in some cases integrating county water plans and county comprehensive plans seems to be taking root, and in many cases growing into an integrated program where the SWCD, planning and zoning, and county officials are guided by plans which ultimately lead to sustainable land use and water management decisions.

-Submitted by Marybeth Block

ENGINEERING

Tom Wenzel, wetland restoration engineer, attended a recent Minnesota Viewers Association meeting to discuss the topic of CREP wetland restorations and public drainage systems. Tom estimates that about 150 of the anticipated total of 1,000 wetland basins that have been or will be restored via the CREP, involve some type of modification of a public drainage system. The discussion was quite positive about how BWSR avoids undesirable drainage impacts to landowners and systems. The discussion also addressed how wetland restorations provide runoff detention that can benefit drainage system capacities and reduce future maintenance costs, as well as provide water quality and wildlife habitat benefits. Drainage statutes that address impoundments sponsored by others, or by the drainage system, were also discussed. This was another opportunity to promote understanding and collaboration for mutual benefits.

On a related note, a consultant for the MPCA, in collaboration with other agencies and local government units, recently completed a short video entitled "Upland Water Retention on Agricultural Lands." The video features example CREP and other RIM wetland restorations, as well as some of the state agencies, LGUs, and landowners involved in these projects. Tom and Al Kean worked with Tim Larson at MPCA to help ID sites and refine the product. It should be a useful communication tool.

The city of Bird Island recently decided not to participate in the restoration of Pelican Lake in collaboration with CREP and Renville County. Tom attended the associated town meeting. Pelican Lake is about 160 acres in size, located adjacent to the city and currently tile drained. The potential joint project was envisioned to help alleviate storm water drainage issues in Bird Island and to provide for open space and trails. Renville County, BWSR, and other involved agencies are now looking at other options to restore all or part of the lake without the city's involvement. This is a relatively large and high profile project.

Dave Olson, EIT, is our most recent addition to the BWSR CREP wetland restoration team. He will serve in an engineering technician position. Dave came to us from a local engineering consulting firm, where Tim

McNaboe, assistant wetland restoration engineer, also had previously worked. Thanks to Tim for suggesting that Dave apply for a position!

Leah Hiniker, EIT, will be joining our CREP engineering team on Jan. 30 in another engineering technician position. Leah is coming back to Minnesota from a position with an engineering firm in Seattle. MNJobs.com and the Internet helped Leah find our position opening.

Gene Clark, lakeshore engineer, in cooperation with other BWSR and SWCD staff and the Lake Superior Association of SWCDs, recently submitted several grant applications to the Great Lakes Commission (GLC). The GLC has been a good supporter of BMP demonstration and other innovative projects in Minnesota that protect or improve Lake Superior. The GLC has appreciated state and local cooperation that exists between the BWSR, SWCDs, and other agencies in Minnesota and are a valuable partner for erosion and sediment reduction for Lake Superior.

Because of the many grant programs and evolving partnerships in the Lake Superior area, BWSR staff are doing some winter coordination with clientele and partners to update our priorities and work plans for the near future. BWSR, MPCA, and SWCD staff were disappointed recently when a 319 grant application for Lake Superior shoreland BMP implementation was not approved. The Lake Superior Clean Water Partnership project has remaining low-interest loan funds that could use some grant funds to help landowners participate in shoreland BMP implementation. We're looking into additional federal programs that might be applicable.

-Submitted by Al Kean

EASEMENTS

Please welcome Kristin Sarff, who is the new easement processing assistant. She started Jan. 2. Kristin is a 2000 graduate of the University of St. Thomas, where she majored in environmental studies. She has also taken graduate courses in wildlife management at the University of Minnesota. A native of Plymouth, Minn., she also is an assistant debate coach for Wayzata High School.

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<u>Appointed Members</u>	<u>Appointment Designation</u>	<u>Term Expires</u>	<u>Telephone/Fax</u>
Leland Coe, Chair , 3948 Nebish Road NE Tenstrike, 56683 leecoe@paulbunyan.net	Citizen	01-06-03	218-243-2597 Home/Fax
Karen Harder , 4601 Emerson Ave. S. Minneapolis, 55409-2339 ktharder@efg.com	Citizen	01-03-05	612-824-4136 Home 612-824-4132 Fax
Char Kahler , 1966 50 th St. Fairmont, 56031 chark@kaco.net	Citizen	01-05-04	507-235-9837 Home 507-238-2244 Office 507-235-9619 Fax
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Victor Ormsby , R.R. 3, Box 163 Winona, 55987-9515	SWCD	01-03-05	507-454-7676 Home
Dwain Otte , 606 Zanmiller Drive West Northfield, 55057 dnotte@rconnect.com	SWCD	01-05-04	507-645-4370 Home
Jerome Deal , 1501 Second Ave., So. Wheaton, 56296	Watershed	01-01-02	320-563-8377 Home 320-563-4987 Fax
Jack Frost , 2324 Maple Lane Maplewood, 55109 jfrost@uswest.net	Watershed	01-05-04	651-602-1078 Office 651-602-1130 Fax
Ginny L. Imholte , 720 So. Shore Drive Box 663, Detroit Lakes, 56501 imholte@lakesnet.net	Watershed	01-06-03	218-847-4236 Home 218-847-4433 Office 218-847-5059 Fax
Darrell Bruggman , 45898 State Hwy. 65 McGregor, 55760	Co. Commr.	01-06-03	218-426-3330 Home 218-927-7374 Fax
JoAnn Coover , 3791 - 180 th Ave., N. Minneota, 56264 djcoover@mvtvwireless.com	Co. Commr.	01-03-05	320-669-7173 Home/Fax 507-537-9354 Office
Clair Nelson , Lake County Courthouse, 601 Third Avenue, Two Harbors, 55616	Co. Commr.	01-01-02	218-353-7385 Home 218-834-8320 Office 218-834-8360 Fax

State Agency Members:

Sharon Clark 90 W. Plato Blvd., St. Paul, MN 55155 Sharon.clark@state.mn.us	Department of Agriculture	651-297-1551 Office 651-297-5522 Fax
Dan Wilson Well Management Section, P.O. Box 64975, St. Paul, MN 55164-0975 Daniel.Wilson@health.state.mn.us	Department of Health	651-215-0812 Office 651-215-0978 Fax
Wayne Edgerton 500 Lafayette Road, St. Paul, MN 55155 Wayne.Edgerton@dnr.state.mn.us	Department of Natural Resources	651-297-8341 Office 651-296-4799 Fax
Jim Anderson 439 Borlaug Hall, 1991 Upper Buford Circle, St. Paul, MN 55108 Ander045@umn.edu	U of M/Dept. of Soil, Water & Climate	612-625-8209 Office 612-625-2208 Fax
Lisa Thorvig 520 Lafayette Road, St. Paul, MN 55155 Lisa.Thorvig@pca.state.mn.us	Pollution Control Agency	651-296-8811 Office 651-296-6334 Fax

APPEALS FILED IN 2001

- December 27, 2001 - Page 1 of 2

FILE APPELLANT CITY/COUNTY TYPE STATUS

1	Sue Roskowiak, Mindy Bersie	Delano	Replacement Plan Approval	Denied
2	Dan Eklund	Murray Co.	Replacement Plan Approval (from CDO)	Resolved
3	David Sill	Lac qui Parle County	Exemption Approval	Resolved
4	Robert Smith	Eagan	Exemption Denial	Resolved - Appeal was held in abeyance - City heard matter voluntarily
5	Dan Cady	La Crescent	Replacement Plan Denial (from CDO)	- Appeal accepted - Pre-hearing held - In abeyance as settlement being sought
6	Tom Fischer	McLeod Co.	Exemption Approval	Remanded
7	Gary Bailey	Lake of the Woods Co.	Exemption Denial (from CDO)	Denied
8	Lynda Peterson	Hugo (JD2)	Exemption Approval	- Appeal accepted - Pre-hearing held - first briefs due 1/9/02 - DRC hears 2/6/02
9	MN Ctr. Environmental Advocacy	Hugo (JD2)	Exemption Approval	- Appeal accepted - Pre-hearing held - first briefs due 1/9/02 - DRC hears 2/6/02
10	Lansing Landfill	Mower Co.	No-loss Denial	Remanded
11	Walter Osborne	East Bethel	Replacement Plan Approval (from CDO)	Denied

APPEALS FILED IN 2001 - Page 2 of 2

FILE APPELLANT CITY/COUNTY TYPE STATUS

12	Jim Smith	Maple Lake	Exemption Approval (from CDO)	Remanded
13	Lynda Peterson	Maple Lake	Exemption Approval (from CDO)	Remanded
14	Paul Ross	Stearns Co.	Replacement Plan Denial	- Appeal Accepted - In Abeyance as building permit issuance questions are pursued
15	Rocky Gertz	Chisago Co.	Wetland Banking Credit Denial	- Appeal Accepted - In Abeyance for field re-evaluation in the spring
16	Roseau Co. Hwy. Dept.	Roseau Co.	Watershed District Permit Decision	Denied
17	David Hiniker	Blue Earth Co.	Exemption Denial	-Appeal Accepted -Resolved and appeal should be withdrawn
18	Tom Fischer	McLeod Co.	Exemption Approval	-Appeal Accepted -Record Ordered -Pre-hearing to be scheduled
19	Christopher Stephan	Hennepin Co.	Exemption Denial (from CDO)	-Appeal Accepted -Record Ordered -Pre-hearing to be scheduled



Ron Harnack
BWSR Executive Director

MEMORANDUM

January 3, 2002

*Board Packet
FYI*

TO: List of Addressees

Jim Haertel
FR: Jim Haertel, Water Management Specialist

PH: (651) 297-2906

RE: Notice of Filing – Ramsey-Washington Metro Watershed District and Valley Branch Watershed District Boundary Change Petition

A joint petition for a boundary change between the Ramsey-Washington Metro Watershed District (RWMWD) and the Valley Branch Watershed District (VBWD) has been filed with the Board of Water and Soil Resources. A copy of the legal notice is attached. Also attached is a map showing the proposed boundary change.

The proposed boundary change is minor and encompasses Lots 9 and 10, Block 1, Brochmann Acres, in the City of Oakdale. The petition proposes Lot 9 be removed from the VBWD and added to the RWMWD.

Written comments on the petition are invited. All comments received by January 29, 2002 will be considered before a decision is made to change the boundary. Any person who objects to the proposed petition may submit a written request for hearing to the Board. If no written requests for a hearing are received in our office by Tuesday, January 29, 2002, the Board will consider all of the comments and information received pertaining to the petition and make a decision on the boundary change at a regular Board meeting without conducting a public hearing.

All comments and requests should be forwarded to me at the St. Paul address. Please contact me at 651-297-2906 if you have any questions.

Attachments (Legal Notice, Map, List of Addressees)

cc: BWSR: Karen Harder, Jack Frost, Dwain Otte, Ron Harnack, Doug Thomas,
John Jaschke, Steve Woods, Phil Belfiori

Bemidji 3217 Bemidji Avenue N. Bemidji, MN 56601 phone (218) 755-4235 fax (218) 755-4201	Brainerd 217 S. 7th Street Suite 202 Brainerd, MN 56401 phone (218) 828-2383 fax (218) 828-6036	Duluth 394 S. Lake Avenue Room 403 Duluth, MN 55802 phone (218) 723-4752 fax (218) 723-4794	Fergus Falls 413 W. Stanton Avenue Fergus Falls, MN 56537 phone (218) 736-5445 fax (218) 736-7215	Marshall 1400 E. Lyon Street Box 267 Marshall, MN 56258 phone (507) 537-6060 fax (507) 537-6368	New Ulm 261 Highway 15 S. New Ulm, MN 56073 phone (507) 359-6074 fax (507) 359-6018	Rochester 40 16th Street S.E. Suite A Rochester, MN 55904 phone (507) 285-7458 fax (507) 280-2875	Saint Paul One West Water Street Suite 250 Saint Paul, MN 55107 phone (651) 282-9969 fax (651) 284-0000
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**NOTICE OF FILING
RAMSEY-WASHINGTON METRO AND VALLEY BRANCH
WATERSHED DISTRICTS BOUNDARY CHANGE**

**Minnesota Board of Water and Soil Resources
One West Water Street, Suite 200
Saint Paul, Minnesota 55107**

In the matter of the petition for the boundary change of the Ramsey-Washington Metro Watershed District and the Valley Branch Watershed District pursuant to Minn. Statutes Section 103B.215.

Whereas, the subject petition dated October 25 and November 7, 2001 has been served on the Board of Water and Soil Resources (Board) pursuant to Minn. Statutes Section 103B.215.

Now therefore, the Board hereby issues the following:

NOTICE IS HEREBY GIVEN that the Board invites written comments on the petition to change the boundary of the Ramsey-Washington Metro Watershed District and the Valley Branch Watershed District. All comments received will be considered before a decision is made to change the boundary. Any person who objects to the proposed petition may submit a written request for hearing to the Board. If no written requests for a hearing are received within 20 days of the last publication of this notice of filing, the Board will consider all of the comments and information received pertaining to the petition and make a decision on the boundary change at a regular Board meeting without conducting a public hearing.

The proposed boundary change encompasses Lots 9 and 10, Block 1, Brochmann Acres in the City of Oakdale.

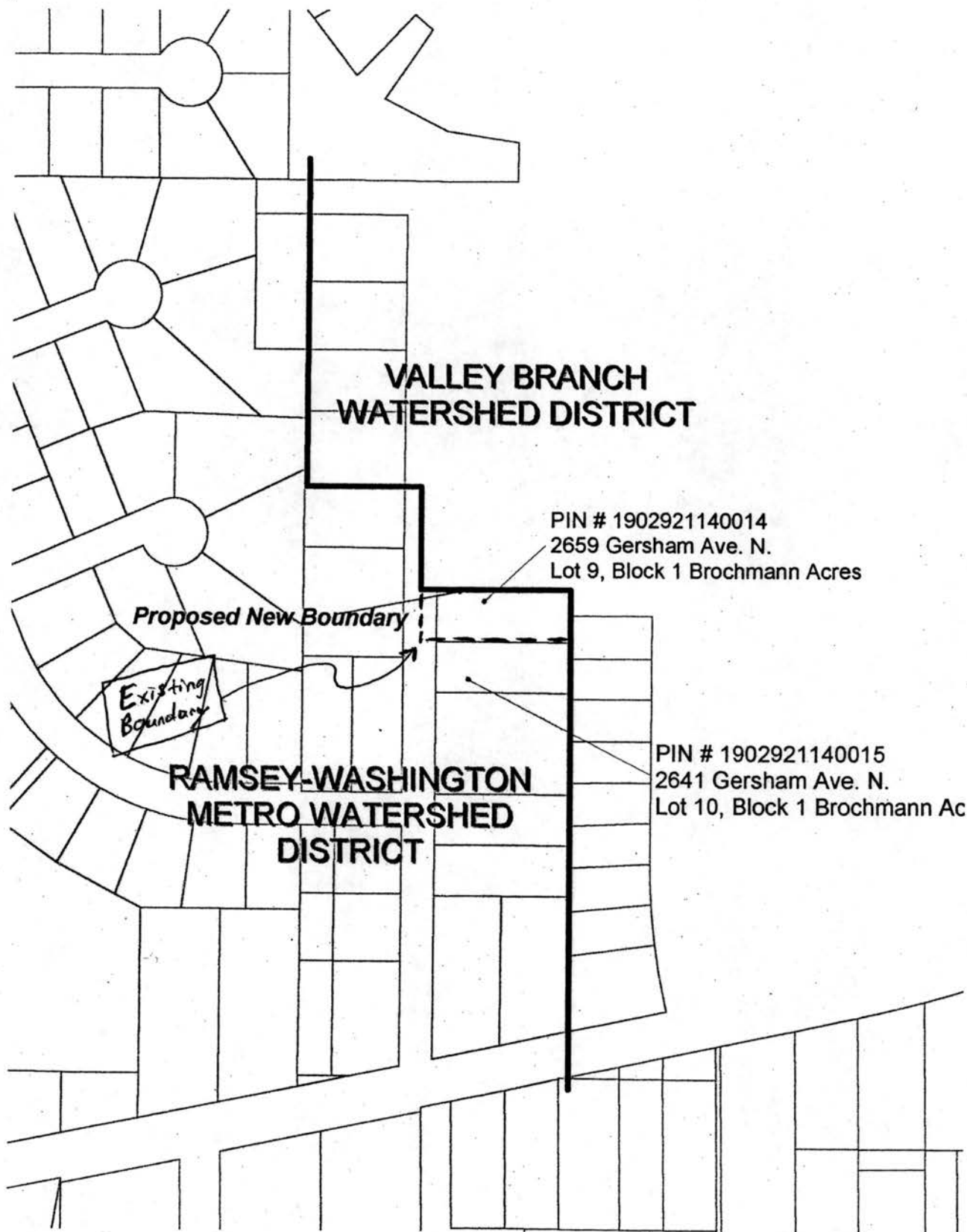
The Board must review the petition for conformance with state law and rule.

A copy of the petition is available for inspection during normal business hours at the Board's office at the address listed above.

For further information contact Jim Haertel of the Board at 651-297-2906.

Dated in Saint Paul, Minnesota this 18th day of December, 2001.

/s/ Jim Haertel
Water Management Specialist



Map 2

Proposed District Boundary

(Includes Lot 9, Block 1 Brochmann Acres
in Ramsey-Washington Metro Watershed District)



RWMWD and VBWD Boundary Change Petition
January 3, 2002

List of Addressees

Mayor, City of Afton
Clerk, Baytown Township
Mayor, City of Grant
Mayor, City of Lake Elmo
Mayor, City of Landfall
Mayor, City of Little Canada
Mayor, City of Mahtomedi
Mayor, City of Maplewood
Mayor, City of North St. Paul
Mayor, City of Oakdale
Mayor, City of Oak Park Heights
Mayor, City of Pine Springs
Mayor, City of St. Mary's Point
Mayor, City of St. Paul
Mayor, City of Vadnais Heights
Clerk, West Lakeland Township
Mayor, City of White Bear Lake
Mayor, City of Woodbury
Ramsey SWCD
Washington SWCD
Jane Harper, Washington County
Dale Homuth, Metro DNR-Waters

Board Members
FYI

From: John Jaschke
To: #-Board Conservationists; #-Land and Water Section; #-Senior Management Team;
#Wetland Staff
Date: 1/16/02 11:36AM
Subject: Recent Wetland Cases - Appeals Court Results

Anoka County Ditch No. 53-62. View decision at:

<http://156.99.5.29/opinions/coa/current/c701799.html>

Capsule Summary: The WCA Rule language limiting use of the federal approvals exemption (exemption #3A) is upheld meaning that it cannot be used for "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". In effect, it means that drainage repair projects need to use the drainage exemption as the WCA rule has stated since its inception.

Big Stone County Ditch No.2. View decision at:

<http://156.99.5.29/opinions/coa/current/c7011161.html>

Capsule Summary: A drainage authority must receive permission from the DNR to drain any portion of public waters for ditch repair projects that have the effect of draining public waters, and if a ditch repair project that affects public waters is not undertaken in accordance with Minn. Stat. § 103E, a public waters work permit is required for the project. Two related points were the Anoka County Ditch No. 53-62 case above was referred to as the guide to applying WCA to public drainage repair projects and affirmed that an EIS is mandatory for a ditch repair that will eliminate public waters.

These two cases (unless review is sought in the state Supreme Court, review is accepted, and the cases are overturned) will likely have a significant bearing on project decisions, administrative appeals and court decisions to follow.

/s/

John Jaschke
Land and Water Section Administrator
MN Board of Water and Soil Resources
ph: 651-297-3432
FAX: 651-297-5615
e-mail: john.jaschke@bwsr.state.mn.us

CC: Bruce Gerbig; Donald Jakes; Doug Norris; Erv Berglund; Gallo, Tibor; Gretchen Sable; John Stine; Mark Dietrich; Mick Weburg; Seltzer, Matt; Szotkowski, Bill

RECEIVED

JAN 07 2002

Ed. of Water & Soil Resources
St. Paul

**STATE OF MINNESOTA
IN COURT OF APPEALS
C7-01-799**

Loren Hentges, et al.,
Relators,

vs.

Minnesota Board of Water and Soil Resources,
Respondent,

Rice Creek Watershed District,
Respondent,

St. Paul Audubon Society, et al.,
Respondents,

Minnesota Department of Transportation,
Respondent.

**Filed January 4, 2002
Affirmed
Gordon W. Shumaker, Judge**

Minnesota Board of Water and Soil Resources
File No. 01-1

Paul R. Haik, Krebsbach & Haik, Ltd., 701 Fourth Avenue South, Suite 500,
Minneapolis, MN 55415 (for relators)

Mike Hatch, Attorney General, William A. Szotkowski, Assistant Attorney General, 445
Minnesota Street, Suite 900, St. Paul, MN 55101-2127 (for respondent Minnesota Board
of Water and Soil Resources)

Harold H. Sheff, Michelle J. Ulrich, Smith, Gendler, Shiell, Sheff, Ford, & Maher, P.A.,
601 Second Avenue South, 33530 U.S. Bank Place, Minneapolis, MN 55402 (for
respondent Rice Creek Watershed District)

A. W. Clapp III, 785 Goodrich Avenue, St. Paul, MN 55105 (for respondents St. Paul
Audubon Society, et al.)

David L. Phillips, Office of the Attorney General, 525 Park Street, Suite 200, St. Paul, MN 55103 (for respondent, Minnesota Department of Transportation)

Gerald W. Von Korff, John C. Kolb, Rinke-Noonan, 700 Wells Fargo Center, P.O. Box 1497, St. Cloud, MN 56302 (for Amicus Curiae Lac qui Parle County and Polk County)

Considered and decided by Shumaker, Presiding Judge, Halbrooks, Judge, and Mulally, Judge.*

SYLLABUS

1. The Board of Water and Soil Resources acted within express statutory language and policy in promulgating a rule that does not allow an exemption from the state's wetland replacement requirement for ditch maintenance if the ditch work will cause a loss of wetlands.

2. The Board properly applied the wetlands replacement rule to ditch maintenance.

3. The Board's action did not deny due process or equal protection or result in an unjust taking.

4. The Board did not err in allowing civic and environmental groups to participate in an appeal from a watershed district decision.

5. It was not improper for an administrative agency to bifurcate proceedings for the determination of eligibility for an exemption from the state's wetlands replacement law.

* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals by appointment pursuant to Minn. Const. art. VI, § 10.

OPINION

GORDON W. SHUMAKER, Judge

Realtors challenge the Board of Soil and Water's affirmance of the Rice Creek Watershed District's denial of relators' petition for an exemption from the wetland replacement requirement. Specifically, relators allege that (a) the Board exceeded its statutory authority by adopting Minn. R. 8420.0122, subp. 3(A) (1999), which sets a standard for wetlands replacement that is different from Minn. Stat. § 103G.2241 (2000); (b) the District's misapplication of 33 U.S.C. § 1344(f) regarding whether wetlands replacement was necessary resulted in a misapplication of Minn. Stat. § 103G.2241; (c) Minn. R. 8420.0122, subp. 3(A), deprives relators of equal protection, due process of law, and just compensation for property taken for public use by limiting their ability to maintain a county ditch; (d) the Board failed to address procedural errors made by the District in these proceedings; and (e) certain participants in the proceedings below did not appeal and cannot be participants in this appeal. Because we find no reversible error, we affirm.

FACTS

Relators own lands adjacent to Anoka County Ditch No. 53-62. They claim that the placement and obstruction of certain culverts in the ditch system cause water to overflow and to flood their lands. This appeal focuses principally on a culvert in the ditch at I-35W, in the Rice Creek Watershed District. The Minnesota Department of Transportation installed that culvert in the late 1950s. Over the years, the culvert has

risen to a higher elevation as a result of natural forces. Relators want it to be lowered to the height of the original placement, and they want the sediment in the ditch removed.

The ditch work that relators propose will cause partial drainage of adjacent wetlands that have existed for over 25 years. State law requires that partially drained wetlands be replaced, unless the work that caused the drainage is exempt from the replacement requirement.

The local government unit with jurisdiction may determine eligibility for a replacement exemption. This is the Rice Creek Watershed District. Contending that the proposed project is simply ditch maintenance and that federal law exempts ditch maintenance from the replacement requirement, relators asked the District for an exemption.

The District denied the exemption, and on administrative appeal the Board of Water and Soil Resources affirmed, invoking one of its own rules that the federal exemption is inapplicable if the work will partially drain a wetland.

Relators have brought the Board's denial to this court through certiorari for review. They challenge the authority, propriety, and constitutionality of the Board's rule; the propriety of dividing the exemption process into two phases; and the propriety of participation by civic and environmental-advocacy groups in the appeal to the Board and in this appeal.

ISSUES

1. Did the Board of Soil and Water Resources exceed its statutory authority in adopting Minn. R. 8420.0122, subp. 3(A), to prevent maintenance of public drainage ditches as authorized by Minn. Stat. § 103G.2241, subd. 3(1) (2000)?

2. Did the Board of Water and Soil resources misapply 33 U.S.C. § 1344(f)?

a. If so, did this error affect the decision regarding the exemption authorized by Minn. Stat. § 103G.2241, subd. 3(1)?

3. Does Minn. R. 8420.0122, subp. 3(A), unconstitutionally deny relators their right to:

a. Equal Protection?

b. Due Process?

4. Are persons who did not file a notice of appeal parties to this appeal?

5. Did the Board engage in unlawful procedures that affected the outcome of the case and were prejudicial to relators by:

a. extending the deadline in which to render a decision without extenuating circumstances?

b. delegating the decisions to an administrator and technical evaluation panel?

c. bifurcating the exemption proceedings?

ANALYSIS

1. *The Board's Authority*

In Minnesota, "wetlands may not be drained * * * unless * * * [they] are replaced by wetlands that will have equal or greater public value." Minn. Stat. § 103G.221, subd.

1 (2000). However, a replacement plan is not required for “activities exempted from federal regulation under United States Code, title 33, section 1344(f) * * *,” the so-called “federal approvals” exemption. Minn. Stat. § 103G.2241, subd. 3(1) (2000).

The federal approvals exemption classifies as a “non-prohibited” activity “the discharge of dredged or fill material * * * for the purpose of maintenance * * * of currently serviceable structures * * *.” 33 U.S.C. § 1344(f)(1)(B) (1994).

This federal exemption, which allows the discharge of dredged and fill materials into certain waters, is qualified by a state rule that (1) requires proof of eligibility for the exemption, and (2) provides that the exemption is not applicable to any project that will partly drain a wetland:

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.

Minn. R. 8420.0122, subp. 3A (Supp. II 2000).

Relators obtained the requisite proof from the Army Corps of Engineers that the ditch work meets the requirements of the federal exemption. But, applying the rule that limits the exemption, the Board of Water and Soil Resources denied the exemption. Relators contend that the Board exceeded its statutory authority in adopting Minn. R. 8420.0122, subp. 3A.

When an administrative agency's authority is questioned, this court independently reviews the enabling statute. *Weber v. Hvass*, 626 N.W.2d 426, 431 (Minn. App. 2001), review denied (Minn. June 27, 2001). Minn. Stat. § 103G.2242, subd. 1(a) (2000), gives the Board authority to adopt rules regarding wetland replacement plans. See also Minn. R. ch. 8420 (chapter of rules implementing act). "Generally, we will invalidate an agency rule only if the rule was adopted in excess of the agency's statutory authority." *Drum v. Bd. of Water & Soil Res.*, 574 N.W.2d 71, 73 (Minn. App. 1998).

In enacting the Wetland Conservation Act of 1991, the Minnesota legislature clearly stated its intent to "achieve no net loss in the quantity, quality, and biological diversity of Minnesota's existing wetlands * * * ." Minn. Stat. § 103A.201, subd. 2(b)(1) (2000). To achieve "no net loss" of wetlands, the legislature provided the requirement that partly drained wetlands be replaced. Minn. Stat. § 103G.222, subd. 1(a) (2000). On its face, rule 8420.0122, subp. 3A, comports with legislative intent because, if followed, the rule will ensure that even ditch maintenance that causes wetland drainage will not result in net loss of Minnesota wetlands.

Not only does the rule satisfy express legislative intent, but the process for promulgation disclosed no conflict between the rule and the statutory authority for the rule. In the administrative law judge's report under Minn. Stat. § 14.15 (1992), no comments or concerns from the public were noted, and the report contained a recommendation that the rule be adopted. The chief administrative law judge approved the report. See Minn. Stat. § 14.16 (1992) (after chief ALJ approves the changes in the rules made in accordance with the ALJ's report, the agency then may adopt the rules).

Although there is some ambiguity in how the federal approvals exemption is to be applied, relators' interpretation seems clearly at odds with both the express language of the statutes and the state's policy of achieving no net loss of wetlands. Thus, on this record, we conclude that the Board did not exceed its statutory authority in adopting rule 8420.0122, subp. 3A.

2. *Application of 33 U.S.C. § 1344(f)*

Relators argue that the Board misapplied section 1344(f) by failing to follow the law as set forth in *United States v. Sargent County Water Res. Dist.*, 876 F. Supp. 1090 (D.N.D. 1994).

In *Sargent*, the issue was whether the ditch work was an improvement or maintenance. If maintenance, it was exempt from section 1344(f) regulation. *Id.* at 1098-99. The federal district court determined that only ditch maintenance was involved, and that the discharge of the material into the wetland was a non-prohibited activity under section 1344(f). *Id.* at 1102-04.

Relators contend that here, too, only ditch maintenance is involved and that is an exempt activity. They also suggest that it is common sense that some drainage will occur with ditch maintenance, but because the runoff is part of a maintenance project no replacement of the runoff is required. Relators assert that the exemption is negated by a rule that does not apply the exemption to ditch maintenance.

As we have indicated, the relationship of the exemption and the statutory and policy language is not entirely clear. But the exemption refers to the activity of putting dredged and fill material into a wetland, thus obviously causing some loss of water. The

record here shows that it is not depositing fill but rather draining part of 66.6 acres that will be the result of the ditch work. Thus, because the exemption has a focus different from what apparently will be done in this ditch work and because of the unassailable conclusion that the legislature intends that there be no net loss of Minnesota wetlands, we are not persuaded that the Board misapplied the law in denying the exemption.

3. *Constitutional Issues*

a. *Due Process*

Relators argue that the state unconstitutionally took their land without just compensation by passing laws and promulgating rules that prohibit or restrict the maintenance of the ditch. However, neither the District nor the Board has ever prohibited relators from maintaining the ditch; rather, the District and the Board require that if relators do lower the culvert, causing partial drainage of the nearby wetlands, the lost acreage of wetlands must be replaced by wetlands "that will have equal or greater public value." Minn. Stat. § 103G.221, subd. 1. Thus, there is no due process violation in this case because relators have always been free to maintain the ditch.

Furthermore, Minnesota courts have recognized that the maintenance of ditches may be subject to environmental laws. *See In re Christenson*, 417 N.W.2d 607, 615 (Minn. 1987) (finding that environmental laws prohibited the applicant from enlarging or draining private drainage ditches and drain a protected wetland). Thus, the Board's denial of relators' request to be exempted from the wetland replacement requirement did not constitute a violation of relators' due-process rights.

b. Equal Protection

Relators also argue that the District's and the Board's actions violate relators' rights to equal protection. However, relators make this argument only in a conclusory fashion in their brief to this court. An assignment of error based on "mere assertion" and not supported by argument or authority is waived unless prejudicial error is obvious on mere inspection. *State v. Modern Recycling, Inc.*, 558 N.W.2d 770, 772 (Minn. App. 1997) (quotation omitted). It is not obvious on mere inspection how the denial of relators' request for the "federal" exemption violates their right to equal protection. This issue is waived.

4. *Parties to Appeals*

Relators argue that the Board erred in allowing ABC League of Women Voters, the St. Paul Audubon Society, and the Izaak Walton League, Minnesota Division, to participate in the appeal to the Board. An appeal may be made by the wetland owner, by any party who is required to receive notice under Minn. Stat. § 103G.2242, subd. 7 (2000), or by 100 residents of the county in which a majority of the wetland is located. Minn. Stat. § 103G.2242, subd. 9 (2000); Minn. R. 8420.0250, subp. 1 (Supp. II 2000).

Parties to an appeal are

the appellant, the landowner, the local government unit, and in the case of replacement plan appeals, all those required to receive notice of the local government unit decision.

Minn. R. 8420.0250, subp. 3 (Supp. II 2000). A party required to receive notice is a member of the public who requests a copy of the decision. Minn. Stat. § 103G.2242, subd. 7. This case involves the requirement of a wetlands replacement plan, and ABC,

Walton, and the Audubon Society requested, and received, a copy of the District's decision, and thus are proper parties to the appeal. ABC, Walton, and the Audubon Society did not file notices of appeal because they agreed with the District's decision.

Although Minn. Stat. § 103G.2242, subd. 9, limits the persons eligible to appeal a decision, it does not state that only one of the eligible parties may appeal. Thus, all of the eligible parties may appeal if they desire. Furthermore, Minn. R. 8420.0250, subp. 3, indicates that if an appeal is brought, ABC, Walton, and the Audubon Society are parties to the appeal because they were parties required to receive notice of the District's decision. Since ABC, Walton, and the Audubon Society were all eligible parties to appeal the District's decision, and they are considered parties to an appeal under the Board's administrative rules, the Board did not err in allowing these parties to participate in the appeal.

5. *Procedural Issues*

a. Extensions

Relators argue that it was unlawful for the Board to deny their exemption request after the 60-day time limit as required by Minn. Stat. § 15.99 (2000), and in doing so, the Board effectively granted their request for a "federal" exemption. An agency must approve or deny within 60 days a written request for a permit. Minn. Stat. § 15.99, subd. 2. Failure to do so is approval of the request. *Id.* However, an agency may extend the time limit by providing written notice of the extension, which details the reasons for and the anticipated length of the extension, before the end of the initial 60-day period. Minn. Stat. § 15.99, subd. 3(f).

The record shows that two extensions were given. The first extension letter refers to relators' request for an exemption to lower the culvert, which was received by the District on September 27, 2000. The letter then notifies relators that, under Minn. Stat. § 15.99, the District is extending the time limit in which to render a decision to 30 days past the November 26, 2000, deadline, for the purpose of "consider[ing] evidence and legal issues regarding application of exemption." This notice complies with the requirements of the statute. The record shows that the decision was rendered within this time period.

The District sent its second letter to relators on December 18, 2000. The letter notes that relators requested an exemption from the wetland replacement requirement under the "federal" exemption on October 25, 2000, and that the notice was being sent under Minn. Stat. § 15.99 extending the time limit by 60 days. A decision was rendered within that 60-day extension period.

The record shows that both decisions were timely, the extensions were authorized by law, and the notices complied with the law. Thus, these extensions were lawful, and relators have not shown how they were prejudiced.

b. Delegating Decisions

Relators argue that the District erred in delegating exemption determinations to the "Administrator." However, there is nothing in the record indicating that anything was delegated to any "Administrator," and relators do not explain the argument beyond this one-sentence conclusory statement. An assignment of error based on "mere assertion" and not supported by argument or authority is waived unless prejudicial error is obvious

on mere inspection. *Modern Recycling*, 558 N.W.2d at 772 (quotation omitted). Furthermore, there is no indication that this argument was raised either before the District or the Board. This court will generally not consider matters not argued and considered below. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988).

c. Bifurcation

Relators argue that the Board's bifurcation of this case into two phases, the first to determine jurisdictional issues, the second to determine issues on the merits, affected the outcome of the case and prejudiced relators. Relators first argue that they were denied the opportunity to be heard. However, the record shows that relators not only filed briefs at both phases of the hearings and participated in oral arguments, but they also filed "responses" to advisory reports to the Board at both phases of the proceedings. Relators had an opportunity to be heard, and took advantage of that opportunity.

Relators also argue that splitting the case into phases was done for the sole purpose of avoiding a final determination on the merits. A transcript of the proceeding shows that the Board's Dispute Resolution Committee (DRC) wanted to determine who had standing to be a party to the dispute before any arguments on the merits were considered. See *Sundberg v. Abbott*, 423 N.W.2d 686, 688 (Minn. App. 1988) (a party must have standing in a dispute in order to have the court decide the merits of particular issues), *review denied* (Minn. June 29, 1988). Because it was important to determine who was able to participate in the proceedings before issues on the merits were considered, it was not unlawful for the DRC to bifurcate the proceedings to first determine who was entitled to be heard in this matter.

Lastly, relators provide no evidence showing how they were prejudiced, or how the bifurcation of the proceedings affected the outcome of the case. An assignment of error based on "mere assertion" and not supported by argument or authority is waived unless prejudicial error is obvious on mere inspection. *Modern Recycling*, 558 N.W.2d at 772 (quotation omitted). Prejudicial error is not obvious on mere inspection of this case. Furthermore, this court declines to address allegations unsupported by legal analysis or citation. *Ganguli v. Univ. of Minnesota*, 512 N.W.2d 918, 919 n.1 (Minn. App. 1994).

Although we hold that the Board did not exceed its authority in adopting or applying Minn. R. 8420.0122, subp. 3A, we are troubled by the potential inequity of requiring landowners to choose between forgoing the use of their lands and incurring considerable expense to replace wetlands. We are left with an apparent gap in legislation that we have no authority to fill, but that, in the interest of fairness, ought to be addressed by the legislature.

DECISION

Neither the Board nor the District misapplied the "federal" exemption, nor did these entities act unlawfully in the process that led to the decisions in this case.

Affirmed.


12/28/01

**STATE OF MINNESOTA
IN COURT OF APPEALS
C7-01-1161**

Minnesota Center for Environmental
Advocacy, The Coalition for a
Clean Minnesota River, and New Ulm Area
Sportfishermen,
Respondents,

vs.

The Big Stone County Board
of Commissioners and The County
of Big Stone, Minnesota,
Appellants.

**Filed January 15, 2002
Affirmed in part and reversed in part
Stoneburner, Judge**

Big Stone County District Court
File No. 06C999042

Byron E. Starns, Leonard, Street and Deinard, Suite 2300, 150 South Fifth Street, Minneapolis,
MN 55402 (for respondents)

Noah D. Hall, Mark F. Ten Eyck, Minnesota Center for Environmental Advocacy, Suite 206, 26
East Exchange Street, St. Paul, MN 55101-2264 (for respondent Minnesota Center for
Environmental Advocacy)

Jay T. Squires, Ratwik, Roszak & Maloney, P.A., Suite 300, 730 Second Avenue South,
Minneapolis, MN 55402 (for appellants)

Mike Hatch, Attorney General, Craig L. Engwall, Assistant Attorney General, Suite 900, 445
Minnesota Street, St. Paul, MN 55101-2127 (for Amicus Curiae State of Minnesota Department
of Natural Resources)

Considered and decided by Shumaker, Presiding Judge, Stoneburner, Judge, and
Huspeni, Judge.*

SYLLABUS

1. The requirement of Minn. Stat. § 103E.011, subd. 2 (2000), that a drainage authority

must receive permission from the Commissioner of the Department of Natural Resources to drain any portion of public waters, applies to a ditch-repair project that has the effect of draining public waters.

2. If a ditch repair project that affects public waters is not undertaken in accordance with Minn. Stat. § 103E, a public waters work permit is required for the project.
3. An Environmental Impact Statement is mandatory for a ditch repair that will eliminate protected waters.

OPINION

STONEBURNER, Judge

Respondents Minnesota Center for Environmental Advocacy, the Coalition for a Clean Minnesota River and the New Ulm Area Sportfishermen sought a declaratory judgment that a proposed repair to Big Stone County Ditch No. 2/2A (County Ditch 2) requires (1) permission of the Commissioner of the Department of Natural Resources (DNR) pursuant to Minn. Stat. § 103E.011, subd. 3; (2) a public waters work permit from the DNR pursuant to Minn. Stat. § 103G.245; (3) an Environmental Impact Statement (EIS); and (4) a wetland-replacement plan approved pursuant to Minn. Stat. §§ 103G.222 and 103G.2242.

The district court granted partial summary judgment to respondents, declaring that the project requires a public waters work permit and permission from the Commissioner of the DNR. After trial, the district court concluded that the project does not require an EIS but does require either an approved wetland-replacement plan or an exemption from the requirement by the appropriate government agency. The district court also concluded that the Environmental Assessment Worksheet (EAW) used by appellants was fatally flawed, and ordered a new EAW and review before the project could proceed.

Appellants, the drainage authority for Big Stone County, appeal the district court's determination that the EAW is fatally flawed and that the project requires a work permit, permission from the commissioner, and a wetland-replacement plan. Respondents seek review

of the district court's determination that the project does not require an EIS. Because we conclude that the project requires either permission from the commissioner or a public waters work permit, requires an approved wetland-replacement plan or exemption from the appropriate agency, and is subject to a mandatory EIS, we affirm in part and reverse in part.

FACTS

County Ditch 2 was built in 1907 through a pre-existing natural watercourse to drain adjacent areas for agricultural use. County Ditch 2 passes through DNR-protected wetland 6-11W. Wetland 6-11W is an approximately 60-acre public water, Type-5 wetland, defined as [i]nland open fresh water, shallow ponds, and reservoirs in which water is usually less than ten feet deep and * * * fringed by a border of emergent vegetation similar to open areas of type 4 wetland.

Minn. Stat. § 103G.005, subd. 17b (5) (2000). Bottom elevations in wetland 6-11W range from 1005.7 to 1007.5 feet above sea level.

In 1915, landowners petitioned appellants to widen and enlarge the ditch. The width of the ditch as it currently exists is consistent with the 1915 "as-improved" width. The depth of the portion of County Ditch 2 located below wetland 6-11W was 1004.48 feet, mean sea level, "as improved" in 1915, but accumulated sediment has raised bottom elevations. In 1994, landowners petitioned appellants to comprehensively repair County Ditch 2, including removal of sediment from the ditch below wetland 6-11W to reestablish the as-improved 1915 depth. The district court found that this work would constitute a "repair" as defined by Minn. Stat. § 103E.701 (2000).

In response to the 1994 petition, appellants commissioned a report from Sioux Engineering on the impact of the project. The report indicated that removing sediment from the ditch below wetland 6-11W would affect water levels in the wetland, triggering environmental review. Sioux Engineering recommended that appellants install a weir to eliminate any effect on the wetland, and the additional expense of environmental review. The weir solution is acceptable to respondents and the DNR but not to appellants. Appellants proceeded in 1995 and

1996 with major repairs to County Ditch 2, but did not remove sediment downstream of wetland 6-11W.

In July 1998, appellants received a new petition for removal of the sediment downstream of wetland 6-11W. Initially, appellants unanimously approved a resolution finding that “the repair * * * does not have the potential for significant environmental effects” and that an EIS was not required. Appellants rescinded this resolution on advice of counsel and retained Sioux Engineering to prepare an EAW to identify whether there would be significant environmental effects from the project and to allow for public comment and a hearing.^[1]

The EAW incorrectly identifies wetland 6-11W as a Type-3 wetland consisting of 20 acres. Type-3 wetlands are defined as “inland shallow fresh marshes in which soil is usually waterlogged early during a growing season and often covered with as much as six inches or more of water.” Minn. Stat. § 103G.005, subd. 17b (3). The EAW summary states:

The main issue considering wetland 6-11W and Big Stone County Ditch No. 2 is the impact of a repair of ditch 2 to original constructed depth and the current water level in 6-11W. Past records indicate that water depths in wetland 6-11W were adequate to maintain type 3 conditions with the ditch in a reasonable state of repair. Current data indicates that with the repair of Ditch No. 2 water depths may not support the same wetlands type.

It is undisputed that the project will transform wetland 6-11W from a Type-5 protected wetland to an unprotected Type-2 wetland, defined as

[i]nland fresh meadows in which soil is usually without standing water during most of the growing season but is waterlogged within at least a few inches of the surface.

Minn. Stat. § 103G.005, subd. 17b(2).

Appellants received comments based on the flawed EAW, and a response to the comments from the county engineer. The Minnesota Board of Water and Soil Resources^[2] commented that a replacement plan for the loss of wetlands would be required. The board noted that, pursuant to Minn. R. 8420.0210 (1999), a Technical Evaluation Panel (TEP) and local

government unit would be responsible for determining if appellant is exempt from the replacement plan requirement. A TEP was convened and issued a report that stated that a "mitigation or replacement plan would certainly be needed if plans were made to lower the control point of Protected Waters Wetland 6-11W."

After a public hearing, appellants concluded that the cumulative potential effects of the project "would not be so significant as to warrant an EIS." Appellants assert that the project is exempt from the requirement of a wetland-replacement plan but have not sought an exemption from the local government unit.

Respondents brought this declaratory judgment action. The district court granted partial summary judgment declaring that appellants are required to obtain permission from the commissioner of the DNR to undertake this project because it substantially affects public waters, and that appellants are required to have a public waters work permit. After trial, the district court concluded that appellants are also required to have an approved wetland-replacement plan or exemption from the requirement by the appropriate government agency but are not required to have an EIS. Finding the EAW used by appellants fatally flawed, however, the district court enjoined work on the project pending preparation and review of an appropriate EAW and resolution of the replacement plan issue by the local government unit.^[3] This appeal and notice of review followed.

ISSUES

1. Did the district court err by granting summary judgment declaring that appellants are required to obtain the commissioner's permission for a ditch repair that will involve draining public waters, pursuant to Minn. Stat. § 103E.011 and a public waters work permit under Minn. Stat. § 103G.245?
2. Did the district court err by concluding that the county's project is exempt from the requirement of a mandatory EIS for projects that eliminate protected waters?
3. Did the district court err by concluding that appellants must obtain an approved

wetland-replacement plan or an exemption from the local governmental unit pursuant to Minn. R. 8420.0210?

ANALYSIS

Standards of review

On appeal from summary judgment, we ask whether there are any genuine issues of material fact and whether the district court erred in its application of the law. *State by Cooper v. French*, 460 N.W.2d 2, 4 (Minn. 1990). On appeal from a declaratory judgment, appellate courts apply a clearly erroneous standard to the factual findings and review the district court's determinations of questions of law de novo. *Rice Lake Contracting Corp. v. Rust Env't & Infrastructure, Inc.*, 549 N.W.2d 96, 98-99 (Minn. App. 1996), *review denied* (Minn. Aug. 20, 1996). Construction of statutes and rules is a matter of law, which this court reviews de novo. *Brookfield Trade Ctr., Inc. v. County of Ramsey*, 584 N.W.2d 390, 393 (Minn. 1998). Application of statutes and rules to the undisputed facts of a case involve questions of law. *See Boubelik v. Liberty State Bank*, 553 N.W.2d 393, 402 (Minn. 1996).

1. DNR permission/permit requirement

Appellant argues that the district court erred by declaring that the project requires permission from the commissioner of the DNR pursuant to Minn. Stat. § 103E.011 (2000) and a public waters work permit pursuant to Minn. Stat. § 103G.245 (2000). Appellants assert that they are not required to have either permission or a permit. We disagree.

Minn. Stat. § 103E.011 defines the drainage authority's powers. Subdivisions two and three restrict a drainage authority's power with respect to work in public waters:

A drainage authority may not drain a water body or begin work or activity regulated by the public water work permit requirement under chapter 103G.245 in a watercourse until the [DNR] determines that the water body or watercourse is not public waters. If a water body or watercourse is determined to be public

waters, the drainage proceedings are subject to chapter 103G.215 relating to replacing public waters and the water bank program.

Minn. Stat. § 103E.011, subd. 2.

The drainage authority must receive permission from the commissioner to:

- (1) remove, construct, or alter a dam affecting public waters;
- (2) establish, raise, or lower the level of public waters; or
- (3) drain any portion of public water.

Minn. Stat. § 103E.011, subd. 3(a). A public waters work permit is required to [c]hange or diminish the course, current, or cross section of public waters, entirely or partially, within the state, by any means, including * * * excavating * * * .

Minn. Stat. § 103G.245, subd. 1(2). But an exception to the public waters work-permit requirement arises when

[w]ork in altered natural watercourses that are part of drainage systems established under chapter * * * 103E if the work in the waters is undertaken according to chapter * * * 103E.

Minn. Stat. § 103G.245, subd. 2(1).

Appellants' argument that the statutes, read together, relieve them of both the permission and the permit requirements is without merit. County Ditch 2 is part of an altered natural watercourse. Therefore, we agree that if the permission requirement of Minn. Stat. § 103E.011, subd. 3, is satisfied, the exemption from the public waters work permit requirement of Minn. Stat. § 103G.245, subd. 1(2) would apply. Under these circumstances the exemption would apply because the project would be part of a chapter 103E drainage system involving an altered natural watercourse and would have been undertaken according to chapter 103E. But appellants did not obtain the commissioner's permission for the project as required by § 103E.011, subd. 3, and therefore they are not proceeding according to chapter 103E and are not entitled to an exemption from the work permit required by Minn. Stat. § 103G.245. While we affirm the district court's determination that appellants are subject to both statutes, we reverse the district

court's holding that both permission and a permit are required and hold that appellants must either have permission under chapter 103E or the work permit under chapter 103G to proceed with work that will drain, change, or diminish public waters in wetland 6-11W.

2. EIS requirement

The district court found that wetland 6-11W will be eliminated as a Type-5 wetland and will become an unprotected Type-2 wetland and recognized that an EIS is mandatory for "projects that will eliminate a protected water." Minn. R. 4410.4400, subp. 20 (1999). But the district court applied an exemption from the EIS requirement for "routine [ditch] maintenance or repair * * * performed within 20 years of * * * major repair." Minn. R. 4410.4600, subp. 17 (1999). Respondents argue that the district court misconstrued the exemption. We agree.

The district court failed to consider the portion of Minn. R. 4410.4600 that limits the scope of exemptions. *See* Minn. R. 4410.4600, subp. 1. "An EIS *must be prepared* for projects that meet or exceed the threshold of any subparts 2 to 24" of Minn. R. 4410.4600. *Id.* (emphasis added). The district court recognized that this project meets the threshold of Minn. R. 4410.4400, subp. 20, because it eliminates a protected water. The unambiguous language of Minn. R. 4410.4600, subp. 1, makes the exemption relied on by the court inapplicable and makes an EIS mandatory for this project. Because the district court's factual findings clearly establish that an EIS is required for this project, we reverse the district court's erroneous conclusion that an EIS is not required. Because an EIS is mandatory, a new EAW is not required, so we also reverse the district court's order that appellants prepare and disseminate another EAW.

3. Wetland replacement requirement

Public waters wetlands may not be drained unless "replaced by wetlands that will have equal or greater public value." Minn. Stat. § 103G.221 (2000). A replacement plan is not required for draining wetlands resulting from the repair or maintenance of an existing public drainage system such as County Ditch 2, unless the affected wetlands are types 3, 4, or 5 that have been in existence for more than 25 years. Minn. Stat. § 103G.2241, subd. 2(c) (2000).

Wetland 6-11W is a Type-5 wetland that has existed for more than 50 years and is therefore subject to the replacement-plan requirement.

Appellants argue that they are exempt from the replacement-plan requirement by Minn. Stat. § 103G.2241, subd. 3(1) (2000) which provides an exemption for activities that are also exempted from federal regulation under 33 U.S.C. § 1344(f). Appellants rely on *United States v. Sargent County Water Res. Dist.*, 876 F. Supp. 1090 (D.N.D. 1994) (affirming an exemption from federal regulation under 33 U.S.C. § 1344(f) in a drainage case). As the district court correctly noted, the referenced exemption is for discharge of dredged or fill material into navigable waters “for the purpose of construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches.” 33 U.S.C. § 1344 (f)(C) (1991). And this court recently held that *Sargent County Water Res. Dist.* does not create an exemption under § 103G.2241 for parties who drain wetlands. *Hentges v. Minn. Bd. of Water & Soil Res.*, __ N.W.2d __, (Minn. App. Jan. 4, 2002) (C7-01-799) (holding that the federal law provides an exemption to the *discharge of materials* into navigable waters, including wetlands, due to the maintenance of ditches). Here, the regulated activity is the drainage of wetlands and not the discharge of dredged materials into the ditch. The district court correctly determined that § 103G.2241, subd. 3(1), does not mandate an exemption in this case.

The district court further concluded that an exemption from the replacement-plan requirement must be sought from the Big Stone Soil and Water conservation District, the appropriate local-government unit for this project. See Minn. R. 8420.0210 (stating that the local-government unit makes exemption determinations and that the determinations must be based on the exemption standards); see also Minn. R. 8420.0240 (1999) (stating that if a decision requires a finding of wetland size or type, the local government unit should seek the advice of the technical panel). We agree. The district court did not err by concluding that the project requires either an approved replacement plan or exemption determination from the appropriate local government unit.

DECISION

We affirm the district court’s conclusion that the ditch repair proposed by appellants is

subject to Minn. Stat. § 103E.110, subd. 3, and Minn. Stat. § 103G.245 governing work in public waters. But we reverse the portion of the district court's decision stating that both statutes must be satisfied and hold that if appellants obtain permission pursuant to chapter 103E.011, subd. 3, and otherwise proceed in accordance with chapter 103E, they are entitled to the exemption in Minn. Stat. § 103G.245, subd. 2(2), from the public waters work permit requirement of Minn. Stat. § 103G.245, subd. 1(2). We affirm the district court's conclusion that appellants are not, as a matter of law, exempt from wetland-replacement requirements, and must seek approval of a replacement plan or exemption from the requirement from the appropriate local government unit. We reverse the district court's determination that appellants must prepare another EAW and the determination that an EIS is not mandatory. We hold that for appellants to proceed with the repair in a manner that will drain wetland 6-11W, they must obtain the required DNR approval, complete the EIS process, and obtain a replacement plan approval or exemption.

Affirmed in part and reversed in part.

Dated: January 9, 2002

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

[1] An EAW is a brief document prepared in worksheet format, designed to rapidly assess the environmental effects associated with a proposed project. The EAW serves primarily to aid in the determination of whether an EIS is needed and to serve as a basis for the scoping process for an EIS. Minn. R. 4410.1000 (1999).

[2] BWSR is a state agency that provides technical assistance and regulatory support to local authorities to administer wetland conservation laws.

[3] Respondents requested "appropriate injunctive relief" in their initial complaint but did not address this issue at the district court level. The district court did not specifically address the need for injunctive relief. Additionally, the parties do not raise the issue of injunctive relief in their appeal to this court. Therefore, we do not reach the issue on whether injunctive relief was appropriate in this case.



December 27th, 2001

TO: Commissioner, Minnesota Department of Agriculture (MDA)
Commissioner, Minnesota Department of Health (MDH)
Commissioner, Minnesota Department of Natural Resources (DNR)
Commissioner, Minnesota Pollution Control Agency (PCA)
Chair, Minnesota Environmental Pollution Control Agency (PCA)
Director, Minnesota Geological Survey (MGS)

FROM: Mary Beth Block, Water Planning Coordinator

RE: **Itasca County Comprehensive Local Water Plan**

On Thursday December 27th, 2001, the Minnesota Board of Water and Soil resources (BWSR) began the official 90-day state review of the updated *Itasca Comprehensive Local Water Management Plan*. Pursuant to Minnesota Rules, Chapter 9300.0170 the BWSR is forwarding the county water plan for your agency's review and comment. You have 45 days from receipt of this letter to submit comments, in writing, to the BWSR identifying the portions of the plan that the agency has determined to be inconsistent with the state law.

The Itasca County Comprehensive Local Water Management Plan is being sent to your agency's 103B Technical Review Committee Member under separate cover. The 103B Technical Review Committee Members are:

- MDA, Mark Zabel
- MDH, Art Persons
- DNR, John Fax
- PCA, Glenn Skuta
- EQB, Gretchen Sabel
- MGS, Barb Palen

Thank you for helping local resource managers protect and conserve their water resources through comprehensive local water management plans.

c: BWSR Board Members
BWSR Senior Management Team
Dan Stewart, BWSR Board Conservationist
Art Norton, Itasca County Water Plan Coordinator

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*Board members
FYI*

January 2, 2002

Minnesota Planning
Animal Agriculture GEIS
658 Cedar St., Room 300
St. Paul, MN 55155

Re: Comments on Proposed Final GEIS on Animal Agriculture

I would like to reiterate the appreciation of the Board of Water and Soil Resources for all the work that has gone into this study and report to date. These efforts will help Minnesota continue to be a leader at facilitating definition of the best courses of action to address issues and opportunities related to animal agriculture.

Following is a list of the BWSR's top priorities for action, and associated explanations, related to this GEIS on animal agriculture. This is in response to the request of George Johnson, project manager, via an e-mail message dated 12-18-01. This list is based on the recommendations of the Citizen's Advisory Committee (CAC), our review to date of the Technical Working Papers and the key role of the BWSR to help local government units assist conservation of water and soil resources on private lands. We understand that the 77 CAC recommendations were based on a consensus process and agree that the GEIS should include further refinement and prioritization of recommendations.

1. *The extensive information produced by this GEIS should be made widely available via user-friendly electronic methods.*

Explanation: This GEIS consolidated and developed substantial information that enables a more common understanding of critical issues related to animal agriculture in MN and helps define the best courses of action. The extensive written and GIS products of the GEIS need electronic tools to help search and best utilize those documents, maps and data layers.

2. *Develop a strategy to continue to advance the understanding and use of the information assembled by the GEIS.*

Explanation: The extensive information assembled by the GEIS will take quite some time to fully understand and use. The Feedlot and Manure Management Advisory Committee (FMMAC), with its broad membership, should be an important forum for ongoing education, coordination and advice to best utilize the GEIS. This includes advice from many perspectives regarding research needs and policy refinement.

BWSR Comments on Proposed Final Animal Ag GEIS.doc

1

<i>Bemidji</i>	<i>Brainerd</i>	<i>Duluth</i>	<i>Fergus Falls</i>	<i>Marshall</i>	<i>New Ulm</i>	<i>Rochester</i>	<i>Saint Paul</i>
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3. *The state and federal governments should remain committed to the feedlot strategies put forth in recent years via rule and other documentation, by strongly supporting targeted technical and financial assistance for feedlot pollution abatement and improved nutrient management.*

Explanation: The 1999 USDA/EPA Unified National Strategy for Animal Feeding Operations and current MN Feedlot Rules define timelines for meeting water quality standards and improving manure nutrient management. The federal Environmental Quality Incentive Program (EQIP) and the state Feedlot Water Quality Management Cost-Share, Nonpoint Engineering Assistance and Ag Best Management Practices Loan Programs are key to helping solve existing manure storage, feedlot runoff and land application problems. These programs give priority to feedlots with less than 500 animal units and the greatest environmental benefit potential, and consider local water plan priorities. Many small to mid-size feedlots have been identified as having substantial pollution potential. Federal and state funding for these programs in MN should reflect a commitment to current feedlot pollution abatement strategies and water quality requirements, including the important engineering assistance role of Soil and Water Conservation Districts for feedlot fix-up investigation, design and construction inspection.

4. *Feedlot inventory guidance should be updated to promote high quality Level 3 inventories, using current database technology, to better enable local and statewide definition of environmental conditions and needs related to feedlots.*

Explanation: The GEIS has identified the need for compatible, high quality feedlot inventories to better define needs and target resources for protection and improvement of water, soil and air quality associated with feedlots. Existing feedlot inventory guidance is outdated in regard to use of current technology. Level 3 inventories, which include definition of feedlot pollution potential using the Feedlot Evaluation Model, are used for targeting of technical and financial assistance programs. Current web-based technology might offer good value to local and state government units for feedlot inventories. A web-based feedlot registration and permitting system being developed through Nicollet County should be investigated as a possible model.

5. *Continue the development and maintenance of GIS data layers, and other monitoring and decision tools, which are critical for good siting, expansion and operation of feedlots, including sustainable land application of manure.*

Explanation: The objectives of this GEIS include enabling improved feedlot project reviews and land use decisions, and improved evaluation of cumulative impacts of feedlots. Reliable information, good planning and evaluation tools and early coordination are keys to timely and effective land use and manure management decisions. The GEIS advanced the use of GIS tools for effective feedlot decision-making. It also identified the need to further develop and utilize the MN Phosphorus Index, MN Nutrient Management Planning software, Feedlot Evaluation Model, air quality decision tools, and the definition of sensitive groundwater and surface water areas. Digital soil survey data, and digital sinkhole probability maps for the karst region of MN, are examples of other data sets that can substantially assist feedlot and

manure management planning. A web-based version of the Feedlot Evaluation Model would help address compatibility with different user operating systems. The federal, state, local and private partnerships that have evolved in MN for improved nutrient management (e.g. refined U of M manure application recommendations, improved nutrient management planning tools, and education for livestock producers, public and private technical assistance providers and manure applicators) should continue to be supported by federal and state programs, producer groups and others. These efforts should include application of current technology to monitoring and reporting of environmental outcomes.

Coordination and clarification of the top priorities of the involved agencies, organizations and interest groups should be a topic of further discussion via the FMMAC and other venues. These discussions should include definition of who can do what to advance these priorities for action, and what additional resources and policy changes are needed.

Thanks for the opportunity to further contribute to refining the products and use of this GEIS.

If you have questions about these comments, please contact Al Kean at 651-297-2907 or al.kean@bwsr.state.mn.us.

Sincerely,



Ronald D. Harnack
Executive Director

cc: Leland Coe, Board Chair
Senior Management Team
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TRAVEL TIME ONE WAY

Harold Petersen	3 hrs travel
Margaret Jo Johnson	2 hrs travel
Elton Redalen	2.5 hrs travel
Andrew Quinn	2.5 hrs travel
Jay Nord	4 hrs travel

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On The Waters

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FALL 2001



LGA ABOUT ANNEXATION, CHOICE

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Pesticides, health, the environment

LEORA MACCABEE
SIERRA CLUB AIR TOXICS CAMPAIGN

Q: Are pesticides harmful to children and the environment? Can I do anything to prevent this risk?

A: In our society, we use chemicals to kill insects, weeds and rodents.

Only recently have we learned that these chemicals can cause harm to humans, especially children. Many insect sprays, bleaches, disinfectants and rat poisons used in homes and gardens are pesticides that can put your family at risk. There are practical steps you can take to reduce exposure to toxic pesticides in homes, farms and schools.

Pesticides are often used on crops in agricultural areas to kill insects and weeds. These pesticides can enter surface- and groundwater where they poison fish, amphibians and beneficial insects, and pose a health risk to humans, particularly infants and children. Because pesticides are stored in fish tissue and are passed on at increasing concentrations up the food chain, large fish, loons, otters and grazing cattle can have pesticides in their bodies that are thousands and even millions of times higher than what is present in the surrounding environment.

The National Resources Defense Council determined that children of farmers and farm-workers are likely to have the highest exposure to pesticides of any group of people in the country.

Children can also be exposed to pesticides at their schools. Even in your home, your children can be at risk. Many household products that kill bugs, mice and termites are dangerous.

Exposure to pesticides can cause brain damage, reproductive harm, genetic and birth defects, and can increase a person's risk of cancer. Exposure to pesticides is dangerous for children because their organs are still developing and they absorb pesticides into their bodies quicker than adults. They also often put their hands and foreign objects into their

mouths and play on the ground where chemical residue can collect. This risk of infant mortality, childhood brain cancer and birth defects is higher in areas where pesticides are used. By taking action, you can markedly reduce these dangers.

1. Children are exposed to pesticides in food. Organically grown food is the safest. If you're not buying organic food, wash the produce, throw away the outer leaves of vegetables, peel fruits and vegetables, and trim fat from meat and the skin from poultry and fish. Call the Stewardship Food Network, 651-652-0618 or go on-line, www.landstewardshipproject.org to find stores that sell pesticide-free food.
2. Instead of using rat poisons and insect sprays in your home, prevent pests by covering food and garbage sources, using bait and traps, repairing leaky pipes, sealing holes and nests and destroying pest-breeding sites.
3. Check the safety of lawn and household chemicals before you use them. The pesticides found in the popular household and lawn products known as Dursban®, Ortho®, Spectracide®, Knoxout®, Basudin®, and Real-Kill® are nervous system poisons. In 2000, EPA banned these chemicals, but bowed to industry pressure and decided not to pull them off the market until 2002. The commonly used garden chemical Atrazine® can cause cancer. There is evidence that the popular lawn chemical Weedone® can cause genetic damage. Learn about the health risks of these chemicals and other household and lawn products, and safer alternatives at www.infoventures.com/e-hlth/pesticide/pest-fac.html.
4. Use only the least toxic chemicals on your lawn. For example, biological pesticides like Gypchek® are natural weed or insect killers that are made from plants, animals and bacteria and are much less likely to cause harm to humans and wildlife. Biological

pesticides avoid causing long-term pollution problems because they decompose quicker than conventional pesticides.

5. Prevent accidental spills by storing pesticides out of children's reach. If you spray pesticides on your lawn, wash off decks, lawn furniture and toys that may have been sprayed by accident. Don't go into your home wearing the clothes used while applying pesticides. Keep children and pets away from sprayed areas for at least 24 hours after application and after subsequent rainfall.
6. Recommend that your schools use "integrated pest management" and the least toxic pesticides available. Ask your PTA or principal to make sure that schools inform families 72 hours before pesticides are used and never apply pesticides if students will be on school grounds within 24 hours of the application. Minnesota law requires schools to notify parents at a "reasonable" time before applying pesticides.
7. Once you're finished using any insect spray, weed killer or rodent poison, don't dispose of it in a recycling bin, compost pile or trash can. Pesticides in the waste stream damage the air and water and potentially harm living creatures. Contact the Minnesota Department of Ag's Waste Pesticide Collection Program, 800-657-3986.

To learn more about lawn treatment and the safe disposal of pesticides, call the U of M Extension Service, 888-624-4771. Visit www.beyondpesticides.org for up-to-date studies on pesticides and safety recommendations. For more on reducing exposure to toxic chemicals contact the Sierra Club Minnesota Air Toxics Campaign, 651-646-8890, pmaccabee@aol.com, or visit the Sierra Club North Star Chapter's website, www.northstar.sierraclub.org.

Key sources for this article were Environmental Health Clearinghouse and Beyond Pesticides/ National Coalition Against the Misuse of Pesticides.

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On The Waters

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Conservation easements the best management practice

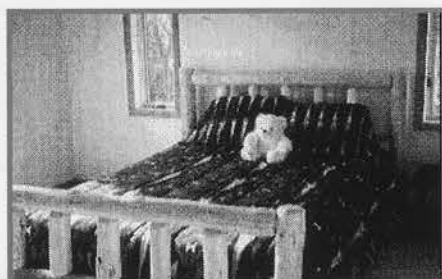
A leader of the environmental movement during the mid 1900s, Sigurd Olson worked tirelessly to protect wild places, like the Boundary Waters. Olson's *Listening Point*, is a collection of essays inspired by a 26-acre property on Ely area's Burntside Lake, now under tremendous development pressure. The Listening Point Foundation and Minnesota Land Trust created a conservation easement to restrict future development yet allow the Foundation to continue use for wilderness education and quiet retreat. Three other Burntside properties are protected with such easements as a result of MLT's services. For more information about MLT and the 175 properties (16,500 acres) for which they have obtained conservation easements, visit www.mnland.org or call 651-647-9590.

About the cover: "The events of September 11," as we may always refer to them, gave us pause. Americans, the newscasters say, are reflecting more on what really matters to them. Families are ranking high on the list. So is time, time to reflect, as this impossibly blue mid-Fall sky does in a northern Aitkin County wetland visited by camera-toting Harold Dzuik in 1994. Though many of us are busily tearing through the cooling days, we have much to consider. This issue is a little preachy, marrying land use and water planning, keeping chemicals out of kids and waters, exhorting an aggressive run with TMDLs, and urging you, dear readers, to crank up the heat wherever you are working for better water management. Please also take a moment to savor the changes in whatever waters you personally love and steward. Take a moment to engage your senses, to breathe deeply and refresh yourselves, to remember that the best revenge is a life well-lived. Perhaps the silver lining of the tragic events of the recent past lies in our reflecting on what bounty and beauty we enjoy.

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LETTERS

Letter to DNR concerns loon survival

Another weekend of Northland use and willful abuse has come. And, with its arrival, I submit to you and anyone else who needs to know, I quit monitoring and watching the common loon in this area.

These creatures have been, are continuing to be, and no doubt into the future will be harassed and destroyed by Minnesota's governing politicians and appointed dupes. These people, in my opinion, only pay vocal eyewash to nature and, in this case, the common loon. There is a growing gang of lake ecological abusers who encourage more jetskis, bigger and faster water-skiing equipment, tube and water sled pulling, fishing equipment which allows a person to sneak up on the quarry, then literally tear up a lake's surface and down to at least 12 feet while going to the next "likely spot."

Then too, the common loon has at least 11 very serious wildlife species which intend to, and do, kill it: raccoon, otter, mink, eagles, owls, crows, ravens, northern pike, muskies, black bass and domestic dogs.

These are serious problems for the loons' survival in their breeding habitat. Also, their migratory flight to and from their wintering habitat presents many special problems.

Once in winter habitat, which I believe is upon salt water, their enemies/predators change somewhat. There are severe winter storms, more and large aquatic predators, different health and disease

He's still going

Guess what happened to me. Over a month ago I had shortness of breath and tightness in the chest so I checked into the United Hospital. They checked me out and wouldn't let me go until they had open heart surgery on me. Everything seems to be going fine.

I showed pictures of some of the projects that I have had success with. Every nurse and doctor that came into my room was brainwashed before they left. I'm going to give about three dozen plastic and stainless steel mugs to the people on the floor. I have a fellow who puts an imprint of a fish on each one and it says, "Good luck fishing

conditions and, don't forget, "man."

Do you believe or suggest for one moment that those politicians and lobbyists for all recreational industries who run this state would ever put curtailing restrictions on lakes to protect nature at the expense of man's entertainment gratification?

And so DNR, until the common loon is put on the "National Endangered Species List," good-bye and good luck.

Donald H. Kitzrow
Hill Lake
Hill City

Ed. note: The Minnesota Loon Monitoring Program, a project of MnDNR Nongame Wildlife since 1994, published an analysis of six years of loon watching in 2000, which indicated that the population remained healthy overall in the six index areas. (See FOCUS 10,000, Fall 2000 News and Notes.) Anecdotal evidence of motorized recreation pressure on loons, expressed to DNR Nongame Specialists, gave rise to a soon-to-begin, years-long study of those impacts. The study will address how loons behave in response to motorized watercraft and how that behavior affects reproduction, but will stop short of framing the philosophical question of which is more effective and sustainable, to build new habitat (i.e., nesting platforms) or preserve natural habitat (i.e., from space invaders on boats).

from Fisherman Timm."

I'm going to a meeting tonight at West St. Paul City Hall about improvements on a couple of lakes.

Cliff Timm
West St. Paul

Ed. note: With his letter, Cliff included copies of his recent readings, including a Minnesota Conservation Volunteer article from May/June about groundwater limitations. It points decidedly toward the need for water conservation, which the following letter also addresses.

LETTERS

Multi-housing projects in your watershed?

A recent study conducted by the National Research Center in Boulder, Colorado found that some 8,200 gallons of water per apartment per year could be saved by using coin-operated machines in common areas. It is documented that each in-apartment unit washer uses an average of 11,804 gallons of water annually. Coin-operated machines in common area laundry rooms averaged 3,588 gallons annually.

With water conservation efforts being enacted throughout the country, my client, the Multi-housing Laundry Association sincerely believes communities can realize significant water savings efficiently and relatively quickly through changes in public policy as related to multi-housing projects.

Suzanne Blackhurst, representing the Multi-housing Laundry Association

Ed. question: Is it fair to impose water conserving economic measures on the generally lower income apartment dwellers alone? What could incentivize homeowners to conserve water too?

OHV problems, a call to action

Labor Day afternoon six mud jeeps went south past my house, one broken down and being towed. Also about four muddied ATVs. They were not legally tearing up a wetland to get so muddy. If a farmer caused as much damage to a wetland, he would be spending the night in jail. Other ATVs were obviously bear baiting, but still a problem by their sheer numbers on the public lands in northern Crow Wing County.

The ditch ATV traffic past my house this afternoon has been constant. We have to get use of ditch Right-Of-Ways banned. It can only get worse unless we gather more support, make more noise, squeak and capitalize on this opportunity for more regulation of these destructive devices. You need to act at township, county and state

levels. An uphill battle, yes, but I really feel that public support for more reasonable regulations of Off Highway Vehicles is growing fast. You can give it a nudge.

Senator Moe says he now wants to allow "traditional" ATV use in Wildlife Management Areas. If we allow this attitude to creep into the sacred WMAs, what chance to we have to protect other public lands? Barry Babcock is right. The "motorized recreational industrial complex" is anti-environment and anti-quality of life.

Larry Wannebo
Manhattan Beach

Ed. note: Mr. Wannebo urges citizens concerned over Off Highway Vehicle damage to their properties and public lands to collaborate where possible with non-local groups with similar interests, and to use a grassroots approach to influence local land use decision-making. He also wants trail planners for public lands to remember that "traditional use," the basis on which many motorized recreationists are claiming the right to the public's land, used to consist of walking, hunting, trapping, berry picking and other activities that did not leave a visible impact.

Beauty, health, wildness – and us

Thank you for your editorial, "Excessive noise a persistent itch," in *FOCUS on the Waters*, Aug/Sept 2001. Protecting natural beauty and tranquility of Minnesota's lakes is as important as protecting water quality and healthy fisheries. Extensive shoreland alterations and increasing impacts of motorized watercraft on Minnesota's remaining wild lakes should be top concerns for those who enjoy a natural lake environment.

Harold Dzuik
Turtle Lake Assn., Itasca County

Fish dynamics differ among lake types

I take some issue with the writer of "Tailoring lake (and fish) management strategies to individual lakes" (July 2001). His notion that northerns and walleyes are okay to keep and bass and sunnies should be released is probably more true on some of the large, expansive lakes like Winnie and Mille Lacs, and other various size mesotrophic lakes in general. Wabana and other lakes on the chain are late oligotrophic lakes, very deep and clear. There is just very little to no spawning habitat for walleyes, and little for northerns. They don't get replaced very fast if they are kept. A few shallow soft-bottom bays with some weeds make for comparatively more spawning habitat for bass and sunnies. Bottom line for me, there just aren't that many fish in the chain compared to a good share of the other lakes around here, so what is there needs to be preserved.

Jack Velzen
Wabana Chain of Lakes, Itasca Co.



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✱ GUEST EDITORIAL ✱

BRUCE JOHNSON, EXECUTIVE DIRECTOR
RIVERS COUNCIL OF MINNESOTA

Of watersheds and people: The challenge of a statewide watershed policy

The tragic events of September 11 have sent profound shock waves through American society and led all of us to take stock of our priorities. President Bush noted that, while the steel of our buildings and planes has been shattered, our faith in all that America symbolizes hasn't even been dented. In the days ahead, our collective consciousness will be focused on the economic implications, investigation into the attack and our response. Undoubtedly, we'll all wonder how such a tragedy might have been averted given the money we spend on the military, intelligence gathering and airport security.

For those of us who love Minnesota's lakes and rivers, a similar question looms. How is it that 40% of our nation's waters don't meet water quality standards after almost 30 years of the Clean Water Act? What has to happen before we invest comparable resources into this essential part of our country's water resource infrastructure? And how might such an investment look from a state policy perspective?

The forces of nature have carved out an impressive water resource infrastructure. It's called a watershed. Basically, a watershed is the land area draining to a given body of water. The list of free services a watershed provides is impressive: drinking water supply, waste assimilation, flood mitigation, energy transfer, fish and wildlife habitat, recreation and aesthetic value.

The problem is, those services are interrupted by other parts of our infrastructure. For example, the roads, bridges, parking lots and airports that support our transportation infrastructure keep rain from recharging our groundwater supply. They also send

massive quantities of soil, nutrient and chemical-laden water down streams not designed to handle them. The buildings that make up our residential and business infrastructures and the farms that provide our food do the same. The results: degraded and diminished drinking water supplies, increased flooding downstream, damaged fisheries and waterways choked with algae, clouded with debris and/or unsafe for swimming because of bacteria associated with human and animal waste.

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The TMDL program offers all the principles of an effective statewide policy for our water resources.

Such threats are very real. Ask the 400,000 citizens of Milwaukee,

Wisconsin who became sick after the bacteria *cryptosporidium* snuck into the city's drinking water supply. In Minnesota, drinking water wells have become contaminated. The Department of Health is busy trying to assess contamination of sources of our drinking water, and has found some very real threats. Yet the State of Minnesota continues to hesitate to invest the necessary funds to prevent the loss of critical watershed services.

Consider what the State of Minnesota spends on roads and schools, or how much it puts into economic "development" like building new homes and enticing businesses to locate here. We'll spend a fortune to grow; why won't we do the same to make sure all the watershed services are in

place to greet our new neighbors?

I offer two reasons. First, we don't understand the full cost of transforming our watersheds. For example, few of us consider replacement costs like the \$2.5 billion this country spent (1986 dollars) in delivering safe drinking water. When the watersheds providing their drinking water were transformed by farming and development, citizens of New York faced a \$1.5 to \$5 billion water treatment plant construction bill and \$300 million a year in operation costs thereafter. That, by the way, was the cheap alternative.

Then there is flood damage. I don't have figures for Minnesota rivers, but in the Charles River (Massachusetts) Basin a 40% loss of wetlands – one of the "sponges" nature places in watersheds to store water – produced an estimated \$3.2 million in annual property damage. How much of that was paid by state or federal relief programs? And as streams are called upon to handle increasing quantities of water, resulting erosion cost the country \$300 million a year. The study on the Charles River concluded that wetlands were worth \$153,000 to \$190,000/acre considering the economic benefits provided by flood prevention, nutrient reduction, water supply, recreation and as a local amenity. Very little of that value is factored into the sale of wetlands for urban or rural development.

Secondly, we generally don't believe we need to include watersheds in our community planning – it's either not an issue, or it's one we can engineer our way out of if a problem pops up later. When developments are considered on a piece-by-piece basis, 40 acres at a time, the collective impacts on streams and lakes can't possibly be taken into account. In advocating for planning and zoning by watershed, the Center for

GUEST EDITORIAL

Watershed Protection points out that more than 10% impervious surface (roads, parking lots, roofs and sometimes lawns) degrades a watershed. They are essentially saying that too much focus on other forms of infrastructure is done at the peril of our water infrastructure. This problem is exacerbated by corporate and departmental boundaries that keep even the most watershed conscious staff trapped inside the box of their own turf.

In short, this is a people problem. We effectively have 4.5 million water resource managers in the state of Minnesota (give or take a couple million visitors). Many of the day-to-day decisions they make have direct and indirect impacts on watersheds. Few improvements will be made without getting them to change their behavior. Crafting a statewide policy to accomplish such a goal will be challenging. I can't offer specific changes, but I believe some very important principles will need to be in place if a statewide watershed policy is to be successful.

First, let's never lose sight of the swimmable, fishable and drinkable principles embodied in the Clean Water Act. However, those principles speak directly to the incredibly important value that lakes and streams have to our communities.

With that in mind, clear goals for lakes and streams must be established. Without knowing what we're trying to achieve, how can we expect to measure success? Sometimes those goals will be restoration-oriented in response to damage that already exists. In other cases, protection and prevention (which are infinitely cheaper than restoration) will be the focus. Most watersheds will need a mix of both prevention and restoration. In any case, we should work very hard to develop something we can all work for in a specific time frame. This will allow for tangible measures of progress without inflating expectations.

Second, it is important that we strive to be flexible and waterbody-specific when setting goals. Watersheds are like fingerprints on our landscape – no two are identical. Soils, slope, vegetation,

climate and many other factors account for such variation. Thus, no one standard for a given pollutant will necessarily fit for every watershed in the state. A statewide standard runs the risk of being too much for one lake or stream, too little for another. Waterbody-specific focus means looking carefully at the capacity of a lake or stream to deal with added pollutants or changes in water quantity, then determining what might be allowed to be discharged into it.

Which leads to a third principle – a comprehensive approach. Any goals set for the health of a waterway must consider all sources of degradation to that waterway. Sole focus on a discharge pipe may divert our attention away from rainwater runoff or streambank erosion and the forces contributing to them. Including the entire watershed will help identify significant problems and threats, set priorities and put our limited resources where they will do the most good.

Setting goals on a watershed scale will be incredibly difficult without important scientific understanding of its function and condition. Unfortunately, "sound science" has been the mantra of delay tactics rather than a key principle of watershed management. It is extremely important that we regularly and consistently gather as much data as we can about our water resources. That data can be turned into useful information that can guide ongoing water resource management. Those who would cause delay under the premise of sound science are effectively advocating the status quo, which is to dump a vast array of materials into our waterways and let someone else deal with the harm. That's not the scientific method I was taught.

Finally, a comprehensive approach will fail without including the inhabitants of watersheds. The land use, economic, historical and cultural conditions of a watershed vary just as widely as the physical conditions. Watershed management planning and implementation should be developed in partnership with the many and diverse stakeholders living there because they will know what can work in their watershed "neighborhood." That does ►

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not mean just employees of local governments and businesses, but a concerted effort to involve citizens. The ideas and energy of citizens are an incredible resource that must be not be wasted. Given the chance, they can organize, communicate, educate, influence, find funding, monitor, analyze

and fill many other important roles if given the opportunity.

For some, involving these "amateurs" is tedious and a waste of time. My reply is simply, "Amateurs built the Ark, and professionals built the Titanic." Take, for example, the TMDL program, which assesses the problems of a waterbody,

identifies all sources of pollutants, sets a target, allocates pollutant reduction responsibility – all with the involvement of stakeholders. Right now, the one program that exemplifies the statewide watershed policy principles I described is impaled upon an iceberg of opposition by those who would keep the TMDL ship from ever reaching its destination. Professionals (lawyers, lobbyists, scientists and regulators) argue over interpretation of chapter, paragraph, subsection, sentence and word. Meanwhile, the eyes of "amateurs" glaze over, and those who don't care or don't understand continue behaviors that affect nearby lakes and rivers.

Properly staffed and funded, the TMDL program offers all the principles of an effective statewide policy for our precious water resources. It is a comprehensive, goal-oriented process that includes development and implementation of a flexible, science-based and stakeholder-involved watershed restoration action plan. In my view, the program has the greatest potential for effective statewide water resource management policy of any other programs I've seen.

While speaking to a group of 130 Minnesotans employed in some form of watershed management the day after the terrorist attacks, Steve Morse, DNR Deputy Commissioner observed that our watershed work might seem "inconsequential" to many for a while. A recent Fox News poll bears that out – only 1% of respondents identified the environment as the top issue the federal government must address. Morse went on to remind all of us how important water resources are to the state's economy and quality of life. I heartily agree, and would point out that our transportation infrastructure didn't even make the Fox News poll issues list, but you can bet those affected by degraded roads, inadequate rail systems of sluggish airports will have something to say. Let's make sure Minnesota's waterways are given the same due.

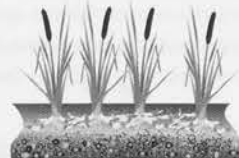
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CRYSTAL BLUE PERSUASIONS

MARCIA SHEPARD
ASSOCIATE EDITOR

Different cars, cooperative drive



On the lake, river or stream where you live, have a seasonal home, or use most frequently, are there problems caused by too much use, too much development, nuisance aquatic plants and animals, conflicts between users, or pollution? Solving these problems will require influence with elected officials, both in State and local governments, with other waterfront dwellers and water users, and with businesses and individuals whose

In its 17-year history, MLA has forged solid relationships with members of the Legislature, and developed and supported numerous water-friendly measures: exotic species transport laws, funding for the Citizens Lake Monitoring Program, tighter requirements for feedlot runoff, the Sustainable Lakes model for lake management, septic code revisions and wastewater treatment funding, walleye stocking, reductions in the seasonal-recreational property tax rate and a reduction in market property value

COLAs, insurance discounts, the MLA website (which includes a bibliography of water-related literature) and a website template for lake associations. Communications support includes the four issue per year *Reporter* and an archive of past articles, emailed or faxed legislative alerts, inserts for association newsletters, and news releases for local papers.

FOCUS on the Waters, a publication, not an organization, tracks as much as

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FOCUS and Minnesota Lakes Association differ in the kinds of tools they bring to the job, but meet in their concerns for the lakes and rivers.

activities in the watershed affect the waters.

Minnesota Lakes Association is a nonprofit organization of lake users, lakeshore property owners, lake associations, conservation groups and government and business affiliates who are dedicated to protecting and improving Minnesota's lakes and rivers. MLA provides waterfront owners and water stakeholders an organized voice with state natural resource agencies, in the legislature, governor-appointed and legislatively-mandated citizen environmental committees, the Minnesota Environmental Partnership, and the North American Lake Management Society.

MLA also supports lake associations and Coalitions of Lake Associations (COLAs) in efforts to influence resource management decisions made by local governments and to educate fellow water users.

threshold. MLA has been among the sixty-plus conservation and stewardship organizations of the collaborative Minnesota Environmental Partnership. In this coming Legislative session, MLA and other MEP members hope that resource protection will be given the same kind of priority that tax reform got in the 2001 session. Efforts to get input from members on legislative concerns are already underway. Issues have been prioritized, committees will intensify their work on them, communications networks will be expanded and strengthened, and MLA will have an increasingly solid and organized presence at the Capitol, along with like-minded organizations.

MLA offers numerous other services to water stakeholders – literature, speakers, conferences and district meetings, elementary classroom curriculum, leadership training, organizational support for lake associations and

possible of the state of the waters, the activities of the natural resource protection agencies, the lawmakers, the local government officials and staff, environmental consultants and the much vaunted and sought-after citizen volunteers who have inputs to the patchwork quilt of water management in Minnesota. (Around the office, we joke that our motto is "All the News We Can Fit.") MLA is among the most visible, most vocal and most important of the organizations we follow.

FOCUS and MLA differ in the kinds of tools they bring to the job, but meet in their concerns for the lakes and rivers. We share a belief that our economic well-being and quality of life are dependent on sustaining these jewels in the landscape, these ultimate recreational vehicles, these health-giving drinking waters, these aquatic ecosystems which are our collective water purification systems. *FOCUS* supports MLA's



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important work influencing the organization of water stewardship. "MLA also supports *FOCUS on the Waters* as one of the most important communication resources needed by our state's many water stewards to equip them with the knowledge and resources they need to make a difference in the quality of our waters," says Paula West, executive director of MLA. "We are pleased to offer *FOCUS* subscribers a reduced-cost membership in MLA, and we encourage our members to subscribe to *FOCUS* (see insert, this issue). Working together we can make a difference."

George Bush, Sr., was heard to say, "Is this a private fight or can any dog get in?" Mythology scholar Joseph Campbell said, "It heightens one's awareness of being alive, being in a good fight." Advocacy for clean waters need not mean conflict, though it can come down to eyeball to eyeball. Education is a powerful alternative. Maybe winning hearts and minds is more effective than regulation in the long run. It's all a "good fight."

Whatever the means, we must change the truism that "Developers run the world," and counter the belief that sacrifice of the life-sustaining natural world is inevitable, or the complacent misperception that, without our help, it is not. We troops in the trenches need to ask ourselves if we're part of the problem or part of the solution. This work brightens the eyes. It hones the mind. It meets you where you are, accepts what you have to offer, and says "thank you!" It is no less important than deciding what the world will be like for our children and grandchildren.

The bottom line is that participatory democracy belongs to those who show up. Show up informed with FOCUS on the Waters, your MLA membership and the Reporter, and be part of the effort to protect and enhance Minnesota's waters!■

Tying together land use...

Tom Conroy photo



LINDBERG EKOLA
EKOLA &
ASSOCIATES

and water planning

State land use planning can..." I started to say. Instantly, he snapped back, "What did you say? It's my land by God... And you want to do what? Where did you get that idea?"

The very thought of all this made the hair stand on the back of his neck. My friend's dad wondered aloud, quite loud actually, why in the world would I ever want more state involvement in our home county, let alone more control by the county board. Had all of that schooling knocked me off my rocker?

I grew up in Minnesota lake country where opinions and attitudes on water run deep. Coming home from college to visit with family and friends frequently resulted in serious discussions like the one described above.

Over the years as I worked my way into a career as a planner, I have wondered how I could ever explain all of this to my friend's father. State land use planning could be a valuable component to us as citizens. And it could even help protect our lakes that we fished and swam in so many times.

The purpose of this article is not to give a dissertation on the various approaches to state land use planning, although readers are certainly encouraged to consider these sources. Frankly, our state laws on land use planning are out of date, perhaps two or three generations behind other states'. This fact puts a great handicap on our efforts to improve the quality of water in our lakes and streams as well as our drinking water.

Instead, this article is intended to begin

a dialogue about how we can improve land use planning in Minnesota that can further advance water planning and ultimately improve our water resources. There are key roles that our state and local governments can play. One essential part of integrating land use and water planning is more recognition by taxpayers and citizens alike that our governments should take primary role in building this linkage.

At this point you may ask why any of this is important. You may generally be against any more governmental involvement. However, if we care about the water in the lake we live by or what we drink each day, planning for the use of our land is critical. But if people continue to react the way my friend's father did years ago, water resources will probably continue to decline.

A comparison – water planning and land use planning – A tale of two approaches

Land use planning – An oldie but not so goldie...

Land use planning has been around for a very long time. Unfortunately, we have been working backwards in the land use arena for decades. Part of this started with the passage of federal laws regarding planning and zoning. Basically zoning, an implementation tool, was enacted before the planning laws or the

big picture view. How did this happen? In 1926, the U.S. Congress approved legislation which enabled zoning. Two years later, the federal government passed the legislation enabling planning. A regulatory mindset has been at the forefront of land use from its inception.

This dominant "policing" attitude continues today, but there are signs of hope. At a meeting just the past week, I

heard several governmental officials (regulators) stressing that "if we just did some more planning, maybe then we would not need to do so much zoning." Hmm... We really do suffer from zoning on the brain in our current land use world ... yet there are so many other tools available to us.

There are dozens of other implementation tools that local

governments can use to help encourage better land use practices. Capital improvement programs, tax incentives, and conservation easements are just a few. The scope of these tools needs much more discussion than this article allows. But it's certainly worth investigating. A comparison with one of the most common water planning processes, local or county water planning becomes a good starting point.

Local water planning – The White Knight

"It works." That is a common view shared by many citizens. We have heard this theme in every county we have worked in. Compared to land use, some have called it a "White Knight." Why does local water planning work? Some of the reasons include:

1. The process is voluntary, each local government decides to participate.
2. It's locally driven.
3. There is ongoing funding support for planning from the state.
4. The process promotes local/state partnerships.
5. Ample technical support is shared from a state multi-agency team.
6. The state has flexible standards in the review and approval of water plans.
7. There is an ongoing commitment to funding implementation efforts by the state and local governments.
8. There is a recognition of the broader implementation menu – eight basic strategies.

How did local water planning get started? Why are citizens responding favorably to local water planning? After all, it started with the state government didn't it?

I was not involved in the enactment of the legislation or the development of the water planning process but it is clear that the people who created it had some good thinking in mind. One of the first steps the State took was to delegate the authority to the Board of Water and Soil Resources (BWSR), a small state agency. The agency has a mission to

Implementation tools for better communities

There are many different tools available to implement comprehensive plans which can ultimately help to promote better land use. Each community or jurisdiction should develop their own approach to implementing their plan. The following is a brief list of implementation tools:

- Capital improvement programming
- Official mapping
- Cooperative agreements
- Orderly annexation agreements
- Transfer/purchase of development credits
- Land acquisition
- Conservation easements
- Conservation agency programs – CRP, CREP, RIM, etc.
- Historic preservation
- Tax increment financing
- Tax abatement programs
- Interim ordinances
- Subdivision regulations
- Parkland dedications
- Conservation subdivisions
- Cluster development
- Design review process
- Zoning ordinance and map

build partnerships in order to manage and conserve our resources. Somehow, they collaborated with citizens, local

officials, and resource experts to develop some basic but very powerful concepts through water planning. One of the primary concepts is how a plan can be implemented: The following is a list of strategies that local governments are encouraged to consider:

- Administration.
- Education & Information.
- Monitoring & Data Collection.
- Inventory & Mapping.
- Land & Water Treatment.
- Regulations, Ordinances, & Planning
- Technical Staff Services.
- Equipment.

Clearly, the county water planning process provides a framework of insights that could maybe help land use planning. The table on page 14 provides an overview of some other contrasts between water and land use planning. My bet is that some of the wisdom in water planning was gained from both local and state land use efforts of the past. Sure, local water planning is not perfect but it is getting the job done.

And with each new generation of water plans, BWSR brings in additional areas of focus or efforts. With each generation of updated water plans, counties and BWSR are looking together to identify improvements to the process as well as the outcomes in order to protect and enhance our resources in fair and cost effective ways.

As a taxpayer, I like the idea of government working well.

Click here for planning info.

List of planning websites (each has material related to property rights and takings):

- American Planning Association, <http://www.planning.org>
- Planning Commissioners Journal, <http://www.plannersweb.com>

List of state and federal agency web sites (background information on land and water resources):

- Minnesota Board of Water and Soil Resources, <http://www.bwsr.state.mn.us>
- Minnesota Planning, <http://www.mnplan.state.mn.us>
- Minnesota Department of Natural Resources, <http://www.dnr.state.mn.us>
- Minnesota Pollution Control Agency, <http://www.pca.state.mn.us>
- USDA Natural Resources Conservation Service, <http://www.mn.nrcs.gov>

Integrating land use and water planning – Shared experiences

County water planning examples

Todd County adopted the first "third" generation water plan in the state. Our firm was hired to prepare the County's water plan concurrent with the community-based comprehensive land use plan. From this combined effort, many examples of how to link the two planning processes were established.

One example came in the development of the land use plan. Leaders from cities and townships were invited to participate in drafting future land use patterns for their communities. The process included the preparation and distribution of maps and information, much of which had been developed in the County's water planning process. This information was essential.

One map compiled wetlands, floodplains and protected waters information onto what was called a "Development Constraints Map." For the first time, you could literally see the potentially develop-able lands on a countywide perspective. The knowledge and insights that this and other maps prepared by the Todd County GIS Department were the foundation for local leaders and citizens to build the land use plan upon.

Drawing "lines in the sand," as one citizen described it, is one of the most difficult challenges facing our local officials in terms of land use. Who gets to build what and when requires more

involvement by those who are affected by these decisions. It requires great appreciation of the natural resource base, which water planning can provide. There no doubt will be challenges ahead but the integrated land use/water planning process in Todd County has started something very valuable for the people.

From this experience, one town board member commented, "The township has more than sufficient land to allow for nice rural residential development that would not cause dissention between farming and residents." All of this in a township rich with lakes and feedlots. Wow, land use planning really can work...

In Morrison County, collaboration is paying dividends to the water planning process and much more. Mark Wettlaufer, the water plan coordinator, was determined to find a way to rewrite the County's water plan in a comprehensive manner.

Largely through his efforts, the County has partnered with the Great River Great People (GRGP) organization, an informal network of people representing over thirty civic, environmental, cultural and governmental entities. The joint effort will result in the preparation of the County's water plan and a Resource Directory for GRGP.

The GRGP project provides an opportunity for the sharing of ideas and information through the common goal of

identifying and gathering cultural and natural resource data. This joint project will serve GRGP in identifying future needs and roles of the organization aimed at protecting and enhancing land and cultural resources within the Mississippi River Watershed in Morrison County. Subsequently, the County will be able to use information gathered through the environmental resource inventory to further the rewrite of the County's water plan as well as future revisions of the County Comprehensive Plan. Another positive outcome is the avoidance of duplicative efforts and increased continuity of the information collected. This will benefit citizens and all resource staff involved in cultural and natural resource management.

Lake management planning – It gets the job done

Water planning is moving onto the next geographic level, lake management planning. In Central Minnesota, the Initiative Foundation through its Healthy Lakes Program, is teaming with up with lake associations and other groups of citizens wanting to improve the quality of lakes. The Initiative Foundation, a nonprofit philanthropic organization is based in Little Falls and serves a 14-county area.

Recently, we have been invited to facilitate a number of the lake management planning meetings. At one event, over ninety people showed up on a Saturday morning in August to share their views and concerns. After the citizens thoroughly discussed and debated the issues, they prioritized key focus areas. Water quality and aquatic vegetation clearly were the top two concerns. Intertwined with these two issues were numerous comments about land use, how it affects water quality through increased stormwater runoff that boosts phosphorus levels in the lake water that ultimately promotes more weed growth. The weed harvesting operation on the lake was forced to be shut down for the year by the MnDNR due to a number of operational or mechanical problems. ►

What the Legislature can do . . .

Update – The land use planning laws for counties and municipalities (cities and townships) need to be updated in a comprehensive manner.

Coordinate – There needs to be greater coordination developed in the state land use laws for each type of local government.

Foster Local/State Partnership – A balanced approach recognizing the concerns and perspectives of all private interests, local units of government, and state agencies is central to any major legislative reform in the state land use planning laws.

Recognize Local Control – Land use decisions should continue to be made primarily at the local level.



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MARCIA SHEPARD, ASSOCIATE EDITOR
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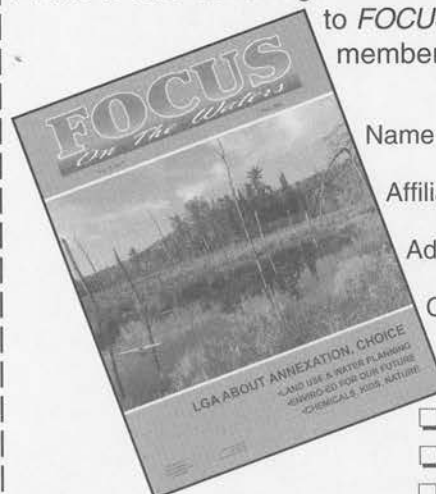
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Overview and contrasts between water and land use planning.

	Water Planning	Land Use Planning (aka Comprehensive Planning)
Approach	Voluntary, a statewide program. Strategic state support.	Voluntary. Different planning processes for counties, townships and cities. Limited state support.
State Technical Support	BWSR – board conservationists. Multi-agency support. Generally well attended meetings throughout planning process. Involvement by agencies seems to be growing.	Varies with local unit of government. Many communities get substantial assistance while other communities report limited service or connections with state agencies. Needs for technical support vary considerably, perhaps more so than for water planning.
State Financial Support	Annual program: \$2 – 3 million. • Annual NRBG grants through BWSR. • Statewide.	1997 – Community Based Planning Act: \$1.5 million • 4 pilots • 4 pilots • Program out of funds. Act sunsetted
Policy Structure	More often uniform statewide • Goals • Objectives • Action items • Implementation Program.	Varies more greatly by local government (and consultant) • Mission or vision statements – sometimes. • Goals or objectives – used interchangeably. • Policies or strategies. • Plans often lack specific action items or tasks.
Resource Framework	• Groundwater resources • Surface water resources • Land resources	Varies, depends on if the document is a land use plan or a more holistic comprehensive plan. Varies with type and needs of local government.
Implementation Strategies	Eight general strategies – Administration, education, monitoring, inventory/mapping, land & water treatment, regulations, technical staff, and equipment.	ZONING . . . Many other implementation tools are available (and used). Subdivision regulations, capital improvement program, official mapping . . . (See box, page 12.)
Resource Inventory	Water covers 5 percent of the state.	Land covers 95 percent of the state (includes wetlands).
Resource Ownership	Water is generally considered a public resource.	Mix of landholder types – from private (individuals, businesses and industry), to non profits and community groups, to public (local, special purpose, state, federal).
Statutory Framework	“Modern” – generally in one location. Chapter 103.	“Antiquated” – provisions located throughout the statutes. Chapters 462, 394, 365, 473, 505 . . .

To address the key issues, participants brainstormed potential projects and actions. These ideas are now under consideration by the lake association as they prepare the lake management plan. In addition, many people volunteered to help implement the projects that they were a part of creating.

Perhaps the most notable accomplishment of the day was the spontaneous response by the property owners after the meeting. Citizens

pledged \$9,300 to buy a new weed harvester. What a great accomplishment. People working together can make a difference.

Recommendations

We have a pretty good sense as to what we should do to protect and restore our lakes and surrounding communities. Planning, be it land use or water, is simply a tool to help sort out and prioritize who should do what and when

and how it should be paid for. There are many things that citizens can do within the framework of local and state government and civic organizations to protect and improve our resources.

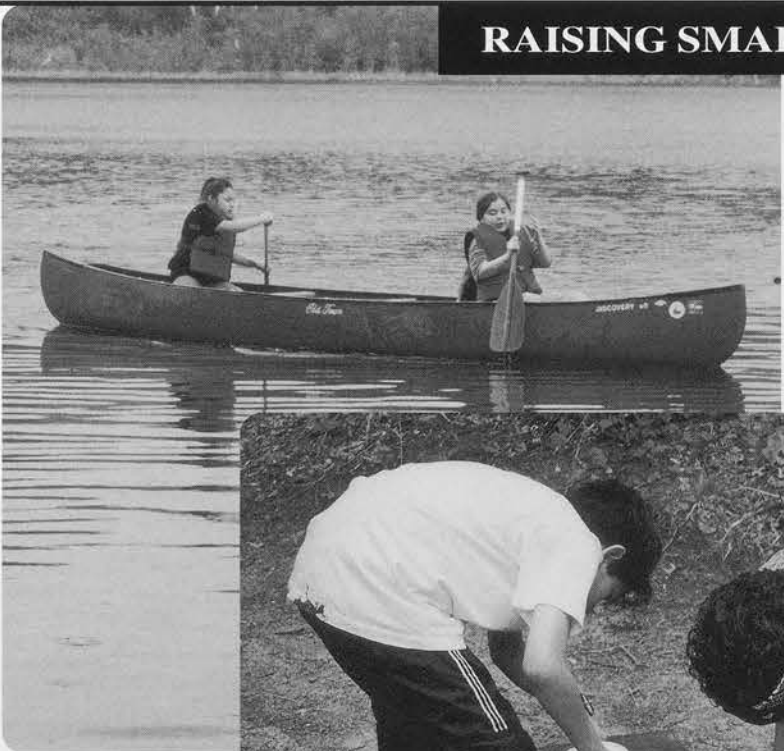
- Think through the bigger picture. What is really important to me? My community?
- Learn more about the public and private rights of land and water resources. See the suggested web sites.

(continued on page 19)

RAISING SMALL FRY

Environmental education in the Great Northwoods

DALE YERGER, DIRECTOR
DEEP PORTAGE CONSERVATION RESERVE



I am writing this as millions of American are lighting candles for world peace. Things have dramatically changed and we can't return to simpler times. Environmental Education lights an awareness in people of all ages. To understand our natural and human systems is the first step in conservation of what we have. We must save all the pieces and understand how they fit

together. Natural shorelines and peace and quiet of the great northwoods have faced many recent challenges. Are we protecting our present and making things better for the future?

skills and learn surprising connections everyday. Over our lifetime we become engaged with our world emotionally and spiritually and take ownership in its well-being.



Environmental education should create more stewards for our land, air and water. We can seek out the quiet and stillness in our everyday lives. We sharpen our observation

Shopping for environmental education

What textbooks and other teaching tools, curriculum and classrooms exist to teach conservation of the environment and natural resources, particularly our waters? If your lake association, river group or conservation club wants to deepen your understanding of the natural world, where can you turn for help? What if you want to foster water stewardship among school-aged youngsters in your community? If you're "on-line" or have access to the Internet (and maybe even help), a visit to www.seek.state.mn.us may answer those questions. There is a wealth of information available, waiting for motivated individuals and organizations.

Editor's choice of highlights – the environmental education centers I found by searching all the seek (Seeking Environmental Education Knowledge) partners in Minnesota listed as addressing agriculture, biodiversity, conservation, ecosystems, fish, lakes, rivers, stewardship, water and wetlands. There is one near you!

Other interesting stops – the Leopold Education Project, passing on the conservation ethics of often-quoted early conservationist/philosopher Aldo Leopold via teacher training workshops. Ditto for Minnesota Lakes Association's Integrated Ecology Curriculum (used by Pokegama Lake Association in Pine County and the Sauk River Chain of Lakes in Stearns), and Eagle Bluff's trout fishing camp and year-round water education.

RAISING SMALL FRY

Students take part in the Residential Environmental Education experience in centers such as Deep Portage Conservation Reserve. We have 6,307 acres, 20 miles of hiking/cross-country ski trails and a 54,000-square foot building that includes a dining hall, 27 bedrooms, great room, four classrooms and a 30-foot high indoor climbing wall.

Our program specializes in curriculum that focuses on forests, aquatics and wildlife. We also teach outdoor skills such as survival, skiing, snowshoeing and canoeing. Deep Portage is also a place where you can receive your firearm safety certificate or bowhunters safety card as part of a Minnesota Deer Hunters Association-sponsored summer camp. Our mission is to promote a more environmentally literate citizenry of its own volition. At the core of every activity is stewardship.

The environmental issues of Minnesota are not as dramatic as a place like Chesapeake Bay. Discussion often takes the form of long-term debate. We are



apparently not running out of time. We should ask ourselves whether we are giving our children a better world. Are Minnesota's natural shorelines, wetlands and forests being handed down in the same or better condition to the next generation? This is the essence of Environmental Education. Can a person's stewardship of Minnesota ultimately cause him/her to make decisions, however small, to pass on a better world? If we are not handing along a better world, then we are not making good decisions.

Many children who attend programs at Deep Portage are economically



disadvantaged. Recently the Blandin Foundation made grants to seven schools so that a more diverse population could attend an overnight experience at Deep Portage. Our goal is to keep our tuition as low as possible to ensure that everyone has access to our programs. Being able to attend an overnight program or camp is essential in a child's growth and development. Support for environmental education is a good measure of a community's dedication to itself.

Minnesota has many excellent environmental education centers. We have more E.E. centers per capita than any other state, and a tradition of conservation and environmental education that is known across the country.

The education process always leads to change and action. Help support the environmental literacy of our people. Visit a center, sponsor a child, observe and become more connected to your environment. ■

River Watch monitors river health, gov't protection

Mississippi Headwaters Board (MHB), an eight-county Joint Powers Board on the first 466 miles of the Big River, lists project direction and management for the River Watch program among its many efforts to ensure economic and environmental well-being in the river corridor. In recognition that governments alone cannot protect a river, River Watch partners schools, government at all levels, nonprofit organizations and the private sector in a scientific ambient water quality collection and monitoring program, established according to scientific methods and standards set by the U.S. Environmental Protection Agency. Nine physical-chemical indicators of water quality, and surveys of biotic communities of the river provide a comprehensive picture of the river's health.

MHB works in Minnesota with PCA, DNR, the Nielsen-Spearhead Center, a growing list of river-community high schools and the Charles K. Blandin Foundation. MHB's River Watch operates in connection with the national River Watch Network, which developed this model of community-based river monitoring and protection and which has organized 28 similar programs in 12 states.

WASTE NOT



The first meeting of the LGA Board of Directors was held November 11, 2000. Seen here: Bridget Chard, Mike Couri, Don Sherper and President Jim Fisher. The organization came into existence when townships banded together to effect annexation law reform. Current membership is from among 77 of Minnesota's 1792 townships, and interest is growing.

So, what do these three ideas have in common and how do they work together? We'll begin by explaining what the words mean and then connect the dots for you in this article. The first term is "LGA" which does not mean "local government aid," as most people know it. Instead, it stands for an organization called the *Local Government Alliance*, a group of Local Governmental entities in an Alliance for a purpose.

In August of 2000, after yearlong discussions and dialogue with townships around the state, a group of townships formed an alliance to work together for a common purpose. To date, they are now approximately 75 townships strong with more joining the efforts every day. This is a new, nonprofit lobbying organization whose mission is to achieve annexation reform and to provide balance and equity for its rural citizen

residents. LGA has been working with lobbyist Chuck Brown, a former legislator from Appleton, Minnesota, to represent these townships' interests at the legislature. Brown has always been a strong supporter and advocate of Township government, the "local decision-making level," and feels strongly that annexation laws must be changed to protect local governments and their work with residents.

But this is no ordinary lobbying organization where everyone goes home and waits for Brown to do all the work. In fact, the mission of this group is to build a truly grassroots lobbying organization in which local officials and their rural residents will form and build solid linkages to support the efforts of locally elected senators and representatives to pass annexation reform that serves all of the State's constituencies equally.

Townships and residents can have a significant impact on the legislative process if we pool all of our resources and make our views known to elected representatives. Each of us needs to take a small part, either by a phone call, letter, email, fax, or face-to-face, to educate and help them make better decisions. If you are called upon to do this, you will be in good company since the townships

LGA, wastewater & the right to vote

BRIDGET CHARD
SMALL COMMUNITIES
PROJECT COORDINATOR

in this organization represent approximately 100,000-plus people in this state.

"Wastewater" is the second word in this title. It seems that in the rural areas there has been an increased interest in the environment and the need to find ways to clean dirty wastewater and restore it back to the environment. Therefore, the focus has turned to management of wastewater systems. Areas of lake regions close to cities but not in them, and fringe areas around cities with growth and development have found themselves in the middle of this problem. While many residents and commercial interests have on-site wastewater systems, the size of their properties and the ages of their systems have brought about a need to find different answers other than on-site treatment. This has resulted in cluster and/or community wastewater systems and mixed in with this is an occasional on-site wastewater system by itself. The value of property has increased and the need to have a functional wastewater system is often required to even sell properties. Community systems near growth cities have increasingly come under attack because the commercial entities do want the service, but not the fear of becoming annexed into the city. Therefore, people in many areas have asked the townships to provide

services that they need. Townships have the necessary statutory tools to do this.

Despite this, forced annexation has often become a threat, for two reasons. One, the cities, with their stated needs to grow, believe that they can provide better services and amenities, while the rural townships residents wish only to have the services they request specifically. Two, when cities become aware of the townships offering these services, they immediately begin multiple different procedures to stop them.

Which brings us to the third term in the title, the "Right to Vote." In the Minnesota statutes, there is a little known legal connection that has begun to cause problems. It states that when the MPCA feels that there is a serious enough threat to the environment, the township can be ordered, by MPCA, to enter into a contract with the city for the needed services within 90 days. But this statute continues to say that at any time before those 90 days are up, the city

can just annex the area by resolution.

So what does this mean? It means that local governmental entities can do things without your right to vote on it. It means that in one evening and in five minutes, the decision to put you in the city, to pay city taxes and get all of the city's amenities, can be decided for you. It means that even if you protest, your protest has no meaning. This is where all three terms come together.

Many townships in the LGA do not have this problem, and there are many townships in the state that do "orderly annexation" agreement with their nearby neighbor cities, but just as many can and do wish to provide any and all services when asked. There is no need to change boundaries and be annexed to get wastewater services nor should others assume your rights. LGA is presently working on legislation for the very basic "Right to Vote" on this most serious issue for township residents. LGA representatives have been promised that a hearing will be held next year on this.

They are trying to build a grassroots organization that will have its voice heard at that hearing. Once they get this legislation passed, they will move on to change the legislature's laws to make the annexation rules, inclusive of other rules and their connections, more equitable. This is where your voice does make a difference.

In closing, these three words seemed to have nothing in common and yet they have much in common. It is hoped that you, along with all the rest of us, will help to find answers in the next years that will allow you to live where you wish, get only the services that you want, and pay only the taxes that you need to pay. After all, as the unattributed saying goes, "Only from the alliance of everyone working with each other are great things born!"

For further information on this subject and how you can help, contact your local elected township officials or the LGA Executive Administrator, Robert Ruppe, 1-800-316-1176.■

(continued from page 14)

Nonpoint education for municipal officials in Duluth Township, Minnesota

DIANE DESOTELLE
DESOTELLE CONSULTING, PLC, DULUTH, MN

GERALD SJERVEN
NATURAL RESOURCES RESEARCH INSTITUTE, DULUTH, MN

CINDY HAGLEY
UNIVERSITY OF MINNESOTA SEA GRANT PROGRAM, DULUTH, MN U OF MN EXTENSION SERVICE

Citizens and local decisionmakers of Duluth Township, a sparsely-populated township on the north shore of Lake Superior currently experiencing growth, are going above and beyond typical comprehensive land use planning and zoning ordinance updating. Through a Coastal Zone Management grant, they are also obtaining information and education about their natural resources and potential impacts of land use on those resources. Their goal is to use this educational process to help them adopt alternative land use tools that better protect their natural resources.

Nonpoint Education for Municipal Officials (NEMO), developed by the University of Connecticut's Cooperative Extension System, uses education and technical assistance to protect water quality by linking land use decisions to nonpoint source pollution. NEMO has successfully demonstrated

that education of local officials, supported by computer and GIS technology, can catalyze natural resource protection at the local level. GIS-based data for soils, water resources, watersheds, land cover, and vegetation is combined with land use data on zoning, open space and property lines to create colorful GIS maps showing existing land use and potential land use patterns based on zoning ordinances. The program uses impervious surface estimates to help communities predict potential water quality impacts on their watersheds based on various growth scenarios.

This approach is best served when a community is undergoing land use decision-making and planning. It can help prevent land use problems, protect water quality, and provide for growth patterns that meet the community's needs and protect the community's natural resources.

- Get involved in your County's water planning process.
- Get involved in your community's land use planning and implementation process.
- Talk to state legislators about providing increased support for water planning.
- Tell your legislators to do something about the state land use laws.
- Go for it! What do you have to lose but good water?

Linking water and land use planning will require individual efforts as well as partnerships among our multiple layers of government in order to be truly successful. Building off of the water planning experiences, from county water plans to lake management plans, will be essential. The lake management planning process offers us a chance to build coalitions with the County's water plan and land use planning processes. Perhaps the insights and experiences from our water planning

endeavors can be a useful starting point to resurrect efforts to bring our state land use laws into the 21st century. Who knows, maybe our water will even get better. Stay tuned. Stay active. Stay focused.■

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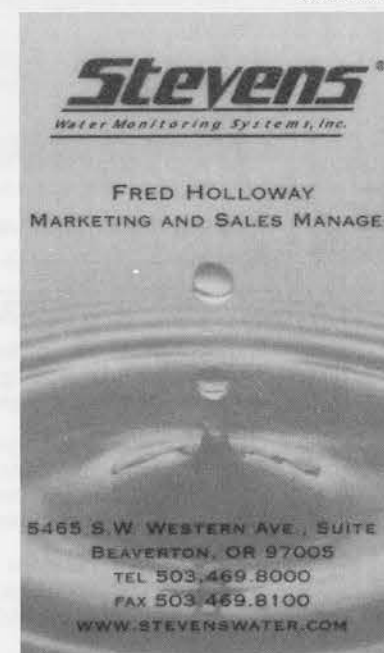
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News & Notes

KEVIN GUSTAFSON

MRBJPB hiring for the future

The Minnesota River Basin Joint Powers Board will be filling the vacancy left by the recent resignation of executive director, Steve Hansen. Despite financial challenges facing the organization, the decision was based on the desire to continue building on past efforts. MRBJPB is composed of one delegate and one alternate county commissioner from each of the 37 counties that are located in the river basin. The Joint Powers Board's mission is to coordinate the clean up of the Minnesota River.

MRBJPB has been instrumental in coordinating government and private groups in working together to improve water quality and overall natural environment in the river basin. MRBJPB assists by focusing scarce resources on the areas of greatest need, implementing the Citizen's Advisory

Committee recommendations, securing some of the Conservation Reserve Enhancement Program (CREP) funds, and leading the country in point and nonpoint source pollution reduction within an agriculturally important watershed.

Hansen resigned on August 6, 2001. He was the first executive director and had been with the Joint Powers Board for almost six years. He was formally recognized at the Sept. 17th board meeting. Major accomplishments during his tenure include establishing counties as leaders in the clean up effort within the basin, incorporating the major watershed groups within the formal structure and involving citizens in the restoration effort.

For more information on the Minnesota River Basin Joint Powers Board contact Diane Ovrebo, 952-361-6590 or by email at dovrebo@co.carver.mn.us. Meetings are

open to the public. Web information can be found at: <http://mrbdc.mankato.msus.edu>. Information on the Minnesota River basin: <http://www.pca.state.mn.us/water/basins/mnriver/index.html>.

State Water Program Reorganization Project

GRETCHEN SABEL
MINNESOTA EQB

This year's Omnibus Agriculture and Environment funding act required the Director of the Office of Strategic and Long Range Planning to develop a plan for the reorganization of state water programs and functions. Staff of the Minnesota Environmental Quality Board, with advice from their Water Resources Committee, began work on the project in early July. The project team includes Peder Otterson,

NEWS & NOTES

Michael Tietz, John Wells and Gretchen Sabel.

Three goals are to be met in the plan:

- All specific plans and implementation projects should be coordinated with and relate to an overall water management plan.
- Similar programs and functions should be assigned to a single agency when feasible.
- Inherent conflict of interest should be avoided.

The plan is to ensure regulatory efficiency and program effectiveness. The project provides opportunity for Minnesotans to consider how water resource needs are met within the current organization, and whether or not changes could improve water management. It focuses only on reorganization of state water program, and is not looking at local or federal programs.

Three work projects are to be submitted to the Legislature in this project:

Delivered August 15 – A chart of current water programs and functions of state government has been submitted to the Legislature. It lists:

- A description of the program
- The full-time equivalents (FTEs) of staff assigned to the program
- A summary of outcomes of the program.

The chart assigns the programs to functional categories to help in understanding where similar functions were housed in more than one agency. The chart and supporting text are available on the Minnesota Planning website at <http://www.mnplan.state.mn.us/eqb/water/>.

Due November 15, 2001 – A preliminary plan for reorganizing state water programs and functions, to include a chart showing proposed reallocation of programs, functions and FTEs to agencies and a summary of outcomes expected from each program.

Due February 15, 2002 – A final plan with chart and draft legislative language to accomplish the reorganization, which may be staged over a number of years.

Legislators have indicated that they will

hold hearings on this project in early winter, after submittal of the preliminary plan. Public testimony will be taken during those hearings. Or send in your comments, thoughts or ideas on this project via the EQB's Water Website listed above, by email to peder.otterson@state.mn.us or gretchen.sabel@state.mn.us, or in writing to: Water Reorganization Project, Minnesota Environmental Quality Board, 300 Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155.

MPCA mag focuses on the waters this fall

A year ago, in an effort to streamline public information efforts and elevate public awareness of pressing environmental issues, the PCA rolled its previous publishing efforts into one quarterly news magazine, *Minnesota Environment*. Its Fall 2001 effort has a water theme, every-

thing from CLMP to TMDLs will be addressed (for those acronym-challenged readers, that's Citizens Lake Monitoring Program to Total Maximum Daily Loads).

Well-educated citizens, in addition to minding their own eco-impacts, elect officials who are knowledgeable about sustaining human life and healthy ecosystems, and willing to finance same. PCA's info-pipeline can heighten the already growing public sentiment for good stewardship of the natural world. (You ought to see the Spring '01 issue, with its theme of transportation, cars and fuels!) PCA encourages reproduction of *MN Environment* articles. No permission is needed. Despite its use of environmentally friendly soy-based ink and 100%, chlorine-free, recycled paper, PCA also encourages readers to access the magazine on-line which, some contend, has a reduced environmental impact, www.pca.state.mn.us. ▶

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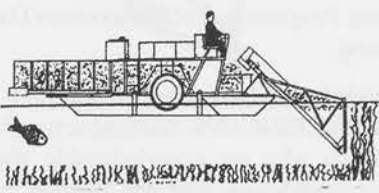
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NEWS & NOTES

Lower Miss group produces farm bill issues paper

Farmer's choices of resource management practices are affected by economic incentives that arise both from the market place and public policies for agriculture.

Better ag policymaking will need to identify disincentives to the use of best management practices in current laws and rules, to determine whether existing conservation programs effectively appeal to the full range of agricultural producers and landowners—from large corporate farms to hobby "farmettes," to find new incentives besides traditional cost-sharing, and to provide incentives to long-lasting changes in conservation practices instead of short-lived changes dependent on external funding source. These recommendations arise from the 2001 Basin Plan Scoping Document's strategy to "Improve Conservation Incentives."

From the Basin Alliance for the Lower Mississippi in Minnesota's Issues Paper #1: The Federal Farm Bill.

National push for conservation in farm policy

The Soil and Water Conservation Society urges Congress and the Bush Administration to enact a new farm bill with more emphasis on rewarding farmers and ranchers for conservation efforts and less on what they produce, suggesting that while most Americans appreciate abundant, safe, affordable food, they are becoming just as concerned about healthy soil, clean air and water, and improved fish and wildlife habitat and that new policy should reward all farmers and ranchers for work as caretakers of much of the nation's land, water and wildlife.

"Seeking Common Ground for Conservation, A Farm Bill Proposal: Responding to the Grassroots" prepared by farmers, ranchers and conservationists for the 2002 farm bill, calls for at least \$8 billion annually—about double the current level—to help farmers and ranchers produce in environmentally friendly ways, for farm policy to depart from providing only commodity program subsidies and provide payment for investing land, labor and capitol in a better environment.

The SWCS report (www.swcs.org or email to pubs@swcs.org) also recommends creating a Conservation Partner Fund to allow states greater flexibility in use of USDA programs and funds, simplifying delivery to landowners, expanding federal land retirement programs (especially for conservation buffers) and continuing conservation compliance provisions for participants in federal commodities programs.

It's about good manners

At their annual meeting last year, 2018 acre Turtle Lake's Association passed a resolution asking Itasca County to create a slow-no wake zone for narrow, sensitive Newburg Bay. The County Board tailored the language and passed protection only for the entry channel.

This year, TLA resolved its nonsupport for the limited zone, and to curb its spending for signs and buoys unless the ordinance is amended to include the entire bay. It also resolved to carry out an aggressive campaign to "establish a code of behavior for all Turtle Lake users to voluntarily respect a 150 foot 'Nearshore Courtesy Zone' on the entire lake."

Becker County sparkplug retires with honors

Phyllis Onsgard, president since 1997 of the decade-old Becker County Coalition of Lake Associations, tells the story of her career as a political activist in a recently released publication, *Minnesota Women in Politics* (NorthStar Press, available at Barnes and Noble).

Always a cheerleader for citizen involvement, Onsgard's advice to water stewards learning the ropes of wielding influence boils down to honing communications skills. While she acknowledges the need for and, to some extent, the usefulness of electronic and phoned communications with elected officials, she urges water stewards to cultivate face-to-face relationships with their representatives.

Also close to Onsgard's heart is the importance of transcending party affiliations to devise widely embraceable plans for water management.

NEWS & NOTES

Becker County COLA has been working to ensure adequate environmental review prior to approval of proposed developments, especially of Planned Unit Developments, on undeveloped lakeshores. Concerned about the potential erosion and runoff from construction and use on fragile lakes, Onsgard has pointedly questioned the

ethics of developers (and their "Twin City attorneys") who push for plat approval during the cold seasons, when many water quality activists are out of state. Phyllis was warmly feted at a COLA gathering in late June as she passed the gavel to her successor, Lanny Brantner, an event noted by local newspapers.

AROUND THE LAKES

Tues., Nov. 13, 8:30-11:30 a.m. and 1 p.m., **Grantwriting workshops** hosted by the Initiative Foundation, a rare opportunity to hear professional writers and reviewers present techniques for creating effective grant proposals. \$25. Register by Nov. 1. Call Leah Posterick, 320-632-9255 or lposterick@ifound.org.

Sat., Nov. 17, **Audubon Minnesota's Environmental Issues Committee**

will meet in St. Paul's Macalester-Groveland neighborhood to strategize 2001 legislative issues. Audubon concerns often mesh with water stewardship. On the list: phosphorus in fertilizers, Off-Highway Vehicles, con-con lands, conservation law enforcement, wildlife management areas, and MPCA and frogs. Voting open to members. Membership open to all. For info. call Betsy Daub, 651-225-1830.

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