



Minnesota Board of Water and Soil Resources.
Minutes.

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April 2002

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**BOARD WATER AND SOIL RESOURCES
ONE WEST WATER STREET
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55107
APRIL 24, 2002**

BOARD MEMBERS PRESENT: Lee Coe, Jerome Deal, Clair Nelson, Dwain Otte, Victor Ormsby, Char Kahler, Ginny Imholte, Dan Wilson-MDH, Sharon Clark-MDA, Darrell Bruggman, Jack Frost, Wayne Edgerton, Paul Krabbenhoft, Lisa Thorvig-PCA, Karen Harder

BOARD MEMBERS ABSENT: Jim Anderson-MES, JoAnn Coover

STAFF PRESENT: Ron Harnack, Mary Jo Anderson, Jim Haertel, John Jaschke, Doug Thomas, Tammy McGlone, Jeff Nielsen, Jim Haertel, Ron Shelito, Al Kean, Marybeth Block

OTHERS PRESENT:
Tim Gieseke, MACDE
Sandy Hooker, MAT
Dave Weirens, AMC
Konrad Koosmann, Washington SWCD
Tim Koehler, NRCS
Ray Bohn, MAWD

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

Pledge of Allegiance

**** Adopt Agenda** – Moved by Char Kahler, seconded by Jerome Deal, to approve the agenda as presented. Motion passed on a voice vote.
02-27

**** Minutes of March 27, 2002** – Moved by Jack Frost, seconded by Sharon Clark, to approve the minutes of March 27, 2002, as circulated. Motion passed on a voice vote.
02-28

Open Mike

Joe Duggan, Vice-President, and Howard Vincent, CEO, of Pheasants Forever, presented the "Dedication Award" to Ron Harnack for his dedication, leadership, vision, and implementation of the Conservation Reserve Enhancement Program (CREP). Howard Vincent, presented the "Recognition Award" to BWSR for CREP efforts at the state level. Chair Coe accepted the award on behalf BWSR. Ron accepted the award and thanked Pheasants Forever. Ron stated that the success of CREP is a reflection of many people's efforts acting in partnership. He believes that these partnerships will lead to continued conservation enhancements through the State. Chair Coe thanked staff for their efforts.

Reports

Chair's Report – Lee Coe attended the EOB meeting on April 18 and reported on the discussion and decisions that were made at the meeting.

Executive Director – Ron Harnack stated that the legislative session continues. He anticipates additional budget reductions for BWSR. He gave an update on bonding; the Hennepin Conservation District referendum, and the Federal Farm Bill. Ron will work with Chair Coe to appoint a committee to work with FSA on the CREP initiative proposal. Ron encouraged board members to look at BWSR's web site. Ron stated that the electronic mailing of the board meeting notice will continue; however a hard copy of the notice will be sent to board members next month. Board members were asked to contact Mary Jo Anderson with their comments or problems regarding electronic correspondence.

Dispute Resolution Committee (DRC) – Chair Coe stated that the DRC status report will be sent as part of the Board packet each month. Ron Harnack stated that the appeals will be looked at more critically and with greater discretion due to the number of appeals that are being submitted. More and more they are not

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related to WCA, but are local land-use issues. Ron Harnack introduced Ron Shelito, northern region supervisor, and Jeff Nielsen, southern region supervisor. Both briefly talked about issues in their region.

Ron Harnack announced that a CREP celebration is being planned to recognize the partners in achieving the 100,000 acres. A brief ceremony will be held June 25 on-site in Mankato with a dinner to follow, invitations will be sent.

Wetland Committee – Darrell Bruggman distributed a news release on the court rulings affirming the state's wetland law.

Cost-Share/Soil Conservation Committee – Dwain Otte reported that the Grants Team met on April 4. The Cost-Share Committee will meet after the Legislature adjourns.

Education/Public Relations Committee – Paul Krabbenhoft thanked staff for the greatly improved BWSR web site. Paul reported that the Education/Public Relations Committee met yesterday with the Minnesota Extension Service (MES) as a result of the survey MES sent out, to look at what environmental education issues should be addressed. The ideas discussed will be reviewed and presented to the Board in May. The Education/Public Relations Committee will meet prior to the next board meeting.

Agency Reports

Sharon Clark, Minnesota Department of Agriculture (MDA) reported that MDA is awaiting the outcome of the Legislature. Sharon thanked Ron Struss and Paul Krabbenhoft for the good education meeting yesterday. MDA will start an education program January 1, 2004, regarding the new phosphorus bill. Sharon reported that the Organic Certification Program is doing well; \$35,000 is available for applications. MDA is working with PCA on a memorandum of understanding regarding feedlot regulations. The Watershed Heroes Conference to be held June 19-21, board members are encouraged to attend. MDA will provide lab tours to see the good bugs/bad bugs program. Sharon congratulated Karen Harder on her appointment as chair of the environmental advisory committee for the City of Minneapolis.

Dan Wilson, Minnesota Department of Health (MDH), reported that MDH completed the statewide survey of well code instructional/feedback meetings. MDH is looking at changing continuing credit units for contractors. The well code rules have been evaluated regarding isolation distances for untested septic systems. MDH anticipates the rule to be in place by July 2003.

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Wayne Edgerton, Department of Natural Resources (DNR) reported that the ConCon bill is on the House agenda tomorrow, it has passed in the Senate. Wayne reported that Chronic Wasting Disease (CWD) has been found in deer in Wisconsin. DNR is working with MDA, MDH, and the Board of Animal Health on the importation issue. He also presented information on West Nile Virus, which is transmitted through mosquitoes. Wayne reported that the rotational grazing system at the Nerstrand Dairy Farm will have open house May 25, July 21, and Aug 24. Board members are invited to attend.

Lisa Thorvig, Pollution Control Agency (PCA), reported that Congress is interested in the state revolving fund for wastewater infrastructure and drinking water funding. Lisa reported that PCA is being required to revise its project priority list criteria for funding unsewered communities. She also reviewed PCA's rulemaking activities. Lisa reported that stakeholder meetings are being held statewide regarding stormwater waste treatment permit program. PCA is concerned with the issue of waters definitions of the state. Wetlands is also an issue. Lisa stated that as a result of the PCA legislative audits regarding funding and water quality points program, PCA is looking at alternatives to provide more dollars to fund water programs. Discussion followed regarding the need for state water resources priorities, funding and coordination to be addressed; maybe BWSR could be the forum. Lisa reported that she will be a speaker at the Watershed Heroes Conference.

Committee Recommendation

Northern Water Planning Subcommittee

- **
02-29 Grant County Request for Comprehensive Local Water Plan Extension – Moved by Ginny Imholte, seconded by Jerome Deal, to approve the Grant County Comprehensive Local Water Plan extension request to December 31, 2004. Motion passed on a voice vote.

Chair Coe called for a break at 10:55 a.m. The meeting reconvened at 11:10 a.m.

New Business

- **
02-30 Washington Soil and Water Conservation District Name Change – Jim Haertel introduced Konrad Koosmann, Washington SWCD manager. Staff recommends approval of the request to change the name to the Washington Conservation District. Moved by Victor Ormsby, seconded by Jack Frost, to approve the request to change the name of the the Washington Soil and Water Conservation District to "Washington Conservation District." Motion passed on a voice vote.

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Information and Discussion

LCMR Initiatives – Doug Thomas presented the 2003 LCMR Proposals.

- Rock for Shoreline Stabilization and Safe Harbor Construction (\$5,264,000)
- Local Water Planning Matching Challenge Grants (\$3,650,000)
- Water Management Training for Local Officials and Staff (\$266,779)
- Updating Outmoded Soil Surveys; Improving Existing Soils Data (\$650,000)
- USDA Aerial Photo Preservation and Digital Cataloging (\$855,800)
- Inventory and Records Modernization of Public Drainage Systems (\$1,388,875)
- Lakeshore Easement Program (\$5,000,000)

Sharon Clark stated that MDA is partnering with FSA on digitizing GIS material overlays of land base for tornados. She invited BWSR to be a part of this partnering effort.

Biennial Budget Process 2004-05 – Tammy McGlone presented the biennial budget process for 2004-05 (June 30, 2003 to July 1, 2005). The Department of Finance sets the deadline process, agency profiles must be ready by May 30, with the reality of anticipated budget reductions. Tammy distributed information. Doug Thomas presented the BWSR 04-05 budget initiative areas to be discussed in the biennial budget process, doing less requires reforms and changes. An inter-agency budget discussion relating to water issues, needs, priorities, in the near future would be beneficial for the Board. Chair thanked Doug and Tammy for their presentation.

WCA Rule Hearing Update – John Jaschke gave an update on the wetland rule process. John thanked Dan Eklund for his time and efforts working on the proposed rules. Ron Harnack thanked the wetland staff and committee for their efforts on the rule process.

Advisory Comments

Tim Gieseke, MACDE, distributed a directory of the MACDE officers. The MACDE summer conference is June 26-28 at the Radisson Arrowwood in Alexandria. Tim reported that he, Rick Reimer, and Paul Kalass, MACDE employees, are representatives on national committees/board.

Sandy Hooker, MAT, stated that septic systems issues and solutions are a big issue in townships.

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Ray Bohn, MAWD, stated that MAWD has been involved with legislative issues relating to bonding priorities, drainage, and MNDOT issues. MAWD looks forward to working with BWSR on LCMR initiatives. The MAWD Summer Tour will be held June 27-29; board members are invited to attend.

Tim Koehler, NRCS, gave a brief Farm Bill update. NRCS anticipates supplemental conservation funding this year. A third-party vendor meeting was held April 15, information will be submitted to Washington for the formulation of rules for the third-party vendor. Tim stated that he would like to be involved in water resource coordination discussions.

Dave Weirens, AMC, stated that budget reductions will affect the counties. What is happening to state partners will force everyone to look at what is happening and how to deal with less. AMC will hold a land use forum in August.

Upcoming Meetings

- Next BWSR meeting May 22, St. Paul
- BWSR Meeting June 26, Mankato
- BWSR Tour and Meeting, July 24-25, Kandiyohi County
- BWSR Meeting, August 28, St. Paul
- BWSR Meeting, September 25, in conjunction with the Local Water Planners Conference, September 23-25, Hinckley

** Moved by Clair Nelson, seconded by Dwain Otte, to adjourn the meeting at 12:30
02-31 p.m.

Respectfully submitted,



Leland Coe
Chair

Dispute Resolution Report
April 11, 2002

There are presently nine appeals pending, which is the same amount as the last report. However, since the last report two new appeals have been filed and two appeals were denied (Wright and Douglas Counties). All of the appeals involve WCA.

The most recent appeals are of a replacement plan approval in Brooklyn Center for a highway project. The Shingle Creek WMO made the WCA decision. Two appeals have been filed on the project. No decision has been made on accepting the appeals.

Another appeal involves an exemption determination in Maple Lake. A cease and desist order was issued last June, an exemption was approved and then appealed. Under appeal the matter was remanded to the city for a TEP and the exemption was approved again. The recent approval was appealed. The appeal is being remanded again since the TEP did not involve the city or an on-site investigation.

There is an appeal of the Board's remand to Mower County regarding a landfill site. Under remand, the county denied an application for no-loss. The appeal has been accepted and a pre-hearing was held on April 11. The DRC will likely hear the matter in early June.

Another appeal is of an exemption determination in Hennepin County. The appeal involves a horse barn that is already built. The appeal has been accepted and a hearing was scheduled, but the briefing schedule is now on hold since a replacement plan application has been approved.

Another appeal involves the Board's remand to McLeod County. Under remand, the county approved an agricultural exemption. The appeal has been accepted but a pre-hearing has not been scheduled.

Another appeal is of a replacement plan denial in Stearn's County. The appeal involves a single family dwelling site near the Mississippi River. The appeal has been accepted and is being held in abeyance since the landowner is exploring his options with the county.

Another appeal involves a wetland banking site in Chisago County. The appeal has been accepted and is being held in abeyance to see how the site looks this spring.

Another pending appeal is in LaCrescent along the Mississippi River in Houston County. The replacement plan denial arose from a cease and desist order and a restoration order. The appeal has been accepted and a hearing is scheduled for May 6.

Committee Recommendation

Northern Water Planning Subcommittee

1. Grant County Comprehensive Local
Water Plan Extension

DECISION

GRANT COUNTY COMPREHENSIVE LOCAL WATER PLAN (FOR BOARD ACTION)

Grant County has a Comprehensive Local Water Plan (CLWP), which was approved, by the Minnesota Board of Water and Soil Resources and locally adopted via county resolution in 1995. The effective date (end date) of this CLWP is December 31, 2002.

The 1995 amendments to the Comprehensive Local Water Management Act, M.S. 103B.301, gives the Board of Water and Soil Resources authority to grant extensions to counties for the purpose of extending the ending date of their water plans. These extensions must be requested in writing and cannot be for more than two years.

At their December 15, 1999, board meeting, the BWSR approved a local water planning document which addressed BWSR expectations, internal actions and multi-planning strategies. Multi-planning strategies addresses granting justify CLWP extensions to counties where other planning efforts (water or watershed level) are currently underway. These other efforts require the input of the water planner and associated technical advisors in the county. Completion of other water planning efforts would benefit the CLWP update.

Grant County is an active player in several watershed level planning efforts currently underway: Chippewa River Watershed Project; the Pomme de Terre River Watershed and the Bois de Sioux Watershed District Plan. Because 80 percent of Grant County's land area is in agricultural production and the Federal Farm bill is not yet finalized and will certainly influence agricultural land use.

Board Conservationist Pete Waller recommends approval of Grant County's two-year extension request to December 31, 2002.

**RESOLUTION REQUESTING EXTENSION
OF
GRANT COUNTY COMPREHENSIVE LOCAL WATER PLAN**

WHEREAS, Grant County has a Comprehensive Local Water Plan (CLWP) which was first approved by the Minnesota Board of Water and Soil Resources in May of 1990. The second generation CLWP was adopted on January 21 1998. The effective date (end date) of this CLWP is December 31, 2002.

WHEREAS, the 1995 amendments to the Comprehensive Local Water Management Act, M.S. 103B.301, gives the Minnesota Board of Water and Soil Resources (BWSR) authority to grant extensions to counties for the purpose of extending the ending date of their water plans. These extensions must be requested in writing and cannot be for more than two years.

WHEREAS, Grant County is actively involved in several watershed level planning efforts currently underway and would request the full extension to work through the following projects: The Pomme De Terre River Watershed Project, The Chippewa River Project and the Bois De Sioux Watershed Plan.

WHEREAS, These watershed scale planning efforts will result in information that will benefit the county in updating the CLWP.

WHEREAS, 80 percent of the land area in Grant County is in agricultural production and legislation relating to agriculture in the form of a Farm Bill is very important to the direction Grant County pursues in implementing Best Management Practices to improve and protect water quality through the CLWP. Congress is currently in the process of writing legislation for a new Farm Bill which will be in effect for five to ten years. However the final rules for this new legislation may not be distributed to the county level for up to two years.

WHEREAS, To continue as an active participant and obtain information from watershed planning efforts and new Farm Bill legislation that will benefit the CLWP update, Grant County will not be able to complete its CLWP update prior to December 31 2004.

NOW, THEREFORE, BE IT RESOLVED, that the Grant County Board of Commissioners request from the BWSR a two (2) year extension of their existing CLWP.

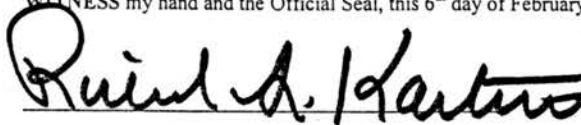
BE IT FUTHER RESOLVED, Grant County will insure continued public participation in the form of the County Environmental Advisory Council and public informational meetings.

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

Motion by Commissioner Foss and

Commissioner Wagner seconded the adoption of the resolution and it was declared upon the following Ayes 5 Nays 0.

WITNESS my hand and the Official Seal, this 6th day of February, 2002.



Dr. Richard Kastner Chairman, Grant County Board of Commissioners

DRAFT

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

DRAFT

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

Whereas, Grant County has a state approved Comprehensive Local Water Plan that is effective until June 30, 2002 pursuant to Minnesota Statute 1990, Section 103B.301, and

Whereas, the Grant County Board of Commissioners requested an extension of the Comprehensive Local Water Plan to the Board of Water and Soil Resources, pursuant to Minnesota Session Law 1995, Chapter 184, Section 24, and

Whereas, the Board of Water and Soil Resources has authorization to grant extensions pursuant to Minnesota Session Law 1995, Chapter 184, Section 24.

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

FINDINGS OF FACT

1. On February 14, 2002, the Board of Water and Soil Resources received a resolution from Grant County requesting an extension of their Comprehensive Local Water Plan.
2. On March 21, 2002, the Board of Water and Soil Resources staff reviewed and recommended approval of the extension request by Grant County.

CONCLUSIONS

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

ORDER

The Board of Water and Soil Resources hereby approves the extension of the Grant County Comprehensive Local Water Plan until December 31, 2004. Dated at St. Paul, Minnesota, this 24th day of April, 2002.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Leland Coe, Chair
April 24, 2002

New Business

1. Washington Soil and Water
Conservation District Name Change
DECISION

RESOLUTION NO. 02-01

WASHINGTON SOIL AND WATER CONSERVATION DISTRICT
BOARD OF SUPERVISORSRESOLUTION IN SUPPORT OF CHANGING THE NAME OF THE WASHINGTON SOIL AND
WATER CONSERVATION DISTRICT

Supervisor McConnell offered the following resolution and moved its adoption; seconded by Supervisor Rydeen.

WHEREAS, the Washington Soil and Water Conservation District was formed in accordance with MN Statutes,

WHEREAS, the Washington Soil and Water Conservation District changed its name from the Washington County Soil and Water Conservation District to its present name. The previous name change was intended to shorten and simplify the organization's name,

WHEREAS, Washington County has become increasingly urban in nature and the operations of the District do not solely focus on traditional agricultural "soil and water" conservation practices. And the Mission of the Washington SWCD is to provide quality technical and educational services for the enhancement protection and conservation of natural resources for the citizens and local government units of Washington County,

WHEREAS, the Washington Soil and Water Conservation District provides a broader scope of conservation services than the name implies,

WHEREAS, these contemporary conservation services implement state policy to protect public lands, preserve natural resources, control floods, protect the tax base, preserve wildlife, and conserve soil and water resources,

WHEREAS, the State of Minnesota has contemplated and allowed name changes for soil and water conservation districts through State Statute 103C.215,

WHEREAS, an Attorney General's opinion has determined that a "soil conservation district could change its name...and it would not be necessary that the word "soil" or the word "water" be included as part of the name,"

WHEREAS, the Washington Soil and Water Conservation District wishes to change its name to reflect the broader conservation services it provides,

NOW, THEREFORE, BE IT RESOLVED, that the Washington Soil and Water Conservation District change its name to the Washington Conservation District.

The question was on the adoption of the Resolution and there were four (4) yeas and one (1) absent as follows:

	<u>Yea</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Smallidge	X			
Rydeen	X			
Bischoff				X
McConnell	X			
Johnson	X			

Upon vote, the Chair declared the Resolution passed.

IN TESTIMONY WHEREOF, I set my hand this 13 day of March, 2002.

Mary McConnell
Mary McConnell, Secretary

DRAFT

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

DRAFT

In the Matter of the name change for the
Washington Soil and Water Conservation
District, pursuant to Minn. Stat. § 103C.215

**ORDER
NAME
CHANGE**

Whereas, Washington Soil and Water Conservation District Resolution No. 02-01 dated March 13, 2002, was adopted by a majority of the Board of Supervisors, and;

Whereas, Resolution No. 02-01 seeks to change the name from the Washington Soil and Water Conservation District to the Washington Conservation District, and;

Whereas, Minn. Stat. § 103C.215 allows a soil and water conservation district name change when a resolution stating the new name is adopted by a majority of the Board of Supervisors, and;

Whereas, the Board of Water and Soil Resources has proper jurisdiction to change the name of a soil and water conservation district.

Now Therefore, the Board hereby makes the following Order.

ORDER

The name of the Washington Soil and Water Conservation District is hereby changed to the Washington Conservation District pursuant to Minn. Stat. § 103C.215.

Dated at Saint Paul, Minnesota this _____th day of April, 2002.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Leland G. Coe, Chair

**WASHINGTON CONSERVATION DISTRICT BOARD OF SUPERVISORS
WASHINGTON COUNTY, MINNESOTA**

DATE May 22, 2002

RESOLUTION NO. 052202

MOTION BY Mary McConnell

SECONDED George Rydeen

.....

Resolution Establishing Districts for Washington Conservation District Supervisors

Whereas, M.S. 103.311 Subdivision 2 states, in the counties of Ramsey and Washington, the District Board, with the approval of the State Board, may, by resolution, provide that supervisors will be elected by supervisor districts as provided in this subdivision and;

Whereas, a resolution that supervisors will be elected by supervisor districts was adopted by the Washington Conservation District Supervisors at their March 13, 2002, Board Meeting and;

Whereas, the Board Of Water and Soil Resources (BWSR) approved this resolution at their March 27, 2002, Board Meeting and;

Whereas, M.S. 204B.14 requires the districts must be drawn by the County Board of the county containing the largest area of the soil and water conservation district, in consultation with the District Board and with approval of the State Board and;

Whereas, on May 22, 2002, the Washington County Board adopted the following Commissioner District Plan for Washington County to be effective in accordance with M.S. 375.025

Washington County County Commissioner Districts shall be designated as follows:

District 1: City of Birchwood; City of Dellwood; City of Forest Lake; City of Grant; City of Hugo; City of Mahtomedi; City of Marine-on-St. Croix; New Scandia Township; City of Pine Springs; City of White Bear Lake and City of Willernie.

District 2: City of Lake Elmo; City of Landfall; City of Oakdale and City of Woodbury Precincts 3, bounded on the north by I-94, on the west by Radio Drive (County Road 13) and Woodbury Drive (County Road 19), on the south by Tamarack Road, the 834/833 school district boundary and Valley Creek Road, on the east by Manning Avenue (State Highway 95) and 12, bounded on the north by the 833/834 school district boundary and Valley creek Road, on the west by Woodbury Drive, on the east by Manning Avenue, on the south by Bailey Road.

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Bd. of Water & Soil Resources
St. Paul

District 3: City of Afton; City of Bayport; Baytown; City of Lakeland; City of Lakeland Shores, City of Lake St. Croix; May Township; City of Oakpark Heights; City of St. Mary's Point; City of Stillwater; Stillwater Township; and West Lakeland Township.

District 4: City of Cottage Grove; Denmark Township; Grey Cloud Island Township; City of Hastings; City of Newport; and City of St. Paul Park.

District 5: City of Woodbury Precincts 1,2,4,5,6,7,8,9,10,11 and 13 (that part of Woodbury not contained in District 2).

Now, therefore be it resolved, that the Washington Conservation District Board of Supervisors adopts the same District Plan as described above for the Washington Conservation District to be effective in accordance with M.S. 204B.135;

Resolution adopted this 22nd day of May 2002.

Supervisors for: Smallidge, McConnell, Rydeen

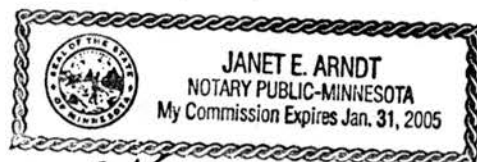
Supervisors against: 0

Supervisors absent: Bischoff, Johnson

CERTIFICATION

I certify this to be a true and correct copy of Resolution No. 052202, adopted by the Washington Conservation District Board of Supervisors on May 22, 2002.

Janet E. Arndt 052202
Notary Date



Signed: Louise Smallidge
Louise Smallidge
Chair, Washington Conservation District

Signed: Konrad Koosmann
Konrad Koosmann
Manager, Washington Conservation District

Information and Discussion

3. WCA Rule Hearing Update



Central Office: One West Water Street ■ Suite 200 ■ Saint Paul, MN 55107 ■ Phone: (651) 296-3767 ■ Fax: (651) 297-5615

April 9, 2002

Honorable Steven Mihalchick
Administrative Law Judge
Office of Administrative Hearings
100 Washington Square, Suite 1700
Minneapolis, MN 55401-2138
FAX: 612-349-2665

Dear Judge Mihalchick:

RE: In the Matter of Proposed Permanent Rules and Amendments to the Existing Rules of the Board of Water and Soil Resources Governing Wetland Conservation Act: Chapter 8420.

The Board of Water and Soil Resources (BWSR) submits the following as its preliminary response to comments received during the March 26, 2002 rulemaking hearing. These comments are prepared based on notes taken by staff during the hearing and the hearing transcript. This letter is being submitted during the comment period, and we request that they be made part of the hearing record.

Issue Responses:

- 1) The proposed definition in 8420.0110 Subpart 34a is the same as that found in Minnesota Statute 103G.005 Subpart 14 describing the Ordinary High Water Mark (OHW) and will cause confusion and inconsistency in application of the rules.***

Agency Response: As we indicated during the hearing, the intent of this definition is to provide consistent regulation of types 3, 4 and 5 wetland types between the Department of Natural Resources (DNR) under Minnesota Rule 6115 and Local

Governments Units (LGU) under Minnesota Rule 8420 (Exhibit 17). Clearly, the Minnesota Legislature intended for such when it debated and adopted language in Minnesota Laws 2000, Chapter 382 (Exhibit 16A) concerning regulation of the permanently and semi-permanently portions of these wetlands by Local Governments Units (LGU). Although we agree that other wetland classification systems exist that describe these areas, the intent of the proposed definition is to define it commonly for the two state regulatory programs. Because the DNR already uses a definition established in Minnesota Statutes 103G.005 (14) to regulate types 3,4 and 5 wetlands, creating a new and different definition for the Wetland Conservation Act (WCA) would only exacerbate the confusion between state wetland regulatory programs that Chapter 382, MN Laws 2000, was intended to diminish.

Additionally, concerns raised about the need for instituting the use of the DNR Ordinary High Water Level (OHWL) method at the local level to determine the area in question are unfounded. The OHWL method is used to establish the maximum extent of the DNR regulatory jurisdiction even though additional wetland areas almost always continues beyond that point landward. The Wetland Conservation Act jurisdiction already extends and regulates activities beyond this area because the method used to establish the boundary of the wetland is more extensive than the OHWL method of DNR. During the past 2 years of applying the exempt rule on the ground, we have not observed the anticipated confusion by LGU's as portrayed by the commentator. Therefore, we believe our proposed definition is reasonable and necessary and within the scope of the matter announced in the dual notice.

2) The proposed approach to typing wetlands in subpart 8420.0122 Subpart 9 for applying the de minimis exemption is problematic and scientifically questionable.

Agency Response: Several wetland typing systems exist today to classify wetlands. Hearing exhibits 20 and 21 provide distinctly different examples of this. Unfortunately, none of these were created for the purpose of implementing wetland protection regulations; rather they were developed to serve as an inventory protocol to gauge wetland habitats for wildlife and fisheries across the United States. Because of this, regulatory programs such as WCA are forced to adapt these systems as best they can to address regulatory needs. The Legislature in Minnesota Statute 103G.005 (17b) set forth the definition of wetland types using the Circular 39 (Exhibit 20) approach for state regulatory programs. We acknowledge that our proposed typing method adaptation in this subpart is a modification of the Circular 39 (exhibit 20) classification system. However, applying the de minimis exemption amounts described in this subpart are dependant on typing the wetland and applying a prescribed amount. Because Circular 39 requires a classification of the wetland type by the predominance of the hydrology of the wetland, using it literally would require a hydrologic review of the entire basin. For wetlands less than 40 acres in size, this is reasonable and practical to accomplish on site by regulators, consultants, and applicants and we propose to maintain the non-adaptive approach. However, in northern Minnesota as exemplified by exhibit 22, many wetland basins are large

enough that it becomes impractical to apply the Circular 39 typing method as written in the field because of the time and logistics required to traverse the entire wetland basin to apply circular 39. Instead, we believe it is reasonable and necessary to adapt this system to allow local governments to type the wetland in a more practical manner for application of the exemption because these impacts are small and localized enough that expending additional efforts to conduct a larger typing exercise isn't justified.

3) 8420.0200- LGU and SWCD fees for technical and administrative services.

Agency Response: This issue was addressed in the Minnesota Legislature under Minnesota Statute 103G.2242 (5) and again in Minnesota Law 2000, Chapter 382. In each of these places the Legislature provided for charging of fees to cover costs from implementing rules and providing assistance to landowners. Further, regarding conflicts of interest, we have provided guidance to LGU's about avoiding scenario's that would create a conflict of interest (see exhibit 23). Finally, in many places of out-state Minnesota, there are no consulting services available to the public, and local government may be relied upon to provide a basic level of technical and administrative services. Therefore, we propose no changes to this part.

4) 8420.0240 Technical Evaluation Participation by applicants or their agents should be automatically provided for in the rule.

Agency Response: Several commentators advocate for making technical evaluation panel (TEP) meetings comply with the "open Meeting Law" to prevent harm to their clients. We believe that such should be left to the discretion of the LGU rather than as a mandatory requirement in rule.

The TEP process consists of preliminary technical review and is not a formal hearing where the final decision about a project is made (Exhibit 19). Rather, the TEP provides technical assistance and recommendations to the LGU on technical issues or data supplied by an applicant. The LGU provides the forum for an applicant or their agent to come and advocate for approval of their application. If an applicant provides the necessary information to review the technical aspects of an application, there is little likelihood that the TEP needs additional discussion with the applicant or their agent. However, in the unlikely event that such is necessary, the TEP can and does ask the agent/applicant for clarification of application materials so it may better review and make recommendations. Requiring TEP meetings be open in all cases to applicants/agents will have the effect of converting this technical review process into a project advocacy meeting.

Additionally, BWSR has already addressed this issue when we provided guidance to LGU's concerning the TEP and the Open Meeting Law (Exhibit 24). This was intended to ensure that the relationships between the TEP process and the Open

Meeting Law is understood. We believe that this issue is well understood by LGU's and that the Open Meeting Law is being complied with when necessary. However, we will continue to review this with our Attorney General and issue additional guidance if necessary to ensure continued understanding of this matter. However, we do not support making all TEP work subject to open meetings by this rule.

5) Technical Evaluation Panels are unqualified to review work.

Agency Response: Several commentators raised concerns regarding the TEP not being qualified to review the work of other professionals. At least one commentator raised concerns that non-engineer professionals on the TEP were reviewing work of Professional Engineers and the appropriateness of such.

Nothing in Minnesota Statute 103G.2242 (2) or Minnesota Laws 2000, Chapter 382 regarding membership of the TEP requires an engineering professional be placed on the TEP in order for them to review projects with engineering aspects. In fact, Minnesota Statute 103G.222 (1) items j and m directly place the TEP in a role of reviewing projects that generally have engineering aspects to them (i.e. wetland restoration and public transportation projects) contrary to the commentator's point. It is important to remember that the TEP is not reviewing the engineering design for consistency with engineering standards but rather they are reviewing the proposed project for compliance with Minnesota Rules 8420 regulating activities in wetlands. Further, nothing in statute or rule prohibits the TEP from seeking the advice of other technical professionals on matters if they believe its necessary to do so. Many TEPs will as a matter of practice invite persons with additional technical expertise to gatherings on such technical matters to ensure they properly consider the technical issues. Therefore, we believe the comments received about this matter do not merit any changes.

6) One commentator believes the definition in 8420.0110 (4) is discriminatory to non-agricultural interests.

Agency Response: The agricultural definition is provided for in Minnesota Statutes 103G.005(2a) as it pertains to waters of the State including wetlands as stated in our hearing testimony. We only propose to clarify the legislative intent of Minnesota Statute 103G.222 (1) concerning application of the agricultural exemption to agricultural activities solely. This change does not make the rule substantially different and is within the scope of the matter announced in the dual notice.

7) One commentator raised concerns about requiring access to private property for projects that are exempt or no loss.

Agency Response: A project is exempt if it meets the conditions as found in part 8420.0115-0210 whether or not the LGU has made an official decision. However, this is not automatically the case for no-loss determinations found in Minnesota Rules

Part 8420.0220. Regardless of whether a project is automatically exempt, no-loss or not, if a landowner is unsure about the application of an exemption or no-loss and asks the LGU for a determination or decision, the LGU should be allowed to examine the site before making a decision for the landowner. If the landowner wishes not to provide such access, they may claim the exemption, but they must also be prepared to show that their project meets the qualifications when asked by an LGU or Enforcement Authority. Additionally, our proposed language is also intended to ensure that projects do not become approved by default because the applicant asked for a formal decision of the LGU but will not provide the LGU with sufficient access in a timely enough manner to make the review and decision in accordance with Minnesota Statute 15.99. Several attempts have been made to gain a default approval of a replacement plan by refusing access to the LGU to verify on-ground conditions. We believe the proposed language is reasonable and necessary without additional changes.

8) *One commentator-raised concern surrounding changes proposed to the replacement for public transportation projects found in Part 8420.0544.*

Agency Response: Our language does not substantially change the rule but is meant to clarify the legislative intent regarding which transportation projects are eligible to receive BWSR created replacement and which could use the other transportation related facets of the rule. As demonstrated in Minnesota Statute 2000, Chapter 492, Section 9 (Exhibit 25), the intent of the state (BWSR) generated replacement was to apply directly to local road projects that have impacts from repairs, rehabilitation, reconstruction or replacement not construction and maintenance of airport runways, state snowmobile trails, boat ramps, etc. While these are public transportation projects, the intent was not to extend state (BWSR) replacement to them. However, these types of project are granted some additional flexibility in other portions of this Part. The proposed rule changes found in this rule Part are within the scope of the matter announced in the dual notice.

9) *Extensive comments were received concerning 8420.0541 (3)(A), (6) and (10)(B) (3) pertaining to size requirements of buffers and the amount of credit given for such.*

Agency Response: As we noted in our opening remarks during the hearing, there is no debate that wetland functions and values are enhanced and protected by inclusion of an upland buffer around the wetland. These buffers provide sediment filtration, critical habitat for wetland wildlife, nutrient reductions from run-off (exhibit 26 with attachments). To that end, providing buffers is consistent with Part 8420.0100(B) which strives increase the quality, quantity, and biological diversity of the state's wetlands by restoring or enhancing diminished or drained wetlands. However, like many of the comments received at the hearing, we agree there is a point at which the scientific benefit becomes impractical enough that it is not likely to achieve the desired outcome of voluntary inclusion of upland buffers adjacent to replacement wetlands. Therefore, we again reviewed the comments from the hearing and based on

them, we would propose the following changes to address concerns of the hearing commentators while protecting and enhancing wetlands:

- In 8420.0541 Subpart 3 (A)- remove all language on the fourth line after the reference to “**subpart 6.**” This would defer buffer crediting in this part to Subpart 6 where a 25 foot average buffer is necessary in a municipal area and 50 foot average width buffer in a non-municipal area may receive 100 percent public value credit for the size of the replacement wetland it adjoins.
- In 8420.0544 Subpart B (3) - Insert language that states that buffers installed adjacent to two-celled systems that are consistent with Subitem (2) may be allowed for credits *as found 8420.0541 (6)*. We would strike the remainder of this subpart.
- A definition of “municipal” is needed and we are looking forward to suggestions for that but if none are offered propose using a definition such as “areas located within an incorporated city having the authority prescribed in M.S. 471”.

These changes would make for a consistent (simpler) application of upland buffer credit throughout the rules as requested by the commentators. Additionally, increasing the amount of public value credits that can be obtained by buffers creates additional incentive to applicants to implement such. Finally, the changes retain a larger average buffer size threshold than currently required that would better protect replacement wetlands, which is a primary the goal of this rule. While we recognize our exhibits supports larger average buffers than the 25 feet and 50 feet thresholds proposed, if we cannot get applicants to voluntarily provide the upland buffers, then nothing is gained by the rule change. These proposed changes would not make the rule substantially different and are within the scope of the matter announced in the dual notice.

10) Comments concerning the proposed application of Minnesota Statute 15.99 concerning decisions of Local Government Units during periods of climatic restrictions is to broad.

Agency Response: As we noted in our hearing statement, the references pertaining to staying applications due to inclement field conditions will be removed. Although we believed our proposal was a benefit to the regulated public, we acknowledge that chance for abuse existed. Additionally, we recognize the issue regarding LGU noticing decisions within the limits of 15.99. Although, current practice amongst LGU’s is to make notice to the applicant on the day of the decision, we understand that the ten day issue may create potential conflicts with Minnesota Statute 15.99. As noted in our hearing testimony, this is an issue we will address through guidance and encourage LGU’s and their attorneys to also address this issue with local policy.

11) Multiple comments about control of non-native invasive as described in 8420.0550 is unreasonable were received.

Agency Comments: As stated in 8420.0100 of this Rule, one of the main principles of this rule is to maintain and improve wetlands of the state. Because invasive exotics are one of the main threats to the state's wetland resources, we believe it is reasonable to create rule language within the Wetland Conservation Act that helps protect wetlands by:

- Prohibiting the planting of such species; and
- Requiring control of them where they exist on replacement or bank sites.

We realize that some of these species are extremely difficult and costly to work with. Their management should be a consideration of the applicant before proposing such site to the LGU as a replacement of a proposed impact. However, our proposed language does not request nor require eradication of such species. Rather, we believe it is reasonable and necessary for applicants to provide for control of these by managing existing populations in a reasonable manner during the monitoring period of the site, which may last 5 years. Doing so will provide planted and existing native non-invasive wetland species with the best opportunity to establish and become dominant or co-dominants before monitoring and management of the wetland ceases.

We do not believe the term "control" suggests the need for eradication of non-native invasive species. Eradication of certain species found on a wetland restoration/bank site may fall under the requirement of state noxious weed and pest laws administered by the Minnesota Department of Agriculture. We believe it is up to the applicant to ensure that they comply with all weed and pest control laws whether for a wetland replacement site or any other site. However, we feel it is correct to ensure that our requirement does not conflict and maintains the spirit of other laws concerning control of various plants.

This concludes our preliminary responses to the comments received during the public hearing. We believe our proposed rule changes are not substantially different and are within the scope of the dual notice. Further, we believe that our proposed changes are reasonable and necessary. We look forward to providing additional comments during the upcoming comment review period.

Sincerely,

John Jaschke, Land and Water Section Administrator

C: Ron Harnack
Doug Thomas
Regional Supervisors
Wetland Staff

TIMELINE FOR ADOPTION OF AMENDMENTS TO WCA RULES (Ch 8420)

Updated by: John Jaschke on 4-15-02

Informal Stage - with DNR Public Waters Rules (Ch 6115) (partial listing)

May 1, 2001: Internal DNR Statewide Interdisciplinary Review Service (SIRS) begins

June 5, 2001: Second DNR Statewide Interdisciplinary Review Service (SIRS) meeting

June 21, 2001: BWSR Board Wetland Committee meeting to establish proposed rulemaking process and schedule

July 3, 2001: Third DNR Statewide Interdisciplinary Review Service (SIRS) meeting

July 16, 2001: LGU staff meeting to provide input/ideas, Waite Park

July 25, 2001: BWSR Board meeting to discuss rulemaking goals & principles

August 10, 2001: 2nd LGU staff meeting to provide input/ideas, Waite Park

August 22, 2001: Initial Stakeholders Meeting, MNDOT Arden Hills

October 10, 2001: Second Stakeholders meeting to review draft proposed rule and explain formal rulemaking processes.

October 12, 2001: BWSR Wetland Committee meeting to review draft proposed rule and SONAR for WCA.

mid-October to mid-December: various meetings and communications with interested and affected parties toward achieving consensus on major aspects of the two rules.

January 4, 2002: Third/Final Stakeholders meeting to review final draft proposed rule and pursue consensus on major points prior to formal rulemaking processes.

Formal "Dual Notice" Rulemaking Process – WCA only

By Monday, June 11, 2000 – memo to Governor's Office announcing rule amendment

By Monday, June 25, 2001 – Publication Order for Request for Comments to State Register

Monday, June 25, 2001 – Request for Comments published in State Register (at least 60 days prior to Dual Notice per Minn Stat 14.101)

Thursday, October 25, 2001 – draft WCA Proposed Rules approved by Board with further review and modifications by Administrative Subcommittee authorized.

Wednesday, December 19, 2001 – BWSR Board Approval of Administrative Committee Recommendation to authorizing Executive Director to give Dual Notice.

December, 2001 - PW Proposed Rules approved by DNR Commissioner. Copies of proposed rules to Commissioner of Agriculture (at least 30 days prior to Dual Notice per Minn Stat 14.111).

Monday, December 31, 2001 – Revisor's certificate approving rules for publication.

Thursday, January 3, 2002 – Meet with Governor's Office to review proposed rules.

Thursday, January 17, 2002 – Governor's Office approval received

By Wednesday, January 23, 2002 – Submit Dual Notice, Rules, SONAR, and Notice Plan to OAH (at least five working days prior to Dual Notice because ALJ has five working days to review per Minn R 1400.2080, subp. 5 and Minn R 1400.2060, subp 3).

Monday, January 28, 2002 – Dual Notice mailed to all on BWSR and DNR rulemaking mailing lists (at least 30 days prior to end of comment period per Minn.R.1400.2080, subp.6) and notice per notice plan including notice to legislature (chief authors and committee chairs) and web site publication. Rules and SONAR also to legislative reference library.

Tuesday, January 29, 2002 – publication order to State Register (by Wednesday noon a week and a half before publication date)

Monday, February 11, 2002 – Dual Notice published in State Register

mid-February: Hold approximately six regional public information meetings on proposed rules.

Wednesday, March 13, 2002 – End of comment period (30 days after Dual Notice published)

Hearing Requested (more than 25 requests): ALJ Steven Mihalchick

Tuesday, March 26, 2002 – Hearings (afternoon and evening) in St. Cloud (not sooner than 40 days after Dual Notice per Minn Stat.14.22, subd.2 with at least one hearing in an agricultural area of state (per Minn Stat 14.14, subd.1b)

Tuesday, April 9, 2002 – Agency's and public's comments to the hearing record submitted. Comment period lasts at least five working days, was extended to 14 calendar days as ordered by ALJ Mihalchik. (Minn.Stat.14.15, subd.1: Minn.R.1400,.2300,2530,.2540)

Tuesday, April 16, 2002 – Agency response to comments and information submitted during comment period (five working days)

By Monday, May 27, 2002 – Chief ALJ issues hearing report (within 40 days of close of response period but can be extended upon request by ALJ. Minn.Stat.14.15, subd.2).

By Friday, June 21, 2002 – Agency decides if changes to proposed rule are needed in three categories: i.) technical only, notice to Governor and ALJ, ii.) recommended by ALJ, notice to

Governor only, or iii.) substantive, then must notice to Governor and ALJ which have 30 days to respond.

Wednesday, June 26, 2002 – BWSR Board passes resolution to authorize Executive Director to sign Order Adopting Rules.

Wednesday, June 26, 2002 – Order Adopting Rules (at least five working days after approval from ALJ or Chief ALJ)

Wednesday, June 26, 2002 – File rules with Secretary of State (Minn. Stat. 14.16, subd. 3)

Wednesday, June 26, 2002 – Give notice of filing (on same day file with Secretary of State)

Wednesday, June 26, 2002 – Secretary of State forwards approved rule to Revisor

By Tuesday, July 2, 2002 – Revisor sends BWSR Notice of Adoption and BWSR sends Notice of Adoption to State Register.

Monday, July 15, 2002 – Notice of Adoption published in State Register (Monday, July 22, 2002 would be last possible date for publication)

Monday, July 22, 2002 – rules effective five working days after published in State Register per Minn.Stat.14.27 (Must be effective on or before July 31, 2002)

C:\My Documents\WCA rules schedule 2001- 2002.doc

Soil and Water Conservation Districts: MS 103C

91 SWCDs; 455 Elected Supervisors; 350 District Employees



BWSR AUTHORITIES

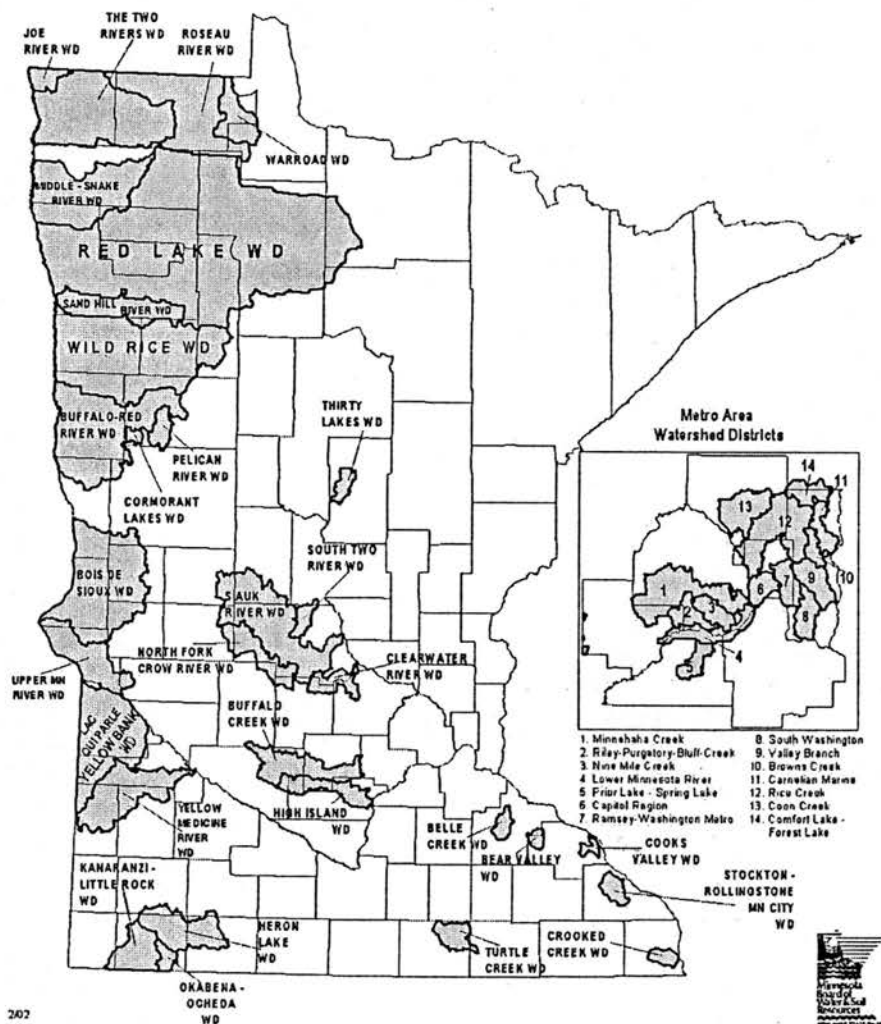
- Hear petitions and order formation of SWCDs.
- Hear petitions and order consolidation and/or division of SWCDs.
- Approve change of location of principal office.
- Hear petitions, conduct referendum, and order discontinuance of SWCDs.
- Approve changes in SWCD supervisor nominating districts.
- Hear petitions and order removal of elected SWCD supervisors from office.
- Conduct audits of SWCD programs.
- Establish and enforce penalties for violations of grants and misconduct of employees and supervisors.
- Approve and administer state grants to SWCDs.
- Coordinate programs and activities of SWCDs with appropriate state and federal agencies.
- Develop and implement public information programs concerning SWCDs.
- Assign technical approval authority to SWCD employees.
- Develop structural, land use management practices, and other programs to reduce or prevent soil erosion, sedimentation, flooding, and agriculturally related pollution.
- Review and approve SWCD works of improvements.

Watershed Districts and Watershed Management Organizations: MS 103D & MS 103B

43 Watershed Districts; 213 Managers; 65 Employees

27 Watershed Management Organizations; 162 Members

Minnesota Association of Watershed Districts MAWD



BWSR AUTHORITIES

- Authority to establish a watershed district.
- Authority to define boundaries and enlarge or consolidate watershed districts.
- Appoint the first board of managers of a new district.
- Authority to hold hearings, subpoena witnesses, administer oaths, and compel the production of evidence.
- Receive and hear appeals of watershed district project orders.
- Require annual audits and reports.
- Approve overall watershed management plans and subsequent revisions.
- Review rules and regulations.
- Review and approve engineer reports on proposed projects.
- Approve plans for establishment of stormwater utility fees.
- Authority to terminate WMOs.
- Require WMOs to conduct biennial request for proposal for professional service contracts.
- Enforce member eligibility requirements.
- Assign non-implementing areas to associated counties.
- Authority to investigate misconduct of managers.

Counties: MS 103B & 103F & G

& Cities: MS 103F & G

87 Counties & 230 Cities

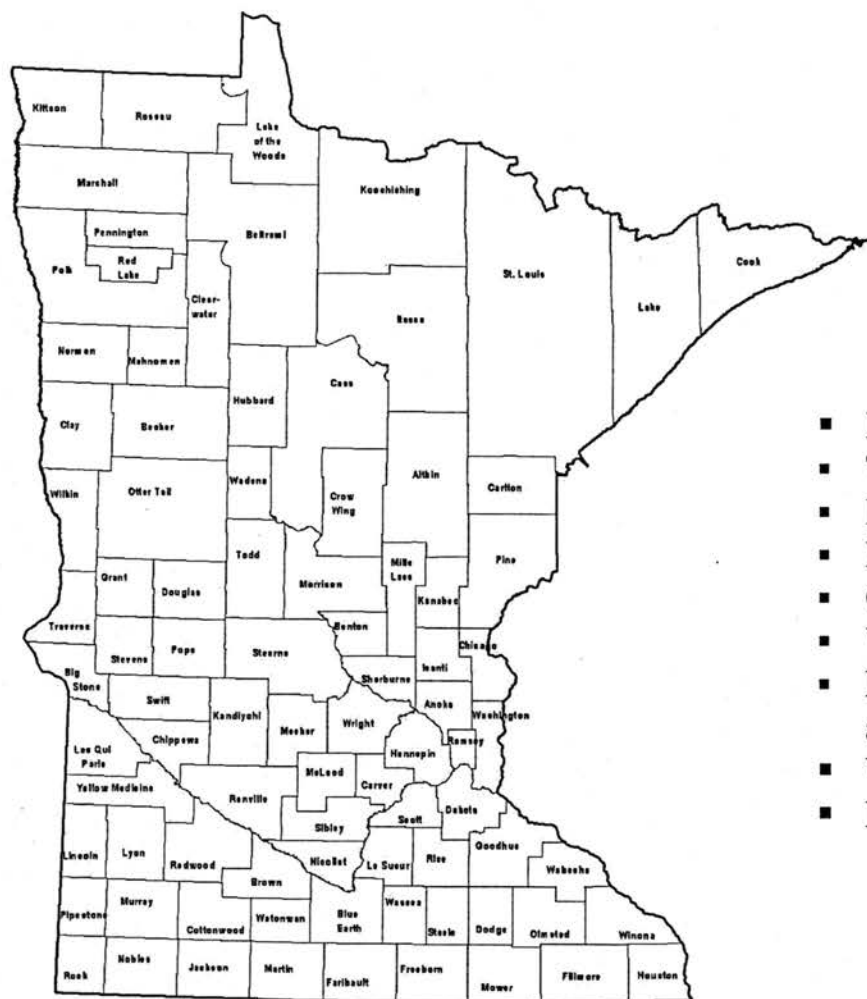


BWSR AUTHORITIES

- Approve land management plans.
- Hear and decide appeals on wetland replacements and exemption determinations.
- Rescind Wetland Conservation Act authority.
- Impose building moratoriums.
- Certify employees' completion of wetland delineation training.
- Certify wetland banking transactions.
- Approve comprehensive local water management plans and revisions.
- Approve and allocate grant funding to counties.
- Hear and decide appeals on municipal contracts with water plans.
- Conduct audits and investigate potential grant violations.
- Replace wetland losses from local government road safety projects.

Board of Water and Soil Resources

WCA LGU Statutory Responsibilities



- Project notice and appeals of local decisions
- Technical Evaluation Panel (TEP)
- Enforcement
- Monitor and Audit is of LGU Performance
- General Program Assistance (rules, forms, manuals, training)
- Wetland Delineator Training and Certification
- Local Wetland Plans and Ordinances (development, review approval)
- Wetland Banking (account mgmt, acquisition and development)
- Local Government Wetland Road Replacement Program

BWSR 04-05 Budget Initiative Areas

Natural Resources Block Grant

Increase financial incentives
for:

Linking plans

TMDL planning

WCA ordinance/delegation

Lake Mgmt.

WCA workload

Phase II NPDES

Past mandates, stormwater,
wetland areas etc.

Last increase over 10 years
ago

Technical/Engineering Services

North shore engineering

Farmbill implementation
support

Planning assistance for:

watershed districts

TMDL plans

linking with land use plans

NPEA

full funding

NPDES phase II,
construction site E&S

Drainage Team

WCA Implementation

COE 404 assumption ?

COE G.P. ?

WCA staffing shortfall

Reforms ?

Permanent funding Road
Replacement

E-link

Plan to support:

Data management

System operation &
design

User support

Desk audits

SWCD Modernization

Taxation issues which
arise

Local Water Planning

Changes which result from:

Integration discussions

Metro rule revision

Morrison County pilot

RIM Services

Increase SWCD service
grants based on workload
commensurate with new
easement numbers

Future performance &
management

Activity	State % of Staff Time	LOCA % Time	Doing Less Requires (Reforms & Changes)
Project notice and appeals	4	--	Require all programs be done through local ordinance, eliminates appeals
TEP's and Associated Acct	40	--	Wetland delineator certification, state certification of local program, much like delegation
Enforcement	7	--	
Monitoring and Audits	4	--	
General Program Assistance (rule, forms, manuals, training)	13	--	
Wetland Planning and Ordinances	10	--	
Banking	12	--	Make fee based (all on pare)
Road Replacement	10	--	Eliminate mandate for state to mitigate, does not change anything for locals
	100		
Local Funding	1.7 Mill State		
	X Mill Local		

Current Staffing

Field Staff

20 % of BC = 3.5 FTE
Reg. Wetland Spec = 3.0 FTE

Program Staff = 3.0
Admin Support = ~~30.0~~ 3.0

Banking and Road = 2.4

Total 14.9

John-FXI



NEWS RELEASE

Minnesota Board of Water and Soil Resources • One West Water Street, #200 • St. Paul, MN 55107
Contact: Peter Raeker, Communications Office; 651-296-0884; fax: 651-297-5615 • www.bwsr.state.mn.us

For immediate release
April 23, 2002

Contact: Peter Raeker, 651-296-0884

COURT RULINGS AFFIRM STATE'S WETLAND LAW

ST. PAUL, MN - Recent decisions by the Minnesota Appeals Court will have significant bearing on project decisions, administrative appeals, and future court decisions for the state's wetland protection programs involving work on public drainage systems that would drain long-established wetlands, according to John Jaschke, land and water section administrator at the Minnesota Board of Water and Soil Resources. The cases were appealed to the Minnesota Supreme Court, but that court denied review of them.

Decisions by the court affirmed the state's wetland protection law. "In all of these cases, the court affirmed that the state's rules are valid, that the state's wetland rules are consistent with the law," Jaschke said.

The Court of Appeals in January upheld a decision by a lower court that ruled Big Stone County must obtain necessary wetland permits for major repair work on an agricultural drainage ditch. Since the ditch would have eliminated a 66-acre wetland, the court ordered the county to perform a full Environmental Impact Statement.

In that case, *Minnesota Center for Environmental Advocacy, the Coalition for a Clean Minnesota River, and New Ulm Area Sportfishermen, v. the Big Stone County Board of Commissioners and the County of Big Stone, Minnesota*, the court said that a drainage authority must receive permission from the Department of Natural Resources 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 Minnesota Statute 103E, a public waters work permit is required for the project. The court also said that if long-established wetlands protected by the Wetland Conservation Act will be drained, replacement is required and must be approved by the local government unit.

In another January ruling, *Loren Hentges, et al., v. Minnesota Board of Water and Soil Resources, Rice Creek Watershed District, St. Paul Audubon Society, et al., and the Minnesota Department of Transportation*, the Court of Appeals upheld the WCA Rule language that limits the use of federal approvals exemption, 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."

This case involved a drainage ditch in Anoka County, near I-35W. Landowners adjacent to the ditch claimed that placement and obstruction of culverts in the ditch system caused water to overflow and flood their lands. The alternative proposed to alleviate the problem would have caused drainage of adjacent wetlands that have existed for more than 25 years. The court's decision affirmed the requirement in rule to replace the lost wetlands and their functions.

-More-

The most recent Court of Appeals case, announced in February, affirmed a lower court's ruling involving a dispute over Judicial Ditch No. 2 in Washington County. In *Alex Zaluckyj, et al., v. Rice Creek Watershed District, Department of Natural Resources, et al., and Minnesota Center for Environmental Advocacy*, the Court of Appeals ruled that a party does not have the right to a jury trial on the issue of exhaustion of administrative remedies, and mandamus is available only to compel performance of a duty clearly required by law. The court also stated that unless administrative remedies are unavailable or exhaustion of those remedies would be futile, a party seeking ditch repair must proceed by petition pursuant to drainage law requirements (Minnesota Statute 103E).

In that case, the city of Hugo sought a determination from the Rice Creek Watershed District that two culverts were obstructing the flow of Judicial Ditch No. 2 and should be lowered. The watershed district denied the city's petition for a hearing, determining that lowering the culverts without making other ditch repairs would not improve the ditch's capacity. Instead of petitioning the watershed district to repair the ditch, the city and landowners filed suit and a petition for a writ of mandamus in district court, seeking an order for a complete repair of the ditch—which would have drained hundreds of acres of wetlands—or for inverse condemnation proceedings and a determination that they were exempt from certain rules and regulations.

Cases like these can often be contentious, but in many cases issues can be resolved and lengthy court battles can be avoided, Jaschke said. "In similar situations, issues have been resolved informally when all sides were willing to look at the sources of conflict," he said. It's important, Jaschke noted, that project proponents and regulatory officials are given a chance to evaluate needs and alternatives *before* work commences.

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Note: This news release is available on the BWSR web site: www.bwsr.state.mn.us/news/index.html.



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Notes for 2002

1. MACDE Summer Conference June 26-28th at Arrow Wood in Alexandria
 - Federal and State Agencies to report on specific issues on how SWCD can assist to accomplish the Goals of the State Agencies. Topics to be determined. For example:
 - DNR – wetland issues, General Permits for cleanouts, stabilizations
 - U of M – Services offered and cooperation with SWCD's under new organizational plan.
 - BWSR – Third Party Vendor role/
 - NRCS – Third Party Vendors/Farm Bill/State Tech Committee
 - PCA – SWCD role in NPDES Phase II permits
 - MDA – Research partnerships?, Ag BMP loan program
 2. NACD Presentations:
 - Association Management 101
 - Board & Staff: Enhancing the Leadership Partnership
 - The Value of Your Conservation District
 3. MACDE Logo and Slogan are being developed
- Conference Announcement to be sent out in May

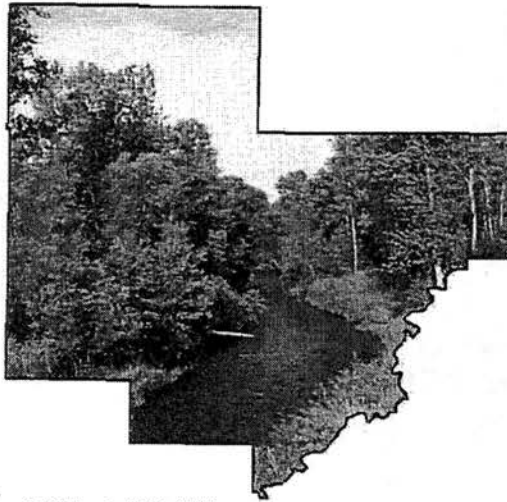
MACDE Employees on National Committees/Boards

Rick Reimer, Kandiyohi SWCD is a representative on the NACD Forest Resource Committee

Paul Kalass, Goodhue SWCD is a representative on the NACD Agricultural Land Committee

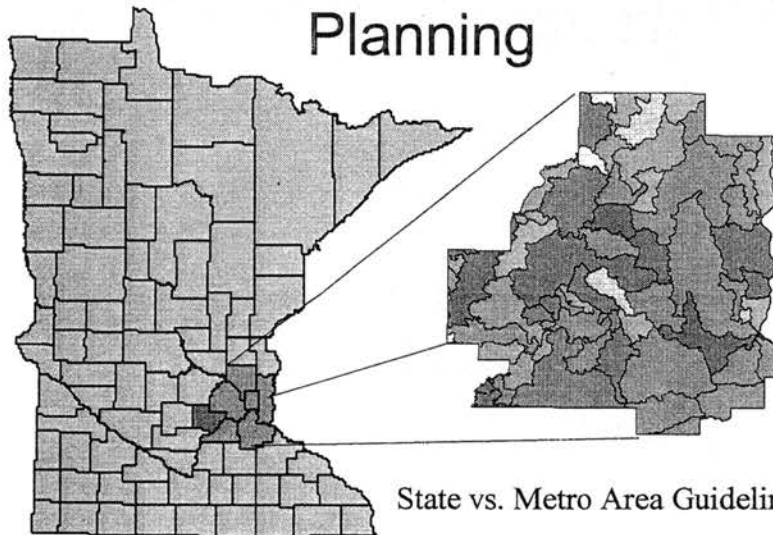
Tim Gieseke, Carver SWCD is a representative for the North Central Region Employees Association on the National Employees Board.

Carver County Water Management Plan



BWSR - April 24, 2002

Carver County & MN Water Planning

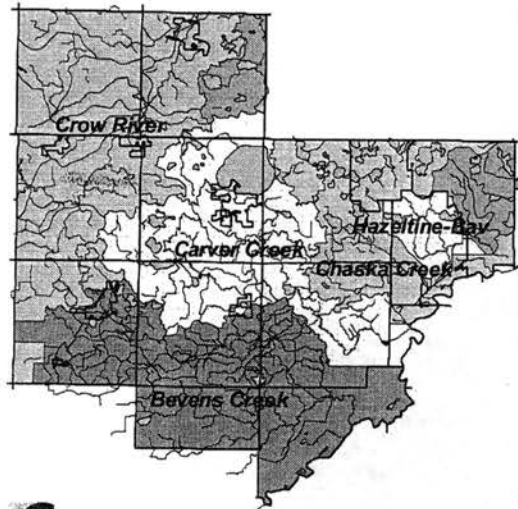


State vs. Metro Area Guidelines



BWSR - April 24, 2002

Pre-1996 Water Planning



- Five Water Mgmt. Organizations
- Operated under JPA's
- Some planning
- Little Implementation
- City/Twp disagreement



BWSR - April 24, 2002

Plan Development Process

- 1992 Groundwater Plan Adopted
- 1996 – WMO's declared non-implementing
- 1996-1997 Draft Groundwater Plan Developed
- 1997 - County determines Water Planning approach (incorporate with GW plan and Comp plan process, form WENR Advisory Committee)
- 1998-2000 Planning Process
- 2001 – Water Management Plan



BWSR - April 24, 2002

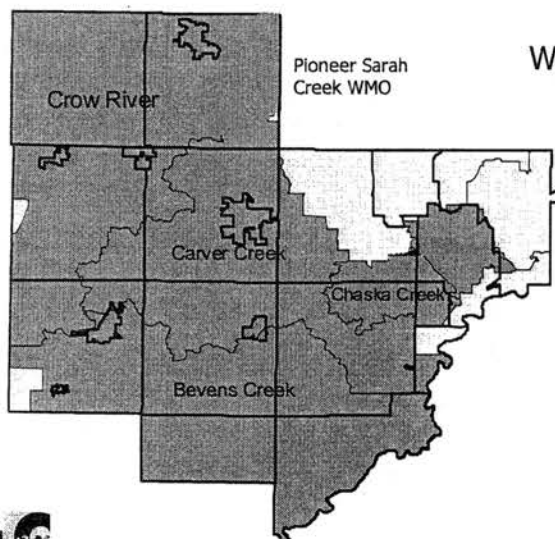
Major Issues Identified

- ISTS (Septics)
- Feedlots
- Erosion & Sediment Control
- Stormwater Management
- Land Use Practices (Rural and Urban)
- Land Use Practices (Rural and Urban)
- Water Quality Monitoring
- Wetlands
- Natural Resources
- Groundwater
- Education



BWSR - April 24, 2002

Post-1996 Water Planning



Carver County
Water Management
Resource Area
CCWRMA

County Responsibility

- Plan Development
- Plan Implementation
- Local Water Plans Approval



BWSR - April 24, 2002

Why the County? What works well?

- Complements existing planning efforts
(Comp plan, natural resource planning, groundwater)
- Complements existing implementation
(zoning, SWCD efforts, water quality monitoring,
state mandated programs)
- Efficiencies in Resources (vs. WD)
- Uniform policies, implementation
(standards, guidelines, etc)
- Greater flexibility for financing projects



BWSR - April 24, 2002

What works well? Accomplishments...

- Education – Hiring of coordinator in partnership w/ U of M extension
- Erosion Control – Hiring of SWCD technician
- Water Levy for financing 2001, 2002
- Process established for Capital Projects
- Enforcement – County Rules
- Begin coordination w/ WCA



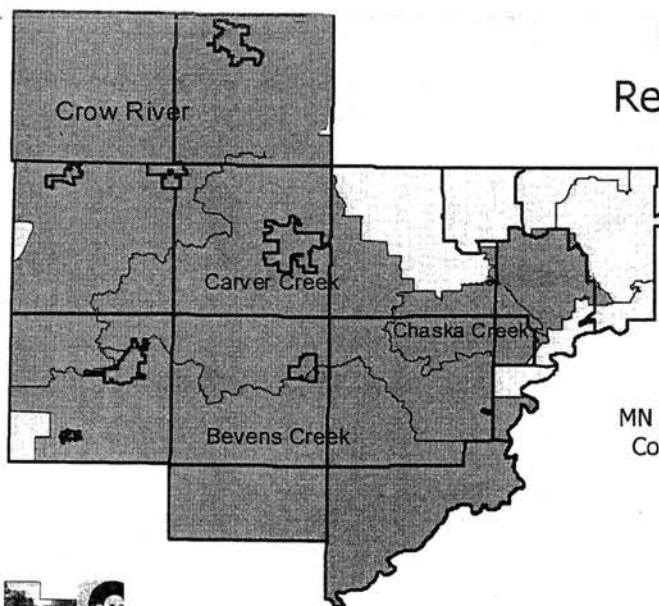
BWSR - April 24, 2002

What can be Improved? Obstacles...

- Water Levy Requirements
- Some boundary issues
- Staffing Issues
- Planning & Jurisdiction confusion



BWSR - April 24, 2002

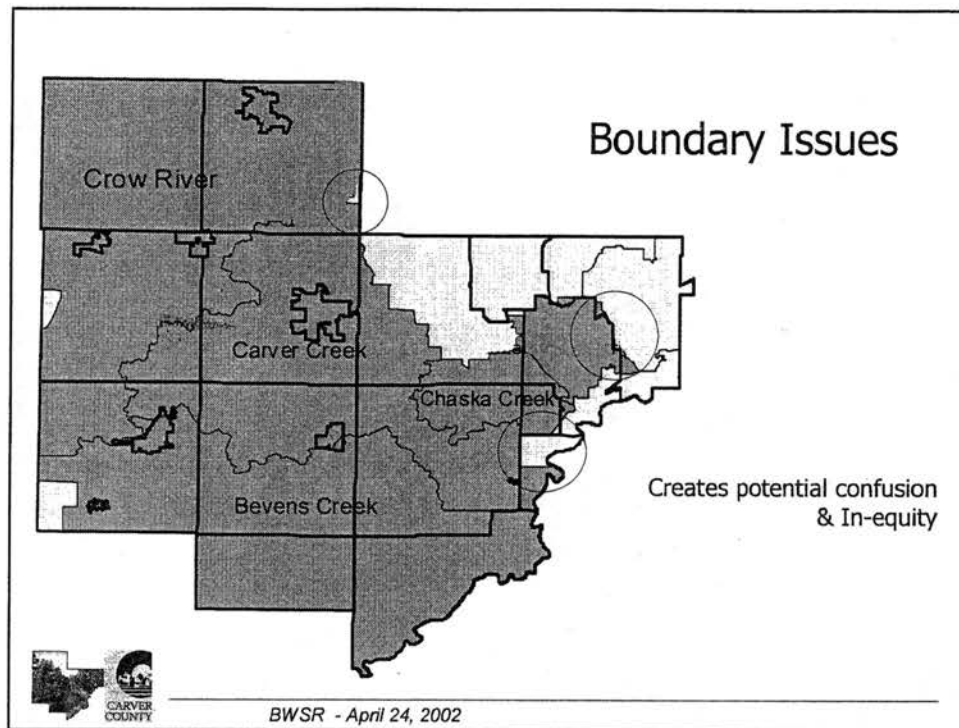


Water Levy Requirements

MN DEPT of Revenue: Must Collect and Account for \$\$ by Former Watershed

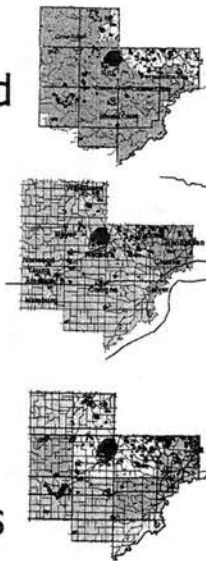


BWSR - April 24, 2002



Planning Efforts

- CCWRMA - Plan covers five watershed area.
- Groundwater - Plan covers entire Carver County.
- Comprehensive Plan Township Land Use County-wide Transportation, parks



BWSR - April 24, 2002

NEXT STEPS.....

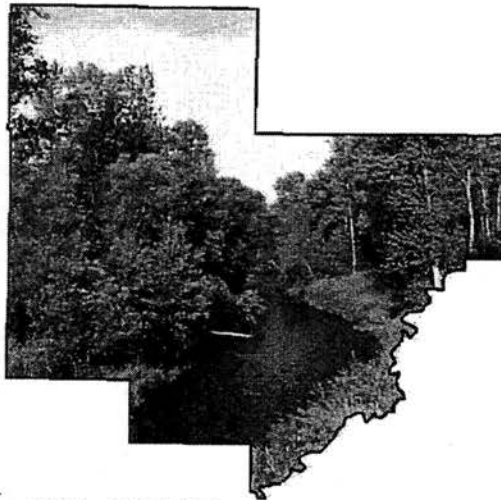
- Adopt County Rules – begin enforcement
- Local Water Plans adopted by LGU
- 2003 Capital Projects
- Update Plan and Rules in 2004

BOTTOM LINE – SO FAR SO GOOD, BUT
WE WILL KNOW MORE IN TWO YEARS



BWSR - April 24, 2002

www.co.carver.mn.us/water



BWSR - April 24, 2002

April 16, 2002

Honorable Steven Mihalchick
Administrative Law Judge
Office of Administrative Hearings
100 Washington Square, Suite 1700
Minneapolis, MN 55401-2138

Dear Judge Mihalchick:

RE: AGENCY REPLY TO POST-HEARING COMMENTS: In the Matter of Proposed Permanent Rules and Amendments to the Existing Rules of the Board of Water and Soil Resources Governing Wetland Conservation Act: Chapter 8420.

The Board of Water and Soil Resources (BWSR) submits the following as its response to comments you received during the comment period following the March 26, 2002 hearing. These final agency comments are based on the issues raised in those correspondences and on recognition of inadvertent errors noticed in the proposed rule. This letter is being submitted during the five-day response period, and we request that it be made part of the record.

Comment Responses:

- 1) The proposed definition in 8420.0110 Subpart 34a is the same as that found in Minnesota Statute 103G.005 Subpart 14 describing the Ordinary High Water Mark (OHW) and will cause confusion and inconsistency in application of the rules.***

Agency Response: As we indicated during the hearing and in our April 9, 2000 comment letter, the intent of this definition is to provide consistent regulation of types 3, 4 and 5 wetland types. The Minnesota Legislature intended for such in Minnesota Laws 2000, Chapter 382 (Exhibit 16A) when it provided for waivers of jurisdiction between the Department of Natural Resources - Division of Waters (DNR) and Local Government Units (LGU). This legislation allows the DNR to waive its Public Waters (PW) regulatory jurisdiction (see Chapter 6115) on these types of wetlands to the LGUs for regulation under the WCA and vice versa. If we were to adopt the

definitions provided by the commentators, we would be contrary to the legislative intent of consistent regulation of these types of wetlands by both programs (see Exhibit #31). Further, as we have already stated, we have not witnessed any confusion in applying this definition on the ground over the 20-month period of application of the emergency rules. We believe our proposed rule definition is reasonable and necessary to follow the intent of Chapter 382, Minnesota Laws 2000.

To ensure that confusion raised by the commentators does not develop, we will develop and provide additional guidance on this matter to LGUs. Also, we will continue to provide technical training on field interpretation of this definition during our annual wetland delineation training courses and at other appropriate technical training sessions.

2) *BWSR violated the Administrative Procedures Act (APA) by not adequately disclosing modifications.*

Agency Response: We contend that none of the changes proposed to either correct inadvertent modifications of this rule from version to version or to incorporate points received from informal and formal comments alters the rule substantially. Further, the substantive changes are within the scope of the matter announced in our dual notice and addressed in our Statement of Need And Reasonableness. The Commentator (Builders Association of Minnesota) has been consulted numerous times during the rules preparation process (see attached e-mail correspondence examples). We have incorporated some of their previous comments in past draft versions of this rule. Therefore, we believe their assertion about our failure to disclose information is unfounded.

3) *The proposed approach to typing wetlands in subpart 8420.0122 Subpart 9 for applying the de minimis exemption is problematic and scientifically questionable.*

Agency Response: As we previously indicated, we recognize that the proposed typing system is an adaptation of a wetland habitat classification system. However, we believe that providing LGUs with a typing method that is practicable and consistent to apply in the field on large wetlands is a benefit to the resource, applicant, and regulator. However, since this option is permissive not mandatory, if an applicant wishes to undertake the logistics necessary, they can provide non-adaptive typing information to the LGU for consideration. Our proposed rule language in 8420.0110 (9) D would allow for use of either our adaptive approach proposal or the current approach of Circular 39 (Exhibit .20). In Subpart (9) D, we

proposed the adaptive typing method language that includes the statement . . . “the wetland type **may** be determined” rather than the term “shall”. Doing so allows for both approaches thus providing an applicant with an option without changing the scope of this rule subpart.

4) One commentator suggests we increase the amount of PVC for restoration of partially drained wetlands in 8420.0541(3) A.

Agency Response: We support many of the assertions of the commentator regarding the need for restoration of partially drained wetlands. We agree that restoring partially drained systems has a higher likelihood for success than do creations of wetlands in uplands. However, we believe that any restoration should be a self-sustaining system in perpetuity. A self-sustaining system that can maintain itself for any reasonable length of time includes restoration of wetland hydrology, vegetation and establishment of an upland buffer of sufficient size. Increasing the amount of Public Value Credit (PVC) for restoring partially drained wetlands would likely diminish the incentive to establish upland buffer for PVC. Therefore, with the addition of the optional upland buffer for replacement credit, we believe the amount of PVC provided for restoring partially drained wetlands is sufficient to create an incentive to conduct such and contemplate no change.

5) The Language found in 8420.0240 concerning Technical Evaluation Panel(TEP) and Comprehensive Wetland Protection and Management Plans, indicates that TEPs are mandatory not elective.

Agency Response: Upon review of our proposed language, we note that the commentator’s interpretation is readily obtainable. It was not our intent to create a mandatory Technical Evaluation Panel interaction on matters concerning decisions through a Comprehensive Wetland Protection and Management Plan. Technical Evaluation Panels in this Part are elective at the request of the LGU. We agree with the commentator and propose to correct this by striking the term “calling” and replace it with “recommendations from” in the fourth paragraph, third line, on page 1047 (Feb 11, 2002 State Register).

Additionally, we also proposed to insert the terms “and findings” into the modified language we proposed at the hearing (new last sentence, second paragraph, page 1047) . Including this language is necessary to ensure consistency with Minnesota Statute 103G.2242(2) and the other parts of the rule where the TEP interacts with the

decision making process. Doing so does not substantially change this part of the rule and was an oversight when we prepared additional language.

6) *Commentators raised concerns about the creation of an appeals process for replacement or restoration orders in 8420.0290 (3c).*

Agency Response: The agency proposes to provide for appeal of these orders through an administrative process for two reasons:

- Consistency with other administrative processes in the rule for which an administrative appeals process is provided.
- Consistency with Minnesota Rule 6115.0255(5), which provides for an administrative appeal of Public Waters enforcement order requirements.

Restoration and replacement orders in the Wetland Conservation Act (WCA) issued by DNR Conservation Officers are Commissioner's Orders. When a Conservation Officer issues a restoration or replacement order for violations of Public Waters rules, an administrative process exists in DNR for the public to appeal to the Commissioner for remedy. Currently, this does not exist in the WCA and people who receive such orders must seek a judicial outcome if they feel the order contains errors or exceeds the necessary remedy. Therefore, to make appeals of these Commissioner Orders consistent between the Public Waters and WCA processes, we propose to establish an administrative appeals path in the Wetland Conservation Act similar to the one found in Chapter 6115 for Public Waters.

Additionally, the current format is inconsistent with other parts of WCA where an administrative appeal process for other WCA decisions is available to the public. By also providing for appeals of restoration/replacement orders, we would be creating consistency within WCA for appeals of decisions or requirements, because all could be appealed through an administrative process.

Finally, by creating this process, we believe service to the public is increased. If a replacement or restoration order is developed and served that is truly unreasonable or in error, BWSR believes it is in the best interest of all parties to use an administrative process to correct such rather than forcing the Courts to perform this task. We believe the judicial process should be used after attempts have been made to rectify the situation administratively.

Also, the term "or replacement order" was inadvertently omitted from the last line of Subp. 3C after "...order" and is proposed to be included now. This proposed change would not make the rule substantially different and is within the scope of matters announced in the dual notice.

7) *Extensive comments were received concerning 8420.0541 (3)(A), (6) and (10)(B) (3) pertaining to size requirements of buffers and the amount of credit given for such.*

Agency Response: As we noted at the hearing and in our April 9, 2002 comment letter, there is no debate that wetland functions and values are enhanced and protected by inclusion of an upland buffer around the wetland. We find the assertions by some commentators that little or no scientific evidence exists to show that buffers greater than 16.5 feet are necessary to be unfounded. Additionally, these commentators have not provided the record or the agency with any scientific literature or other exhibits that supports their contentions. Our hearing exhibits show that increased buffers are scientifically supported and necessary. These exhibits are representative of the scientific literature available to the public that discusses the importance and effectiveness of buffers along wetlands and watercourses for protection of various functions and values.

What the agency is attempting to do by undertaking proposed changes to the buffer parts of the rule, is to find a balance of the following factors:

- Recommendations from the scientific research
- Practical application based on land use
- Flexibility for site specific conditions
- Simplicity and consistency in application of the buffer part of the rule

We believe our proposal for the 25-foot average width in municipal areas and the 50-foot average width in non-municipal areas does this and is supported by the literature and many of the commentators. We understand that this will increase the amount of upland required for a buffer. We also need to ensure that wetland systems are sustainable in perpetuity. Our increase in the amount of Public Value Credit (PVC) that can be received for including such a buffer should provide a significant enough incentive to offset the additional land inclusion. Further, in previous versions of this rule, the development community was the main entity that encouraged us to include upland buffers for credit as part of a restoration. They recognized the value in protecting their restoration while receiving additional credits. Additionally, several cities in this state (i.e., Woodbury, Farmington, Plymouth, etc.) *require* the

preservation of buffers around currently *existing* wetlands. These buffers tend to range from 20 feet to 60 feet in width and are required to protect the integrity of the wetland. The opposition of some commentators for increasing the average width of buffers is confusing to us since buffer standards in this rule are *voluntary* in that there are several other means to achieve wetland replacement (See below). We believe our increase buffer widths are reasonable and necessary. These proposed changes would not make the rule substantially different and are within the scope of the matter announced in the dual notice.

In regards to defining what is municipal and non-municipal, we agree that such is important to understanding which buffer width application is desired. We had hoped that language would be provided to us by the Builder's Association of Minnesota, for review and potential inclusion in these rules. They indicated concern about this definition during their hearing testimony and indicated a willingness to provide draft language to the agency for consideration. However, since we did not receive any draft language from any of the commentators, we would propose to adopt the definition of municipal found in Minnesota Statute 103G.005 (12). This definition has been used for establishing state water jurisdiction and is easily understood. This definition would be placed in Part 8420.0110 in the final rule, and this Part would be remunerated to show this inclusion. Doing this would not substantially change this rule and is reasonable and necessary to apply the correct buffer widths.

The Builder's Association of Minnesota suggests that increasing the widths of an upland buffer is arbitrary and capricious and constitutes an unlawful taking of private property. BWSR is perplexed by this assertion. Inclusions of buffers are but one of the many options for receiving replacement credit. The only mandated inclusion of buffer is when a person *chooses* to seek New Wetland Credit (NWC) or Public Value Credit (PVC) under 8420.0541 Subpart 3a. Therefore, we cannot understand how providing an *optional* method to achieve replacement, which includes buffers, is an alleged taking.

8) Comments were received concerning the proposed application of Minnesota Statute 15.99 and inclusion of Statute in Rule.

Agency Response: As we noted in our hearing statement and our April 9, 2002 comment letter, the references pertaining to staying applications due to inclement field conditions will be removed. Additionally, we include statements regarding application of Minnesota Statute 15.99 in rule because the rule represents a complete set of program standards for LGUs to follow as they implement the Wetland Conservation Act. This was done from the very beginning of this program with

authorization from the Office of the Revisor of Statutes as they also recognized that it would be unreasonable to ask LGUs to cross reference applicable items between statute and rule to implement the law. As we previously noted, we recognize the issue regarding LGU noticing decisions within the limits of both Minnesota Statutes 15.99 and 103G.2242(7). We will provide additional guidance to LGUs on this matter so they continue to make decisions in compliance with both statutory requirements.

Additionally, we propose to remove language found in Parts 8420.0210, 0220, 0225, and 0230 to ensure that Minnesota Statute 15.99 is not incorrectly varied. In these parts, we would terminate any additional language found after references to "...Minnesota Statute 15.99", which paraphrase or approximate the requirements for decision making under the statute. This would ensure that the rule does not unintentionally mislead the LGU about the requirements of that statute. These changes would not substantially change the rule.

9) Multiple comments about control of non-native invasive as described in 8420.0550 is unreasonable were received.

Agency Comments: We continue assert that the term "control" does not suggests the need for eradication of non-native invasive species but rather management of these species to provide native non-invasive plant communities with a chance to establish on the replacement site during the 5 year monitoring period. The amount of control effort necessary to provide this chance is determined case by case as part of the vegetative establishment and management plan requirement of Part 8420.0530 (14). This plan is prepared by the applicant, then is reviewed and approved by the LGU. We believe this provides more flexibility for the LGU and the applicant to work together on determining the appropriate level of control for a particular replacement rather attempting to define such in rule. However, we believe it is important to assert that some level of control of non-native invasive plant communities is necessary if such exist on a replacement site. Therefore, we support our rule language on this issue.

Further, one commentator indicated a need to provide a reference for what plant communities are considered native non-invasive for this Rule. We have already provided guidance on this matter in two ways. We incorporated by reference in 8420.0112 (I) a document we prepared and issued to LGUs and provided for sale to the public regarding vegetation issues in restored and created wetlands. Also on the agencies web site, we posted a reference document to LGUs dated January 2002, regarding which species are considered non-native invasive plants that should not be established in wetlands and upland buffers and we offer native substitutes to be used

in place of such plant materials. However, we believe including an additional recent reference to the definition of "native vegetation" in 8420.0110, Subp. 32 is warranted. The definition would thus state: "Native vegetation. Native vegetation means plant species that are indigenous to Minnesota, or that expand their range into Minnesota without being intentionally introduced by human activity and are classified as "native" in the Minnesota Plant Database (Minnesota Department of Natural Resources, 2002)."

10) One Commentator is concerned about our proposed changes in the application of 8420.0122 Subpart 9(D) regarding combining this exemption with others in this Part.

Agency Response: We did not seek nor did we intend to make any changes to this subpart that would be contrary to statute. There were no amendments made by Minnesota Laws 2000, Chapter 382 or Minnesota Laws 2001, Chapter 146 that authorized changes in item A or in the second sentence of item D. Changes in the first sentence of item D are proposed to clarify typing for application of the exemption not change the exemption itself. Therefore, we propose the following changes assure clarity and to remove inadvertent conflicts with the statute:

- Item A, second line, reinstate the phrase "as part of a project"
- Item D, first sentence, re-order to be item E.
- Item D, second sentence, revert back to original proposed language.

We thank the commentator for noting these inadvertent inconsistencies.

11) One commentator noticed an error where reference to inclusion of Watershed District was inadvertently missed in a paragraph in 8420.0400 (2).

Agency Response: This was inadvertent and we propose to add the language "or Watershed District" after "...county" on line two of paragraph one.

12) A comment regarding changes to 8420.0520 Subpart C (2) was received. The commentator is concerned that proposed changes would weaken the rule.

Agency Response: We understand the commentator's concern and would propose to return to the current rule language retaining the term "determine" rather than our proposed term "evaluate" to ensure consistency with Item 1 of this Subpart.

Additionally, we noted an error in the format from the Revisor in this Subpart. We propose to correct this through the following:

- Recreate proposed item #4 in this subpart by inserting it after the first sentence in item #3 that ends with the word "impact."
- Current item # 4 would be remunerated to become item #5.

These changes would not substantially change the rule and are within the scope of the matter announced in the dual notice.

13) Comments indicate clarification needed to interpret changes to 8420.0122 (3) as it pertains to drainage and defining minimum state standards.

Agency Response: The drainage issue has already been clarified by the Minnesota Court of Appeals in Hentges v. Minnesota Bd. Of Water and Soil Res., 638 N.W.2d 441 (Minn. Ct. App. 2002), rev. denied, (Mar. 27, 2002) which upheld the validity of this portion of the rule. Therefore, we do not believe further clarification in rule is necessary.

Regarding the establishment of minimum state standards, in 8420.0122 (1H) and (3B), this language is directly from 103G.2241, Subd. 1 (8ii) and Subd. 3(3). Minnesota Statutes and this and other rules provide standards as it applies to waters and wetlands of the state. The four state agencies have already addressed the content of these minimum standards through their participation in this rule adoption process. Finally, because federal standards are subject to regular changes, our proposed language continues to allow the four state agencies involved with water and wetland protection, the flexibility to review and incorporate any new federal standards that they agree meet state requirements set by Minnesota Statute and Rule. This is beneficial to the regulated public as it reduces duplication of state and federal regulations. We do not believe these provisions require additional rulemaking, but rather can be incorporated or addressed under the existing state statutes and rules.

14) One commentator raised concern about our proposed changes in 8420.0760 as it pertains to fee title owners of bank sites.

Agency Response: We are unable to understand clearly what the commentator is concerned about. We support our proposed language that makes clear the responsibilities of a fee owner to maintain a bank site after the sale of all the credits

has occurred. We believe its reasonable and necessary to ensure that such sites are sustained and maintained into the future.

Additionally, we also propose to remove reference to "civil penalties" in Subpart F of this Part. We did not seek legislative approval for such authority.

15) A comment was received concerning the timelines in 8420.0260 as it pertains to LGU's failure to implement the law.

Agency Response: BWSR recognizes that fulfillment of this process is lengthy. However, these issues are complicated and require time to determine if the law is not being implemented, at what level is such occurring, and how can it be rectified. We currently have a multi-step process established by policy that directs the agency how to proceed. This multi-step process prescribes how the investigation of an LGU for failure to apply this law is to proceed and implements various remedies to correct the measure at each step. We believe our current rule language is reasonable, necessary and effective in correcting failures in application of the law.

16) DNR suggests changing the title of 8420.0548 (2) as requested by the US Fish and Wildlife Service.

Agency Response: In our hearing comments we proposed to modify this section because the language prohibited approval of a replacement plan when an endangered or threatened species was involved. Our proposed change would allow for approval if the Commissioner of DNR provided for the taking of such species. However, the DNR and the US Fish and Wildlife Service are concerned that our proposed rule language introduced at the hearing still does not provide for a replacement plan approval if a permit to take a threatened or endangered species has been issued. Therefore, we propose to adopt the language proposed by the DNR and US Fish and Wildlife Service in the DNR- Ecological Services comment letter of April 9, 2002 to your office. Doing this would not substantially change the rule.

This concludes our formal responses to the comments received by your office during the public comment period preceding the hearing. We believe our proposed rule changes are not substantially different and are within the scope of the dual notice. Further, we believe that our proposed changes are reasonable and necessary and have been developed with broad input from those representing the spectrum of persons involved and affected by these rules.

I have enclosed a handwritten markup with amendments to Exhibit #14 showing proposed changes based on the hearing and post-hearing comments.

I can be reach at 651-297-3432 if you have questions or desire further explanation.

Sincerely,

John Jaschke
Land and Water Section Administrator

Enclosure
Attachement

cc: Ron Harnack
Doug Thomas
Regional Supervisors
Wetland Staff

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Central Office: One West Water Street ■ Suite 200 ■ Saint Paul, MN 55107 ■ Phone: (651) 296-3767 ■ Fax: (651) 297-5615

April 9, 2002

Honorable Steven Mihalchick
Administrative Law Judge
Office of Administrative Hearings
100 Washington Square, Suite 1700
Minneapolis, MN 55401-2138
FAX: 612-349-2665

Dear Judge Mihalchick:

RE: In the Matter of Proposed Permanent Rules and Amendments to the Existing Rules of the Board of Water and Soil Resources Governing Wetland Conservation Act: Chapter 8420.

The Board of Water and Soil Resources (BWSR) submits the following as its preliminary response to comments received during the March 26, 2002 rulemaking hearing. These comments are prepared based on notes taken by staff during the hearing and the hearing transcript. This letter is being submitted during the comment period, and we request that they be made part of the hearing record.

Issue Responses:

- 1) *The proposed definition in 8420.0110 Subpart 34a is the same as that found in Minnesota Statute 103G.005 Subpart 14 describing the Ordinary High Water Mark (OHW) and will cause confusion and inconsistency in application of the rules.*

Agency Response: As we indicated during the hearing, the intent of this definition is to provide consistent regulation of types 3, 4 and 5 wetland types between the Department of Natural Resources (DNR) under Minnesota Rule 6115 and Local

Governments Units (LGU) under Minnesota Rule 8420 (Exhibit 17). Clearly, the Minnesota Legislature intended for such when it debated and adopted language in Minnesota Laws 2000, Chapter 382 (Exhibit 16A) concerning regulation of the permanently and semi-permanently portions of these wetlands by Local Governments Units (LGU). Although we agree that other wetland classification systems exist that describe these areas, the intent of the proposed definition is to define it commonly for the two state regulatory programs. Because the DNR already uses a definition established in Minnesota Statutes 103G.005 (14) to regulate types 3,4 and 5 wetlands, creating a new and different definition for the Wetland Conservation Act (WCA) would only exacerbate the confusion between state wetland regulatory programs that Chapter 382, MN Laws 2000, was intended to diminish.

Additionally, concerns raised about the need for instituting the use of the DNR Ordinary High Water Level (OHWL) method at the local level to determine the area in question are unfounded. The OHWL method is used to establish the maximum extent of the DNR regulatory jurisdiction even though additional wetland areas almost always continues beyond that point landward. The Wetland Conservation Act jurisdiction already extends and regulates activities beyond this area because the method used to establish the boundary of the wetland is more extensive than the OHWL method of DNR. During the past 2 years of applying the exempt rule on the ground, we have not observed the anticipated confusion by LGU's as portrayed by the commentator. Therefore, we believe our proposed definition is reasonable and necessary and within the scope of the matter announced in the dual notice.

2) The proposed approach to typing wetlands in subpart 8420.0122 Subpart 9 for applying the de minimis exemption is problematic and scientifically questionable.

Agency Response: Several wetland typing systems exist today to classify wetlands. Hearing exhibits 20 and 21 provide distinctly different examples of this. Unfortunately, none of these were created for the purpose of implementing wetland protection regulations; rather they were developed to serve as an inventory protocol to gauge wetland habitats for wildlife and fisheries across the United States. Because of this, regulatory programs such as WCA are forced to adapt these systems as best they can to address regulatory needs. The Legislature in Minnesota Statute 103G.005 (17b) set forth the definition of wetland types using the Circular 39 (Exhibit 20) approach for state regulatory programs. We acknowledge that our proposed typing method adaptation in this subpart is a modification of the Circular 39 (exhibit 20) classification system. However, applying the de minimis exemption amounts described in this subpart are dependant on typing the wetland and applying a prescribed amount. Because Circular 39 requires a classification of the wetland type by the predominance of the hydrology of the wetland, using it literally would require a hydrologic review of the entire basin. For wetlands less than 40 acres in size, this is reasonable and practical to accomplish on site by regulators, consultants, and applicants and we propose to maintain the non-adaptive approach. However, in northern Minnesota as exemplified by exhibit 22, many wetland basins are large

enough that it becomes impractical to apply the Circular 39 typing method as written in the field because of the time and logistics required to traverse the entire wetland basin to apply circular 39. Instead, we believe it is reasonable and necessary to adapt this system to allow local governments to type the wetland in a more practical manner for application of the exemption because these impacts are small and localized enough that expending additional efforts to conduct a larger typing exercise isn't justified.

3) 8420.0200- LGU and SWCD fees for technical and administrative services.

Agency Response: This issue was addressed in the Minnesota Legislature under Minnesota Statute 103G.2242 (5) and again in Minnesota Law 2000, Chapter 382. In each of these places the Legislature provided for charging of fees to cover costs from implementing rules and providing assistance to landowners. Further, regarding conflicts of interest, we have provided guidance to LGU's about avoiding scenario's that would create a conflict of interest (see exhibit 23). Finally, in many places of out-state Minnesota, there are no consulting services available to the public, and local government may be relied upon to provide a basic level of technical and administrative services. Therefore, we propose no changes to this part.

4) 8420.0240 Technical Evaluation Participation by applicants or their agents should be automatically provided for in the rule.

Agency Response: Several commentators advocate for making technical evaluation panel (TEP) meetings comply with the "open Meeting Law" to prevent harm to their clients. We believe that such should be left to the discretion of the LGU rather than as a mandatory requirement in rule.

The TEP process consists of preliminary technical review and is not a formal hearing where the final decision about a project is made (Exhibit 19). Rather, the TEP provides technical assistance and recommendations to the LGU on technical issues or data supplied by an applicant. The LGU provides the forum for an applicant or their agent to come and advocate for approval of their application. If an applicant provides the necessary information to review the technical aspects of an application, there is little likelihood that the TEP needs additional discussion with the applicant or their agent. However, in the unlikely event that such is necessary, the TEP can and does ask the agent/applicant for clarification of application materials so it may better review and make recommendations. Requiring TEP meetings be open in all cases to applicants/agents will have the effect of converting this technical review process into a project advocacy meeting.

Additionally, BWSR has already addressed this issue when we provided guidance to LGU's concerning the TEP and the Open Meeting Law (Exhibit 24). This was intended to ensure that the relationships between the TEP process and the Open

Meeting Law is understood. We believe that this issue is well understood by LGU's and that the Open Meeting Law is being complied with when necessary. However, we will continue to review this with our Attorney General and issue additional guidance if necessary to ensure continued understanding of this matter. However, we do not support making all TEP work subject to open meetings by this rule.

5) Technical Evaluation Panels are unqualified to review work.

Agency Response: Several commentators raised concerns regarding the TEP not being qualified to review the work of other professionals. At least one commentator raised concerns that non-engineer professionals on the TEP were reviewing work of Professional Engineers and the appropriateness of such.

Nothing in Minnesota Statute 103G.2242 (2) or Minnesota Laws 2000, Chapter 382 regarding membership of the TEP requires an engineering professional be placed on the TEP in order for them to review projects with engineering aspects. In fact, Minnesota Statute 103G.222 (1) items j and m directly place the TEP in a role of reviewing projects that generally have engineering aspects to them (i.e. wetland restoration and public transportation projects) contrary to the commentator's point. It is important to remember that the TEP is not reviewing the engineering design for consistency with engineering standards but rather they are reviewing the proposed project for compliance with Minnesota Rules 8420 regulating activities in wetlands. Further, nothing in statute or rule prohibits the TEP from seeking the advice of other technical professionals on matters if they believe it is necessary to do so. Many TEPs will as a matter of practice invite persons with additional technical expertise to gatherings on such technical matters to ensure they properly consider the technical issues. Therefore, we believe the comments received about this matter do not merit any changes.

6) One commentator believes the definition in 8420.0110 (4) is discriminatory to non-agricultural interests.

Agency Response: The agricultural definition is provided for in Minnesota Statutes 103G.005(2a) as it pertains to waters of the State including wetlands as stated in our hearing testimony. We only propose to clarify the legislative intent of Minnesota Statute 103G.222 (1) concerning application of the agricultural exemption to agricultural activities solely. This change does not make the rule substantially different and is within the scope of the matter announced in the dual notice.

7) One commentator raised concerns about requiring access to private property for projects that are exempt or no loss.

Agency Response: A project is exempt if it meets the conditions as found in part 8420.0115-0210 whether or not the LGU has made an official decision. However, this is not automatically the case for no-loss determinations found in Minnesota Rules

Part 8420.0220. Regardless of whether a project is automatically exempt, no-loss or not, if a landowner is unsure about the application of an exemption or no-loss and asks the LGU for a determination or decision, the LGU should be allowed to examine the site before making a decision for the landowner. If the landowner wishes not to provide such access, they may claim the exemption, but they must also be prepared to show that their project meets the qualifications when asked by an LGU or Enforcement Authority. Additionally, our proposed language is also intended to ensure that projects do not become approved by default because the applicant asked for a formal decision of the LGU but will not provide the LGU with sufficient access in a timely enough manner to make the review and decision in accordance with Minnesota Statute 15.99. Several attempts have been made to gain a default approval of a replacement plan by refusing access to the LGU to verify on-ground conditions. We believe the proposed language is reasonable and necessary without additional changes.

8) One commentator-raised concern surrounding changes proposed to the replacement for public transportation projects found in Part 8420.0544.

Agency Response: Our language does not substantially change the rule but is meant to clarify the legislative intent regarding which transportation projects are eligible to receive BWSR created replacement and which could use the other transportation related facets of the rule. As demonstrated in Minnesota Statute 2000, Chapter 492, Section 9 (Exhibit 25), the intent of the state (BWSR) generated replacement was to apply directly to local road projects that have impacts from repairs, rehabilitation, reconstruction or replacement not construction and maintenance of airport runways, state snowmobile trails, boat ramps, etc. While these are public transportation projects, the intent was not to extend state (BWSR) replacement to them. However, these types of project are granted some additional flexibility in other portions of this Part. The proposed rule changes found in this rule Part are within the scope of the matter announced in the dual notice.

9) Extensive comments were received concerning 8420.0541 (3)(A), (6) and (10)(B) (3) pertaining to size requirements of buffers and the amount of credit given for such.

Agency Response: As we noted in our opening remarks during the hearing, there is no debate that wetland functions and values are enhanced and protected by inclusion of an upland buffer around the wetland. These buffers provide sediment filtration, critical habitat for wetland wildlife, nutrient reductions from run-off (exhibit 26 with attachments). To that end, providing buffers is consistent with Part 8420.0100(B) which strives increase the quality, quantity, and biological diversity of the state's wetlands by restoring or enhancing diminished or drained wetlands. However, like many of the comments received at the hearing, we agree there is a point at which the scientific benefit becomes impractical enough that it is not likely to achieve the desired outcome of voluntary inclusion of upland buffers adjacent to replacement wetlands. Therefore, we again reviewed the comments from the hearing and based on

them, we would propose the following changes to address concerns of the hearing commentators while protecting and enhancing wetlands:

- In 8420.0541 Subpart 3 (A)- remove all language on the fourth line after the reference to “**subpart 6.**” This would defer buffer crediting in this part to Subpart 6 where a 25 foot average buffer is necessary in a municipal area and 50 foot average width buffer in a non-municipal area may receive 100 percent public value credit for the size of the replacement wetland it adjoins.
- In 8420.0544 Subpart B (3) - Insert language that states that buffers installed adjacent to two-celled systems that are consistent with Subitem (2) may be allowed for credits *as found 8420.0541 (6)*. We would strike the remainder of this subpart.
- A definition of “municipal” is needed and we are looking forward to suggestions for that but if none are offered propose using a definition such as “areas located within an incorporated city having the authority prescribed in M.S. 471”.

These changes would make for a consistent (simpler) application of upland buffer credit throughout the rules as requested by the commentators. Additionally, increasing the amount of public value credits that can be obtained by buffers creates additional incentive to applicants to implement such. Finally, the changes retain a larger average buffer size threshold than currently required that would better protect replacement wetlands, which is a primary the goal of this rule. While we recognize our exhibits supports larger average buffers than the 25 feet and 50 feet thresholds proposed, if we cannot get applicants to voluntarily provide the upland buffers, then nothing is gained by the rule change. These proposed changes would not make the rule substantially different and are within the scope of the matter announced in the dual notice.

10) Comments concerning the proposed application of Minnesota Statute 15.99 concerning decisions of Local Government Units during periods of climatic restrictions is to broad.

Agency Response: As we noted in our hearing statement, the references pertaining to staying applications due to inclement field conditions will be removed. Although we believed our proposal was a benefit to the regulated public, we acknowledge that chance for abuse existed. Additionally, we recognize the issue regarding LGU noticing decisions within the limits of 15.99. Although, current practice amongst LGU’s is to make notice to the applicant on the day of the decision, we understand that the ten day issue may create potential conflicts with Minnesota Statute 15.99. As noted in our hearing testimony, this is an issue we will address through guidance and encourage LGU’s and their attorneys to also address this issue with local policy.

11) Multiple comments about control of non-native invasive as described in 8420.0550 is unreasonable were received.

Agency Comments: As stated in 8420.0100 of this Rule, one of the main principles of this rule is to maintain and improve wetlands of the state. Because invasive exotics are one of the main threats to the state's wetland resources, we believe it is reasonable to create rule language within the Wetland Conservation Act that helps protect wetlands by:

- Prohibiting the planting of such species; and
- Requiring control of them where they exist on replacement or bank sites.

We realize that some of these species are extremely difficult and costly to work with. Their management should be a consideration of the applicant before proposing such site to the LGU as a replacement of a proposed impact. However, our proposed language does not request nor require eradication of such species. Rather, we believe it is reasonable and necessary for applicants to provide for control of these by managing existing populations in a reasonable manner during the monitoring period of the site, which may last 5 years. Doing so will provide planted and existing native non-invasive wetland species with the best opportunity to establish and become dominant or co-dominants before monitoring and management of the wetland ceases.

We do not believe the term "control" suggests the need for eradication of non-native invasive species. Eradication of certain species found on a wetland restoration/bank site may fall under the requirement of state noxious weed and pest laws administered by the Minnesota Department of Agriculture. We believe it is up to the applicant to ensure that they comply with all weed and pest control laws whether for a wetland replacement site or any other site. However, we feel it is correct to ensure that our requirement does not conflict and maintains the spirit of other laws concerning control of various plants.

This concludes our preliminary responses to the comments received during the public hearing. We believe our proposed rule changes are not substantially different and are within the scope of the dual notice. Further, we believe that our proposed changes are reasonable and necessary. We look forward to providing additional comments during the upcoming comment review period.

Sincerely,

John Jaschke, Land and Water Section Administrator

C: Ron Harnack
Doug Thomas
Regional Supervisors
Wetland Staff

May 2002

DRAFT

**BOARD OF WATER AND SOIL RESOURCES
ONE WEST WATER STREET
LOWER LEVEL CONFERENCE ROOM
ST. PAUL, MINNESOTA 55107
MAY 22, 2002**

BOARD MEMBERS PRESENT: Lee Coe, Jerome Deal, Jim Anderson-MES, Paul Krabbenhoft, Clair Nelson, Dwain Otte, Victor Ormsby, Jack Frost, Ginny Imholte, Wayne Edgerton-DNR, Dan Wilson-MDH, Mark Dittrich-MDA, Karen Harder, Lisa Thorvig-PCA, Char Kahler

BOARD MEMBERS ABSENT: JoAnn Coover, Darrell Bruggman

STAFF PRESENT: Ron Harnack, Mary Jo Anderson, Doug Thomas, John Jaschke, Jeff Hrubes, Al Kean, Jim Haertel, Jim Birkholz

OTHERS PRESENT:

Sandy Hooker, Minnesota Association of Townships
Pat Huelman, University of Minnesota
Bill Alden and Carol Berg, Hubbard SWCD
Dean Oleson and Ray Bohn, MAWD
Robin Martinek, NRCS
LeAnn Buck and Scott Hoese, MASWCD
Tim Koehler, NRCS

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

Pledge of Allegiance

- ** Adopt Agenda** – Moved by Clair Nelson, seconded by Jerome Deal, to adopt the agenda as presented. Motion passed on a voice vote.
02-32
- ** Minutes of April 24, 2002** – Moved by Jack Frost, seconded by Victor Ormsby, to approve the minutes of April 24, 2002, as circulated. Motion passed on a voice vote.
02-33

Reports

Chair Coe reported that the DRC meeting was cancelled. The EQB meeting was also cancelled. Chair Coe and Doug Thomas attended the Minnesota Rivers Forum sponsored by Minnesota Public Radio, on April 29, at St. John's University in Collegeville. Chair Coe attended the Water Planning Subcommittee meeting to review the Pine County CLWP. Chair Coe attended the State Envirothon yesterday at Camp Miller, Sturgeon Lake.

Executive Director - Ron Harnack, reported that the Legislative Session is over. Ron gave an overview of the legislative policy issues. Ron would like the Administrative Advisory Committee to meet in June to review the additional biennial budget reductions. The Natural Resources and Environment bonding initiatives were distributed for board members' information. LCMR is moving forward, five of BWSR's seven LCMR proposals are scheduled for hearings.

Wetlands Committee – Ron Harnack reported that the WCA rules will be on the agenda next month for Board approval. In addition the staff will be presenting wetland reforms options to the committee and the Board as we look at accommodating the biennial budget reductions looking to FY04-05.

Cost-Share/Soil Conservation Committee – Dwain Otte reported that the cost-share committee will meet on June 12. Ron Harnack encouraged agency members to check with their committee representatives to ensure participation at the committee meeting. The agenda will include grant allocation options, farm bill details and opportunities, 319 opportunities. Lisa Thorvig stated that EPA will likely be directing greater percentages of the 319 funding to TMDLs initiatives, therefore less dollars available for general nonpoint activities.

Administrative Advisory Committee – Chair Coe reported that the committee will meet in June.

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Agency Reports

Dan Wilson, Minnesota Department of Health (MDH), reported that the Legislature appropriated funding to construct a new lab building for MDH and the Department of Agriculture. Dan stated that they expect to be moved into the building by the end of 2004. Dan distributed a report "Protecting a Vital Resource: Keeping Our Drinking Water Safe – A summary of Drinking Water Protection Activities" for board members' information.

Wayne Edgerton, DNR, reported that the ConCon bill passed. The Chronic Wasting Disease bill has been incorporated into the Department of Agriculture's Board of Animal Health bill, which will provide funding for deer testing. DNR received a significant budget reduction in administration, thus a new regional boundary change – effective July 1, there will be four regions rather than six. The regional offices will be located in Bemidji, Grand Rapids, St. Paul, and New Ulm. Ron Harnack asked Wayne to report at the next meeting on the Division of Waters impacts due to the budget reductions.

Ron Harnack reported that Kamal Alshariff, MES/BWSR staff is being laid-off effective today due to budget reductions. Kamal served as an excellent employee in the shared BWSR/MES position. The Board wishes Kamal well in his future endeavors. Jim Anderson reported that 43 University of Minnesota, Extension staff have been laid off.

Lisa Thorvig, Pollution Control Agency (PCA), reported that Wastewater Infrastructure (WIF) was funded at \$30M; \$1.5 was targeted for the North Shore. The Governor requested \$16M for the State Revolving Fund. PCA will meet the general fund reduction, water program reduction, by managing salary savings in FY02-03, with decision on long-term reduction in FY04-05. Lisa reported that small municipal storm water system (MS4) general permit will be an information item at PCA's May 28th meeting. Municipal comments include better integration with BWSR and local water planning; reducing duplication of efforts between PCA and LGUs – clarification of roles and pass through dollars for LGUs. Lisa reported that a permit change in the date for local ordinances (two years after coverage date) to address stormwater in general permitting. Lisa reported that the League of Minnesota Cities is hiring a contractor to develop model MS4 strategy. A decision on MS4 permit issuance will be made at the June 25th meeting.

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

New Business

Establish Date for Referendum on Petition for Discontinuance of the Hennepin Conservation District – Jim Haertel presented the proposed Order. Moved by Jerome Deal, seconded by Victor Ormsby, that the Board hereby orders a referendum on the

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02-34

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discontinuance of the Hennepin Conservation District be conducted on November 5, 2002, by placing the question for discontinuance on the ballot for the Hennepin County general election, and noticing the referendum and publishing the result of the referendum in the same manner as Hennepin County. Motion passed on a voice vote.

Hubbard SWCD Recommendation Report on M.S. 103C.601 Works of Improvement Project – Doug Thomas introduced Jeff Hrubes, board conservationist, and Bill Alden, Hubbard SWCD district manager. Doug presented the proposed order to determine consistency with the State water policy. Jeff Hrubes presented background information. The recommendation report and preliminary plan presented represents the range of alternatives for a Works of Improvement Project and has proposed the most environmentally sensitive solution to removing flood waters from the Mantrap Chain of Lakes. All relevant requirements of law have been fulfilled. DNR and PCA staff have been involved in the proposal and no problem issues have been raised. The Board has proper jurisdiction in the matter of determining the consistency of the Mantrap Chain of Lakes Improvement Project with State water policy pursuant to MS 103C.601, Subd. 9. Bill Alden distributed the Hubbard SWCD recommendation report to install a pumping system on Belle Taine Lake to pump water to infiltration basins. Moved by Dwain Otte, seconded by Jack Frost, that the Board hereby determines that the Mantrap Lake Works of Improvement and preliminary general plan are not inconsistent with the systematic administration of State water policy. Motion passed on a voice vote.

Middle River Snake River Watershed District Enlargement Petition – Doug Thomas presented the proposed hearing Order for enlargement of the Middle River Snake River Watershed District, and increasing the number of managers. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of the ordering a hearing to determine whether the proposed changes would be for the public welfare and interest and the purposes of Chapter 103D would be served. Moved by Jerome Deal, seconded by Ginny Imholte, that the Board hereby orders the Chairman of the Board and the Executive Director to appoint a hearing body (Chair Coe, Jerome Deal, and Ginny Imholte will serve as a hearing body) and to notice and conduct a hearing within the proposed territory to be added to the Middle River Snake River District. Motion passed on a voice vote.

FY03 CREP Implementation Grants to Nonpoint Engineering (NPEA) Assistance Joint Powers Board – Al Kean presented the proposed grants to accelerate NPEA engineering assistance for CREP wetland restorations in cooperation with BWSR, SWCDs, and other partners. Moved by Char Kahler, seconded by Victor Ormsby, to approve the FY03 CREP implementation grants to NPEA Joint Powers Boards. Motion passed on a voice vote.

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Local Water Management Integration Guiding Principles– John presented the framework for local water management integration to improve and protect Minnesota's valuable water and related land resources. John also presented Guiding Principles that were developed by an ad-hoc sub-committee of the Board (Karen Harder, Ginny Imholte, Char Kahler, and agency representatives). The Guiding Principles were developed to convey fundamental philosophies and values to attain a vision. The Principles guiding efforts to make local water management plans the primary means to achieve sound water and related land management in Minnesota and an effort to connect BWSR water management and local land planning programs. Moved by Ginny Imholte, seconded by Lisa Thorvig, to approve the local water management integration guiding principles. Motion passed on a voice vote.

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02-38

Information and Discussion

Review of Outcomes from the Education Committee's Workshop on Issues and Priorities for UM Extension's Natural Resources Programming – Paul Krabbenhoft introduced Ron Struss, BWSR/MES, and Pat Heulman, Interim Associate Dean in UM College of Natural Resources. Pat reported that with the U of M's reductions, they have made a commitment to do more with less and focus on needs, meeting their mission, and utilizing expertise. He thanked BWSR for their assistance and input into the U of M's programs, delivery, curriculum, and evaluation of programs. Ron Struss distributed and reviewed the draft summary of exploring educational opportunities for meeting Minnesota's natural resource needs. Discussion followed. Jim Anderson stated that this information gives focus; BWSR has served a purpose in the assistance to MES in exploring educational opportunities for meeting Minnesota's natural resource needs.

Soil and Water Conservation Society (SWCS) – Robin Martinek presented information on the National SCSC Annual Conference that will be held in Minnesota July 2004. Robin explained what the Minnesota Chapter of SWCS is all about. Ron Harnack stated that BWSR is involved with some of the subcommittees for planning the national conference. This will be a unique opportunity to share some of Minnesota's conservation experiences and promote the state's natural resource opportunities. Chair Coe thanked Robin for her presentation.

Advisory Comments

-LeAnn Buck, MASWCD, reported that she and MASWCD representatives went to Washington, D.C. in March and lobbied for legislative efforts such as the Conservation Security Act, EQIP, and third party vendors. LeAnn distributed a resolution regarding the National Pollution Discharge Elimination System Phase II Funding for Soil and Water Conservation Districts. LeAnn stated that SWCDs are concerned about the adequacy of funding for WCA. LeAnn stated that MASWCD is a sponsor of the CREP Celebration to be held June 25 in Mankato.

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-Sandy Hooker, MAT, stated that at times, townships are left out of the information loop; however MAT holds sessions throughout the year to inform township officials.

-Ray Bohn, MAWD, introduced Dean Oleson, president of MAWD. Ray stated they had a relatively good session. He thanked Doug Thomas for his assistance to MAWD during session. FDR program was MAWD's major effort in the bonding bill. Summer tour is June 27-29, in South Washington County. Ray also voiced concern regarding Commissioner Hugosen's letter to Governor Ventura regarding North Ottawa flood control project and the implication that it had questionable benefits. BWSR and DNR and the Watershed District should have been contacted since this project has been part of an extensive mediation agreement process and directly impacts their programs and policies. BWSR is the place where issues and concerns like this should be raised. MDA was not present to respond to the issue.

-Tim Koehler, NRCS, distributed and gave an summary of the "Farm Bill 2002 Conservation Provisions Overview". Tim stated that the appropriation language discussions continue, thus Minnesota does not know the allocation at this time. Tim stated that there is a web site available to check on the status of the Farm Bill, fact sheets and current information. www.nrcs.usda.gov/prgrams/farmbill/20021 Tim has been working with Doug Thomas on this and is willing to provide more information if needed.

Upcoming Meetings

- CREP Celebration, June 25, Mankato
- Next BWSR Meeting, June 26, Mankato
- MAWD Summer Tour, June 27-29, South Washington County
- BWSR Tour and Meeting, July 24-25, Kandiyohi County
- BWSR Meeting, August 28, St. Paul
- BWSR Meeting, September 25, in conjunction with the Local Waters Planners Conference, September 23-25, Hinckley

** Moved by Clair Nelson, seconded by Jerome Deal to adjourn the meeting at 12:45 p.m.
02-39

Respectfully submitted,


Leland Coe
Chair

Conservation Provisions Overview

May 2002

The Farm Security and Rural Investment Act of 2002 (Farm Bill) represents the single most significant commitment of resources toward conservation on private lands in the Nation's history. The legislation responds to a broad range of emerging natural resource challenges faced by farmers and ranchers, including soil erosion, wetlands, wildlife habitat, and farmland protection. Private landowners will benefit from a portfolio of voluntary assistance, including cost-share, land rental, incentive payments, and technical assistance. The 2002 Farm Bill places a strong emphasis on the conservation of working lands, ensuring that land remain both healthy and productive.

The conservation provisions build upon past conservation gains and respond to the call of farmers and ranchers across the country for additional cost-share resources. The 2002 Farm Bill also ensures greater access to the programs by making more farmers and ranchers eligible for participation.

Agriculture Management Assistance (AMA)

- Provides additional funding for AMA, in addition to funds provided through the Agriculture Risk Protection Act of 2000

Conservation Corridor Program

- Requires the Secretary of Agriculture to establish a conservation corridor demonstration program on the Delmarva Peninsula in the states of Delaware, Maryland, and Virginia located on the east side of the Chesapeake Bay

Conservation of Private Grazing Land (CPGL)

- Provides policy for technical assistance relating to conservation on private grazing lands, and mandates establishment of a separate funding line-item for this purpose

Conservation Reserve Program (CRP)

- Reauthorizes the program through 2007
- Raises authorization for enrollment to an overall acreage cap of 39.2 million acres
- Expands the Farmable Wetland Pilot Program to become available Nationwide with an aggregate acreage cap of 1 million acres
- Allows landowners to continue with existing ground cover where practicable and consistent with wildlife reserve benefits of CRP
- Provides for managed haying (including for biomass) and grazing

Conservation Security Program (CSP)

- Establishes CSP for fiscal years 2003 through 2007 to reward stewardship and provide an incentive for addressing additional resource concerns on agricultural working lands

Desert Terminal Lakes

- Provides \$200 million in funds of the Commodity Credit Corporation to be transferred to the Secretary of the Interior to provide water to at-risk natural desert terminal lakes; prohibits the purchase or lease of water rights with the funds

Environmental Quality Incentives Program (EQIP)

- Reauthorizes the program through 2007 with greater funding resources
- Eliminates geographic priority areas
- Allows for expenditure of funds in the first year of the contract
- Eliminates the cap on large confined livestock operations
- Provides an overall payment limitation of \$450,000 per producer, regardless of the number of farms or contracts, over the authorized life of the 2002 Farm Bill
- Specifies contract length, from a minimum of one year beyond completion of the project to a maximum of 10 years
- Prohibits the process of bidding-down (competitive cost share reduction among program applicants)
- Allows up to 90 percent cost-share for beginning or limited resource farmers and ranchers
- Allows the Secretary of Agriculture to use a portion of EQIP funds in each of fiscal years 2003 through 2006 for innovation grants
- Provides an additional \$50 million in EQIP funding to assist producers in the Klamath Basin

Farmland Protection Program (FPP)

- Reauthorizes the program through 2007 with greater funding resources
- Removes the existing acreage limitation, expands the definition of eligible land, and makes agricultural land that contains historic or archaeological resources eligible for enrollment
- Includes nonprofit organizations as eligible entities for program participation
- Allows the Secretary of Agriculture to provide grants (through an authorization of appropriations) for use in carrying out farm viability programs

Grasslands Reserve Program (GRP)

- Authorizes enrollment of up to 2 million acres of restored, improved, or natural grassland, rangeland, and pastureland, including prairie

Grassroots Sourcewater Protection

- Authorizes an annual appropriation for fiscal years 2002 to 2006 to use technical capabilities of each state rural water association that operates a well-head or groundwater protection program

Great Lakes Basin Program for Soil Erosion and Sediment Control

- Authorizes the Secretary of Agriculture, in consultation with the Great Lakes Commission and in cooperation with the Administrator of the Environmental Protection Agency and the Secretary of the Army, to carry out a program in the Great Lakes basin for soil erosion and sediment control

Ground and Surface Water Conservation

- Provides a special initiative through EQIP for ground and surface water conservation
- Institutes cost-share payments, incentive payments, and loans to producers to carry out eligible water conservation activities, including irrigation improvements, conversion to less water intensive crops, and dryland farming

Partnerships and Cooperation

- Authorizes the Secretary of Agriculture to enter into agreements to enhance technical and financial assistance provided to owners, operators, and producers to address natural resource issues related to agricultural production

Resource Conservation and Development Program (RC&D)

- Provides permanent reauthorization of the program and makes technical and conforming changes to the program

Small Watershed Rehabilitation

- Provides mandatory spending from the Commodity Credit Corporation in addition to existing authorization of appropriations

Wetland Reserve Program (WRP)

- Reauthorizes the program through 2007
- Increases the overall program acreage cap to 2,275,000 acres
- Caps annual acreage enrollment at 250,000 acres

Wildlife Habitat Incentives Program (WHIP)

- Provides for up to 15 percent of annual WHIP funds for increased cost-share payments to producers to protect and restore essential plant and animal habitat using agreements with a duration of at least 15 years

For More Information

If you need more information about the Conservation Provisions of the 2002 Farm Bill, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information also is available on the World Wide Web at:
<http://www.nrcs.usda.gov/programs/farmbill/2002/>



Visit USDA on the Web at:
<http://www.usda.gov/farmbill>

Conference Committee Report on H.F. No. 3618

- 1.1 CONFERENCE COMMITTEE REPORT ON H.F. NO. 3618
- 1.2 A bill for an act
- 1.3 relating to capital improvements; authorizing spending
- 1.4 to acquire and better public land and buildings and
- 1.5 other public improvements of a capital nature with
- 1.6 certain conditions; requiring certain studies and
- 1.7 reports; authorizing sale of state bonds; canceling
- 1.8 earlier appropriations and reducing bond
- 1.9 authorizations; making technical corrections; making
- 1.10 changes to statutes related to administration of the
- 1.11 state's capital improvement program; requiring an
- 1.12 inventory of state-owned land; providing a certain
- 1.13 exemption from any moratorium on state professional or
- 1.14 technical contracts; authorizing a lease of certain
- 1.15 Minneapolis park and recreation board land; modifying
- 1.16 the wastewater infrastructure program; establishing a
- 1.17 local road improvement account; prohibiting any action
- 1.18 on the Dan Patch Commuter Rail Line; establishing a
- 1.19 multiagency working group on mitigation of effects of
- 1.20 DM&E rail project in southern Minnesota; authorizing
- 1.21 the purchase of certain state park inholdings;
- 1.22 appropriating money; amending Minnesota Statutes 2000,
- 1.23 sections 13.462, subdivision 2; 16A.11, subdivision 6;
- 1.24 16A.501; 16A.86, subdivision 3; 16B.335, subdivision
- 1.25 3; 119A.45; 446A.072, subdivisions 1, 3, 6, 7, 8, 9,
- 1.26 11, 12, by adding subdivisions; Laws 1998, chapter
- 1.27 404, section 18, subdivision 4; Laws 2000, chapter
- 1.28 492, article 1, section 12, subdivision 7; Laws 2000,
- 1.29 chapter 492, article 1, section 15, subdivision 4;
- 1.30 Laws 2000, chapter 492, article 1, section 22,
- 1.31 subdivisions 3, as amended, 4; Laws 2000, chapter 492,
- 1.32 article 1, section 27; Laws 2001, First Special
- 1.33 Session chapter 12, section 10; proposing coding for
- 1.34 new law in Minnesota Statutes, chapters 16B; 174;
- 1.35 repealing Minnesota Statutes 2000, section 446A.072,

1.36 subdivisions 2, 4, 5, 10, 13.

1.37 May 18, 2002

1.38 The Honorable Steve Sviggum

1.39 Speaker of the House of Representatives

1.41 The Honorable Don Samuelson

1.42 President of the Senate

2.2 We, the undersigned conferees for H.F. No. 3618, report

2.3 that we have agreed upon the items in dispute and recommend as

2.4 follows:

2.5

2.6 That the Senate recede from its amendment and that H.F. No.

2.7 3618 be further amended as follows:

2.8 Delete everything after the enacting clause and insert:

2.9 "Section 1. [CAPITAL IMPROVEMENT APPROPRIATIONS.]

2.10 The sums in the column under "APPROPRIATIONS" are

2.11 appropriated from the bond proceeds fund, or another named fund,

2.12 to the state agencies or officials indicated, to be spent for

2.13 public purposes. Appropriations of bond proceeds must be spent

2.14 as authorized by the Minnesota Constitution, article XI, section

2.15 5, paragraph (a), to acquire and better public land and

2.16 buildings and other public improvements of a capital nature, or

2.17 as authorized by article XI, section 5, paragraphs (b) to (j),

2.18 or article XIV. Unless otherwise specified, the appropriations

2.19 in this act are available until the project is completed or

2.20 abandoned. Appropriations for asset preservation not spent or

2.21 encumbered by June 30, 2004, are canceled July 1, 2004.

2.22 SUMMARY

2.23 UNIVERSITY OF MINNESOTA \$ 160,209,000

2.24 MINNESOTA STATE COLLEGES AND UNIVERSITIES 209,563,000

2.25 PERPICH CENTER FOR ARTS EDUCATION 768,000

2.26 CHILDREN, FAMILIES, AND LEARNING 34,900,000

2.27 MINNESOTA STATE ACADEMIES 1,500,000

2.28 NATURAL RESOURCES 101,612,000

2.29 POLLUTION CONTROL AGENCY 10,000,000

2.30 OFFICE OF ENVIRONMENTAL ASSISTANCE 4,750,000

2.31 BOARD OF WATER AND SOIL RESOURCES 8,250,000

2.32 AGRICULTURE 15,292,000

2.33 ZOOLOGICAL GARDENS	11,184,000	
2.34 ADMINISTRATION	83,722,000	
2.35 CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD		646,000
2.36 AMATEUR SPORTS COMMISSION	8,250,000	
2.37 ARTS	31,000,000	
3.1 MILITARY AFFAIRS	4,357,000	
3.2 TRANSPORTATION	92,500,000	
3.3 METROPOLITAN COUNCIL	30,500,000	
3.4 COMMERCE	5,000,000	
3.5 HEALTH	775,000	
3.6 HUMAN SERVICES	22,838,000	
3.7 VETERANS HOMES BOARD	12,898,000	
3.8 CORRECTIONS	25,870,000	
3.9 TRADE AND ECONOMIC DEVELOPMENT	84,650,000	
3.10 IRON RANGE RESOURCES AND REHABILITATION BOARD		1,500,000
3.11 HOUSING FINANCE AGENCY	16,200,000	
3.12 MINNESOTA HISTORICAL SOCIETY	3,967,000	
3.13 BOND SALE EXPENSES	880,000	
3.14 CANCELLATIONS	(4,437,000)	
3.15 TOTAL	\$ 979,144,000	
3.16 Bond Proceeds Fund		
3.17 (General Fund Debt Service)	836,085,000	
3.18 Bond Proceeds Fund		
3.19 (User Financed Debt Service)	96,550,000	
3.20 General Fund	5,946,000	
3.21 General Fund Cancellations	(2,488,000)	
3.22 Bond Proceeds Cancellations	(1,949,000)	
3.23 State Transportation Fund		
3.24 Bond Proceeds Account	45,000,000	

15.41 Sec. 7. NATURAL RESOURCES

15.42 Subdivision 1. To the

15.43 commissioner of natural resources

15.44 for the purposes specified

15.45 in this section 101,612,000

15.46 Subd. 2. Statewide Asset Preservation 2,600,000

15.47 For asset preservation improvements and

15.48 betterments at department of natural

15.49 resources buildings statewide,

15.50 including removal of life safety

15.51 hazards and structural defects;

15.52 elimination or containment of hazardous

15.53 materials; code compliance

15.54 improvements; accessibility

15.55 improvements; replacement or renovation

15.56 of roofs, windows, tuckpointing, and

15.57 structural members; and improvements

16.1 necessary to preserve the interior and

16.2 exterior of buildings and other

16.3 infrastructure. The commissioner shall

16.4 determine project priorities as

16.5 appropriate based upon need.

16.6 The unspent portion of an

16.7 appropriation, but not to exceed ten

16.8 percent of the appropriation, for a

16.9 project in this section that is

16.10 complete, is available for asset

16.11 preservation. Minnesota Statutes,

16.12 section 16A.642, applies from the date

16.13 of the original appropriation to the

16.14 unspent amount transferred.

16.15 Subd. 3. Field Office Renovations 1,000,000

16.16 To design, acquire, renovate,

16.17 construct, furnish, and equip field

16.18 offices to relieve substandard employee

16.19	working conditions in existing	
16.20	facilities.	
16.21	Until June 30, 2006, the commissioner	
16.22	of natural resources must not close	
16.23	offices in Brainerd or Rochester,	
16.24	Minnesota without first receiving	
16.25	approval from the legislature.	
16.26	Subd. 4. Office Facility Development	1,500,000
16.27	To acquire, design, construct, furnish,	
16.28	and equip a consolidated area office	
16.29	and service facility at Thief River	
16.30	Falls.	
16.31	Subd. 5. ADA Compliance	500,000
16.32	For improvements and betterments of a	
16.33	capital nature to remove barriers and	
16.34	make department of natural resources	
16.35	buildings, programs, and services	
16.36	accessible to individuals with	
16.37	disabilities, in compliance with state	
16.38	and federal ADA guidelines.	
16.39	Subd. 6. State Park Initiative	28,000,000
16.40	For building, utility, and natural	
16.41	resource projects within the Minnesota	
16.42	state park system according to the	
16.43	management plan required in Minnesota	
16.44	Statutes, chapter 86A, as follows:	
16.45	(1) to design, renovate, construct,	
16.46	furnish, and equip state park	
16.47	buildings; and	
16.48	(2) to design, renovate, furnish, and	
16.49	equip capital facilities at state	
16.50	parks, state recreation areas, and	
16.51	forest recreation areas, including, but	
16.52	not limited to, roads, trails, bridges,	
16.53	campgrounds, and utility systems.	
16.54	This appropriation must be used to	
16.55	substantially implement the master plan	

16.56 for improvements dated June 23, 1997,
16.57 for the historic golf course at Fort
16.58 Ridgely state park.
17.1 \$1,600,000 is for improvements and
17.2 betterments of a capital nature to
17.3 develop the Big Bog state recreation
17.4 area, including constructing,
17.5 furnishing, and equipping a visitors
17.6 center.
17.7 \$2,900,000 is for improvements and
17.8 betterments of a capital nature to
17.9 develop the Red River state recreation
17.10 area, including construction of a
17.11 visitor's center.
17.12 Subd. 7. State Park and Recreation Area
17.13 Acquisition 3,000,000
17.14 For acquisition of land under Minnesota
17.15 Statutes, section 86A.05, subdivision
17.16 2, from willing sellers of private
17.17 lands within state park and recreation
17.18 area boundaries established by law.
17.19 Subd. 8. Metro Regional Park Acquisition
17.20 and Betterment 8,700,000
17.21 \$6,000,000 is for a grant to the
17.22 metropolitan council. The commissioner
17.23 shall pay the amount on a reimbursement
17.24 basis to the metropolitan council upon
17.25 receipt of a certified copy of a
17.26 council resolution requesting payment.
17.27 The appropriation must be used to pay
17.28 the cost of improvements and
17.29 betterments of a capital nature, and
17.30 acquisition by the council and local
17.31 government units of regional
17.32 recreational open-space lands in
17.33 accordance with the council's policy
17.34 plan as provided in Minnesota Statutes,

17.35 section 473.315. This appropriation
17.36 must not be used for research,
17.37 planning, administration, or tax
17.38 equivalency payments. This
17.39 appropriation may be used for the
17.40 purchase of homes only if the purchases
17.41 are included in the work program
17.42 required by law and they are expressly
17.43 approved by the legislative commission
17.44 on Minnesota resources.
17.45 \$2,700,000 is for a grant to the
17.46 metropolitan council to complete
17.47 renovation of the Como Park
17.48 conservatory under phase 2. The
17.49 project must include renovation of the
17.50 fern room and construction of a bonsai
17.51 collection space, an orchid growing and
17.52 display house, and a children's
17.53 activity zone, as well as corridors and
17.54 connections to the education resource
17.55 building.
17.56 Subd. 9. Regional Parks:
17.57 Greater Minnesota 4,000,000
17.58 For grants to public regional parks
17.59 organizations located outside the
17.60 metropolitan area as defined in
17.61 Minnesota Statutes, section 473.121,
17.62 subdivision 2, to acquire land, design,
17.63 and construct and redevelop regional
18.1 parks and trails, open space, and
18.2 recreational facilities. The
18.3 improvements must be of a capital
18.4 nature. A greater Minnesota regional
18.5 parks organization with a project
18.6 previously funded through the regional
18.7 parks program, whether with bond funds
18.8 or other funds, at less than the total

18.9 eligible amount may reapply for the
18.10 total eligible amount from this
18.11 appropriation. If it is awarded, the
18.12 organization must return the original
18.13 grant award. Each \$3 of state grants
18.14 must be matched by \$2 of nonstate funds.
18.15 Subd. 10. Forest Road and Bridge
18.16 Projects 1,200,000
18.17 For reconstruction, resurfacing,
18.18 replacement, or construction of other
18.19 improvements of a capital nature to
18.20 state forest roads and bridges
18.21 throughout the state under Minnesota
18.22 Statutes, section 89.002. The
18.23 commissioner shall determine project
18.24 priorities as appropriate based on need.
18.25 Subd. 11. Reforestation 1,500,000
18.26 For improvements authorized under the
18.27 Minnesota Constitution, article XI,
18.28 section 5, clause (f). To increase
18.29 reforestation activities to meet the
18.30 reforestation requirements of Minnesota
18.31 Statutes, section 89.002, subdivision
18.32 2, including planting, seeding, site
18.33 preparation, purchasing tree seeds and
18.34 seedlings, improving forest stands, and
18.35 protecting plantations.
18.36 Subd. 12. State Forest Land Acquisition 500,000
18.37 To acquire private lands from willing
18.38 sellers within established boundaries
18.39 of state forests throughout the state
18.40 under Minnesota Statutes, section
18.41 86A.05, subdivision 7.
18.42 Subd. 13. State Trail Acquisition
18.43 and Development 3,650,000
18.44 To acquire, develop, and renovate state
18.45 trails as specified in Minnesota

18.46 Statutes, section 85.015.
 18.47 \$725,000 is for the Gitchi-Gami trail.
 18.48 \$450,000 is for the Shooting Star trail.
 18.49 \$300,000 is for the Luce Line trail.
 18.50 \$300,000 is for the Douglas trail.
 18.51 \$600,000 is for a grant to the city of
 18.52 Austin to acquire land for the Blazing
 18.53 Star trail.
 18.54 \$475,000 is for the Goodhue Pioneer
 18.55 trail.
 18.56 \$300,000 is for the Willard Munger
 19.1 trail.
 19.2 \$500,000 is to connect the portions of
 19.3 the Paul Bunyan trail in the city of
 19.4 Bemidji, including constructing an
 19.5 underpass. This appropriation is not
 19.6 available until the commissioner has
 19.7 determined that an equal amount has
 19.8 been committed by the city of Bemidji.
 19.9 Subd. 14. Trail Connections 1,857,000
 19.10 For matching grants under Minnesota
 19.11 Statutes, section 85.019, subdivision
 19.12 4c, including a grant to the city of
 19.13 St. Louis Park to design and construct
 19.14 a grade separated pedestrian and
 19.15 regional trail crossing over CSAH No.
 19.16 25/Trunk Highway 7 at Trunk Highway 100
 19.17 to connect the Cedar Lake Regional
 19.18 Trail and the Southwest LRT Regional
 19.19 Trail, a grant to the city of New Ulm
 19.20 to connect the city trail to Flandrau
 19.21 state park, and a grant to Stearns
 19.22 county for the Lake Koronis trail.
 19.23 The commissioner shall determine other
 19.24 project priorities as appropriate based
 19.25 on need.
 19.26 Subd. 15. Metro Greenways and Natural

19.27 Areas	1,000,000
19.28 To provide grants to local units of	
19.29 government for acquisition or	
19.30 betterment of greenways and natural	
19.31 areas in the metro region and to	
19.32 acquire greenways and natural areas in	
19.33 the metro region through the purchase	
19.34 of conservation easements or fee	
19.35 titles. The commissioner shall	
19.36 determine the project priorities and	
19.37 shall consult with representatives of	
19.38 local units of government, nonprofit	
19.39 organizations, and other interested	
19.40 parties.	
19.41 Subd. 16. Well Sealing	600,000
19.42 To identify and seal inactive wells on	
19.43 state-owned land under Minnesota	
19.44 Statutes, section 103I.311.	
19.45 Subd. 17. Lewis and Clark	
19.46 Rural Water System	180,000
19.47 This appropriation is from the general	
19.48 fund.	
19.49 For a grant to the Lewis and Clark	
19.50 joint powers board to acquire land for,	
19.51 and to predesign, design, construct,	
19.52 furnish, and equip, a rural water	
19.53 system to serve southwestern	
19.54 Minnesota. This appropriation is	
19.55 available when matched by \$8 of federal	
19.56 money and \$1 of local money for each \$1	
19.57 of state money.	
19.58 Subd. 18. Red Rock Rural	
19.59 Water System	125,000
20.1 For a grant to the Red Rock rural water	
20.2 system to acquire land, predesign,	
20.3 design, construct, and equip the	
20.4 southwest Minnesota regional water	

20.5 supply project. This appropriation is
20.6 not available until at least an equal
20.7 amount of nonstate money has been
20.8 committed to the project.

20.9 Subd. 19. Dam Improvements 1,800,000
20.10 To renovate or remove publicly owned
20.11 dams.
20.12 Of this amount, up to \$100,000 is for a
20.13 grant to Blue Earth county for
20.14 renovation of the Rapidan dam. This
20.15 grant is not available until at least
20.16 an equal amount is committed to the
20.17 project from nonstate sources.
20.18 Up to \$1,050,000 is for a grant to the
20.19 city of Crookston for phases 2 and 3 of
20.20 the Red Lake River restoration and
20.21 habitat improvement project.
20.22 The commissioner shall determine other
20.23 project priorities as appropriate based
20.24 on need as provided in Minnesota
20.25 Statutes, sections 103G.511 and
20.26 103G.515.

20.27 Subd. 20. Flood Hazard Mitigation Grants 30,000,000
20.28 For the state share of flood hazard
20.29 mitigation grants for publicly owned
20.30 capital improvements to prevent or
20.31 alleviate flood damage under Minnesota
20.32 Statutes, section 103F.161.
20.33 The commissioner shall determine
20.34 project priorities as appropriate based
20.35 on need.
20.36 This appropriation includes money for
20.37 the following projects: Warren, East
20.38 Grand Forks, Agassiz, Montevideo, St.
20.39 Anthony, Granite Falls, Minneapolis at
20.40 27th and Knox Avenue North, St. Louis
20.41 Park, North Ottawa, Lebanon Hills in

20.42 Dakota county, Hay Creek, and Two River
20.43 watershed district Ross No. 7. For any
20.44 project listed in this paragraph that
20.45 is not ready to proceed, the
20.46 commissioner may allocate that
20.47 project's money to the next project on
20.48 the commissioner's priority list and
20.49 St. Paul.

20.50 To the extent that the cost of a
20.51 project in Warren, East Grand Forks,
20.52 Montevideo, Breckenridge, Granite
20.53 Falls, Oakport, or Crookston exceeds
20.54 two percent of the median household
20.55 income in the municipality multiplied
20.56 by the number of households in the
20.57 municipality, this appropriation is
20.58 also for the local share of the project.

20.59 Subd. 21. Stream Protection

21.1 and Restoration 1,000,000

21.2 For the design and implementation of
21.3 stream restoration projects that employ
21.4 natural channel design principles.

21.5 Subd. 22. Water Access

21.6 Acquisition and Development 1,500,000

21.7 For public water access acquisition,
21.8 construction, and renovation to capital
21.9 projects on lakes and rivers, including
21.10 construction of a fishing pier at Blue
21.11 Mound state park and other water access
21.12 through the provision of fishing piers
21.13 and shoreline access under Minnesota
21.14 Statutes, section 86A.05, subdivision 9.

21.15 Subd. 23. Lake Superior

21.16 Safe Harbor 1,100,000

21.17 To complete construction of the public
21.18 access at McQuade Road on Lake Superior
21.19 in cooperation with the U.S. Army Corps

21.20 of Engineers and the joint powers board
 21.21 made up of the city of Duluth, St.
 21.22 Louis county, the town of Duluth, and
 21.23 the town of Lakewood.
 21.24 Subd. 24. Fish Hatchery
 21.25 Improvements 300,000
 21.26 For improvements of a capital nature to
 21.27 design, construct, renovate, furnish,
 21.28 and equip fish culture facilities under
 21.29 Minnesota Statutes, section 97A.045,
 21.30 subdivision 1.
 21.31 Subd. 25. Fisheries Acquisition
 21.32 and Improvement 500,000
 21.33 To acquire aquatic management areas and
 21.34 to make public improvements and
 21.35 betterments of a capital nature to fish
 21.36 habitat under Minnesota Statutes,
 21.37 section 86A.05, subdivision 14.
 21.38 Subd. 26. Scientific and Natural Area
 21.39 Acquisition and Improvement 2,500,000
 21.40 To acquire land for scientific and
 21.41 natural areas and for development,
 21.42 protection, or improvements of a
 21.43 capital nature to scientific and
 21.44 natural areas throughout the state
 21.45 under Minnesota Statutes, sections
 21.46 84.033 and 86A.05, subdivision 5.
 21.47 Up to \$1,500,000 is to acquire and make
 21.48 improvements of a capital nature to
 21.49 restore, and develop the Seminary fen
 21.50 in the Assumption creek watershed in
 21.51 Carver county. The commissioner shall
 21.52 manage the Seminary fen in accordance
 21.53 with Minnesota Statutes, chapter 86A,
 21.54 in part as an aquatic management area,
 21.55 in part as a scientific and natural
 21.56 area, and in part as a wildlife

21.57	management area.	
21.58	Subd. 27. Natural and Scenic Area	
22.1	Land Acquisition Grants	1,000,000
22.2	For matching grants to local units of	
22.3	government to acquire and better local	
22.4	natural and scenic areas under	
22.5	Minnesota Statutes, section 85.019,	
22.6	subdivision 4a. The commissioner shall	
22.7	determine project priorities as	
22.8	appropriate based on project	
22.9	significance and need.	
22.10	Subd. 28. RIM Consolidated	
22.11	Wildlife and Critical Habitat Match	1,000,000
22.12	To acquire land and interests in land	
22.13	for wildlife management area purposes	
22.14	under Minnesota Statutes, section	
22.15	97A.145; for improvements of a capital	
22.16	nature to develop, protect, or improve	
22.17	wildlife management areas and other	
22.18	state lands throughout the state under	
22.19	Minnesota Statutes, section 86A.05,	
22.20	subdivision 8; and to provide state	
22.21	match for the critical habitat private	
22.22	sector matching account under Minnesota	
22.23	Statutes, section 84.943, for the	
22.24	acquisition or improvement of critical	
22.25	fish, wildlife, and native plant	
22.26	habitats.	
22.27	Subd. 29. Native Prairie	
22.28	Bank Easements	1,000,000
22.29	For acquisition of native prairie bank	
22.30	easements under Minnesota Statutes,	
22.31	section 84.96.	
22.32	Sec. 8. POLLUTION CONTROL AGENCY	10,000,000
22.33	To the pollution control agency to	
22.34	design and construct remedial systems	
22.35	and acquire land at landfills	

22.36 throughout the state in accordance with
22.37 the closed landfill program under
22.38 Minnesota Statutes, section 115B.39.
22.39 Sec. 9. OFFICE OF ENVIRONMENTAL ASSISTANCE
22.40 Subdivision 1. To the office of environmental
22.41 assistance for the purposes specified
22.42 in this section 4,750,000
22.43 Subd. 2. Solid Waste Capital
22.44 Assistance Grants 3,600,000
22.45 To the office of environmental
22.46 assistance for the solid waste capital
22.47 assistance grants program under
22.48 Minnesota Statutes, section 115A.54.
22.49 Grants from this appropriation must be
22.50 awarded to applicants whose
22.51 applications were on file with the
22.52 office before January 1, 2002. The
22.53 office must give priority for grants to
22.54 projects that expand processing
22.55 capacity.
22.56 Subd. 3. Fergus Falls -
22.57 Solid Waste Combustor 1,150,000
22.58 For a grant to the city of Fergus Falls
23.1 to design, construct, and equip the
23.2 city's municipal solid waste combustor
23.3 with new air pollution control
23.4 equipment to meet federal and state
23.5 environmental guidelines. This grant
23.6 is in addition to any other state
23.7 grants previously awarded for this
23.8 project, including the 1997 grant to
23.9 the city of Fergus Falls by the office
23.10 of environmental assistance. This
23.11 appropriation is not available until
23.12 the commissioner has determined that at
23.13 least \$1,150,000 has been committed
23.14 from nonstate sources.

23.15 Sec. 10. BOARD OF WATER AND SOIL RESOURCES

23.16 Subdivision 1. To the board

23.17 of water and soil resources for the

23.18 purposes specified in this section 8,250,000

23.19 Subd. 2. RIM Conservation

23.20 Easements 2,000,000

23.21 This appropriation is to acquire

23.22 conservation easements from landowners

23.23 on marginal lands to protect soil and

23.24 water quality and to support fish and

23.25 wildlife habitat as provided in

23.26 Minnesota Statutes, section 103F.515.

23.27 Subd. 3. Shoreland Protection

23.28 Program 750,000

23.29 To acquire conservation easements in

23.30 environmentally sensitive lake and

23.31 river shoreland areas from private

23.32 landowners. The board may award grants

23.33 to local soil and water conservation

23.34 districts and participating local units

23.35 of government to accomplish the

23.36 purposes of this program, in accordance

23.37 with new Minnesota Statutes, section

23.38 103F.225.

23.39 \$100,000 of this amount may be used to

23.40 administer the program.

23.41 Subd. 4. Wetland Replacement

23.42 Due to Public Road Projects 2,700,000

23.43 To acquire land for wetlands or restore

23.44 wetlands to be used to replace wetlands

23.45 drained or filled as a result of the

23.46 repair, maintenance, or rehabilitation

23.47 of existing public roads as required by

23.48 Minnesota Statutes, section 103G.222,

23.49 subdivision 1, paragraph (l).

23.50 The purchase price paid for acquisition

23.51 of land, fee, or perpetual easement

23.52 must be the fair market value as
 23.53 determined by the board. The board may
 23.54 enter into agreements with the federal
 23.55 government, other state agencies,
 23.56 political subdivisions, and nonprofit
 23.57 organizations or fee owners to acquire
 23.58 land and restore and create wetlands
 23.59 and to acquire existing wetland banking
 23.60 credits with money provided by this
 23.61 appropriation. Acquisition of or the
 24.1 conveyance of land may be in the name
 24.2 of the political subdivision.
 24.3 Subd. 5. Lazarus Creek 1,500,000
 24.4 For a grant to Area II Minnesota River
 24.5 Basin Projects, Inc. for construction
 24.6 of the LQP-25/Lazarus Creek floodwater
 24.7 retention project. The grant may not
 24.8 exceed 75 percent of the project's
 24.9 cost. The remaining share must be
 24.10 provided by Area II Minnesota River
 24.11 Basin Projects, Inc.
 24.12 Subd. 6. Stillwater -
 24.13 Brown's Creek 1,300,000
 24.14 For a grant to the city of Stillwater
 24.15 to provide environmental protection
 24.16 capital improvements for Brown's Creek.
 24.17 Sec. 11. AGRICULTURE
 24.18 Subdivision 1. To the commissioner of
 24.19 administration or another named agency for
 24.20 the purposes specified in this section 15,292,000
 24.21 Subd. 2. Rural Finance Authority
 24.22 Loan Participation 15,000,000
 24.23 For purposes as set forth in the
 24.24 Minnesota Constitution, article XI,
 24.25 section 5, clause (h). To the rural
 24.26 finance authority to purchase
 24.27 participation interests in or to make

24.28 direct agricultural loans to farmers
24.29 under Minnesota Statutes, chapter 41B.
24.30 This appropriation is for the beginning
24.31 farmer program under Minnesota
24.32 Statutes, section 41B.039, the loan
24.33 restructuring program under Minnesota
24.34 Statutes, section 41B.04, the
24.35 seller-sponsored program under
24.36 Minnesota Statutes, section 41B.042,
24.37 the agricultural improvement loan
24.38 program under Minnesota Statutes,
24.39 section 41B.043, and the livestock
24.40 expansion loan program under Minnesota
24.41 Statutes, section 41B.045. All debt
24.42 service on bond proceeds used to
24.43 finance this appropriation must be
24.44 repaid by the rural finance authority
24.45 under Minnesota Statutes, section
24.46 16A.643. Loan participations must be
24.47 priced to provide full interest and
24.48 principal coverage and a reserve for
24.49 potential losses.
24.50 Priority for loans must be given first
24.51 to basic beginning farmer loans;
24.52 second, to seller-sponsored loans; and
24.53 third, to agricultural improvement
24.54 loans.
24.55 Subd. 3. Expansion of Metro
24.56 Greenhouse and Storage Bay 292,000
24.57 To design, construct, furnish, and
24.58 equip an expansion of the greenhouse
24.59 facility owned by the department of
24.60 agriculture on the campus of
25.1 Metropolitan state university in St.
25.2 Paul.

A report from the Minnesota Department of Health

Protecting a Vital Resource:

Keeping Our Drinking Water Safe



**A summary of
Drinking Water
Protection Activities
in Minnesota for
2001**

*Issued April 2002
Minnesota Department of Health
Division of Environmental Health*



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This report is available on the World Wide Web at

<http://www.health.state.mn.us/divs/eh/water/cinfo/dwar/report01.html>

Reports from previous years (through 1995) are at

<http://www.health.state.mn.us/divs/eh/water/cinfo/cinfo.html>

Minnesota Department of Health

Drinking Water Protection Section Web Page:

<http://www.health.state.mn.us/divs/eh/water/>

Executive Summary

Introduction

The Minnesota Department of Health is responsible for enforcing the federal Safe Drinking Water Act and administering the state's drinking water program. This includes the routine testing of public water supplies to ensure that they meet the federal and state drinking water standards. Ensuring the safety of our drinking water is one of the most fundamental, and most critical, responsibilities of modern public health. In fact, safe drinking water has been a key ingredient in some of the greatest public health achievements of the last half-century, including the dramatic reductions in disease and improvements in longevity that we now tend to take for granted. Along with other basic public health measures like immunization, drinking water protection has played a crucial role in building a safer and healthier society.

We need to remain vigilant if we are to protect those past gains. The Minnesota Department of Health (MDH) is strongly committed to safeguarding the quality of our drinking water, and as part of that commitment, we routinely monitor all of our state's public water supply systems for a broad range of chemical, radiological, and biological contaminants.

MDH believes that educating the public about water quality issues is an important element of drinking water protection. Since 1995, we have been releasing annual summary reports, like this one, to help us achieve that goal. Like previous reports in the series, this year's report covers test results and actions taken during the preceding calendar year.

The main body of the report provides information about Minnesota's community water supply systems—that is, systems that provide people with drinking water in their places of residence.

The section on Emerging Issues, beginning on page 12, contains information on the security of water systems, an issue that is receiving more attention as a result of last September's terrorist attacks, as well as an update on drinking water standards that are being reviewed and revised. Standards set for drinking water are done with a strong margin of safety built in and are constantly being reviewed, a process that sometimes results in the revisions of certain standards. This section also contains news on the educational initiative MDH has been involved in to get curriculum on drinking water into Minnesota classrooms through the establishment of Drinking Water Institutes for teachers.

We hope this information will provide the people of Minnesota with a clearer picture of what is being done to protect the quality of their drinking water, and what our monitoring efforts have revealed about the success of those efforts. We believe that the picture is a positive one, and we hope this report will build Minnesotans' confidence in both the safety and the quality of their drinking water.

Biological Contamination. Larger community water systems are tested monthly, and smaller systems are tested quarterly, for contamination by coliform bacteria. The coliform test is used as a general indicator of water quality in the system, in terms of potential microbial contamination.

Standard procedures are followed whenever potential bacterial contamination is detected. Systems are disinfectant, flushed, and returned to service that any contamination problems are eliminated. All of the residents served by the system are informed of the situation. In some cases, bottled water may be needed, advising residents to boil their water before using it for drinking or cooking.

Executive Summary

The Minnesota Department of Health is responsible for enforcing the federal Safe Drinking Water Act and safeguarding the quality of drinking water in our state. This includes the responsibility of regulating approximately 8,300 public water supply systems statewide. This figure includes 955 *community* systems, which provide drinking water to people in their places of residence. The community systems include 713 *municipal* systems, serving towns or cities.

The Major Elements of Drinking Water Protection

Minnesota's drinking water protection strategy includes three major elements:

- **Prevention** measures are used to protect the quality of drinking water at the source by controlling potential sources of pollution, regulating land use, reviewing plans and providing advice on construction of water treatment and distribution facilities, and inspecting these facilities on a regular basis.
- **Treatment** measures, including routine disinfection, are used to make the water palatable and safe to drink.
- **Monitoring** of water supplies for potentially harmful contaminants, on a routine basis, is the critical element of the state's enforcement responsibilities under the Safe Drinking Water Act.

The Monitoring Process

Minnesota's community water supply systems are monitored for the following types of *contaminants*:

- **Pesticides and Industrial Contaminants.** Each community water system may be tested regularly for more than 100 pesticides and industrial contaminants, including both synthetic organic chemicals (SOCs) and volatile organic chemicals (VOCs). The list of chemicals to be tested for, and the testing schedule, may vary from one system to another. Testing requirements depend on factors such as whether a particular chemical is likely to be present in the local environment and how vulnerable the system is to contamination. If a system exceeds the applicable federal or state drinking water standard for a particular chemical, it must notify the people who use the water and take appropriate steps to correct the problem.
- **Bacterial Contamination.** Larger community water systems are tested monthly, and smaller systems are tested quarterly, for contamination by *coliform bacteria*. The coliform test is used as a general indicator of water quality in the system, in terms of potential microbial contamination.

Standard procedures are followed whenever potential bacterial contamination is detected. Systems are disinfected, flushed, and retested to ensure that any contamination problems are eliminated. All of the residents served by the system are informed of the situation. In some cases, boil water notices are issued, advising residents to boil their water before using it for drinking or cooking.

Executive Summary

The Minnesota Department of Health is responsible for enforcing the federal Safe Drinking Water Act and implementing the quality of drinking water in our state. This includes the responsibility of regulating approximately 8,300 public water supply systems statewide. This figure includes 975 community water systems, which provide drinking water to people in their place of residence. The community water systems include 713 public water systems, serving towns or cities.

The Major Elements of Drinking Water Protection

Minnesota's drinking water protection strategy includes three major elements:

Prevention measures are used to protect the quality of drinking water at the source by controlling potential sources of pollution, regulating land use, reviewing plans and providing advice on construction of water treatment and distribution facilities, and inspecting these facilities on a regular basis.

Drinking water monitoring, including routine disinfection, are used to ensure the water is safe and safe to drink.

Monitoring of water supplies for potentially harmful contaminants on a routine basis is the central element of the state's comprehensive regulatory system for the Safe Drinking Water Act.

The Monitoring Process

Minnesota's community water supply systems are monitored for the following types of contaminants:

Physical and Inorganic Contaminants. Each community water system is required to test regularly for more than 100 potential and inorganic contaminants including both physical and inorganic elements (PCEs) and volatile organic elements (VOCs). The list of chemicals to be tested for, and the testing schedule, vary by the type of system to monitor. Testing requirements depend on factors such as whether a particular chemical is likely to be present in the local environment and how widespread the system is in consumption. If a system exceeds the regulatory levels for any chemical, it is required to take a particular chemical. It must notify the people who use the water and take appropriate steps to correct the problem.

Bacterial Contamination. Larger community water systems are tested monthly, and smaller systems are tested quarterly for contamination by coliform bacteria. The coliform test is used as a general indicator of water quality in the system, in terms of potential bacterial contamination.

Standard procedures are followed to remove potential bacterial contamination in drinking water. If a problem is detected, the local and state health departments are notified. All of the residents served by the system are informed of the situation. In some cases, boil water notices are issued, advising residents to boil their water before using it for drinking or cooking.

• **Nitrate.** Each system must be tested annually for nitrate. Nitrate occurs naturally in the environment, but elevated nitrate levels in drinking water are usually associated with the use of fertilizer, or the breakdown of human and animal waste. It is a health concern primarily for infants under the age of six months. If the federal standard for nitrate is exceeded, an advisory is issued regarding consumption of the water by infants. The advisory remains in effect until steps can be taken to correct the problem.

• **Inorganic Chemicals and Radioactive Elements.** Each system is typically tested once every nine years—although, in some cases, it could be as often as once a year—for 13 additional inorganic chemicals. Systems are normally tested every three years for a number of radioactive elements. Both inorganic chemicals and radioactive elements may be naturally present in the water. If the water exceeds health standards for either type of contaminant, people who use the water are informed, and steps are taken to correct the problem.

• **Lead and Copper.** For the last several years, community water supply systems have participated in efforts to reduce lead and copper contamination in drinking water. Lead and copper are not typically present in the water when it leaves the treatment plant. Lead and copper differ from other contaminants in that they are rarely present in source waters. Rather, they enter the water through contact with plumbing components, usually in individual homes. If more than 10 percent of the homes in a community exceed the federal "action level" for lead or copper, based on the results of community-wide monitoring, the water system must do additional testing and take steps to reduce levels. Systems that exceed the action level for lead must also perform an ongoing program of public education.

Note: Any time a drinking water standard is violated, the affected water system must take corrective actions that include notifying its residents of the violation. In addition to this notification, all community water systems issue an annual **Water Quality Report** (sometimes referred to as a **Consumer Confidence Report**) that lists the source of the system's drinking water as well as a list of all regulated contaminants that were *detected*, even in trace amounts well below the legal standard, during the previous calendar year.

The Major Elements of Drinking Water Protection

Three basic strategies are used to safeguard the quality of our drinking water:

Prevention. Preventing contamination of the source water used by public water supply systems—lakes, rivers, or groundwater—is an important component of drinking water protection. This aspect of drinking water protection includes reviewing and regulating land use, regulating the construction of buildings, and reviewing plans and providing advice on construction of water treatment and distribution facilities, and inspecting these facilities on a regular basis.

Treatment. Most community water supply systems use some form of treatment, so the water will be safe to drink. Many systems require routine disinfection as a means of controlling potential problems with bacterial contamination. Groundwater systems are also required to require disinfection, because contaminants tend to be found in the water as it moves through the earth from the surface to the underground sources tapped by water wells.

A Current Profile of Minnesota's Drinking Water Protection Program

Since 1974, the U.S. Environmental Protection Agency (EPA) has been responsible for regulating the nation's public water supply systems, under the provisions of the federal Safe Drinking Water Act. However, almost all states, including Minnesota, have now assumed responsibility for enforcing the act within their own borders. Minnesota became one of the first states to achieve primacy, and to begin regulating public water supply systems at the state level, in 1977.

The definition of "public water supply system," for purposes of the Safe Drinking Water Act, is a broad one. To be considered "public," a water supply system must have its own water source and provide water to 25 or more people, or have 15 or more service connections.

Minnesota currently has 8,300 public water supply systems, more than all but six other states. Of those systems, 955 are community systems, which provide water to people in their homes or places of residence. Most of these community systems use groundwater from underground sources, tapped by water wells, as their source of water. However, 23 of these systems, including the municipal systems that serve the state's largest cities, use surface water, drawn from lakes or rivers.

Of the state's 955 community water systems, 713 are municipal systems, serving towns or cities. The rest of the community systems provide water to people in a variety of residential locations, including manufactured home parks, apartment buildings, housing subdivisions, colleges, hospitals, and correctional facilities.

The remainder of the state's public water supply systems are *noncommunity* systems. Some of these noncommunity systems provide water to an ever-changing "transient" population at places such as restaurants, resorts, and highway rest stops. Other noncommunity systems may provide water to relatively stable population groups in nonresidential locations such as schools, places of employment, and day-care facilities.

The Major Elements of Drinking Water Protection

Three basic strategies are used to safeguard the quality of our drinking water:

- **Prevention.** Preventing contamination of the source water used by public water supply systems—lakes, rivers, and water wells—is an important component of drinking water protection. This aspect of drinking water protection includes measures such as regulating land use, regulating the construction of water treatment facilities, and controlling potential sources of pollution.
- **Treatment.** Most community water supply systems use some form of treatment, so the water will be palatable and safe to drink. Many systems require routine disinfection as a safeguard against potential problems with bacterial contamination. Groundwater systems are less likely to require disinfection, because contaminants tend to be filtered out of the water as it moves downward through the earth from the surface to the underground sources tapped by water wells.

Monitoring. Monitoring is the critical element of compliance activities under the Safe Drinking Water Act (SDWA). Under provisions of the act, public water supply systems are required to sample treated—or “finished”—water on a regular basis, and submit the samples to MDH for analysis. The samples are tested for a broad range of potential contaminants. If unacceptable levels of contaminants are found, the water supply owner or operator is legally responsible for informing the people who use the water and for taking steps to eliminate potential health hazards.

Under the provisions of the SDWA, the individual public water supply system is responsible for taking water samples and submitting them to certified laboratories for analysis. To lessen the burden on water supply operators, most of the required samples are collected by field staff from MDH. Minnesota’s public water supply operators have one of the best records in the nation regarding compliance with these sampling and testing requirements.

Note: The monitoring requirements and test results described in this report apply primarily to community water supply systems.

Monitoring: What We Test For—and Why

Minnesota’s community water supplies are tested for a number of different types of contaminants. The reasons for testing—and how often the testing is done—depends on the type of contaminant and other factors. The type of contaminant also determines what actions will be taken, if unacceptable levels are found in the water.

The major types of contaminants we test for include:

Pesticides and Industrial Contaminants. Minnesota’s community water supply systems are routinely tested for more than 100 different pesticides and industrial contaminants, including synthetic organic compounds (SOCs) and volatile organic compounds (VOCs). Systems may be tested anywhere from four times a year to once every six years, depending on the specific chemical and the vulnerability of the system to contamination (see *Assessing Vulnerability to Contamination*, beginning on page 7). Some systems may not need to do any testing for a particular contaminant. A formal *use waiver* is sometimes granted, specifically exempting a water supply system from testing for a particular contaminant, if that chemical or pesticide is not commonly used in the immediate area.

The EPA has developed legal standards known as maximum contaminant levels (MCLs) for 60 of the more than 100 pesticides and industrial contaminants. Advisory standards have been developed for the other pesticides and industrial contaminants, and those are used in the same way as the MCLs in assessing test results.

Any time a community water system exceeds the MCL for one of these contaminants, the water supply operator, with the assistance of MDH, must immediately take steps to notify the people who use the water. Appropriate steps are then taken to reduce the contamination to acceptable levels.

In some cases, the MCL or advisory standard is calculated to prevent immediate or short-term health effects. More often, however, these standards are designed to reduce the long-term risk of developing cancer or other chronic health conditions. They are calculated very conservatively. If the concern is long-term health effects, the standards are calculated to keep the risk of illness at levels most people would regard as negligible—even if they drink the water every day, over an entire 70-year lifetime.

Bacterial Contamination. Community water supply systems serving more than 1,000 people are tested one or more times per month for *coliform bacteria*. Smaller systems are tested four times a year. The coliform test is used as a general indicator of water quality in the system, in terms of potential microbial contamination. If the coliform test is negative, it is an indication that the system is adequately protected against contamination from other types of disease-causing organisms. However, if any detectable amount of coliform is found in the water, it is assumed that the system may be compromised, and steps are taken to protect the people who use the water. Standard procedures are followed whenever potential bacterial contamination is detected. Systems are disinfected, flushed, and retested to ensure that any contamination problems are eliminated. All of the residents served by the system are informed of the situation. In some cases, boil water notices are issued, advising residents to boil their water before using it for drinking or cooking.

Bacterial contamination problems are most commonly found in smaller water supply systems. Most of these smaller systems use groundwater, and many do not routinely disinfect the water as part of the treatment process.

Nitrate/Nitrite. Community water supply systems in Minnesota are tested once a year for nitrate, a chemical which may occur naturally in the environment but which can also enter the water from sources like fertilizer run-off, decaying plant and animal wastes, or sewage. Nitrate is a health concern primarily for infants under the age of six months. The infant's digestive system can convert the *nitrate* to *nitrite*, which can interfere with the ability of the infant's blood to carry oxygen. The result is a serious illness known as methemoglobinemia, or "blue baby syndrome." Methemoglobinemia can be fatal if nitrate levels in the water are high enough, and the illness isn't treated properly.

The MCL for nitrate in drinking water is 10 parts per million (ppm). If a water supply system exceeds the standard, the people who use the water are notified and advised not to use the water for mixing infant formula, or other uses that might result in consumption of the water by infants under six months of age. The advisory is kept in place until steps can be taken to reduce nitrate levels in the water. Possible remedial measures include treating the water to remove the nitrate, or drilling a new water well.

Older children and adults are generally not at risk from drinking nitrate-contaminated water. In fact, the average adult consumes about 20-25 milligrams per day in food—primarily from vegetables. Because of changes that occur after six months of age, the digestive tract no longer converts nitrate into nitrite. However, some adults—including people with low stomach acidity and people with certain blood disorders—may still be at risk for nitrate-induced methemoglobinemia.

Inorganic Chemicals. Community water systems in Minnesota are tested for 13 other inorganic chemicals in addition to nitrate. The testing is usually done once every nine years, but it may be done as often as once a year. The list includes antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, sulfate, and thallium. In some cases, these chemicals may be naturally present in the groundwater. If a water supply system were to exceed the MCL for one of these chemicals, the people who use the water would be notified, and appropriate steps would be taken to reduce levels of these chemicals in the water.

Radioactive Elements. Community water systems in Minnesota are also usually tested once every three years—or as often as once a year, in some cases—for a list of radioactive elements. These radioactive elements, or radiochemicals, are present in the water from natural sources. If a system were to exceed the federal MCL for one of these radioactive elements, the people who use the water would be notified, and steps would be taken to correct the problem.

Lead and Copper. Some public water supply systems in Minnesota are required to test their water, on a regular basis, for lead and copper. All public water systems in the state took part in an initial round of lead and copper testing that ended in 1994. The water was tested in a number of homes within each system, to determine if they exceeded the federal "action level" of 15 parts per billion (ppb) for lead or 1,300 ppb for copper. If a system exceeded the action level for lead or copper in more than 10 percent of the locations tested, it was required to take corrective action and do further testing. Current testing requirements are based partly on the results of that initial round of testing and of the success of subsequent efforts to reduce risk of lead contamination in systems that have previously exceeded the action level.

Lead in drinking water is not an environmental contamination problem in the conventional sense. Water is almost never contaminated with lead at the source, or when it first enters the distribution system. However, water can absorb lead from plumbing components used in individual homes. Possible sources of lead contamination include lead pipe, lead plumbing solder, and brass fixtures. Lead exposure is a potentially serious health concern, especially for young children. However, the water must usually be in contact with lead plumbing components for an extended period of time, usually by standing in the system overnight, before it can absorb potentially hazardous levels of lead. Consumers can usually protect themselves simply by turning on the faucet and letting the water run for 30 seconds, or until it runs cold, before using it for drinking or cooking.

While most people are subject to lead exposure from a number of possible sources—and drinking water typically accounts for a relatively small proportion of a person's total lead exposure—it is also one of the easiest sources of lead exposure to control and eliminate. Some Minnesota water supply systems are addressing the lead issue by treating their water, so it will be less likely to absorb lead from plumbing.

Assessing Vulnerability to Contamination

Monitoring requirements for individual public water supply systems depend partly on how vulnerable the system is to contamination. MDH does vulnerability assessments of water supply systems, taking into account a number of factors. If the system uses groundwater, the way in which the wells are constructed can serve to increase or decrease the risk of contamination. In some systems, natural geologic barriers may serve to protect the source water from contamination. Systems with a past history of contamination problems may be at higher risk.

Inorganic Chemicals. Community water systems in Minnesota are tested for 13 other inorganic chemicals in addition to nitrate. The testing is usually done once every nine years, but it may be done as often as once a year. The list includes arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, molybdenum, selenium, silver, and sulfate. In some cases, these chemicals may be routinely present in the groundwater. If a water supply system were to exceed the MCL for one of these chemicals, the people who use the water would be notified, and appropriate steps would be taken to reduce levels of these chemicals in the water.

Radioactive Elements. Community water systems in Minnesota are also usually tested once every three years—or as often as once a year, in some cases—for a list of radioactive elements. These radioactive elements, or radionuclides, are present in the water from natural sources. If a system were to exceed the federal MCL for one of these radioactive elements, the people who use the water would be notified, and steps would be taken to correct the problem.

Lead and Copper. Some public water supply systems in Minnesota are required to test their water on a regular basis for lead and copper. All public water systems in the state took part in an initial round of lead and copper testing that ended in 1994. The water was tested in a number of homes within each system, to determine if they exceeded the federal "action level" of 1.5 parts per billion (ppb) for lead or 1.00 ppb for copper. If a system exceeded the action level for lead or copper in more than 10 percent of the locations tested, it was required to take corrective action and do further testing. Current testing requirements are based partly on the results of that initial round of testing and of the success of subsequent efforts to reduce risk of lead contamination in systems that have previously exceeded the action level.

Lead in drinking water is not an environmental contamination problem in the conventional sense. Water is almost never contaminated with lead at the source, or when it first enters the distribution system. However, water can pick up lead from plumbing components used in individual homes. Possible sources of lead include aging brass ball and gate valves, lead solder, and brass fittings. Lead exposure is a potentially serious health concern, especially for young children. However, the water must usually be in contact with lead plumbing components for an extended period of time, usually by standing in the system overnight, before it can absorb potentially harmful levels of lead. Consumers can usually prevent themselves simply by running the faucet and using the water for 30 seconds or until it runs cold, before using it for drinking or cooking.

While most people are subject to lead exposure from a number of possible sources—and drinking water typically accounts for a relatively small proportion of a person's total lead exposure—it is one of the easiest sources of lead exposure to control and eliminate. If the drinking water supply system is replacing the lead pipes by using steel water, so it will be less likely to absorb lead from plumbing.

Assessing Vulnerability to Contamination

Monitoring requirements for individual public water supply systems depend partly on how vulnerable the system is to contamination. MDEQ does vulnerability assessments of water supply systems, taking into account a number of factors. The system has groundwater, the way in which the wells are constructed can serve to increase or decrease the risk of contamination, the nature of the geologic features may serve to protect the source water from contamination. Systems with a past history of contamination problems may be at higher risk.

Compared to surface water systems, groundwater systems tend to be less vulnerable to certain types of contamination. Water tends to be naturally filtered as it moves downward through the earth, making its way from the surface to the underground aquifers tapped by water wells. That process tends to remove certain kinds of contaminants, including bacteria and parasites like *Cryptosporidium*. For that reason, many groundwater systems do not routinely include disinfection as part of their normal water treatment procedures.

Bacterial Contamination

Thirty community systems—including 22 municipal systems—were found to be positive for bacterial contamination in 2001. All but one of the affected systems serves fewer than 1,000 people.

The municipal systems that had confirmed coliform bacteria contamination in 2001 were Andover (population 575, Blue Earth County); Browns Valley (pop. 690, Traverse County); Clarissa (pop. 926, Todd County); Cornell (pop. 47, Big Stone County); Deer River (pop. 903, Itasca County); Delavan (pop. 223, Delavan); Eden (pop. 214, Faribault County); Green Isle (pop. 357, Sibley County); Hampton (pop. 434, Dakota County); Hendrum (pop. 315, Norman County); Homberg (pop. 792, Otter Tail County); Klester (pop. 590, Pine County); Lake Crystal (pop. 2,450, Blue Earth County); Penook (pop. 804, Kandiyohi County); Pine River (pop. 928, Cass County); Rockton (pop. 284, Pipestone County); St. Martin (pop. 275, Stearns County); Taconite (pop. 315, Itasca County); Taylor Falls (pop. 351, Chicago County); Vernon Center (pop. 336, Blue Earth County); Vesta (pop. 339, Redwood County); and Zumbro Falls (pop. 177, Wabasha County).

Standard procedures were followed in all of these cases. Systems were disinfected, flushed, and tested to ensure that any contamination problems had been eliminated. All of the residents served by the affected systems were informed of the situation. In three cases (two involving municipal systems, both water nations were included), boiling notices were issued to boil their water before using it for drinking or cooking.

Nitrate/Nitrite

Two municipal systems continued to exceed the nitrate standard in 2001. The affected systems are Edgerton (pop. 1,123, Pipestone County) and Lewiston (pop. 1,445, Winona County). Both systems had one well that produced a level of nitrate over the MCL of 10 ppm. Residents were notified to not give the water to infants who are six months of age or younger. Edgerton is in the process of constructing a new water treatment plant for reducing the nitrate levels under a compliance agreement with MDEQ. Lewiston drilled a new well, which has reduced the level of nitrate leaving the water plant to below 10 parts per million.

One municipal water system, Westbrook (pop. 755, Cottonwood County), exceeded the nitrate standard, and one system, Clark City (pop. 1,307, Chippewa County), is still dealing with a nitrate exceedance that was first detected in 1998. Westbrook has lowered nitrate levels to acceptable levels by instituting several operational changes. Clark City is in the process of constructing a new treatment plant to lower nitrate levels.

Monitoring Test Results

for calendar year 2001

Pesticides and Industrial Contaminants

During 2001, MDH conducted 16,211 tests for pesticides and industrial contaminants in community water systems. No systems exceeded drinking water standards for these contaminants.

Bacterial Contamination

Thirty community systems—including 22 municipal systems—tested positive for bacterial contamination in 2001. All but one of the affected systems serves fewer than 1,000 people.

The municipal systems that had confirmed coliform bacteria contamination in 2001 were Amboy (population 575, Blue Earth County); Browns Valley (pop. 690, Traverse County); Clarissa (pop. 609, Todd County); Correll (pop. 47, Big Stone County); Deer River (pop. 903, Itasca County); Delavan (pop. 223, Delavan); Easton (pop. 214, Faribault County); Green Isle (pop. 357, Sibley County); Hampton (pop. 434, Dakota County); Hendrum (pop. 315, Norman County); Henning (pop. 798, Otter Tail County); Kiester (pop. 540, Pine County); Lake Crystal (pop. 2,450, Blue Earth County); Pennock (pop. 504, Kandiyohi County); Pine River (pop. 928, Cass County); Ruthton (pop. 284, Pipestone County); St. Martin (pop. 278, Stearns County); Taconite (pop. 315, Itasca County); Taylors Falls (pop. 951, Chisago County); Vernon Center (pop. 359, Blue Earth County); Vesta (pop. 339, Redwood County); and Zumbro Falls (pop. 177, Wabasha County).

Standard procedures were followed in all of these cases. Systems were disinfected, flushed, and retested to ensure that any contamination problems had been eliminated. All of the residents served by the affected systems were informed of the situation. In three cases (two involving municipal systems), boil water notices were issued, advising residents to boil their water before using it for drinking or cooking.

Nitrate/Nitrite

Two municipal systems continued to exceed the nitrate standard in 2001. The affected systems are Edgerton (pop. 1,123, Pipestone County) and Lewiston (pop. 1,445, Winona County). Both systems had one well that produced a level of nitrate over the MCL of 10 ppm. Residents were notified to not give the water to infants who are six months of age or younger. Edgerton is in the process of constructing a new water treatment plant for reducing the nitrate levels under a compliance agreement with MDH. Lewiston drilled a new well, which has reduced the level of nitrate leaving the water plant to below 10 parts per million.

One municipal water system, Westbrook (pop. 755, Cottonwood County), exceeded the nitrite standard, and one system, Clara City (pop. 1,307, Chippewa County), is still dealing with a nitrite exceedance that was first detected in 1998. Westbrook has lowered nitrite levels to acceptable levels by initiating several operational changes. Clara City is in the process of constructing new treatment plant to lower nitrite levels.

Radioactive Elements

Gross Alpha Emitters

Sixteen community water systems—including 12 municipal systems—were exceeding the standard for gross alpha emitters on the distribution system in 2001. The affected municipal systems are Dennison (pop. 152, Goodhue County); Goodview (pop. 3,000, Winona County); Hinckley (pop. 1,291, Pine County); LaCrescent (pop. 4,733, Houston County); Medina (pop. 2,623, Hennepin County); Medford (pop. 800, Steele County); New Richland (pop. 1,197, Waseca County); Norwood (pop. 1,219, Carver County); Red Wing (pop. 15,770, Goodhue County); Savage (pop. 14,502, Scott County); Taconite (pop. 331, Itasca County); and Watson (pop. 211, Chippewa County). No restrictions were placed on water consumption, although residents were notified of the situation. Residents were told that this is not an emergency situation and were advised to consult with their doctors if they have any special concerns.

Radium 226 & 228

Twelve community water systems—including nine municipal systems—were exceeding the standard for radium 226 & 228 on the distribution system in 2001. The affected municipal systems are Arlington (pop. 1,900, Sibley County); Goodview (pop. 3,000, Winona County); Hinckley (pop. 1,291, Pine County); LaCrescent (pop. 4,733, Houston County); Lucan (pop. 226, Redwood County); Medina (pop. 2,623, Hennepin County); North Mankato (pop. 11,798, Nicollet County); Norwood (pop. 1,219, Carver County); and Red Wing (pop. 15,770, Goodhue County). No restrictions were placed on water consumption although residents were notified of the situation. Residents were told that this is not an emergency situation and were advised to consult with their doctors if they have any special concerns. Each of these systems has either started to make infrastructure changes or is studying alternatives to meet the MCL.

It is anticipated that many more systems will exceed the MCL once the revised radionuclides rule—which requires samples to be taken from each entry point to the distribution system rather than from a representative point on the distribution—takes effect in 2006.

Lead and Copper

Minnesota's community water supplies are continuing with efforts, begun during the early part of the 1990s, to reduce lead and copper levels in their drinking water.

The systems started their lead/copper testing program in 1992 and 1993. The testing is done by taking first-draw water samples from a number of consumers' taps in the system. If more than 10 percent of the samples exceeded the federal action level of 15 ppb for lead or 1,300 ppb for copper, the entire system was considered to be "in exceedance." Communities that exceeded the action level(s) were required to do additional testing and take steps to reduce the absorption of lead/copper into the water from the water distribution system and/or household plumbing.

When the systems were first tested in the early 1990s, 87 exceeded the action level for lead, and 142 exceeded the action level for copper. Since then, about 140 of these systems have installed corrosion control treatment to minimize the lead/copper levels in their consumers' taps, and 112 of them have since been deemed by the MDH to have optimized their corrosion-control treatment. Only 5 of the initial 87 systems still exceed the lead action level, although overall lead levels in these communities have been significantly reduced through the course of corrosion-control treatment.

Emerging Issues

Water System Security

The terrorist attacks of September 11, 2001 have raised concerns about the threat of terrorism to other vital facilities around the country. No resource is more important than a safe and plentiful supply of drinking water. As a result, drinking water facilities could be an attractive target.

Water systems and the people who operate them are aware of this and are guarding our drinking water from a variety of threats, including people with malicious intent. While water providers have been proceeding with a heightened sense of security and vigilance since September 11, this is not the beginning—but rather a continuation—of long-time efforts to keep their facilities and the water safe from vandalism, sabotage, and terrorism.

What are the threats?

Public water systems must guard against:

- Physical destruction of treatment, storage, and distribution facilities;
- contamination of the water supply; and
- cyber-attacks on computer systems.

Physical damage could cause a loss of water flow and pressure, which would cause problems for water customers as well as hinder firefighting efforts. Many experts believe that physical destruction is more likely than contamination of a water supply or hacking of a utility's computer system.

What are systems doing to protect their water and facilities?

Within 72 hours of the September 11 attacks, all municipal water systems in Minnesota were contacted by MDH and told to heighten their security procedures. This was followed up by a letter from MDH with specific suggestions on tightening security within their facilities.

Minnesota Department of Health district engineers will be highlighting security as part of their normal inspections of water systems. The Health Department has also developed a module on water system security that can be used at training for water operators around the state, in conjunction with a panel discussion, with water utility superintendents and local law enforcement personnel serving as panelists.

In addition, the American Water Works Association is conducting workshops for utilities on vulnerability assessments and counterterrorism and is issuing an Emergency Planning Manual to its members.

Among the things water providers are doing to protect their systems and the water they serve to the public are making sure that all facilities are locked and secure; installing motion sensors and video cameras to monitor, detect, and record events; getting local law enforcement officials to become familiar with their facilities; establishing a procedure with local law enforcement for reporting and responding to threats; and setting up a system for detection, response, and notification issues with local public health officials.

Water System Security

The terrorist attacks of September 11, 2001, have caused concern about the threat of terrorism to other vital facilities around the country. The concern is not just terrorism but a wide range of potential supply of drinking water. A small, drinking water facility could be an attractive target.

Water systems and the people who operate them are aware of this and are working on it. Water from a variety of sources, including people who live near water, is being protected with a variety of security and vigilance since September 11. This is not the beginning—but rather a continuation—of long-time efforts to keep their facilities and the water safe from vandalism, sabotage, and terrorism.

What are the threats?

Public water systems must guard against:

- Physical destruction of treatment, storage, and distribution facilities

- Contamination of the water supply and

- Cyberattacks on computer systems

Physical damage to a water system of water flow and pressure, which would cause problems for water consumers as well as public health and safety. When exposed to physical destruction, a water system is likely to be incapacitated or a water supply or facility of a water supply system.

What are threats likely to protect their water and facilities?

Within 72 hours of the September 11 attacks, all municipal water systems in Minnesota were contacted by MHDH and told to heighten their security procedures. This was followed up by a letter from MHDH with specific suggestions on a growing security watch list.

Minnesota Department of Health's health department will be highlighting security as part of their annual inspection of water systems. The Health Department has also developed a model on water system security that can be used as a template for water operators around the state, in cooperation with a panel discussion, with water utility representatives and local law enforcement personnel serving as panelists.

In addition, the American Water Works Association is conducting workshops for utilities on vulnerability assessments and emergency planning. It is looking at emergency planning to its members.

Among the things water providers are doing to protect their system and the water they serve is to publicize making sure that all facilities are locked and secured, installing motion sensors and video cameras to monitor doors, and second, ensuring getting local law enforcement officials to become familiar with their facilities, establishing a procedure with local law enforcement for reporting and responding to threats, and setting up a system for detection, response, and notification issues with local public health officials.

What are the chances of water being intentionally contaminated?

The U.S. Environmental Protection Agency believes the threat of contamination through terrorist activities is small.

For a contaminant to be effective, it must be tasteless, odorless, and colorless. While it may be easy to contaminate a glass of water and camouflage the taste, it is much more difficult to contaminate an entire system due to the sheer size. A contaminant would have to be used in large quantities since it would quickly dilute in the water. In addition, treatment processes already in place at most water utilities will deactivate many contaminants.

Although the likelihood of such an event is small, even a small contamination situation as a result of terrorism will undermine public confidence in the safety of public water systems. This confidence is critical and is one more reason that the superintendents and operators of public water systems must remain on guard at all times.

From well before September 11, water providers have been protecting our drinking water against a variety of threats, including from those who would try to contaminate our water or destroy facilities needed to continue to deliver safe drinking water to people.

Study Released on Pharmaceuticals in Water

In March 2002 the United States Geological Survey (USGS) released the results of the first-ever national reconnaissance study to determine the occurrence of pharmaceuticals, antibiotics, hormones, and other organic wastewater contaminants in United States surface waters. Sources of these chemicals include wastewater treatment plant discharges, run-off from agricultural land, and animal feed lot operations. The USGS sampled for 95 chemicals in 139 streams and rivers in 30 different states and detected the presence, in trace amounts, of at least one of the contaminants at 80 percent of the sites; 82 of the 95 chemicals were detected at least once. Generally, the chemicals detected were found at very low concentrations (in most cases, less than 1 part per billion). Only 14 of the 95 chemicals examined have drinking-water standards or health-risk limits. The detection of these contaminants was at levels well below the standards.

Two sites in Minnesota, the Mississippi River near Anoka and the Mississippi River near Hastings, were included in the USGS study. Approximately 20 different chemicals were found at the Minnesota sites, including caffeine, a stimulant in coffee and soft drinks; DEET, an insect repellent; triclosan, an ingredient in detergents and antibacterial soaps; and Lincomycin, Tylosin, and Sulfamethoxazole, which are antibiotics. As was the case nationally, the chemicals detected in the Minnesota waters were at extremely low levels. In addition to the national USGS study, the Minnesota Department of Health has been working with the USGS and local water utilities to determine the presence and concentrations of these chemicals in Minnesota and to determine if concentrations of these chemicals are altered through drinking water processing. The sampling began in late 2000 in both the raw water and treated water in rivers from which municipalities obtain drinking water. Samples at these sites—in Minneapolis, St. Paul, St. Cloud, Mankato, Moorhead, and East Grand Forks—were taken quarterly over five quarters to allow for season variations in the concentrations. This study has not revealed problems, although the analysis is not yet complete.

As for the national study, the USGS noted that “while the findings are significant in their own right, the work points to the need for more research in the future.”

Standard Review and Revisions

In the next few years, Minnesota water supplies will have to comply with a change in standard for arsenic and radionuclides, as well as an anticipated rule for radon.

Arsenic

A revision to the Arsenic Rule was finalized in January 2001 with the federal standard of 50 ppb being lowered to 10 ppb. As many as 80 community water supplies in Minnesota may be affected by the revised rule.

The reduction in the MCL has been anticipated for several years. Water supplies in Minnesota that have measurable levels of arsenic in their water have been studying alternatives and preparing for the possibility of having to add treatment processes or replace existing wells to comply with the new, more stringent standard.

Arsenic occurs naturally in the environment and, as a component of underground rock and soil, can work its way into groundwater.

All public water systems must comply with the new standard by January 2006. Exposure to elevated levels of arsenic will not cause any immediate health effects, although long-term exposure could bring about an increased risk of bladder and skin cancer, as well as problems associated with the circulatory system and the nervous system.

Radionuclides

A revision to the Radionuclides Rule was finalized in December 2000 with a federal standard of 5 picocuries per liter (pCi/L) for combined radium 226 and radium 228, 15 pCi/L for gross alpha emitters, and 45 pCi/L for uranium. The most significant revision affected the sampling point used for compliance. The former rule required samples to be taken from a representative point on the distribution system, while the revised rule requires samples to be taken from each entry point to the distribution system. It is anticipated that many supplies will be unable to meet the standard at these sampling points when the new rule takes effect in 2006.

Several public water systems currently exceed the existing standard and, while anticipating the revised rule, have been working to meet the standard. These systems have been studying alternatives, including the addition of treatment or the replacement of existing wells, to comply with the revised standard.

Radionuclides are naturally occurring contaminants that are found in groundwater throughout central and southern Minnesota. Long-term exposure to elevated levels of these contaminants may result in an increased risk of cancer. Residents of community water systems can find out the radionuclide levels, if any, in their drinking water by reading the Water Quality Report (sometimes referred to as the Consumer Confidence Report) that is issued each year by their water utility.

Radon

The Radon Rule was proposed in November 1999 with a federal standard of 300 pCi/L and an alternative standard of 4,000 pCi/L being proposed. It is anticipated that the rule will be finalized in 2002 or 2003. For those states that adopt a multi-media mitigation program—which compels citizens, homeowners, schools, and communities to reduce radon exposure from indoor air—a standard of 4,000 pCi/L would apply. For those states that do not adopt the multi-media mitigation program, the 300 pCi/L standard would apply.

In anticipation of this rule, MDH has surveyed water systems and determined that approximately one-third of the community water systems may exceed the standard of 300 pCi/L, while approximately one percent may exceed the standard of 4,000 pCi/L. Routine radon monitoring at community water systems began in 2001.

Radon occurs naturally in both indoor air and groundwater, as a decay product of uranium in the soil. Exposure to radon may occur from soil gases that enter the home or with the use of groundwater that releases radon into the air (showering, washing dishes, cooking, etc.) as well as ingestion of water containing radon. Exposure to radon in air is the second-leading cause of lung cancer in the United States.

Disinfection By-products

The disinfection of drinking water, which kills or renders harmless microbiological organisms that cause disease, is an important component in the treatment process and one of the public-health miracles of the 20th century. However, chlorine and other disinfectants have the potential to form by-products that are known to produce harmful health effects. They can combine with organic materials in the raw water to create a group of contaminants called total trihalomethanes as well as haloacetic acids, chlorite, and bromate.

Standards already in place for disinfection by-products are being revised and expanded in the Stage 1 Disinfectants/Disinfection By-products Rule (Stage 1 DBPR), a component of the Microbial-Disinfectants/Disinfection By-products (M-DBP) regulatory package, which was published in December 1998. The rule, expected to reduce the risks associated with exposure to disinfectants and disinfection by-products, includes a more stringent federal standard for total trihalomethanes of 80 ppb and new standards for a group of five haloacetic acids, chlorite, and bromate of 60 ppb, 1.0 ppm, and 10 ppb, respectively. The Stage 1 DBPR also establishes federal standards for the disinfectants chlorine, chloramines, and chlorine dioxide of 4.0 ppm, 4.0 ppm, and 0.8 ppm, respectively.

Systems that use surface water or groundwater under the direct influence of surface water as a source, serving 10,000 or more people, were required to comply with the requirements of the Stage 1 DBPR beginning January 1, 2002. All such systems have conducted two years of preliminary monitoring, and it is expected that none of the systems will have difficulty meeting the Stage 1 DBPR requirements. In an effort to prepare for this rule's effect on the remainder of the state's water systems after January 1, 2004, MDH has conducted an investigative study of total trihalomethane and haloacetic acid levels at 10 groundwater systems serving fewer than 10,000 people. Nine of the 10 systems had by-product concentrations that were low enough to qualify them to reduce their monitoring frequency to once every three years. The peak average for total trihalomethane and haloacetic acid concentrations at the 10 systems were 12 ppb and 5 ppb, respectively.

Disinfection by-products form in source water and distribution systems when a chemical disinfectant is added to water containing inorganic or organic matter. Adverse health effects associated with long-term exposure to elevated levels include increased risk of bladder cancer as well as damage to blood and kidneys. Several disinfection by-products have been shown to cause cancer and adverse reproductive and developmental effects in laboratory animals. A weak association has been suggested between certain cancers or reproductive and developmental effects and exposure to chlorinated surface water.

Youth Education Initiative

In June of 2001, 18 science teachers from around Minnesota attended the first-ever Drinking Water Institute for educators for the purpose of learning about drinking water and finding ways to incorporate activities and information on the subject into their existing curriculum.

Sponsored by MDH and the Minnesota Section of the American Water Works Association, the Institute was conducted in Eden Prairie, Minnesota, from June 25-27, 2001, with the participation of the Science Museum of Minnesota. As part of the Institute, teachers had the opportunity to work with water professionals from their particular communities and to arrange a tour for their classes of their community's drinking water treatment facilities.

The teachers, who received college credits for their participation in the Drinking Water Institute, returned for a follow-up session on Saturday, October 27 to present the curriculum they developed. These teachers will be reaching more than 2,500 students in each of the ensuing school years with education on drinking water.

The goal of the organizers is to eventually have an ongoing group of high school graduates in Minnesota who are well-versed on the subject of drinking water by having had this as a key part of their education at several different grade levels.

Another Drinking Water Institute is scheduled for June 2002 in New Ulm, Minnesota.

Minnesota Again Leads the Way In Consumer Confidence Reports Compliance

In 1999, community water systems were required for the first time to issue annual water quality reports to their customers. These reports, officially known as Consumer Confidence Reports, were mandated by one of the key provisions of the 1996 amendments to the federal Safe Drinking Water Act.

Minnesota water systems achieved a 99 percent compliance rate in 1999, one of the highest (if not the highest) in the nation, as nearly all of its 958 community water systems produced a report and performed the required distribution. The state has maintained that level of compliance in the following years.

The high compliance rate is, in part, a result of the active role that MDH took in assisting the state's community water suppliers with the information necessary to produce their reports. MDH sent the results of monitoring from the previous year to each system along with the other information that is required in each report.

Many water systems went beyond the minimum requirements of the rule and included additional information, such as a description of their treatment and distribution processes, that enhanced their customers' awareness of what is involved in the delivery of safe drinking water and the importance of protecting water resources.

The reports are a tool to encourage dialogue between consumers and utilities, get consumers more involved in decisions, and provide a starting point for consumers to obtain more information.

Minnesota Department of Health Develops New Web Page Devoted to Drinking Water Protection

In late 2001, the Drinking Water Protection Section of the Minnesota Department of Health unveiled a new web page devoted to drinking water protection activities in Minnesota. The page includes descriptions and contacts for various programs within the Section, Consumer Confidence Reports, brochures and fact sheets, annual drinking water reports, certification and training news, information on the drinking water revolving loan fund, source water protection information, reporting and application forms, a training calendar, and copies of current and past newsletters.

The page is at <http://www.health.state.mn.us/divs/eh/water/>.

Appendix

Summary of Safe Drinking Water Act Monitoring Results for Minnesota

Public Water Supply Systems in Minnesota for 2001

Conclusion

Monitoring test results for 2001 tend to reinforce the conclusions of previous years. The quality of Minnesota's drinking water is very high. Even as our monitoring activities have expanded, we have rarely found any detectable contamination. Contaminant levels that exceed applicable health standards have been even more rare. Although we need to remain vigilant, Minnesotans can continue to have confidence in their drinking water.

MDH remains committed to protecting the high quality of our drinking water. The safety of our drinking water should never be taken for granted—but Minnesotans can be assured that their local water supply system is making every effort to ensure that their water is safe. And they can also be assured that the Minnesota Department of Health—and the broader public health community—are working to ensure that their confidence is well placed.

Minnesota had the following violations in calendar year 2001; in some cases, the violations were isolated to specific locations or specific times of the year.

- 2 community systems with a violation of the maximum contaminant level (MCL) for nitrate.
- 1 community system with a violation of the MCL for nitrite.
- 30 community systems with a violation of the MCL for total coliforms.
- 238 community systems with a violation of the MCL for total coliforms.
- 12 community systems with a violation of the MCL for total dissolved solids.
- 10 community systems with a violation of the MCL for gross alpha activity.
- 18 community systems with a treatment technique violation for the Surface Water Treatment Rule.
- 12 community systems with a violation of the Consumer Confidence Rule.

A report which lists all violations of the Safe Drinking Water Act in Minnesota for calendar year 2001 is available from the Drinking Water Protection Section, Minnesota Department of Health, 645 North 1st Street, St. Paul, MN 55104-0001. This is also available on the web at <http://www.health.state.mn.us/dwpr/monitoring/2001.html> or as a PDF file at <http://www.health.state.mn.us/dwpr/monitoring/2001.pdf>.

Note: Although a public water supply may be out of compliance with some drinking water contaminants at a specific time, when calculating results, it's considered out of compliance only if the population being served is affected for a significant portion of the year. For the purpose of this report, violations are reported by type of violation, not by the number of violations.

Individual water systems provide an annual report to the state on violations that were detected, even if there were no violations during the previous calendar year. Please contact the local water system if you would like a copy of this report.

Appendix

Summary of Safe Drinking Water Monitoring Results for Minnesota

*Includes Results for Both Community and Non-Community
Public Water Supply Systems in Minnesota for 2001*

The following is a summary of drinking water monitoring test results for all public water supply systems in Minnesota for calendar year 2001. Public water supply systems include all systems that serve 25 or more people on a regular basis, or that have 15 or more service connections. There are approximately 8,300 such systems in Minnesota, including:

- *955 **community** systems, which provide water to consumers in their places of residence, including 713 **municipal** systems.*
- *approximately 7,300 **noncommunity** systems, which provide drinking water in settings like factories, schools, restaurants, and highway rest stops.*

Minnesota issued the following violations in calendar year 2001; in some cases, the violations were issued to water systems that were already in exceedance of the particular standard:

- 2 noncommunity systems with a violation of the maximum contaminant level (MCL) for nitrate.
- 1 community system with a violation of the MCL for nitrite.
- 30 community systems with a violation of the MCL for total coliform.
- 258 noncommunity systems with a violation of the MCL for total coliform.
- 12 community systems with a violation of the MCL for combined radium.
- 16 community systems with a violation of the MCL for gross alpha emitters.
- 18 noncommunity system with a treatment technique violation for the Surface Water Treatment Rule.
- 12 community systems with a violation of the Consumer Confidence Rule.

A report which lists all violations of the Safe Drinking Water Act in Minnesota for calendar year 2001 is available from the Drinking Water Protection Section, Minnesota Department of Health, Box 64975, St. Paul, MN 55164-0975. This is also available on the world wide web through a link in the Appendix at <http://www.health.state.mn.us/divs/eh/water/cinfo/dwar/report01.html> or at:

<http://www.health.state.mn.us/divs/eh/water/cinfo/dwar/summary2001.pdf>

<http://www.health.state.mn.us/divs/eh/water/cinfo/dwar/pwsid2001.pdf>

<http://www.health.state.mn.us/divs/eh/water/cinfo/dwar/contaminant2001.pdf>

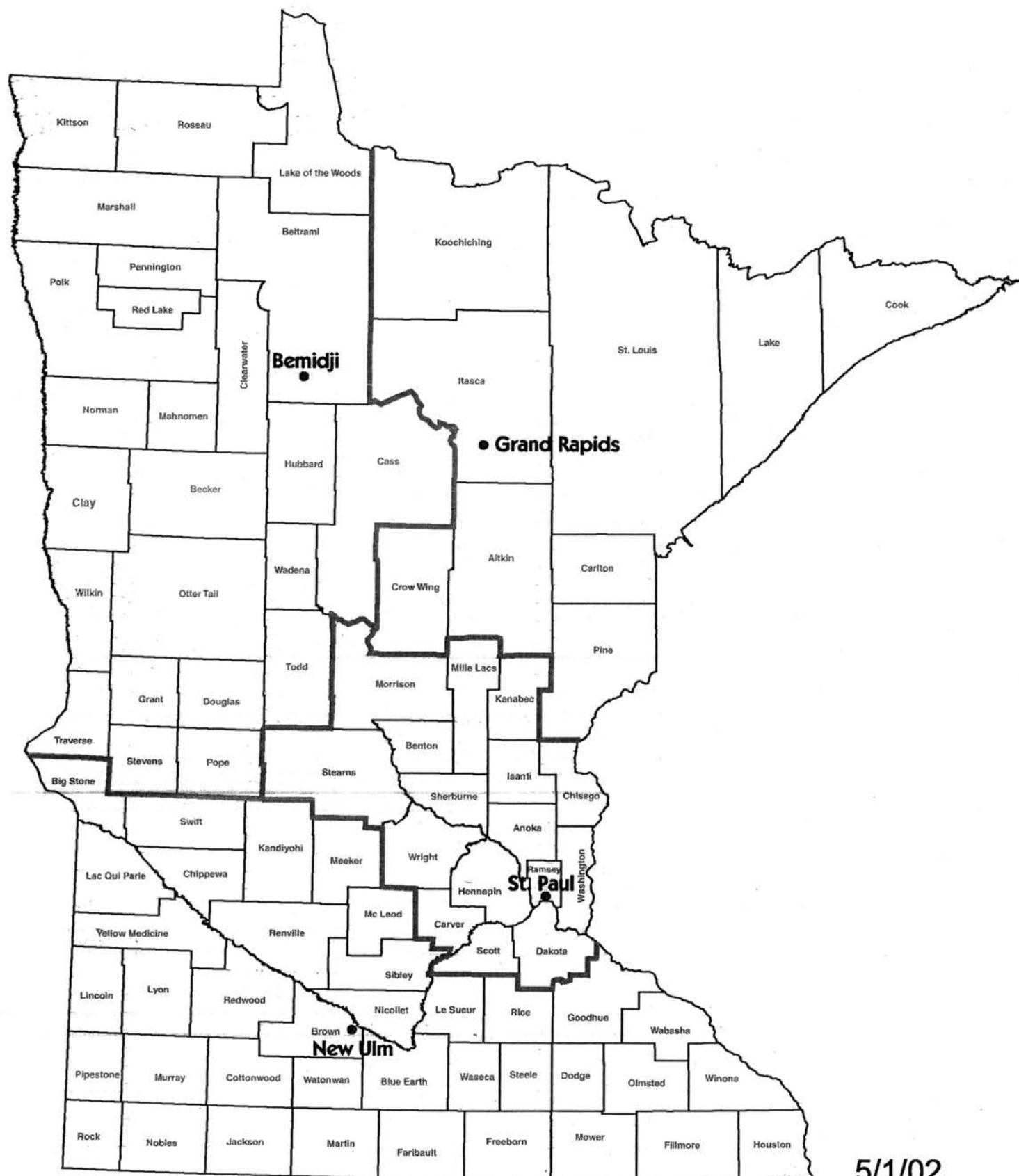
Note: Although a public water supply may be out of compliance with more than one contaminant or violation type, when calculating totals, it's counted no more than once within the population being totaled. So the sum of number of public water systems in violation over the various violation types or contaminants may not add up to the total.

Individual water systems produce an annual report listing contaminants that were detected, even in trace amounts, during the previous calendar year. Please contact the individual water system if you would like a copy of this report.



Minnesota Department of Health
Drinking Water Protection Section
Division of Environmental Health
121 East Seventh Place—P. O. Box 64975
St. Paul, Minnesota 55164-0975
651/215-0770 (voice)
651/215-0775 (fax)

MN DNR Regions with Regional Offices



5/1/02

Mary Jo - PCA comments (to help with your notes)

1. legislative action

Bonding:

WIF: 30 M → \$1.5M targeted for North Shore

SRF: 16 M (Govs request)

U.S.D.A.
Rural Development
\$50 to 60 M
for small wwt
facilities

Gen. fund reduction - water program reduction { manage thru salary savings in 02/03
decision on long-term reduction in 04/05

2. Stormwater - small municipal separate storm sewer system (MS4) general permit

May 28th: Information item

municipal comments:

better integration w/BSWR & local water planning

duplication of efforts between PCA & LUG -

clarification on roles / pass thru \$ for LUG

permit change: date for local ordinance [2 yrs after coverage date]

CCH request: monitoring - include in MS4 permit

ORVW/nondegradation - application to new or expanded discharges

League of Minn. Cities - hiring contractor to develop model MS4 application

June 25th: Decision on CCH & MS4 permit issuance

~~Cost share/soil conservation committee - PCA participate~~

~~June 12th DWRM Office~~

~~at BWSR~~

Dispute Resolution Report
May 7, 2002

There is one completely new item for the DRC that involves BWSR making WCA decisions. When an LGU receives a cease and desist order, BWSR makes the decision on no-loss and exemption applications concerning the project. Coon Creek Watershed District received a cease and desist order regarding the removal of a weir in County Ditch 58 in Anoka County. The watershed district has applied for a no-loss determination. In cases like this, the administrative process BWSR follows is for the DRC to hear the matter and bring a recommendation to the full board for a decision. A DRC hearing was scheduled to follow the Board meeting on May 22, but now has been postponed.

There are presently seven appeals pending. All of the appeals involve WCA.

The most recent appeals are of a replacement plan approval in Brooklyn Center for a highway project. The Shingle Creek WMO made the WCA decision. Two appeals have been filed on the project. Both appeals have been accepted and a pre-hearing is scheduled for May 28.

There is an appeal of the Board's remand to Mower County regarding a landfill site. Under remand, the county denied an application for no-loss. The appeal has been accepted and a pre-hearing was held on April 11. The appeal is in abeyance since the appellants have filed a new WCA application and are waiting for a decision on the new application before proceeding with the appeal.

Another appeal is of an exemption determination in Hennepin County. The appeal involves a horse barn that is already built. The appeal has been accepted and a hearing was scheduled, but the briefing schedule is now on hold since a replacement plan application has been approved.

Another appeal involves the Board's remand to McLeod County. Under remand, the county approved an agricultural exemption. The appeal has been accepted but a pre-hearing has not been scheduled.

Another appeal is of a replacement plan denial in Stearn's County. The appeal involves a single family dwelling site near the Mississippi River. The appeal has been accepted and is being held in abeyance since the landowner is exploring his options with the county.

Another appeal involves a wetland banking site in Chisago County. The appeal has been accepted and is being held in abeyance to see how the site looks this spring.

NEW BUSINESS

1. Establish Date for Referendum on
Petition for Discontinuance of the
Hennepin Conservation District
DECISION

5/22/02
approved

DRAFT

DRAFT

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

In the Matter of the Petition for Discontinuance
of the Hennepin Conservation District and
Conducting a Referendum pursuant to
Minnesota Statutes Section 103C.225

**ORDER
TO CONDUCT
REFERENDUM**

Whereas, a Petition to discontinue the Hennepin Conservation District was received on August 24, 2001, pursuant to Minn. Stat. § 103C.225, Subd. 1, and;

Whereas, on March 27, 2002, the Board of Water and Soil Resources issued an order to conduct a referendum on the discontinuance of the Hennepin Conservation District on or before November 5, 2002, pursuant to Minn. Stat. § 103C.225, Subd. 3, and;

Whereas, there are tremendous administrative and economic efficiencies and perfections to conducting the referendum in conjunction with the county general election on November 5, 2002, and;

Whereas, the petitioners desire the referendum to be held in conjunction with the county general election, which will be conducted next on November 5, 2002, and;

Whereas, conducting the referendum in conjunction with the county general election on November 5, 2002 will be more representative of the citizens of Hennepin County and more fair than conducting a unique referendum, and;

Whereas, conducting the referendum in conjunction with the county general election on November 5, 2002 will meet the full intent of Minn. Stat. § 103C.225, Subd. 3, and;

Whereas, notice of the referendum and publication of the results of the referendum pursuant to Minn. Stat. § 103C.225, Subd. 3 can be fully accomplished by publication in the same manner that Hennepin County publishes the sample ballot and the results of the general election.

Now Therefore, the Board hereby makes the following Order.

ORDER

The Board hereby orders that a referendum on the discontinuance of the Hennepin Conservation District be conducted on November 5, 2002, by placing the question for discontinuance on the ballot for the Hennepin County general election, and noticing the referendum and publishing the result of the referendum in the same manner as Hennepin County.

Dated at Saint Paul, Minnesota this _____nd day of May, 2002.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

By: _____
Leland G. Coe, Chair

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

In the matter of determining inconsistency of
the proposed Recommendation Report for the
Mantrap Chain Works of Improvement with State
Water Policy (MS 103C.601, Subd. 9.)

**ORDER
DETERMINING CONSISTENCY
WITH STATE WATER POLICY**

Whereas, Hubbard Soil and Water Conservation District acting under the direction of Hubbard County has undertaken a works of improvement project under MS 103C.601, and

Whereas, Hubbard Soil and Water Conservation District has submitted a recommendation report and preliminary general plan pursuant to MS 103C.601, Subd. 9. to the Minnesota Board of Water and Soil Resources for its review and determination as to whether the project is inconsistent with the systematic administration of State water policy.

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

FINDINGS OF FACT

1. On September 13, 1999 the Belle Taine Lake Association requested the Hubbard Soil and Water Conservation District (SWCD) to investigate the feasibility of undertaking a Works of Improvement Project under MS103C.601 for the purpose of removing floodwater from Lake Belle Taine and other lakes upstream.
2. On October 12, 1999 the Hubbard SWCD passed a resolution agreeing to investigate and make a recommendation on a Works of Improvement Project.
2. On April of 2000 the Hubbard SWCD entered into an agreement with the US Army Corp of Engineers (COE) to conduct a cost benefit analysis on the project and to determine the potential for further COE involvement.
3. In August of 2000 the COE study, which was conducted by Ayres and Associates, was submitted to the Hubbard SWCD. The study indicated a range of possible solutions to alleviate flooding on the lake and concluded that a positive cost benefit ration existed.
4. On September 19, 2001 the Hubbard SWCD recommended to Hubbard County the establishment of an improvement work unit and a program for a works of improvement in the area known as the Mantrap Chain of Lakes.
5. On September 19, 2001 the Hubbard County board, by resolution, accepted the Hubbard SWCD's recommendation to establish an improvement work unit. It further directed the Hubbard SWCD to conduct additional studies and surveys for the development of the preliminary general plan.
6. On May 14, 2002 the Hubbard SWCD approved a recommendation report for the project and submitted a copy of that report to Hubbard County, the MN Board of Water and Soil Resources, and The MN Department of Natural Resources pursuant to MS103C.601 Subd. 8.

7. Board of Water and Soil Resources Staff has reviewed the recommendation report and the preliminary general plan.

CONCLUSIONS

1. Staff concludes that the recommendation report and preliminary plan presented fairly the range of alternatives for a Works of Improvement Project and that the recommendation report has proposed the most environmentally sensitive solution to removing flood waters from the Mantrap Chain of Lakes.
2. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of determining the consistency of the Mantrap Chain of Lakes Improvement Project with State water policy pursuant to MS 103C.601, Subd. 9.

ORDER

The Board hereby determines that the Mantrap Lake Works of Improvement and preliminary general plan are not inconsistent with the systematic administration of State water policy. Dated at St. Paul, Minnesota this 22nd day of May, 2002.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Leland Coe, Board Chair

NEW BUSINESS

2. Hubbard SWCD Recommendation
Report on a 103C.601 Works of
Improvement Project
DECISION

Lake Belle Taine, Hubbard County – Works of Improvement

Approximately four years ago a group of concerned citizens approached the Hubbard County Board of Commissioners requesting assistance to help them deal with rising water levels on Lake Belle Taine. Lake Belle Taine is located at the bottom end of the Mantrap chain of lakes with an outlet that is significantly above the DNR established Ordinary High Water elevation. The rising water levels in the lake are a result of the regional groundwater system, which has been increasing over the last ten years due to the wet weather cycle that has occurred in that region of the State. Many properties around the lake are being affected by the high water with inundation of septic systems, erosion of shoreline, and flooding of structures.

Shortly afterwards Hubbard County initiated a meeting of the local units of governments, including the Hubbard County Soil and Water Conservation District (SWCD), the Lake Belle Taine Association (Association) and state and federal agencies to begin exploring what could be done to help. In the end the County decided to initiate a 103C Works of Improvement Project (WIP) in cooperation with the SWCD. One of the primary reasons for choosing a WIP was that the problem area existed entirely within Hubbard County and the desire to use existing authorities rather than create something new.

The WIP authority exists in Minnesota Statutes 103C. 601. The statute allows SWCD's to receive requests from landowners and initiate studies to determine the feasibility of whether a proposed project would be of public utility and benefit. If the SWCD determines that a project is necessary and feasible then it enters into a more formal arrangement with the county to continue to develop and initiate a project.

In the case of Lake Belle Taine a request was made by the Association to the SWCD with the concurrence of the County. One of the first steps that were taken was to contract with the US Corps of Engineers to do a preliminary feasibility study. That study concluded that a water level control project was feasible and had a positive cost benefit ratio, and would likely not result in any significant downstream impact. After the COE study was completed the County instructed the SWCD to continue to pursue the development of a recommendation report. The SWCD contracted with Woodsith, Smith and Nolting, Inc. to conduct a preliminary engineering report and to recommend feasible options for control of the lake level. The report concluded that three options existed, including gravity pipe with direct discharge to the Crow Wing River, pumping, and pumping with infiltration. The report also concluded that any of the project alternatives would not result in any significant downstream impact.

Once the preliminary engineers report was completed the SWCD assigned a technical committee, which included representatives from BWSR and DNR, to make a recommendation to the SWCD on the preferred alternative and the method by which the project would be paid for. The technical committee recommended the pumping option with land infiltration as the preferred alternative and that special assessments minus and grant funding as the local method of financing the project.

On May 14, 2002 the SWCD will be voted on the recommendation report. They have forwarded that report to BWSR to review the recommendation report and preliminary general plan and make a determination if the plan is inconsistent with systematic administration of state water law policy. BWSR staff is recommending that the Board make a positive determination the proposed recommendation report and preliminary general plan are not inconsistent with State water law and policy.

Minnesota Statutes 2001, Table of ChaptersTable of contents for Chapter 103C**103C.601 Works of improvement.**

Subdivision 1. **Authority.** (a) The district board may, if directed by resolution of the boards of commissioners from the counties where the district is located undertake, construct, install, maintain, and operate works of improvement for a district purpose. The district board may:

- (1) use the proceeds of tax levies, assessments, and other available funds for the works of improvement;
- (2) acquire necessary real or personal property by purchase or gift for the works of improvement;
- (3) contract, survey, plan, construct, install, maintain, and operate the works of improvement; and
- (4) exercise other authorized powers.

(b) Two or more district boards may jointly exercise the powers granted by this section.

Subd. 2. **Request for project.** A program for works of improvement in any area within one or more districts may be initiated upon written request for a project submitted to the district board by one or more of the owners of land in the affected area. The request must include:

- (1) a general description of the area proposed for inclusion in an improvement work unit, with a proposed name or number for the project;
- (2) a description of the affected land owned by the signers; and
- (3) a statement of the objectives of the proposed works in furtherance of the authorized purposes, the grounds upon which the project will be of public benefit and utility and promote the public health, safety, and welfare, and special benefits to property that will result from the project.

Subd. 3. **Determination by district board.** As soon as practicable after receipt of the request the district board shall have necessary preliminary surveys and studies conducted.

Subd. 4. **Resolution of establishment.** (a) The district board may, by resolution, recommend the establishment of an improvement work unit and a program for works of improvement in the work unit to the boards of county commissioners of the counties where the affected land is located if the district board determines the proposed works of improvement:

- (1) are feasible;

(2) will be of public utility and benefit;

(3) will promote the public health, safety, and welfare;
and

(4) will further the authorized purposes and best interests of the district.

(b) The district board shall by resolution give the improvement work unit an appropriate name or number, which may be different from the one proposed in the initial project request.

(c) The resolution shall recommend definite boundaries for the improvement work unit, which may be those proposed in the request or modified as the district board deems advisable.

(d) In the resolution the district board may also enlarge, reduce, or otherwise modify the proposed objectives of the program, but not make a substantial change in its main purposes as stated in the initial project request unless consented to in writing by the signers of the request.

(e) At any time before further action is taken on the project as provided in section 103C.605 the district board may amend the resolution, subject to the foregoing limitations.

Subd. 5. Preliminary general plan. (a) After adoption of the resolution recommending the improvement work unit and program under subdivision 4, the district board after being directed by resolution of the affected boards of county commissioners may have further surveys and studies made as necessary.

(b) The district board may then have a preliminary general plan with cost estimates made to implement the program for the improvement work unit or part of the work unit.

Subd. 6. Financial aid. (a) The district board, at the direction of the affected county boards, may apply for federal aid, state aid, or aid available from other sources for the works of improvement in the program or part of the works of improvement under federal or state law.

(b) The district board may take the steps necessary to determine whether aid will be available and the amount of the aid. The district board may consider how the cost of the works not expected to be paid by federal or other aid may be met from funds of the district or from the proceeds of assessments on benefited property or otherwise, and the district board may make estimates of the amounts and sources.

Subd. 7. Necessary cooperation or joint action. If the cooperation or joint action of an adjacent district or other public agency is desirable for the program, the district board, at the direction of the affected county boards, may negotiate with the authorities concerned for cooperation or joint action.

Subd. 8. Recommendation report. (a) After completion

of the requirements in subdivisions 1 to 7, the district board may make and file a recommendation report, summarizing findings and recommendations for further action on all or part of the program and containing substantially the engineering information required by section 103D.711, subdivisions 1 to 3.

(b) The district board shall make the recommendation report and the preliminary general plan for the improvement work unit available to the affected county boards and to all other public agencies and concerned persons, and may provide other publicity that it deems advisable. The district board shall transmit a copy of the recommendation report and preliminary general plan to regional development agencies where the project is located. If the preliminary general plan involves a project for which a water use permit or public waters works permit is required from the commissioner of natural resources under chapter 103G, or for which proceedings will be instituted under chapter 103E, the district board shall transmit the recommendation report and plan to the commissioner of natural resources and to the state board.

Subd. 9. **State board review.** (a) The state board shall review the recommendation report and preliminary general plan and, if the state board concludes that the plan is inconsistent with systematic administration of state water policy, the state board shall report the conclusion to the district board and the commissioner of natural resources within 60 days after receiving the recommendation report and preliminary general plan.

(b) The district board may modify and retransmit the recommendation report and preliminary general plan to the state board, or request a hearing on the recommendation report and preliminary general plan. The state board shall hear the matter in the manner and following the procedures provided in sections 103A.321 to 103A.341, for the hearing of cases when the state board consents to intervention proceedings.

(c) Unless the state board concludes that the report and plan are inconsistent with state water policy, the district board, with the approval of the county boards, may adopt and sponsor the improvement work unit and a program of work for the unit.

HIST: 1990 c 391 art 3 s 24

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(M.S. 103C.601)

**MANTRAP CHAIN WORKS OF IMPROVEMENT
RECOMMENDATION REPORT**

PREPARED BY

**HUBBARD COUNTY SOIL & WATER
CONSERVATION DISTRICT**

MAY 2002

The Hubbard County Soil & Water conservation District, operating under a county resolution, has developed this Recommendation Report pursuant to M.S. Statute 103C.601 Works of Improvement. Hubbard County Resolution # 09190104 directed the SWCD to prepare and submit this report. This Report includes a recommendation of an alternative to solve the high water levels in the Mantrap Chain and a methodology by which the Works of Improvement will be paid. This recommendation also provides consideration of long-term effects regarding the decision making process on lakeshore development.

The Hubbard County Soil & Water Conservation District Board of Supervisors based this decision in light of our "mission statement" which states that we will "utilize all of our resources available to protect the natural resources of Hubbard County". We understand that, on a nationwide basis, the number one source of surface water degradation is from "altered hydrology". After review of the research conducted by consulting engineers there remained a large potential of uncertainty in the findings that warranted against a direct discharge to the Crow Wing Chain. It is the intent of this recommended alternative to minimize any negative impacts to water quality and the environment. We understand the many hours everyone has put into this project in hopes of finding the best solution to a serious problem.

After extensive review of the Preliminary General Plan, deliberation of all the alternatives and taking into consideration the recommendations of the Mantrap Chain residents, Crow Wing watershed residents and a local technical advisory team, a decision was made by the SWCD Board to recommend the following feasible alternative identified in the Preliminary General plan report to mitigate the high water levels in the Mantrap Chain watershed:

Install a pumping system on Belle Taine Lake to pump water to infiltration basins. The initial drawdown will be to 1427 feet MSL. The recommended long-term operating range of the pumping system will be to maintain lake levels at a maximum of 1427.0 to 1427.5 MSL. Final engineering plans must address any additional operational and environmental concerns not already considered in the Preliminary General Plan.. These concerns include: Pumping station security, land acquisition or lease, effects on any existing structures downgradient from the infiltration basin and other previously unidentified water quality effects.

Funding Options:

Pumped Outlet to Infiltration basins – The Preliminary General Plan prepared by Widseth Smith Nolting indicated an alternative to utilize a natural basin area near 7th Crow Wing Lake. There may be other potential sites in upland areas near Belle Taine Lake. A final engineering plan would identify the best site and final costs.

Local funding for construction and acquisition of all necessary property including infiltration sites would be by special assessment of benefited properties. Viewers would be appointed pursuant to Minnesota Statute 103E.305 to 103E.321. Maintenance and operation would be funded by an assessment pursuant to Minnesota Statute 103E .735.

The Minnesota Department of Natural Resources is one potential source of outside funding through the Flood Damage Reduction Grant Program. An application should be submitted to this program for the maximum amount available and other sources of additional, non-local funds should be investigated.

Future Lakeshore Development

The Preliminary General Plan identifies the “sealing” of bottom sediments in Belle Taine Lake resulting from human influences around the lake as one component contributing to the current high water situation. The SWCD Board recommends that Hubbard County Shoreland and Subdivision Ordinances be evaluated and changed where necessary to ensure that long-term land use activities along the shoreline within this watershed do not contribute to high water events in the future. Applications for variances from controlling ordinances should be held to a very high standard and any potential contributions to water level management issues should be identified.

Chair, Hubbard County Soil & Water Conservation District

Date

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

In the matter of petition for enlargement of the
the Middle River Snake River Watershed District
(Minnesota Statutes 103B.261) and increasing the
number of managers (Minnesota Statutes 103B.305)

**ORDER
FOR ENLARGEMENT
HEARING**

Whereas, Marshall County has submitted a petition to enlarge the Middle River Snake River Watershed District, increase the number of managers, and change the name of the watershed district pursuant to MS103D.261, 103D.251, Subd. 5 (a)(2), and 103D.305.

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

FINDINGS OF FACT

1. On May 13, 2002 the Board received a petition from Marshall County to enlarge the Middle River Snake River Watershed District, increase the number of managers, and change the name of the watershed district pursuant to MS103D.261, 103D.251, Subd. 5 (a)(2), and 103D.305.
2. Staff has determined that a valid petition exists pursuant to MS 103D.261 and MS103D.251, Subd. 5 (a)(2) petition signatures.

CONCLUSIONS

1. All relevant requirements of law have been fulfilled. The Board has proper jurisdiction in the matter of ordering a hearing to determine whether the proposed changes would be for the public welfare and public interest and the purposes of chapter 103D would be served.

ORDER

The Board hereby orders the Chairman of the Board and the Executive Director to appoint a hearing body from members of the Board and to notice and conduct a hearing within the proposed territory to be added to the Middle River Snake River Watershed District. Dated at St. Paul, Minnesota this 22nd day of May, 2002.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

BY: Leland Coe, Board Chair

NEW BUSINESS

4. FY03 CREP Implementation Grants
to Nonpoint Engineering Assistance
Joint Powers Boards
DECISION

5/22/02
approved

FY 03 CREP Implementation Grants to NPEA Joint Powers Boards

As the CREP 100,000 acre goal is being achieved in the application phase, increasing focus is being directed to implementation of conservation practices on CREP lands. This involves many wetland restorations, which have sold even better than expected.

Implementation assistance for wetland restorations involves surveying, design, construction staking and construction inspection. Coordination with adjacent landowners, road authorities and drainage authorities is often required, as well. Many CREP partners are involved with these implementation tasks. These partners include the Nonpoint Engineering Assistance program joint powers board engineers and technicians located in Mankato (10), Slayton (9), Montevideo (7) and St. Cloud (5). Most of these engineers and technicians have substantial experience with many of the tasks involved in providing engineering assistance for wetland restorations.

Because the NPEA base grant funding will not cover all of the costs of the NPEA staff in FY 03, these JPBs are marketing a portion of their staff time to other programs and LGUs for conservation engineering assistance. The table below indicates the minimum number of NPEA staff hours that host SWCD managers and staff have agreed to commit to CREP wetland restoration engineering for FY 03 and an associated grant amount. The grant amounts are based on a prorata portion of the projected FY 03 JPB budgets for the number of hours committed, not to exceed the shortfall of NPEA base funding.

The number, size and complexity of CREP wetland restorations are high in the southeastern portion of the MN River basin. Workload analyses indicate that another engineer or experienced technician is needed to assist with these wetland restorations. The office location, available equipment and existing staff, make JPB 10 a good location for additional staff to serve this need. It is proposed that the FY 03 grant to JPB 10 include funding for this position, as indicated below.

JPB No. and Location	FY 03 Grant Amount	Min. Staff Hours Committed
5 (St. Cloud)	\$14,000	400
7 (Montevideo)	\$16,000	550
9 (Slayton)	\$45,000	1250
10 (Mankato)	\$89,000	1 FTE + 650

These grants will accelerate NPEA engineering assistance for CREP wetland restorations in cooperation with BWSR, SWCDs and other partners. Grant agreements will include project assignment, coordination and reporting requirements, as well as productivity expectations and measures.

NEW BUSINESS

5. Local Water Management Integration
DECISION

5/22/02
approved

(w/ edits)
from Gary Tenholte

Local Water Management Integration

The Board of Water and Soil Resources has begun reviewing the local water management programs under its authorities. These include:

Comprehensive Local Water Planning (MS 103B.301)
Metropolitan Surface Water Management Planning (MS 103B.201)
Watershed District Planning (MS 103D)
Metropolitan Ground Water Planning (MS 103B.255)

This evaluation includes identifying commonalities and differences of the above programs. It also involves exploring pressing water quality/quantity issues along with opportunities to align local programs with existing state agency policies and programs.

BWSR staff, working with an ad-hoc sub-Committee of the Board (Harder, Imholte, Kahler, and State Agency Representatives), local government representatives and state agency staff, have initiated the process to establish a local water management integration framework that has the potential to be the primary means to improve and protect Minnesota's valuable water and land resources. The Guiding Principles to attain that goal have been developed by the subcommittee and are presented for full Board review.

Local Water Management Integration Phases

Phase I – Enact Change

Step 1 - Gather preliminary stakeholder input

Step 2 – Establish subcommittee and develop principles, framework, and concepts for change

Step 3 – Develop specific proposals for changes

Step 4 – Gather stakeholder input on proposed changes

Step 5 – Bring final changes forward via: i.) legislation, ii) rules, iii) policy, and iv.) guidance

Phase II – Carry out Change

Vision: Establish a unified water management-planning framework that is the primary means to improve and protect Minnesota's valuable water and land resources.

Guiding Principles to attain that vision: *guiding principles convey fundamental philosophies and values to attain a vision.*

Principles guiding efforts to make local water management plans the primary means to achieve sound water and land management in Minnesota.

Local water management plans:

1. are developed with up-front citizen and agency involvement.
2. are part of, or strongly linked to, local comprehensive (land use) plans, and other local and state plans and programs.
3. focus on tangible results that come from thorough data-based assessments, goals and actions.
4. set local priorities, goals and actions that are acknowledged by state and regional resource entities and vice versa (local goals acknowledge state and regional priorities).

Principles guiding an effort to integrate BWSR water management and planning programs.

Integrated local water management programs:

1. provide options regarding a *local* planning framework to accommodate different local governance structures and resource issues.
2. retain unique aspects but have common elements to assure coordinated planning and implementation.
3. acknowledge the fundamental importance of watersheds, while accommodating differences in regional landscapes, resource issues (e.g., groundwater, habitat) and political jurisdictions.
4. result in more effective and efficient use of state and local staff resources by defining their roles in the planning and implementation.
5. identify and remove barriers to maximize options for sharing fiscal and personnel resources among units of government, and for coordinating resource assessments, goals and actions.



Minnesota Board of Water and Soil Resources

Framework for Local Water Management Integration

DRAFT

The Board of Water and Soil Resources has begun reviewing the local water management programs under its authorities. These include:

- Comprehensive County Local Water Management (MS 103B.301)
- Metropolitan Surface Water Management (MS 103B.201)
- Watershed District Planning (MS 103D)
- Metropolitan County Ground Water Planning (MS 103B.255)
- Soil and Water Conservation District Comprehensive and Annual Planning (MS 103C.331)

Why pursue local water management integration?

The BWSR's primary responsibility is to coordinate local water management activities between local governments and to facilitate communication among state agencies and between local and state government. Identifying statutory commonalities and differences and exploring alignment of local land and water management programs with existing state agency policies and programs fits within those responsibilities. The above programs were established independently but have commonalities and connections. Opportunity exists to align and streamline water management and planning process and accomplish more together.

Goal for the process: Establish a local water management integration framework that is a primary means to improve and protect Minnesota's valuable water and related land resources.

What are some benefits of local water management integration?

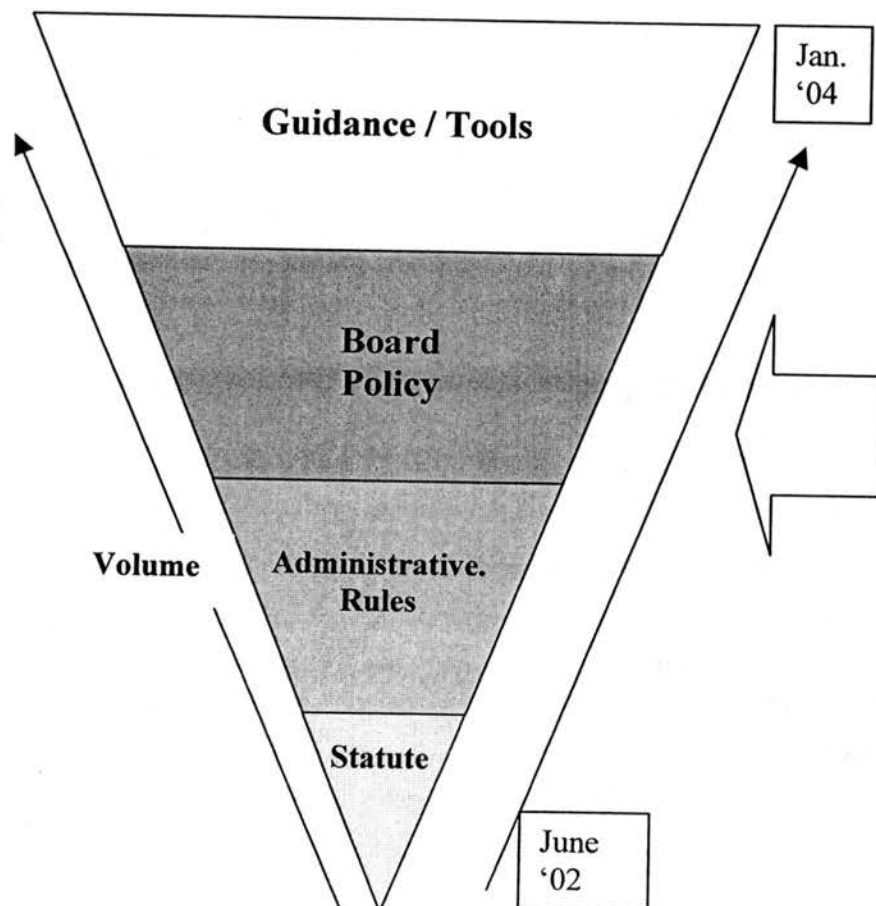
- Efficient use of staff and financial resources.
- Learn from the experiences of each other
- Prioritize local issues and clearly communicate how to address them.
- Facilitates integrating plans:
 - Intra-local (e.g., watershed district and county water plans; county comprehensive plan and county water plan)
 - Inter-local (e.g., neighboring county water plans with each other)
 - Local with state and regional (e.g. local plans within basin plans)
- State-regional water plans linked to and built upon local water plans (& visa-versa)
- Increased financial support of local water management
- Plans focus on priorities and are integrated with other local plans

What's happened so far? A subcommittee with 3 board members, agency board member representatives and BWSR staff has met to develop the guiding principles for this effort. Several meetings with local water management staff have occurred to gather input on the County Local Water Planning Program. A stakeholder group in the seven-county metro area has met to discuss possible revisions to the Metro Surface Water Planning Program. The Metro Area Ground Water Alliance has been discussing ways to better implement the Ground Water Planning Program.

How will we get there? A subcommittee of the board, including agency representatives, BWSR staff, local government units and the board as a whole will work to identify:

- what's expected of local water management plans;
- the benefits to local governments for meeting those expectations;
- a delivery system by which measurable results of state and local water management goals and objectives are realized- ;and
- Changes /additions to statute, administrative rules, board policy and guidance to effect change.

Local Water Management Integration Work plan – At a Glance:



Phase I – Enact Change

- Step 1** - Gather preliminary stakeholder input
- Step 2** – Establish subcommittee and develop principles, framework, and concepts for change
- Step 3** – Develop specific proposals for changes
- Step 4** – Gather stakeholder input on proposed changes
- Step 5** – Bring final changes forward via:
 - i. Statute
 - ii. Administrative Rules
 - iii. Board Policy
 - iv. Guidance/Tools

Phase II – Carry out Change

Phase III – Local Government Implementation

Possible Linkages to Local Water Planning/Mgt

State Program Areas

votes

- | | | |
|---|--|---|
| 1. 8 TMDL (PCA) | 9. 2 Land Retirement Programs (CRP, RIM) | 18. Individual Septic Tmt Systems (PCA) |
| 2. 7 Water Monitoring (Multiple) | 10. 1 Feedlots (PCA) | 19. Metro Greenways (DNR) |
| 3. 4 Environmental Review (EQB) | 11. 1 Floodplain Management (DNR) | 20. Water Appropriation (DNR) |
| 4. 3 NPDES Stormwater Management (PCA) | 12. 1 AG BMP Loans | 21. Hazard Mitigation Program (DPS) |
| 5. 3 Wetland Conservation Act (BWSR) | 13. 1 Well Management code | 22. Costal Zone Management (DNR) |
| 6. 3 Shoreland Management (DNR) | [the following were identified but didn't get any votes] | 23. Ag Land Preservation Program (Ag) |
| 7. 3 Public Waters (DNR) | 14. Wastewater treatment(PCA) | 24. Conservation Security Act [federal] |
| 8. 2 Sourcewater Protection (MDH) | 15. Underground Injection Control (EPA) | 25. Fish and Wildlife Mgt |
| | 16. Abandon Well Sealing | 26. Ag Plant Mgt (lake "weeds") |
| | 17. Remediation Programs (PCA) | 27. Non Govt Org. plans |
| | | 28. Pesticide Mgt. |

Critical Resource Issue Areas:

votes

- | | | |
|--|--|---------------------------------------|
| 1. 10 Development Pressure – Urbanization | 9. 2 Public health | 15. Watersheds |
| 2. 6 Surface/ground water interconnection | 10. 1 Degrading public drinking water treatment and distribution infrastructure | 16. Outstanding resource value waters |
| 3. 5 Drainage | 11. 1 Water Supply | 17. Stormwater and runoff |
| 4. 4 Wetlands | 12. Floods | 18. Small acreage farms runoff |
| 5. 4 Ag runoff and nutrient management | 13. Droughts | 19. Designated Trout Streams |
| 6. 2 Development Pressure – Shoreland | 14. Land locked basins | 20. Irrigation/Fertigation |
| 7. 2 Lakes & Rivers (fish/swim) | | 21. Surface water use conflicts |
| 8. 2 Erosion and sediment control | | 22. Karst |
| | | 23. Water rights |

Possible Linkages to Local Water Planning/Mgt

Planning Areas

1. Community based Plan (MN Planning)
2. Comprehensive Plans (County)
3. Basin plans (PCA)
4. State water plan (MN Planning)
5. Regional plans
6. Solid Waste Plans (OEA)

Jurisdictions

1. Watershed District
2. County
3. SWCD
4. Municipal
5. Inter-state
6. Intra-state
7. International

Exploring educational opportunities for meeting Minnesota's natural resource needs



An activity through which the Minnesota Board of Water and Soil Resources Education Committee assisted University of Minnesota Extension Service in identifying program needs and opportunities in the area of natural resources and the environment. April – May 2002.

Introduction

University of Minnesota Extension Service is changing. Resources are being reallocated to support educational programs that are fewer in number but more able to show regional and statewide impact.

University of Minnesota Extension Service is structured along five *capacity areas*:

1) Agriculture, Food and Environment, 2) Community Vitality, 3) Family Development, 4) Natural Resources and Environment, and 5) Youth Development. Since early 2002, each capacity area has been in the process of developing educational program strategies.

Because of its wide involvement with natural resources agencies and organizations, the Minnesota Board of Water and Soil Resources was approached to assist with this effort. The Board agreed, and through its Education Committee conducted a program needs identification process that included:

1. Review of existing agency natural resources educational strategies.
2. Written survey of state agency and organization staff.
3. Interactive session of state agency and organization representatives on April 23, 2002.

This report represents the findings and recommendations of this process. It is presented to the University of Minnesota Extension Service by the Minnesota Board of Water and Soil Resources Education Committee to assist in development of their education program strategy.

Recommendations

- UM Extension Service should provide written explanation of how issues and approaches identified in this report will or will not be incorporated into its education program.
- UM Extension Service should structure its natural resources education program within the framework of the *A GreenPrint for Minnesota*.
- UM Extension should be able to program to the full breath of audiences required.
- UM Extension Service should be prepared to fulfill the roles of Education, Information, Group Processes, and Research as necessary to achieve desired program results.
- UM Extension should provide report to the following for additional comment: Tribal governments, DCFL, MBAH, and UM Center for Environ. Learning and Leadership.
- UM Extension Service should continue the input process initiated by this report by annually consulting with state natural resources agencies and organizations to identify natural resources education needs and to explore potential areas for joint programming.

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Comparison of existing natural resources education strategies

The following educational strategies were reviewed by Ron Struss, Minnesota Board of Water and Soil Resources / University of Minnesota Extension Service. An 11X17 sheet comparing the strategies is attached to as an appendix to this report.

A GreenPrint for Minnesota – 2nd Edition (2000)

Denise Stromme, Office of Environmental Assistance, 651-215-0265

An Environmental Education Strategy (2000)

Linda Henning, Metropolitan Council Environmental Services, 651-602-1267

BWSR (Minnesota Board of Water and Soil Resources) Educational Strategy (1998)

Ron Struss, BWSR / UM Extension, 651-215-1950

Cornerstones 2000, Minnesota Department of Natural Resources (2000)

Dawn Flinn, Department of Natural Resources, 651-297-4192

EEAB (Minnesota Environmental Education Advisory Board) Strategic Plan (2002)

Mike Kennedy, Office of Environmental Assistance, 218-529-6258

Minnesota Environmental Stewardship Education and Awareness Plan, Minnesota Pollution Control Agency (Draft – 2002)

Don Berger, Minnesota Pollution Control Agency, 651-297-8494

Conclusions and recommendations:

- *A GreenPrint for Minnesota, 2nd Edition*, provides a very useable framework for organizing and comparing natural resources education strategies within Minnesota. *A GreenPrint for Minnesota* is the state's unified environmental education strategy and is organized around audience groups.
- Other existing educational strategies developed by state and regional agencies align well under *A GreenPrint for Minnesota*.
- UM Extension Service should structure its natural resources education program within the framework of the *A GreenPrint for Minnesota*. Natural resources education strategies from other agencies and organizations should be reviewed for areas of collaboration that can be pursued.

Identification of natural resources education issues

Two sources of input were used; a written survey sent to agency and organizational staff, and an April 23, 2002 interactive session of agency and organization representatives. There is much agreement in what is recommended by the two, but also differences. The staff survey resulted in responses much more directed along issue topics, and the interactive session resulted in responses that were a blend of issues, audiences, and approaches.

Participants in the April 23, 2002 interactive session

Participants in the April 23, 2002 interactive session are listed on Page 12 under *Credits*.

Participants in staff survey

Agency / Organization	Returns
Local water planners (county staff)	13
Soil and Water Conservation Districts	26
Watershed Districts and Mgt. Organizations	10
Minnesota Board of Water and Soil Resources	4
Minnesota Department of Agriculture	12
Minnesota Department of Health	3
Minnesota Department of Natural Resources	70
Minnesota Pollution Control Agency	14
TOTAL	152

Summaries of highly ranked issues from staff survey – two presentations of same data:

Issues ranked high by multiple agencies and organizations *
1. Stream water quality (9/9) ** 2. Land use planning (8/9) 3. Wetland protection / restoration (8/9) 4. Lake water quality (8/9) 5. Urban stormwater management (7/9) 6. Shoreland habitat management (6/9) 7. Cropland soil mgt and erosion (6/9) 8. Forest timber management (5/9)
* These issues were ranked in the Top 10 by more than half of agencies / organizations.
** (9/9) indicates that nine of nine agencies / organizations placed this issue in Top 10.

Issues ranked in Top 10 by staff across all agencies / organizations *
1. Land use planning 2. Stream water quality 3. Lake water quality 4. Wetland protection / restoration 5. Shoreland habitat 6. Urban stormwater management 7. Individual septic treatment systems 8. Cropland soil mgt and erosion 9. Native plant community mgt 10. Forest timber management
* Top 10 is an arbitrary classification. There are no dramatic drop-offs in ranking between the 28 issues listed.

Summaries of issues identified at April 23, 2002 interactive session:

Air and energy

- Indoor air quality
 - Radon
 - Molds
 - Air quality safety in schools
- Reduce fossil fuel use
 - Policy development
 - Research
 - Develop technologies
 - Outreach programs

Surface water and watersheds

- Land drainage
 - Education linked to research.
 - Better understanding of the relationship between drainage and water resource management.
 - Education on property rights issues related to drainage.
- Managing water on a watershed basis
 - Managing agricultural land drainage and urban stormwater on watershed system approach.
- Urban stormwater management
 - Education for individuals and communities on stormwater management and BMP's.
 - Education on careful use of yard fertilizers and pesticides.
 - Phase II stormwater permit requirements provides excellent opportunity for UM Ext to partner with LGU, MetC, and state to lead public education campaign on stormwater management.
- Cropland erosion and runoff management
 - Cropland BMPs
 - Education on careful use of cropland fertilizers and pesticides.
 - Work close with SWCDs for message delivery and technical support.
- Citizen stewardship tools for water quality
 - Provide more tools (BMPs) to citizen for water resource protection.
 - Examples: Fertilizer application, grass clipping and leaf management, soil testing.

Ground water and drinking water

- Protect groundwater quality
 - Wellhead and source water protection
 - Coordinate with local water plans and basin planning
 - Coordinate with MDA and PCA programs.
- Protect groundwater supply
 - Health and safety issues

Land and landowners

- Landowner education on managing their impact on land, water, and air.
- Low impact development.
 - For both rural and urban areas.
 - Provide technical support (to?)
- Livestock
 - Maintain current strength in this area with educational resources.
 - Develop new educational resources for livestock diseases: Hoof and mouth disease, Chronic wasting disease, BSE and others.
- Native habitat restoration
 - Wetlands
 - Prairie
 - Shoreland
 - Forest (Provide education and information to LGU, citizens, and K-12 youth.)
- Timber production
 - Education linked to research
 - Education for producers on production methods
 - Include K-12 youth

Resource conservation and waste management

- Individual sewerage treatment systems
 - Continuing education for inspectors.
 - Education for rural community decision makers.
 - Local education on the importance of maintaining a compliant ISTS.
- Growth in solid waste generation
 - Recycling
 - Waste reduction
 - Deliver water reduction messages on community level.

Resource management and planning

- Provide assessment of effectiveness of first and second-generation watershed planning efforts.
- Assist local resource managers and special interest groups to interpret data and trends to direct efforts to address critical resource management issues.
- Assist with balancing environmental protection with economic development.
- Education for local land use authorities (twps, cities, counties, watershed districts) on the cumulative environmental impacts of land use decisions.
- Land use planning
 - Ag land preservation / urban sprawl
 - Provide continued facilitation and assessment of impacts of land use change.
 - Provide support for economic analysis regarding land use changes.
 - General education and information to citizens.
- Leadership training within similar geographical areas
 - Attended by varied LGUs and organizations involved in managing natural resources.
 - Critical issue ID
 - Setting meaningful measurable goals
 - Monitoring progress
- Provide electronic clearing house for natural resources information and data

Environmental education

- Support implementation of GreenPrint Statewide Outcomes 1 to 7
- Remain active in the Environmental Education Advisory Board.
- Coordinate and/or support local environmental education networks.
- Train teachers to convey complex environmental concepts.
- Create personal responsibility and ownership for environmental stewardship.
- Bridge gap between science and public behavior.

Food safety

- Food safety
 - Fish consumption
 - Irradiation
 - Food handling and cooking practices.

Making UM Extension Service known

- Take opportunity to push inventory of environmental programs and materials with affiliates.
 - Provide ISTS booklet with construction permit.
 - Provide indoor air quality booklet with new homes.
 - Provide press releases to organizational newsletters editors.
- UM Extension has been well known, but has become less visible.
 - Need to inform a new generation of programs available from UM Extension.
- Improve communication on current agency / UM Extension training efforts.

Conclusions and recommendations:

- A full summary of staff survey data will be provided to UM Extension.
- UM Extension should consider the issues and approaches outlined by these two input methods when developing its natural resources education program. UM Extension Service should provide written explanation to the Minnesota Board of Water and Soil Resources Education Committee on how issues and approaches identified in this report will or will not be incorporated into its education program.
- UM Extension Service should provide this report to the following for additional review and comment: Tribal governments, the Department of Children Families and Learning, Minnesota Board of Animal Health, and the UM Center for Environmental Learning and Leadership.
- UM Extension Service should continue the input process initiated by this report by annually consulting with state natural resources agencies and organizations to identify natural resources education needs and to explore potential areas for joint programming.

Identification of educational audiences

Information on educational audiences came from the staff survey. For each natural resource issue identified, respondents were asked to identify five key educational audiences for that issue. A summary of results follows on the next page.

Conclusions and recommendations:

- A full summary of staff survey data will be provided to UM Extension.
- UM Extension should be able to program to the full breath of audiences identified for each issue, including individual citizens, elected officials, municipal staff, businesses, professional consultants, and educators. Emerging audiences, such as new immigrant groups, should also be addressed.

Target audience ranking for the eight top issues identified in the staff survey

Issue	Audience	Rank
Stream water quality	General public	1
	Shoreland prop. owners	1
	Agricultural businesses	2
	County elected officials	2
	City & township officials	2
	Landowners > 80 acres	3
	Landowners < 80 acres	4
	Agricultural consultants	5
	K-12 educators	6
	City and township staff	6
	Youth	6
Land use planning	General public	1
	City & township officials	2
	Land dev. businesses	3
	County elected officials	4
	K-12 educators	5
	County staff	5
	City and township staff	6
	Arch & plan consultants	6
Wetland protection	General public	1
	Wetland property owners	1
	Land dev. businesses	2
	County staff	3
	County elected officials	4
	Landowners > 80 acres	4
	Shoreland prop. owners	5
	Agricultural businesses	6
	Agricultural consultants	6
Lake water quality	General public	1
	Shoreland prop. owners	2
	County elected officials	3
	County staff	4
	State and fed officials	5
	Landowners < 80 acres	6
	Landowners > 80 acres	7
	Land dev. businesses	7
	K-12 educators	7
	City & township officials	8

Issue	Audience	Rank
Urban stormwater mgt.	General public	1
	Land dev. businesses	2
	City & township officials	3
	City and township staff	4
	County officials	5
	Eng & tech consultants	5
	Arch & plan consultants	6
	Construction businesses	6
	K-12 educators	6
	Youth	7
Shoreland habitat mgt.	Shoreland prop. owners	1
	Land dev. businesses	2
	General public	3
	County officials	4
	County staff	5
	City & township officials	6
	K-12 educators	7
	Wetland property owners	7
	City and township staff	8
Cropland soil mgt. and erosion control	Landowners > 80 acres	1
	Agricultural businesses	2
	Agricultural consultants	3
	Landowners < 80 acres	3
	County officials	4
	County staff	5
	General public	6
	Non-formal educators	7
	Youth	7
Forest timber mgt.	General public	1
	Landowners > 80 acres	1
	Landowners < 80 acres	2
	Forestry businesses	3
	Forestry consultants	3
	K-12 educators	3
	State and federal officials	4
	State and federal staff	4
	County staff	4

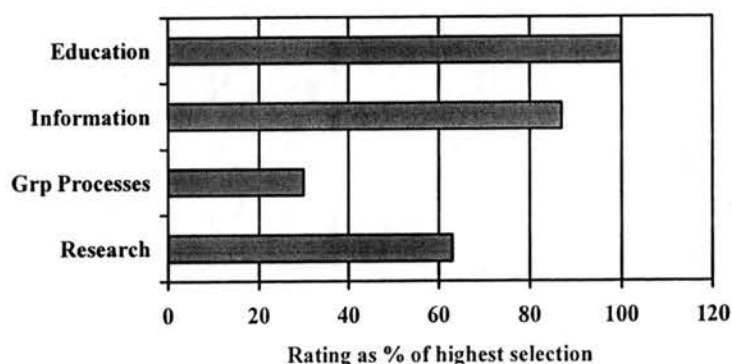
Identification of educational roles for UM Extension Service

Information on educational roles for UM Extension Service came from the staff survey. For each natural resource issue identified, respondents were asked to identify all the educational roles that were suitable for UM Extension Service to fill.

A summary of results follows. They are organized by agencies and organizations and represent the recommended roles for UM Extension Service on a relative basis (with highest ranked role = 100%).

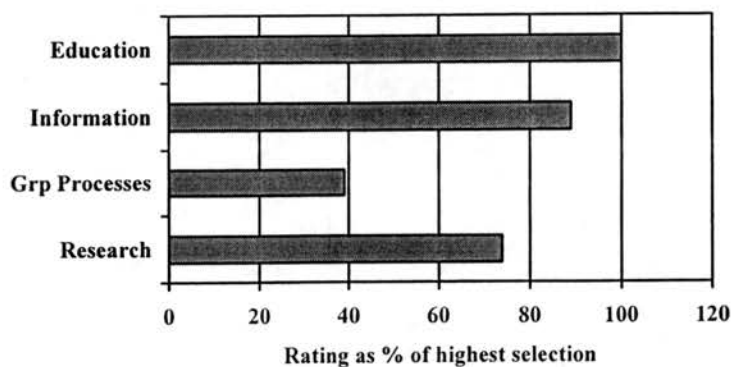
Local Water Planners (county staff)

Identified Roles of UM Extension Service



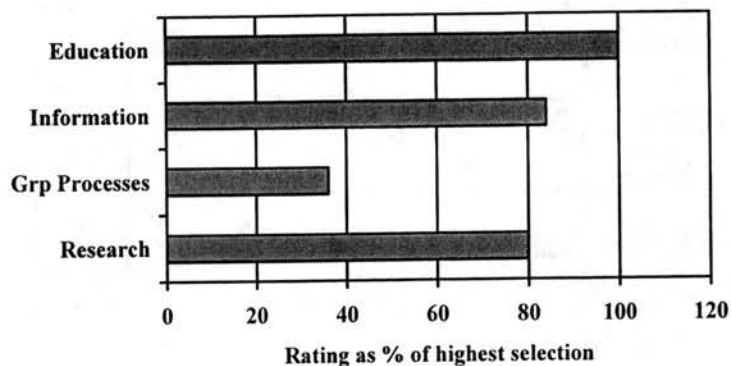
Soil and Water Conservation Districts

Identified Roles of UM Extension Service



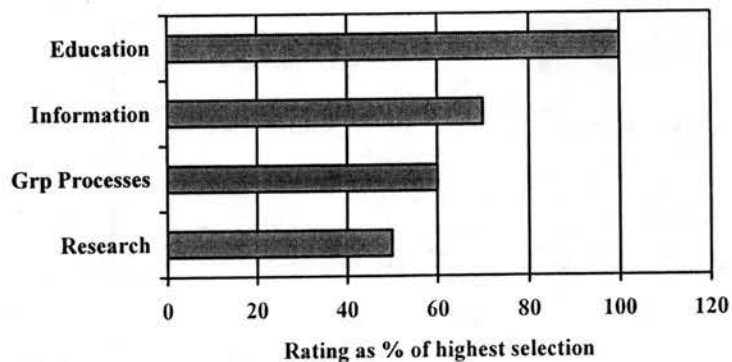
Watershed Districts and Management Organizations

Identified Roles of UM Extension Service



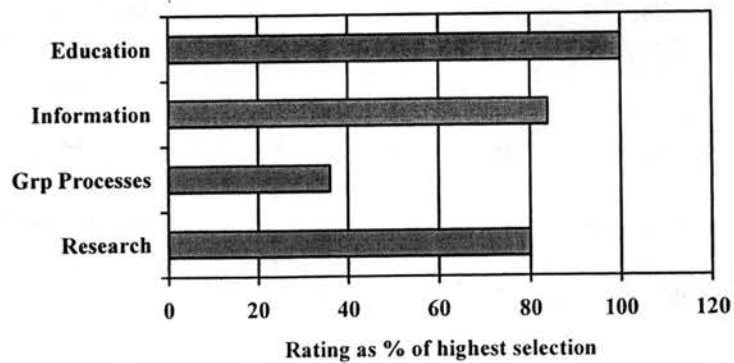
Minnesota Board of Water and Soil Resources

Identified Roles of UM Extension Service



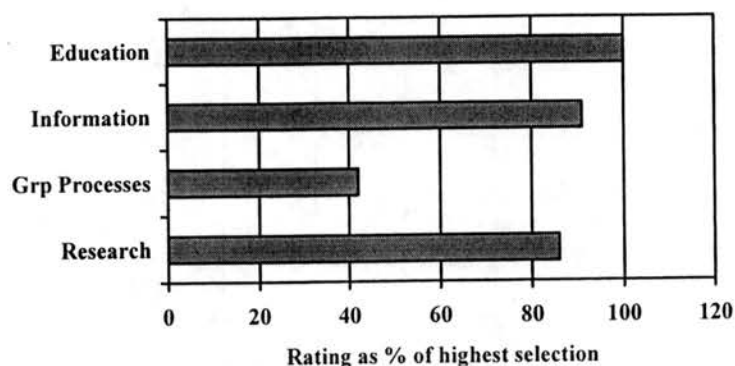
Minnesota Department of Agriculture

Identified Roles of UM Extension Service



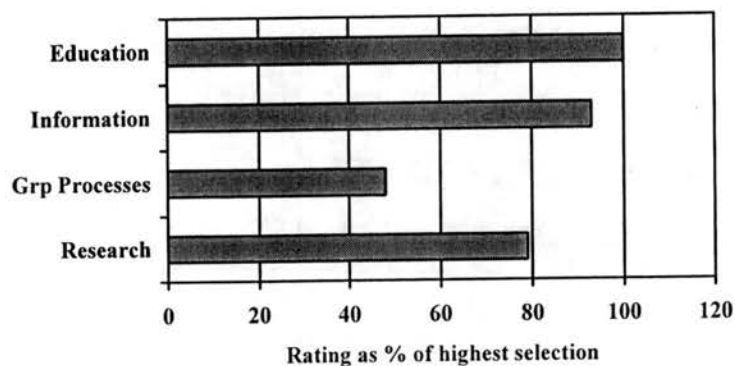
Minnesota Department of Natural Resources

Identified Roles of UM Extension Service



Minnesota Pollution Control Agency

Identified Roles of UM Extension Service



Role descriptions:

Education: Material development, strategy development, courses and workshops

Information: Info gathering & analysis, publications and websites

Grp (Group) Processes: Citizen input, conflict resolution, group facilitation, organizational dev.

Research: Link to UM existing research, initiate new UM research

Conclusions and recommendations:

- The recommended educational roles for UM Extension Service were remarkably similar between agencies and organizations, with the exception of the Minnesota Board of Water and Soil Resources, who identified the role of Group Processes higher than the others.
- UM Extension Service should be prepared to continue to fulfill the roles of Education, Information, Group Processes, and Research as necessary to achieve desired program results.

Report recommendations

Recommendations have been made in each section throughout this report. A summary of these recommendations follows:

- UM Extension should consider the issues and approaches outlined in this report when developing its natural resources education program. UM Extension Service should provide written explanation to the Minnesota Board of Water and Soil Resources Education Committee on how issues and approaches identified in this report will or will not be incorporated into its education program.
- UM Extension Service should structure its natural resources education program within the framework of the *A GreenPrint for Minnesota*. Natural resources education strategies from other agencies and organizations should be reviewed for areas of collaboration that can be pursued.
- UM Extension should be able to program to the full breath of audiences identified for each issue, including individual citizens, elected officials, municipal staff, businesses, professional consultants, and educators. Emerging audiences, such as new immigrant groups, should also be addressed.
- UM Extension Service should be prepared to continue to fulfill the roles of Education, Information, Group Processes, and Research as necessary to achieve desired program results.
- UM Extension Service should provide this report to the following for additional review and comment: Tribal governments, the Department of Children Families and Learning, Minnesota Board of Animal Health, and the UM Center for Environmental Learning and Leadership.
- UM Extension Service should continue the input process initiated by this report by annually consulting with state natural resources agencies and organizations to identify natural resources education needs and to explore potential areas for joint programming.

Credits

Education Committee, Minnesota Board of Water and Soil Resources

Paul Krabbenhoft, Chairperson

Jim Anderson, JoAnn Coover, Wayne Edgerton, Jack Frost, Ginny Imholte, and Clair Nelson.

Project Work Team

Jim Anderson, University of Minnesota Extension Service – Planning and session presentation

Beth Carlson, Minnesota Department of Natural Resources – Planning and session facilitation

Richard Krueger, University of Minnesota Extension Service – Survey instrument development

Doug Snyder, Minnesota Board of Water and Soil Resources – Data processing and interpretation

Ron Struss, MN Bd of Water and Soil Resources / UM Extension – Planning, presenting and reporting

Tracy Thomas, University of Minnesota Water Resources Center – Session recording

Tom Wegner, University of Minnesota Extension Service – Planning and reporting

Steve Woods, Minnesota Board of Water and Soil Resources – Planning

Participants in April 23, 2002 Interactive Session

Jim Anderson, Education Committee – Minnesota Board of Water and Soil Resources
Don Berger, Policy and Planning, Minnesota Pollution Control Agency
Marybeth Block, Projects Coordinator, Minnesota Board of Soil and Water Resources
Sharon Clark, Deputy Commissioner, Minnesota Department of Agriculture
JoAnn Coover, Education Committee – Minnesota Board of Water and Soil Resources
Mark Dittrich, Senior Planner, Minnesota Department of Agriculture
Wayne Edgerton, Agriculture Policy Director, Minnesota Department of Natural Resources
Christopher D. Elvrum, Environmental Services, Metropolitan Council
Dawn Flinn, Environmental Education, Minnesota Department of Natural Resources
Sandy Hooker, District 2 Director, Minnesota Association of Towns
John Ikeda, Program and Training Coordination, Minnesota Pollution Control Agency
Ginny Imholte, Education Committee – Minnesota Board of Water and Soil Resources
Paul Krabbenhoft, Education Committee – Minnesota Board of Water and Soil Resources
Jeff Ledermann, Education Specialist, Minnesota Office of Environmental Assistance
Clair Nelson, Education Committee – Minnesota Board of Water and Soil Resources
Remi Stone, Senior Intergovernmental Relations Representative, League of Minnesota Cities
Kathy Svanda, Deputy Division Director, Minnesota Health Department
Dave Weirens, Environment and Natural Resources Specialist, Association of Minnesota Counties

Presenters and observers at April 23, 2002 Interactive Session

Jim Anderson, Water Resources Center, University of Minnesota Extension Service
Pat Huelman, Leader, Natural Resources & the Environment, University of Minnesota Extension Service
Toni Smith, University of Minnesota Extension Liaison, Association of Minnesota Counties
Ron Struss, Water Resources Educator, MN Board of Water and Soil Resources / UM Extension Service
Tom Wegner, Regional Educator, University of Minnesota Extension Service

Facility

Association of Minnesota Counties

Contact information**Ron Struss, Water Resources Educator**

MN Board of Water and Soil Resources / UM Extension Service
1 West Water Street, Suite 200, St. Paul, MN 55107

651-215-1950

ron.struss@bwsr.state.mn.us

A comparison of existing natural resources education strategies

Note: Format is based on *A GreenPrint for Minnesota, 2nd Edition*. Outcomes have been paraphrased. Please reference original documents if embarking on further work. Contacts are given on page two.

Business Community	Citizen and youth groups	Consumers	Families	Governmental officials and boards	Higher education students
Green Print Outcomes (OEA): 1) Establish visions and missions for sustainable development concepts. 2) Promote corporate responsibility and competitive advantage relative to the environment. 3) Reduce energy use, and optimize efficiency. 4) Comply with regulatory permits. 5) Team with regulators and experts to solve pollution problems. 6) Participate in environmental education programs.	Green Print Outcomes (OEA): 1) Will match outreach programs with MN Graduate Standards. 2) Create private/public partnerships to support hands-on service projects. 3) Recognize and reward actions that protect the environment. 4) Train leaders to fit environmental ed. into their programs. 5) Understand ecological, economic, and social aspects to environ. protection. 6) Develop critical thinking and scientific understanding to make positive enviro. choices.	Green Print Outcomes (OEA): 1) Increased use of products, transport, and energy sources that support sustainable environment. 2) Increased energy conservation activities. 3) Product prices that reflect true environ. costs. 4) Incorporation of "reduce, reuse, recycle" into consumer buying choices. 5) Incorporate environ. sustainable practices into housing and commercial development.	Green Print Outcomes (OEA): 1) Understand that social, economic, and ecological dimensions impact the environment. 2) Evaluate impact of actions and demonstrate model environmental behaviors. 3) Take part in environ. activities in their local communities. 4) Seek out information to make good environ. choices.	Green Print Outcomes (OEA): 1) Work with other gov't units to address regional environ. issues. 2) Understand their authority and responsibility to ensure sustainable environ. 3) Seek balance of individual rights and public good. 4) Be positive role model to public in area of environ. protection. 5) Integrate ecological, economic, and social aspects of environ. decisions and actions. 6) Understand interrelationship between ecosystems. 7) Educate constituents about environ. issues. 8) Recognize impact of environmental factors on human health.	Green Print Outcomes (OEA): 1) Understand ecological principles, and be able to analyze environmental issues 2) Have knowledge and skills necessary in their field to reduce harmful environmental impacts. 3) Have opportunity to attend schools that model good environmental choices.
EEAB 2002 Strategic Plan Outcomes: Statewide strategies 2, 3 of GreenPrint	EEAB 2002 Strategic Plan Outcomes: Statewide strategies 1, 5, 6 of GreenPrint			EEAB 2002 Strategic Plan Outcomes: Statewide strategies 1, 4, 6 of GreenPrint	
				BWSR Education Strategy Outcomes: Statewide strategies 5, 6 of GreenPrint Also: 1) Have knowledge of existing educational resources available to local government. 2) Have the capacity of local government to do environmental ed. recognized by others.	
Cornerstones 2000 (DNR): Target audience; outcomes being defined based on GreenPrint.				Cornerstones 2000 (DNR): Target audience; outcomes being defined based on GreenPrint.	
MN Environmental Stewardship Ed. and Awareness Plan (PCA) Potential target audience.	MN Environmental Stewardship Ed. and Awareness Plan (PCA) Target audience; outcomes being defined based on GreenPrint and Big Plan.	MN Environmental Stewardship Ed. and Awareness Plan (PCA) Potential target audience.	MN Environmental Stewardship Ed. and Awareness Plan (PCA) Potential target audience.	MN Environmental Stewardship Ed. and Awareness Plan (PCA) Potential target audience.	MN Environmental Stewardship Ed. and Awareness Plan (PCA) Potential target audience.
An Environmental Ed Strategy (MetCouncil) 1) Understand Smart Growth concepts. 2) Understand low impact development concepts.		An Environmental Ed Strategy (MetCouncil) 1) Understand impact of individual actions on water quality. 2) Understand their waste water system.	An Environmental Ed Strategy (MetCouncil) 1) Understand impact of individual actions on water quality. 2) Understand their waste water system.	An Environmental Ed Strategy (MetCouncil) 1) Understand Smart Growth concepts. 2) Understand low impact development concepts.	

Media	Outdoor recreation resource users	PreK – 12 students	PreK – 12 teachers	Producers and landowners	Religious groups
Green Print Outcomes (OEA): 1) Raise awareness and concern on environ. issues by developing relationships with environ. educators. 2) Promote awareness of MN's environ. ed. goals and efforts. 3) Provide op's for public to be involved in addressing environ. issues. 4) Recognize cultural and ethnic traditions and practices that address environmental issues.	Green Print Outcomes (OEA): 1) Individual and groups will evaluate impact of their activities on the environment. 2) Make sound environmental choices. 3) Model good environmental behaviors. 4) Understand impact of multiple user groups on environment and each other. 5) Respect opinions and rights of all to use MN resources. 6) Be environmental educators to others through their recreational activities.	Green Print Outcomes (OEA): 1) Be able to ask questions and speculate about the world around them. 2) Understand systems that comprise the environment. 3) Be able to define, research, evaluate and act on environmental issues. 4) Be able to draw conclusions on what should be done, and act on those conclusions.	Green Print Outcomes (OEA): 1) Have ability to incorporate environ. ed. into curriculum at end of teacher training. 2) Have resources necessary to incorporate environmental education through out curriculum.	Green Print Outcomes (OEA): 1) Institute practices that produces food and fiber in sustainable manner while providing a livable income. 2) Understand the interrelationship and multiple use of resources. 3) Provide environ. information to peers, consumers, and public. 4) Understand environmental regulations and their rationale. 5) Demonstrate an understanding of economic benefits of sustainable production methods.	Green Print Outcomes (OEA): 1) Explain basis for environmental ethics in faith traditions. 2) Include environmental concerns in mission and policies of organization. 3) Implement environ. ed. strategy on local faith community level. 4) Create community atmosphere that leads to good individual environmental choices. 5) Develop environmental ed. programs for religious leaders.
			EEAB 2002 Strategic Plan Outcomes: Statewide strategies 4, 5, 7 of GreenPrint		
	Cornerstones 2000 (DNR): Target audience; outcomes being defined based on GreenPrint.	Cornerstones 2000 (DNR): Target audience; outcomes being defined based on GreenPrint.	Cornerstones 2000 (DNR): Target audience; outcomes being defined based on GreenPrint.	Cornerstones 2000 (DNR): Target audience; outcomes being defined based on GreenPrint.	
MN Environmental Stewardship Ed. and Awareness Plan (PCA) Target audience; outcomes being defined based on GreenPrint and Big Plan.	MN Environmental Stewardship Ed. and Awareness Plan (PCA) Potential target audience.	MN Environmental Stewardship Ed. and Awareness Plan (PCA) Target audience; outcomes being defined based on GreenPrint and Big Plan.	MN Environmental Stewardship Ed. and Awareness Plan (PCA) Target audience; outcomes being defined based on GreenPrint and Big Plan.	MN Environmental Stewardship Ed. and Awareness Plan (PCA) Potential target audience.	MN Environmental Stewardship Ed. and Awareness Plan (PCA) Potential target audience.
		An Environmental Ed Strategy (MetCouncil) Understanding of impact of individual and community actions on our urban environment.	An Environmental Ed Strategy (MetCouncil) Understanding of impact of individual and community actions on our urban environment.		

Plan contacts:

A GreenPrint for Minnesota – 2nd Edition (2000)

Denise Stromme, Office of Environmental Assistance, 651-215-0265, denise.stromme@moea.state.mn.us

An Environmental Education Strategy (2000)

Linda Henning, Metropolitan Council Environmental Services, 651-602-1267, linda.henning@metc.state.mn.us

BWSR (Minnesota Board of Water and Soil Resources) Educational Strategy (1998)

Ron Struss, BWSR / UM Extension, 651-215-1950, ron.struss@bwsr.state.mn.us

Cornerstones 2000, Minnesota Department of Natural Resources (2000)

Dawn Flinn, Department of Natural Resources, 651-297-4192, dawn.flinn@state.mn.us

EEAB (Minnesota Environmental Education Advisory Board) Strategic Plan (2002)

Mike Kennedy, Office of Environmental Assistance, 218-529-6258, mike.kennedy@state.mn.us.

Minnesota Environmental Stewardship Education and Awareness Plan, Minnesota Pollution Control Agency (Draft – 2002)

Don Berger, Minnesota Pollution Control Agency, 651-297-8494, donald.berger@state.mn.us

This comparison was compiled by Ron Struss, BWSR / UM Extension.

Please contact Ron with additions and corrections at 651-215-1950 or ron.struss@bwsr.state.mn.us.

***The Minnesota Chapter of the Soil and Water
Conservation Society***

is proud to announce that we will host the

SWCS Annual Conference
“Headwaters of Conservation”
July 24-28, 2004

LOCATION: Radisson Hotel in St. Paul, 11 East Kellogg Blvd.

HELP NEEDED:

- Volunteers at the conference to assist with tours, registration and hospitality
- Financial sponsors and in-kind sponsors
- Individuals with exciting ideas and enthusiasm

SUB-COMMITTEES INCLUDE:

- Finance
- Hospitality
- Facilities
- Publicity
- Registration
- Transportation
- Family/social night
- Conservation tours
- Sightseeing tours / Leisure activities
- Teen events
- Youth events

Comments? Questions? Suggestions?
or to volunteer to join in on the fun
Please Contact

Robin Martinek—Local Arrangements Committee Chair
(651) 602-7866 or by email: robin.martinek@mn.usda.gov

Or

Any Minnesota Chapter Officer:

David Rose (507)283-9146 david.rose@mn.usda.gov

Lowell Busman (507)835-3620 busma001@umn.edu

Mike Appel (507)537-0734 mike.appel@mn.usda.gov

Sid Cornelius (651)602-7871 sid.cornelius@mn.usda.gov

Merle Anderson (320)202-0554 merleanderson@cloudnet.com

Linda Meschke (507)238-5449 meschkel@berbi.org

Janelle Miersch (651)766-4192 janell.miersch@state.mn.us

Mary Jane Reetz (218)829-5965 mary.reetz@mn.usda.gov

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM
PHASE II FUNDING FOR
SOIL AND WATER CONSERVATION DISTRICTS

WHEREAS, soil loss from development sites can be up to 100 times greater than other land use practice; and

WHEREAS, Phase II of the National Pollutant Discharge Elimination System (NPDES) will require all construction sites greater than one (1) acre acquire general stormwater permits; and

WHEREAS, the Minnesota Pollution Control Agency (MPCA) has stated that Phase II of the NPDES should be implemented at the local level; and

WHEREAS, Soil and Water Conservation Districts (SWCDs) may be the best local source of expertise on soil erosion and related water resource issues.

THEREFORE, BE IT RESOLVED, that the Minnesota Association of Soil and Water Conservation Districts (MASWCD) work with the MPCA to ensure that SWCDs are able to provide technical assistance that will assist MPCA to better implement Phase II of the NPDES program; and

THEREFORE, BE IT FURTHER RESOLVED, that the MASWCD work with the MPCA to obtain funding for SWCDs (such as permit fees or block grants) to provide technical assistance that will assist MPCA to better implement Phase II of the NPDES program.

Submitted By: Hennepin Conservation District

Area Association: IV
Date Adopted: June 26, 2000

Reviewed By MASWCD Board of Directors
Date: September 8, 2000

MASWCD Annual Convention
Action: Passed Pre-Balloting
Date: December 5, 2000

For Further Information Contact:

Steve Hobbs, District Manager, Hennepin Conservation District

Brian Watson, District Manager, Dakota Soil and Water Conservation District

**CONVENE AS A COMMITTEE OF THE
WHOLE:**

1. Re-Crafting Soil and Water
Conservation District Law for the
New Century

REVIEW AND DISCUSSION

5/22/02

Proposed SWCD Statute Changes SWCD Capacity Committee Top Four Priorities (And the rest)

Proposed Statute Change	Existing Law	Comments
5 1. Levy authority for SWCDs under certain conditions: ▶ Optional ▶ Link to county authority ▶ To match state funds ▶ Incentive for outstanding performance ▶ Consider administrative funding and project funding separately ▶ Other	SWCDs may receive county grants, state grants and charge for services provided SWCD funding (statewide average) is: County grants 40% State grants 32% Self-generated 28% Total Revenues/Expenditures between \$25-30 million/yr	Since the early 1980's collective budgets have increased by a factor of 10. There is a growing reliance of the state and federal govts on SWCDs to implement programs. A lot of expectations are dependent on potentially unstable funding sources.
8 2. Modernize archaic election language ▶ Change references from "land occupiers" to "registered voters" ▶ Rewrite "discontinuance of SWCDs" section ▶ Update removal of supervisors from office section ▶ Keep elected status of supervisors ▶ Explore options for highly populated districts	25 signatures can result in referendum To make consistent with other county wide elected offices Four year terms	Consistent with BWSR policy Consistent with BWSR policy Can candidates reach the voters?
9 3. Land-use regulatory authority—obtain or better connect with those who have it ▶ Increase authorities to accept delegations of authority from other LGUs and agencies ▶ Better define SWCD role in developing lands ▶ Strengthen role of SWCD as a	Can only do under a joint powers agreement General authority exists	Taking care of funding needs would be essential part of this Many states have done this—population growth in MN suggests it is time

source of technical assistance to LGUs (@ district and multi-district level)

Many rapidly developing LGUs cannot staff needed expertise themselves—SWCDs could be a source of shared expertise

6 ④ **4. Expand Authorities and Policy statement beyond soil and water to broader natural resources**

► Cooperative ventures with state agencies

► Coordinate with other LGUs

► Don't change major focus of SWCDs, simply validate broader environmental protection role and responsibilities

Many interpret statute narrowly

Local government roles in natural resource implementation are increasing for many good reasons. All levels of government should coordinate their roles.

The "Maybe" List. The following statute changes are in the midst of consideration and further analysis. They received considerable support from SWCD membership. Input is welcome.

1. Provide incentives that encourage SWCDs to establish closer working partnerships with other LGUs—both formal and informal.
2. Create new powers for SWCDs to initiate consolidations with other districts and political subdivisions.
3. True block grants (from the state).
4. Increase authority and streamline the process to accept delegations of authority from other LGUs.
5. Create dedicated funds.
6. Enhance funding opportunities available through cooperative ventures with other local governments.
7. Remove administrative details from statute (like reporting deadlines, etc....)

The "No, not now" List. As things stand, there is not much support from SWCDs for these changes.

1. Require a local-state-federal funding strategy—include grants and pass-through funds.
2. Authorize fees on property taxes to fund SWCDs—like solid waste.
3. State match local funds.
4. Target grants to under funded SWCDs.
5. Create a new local governance option.
6. Several "other" categories.

Re-Crafting SWCD Law for the 21st Century										
Workshop Voting Results										
Potential Statute Change	North Session-Bemidji			South Session-Mankato			Totals--Statewide			Statewide Weighted Total
	High	Low-OK	No	High	Low(OK)	No	High	Low(OK)	No	High=2;Low=1;No=-2
Governance										
Create new powers for SWCDs to initiate consolidations with other districts and political subdivisions	3	2	0	14	8	0	17	10	0	44
Modernize archaic election language	13	3	0	13	9	1	26	12	1	63
Remove administrative details from statute	0	3	1	8	4	0	8	7	1	22
Provide incentives that encourage SWCDs to establish closer working partnerships with other LGUs--both formal and informal	8	8	0	6	12	2	14	20	2	46
Create a new local governance option	0	1	17	3	2	7	3	3	24	-15
Authorities										
Expand authorities and policy statement beyond soil and water to broader natural resources	4	7	0	17	5	0	21	12	0	54
Land use regulatory authority--obtain or better connect what SWCDs do with those who have it	12	6	0	10	8	1	22	14	1	57
Increase authority and streamline the process to accept delegations of authority from other LGUs	4	18	0	1	4	0	5	22	0	32
Other				1	7	0	1	7	0	9
Financing										
Levy authority for SWCDs under certain conditions such as county approval, referendum, etc.	16	10	3	19	6	2	35	16	5	81
Require a local-state-federal funding strategy--include grants and pass-through funds	1	0	1	7	2	1	8	2	2	16
Authorize fees on property taxes to fund SWCDs--like solid waste	6	1	8	4	5	3	10	6	11	15
True block grants	7	10	0	2	16	0	9	26	0	44
State match local funding	0	0	2	3	3	0	3	3	2	7
Create dedicated funds	9	5	2	5	8	13	14	13	15	26
Enhance funding opportunities available through cooperative ventures with other local governments	6	7	0	1	4	1	7	11	1	24
Other				7	7	8	7	7	8	13
Targeting grants to under-funded SWCDs	0	0	4				0	0	4	-4
Fee sharing opportunities	6	4	0				6	4	0	16

Proposed SWCD Statute Changes

SWCD Capacity Committee

Top Four Priorities

(And the rest)

Proposed Statute Change	Existing Law	Comments
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- governance
- authorities
- finances

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**SOIL AND WATER CONSERVATION DISTRICTS
STATEMENTS OF REVENUES AND EXPENDITURES
1984 - 2001**

YEAR	REVENUES								EXPENDITURES						
	INTERGOVERNMENTAL				CHARGES FOR SERVICES	MISCELLANEOUS		TOTAL REVENUES	PERSONAL SERVICES	OTHER SERV. & CHGS.		CAPITAL OUTLAY	PROJECT EXPENSE		TOTAL EXPENDITURES
	LOCAL	COUNTY	STATE	FEDERAL		INTEREST	OTHER				SUPPLIES		DISTRICT	STATE	
1984	0.00	2,492,102.00	2,096,803.00	0.00	1,665,936.00	318,850.00	152,457.00	6,726,148.00	3,594,786.00	622,944.00	108,797.00	143,401.00	997,218.00	1,259,641.00	6,726,787.00
1985	0.00	2,945,570.00	2,261,155.00	0.00	1,549,363.00	342,855.00	183,358.00	7,282,301.00	3,765,780.00	700,347.00	90,904.00	155,325.00	1,122,502.00	1,396,558.00	7,231,416.00
1986	35,343.00	3,200,165.00	2,198,921.00	119,644.00	1,530,603.00	284,723.00	139,701.00	7,509,100.00	3,984,004.00	738,427.00	98,947.00	257,871.00	1,216,436.00	1,161,532.00	7,457,217.00
1987	84,396.00	3,421,775.00	2,945,967.00	287,656.00	2,035,016.00	284,833.00	217,737.00	9,277,380.00	4,598,835.00	914,502.00	162,165.00	265,545.00	1,455,969.00	1,341,747.00	8,738,763.00
1988	97,353.00	3,988,127.00	3,492,206.00	277,896.00	2,412,339.00	324,876.00	259,829.00	10,852,626.00	5,506,298.00	1,205,244.00	142,107.00	296,550.00	1,727,242.00	1,522,267.00	10,399,708.00
1989	151,365.00	4,857,263.00	3,412,036.00	258,663.00	1,992,195.00	393,102.00	389,092.00	11,453,716.00	6,054,235.00	1,405,313.00	123,376.00	422,115.00	1,497,683.00	1,373,237.00	10,875,959.00
1990	108,626.00	5,234,949.00	3,824,969.00	182,885.00	2,239,901.00	525,358.00	284,095.00	12,400,783.00	6,573,030.00	1,667,093.00	137,411.00	393,148.00	1,578,390.00	1,704,143.00	12,053,215.00
1991	308,860.00	5,944,788.00	3,925,018.00	55,526.00	2,407,733.00	436,802.00	340,000.00	13,418,727.00	7,082,627.00	1,662,174.00	114,995.00	350,363.00	2,100,884.00	1,760,337.00	13,071,380.00
1992	231,179.00	6,268,798.00	3,887,737.00	453,388.00	2,844,723.00	316,135.00	430,568.00	14,432,528.00	7,728,890.00	1,804,179.00	117,602.00	514,055.00	2,291,102.00	1,635,365.00	14,091,193.00
1993	198,722.00	6,710,606.00	4,137,756.00	55,300.00	3,123,341.00	256,804.00	354,768.00	14,837,297.00	8,187,142.00	1,783,274.00	119,056.00	521,266.00	2,608,866.00	1,465,186.00	14,684,790.00
1994	242,723.00	7,734,077.00	4,466,014.00	26,432.00	3,084,214.00	282,718.00	406,012.00	16,242,190.00	8,662,417.00	1,996,134.00	130,803.00	523,932.00	2,217,690.00	2,110,225.00	15,641,201.00
1995	407,905.00	8,563,293.00	4,506,578.00	131,966.00	2,632,143.00	354,047.00	416,949.00	17,012,881.00	9,193,060.00	1,988,252.00	138,809.00	456,261.00	2,455,184.00	2,027,143.00	16,258,709.00
1996	269,011.00	8,516,223.00	5,259,871.00	92,107.00	2,750,245.00	398,816.00	454,037.00	17,740,310.00	9,573,370.00	2,073,470.00	158,637.00	659,694.00	2,166,356.00	2,499,073.00	17,130,600.00
1997	400,069.00	9,076,773.00	5,305,909.00	118,369.00	2,857,639.00	451,510.00	516,863.00	18,727,132.00	10,079,602.00	2,390,254.00	160,847.00	535,782.00	2,434,232.00	2,484,350.00	18,085,067.00
1998	580,510.00	9,537,808.00	5,367,483.00	146,641.00	3,520,007.00	531,192.00	746,354.00	20,429,995.00	10,535,049.00	2,643,980.00	183,940.00	899,278.00	2,951,019.00	2,246,900.00	19,460,166.00
1999	542,881.00	10,199,201.00	7,787,768.00	237,021.00	4,743,774.00	632,999.00	999,255.00	25,142,899.00	11,753,320.00	2,856,587.00	231,557.00	979,935.00	4,118,755.00	3,690,954.00	23,631,108.00
2000	814,634.00	10,657,648.00	8,085,441.00	502,361.00	5,304,892.00	779,282.00	853,142.00	26,997,400.00	13,052,688.00	3,060,513.00	233,337.00	909,424.00	4,603,653.00	3,735,500.00	25,595,115.00
2001	\$995,264.00	\$11,602,866.00	\$9,725,799.00	\$476,239.00	\$6,555,537.00	\$790,123.00	\$933,589.00	\$31,079,417.00	\$14,095,627.00	\$3,237,113.00	\$260,129.00	\$1,240,605.00	\$5,618,141.00	\$5,226,863.00	29,678,478.00
Totals	5,468,841.00	120,952,032.00	82,687,431.00	3,422,094.00	53,249,601.00	7,705,025.00	8,077,806.00	281,562,830.00	144,020,760.00	32,749,800.00	2,713,419.00	9,524,550.00	43,161,322.00	38,641,021.00	270,810,872.00

Minnesota Statutes 2001, Chapter 103C.

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==103C.001

103C.001 Effect of chapter 103C on Water Law.

This chapter and chapters 103A, 103B, 103D, 103E, 103F, and 103G constitute the water law of this state and may be cited as the Water Law.

HIST: 1990 c 391 art 3 s 1

==103C.005

103C.005 Soil and water conservation policy.

Improper land use practices have caused serious wind and water erosion of the land of this state, the runoff of polluting materials, increased costs to maintain agricultural productivity, increased energy costs and increased flood damage. Land occupiers have the responsibility to implement practices to correct these conditions and conserve the soil and water resources of the state. It is the policy of the state to encourage land occupiers to conserve soil and water resources through the implementation of practices that effectively reduce or prevent erosion, sedimentation, siltation and agriculturally related pollution in order to preserve natural resources, ensure continued soil productivity, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, and protect public lands.

HIST: 1990 c 391 art 3 s 2

==103C.009

103C.009 Citation.

This chapter may be cited as the "Soil and Water Conservation District Law."

HIST: 1990 c 391 art 3 s 3

==103C.101

103C.101 Definitions.

Subdivision 1. Applicability. The definitions in this section apply to this chapter.

Subd. 2. Appropriate agencies. "Appropriate agencies" means local, state, or federal agencies that possess expertise, involvement, or authority concerning the use and development of land and water resources, but does not include districts or the state board.

Subd. 3. District. "District" means a soil and water conservation district.

Subd. 4. District board. "District board" means the board of supervisors of a soil and water conservation district.

Subd. 5. Due notice. "Due notice" means notice published at least twice, with an interval of at least seven

days between the two publication dates, in a legal newspaper, and by posting at three conspicuous places within an appropriate area. Posting must include, if possible, posting at public places where it is customary to post notices concerning county or municipal affairs. A hearing held pursuant to a notice at the time and place designated in the notice may be adjourned, from time to time, without renewing the notice for the adjourned dates.

Subd. 6. Federal. "Federal" means the United States, the soil conservation service of the United States Department of Agriculture, and agencies or instrumentalities, corporate or otherwise, of the United States.

Subd. 7. Government. "Government" means the state or the United States, or an agency or instrumentality of the state or the United States.

Subd. 8. Land occupier. "Land occupier" means a person, corporation, or legal entity that holds title to or is in possession of land within a district as an owner, lessee, tenant, or otherwise.

Subd. 9. Nominating petition. "Nominating petition" means a petition filed under sections 103C.301, subdivision 1, and 103C.305, subdivision 2, to nominate candidates for the office of supervisor.

Subd. 10. Soil and water conservation district. "Soil and water conservation district" means a governmental subdivision organized under this chapter.

Subd. 11. State agency. "State agency" means a political subdivision, agency, or instrumentality, corporate or otherwise, of the state.

Subd. 12. State board. "State board" means the board of water and soil resources.

Subd. 13. Supervisor. "Supervisor" means a member of a district board.

Subd. 14. Watershed project. "Watershed project" means a project that is approved and authorized to be carried out by the district in a watershed area in accordance with a watershed work plan.

Subd. 15. Watershed work plan. "Watershed work plan" means a plan for constructing works of improvement in a watershed area, including structural and land treatment measures for flood prevention or the conservation, development, utilization, and disposal of water that is developed by the district, with or without federal assistance.

HIST: 1990 c 391 art 3 s 4

==103C.201

103C.201 Formation of soil and water conservation districts.

Subdivision 1. Petition. (a) Twenty-five land occupiers in an area proposed to be organized into a district may file a petition with the state board requesting that a soil and water conservation district be organized to function in the

area described in the petition. The petition must state:

- (1) the proposed name of the district;
 - (2) that there is need, in the interest of the public health, safety, and welfare, for a district in the described area;
 - (3) a description of the area proposed to be organized as a district, which need not be by metes and bounds or legal subdivision, but may be by general description that identifies the area;
 - (4) a request that the state board define the boundaries for the district;
 - (5) a request for a referendum to be held in the defined territory on the question of the creation of a district in the territory; and
 - (6) a request by the state board to determine that a district be established.
- (b) If more than one petition is filed covering parts of the same area, the state board may consolidate the petitions.

Subd. 2. Hearings. (a) By 30 days after a petition has been filed with the state board, the state board may give due notice of a proposed hearing, to be held by the state board or a designated agent, on:

- (1) the question of the desirability and necessity, in the interest of the public health, safety, and welfare, for the establishment of a district;
- (2) the appropriate boundaries of the district;
- (3) the propriety of the petition and other proceedings taken under this section; and
- (4) other questions relevant to clauses (1), (2), and (3).

(b) Land occupiers in the area described in the petition and in the area considered for addition to the described area and other interested parties may attend the hearing and be heard. If after a hearing, the state board determines it may be desirable to include in the proposed district area outside the area where notice of the hearing was given, the hearing must be adjourned and due notice of the continued hearing must be given throughout the entire area considered for inclusion in the district, and the continued hearing held.

Subd. 3. Considerations for district establishment. (a) After the hearing is complete, if the state board determines, on the information presented at the hearing and other relevant information, that there is a need, in the interest of the public health, safety, and welfare, for a district to function in the area considered at the hearing, the state board shall make and record the determination and define the district boundaries by metes and bounds or by legal subdivisions. In making the determination and in defining the boundaries, the state board shall consider the public policy in section 103A.206, and:

- (1) the topography of the area considered and of the state;
 - (2) the composition of its soils;
 - (3) the distribution of erosion;
 - (4) the prevailing land use practices;
 - (5) the desirability and necessity of including within the boundaries the particular lands under consideration;
 - (6) the benefits the lands may receive from being included;
 - (7) the relation of the proposed area to existing watersheds and agricultural regions and other soil and water conservation districts organized or proposed for organization; and
 - (8) other relevant physical, geographical, and economic factors.
- (b) The area included in a district need not be contiguous.

Subd. 4. Denial of petition. (a) If the state board determines, after the hearing and consideration of the information, that there is not a need for a district to function in the area, the state board must make and record the determination and deny the petition.

(b) Subsequent petitions to establish a district in substantially the same area may not be filed until six months after the date of the denial of a petition.

Subd. 5. Referendum for district establishment. (a) After the state board has made and recorded a determination that there is a need for a district in a particular area and has defined the boundaries, the state board shall consider whether the operation of a district within the boundaries is administratively feasible. To assist the state board to determine the feasibility, the state board shall, within a reasonable time after entry of the finding that there is a need for the proposed district, give notice of and hold a referendum within the proposed district on the creation of the district.

(b) The question shall be submitted by ballots with:

(1) the words printed "For creation of a soil and water conservation district of the lands described below in the county (or counties) of and" and "Against establishment of a soil and water conservation district of the lands described below in the county (or counties) of and";

(2) a square before each proposition and a direction to insert an X mark in the square before one proposition or the other as the voter may favor or oppose establishment of the district; and

(3) the boundaries of the proposed district.

(c) Only land occupiers in the boundaries of the proposed district, as determined by the state board, may vote in the referendum.

Subd. 6. Administration of referendum. The state board shall pay the expenses for the notices and the conduct of the hearing and referendum, and supervise their conduct. The state board shall issue rules governing the conduct of hearings and referenda, and providing for the registration, before the date of the referendum, of all eligible voters, or prescribing some other appropriate procedure to determine eligible voters. Informalities in the conduct of a referendum or in a matter related to it do not invalidate the referendum or its result if notice of it has been given substantially as provided by this section and the referendum has been fairly conducted.

Subd. 7. Determination after referendum. (a) The state board shall publish the result of the referendum and then determine whether the operation of a district in the defined boundaries is administratively feasible. In making the determination, the state board must consider the policy in section 103A.206, and:

- (1) the attitudes of the land occupiers in the defined boundaries;
 - (2) the number of land occupiers eligible to vote in the referendum who have voted;
 - (3) the proportion of the votes cast in the referendum in favor of establishing the district to the total number of votes cast;
 - (4) the approximate wealth and income of the land occupiers of the proposed district;
 - (5) the probable expense of carrying on erosion-control operations within the district; and
 - (6) other relevant economic and social factors. The state board may not determine that the operation of the proposed district within the defined boundaries is administratively feasible unless a majority of the votes cast in the referendum on establishment of the district have been cast in favor of establishing the district.
- (b) If the state board determines that the operation of the district is not administratively feasible, the state board shall record the determination and deny the petition. Six months after the date of entry of a determination by the state board that operation of a proposed district is not administratively feasible, a new petition may be filed and a new proceeding started.
- (c) If the state board determines that the operation of the district is administratively feasible, it shall record the determination and proceed with the establishment and organization of the district.

Subd. 8. Application by supervisors to secretary of state. (a) The district shall be a governmental subdivision of this state and a public body corporate and politic after the actions in this subdivision are taken.

(b) If the state board determines that the operation of the proposed district within the defined boundaries is administratively feasible, the state board must appoint two supervisors to act, with the three elected supervisors, as the

district board.

(c) The two appointed supervisors shall sign and present an application to the secretary of state with the following recitals:

- (1) a petition for the establishment of a district was filed with the state board;
 - (2) the proper proceedings were taken relating to the petition;
 - (3) the application is being filed to complete the organization of the district as a governmental subdivision and a public body, corporate or politic;
 - (4) the state board has appointed the signers as supervisors;
 - (5) the name and official residence of each supervisor, with a certified copy of the supervisor's appointment;
 - (6) the term of office of each supervisor;
 - (7) the name proposed for the district; and
 - (8) the location of the principal office of the district board.
- (d) The application shall be subscribed and sworn to by each supervisor before an officer authorized by state law to take oaths. The officer shall certify upon the application that the officer has personal knowledge of the supervisors, that they are the supervisors named in the application, and that each supervisor has signed the application in the officer's presence.

Subd. 9. Certified statement of state board. (a) The application shall be accompanied by a certified statement of recitals by the state board, that:

- (1) a petition was filed, notice issued, and hearing held;
 - (2) the state board determined that there is need, in the interest of the public health, safety, and welfare, for a district to function in the proposed area;
 - (3) the state board defined the district's boundaries;
 - (4) notice was given and a referendum held on the question of establishing a district;
 - (5) a majority of the votes cast in the referendum were in favor of establishing a district; and
 - (6) after the referendum the state board determined that the operation of the proposed district is administratively feasible.
- (b) The certified statement shall prescribe the boundaries of the district as defined by the state board.

Subd. 10. Secretary of state's certificate. (a) The secretary of state shall examine the application of the supervisors and certified statement of the state board and, on

finding that the name proposed for the district is not identical to the name of another district in the state, and is not so similar as to lead to confusion or uncertainty, the secretary of state shall receive, file, and record the application and statement.

(b) If the secretary of state finds that the name proposed for the district is identical with the name of another district, or so similar as to lead to confusion and uncertainty, the secretary of state shall certify the fact to the state board. The state board shall submit to the secretary of state a new name for the district that does not have the defect. Upon receipt of a new name, free of defect, the secretary of state shall record the application and statement, with the new name.

(c) After the application and statement have been made, filed, and recorded, the district is a governmental subdivision of the state.

(d) The secretary of state shall issue to the supervisors a certificate, under the seal of the state, of the organization of the district and record the certificate with the application and statement.

(e) The boundaries of the district consist of the area determined by the state board but may not include area in another district. The area of a home rule charter or statutory city within the boundaries of a district is included in the district. If there is a question of whether an area is within or outside of a district, the state board shall determine whether the area of a city is included.

Subd. 11. Certificate of organization as evidence. In a suit, action, or proceeding involving the validity of, enforcement of, or relating to, a contract, proceeding, or action of a district, the district is considered to have been established in accordance with this section upon proof of the issuance of the certificate by the secretary of state. A copy of the certificate, certified by the secretary of state, is admissible in evidence in the suit, action, or proceeding and is proof of its filing and contents.

HIST: 1990 c 391 art 3 s 5

--103C.205

103C.205 Annexing additional area.

(a) Land occupiers may file a petition to include additional area within an existing district with the state board. The procedure for a petition to establish a district shall be followed on a petition to include additional area. The state board shall prescribe the form for the petition, which shall be as nearly as possible in the form for a petition to organize a district.

(b) If the number of land occupiers in the area proposed for inclusion is less than 25, the petition may be filed when signed by a majority of the land occupiers in the area and a referendum need not be held.

(c) In a referendum to include additional area, all land occupiers within the proposed additional area may vote.

(d) It is not necessary to obtain the consent of the owners

within the district before the additional area is annexed to a district.

HIST: 1990 c 391 art 3 s 6

--103C.211

103C.211 Consolidation and division of districts.

(a) A petition to consolidate two or more districts or to separate a district into two or more districts may be filed with the state board by 25 or more land occupiers within the affected districts. It is not necessary to obtain the consent of fee owners in an established district before districts are consolidated or an existing district is divided. Proceedings provided for petitions to organize a district shall be followed as far as they are applicable. The state board shall prescribe the form for a petition, which shall be as nearly as possible in the form for petitions to organize a district.

(b) The land occupiers within the affected districts may vote in the referendum. The state board may not determine the administrative feasibility of consolidating or separating districts unless a majority of the votes cast in the referendum within each separate district affected, or within each separate area sought to be made a separate district, is in favor of the consolidation or separation.

(c) When districts are consolidated or separated, the corporate existence and terms of office of the officers of the old districts expire upon the issuance and recording by the secretary of state of a certificate of organization of the new districts. Upon consolidation, the rights and liabilities of the consolidating districts shall be assumed by the consolidated district. Upon separation, the rights and liabilities of the original district shall be vested in and assumed by the new districts in an equitable proportion determined by the state board. A separation does not affect the term of office for which a supervisor was elected or appointed. The supervisor shall continue to represent the district where the supervisor resides for that full term.

HIST: 1990 c 391 art 3 s 7

--103C.215

103C.215 Change of name.

The name of a district may be changed with the approval of the state board, after the adoption of a resolution by a majority of the supervisors stating the new name, by filing a certified copy of the resolution with the secretary of state.

HIST: 1990 c 391 art 3 s 8

--103C.221

103C.221 Change of location of principal office.

The location of the principal office of the district board may be changed with the approval of the state board after the adoption of a resolution by a majority of the district board stating the new location and by filing a certified copy of the resolution with the secretary of state.

HIST: 1990 c 391 art 3 s 9

==103C.225

103C.225 Discontinuance of districts.

Subdivision 1. Petition for termination. (a) After five years after the organization of a district, 25 occupiers of land in the district may file a petition with the state board asking that the operations and existence of the district be terminated.

(b) The state board may not receive a petition, conduct a referendum, or make a determination on a petition to discontinue a district more often than once in two years.

Subd. 2. Hearings. The state board may conduct public meetings and public hearings upon the petition as necessary to assist in consideration of the petition.

Subd. 3. Referendum. (a) Within 60 days after the petition is received by the state board, it shall give due notice of the holding of a referendum, supervise the referendum, and issue appropriate regulations governing the conduct of the referendum.

(b) The question shall be submitted by ballots, upon which the words "For terminating the existence of the (name of the soil and water conservation district to be here inserted)" and "Against terminating the existence of the (name of the soil and water conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other.

(c) Only land occupiers in the district may vote in the referendum.

(d) Informalities in the conduct of the referendum or matters relating to the referendum do not invalidate the referendum, or result of the referendum, if due notice has been given and the referendum has been fairly conducted.

(e) The state board shall publish the result of the referendum.

Subd. 4. Determination by state board. (a) The state board shall determine whether the continued operation of the district board is administratively feasible and give consideration to the public policy under section 103A.206, and:

(1) the attitudes of the occupiers of lands lying within the district;

(2) the number of land occupiers eligible to vote in the referendum who have voted;

(3) the proportion of the votes cast in the referendum in favor of the discontinuance of the district to the total number of votes cast;

(4) the approximate wealth and income of the land occupiers of the district;

(5) the probable expense of carrying on erosion-control operations within the district; and

(6) other economic and social factors relevant to the determination.

(b) If the state board determines that the continued operation of the district is administratively feasible, the state shall record the determination and deny the petition.

(c) If the state board determines that the continued operation of the district is not administratively feasible, the state board shall record the determination and certify the determination to the district board. The state board may not determine that the continued operation of the district is administratively feasible unless at least a majority of the votes cast in the referendum have been cast in favor of continuance.

Subd. 5. Termination of district affairs. Upon receipt from the state board of a certification that the state board has determined that the continued operation of the district is not administratively feasible, the district board shall promptly terminate the affairs of the district. The district board shall dispose of all property belonging to the district at public auction and pay the proceeds into the state treasury.

Subd. 6. Application to secretary of state. The district board shall then file a verified application with the secretary of state to discontinue the district with the certificate of the state board setting forth its determination that the continued operation of the district is not administratively feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid as provided in this section, and set forth a full accounting of the property and proceeds.

Subd. 7. Certificate of dissolution. The secretary of state shall issue to the district board a certificate of dissolution and record the certificate in the secretary of state's office.

Subd. 8. Effect of dissolution. Upon issuance of the certificate of dissolution, the ordinances and regulations in force in the district are of no further force. All contracts entered into, to which the district or district board were parties, shall remain in force and effect for the period provided in the contracts. The state board shall be substituted for the district or district board as party to the contracts and succeed to the district's rights and duties.

HIST: 1990 c 391 art 3 s 10

==103C.231

103C.231 Cooperation between districts and other public agencies.

Subdivision 1. Cooperation with other agencies. (a) The district boards of two or more districts may cooperate with one another or with appropriate agencies to exercise powers conferred in this chapter or sections 103F.401 to 103F.455.

(b) The district board may make contracts or other arrangements with:

(1) the federal government;

- (2) persons or public or private corporations; and
- (3) the government of this state or other states.

(c) A soil and water conservation district may join or cooperate by agreement as provided in section 471.59 with another soil and water conservation district or a watershed district, or a governmental unit defined in section 471.59, or with a combination of them in an operation or project in which the soil and water conservation district and the other party have a common interest. For the purposes of this section, soil and water conservation districts and watershed districts are governmental units under section 471.59.

Subd. 2. Cooperation among districts. (a) If the improvement work unit covers two districts, a joint board made up of three supervisors from each of the district boards shall preside. If the improvement work unit covers three or more districts, a joint board made up of two supervisors from each district board shall preside. The individual boards shall appoint the supervisors to represent them on the joint board.

(b) The joint board shall accept and approve initial requests for improvement work units, direct the preparation of preliminary surveys and studies, establish improvement work units, and, at the direction of the county boards, adopt programs and reports, award contracts, supervise construction, and accept completed construction work.

HIST: 1990 c 391 art 3 s 11

==103C.235

103C.235 State agencies to cooperate.

State agencies which have jurisdiction over or administer state-owned lands, and agencies of a county, or other governmental subdivision, that have jurisdiction over or administer county-owned or other publicly owned lands that are in a district, shall cooperate with the district boards to implement programs and operations undertaken by the district board under this chapter and sections 103F.401 to 103F.455. The district board shall have free access to enter and perform work on the affected lands.

HIST: 1990 c 391 art 3 s 12

==103C.301

103C.301 Initial election of supervisors.

Subdivision 1. Nominating petitions. Within 30 days after the date that the secretary of state issues a certificate of organization of a district, or during additional time as the state board may allow, nominating petitions may be filed with the state board nominating legal voters as candidates for election as supervisors. Three supervisors shall be elected for terms to expire on December 31 following the second general election after their initial election. Each petition must be signed by one or more legal voters of the district. If a person signs petitions nominating more than three candidates, the signature may not be counted on any petition.

Subd. 2. Notice of election. The state board shall give due notice of the time and place where the election will be

held in the district and specify in the notice the names of all candidates and the terms for which they are nominated.

Subd. 3. Ballots. The state board shall prepare ballots for the election with the surnames of the candidates printed in alphabetical order for each term, a square before each name, and a direction to insert an X mark in the square before three names with different terms to indicate the voter's choice.

Subd. 4. Voting. All legal voters shall be eligible to vote at the election.

Subd. 5. Election. The three candidates who receive the highest numbers respectively of the votes cast for each of three positions at the election shall be the elected supervisors. In case of a tie, the election shall be determined by lot, under the direction of the state board. The state board shall supervise the election, pay expenses of the election, prescribe rules for the election, determine the eligibility of voters, and publish the results.

Subd. 6. Elected supervisor term. Except to fill a vacancy or for initial elections, supervisors shall be elected for four-year terms.

HIST: 1990 c 391 art 3 s 13; 1997 c 173 s 1,2

==103C.305

103C.305 General election of supervisors.

Subdivision 1. Time for election. Except for elections under section 103C.301 held after the organization of the district, elections must be held at the state general election specified in section 204D.03, subdivision 2. A primary may not be held.

Subd. 2. Filing for office; affidavit of candidacy. A candidate for the office of supervisor shall file an affidavit of candidacy with the county auditor of the county in which the district office is located during the period provided for filing affidavits of candidacy for county offices in section 204B.09, subdivision 1. The county auditor accepting affidavits of candidacy shall forward copies of all affidavits filed by candidates for supervisor to the auditor of any other county in which the office is voted on.

Subd. 3. Ballots. Ballots shall be prepared by the county auditor. The names of candidates shall be placed on the "canary ballot" described in section 204D.11, subdivision 3.

Subd. 4. Election. Laws relating to elections for county office shall govern to the extent that they are consistent with this section and section 103C.311. The county auditor shall certify the result to the state board. If the district includes land in more than one county, the county auditor shall immediately certify to the state board the vote, as shown by the report of the county canvassing board, for candidates voted for in more than one county. In the latter case, the state board shall certify and publish the result.

Subd. 5. Election within areas governed by Indian tribes. In a district where a supervisor nomination district is entirely within lands of an American Indian tribe or band to

which county election laws do not apply, a supervisor to represent the district shall be elected or appointed as provided by the governing body of the tribe or band.

Subd. 6. Vacancy. (a) If a vacancy occurs in the office of an elected supervisor more than 56 days before the next state primary, the district board shall fill the vacancy by appointment. The supervisor appointed shall hold office until the first Monday in January following the next general election. A successor shall be elected at the general election following the appointment and hold office for the remainder of the term or for the next regular term, whichever is appropriate.

(b) If a vacancy occurs less than 56 days before the next state primary, the district board shall fill the vacancy by appointment. The appointed supervisor shall hold office until the expiration of the term or until the first Monday in January following the second succeeding general election, whichever is shorter. A successor shall be elected at the general election preceding expiration of the appointed term and hold office for the remainder of the term or for the next regular term, whichever is appropriate.

(c) All terms under this subdivision continue until a successor has been elected and has qualified.

HIST: 1990 c 391 art 3 s 14; 1994 c 646 s 1; 1997 c 173 s 3; 2000 c 467 s 2

--103C.311

103C.311 Formation of supervisor districts.

Subdivision 1. Supervisors elected at large. (a) The district board, after the initial election has been held, shall, with the approval of the state board, divide a district into five supervisor districts for purposes of nomination for election. At each election after the division, one or more supervisors shall be nominated from each supervisor district. A supervisor must be a resident of the supervisor district to be elected.

(b) If the boundary of a soil and water conservation district has been substantially changed by a division of the district, the district shall be divided into five supervisor districts for nomination purposes.

(c) This subdivision does not disqualify a supervisor during the term for which the supervisor was elected or nominated for election. Supervisors nominated from the supervisor districts shall be included on the ballot for election from the entire area included in the soil and water conservation district.

(d) A certified copy of the minutes or the resolution of the supervisors establishing supervisor districts must be promptly filed by the chair of the district board with the county auditor of the counties where the district is located and with the state board.

Subd. 2. Supervisors elected by districts. (a) In the counties of Ramsey and Washington, the district board, with the approval of the state board, may by resolution provide that supervisors will be elected by supervisor districts as provided in this subdivision.

(b) The supervisor districts must be composed of precincts established by county and municipal governing bodies under section 204B.14. The districts must be compact, include only contiguous territory, and be substantially equal in population. The districts must be numbered in a regular series. The districts must be drawn by the county board of the county containing the largest area of the soil and water conservation district, in consultation with the district board and with the approval of the state board. The boundaries of the districts must be redrawn after each decennial federal census as provided in section 204B.135. A certified copy of the resolution establishing supervisor districts must be filed by the chair of the district board with the county auditor of the counties where the soil and water conservation district is located, with the state board, and with the secretary of state at least 30 days before the first date candidates may file for the office of supervisor.

(c) Each supervisor district is entitled to elect one supervisor. A supervisor must be a resident of the district from which elected.

(d) The district board shall provide staggered terms for supervisors elected by district. After each redistricting, there shall be a new election of supervisors in all the districts at the next general election, except that if the change made in the boundaries of a district is less than five percent of the average population of all the districts, the supervisor in office at the time of the redistricting shall serve for the full term for which elected. The district board shall determine by lot the seats to be filled for a two-year term, a four-year term, and a six-year term.

HIST: 1990 c 391 art 3 s 15; 1997 c 130 s 1; 1997 c 173 s 4; 1Sp2001 c 10 art 18 s 3

--103C.315

103C.315 Supervisors.

Subdivision 1. Members. (a) The district board shall consist of five supervisors, elected or appointed as provided in sections 103C.201, subdivision 8, 103C.301, and 103C.305.

(b) Supervisors must be legal voters residing in the district.

Subd. 2. Terms. The two supervisors appointed by the state board upon the establishment of a district serve terms ending on the first Monday in January following the next general election after their appointment. Their successors shall be elected for terms of four years commencing on the first Monday in January and until a successor is elected or appointed and has qualified. Vacancies in the office of supervisor appointed by the state board shall be filled by the state board.

Subd. 3. Quorum. A majority of the supervisors is a quorum and the concurrence of a majority in any matter is required for its determination except as otherwise expressly provided.

Subd. 4. Compensation. A supervisor shall receive compensation for services as the state board may determine, and may be reimbursed for expenses, including traveling expenses,

necessarily incurred in the discharge of duties. A supervisor may be reimbursed for the use of the supervisor's own automobile in the performance of official duties at a rate up to the maximum tax-deductible mileage rate permitted under the federal Internal Revenue Code.

Subd. 5. Removal of supervisor. A supervisor may be removed by the state board upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

Subd. 6. Compatible offices. The office of soil and water conservation district supervisor and the offices of mayor, clerk, clerk-treasurer, or council member in a statutory or home rule charter city of not more than 2,500 population contained in whole or in part in the soil and water conservation district are compatible offices and one person may hold both offices. The office of soil and water conservation district supervisor and the office of town clerk or town supervisor in a town of not more than 2,500 population contained in whole or in part in the soil and water conservation district are compatible offices and one person may hold both offices. A person holding both offices shall refrain from voting or taking any other formal action on any matter coming before the soil and water conservation district board or the city council or town board that has a substantial effect on both the soil and water conservation district and the city or town. This subdivision does not apply to an office located in whole or in part in Anoka, Hennepin, Ramsey, or Washington county.

HIST: 1990 c 391 art 3 s 16; 1995 c 222 s 1; 1997 c 173 s 5; 1998 c 401 s 35; 2000 c 467 s 3

--103C.321

103C.321 Officers and employees.

Subdivision 1. Officers. (a) The supervisors shall elect or appoint officers for the district and the district board.

(b) A chair of the district board shall be elected from its own members.

(c) A secretary and a treasurer shall be appointed who need not be members of the board.

(d) Officers serve at the pleasure of the supervisors. Officers shall have the powers and duties incident to their respective offices, and other powers and duties expressly prescribed by law or directed by the district board.

Subd. 2. Employees. The district board may employ technical experts and other officers, agents, and employees, permanent and temporary, as they may require. The supervisors shall determine their qualifications, duties, and compensation.

Subd. 3. Employee and officer bonds. The district board shall provide for the execution of surety bonds for all employees and officers who are entrusted with funds or property.

Subd. 4. Attorney. The county attorney of the county where the major portion of the district is located or one otherwise employed by the board shall be the attorney for the district and its supervisors. The district board may call upon the county attorney for necessary legal counsel and advice and

service.

Subd. 5. Delegation of duties. The district board may delegate to its chair or other officer, to one or more supervisors, or to one or more agents or employees the powers and duties they deem proper.

HIST: 1990 c 391 art 3 s 17

--103C.325

103C.325 Records, audit, information to state board.

Subdivision 1. Records. The district board shall keep a full and accurate record of all proceedings and resolutions, regulations, and orders issued or adopted.

Subd. 2. Audit. The state auditor shall annually audit the books of the district and its supervisors, or, at the request of the district board, the state auditor may contract for an annual audit by a certified public accountant. The state auditor may determine that an annual audit of a district is not necessary, in which case an audit shall be made at least every four years.

Subd. 3. Information to state board. The supervisors shall furnish to the state board, upon request, copies of the ordinances, rules, regulations, orders, contracts, forms, and other documents that they adopt or use, and other information concerning their activities as the state board requires in the performance of its duties under this chapter.

HIST: 1990 c 391 art 3 s 18

--103C.331

103C.331 Powers of district boards.

Subdivision 1. General authority. A soil and water conservation district is a governmental and political subdivision of this state, and a public body, corporate and politic, and has the following powers in addition to any others prescribed by law.

Subd. 2. Advisory assistance. The supervisors may invite the legislative body of a municipality or county in the district to designate a representative to advise and consult with the supervisors of the district on questions of program and policy that may affect the property, water supply, or other interests of the municipality or county.

Subd. 3. Surveys, investigations, and research. A district may conduct surveys, investigations, and research to identify the problems and preventive practices specified in section 103A.206. To avoid duplication of research activities, no district shall initiate any research program except in cooperation with a state agency or an agency of the United States.

Subd. 4. Publication of information. A district may publish its comprehensive plan and the results of its surveys, investigations, and research and may disseminate information to the public concerning any of its activities.

Subd. 5. Demonstration projects. A district may conduct demonstration projects within the district on lands

owned or administered by a state agency, with the cooperation of the administering agency, and on other lands with the consent of the land occupier, to demonstrate practices which implement the state policy specified in section 103A.206.

Subd. 6. Implementation of practices. A district may implement any necessary practices within the district, including structural measures and works of improvement for any purpose specified in section 103A.206, methods of cultivation, the use of vegetation, and changes in use of land, on:

- (1) lands acquired by the district;
- (2) lands owned or administered by a state agency, with the cooperation of the administering agency; and
- (3) other lands, with the consent of the land occupier.

Subd. 7. Implementation of soil and water conservation policy. A district may cooperate or enter into agreements with and furnish financial or other aid to a land occupier or appropriate agency, to implement the policy specified in section 103A.206, within the district, subject to conditions the district board determines is necessary.

Subd. 8. Acquisition and maintenance of property. A district may acquire any rights or interests in real or personal property by option, purchase, exchange, lease, gift, grant, bequest, devise, or otherwise. It may maintain, operate, administer, and improve any properties acquired. It may receive income from the properties and expend the income to implement this chapter and sections 103F.401 to 103F.455. It may sell, lease, or otherwise dispose of any of its property or interests.

Subd. 9. Use of machinery and supplies. A district may make available, on terms it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and other material or equipment which will assist land occupiers to implement practices on their land specified in section 103C.005.

Subd. 10. Construction of improvements. A district may construct, install, improve, maintain, and operate structures and works necessary or convenient to perform an operation authorized under this chapter and sections 103F.401 to 103F.455.

Subd. 11. Comprehensive plan. (a) A district may develop and revise a comprehensive plan, specifying practices to implement the state policy specified in section 103A.206, including:

- (1) the construction, maintenance, and operation of structural measures;
- (2) methods of cultivation;
- (3) the use of vegetation;
- (4) cropping programs;
- (5) mechanical practices;
- (6) changes in use of land;

(7) other land use, soil erosion reduction, and agricultural practices; and

(8) related technical standards and specifications.

(b) The plan shall include a classification of the soil types within the district as determined by the Minnesota cooperative soil survey.

(c) The plan must identify the areas within the district where erosion, sedimentation, and related water quality problems appear most in need of control methods.

(d) The plan shall be consistent with the statewide framework water resources plan, the statewide water quality management plan, and the state board's soil and water program plan. The plan shall be prepared as required by the rules of the state board.

(e) By August 1 of each even-numbered year, each district which applies for cost-sharing funds under section 103C.501 shall submit to the state board an amendment of its comprehensive plan that identifies high priority erosion, sedimentation and water quality problems within the district as required by the rules of the state board.

(f) By August 1 of each year, each district that applies for cost-sharing funds under section 103C.501 shall submit to the state board an annual work plan for the high priority erosion, sedimentation, and water quality problems in the district. The work plan shall be prepared as required by the rules of the state board. In preparing the annual work plan, the district shall actively identify and seek out land occupiers with high priority erosion problems who have not participated in cost-sharing contracts and encourage their participation in programs to control their erosion problems.

Subd. 12. Assumption of conservation projects. (a) A district may take over by purchase, lease, or otherwise, and may improve, maintain, operate, and administer a soil or water conservation, erosion-control, erosion-prevention, watershed protection, flood prevention or flood control project in its boundaries undertaken by the United States or by a state agency.

(b) A district may accept donations, gifts, grants, or contributions in money, services, materials, or otherwise from the United States, a state agency or other source to accomplish the authorization in this section. A board may enter into a contract or agreement necessary or appropriate to accomplish the transfer. A board may use or expend money, services, materials, or other things to accomplish an authorized purpose.

Subd. 13. Authority for suit and contracts. A district may sue and be sued in its name, have perpetual succession unless terminated as provided in section 103C.225, make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and make, amend, or repeal rules and regulations consistent with this chapter and sections 103F.401 to 103F.455.

Subd. 14. Compensation for work or projects. As a condition for extending benefits for the performance of work upon lands not owned or administered by a state agency or the

district, the supervisors may require compensation or contributions in money, services, materials, or otherwise, commensurate with the cost or reasonable value of the operations or work conferring the benefits.

Subd. 15. Agreements for federal assistance. (a) A district may submit an application and enter into an agreement or contract with the secretary of agriculture or other designated authority to obtain or use federal assistance under any law providing for federal assistance for an authorized purpose of the district.

(b) A district may:

(1) acquire without cost to the federal government any land, easements, or rights-of-way needed in connection with works of improvement installed with federal assistance;

(2) assume the proportionate share of the cost of installing works of improvement involving federal assistance determined by the secretary or other designated authority to be equitable in consideration of anticipated benefits from the improvements;

(3) make arrangements satisfactory to the secretary or other authority to defray costs of operating and maintaining works of improvement in accordance with prescribed regulations;

(4) acquire or provide assurance that land occupiers have acquired the water rights and other rights, pursuant to state law, needed to install, maintain, and operate the works of improvement; and

(5) obtain agreements to carry out recommended soil and water conservation measures and prepare farm plans for owners of not less than 50 percent or other required percentage of the lands situated in a drainage area above a retention reservoir installed with federal assistance, as prescribed by applicable federal law, and may do any other acts necessary to secure and use federal aid.

Subd. 16. Budget. The district board shall annually present a budget consisting of an itemized statement of district expenses for the ensuing calendar year to the boards of county commissioners of the counties in which the district is located. The county boards may levy an annual tax on all taxable real property in the district for the amount that the boards determine is necessary to meet the requirements of the district. The amount levied shall be collected and distributed to the district as prescribed by chapter 276. The amount may be spent by the district board for a district purpose authorized by law.

Subd. 17. Funds for state and national associations. A district may appropriate funds to provide membership in state and national associations that have as their purpose the betterment and improvement of soil and water conservation district operations. A district may participate through designated representatives in the meetings and activities of the associations. A district may appropriate funds to defray the actual and necessary expenses of its representatives in connection with the associations' membership. The expenses may be paid only upon the presentation of a verified itemized claim.

Subd. 18. Liability insurance. A district may procure liability insurance as provided in section 466.06, automobile insurance on personal cars while used on official business, insurance on the contents of district offices, and workers' compensation insurance, or may require the counties in which the district is located to include the district in the counties' insurance coverage for these purposes.

Subd. 19. Administration of official controls. A district may, under a joint powers agreement under section 471.59, accept delegation from a county or city of authority to administer soil and water conservation-related official controls, as defined in section 103B.305, subdivision 7, of the county or city as specified in the agreement. The agreement must include provisions requiring that:

(1) all costs incurred by the district in administering the controls will be reimbursed by the county or city;

(2) the district will provide notice and hearing in the same instances that the county or city would; and

(3) the county or city will provide legal advice and support when requested by the district for administration and enforcement.

HIST: 1990 c 391 art 3 s 19; 1992 c 450 s 1

==103C.335

103C.335 Technical and administrative assistance to districts.

At the request of local districts, the agricultural extension service of the University of Minnesota, county extension committees, and county extension agents shall:

(1) advise the districts in developing their comprehensive plan amendments and annual work plans;

(2) in cooperation with the districts and the soil conservation service of the United States Department of Agriculture, provide technical assistance and education to land occupiers about conservation tillage practices and other soil conservation practices; and

(3) participate in training district officials and employees in cooperation with the state board.

HIST: 1990 c 391 art 3 s 20

==103C.401

103C.401 Board of water and soil resources.

Subdivision 1. Powers and duties. In addition to the powers and duties of the state board provided by other law, the state board shall:

(1) offer to assist the district boards to implement their programs;

(2) keep the district boards of the state informed of the activities and experience of other districts and facilitate cooperation and an interchange of advice and experience among the districts;

(3) coordinate the programs and activities of the districts with appropriate agencies by advice and consultation;

(4) approve or disapprove the plans or programs of districts relating to the use of state funds administered by the state board;

(5) secure the cooperation and assistance of agencies in the work of the districts and develop a program to advise and assist appropriate agencies in obtaining state and federal funds for erosion, sedimentation, flooding, and agriculturally related pollution control programs;

(6) develop and implement a public information program concerning the districts' activities and programs, the problems and preventive practices relating to erosion control, sedimentation, agriculturally related pollution, flood prevention, and the advantages of formation of districts in areas where their organization is desirable;

(7) divide and consolidate districts without a hearing or a referendum to confine districts within county limits, without allowing a district, if feasible and practicable, to contain less than four full or fractional congressional townships;

(8) assist the statewide program to inventory and classify the types of soils in the state as determined by the Minnesota cooperative soil survey;

(9) identify research needs and cooperate with other public agencies in research concerning the nature and extent of erosion, sedimentation, flooding and agriculturally related pollution, the amounts and sources of sediment and pollutants delivered to the waters of the state, and long-term soil productivity;

(10) develop structural, land use management practice, and other programs to reduce or prevent soil erosion, sedimentation, flooding, and agriculturally related pollution;

(11) develop a system of priorities to identify the erosion, flooding, sediment, and agriculturally related pollution problem areas that most need control systems; and

(12) ensure compliance with statewide programs and policies established by the state board by advice, consultation, and approval of grant agreements with the districts.

Subd. 2. Use of funds. (a) Funds made available to a district from the state for expenditures necessary for its operations may be used only for purposes authorized by the state board.

(b) A district may designate the board of county commissioners to act as the agent of the district to receive and expend the funds at the direction and with the approval of the district board.

(c) At least annually the state board shall audit, in a manner it prescribes, the expenditure of the funds.

HIST: 1990 c 391 art 3 s 21; 1997 c 109 s 2

==103C.405

103C.405 Program plan.

Subdivision 1. Contents. The state board shall prepare, in consultation with the districts and appropriate agencies, a program plan to accomplish its duties. The state board shall use the program plan in decisions to allocate funds to districts. The state board shall emphasize the determination of priority areas where erosion, sedimentation, and related water quality problems appear most in need of control and the development of the comprehensive public information program.

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

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

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

HIST: 1990 c 391 art 3 s 22

==103C.501

103C.501 Cost-sharing contracts for erosion control and water management.

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

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

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

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

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

Subd. 4. Cost-sharing funds. (a) The state board shall allocate at least 70 percent of cost-sharing funds to areas with high priority erosion, sedimentation, or water

quality problems. The areas must be selected based on the statewide priorities established by the state board. The allocated funds must be used for conservation practices for high priority problems identified in the comprehensive and annual work plans of the districts.

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

(1) for technical and administrative assistance, not more than 20 percent of the funds; and

(2) for conservation practices for lower priority erosion, sedimentation, or water quality problems.

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

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

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

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

Subd. 6. Rules. (a) The state board shall adopt rules prescribing:

(1) procedures and criteria for allocating funds for cost-sharing contracts;

(2) standards and guidelines for cost-sharing contracts;

(3) the scope and content of district comprehensive plans, plan amendments, and annual work plans;

(4) standards and methods necessary to plan and implement a priority cost-sharing program, including guidelines to identify high priority erosion, sedimentation, and water quality problems;

(5) the share of the cost of conservation practices to be paid from cost-sharing funds; and

(6) requirements for districts to document their efforts to identify and contact land occupiers with high priority erosion problems.

(b) The rules may provide that cost-sharing may be used for farmstead windbreaks and shelterbelts for the purposes of energy

conservation and snow protection.

HIST: 1990 c 391 art 3 s 23; 1997 c 216 s 91

--103C.601

103C.601 Works of improvement.

Subdivision 1. Authority. (a) The district board may, if directed by resolution of the boards of commissioners from the counties where the district is located undertake, construct, install, maintain, and operate works of improvement for a district purpose. The district board may:

(1) use the proceeds of tax levies, assessments, and other available funds for the works of improvement;

(2) acquire necessary real or personal property by purchase or gift for the works of improvement;

(3) contract, survey, plan, construct, install, maintain, and operate the works of improvement; and

(4) exercise other authorized powers.

(b) Two or more district boards may jointly exercise the powers granted by this section.

Subd. 2. Request for project. A program for works of improvement in any area within one or more districts may be initiated upon written request for a project submitted to the district board by one or more of the owners of land in the affected area. The request must include:

(1) a general description of the area proposed for inclusion in an improvement work unit, with a proposed name or number for the project;

(2) a description of the affected land owned by the signers; and

(3) a statement of the objectives of the proposed works in furtherance of the authorized purposes, the grounds upon which the project will be of public benefit and utility and promote the public health, safety, and welfare, and special benefits to property that will result from the project.

Subd. 3. Determination by district board. As soon as practicable after receipt of the request the district board shall have necessary preliminary surveys and studies conducted.

Subd. 4. Resolution of establishment. (a) The district board may, by resolution, recommend the establishment of an improvement work unit and a program for works of improvement in the work unit to the boards of county commissioners of the counties where the affected land is located if the district board determines the proposed works of improvement:

(1) are feasible;

(2) will be of public utility and benefit;

(3) will promote the public health, safety, and welfare; and

(4) will further the authorized purposes and best interests of the district.

(b) The district board shall by resolution give the improvement work unit an appropriate name or number, which may be different from the one proposed in the initial project request.

(c) The resolution shall recommend definite boundaries for the improvement work unit, which may be those proposed in the request or modified as the district board deems advisable.

(d) In the resolution the district board may also enlarge, reduce, or otherwise modify the proposed objectives of the program, but not make a substantial change in its main purposes as stated in the initial project request unless consented to in writing by the signers of the request.

(e) At any time before further action is taken on the project as provided in section 103C.605 the district board may amend the resolution, subject to the foregoing limitations.

Subd. 5. Preliminary general plan. (a) After adoption of the resolution recommending the improvement work unit and program under subdivision 4, the district board after being directed by resolution of the affected boards of county commissioners may have further surveys and studies made as necessary.

(b) The district board may then have a preliminary general plan with cost estimates made to implement the program for the improvement work unit or part of the work unit.

Subd. 6. Financial aid. (a) The district board, at the direction of the affected county boards, may apply for federal aid, state aid, or aid available from other sources for the works of improvement in the program or part of the works of improvement under federal or state law.

(b) The district board may take the steps necessary to determine whether aid will be available and the amount of the aid. The district board may consider how the cost of the works not expected to be paid by federal or other aid may be met from funds of the district or from the proceeds of assessments on benefited property or otherwise, and the district board may make estimates of the amounts and sources.

Subd. 7. Necessary cooperation or joint action. If the cooperation or joint action of an adjacent district or other public agency is desirable for the program, the district board, at the direction of the affected county boards, may negotiate with the authorities concerned for cooperation or joint action.

Subd. 8. Recommendation report. (a) After completion of the requirements in subdivisions 1 to 7, the district board may make and file a recommendation report, summarizing findings and recommendations for further action on all or part of the program and containing substantially the engineering information required by section 103D.711, subdivisions 1 to 3.

(b) The district board shall make the recommendation report and the preliminary general plan for the improvement work unit available to the affected county boards and to all other public

agencies and concerned persons, and may provide other publicity that it deems advisable. The district board shall transmit a copy of the recommendation report and preliminary general plan to regional development agencies where the project is located. If the preliminary general plan involves a project for which a water use permit or public waters works permit is required from the commissioner of natural resources under chapter 103G, or for which proceedings will be instituted under chapter 103E, the district board shall transmit the recommendation report and plan to the commissioner of natural resources and to the state board.

Subd. 9. State board review. (a) The state board shall review the recommendation report and preliminary general plan and, if the state board concludes that the plan is inconsistent with systematic administration of state water policy, the state board shall report the conclusion to the district board and the commissioner of natural resources within 60 days after receiving the recommendation report and preliminary general plan.

(b) The district board may modify and retransmit the recommendation report and preliminary general plan to the state board, or request a hearing on the recommendation report and preliminary general plan. The state board shall hear the matter in the manner and following the procedures provided in sections 103A.321 to 103A.341, for the hearing of cases when the state board consents to intervention proceedings.

(c) Unless the state board concludes that the report and plan are inconsistent with state water policy, the district board, with the approval of the county boards, may adopt and sponsor the improvement work unit and a program of work for the unit.

HIST: 1990 c 391 art 3 s 24

--103C.605

103C.605 County determination of project.

Subdivision 1. Petition. (a) The county board or joint county board, acting jointly under section 471.59, may take action on a project within the improvement work unit to construct or install works of improvement or part of the works of improvement pursuant to the recommendation report after receiving a petition.

(b) The petition must be for a project signed by:

(1) at least 25 percent of the owners of the land over which the proposed improvement work passes;

(2) at least 25 percent of the owners of land where the proposed improvement is located;

(3) the owners of at least 30 percent of the land area over which the proposed improvement work passes; or

(4) the owners of at least 30 percent of the land area where the proposed project is located.

(c) The petition must describe the land and request the county board or joint county board to hold a hearing on the practicability and desirability of implementing the project in accordance with the preliminary general plan and the

recommendation report of the district board.

(d) If the recommendation report specifies that part of the cost of the project is to be paid from the proceeds of assessments on benefited property, one or more of the petitioners, upon filing the petition and before action is taken on the petition, must file a bond to the county or counties conditioned as provided by section 103E.202, for a county drainage system, to be approved by the chair of the board.

Subd. 2. Hearing. The county board or joint county board shall set a time and place for the hearing on the petition, and give notice of the hearing as provided in section 103E.261, subdivision 1.

Subd. 3. Resolution for further action. (a) After the hearing the county board or joint county board may adopt a resolution directing further action on the project if it makes and states findings that implementation of the project as requested in the petition will be:

- (1) feasible;
- (2) in accordance with the recommendation report;
- (3) in furtherance of the objectives and purposes of the recommendation report; and
- (4) within the estimated cost for which funds may reasonably be expected to be available.

(b) By the resolution the county board or joint county board shall determine the amount to be paid from the various sources of available or potentially available funds, including federal aid, district funds, assessments on benefited property, and other funds. The amount payable from district funds may not exceed the value of the general public benefit of the project to the district as determined by the district board.

HIST: 1990 c 391 art 3 s 25

--103C.611

103C.611 Project without assessments.

Subdivision 1. Order establishing project. (a) If a portion of the project cost is not to be paid from assessments on benefited property, the county board or joint county board may proceed with complete surveys and detailed plans and specifications and make an order establishing the project. The order shall contain findings substantially conforming to those required by section 103E.341, subdivision 2.

(b) Notice summarizing the findings and order shall be served upon the persons entitled to notice of a county drainage project in section 103E.325, unless the notice is waived in writing by each person entitled to the notice. Waiver of notice must be filed with the county auditor.

Subd. 2. Acquisition of property and materials. Unless an appeal is taken within 30 days after the notice is given, the county board or joint county board may proceed to acquire necessary rights or property, procure materials, let contracts, and take other steps appropriate to complete the project.

Subd. 3. Delegation of duties to district. The county board or joint county board may delegate its duties and powers under this section to the district board or joint district board but the district board or joint district board may not exercise the power of eminent domain.

HIST: 1990 c 391 art 3 s 26

--103C.615

103C.615 Action on project with assessments.

Subdivision 1. Viewers. If part of the cost of the project is to be paid from the proceeds of assessments on benefited property, viewers must be appointed as provided in section 103E.305, and report as required by sections 103E.311, 103E.315, and 103E.321.

Subd. 2. Engineering services. The board or joint board of county commissioners shall direct the petitioners or, with its consent, the district board or joint district board, to provide engineering services as necessary to produce final plans adequate for construction of the proposed improvement.

Subd. 3. Hearing. The county board or joint county board shall then give notice of and conduct a final hearing substantially in accordance with sections 103E.325 to 103E.341, as for a drainage proceeding, so far as the procedure is consistent with sections 103C.601 to 103C.635.

Subd. 4. Assessments greater than benefits. If the county board or joint county board determines that the total benefits to property are not as much as the amount payable from the proceeds of assessments as specified in the recommendation report of the district board, the petition shall be dismissed and further action on the project discontinued unless the county board or joint county board determines that the deficiency may be met by increasing the amount payable from other funds.

Subd. 5. Establishment of project. (a) If it determines that the total benefits to property are as much as or more than the amount payable from the proceeds of assessments as specified in the report and that the other requirements of law have been complied with, the county board or joint county board shall by an order containing the findings establish the project as reported or amended and adopt and confirm the viewers' report as made or amended.

(b) If the total amount of benefits to be assessed upon property pursuant to the viewers' report as confirmed is greater than the amount specified as payable from assessments in the report of the district board, the county board or joint county board may reduce the amounts payable from other sources in proportions it may determine.

(c) Further action shall be taken as provided in chapter 103E, so far as is appropriate, except that each tract of land affected shall be assessed for the full amount of benefits, less damages, if any, as shown by the viewers' report as confirmed, unless the total amount of benefits, less damages, exceeds the total actual cost of the project to be paid from the assessments, in which case the cost shall be prorated as provided in section 103E.601.

Subd. 6. County funding share of project. (a) Upon filing of the viewers' report as provided in this section, the county board of each county affected shall provide funds to meet its proportionate share of the total cost of the improvement, as shown by the report and order of the county board or joint county board. The county may issue bonds for the purpose in the amount necessary in the manner provided in section 103E.635.

(b) The provision of section 103E.635, requiring the county board to let a contract for construction before issuing bonds does not apply to bonds issued to provide funds required to be furnished by this section.

Subd. 7. Delegation of duties to district. (a) The county board or joint county board, pursuant to agreement with the district board, may by resolution direct the district to undertake, construct, install, maintain, and operate the improvement upon mutually agreed terms. If it is necessary to acquire property by eminent domain, the county, or the counties acting jointly, shall do so and convey the property to the district pursuant to the agreement.

(b) If, pursuant to an agreement, the responsibility for an improvement is vested in a district, the county treasurers shall transmit the proceeds of assessments or bond issues, when collected, to the treasurer of the district. The district treasurer shall credit the proceeds to the proper funds under the direction of the district board.

HIST: 1990 c 391 art 3 s 27

--103C.621

103C.621 Project bonds.

The county board may pledge the proceeds of assessments on property made for the purposes of a project, any revenues derived from the project, and the proceeds of tax levies or funds from other sources to pay bonds issued for the project.

HIST: 1990 c 391 art 3 s 28

--103C.625

103C.625 Status of discontinued project.

If a project is discontinued after action on it has begun under section 103C.605, the project shall have the same status as if the action had not begun. The recommendation report of the district board on the project shall continue to be subject to amendment, a new petition for further action may be made at any time as provided in section 103C.605, and further proceedings conducted.

HIST: 1990 c 391 art 3 s 29

--103C.631

103C.631 Repair.

Subdivision 1. Definition of repair. The term "repair" used in this section means to restore a work of improvement or part of it as nearly as practicable to the same condition as when originally constructed or subsequently improved.

Subd. 2. Maintenance of projects required. After the

construction of a project is completed and accepted by the board of the county or district board having authority over the project, the county board or district board shall maintain the project or the part of the project that is in its jurisdiction and provide the repairs required to keep the project efficient.

Subd. 3. Repair authority. The county board or district board shall have the powers and duties of the drainage authority under sections 103E.701 to 103E.745, except as provided in subdivision 4.

Subd. 4. Financing repairs. If the board is a district board, the financing of repairs which require assessments and bond issues shall be the responsibility of the county board or joint county board. The county board or joint county board shall finance repairs in the same way as original construction of the project and as provided in sections 103E.701 to 103E.745, so far as appropriate.

HIST: 1990 c 391 art 3 s 30

--103C.635

103C.635 Appeals.

(a) A person aggrieved by an order of a county board or joint county board in a proceeding under sections 103C.601 to 103C.631 may appeal to the district court upon the grounds and in the manner provided by sections 103E.091 and 103E.095, for a county drainage proceeding.

(b) Notices required by sections 103E.091 and 103E.095, to be filed with the county auditor shall also be filed with the district board or joint district board.

(c) An appeal may not be taken from an order made under section 103C.611 or 103C.615 by the board, joint board of county commissioners, district board, or joint district board if the order dismisses a petition or refuses to establish a project.

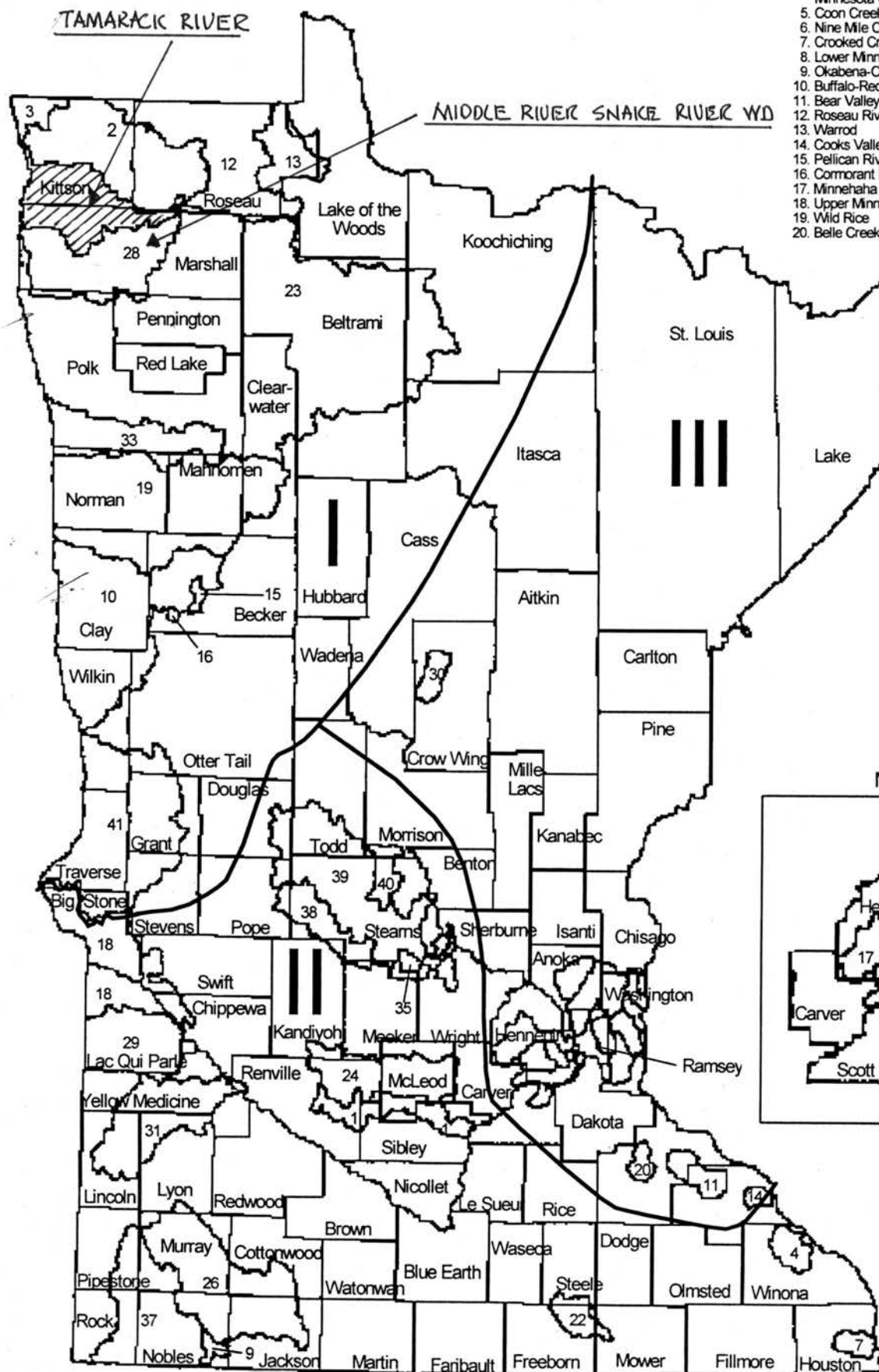
HIST: 1990 c 391 art 3 s 31

MINNESOTA ASSOCIATION OF WATERSHED DISTRICTS

(MAWD)
REGIONS

Watershed Districts in Order of Establishment

- | | |
|---|------------------------------|
| 1. High Island | 21. Valley Branch |
| 2. The Two Rivers | 22. Turtle Creek |
| 3. Joe River | 23. Red Lake |
| 4. Stockton-Rollingstone-Minnesota City | 24. Buffalo Creek |
| 5. Coon Creek | 25. Riley-Puratory Creek |
| 6. Nine Mile Creek | 26. Heron Lake |
| 7. Crooked Creek | 27. Prior Lake-Spring Creek |
| 8. Lower Minnesota River | 28. Middle River-Snake River |
| 9. Okabena-Ocheda | 29. Lac Qui Parle-Yello Bank |
| 10. Buffalo-Red River | 30. Thirty Lakes |
| 11. Bear Valley | 31. Yellow Medicine River |
| 12. Roseau River | 32. Rice Creek |
| 13. Warrod | 33. Sand Hill River |
| 14. Cooks Valley | 34. Ramsey-Washington Metro |
| 15. Pelican River | 35. Clearwater River |
| 16. Cormorant Lakes | 36. Camelian-Marine |
| 17. Minnehaha Creek | 37. Kanaranz-Little Rock |
| 18. Upper Minnesota River | 38. North Fork Crow River |
| 19. Wild Rice | 39. Sauk River |
| 20. Belle Creek | 40. South Two Rivers |
| | 41. Bois De Sioux |
| | 42. South Wahsington |



METRO INSET

