

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our file #542

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 9-25-79 Temporary Rule _____

Resubmitted and Received _____

DUE DATE 10-15-79

a. Returned to Agency w/o filing w/Secy of State _____
b. Approved 10-15-79 Date Sent Back to Agency 10/15/79

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1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable N/A
4. Order for Hearing ✓
5. Notice of Hearing ✓
   (i) Sufficiency ✓
6. Secretary of State's List ✓ Need to get
7. Certificate of Acquisition of Secretary of State's List ✓
8. Affidavit of Mailing ✓
   (i) At least 30 days prior to hearing ✓
9. Statement of Need and Evidence ✓
10. Hearing Examiner's Report ✓
11. Agency's Findings of Fact ✓
12. Certificate of Board's Resolution Adopting Rules, where applicable N/A
13. Order Adopting ✓
14. Report of Chief Hearing Examiner ✓
    (i) Finding of No Substantial Change ✓
    (ii) Permission to Incorporate by Reference, where applicable N/A
15. Certificate of Compliance with Rulemaking Procedures ✓
16. Copy of Notice of Intent to Solicit Outside Opinion, where applicable N/A
17. Petition by Public, where applicable O.K ✓.

Need to get

ADMIN 1000 (Rev. 1/78)
SF-00006-01

Our File: #542

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : A. WILLIAM CLAPP
Special Assistant
Attorney General

DATE: October 15, 1979

FROM : JOANNE E. HINDERAKER
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: Rules as Approved In the Matter of a Proposed Amendment to the Management Plan for the Mississippi Wild & Scenic River Regarding the Monticello Orderly Annexation Area in Wright County.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

Directly following the approved rules is a complete set of required documents and transcript which must be retained with the rules by you or your agency.

If you have any questions in this regard, please contact me.

JEH/bw
Enclosure

PRINTED ON RECYCLED PAPER

Department of Natural Resources

Adopted Amendment to the Management Plan
for the Mississippi Wild & Scenic River
Regarding the Monticello Orderly Annexation
Area in Wright County.

6 MCAR § 1.2420 C. 10. The portion of the land use district which is within the Orderly Annexation Area established by the Minnesota Municipal Board adjacent to the City of Monticello in 1972 legally described in the land use district as Government Lots 1, 2, 3 and 4 of Section 18 and Government Lots 1, 2 and 3 of Section 8, Township 121 N. Range 24 W. of Wright County, shall be governed by the Recreational Development Standards of 6 MCAR §§ 1.0082-1.0084 (NR 82-84). The zoning authority shall also conform to the provisions of 6 MCAR §§ 1.0078, .0079 G.-J., .0080 and .0081 (NR 78, 79 (g)-(j), 80, and 81).

APPROVED AS TO FORM AND LEGALITY
OCT 15 1979
_____ 19____
WARREN SPANNAUS, ATTORNEY GENERAL
BY Joanne Hinderaker
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 15 1979
Joan Anderson Growe
Secretary of State
3:12 PM

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of a Proposed Amendment to the Management Plan for the Mississippi Wild & Scenic River Regarding the Monticello Orderly Annexation Area in Wright County.

ORDER FOR HEARING

This agency has been petitioned, pursuant to Minnesota Statutes Section 15.0415, to amend its plan for management of the Mississippi wild & scenic river in Wright County. The petition is attached. The request appears reasonable.

NOW THEREFORE IT IS ORDERED that a hearing on the proposed amendment will be held in Buffalo, Minnesota, on June 22, 1979, beginning at 7:00 p.m., in the Wright County Courthouse, Meeting Room A.

A notice of the hearing shall be mailed to all those registered with the Secretary of State for that purpose, and published in the State Register.

Dated: April 19, 1979.

JOSEPH N. ALEXANDER
Commissioner
Department of Natural Resources

Department of Natural Resources

In the Matter of a Proposed
Amendment to the Management
Plan for the Mississippi Wild
& Scenic River Regarding the
Monticello Orderly Annexation
Area in Wright County.

Notice of Hearing

Notice is hereby given, that a public hearing will be held on the above entitled matter, in the manner provided by the rule-making provisions of Minnesota Statutes, Chapter 15, at the Wright County Courthouse, Meeting Room A, in Buffalo, Minnesota, on June 22, 1979 at 7:00 p.m.

The hearing shall continue until all representatives of associations and other interested or affected persons or groups have had an opportunity to be heard concerning the above-mentioned matter by submitting oral or written data, statements or arguments.

The hearing examiner will be Howard Kaibel from the State Department of Administration, Office of Hearing Examiners, Room 300, 1745 University Ave., St. Paul, Minnesota 55104, (612) 296-6910.

Twenty-five days prior to the hearing a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the

need for and the reasonableness of the proposed amendment. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

After public hearing, written material may be submitted and recorded in the hearing record for five working days, or for a longer period not to exceed 20 calendar days if so ordered by the hearing examiner.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

The proposed amendment will change the state's minimum zoning standards for that part of Monticello's orderly annexation area which is within the Recreational River Land Use District, from those which apply to rural areas under 6 MCAR § 1.0079, to those which apply to city shorelands classified Recreational Development under 6 MCAR § 1.0082-.0084. The amendment is proposed in favorable response to petition filed with the agency pursuant to Minn. Stat. § 15.0415. The petition was filed by John Sandberg, Gregory V. Smith, and Gary L. Pringle, owners of a proposed subdivision in the affected area.

The proposed rule amendment has been prepared in accordance with Minnesota Statutes § 15.0415, M.S. § 104.31-.40, the Statewide

Rules and Regulations relating to Wild, Scenic and Recreational Rivers System (Minnesota Regulations NR 78-82), and the Mississippi River Management Plan (Minnesota Regulations NR 2400).

Copies of the proposed rule amendment are available for inspection at the public library in Buffalo and with the County. Interested individuals may receive a copy of the plan and the Statement of Need and Reasonableness by writing or calling the Department of Natural Resources, Division of Waters, Land Use Section, Box 32, 3rd floor Space Center, 444 Lafayette Road, St. Paul, MN 55101 (612-296-0445). Copies of the rule amendment will also be available at the public hearings.

Under Minn. Stat. § 10A.01, subd. 11 (1976), a lobbyist must register with the State Ethical Practices Board within five (5) days after he commences lobbying. According to the statute, "lobbyist" means any individual engaged for pay or other consideration or authorized by another individual or association to spend money who spends more than five hours of any month or more than $250, not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or who spends more than $250, not including travel expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. "Lobbyist" does not include any: (a) public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action; (c) individual in the course of selling goods or services to be paid for by public funds; (d) news media or their employees or agents acting in the ordinary course of business of publishing or broadcasting news items, editorials or other comments or paid advertisements which directly or indirectly urge official action; (e) paid expert witness whose testimony is requested either by the body before which he is appearing or one of the parties to a proceeding, but only to the extent of preparing or delivering testimony; or (f) stockholder of a family farm corporation as defined in § 500.24, subd. 1, who does not spend over $250, excluding travel expenses, in any year in communicating with public officials.

Questions regarding lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55155; telephone (612) 296-1702.

Proposed Amendment

Add to 6 MCAR § 1.2420C.

10. The portion of the land use district which is within the Orderly Annexation Area established by the Minnesota Municipal Board adjacent to the City of Monticello in 1975 shall be governed by the Recreational Development standards of NR 82-84 (6MCAR § 1.0078, .0079 G.-J., :0080 and .0081). The zoning authority shall also conform to the provisions of NR 78,79 (g)-(j), 80, and 81 (6 MCAR § 1.0078,.0079 G.-J., :0080 and .0081).

STATE OF MINNESOTA DEPARTMENT OF NATURAL RESOURCES

John Sandberg, Gregory V. Smith,
and Gary L. Pringle,

Petitioners,

and PETITION

Commissioner of Natural Resources,

Respondent.

We, John Sandberg, Gregory V. Smith, and Gary L. Pringle, the Petitioners respectfully petition the Commissioner of Natural Resources as follows:

WHEREAS, we own property in Wright County, Minnesota, in an orderly annexation area, in the Township of Monticello, described as follows, to-wit:

The Southeast Quarter of the Northeast Quarter and part of Government Lots 1 and 2, Section Eighteen (18), Township One hundred twenty-one (121) North, Range Twenty-four (24) West and,

WHEREAS, we propose to subdivide a 37 acre tract of land within the Wild & Scenic River District into approximately 27 lots, one of which meets the minimum requirements; 26 of which do not (roughly one acre in size and 170 feet in width), and

WHEREAS, the City of Monticello and the Monticello Township and the Orderly Annexation Area Board approved the plat subject to certification by the Department of Natural Resources, and

WHEREAS, the Department of Natural Resources, Division of Waters, Brainerd, Minnesota, did not approve the said action taken by the communities because it was found to be in violation of the policy and requirements of the Wild & Scenic Rivers Act (Minnesota Statutes, Sections 104.31 - 104.40), Minnesota Regulations NR 78-81 and/or the Management Plan for the applicable river, and

WHEREAS, Dale Homuth, Wild & Scenic Rivers Hydrologist, has indicated that he feels that the Department of Natural Resources could support our petition since a similar provision was used in an area that was proposed for annexation by the City of Elk River (Minnesota Regulations NR 2420C.8), and

WHEREAS, Dale Homuth and Bill Clapp, Special Assistant Attorney General, both indicated that if the Department of Natural Resources had been aware of the existence of the Orderly Annexation Area at the time the Management Plan Regulations were being heard, the regulations applied to the area would be the same as for Monticello;

WHEREFORE, we petition that a new provision be added to the Management Plan which could read as follows: "Minnesota Regulations NR 2420C.10. The portion of the Land Use District which is within the Orderly Annexation Area established by the Minnesota Municipal Board adjacent to the City of Monticello in 1975, shall be subject to the same regulations as those required for the City of Monticello."

John Sandberg

Gregory V. Smith

Gary L. Pringle

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John Sandberg

Gregory V. Smith

Gary L. Pringle

Department of Natural Resources

Proposed Amendment to the Management Plan for the Mississippi Wild & Scenic River Regarding the Monticello Orderly Annexation Area in Wright County

Notice of Hearing

Notice is hereby given that a public hearing will be held on the above entitled matter, in the manner provided by the rulemaking provisions of Minn. Stat. ch. 15, at the Wright County Courthouse, Meeting Room A, in Buffalo, Minnesota, on June 22, 1979 at 7:00 p.m.

The hearing shall continue until all representatives of associations and other interested or affected persons or groups have had an opportunity to be heard concerning the above-mentioned matter by submitting oral or written data, statements or arguments.

The hearing examiner will be Howard Kaibel from the State Department of Administration, Office of Hearing Examiners, Room 300, 1745 University Ave., St. Paul, Minnesota 55104, (612) 296-6910.

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The proposed amendment will change the state's minimum zoning standards for that part of Monticello's orderly annexation area which is within the Recreational River Land Use District, from those which apply to rural areas under 6 MCAR § 1.0079, to those which apply to city shorelands classified Recreational Development under 6 MCAR §§ 1.0082-1.0084. The amendment is proposed in favorable response to petition filed with the agency pursuant to Minn. Stat. § 15.0415. The petition was filed by John Sandberg, Gregory V. Smith, and Gary L. Pringle, owners of a proposed subdivision in the affected area.

The proposed rule amendment has been prepared in accordance with Minn. Stat. §§ 15.0415 and 104.31-.40, the Statewide Rules and Regulations relating to Wild, Scenic and Recreational Rivers System (Minnesota Regulations NR 78-82), and the Mississippi River Management Plan (Minnesota Regulations NR 2400).

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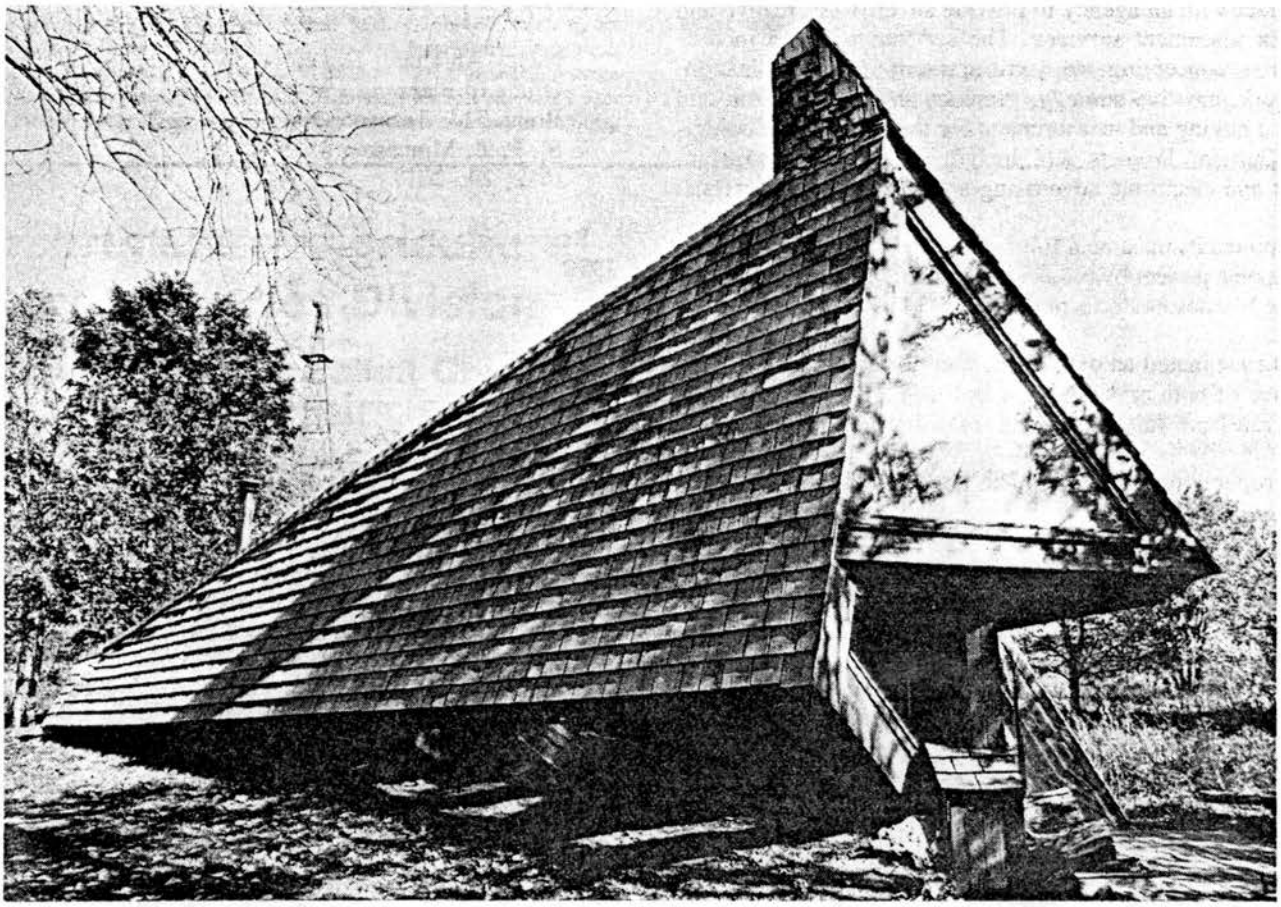
funds; (d) news media or their employees or agents acting in the ordinary course of business or publishing or broadcasting news items, editorials or other comments or paid advertisements which directly or indirectly urge official action; (e) paid expert witness whose testimony is requested either by the body before which he is appearing or one of the parties to a proceeding, but only to the extent of preparing or delivering testimony; or (f) stockholder of a family farm corporation as defined in § 500.24, subd. 1, who does not spend over $250, excluding travel expenses, in any year in communicating with public officials.

Questions regarding lobbying should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, St. Paul, Minnesota 55155; telephone (612) 296-1702.

Amendment as Proposed

6 MCAR § 1.2420 C. 10. The portion of the land use district which is within the Orderly Annexation Area established by the Minnesota Municipal Board adjacent to the City of Monticello in 1975 shall be governed by the Recreational Development standards of 6 MCAR § 1.0078, 1.0078 G.-J., 1.0080 and 1.0081 (NR 82-84). The zoning authority shall also conform to the provisions of 6 MCAR § 1.0078, .0079 G.-J., :0080 and .0081 (NR 78, 79 (g)-(j), 80, and 81).



The internationally recognized Ouroboros South Project in Rosemount is one of the earliest full-scale, working, experimental dwellings combining energy-conserving architectural design with alternative technologies. Tours are offered to the public. For reservations or information, contact the center at 320 Wesbrook Hall, 77 Pleasant Street S.E., Minneapolis, MN 55455, (612) 373-5170. (Photograph courtesy of Ouroboros South Project)

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material."

Differences between the rules as proposed at the hearing and as being adopted.

Adopted Amendment to the Management Plan for the Mississippi Wild & Scenic River Regarding the Monticello Orderly Annexation Area in Wright County.

Proposed Amendment

Add to 6 MCAR § 1.2420C.

10. The portion of the land use district which is within the Orderly Annexation Area established by the Minnesota Municipal Board adjacent to the City of Monticello in ~~1975~~ 1972 legally described in the land use district as Government Lots 1, 2, 3 and 4 of Section 18 and Government Lots 1, 2 and 3 of Section 8, Township 121 N. Range 24 W. of Wright County, shall be governed by the Recreational Development Standards of ~~NR-82-84--(MCAR-§-1.0078,-.0079-G.-J.,-.0080-and-.0081).~~ 6MCAR §§ 1.0082-1.0084 (NR 82-84). The zoning authority shall also conform to the provisions of ~~NR-78,-79-(g)--(j),-80,-and-81-(6-MCAR-§-1.0078,-.0079-G.-J.,-.0080-and-.0081).~~ 6 MCAR §§ 1.0078, .0079 G.-J., .0080 and .0081 (NR 78, 79 (g)-(j), 80, and 81).

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of a Proposed Amendment to the Management Plan for the Mississippi Wild & Scenic River Regarding the Monticello Orderly Annexation Area in Wright County.

CERTIFICATION

I hereby certify that the attached 589 labels and 2 sheets(s) constitute the complete list of persons, associations, and other interested groups who as of 10:10 O'clock A.M. the 19 day of April 1979 have requested pursuant to Minnesota Statutes 1974, Section 15.0412, Subd. 4, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearings on proposed rules on the subjects captioned above.

Joan Anderson Growe

SECRETARY OF STATE
JOAN ANDERSON GROWE

BY: Lewis M. Carter

AFFIDAVIT

Patricia L. Olson, being duly sworn on oath, deposes and says:

1) That she is an employee of the Department of Natural Resources Division of the State of Minnesota.

2) That on the 19th day of April, 1979, she went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minnesota Statutes 15.0412.

3) That on the 19th day of April, 1979, in response to the above request, the Secretary of State provided her with such a list, a copy of the certificate which is attached hereto and incorporated by reference.

Further affidavit sayeth not.

Patricia L. Olson

Subscribed and sworn to before me, this 8th day of May, 1979.

Jerry J. Bachman
Notary Public

Ramsey County, Minnesota
My commission expires _____.

JERRY J. BACHMAN
Notary Public, Hennepin Co., Minn.
My Commission Expires
May 20, 1983

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of a Proposed Amendment to the Management Plan for the Mississippi Wild & Scenic River Regarding the Monticello Orderly Annexation Area in Wright County.

AFFIDAVIT OF MAILING

- -

Patricia J. Olson, being first duly sworn, deposes and says:

That on the 8th day of May, 1979, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, and with postage prepaid, to all persons and associations at the addresses on the Secretary of State's mailing list as referenced on the attached Certificate of the Secretary of State and Affidavit.

Patricia J. Olson

Subscribed and sworn to before me this 8th day of May 1979.

Jerry J. Bachman

Notary Public

Ramsey County, Minnesota

My Commission expires _____

JERRY J. BACHMAN
Notary Public, Hennepin Co., Minn.
My Commission Expires
May 20, 1983

STATE OF MINNESOTA
COUNTY OF RAMSEY

Department of Natural Resources

In the Matter of a Proposed Amendment to the Management Plan for the Mississippi Wild & Scenic River Regarding the Monticello Orderly Annexation Area in Wright County.

STATEMENT OF NEED

- -

The above captioned rule is an amendment to the existing rules of the Mississippi River Management Plan, Minnesota Regulations NR 2400.

The need for the Department of Natural Resources to proceed with this rule amendment process arises pursuant to the submission of a petition as per Minnesota Statutes § 15.0415. The attached petition sets forth reasons for the proposed rule amendment.

In accordance with Minnesota Statutes § 104.35, Subdivision 1, a management plan may have special provisions "...which may differ from any such state-wide regulation to the extent necessary to take account of the particular attributes of the area." The fact that the municipality of Elk River would be annexing an area within the scenic and recreational river land use district shortly after designation was brought out before and during the public hearing. Therefore, a special stipulation in the management plan was made for that area. This special provision (NR 2420C) permitted the City of Elk River to adopt less restrictive minimum zoning standards for the area after annexation.

The Monticello Orderly Annexation Area had legal status as per Minnesota Statutes § 414.0325 in 1973. The Mississippi River was officially designated under Minnesota Statutes § 104.35 in October, 1976. Although the orderly annexation area was in existence before the river was designated, the issue was never addressed during the public hearing, hence, DNR staff were not aware of the stipulation. However, based on the Elk River annexation provision, the purpose of the regulations and the purpose and intent of Minnesota Statutes § 104.35, Subdivision 1, it would be reasonable to apply similar regulations to any other area that was proposed for

annexation before wild & scenic river designation. Otherwise, the Mississippi River rule (NR 2400) would be inconsistent in application.

Furthermore, in accordance with Minnesota Statutes § 104.35, Subdivision 1, a management plan must be prepared "...with no unreasonable restrictions upon compatible, pre-existing, economic uses of particular tracts of land..." To require an established area of orderly annexation, which is to have public sewer and water, to comply with the larger lot sizes and widths of recreational standards of NR 79, rather that the recreational development standards of NR 82-84 would be to impose unreasonable restrictions. This was the rationale behind allowing reduced standards for the Elk River annexation area. This same rationale should apply to the Monticello Orderly Annexation Area.

For this specific area in question, the environmental impact of changing the minimum standards from Recreational Classification of NR 79 (2.0 acre lots with 200 foot lot widths) to Recreational Development standards of NR 83(40,000 square foot lots with 150 foot width for riparian lots and 20,000 square foot lots with 75 foot width for non-riparian lots) would be minimal. Physical and visual impact is minimal, and all developable land within the Monticello Orderly Annexation Area, except the Type East Plat and another 40.0 acres, is already developed into 1-acre lots. Hence, the Recreational Development standards would be consistent with development in the area.

Treatise to be used: "Mississippi River Wild, Scenic & Recreational Rivers Public Hearing Document" Docket No. NR 76-001-SF. Exhibit No. 22 - Gordon Fredericksen, Elk River, Minnesota, statement received after final public hearing held in Anoka, through 4-16-76.

Outside Expert Witness Appearance:

WAYNE M. SAMES, on behalf of the Department of Natural Resources. Brief summary of opinion to be elicited:

During the Mississippi River information meetings and the public hearings, said Mr. Gordon Frederickson testified on behalf of Elk River annexation proceedings. After studying the situation and potential impact of lowering the standards for the regulations governing that area, it was recommended that the area of Elk River Township, be subject to Minnesota Regulations NR 82-84 (municipal shoreland areas, general development) after annexation.

The DNR knew about the Monticello Orderly Annexation Area, however, no one from that area or Monticello expressed any concern in regards to the more restrictive regulations which Wild & Scenic River designations would impose. Therefore, a similar stipulation for this area was not addressed in the regulation. The hearing examiner, Samuel B. Fried, did not feel it was necessary to address the problem either.

Appearances of representives of the Department of Natural Resources:

WILLIAM A. CLAPP, Special Assistant Attorney General
PATRICIA L. OLSON, Coordinator, Land Use on Wild, Scenic & Recreational Rivers
DALE HOMUTH, Wild & Scenic River Land Use Hydrologist, Region III

Agency Witness represting the Department of Natural Resources:

PATRICIA L. OLSON

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF NATURAL RESOURCES

In the Matter of a Proposed Amendment to the Management Plan for the Mississippi Wild and Scenic River Regarding the Monticello Orderly Annexation Area in Wright County.

REPORT OF HEARING EXAMINER

The above-entitled matter came duly on for hearing before Howard L. Kaibel, Jr., Hearing Examiner, on the 22nd day of June, 1979, at the Wright County Courthouse, Meeting Room A, Buffalo, Minnesota, at 7:00 p.m.

All interested persons, representatives of individuals or associations, and other interested groups present at the hearing had an opportunity to present evidence, make statements and question Department of Natural Resources (hereinafter "Department") witnesses.

Augustus W. Clapp, III, Special Assistant Attorney General, appeared for and on behalf of the Department. Patricia L. Olson, Coordinator of Land Use for Wild, Scenic and Recreational Rivers, presented the amendment and answered questions.

No transcript of the proceedings has been ordered or prepared and this Report is based on the notes of the Hearing Examiner. Seven members of the public attended the hearing.

Pursuant to Minn. Stat. Sec. 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days.

Thereafter, the Department shall, if it proposes to adopt the amendment as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the amendment as originally proposed, and a copy of the amendment as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. Sec. 15.052, subd. 4. The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Department on the issues of substantial changes in the amendment and compliance with Minn. Stat. Sec. 15.0412 within ten calendar days. The Department will be responsible for filing the amendment with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

1. On April 2, 1979, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed amendment.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On April 23, 1979, a Notice of Hearing and a copy of the proposed amendment was published at 3 State Register 1946.

3. On May 8, 1979, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On May 24, 1979, the Department filed the following documents:

(a) The Order for Hearing and authorizing resolution.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list.
(e) The Secretary of State's Certificate and list.
(f) The Statement of Need and Reasonableness.
(g) The names of Department personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through June 29, 1979, for the receipt of written comments and statements.

6. The statutory authority for the promulgation of this rules amendment by the Department is contained in Minn. Stat. Sec. 104.35.

7. A detailed discussion of the need for and reasonableness of the proposed amendment is unnecessary on this record. Such an analysis is contained in the Statement of Need and Reasonableness submitted by the Department. Repetition is omitted in the interests of brevity. The amendment would allow local zoning authorities to apply less restrictive municipal zoning restrictions for the development of certain property lying outside of the corporate boundaries of the City of Monticello, because that property has been legally designated for eventual inclusion in the corporate boundaries if development occurs. The Chairman of the Rivers Task Force of the Northstar Chapter of the Sierra Club submitted written comments supporting the amendment and urging its adoption. No one appeared or submitted written comments in opposition to the amendment. It is specifically found that the Department has documented by an affirmative presentation of facts both the need for and the reasonableness of the proposed amendment. It is statutorily authorized.

CONCLUSIONS

1. The Department duly acquired and now has jurisdiction over the within proceeding.

2. All relevant, legal and procedural requirements of statute and rule have been complied with.

3. The Department has documented its statutory authority to adopt the proposed amendment.

4. The Department has demonstrated the need for and reasonableness of its proposed amendment as hereinafter recommended for adoption with an affirmative presentation of facts.

RECOMMENDATION

IT IS HEREBY RECOMMENDED: That the proposed amendment to the rules of the Department of Natural Resources be promulgated, approved and adopted.

Dated: July 2, 1979.

HOWARD L. KAIBEL, JR.
State Hearing Examiner

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Proposed Amendment to the Mississippi River Management Plan Regarding the Monticello Orderly Annexation Area, Wright County

FINDINGS AND CONCLUSIONS OF THE COMMIESIONER

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I have read the report of the hearing examiner. I concur with his findings and conclusion. The proposed amendment has been determined by the hearing examiner to be legal and reasonable. I adopt the Findings of Fact and Conclusions as mine, and incorporate them by reference in this document.

ADDITIONAL FINDINGS OF FACT AND CONCLUSIONS

The following findings and conclusions are made to supplement the hearing examiner's Report in order to elaborate on a specific item contained within the files, records and proceedings of the public hearings.

The legal description of the Monticello Orderly Annexation Area within the Mississippi River land use district is included in the rule amendment. This is being done to facilitate administration of the area.

The date of the establishment of the Monticello Orderly Annexation Area by the Minnesota Municipal Board is changed from 1975 to 1972 according to the files of public hearing.

Dated: August 27, 1979.

JOSEPH N. ALEXANDER, Commissioner
Department of Natural Resources

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Proposed Amendment to the Mississippi River Management Plan Regarding the Monticello Orderly Annexation Area, Wright County.

ORDER ADOPTING RULE AMENDMENT

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Based on my Findings and Conclusions in this matter, I amend the Management Plan for the Mississippi wild and scenic river by adding the following paragraph to it:

> 6 MCAR § 1.2420 C. 10. The portion of the land use district which is within the Orderly Annexation Area established by the Minnesota Municipal Board adjacent to the City of Monticello in 1972 legally described in the land use district as Government Lots 1, 2, 3 and 4 of Section 18 and Government Lots 1, 2 and 3 of Section 8, Township 121 N. Range 24 W. of Wright County, shall be governed by the Recreational Development Standards of 6 MCAR §§ 1.0082 - 1.0084 (NR 82-84). The zoning authority shall also conform to the provisions of 6 MCAR §§ 1.0078, .0079 G.-J., .0080 and .0081 (NR 78,79 (g)-(j), 80, and 81).

Dated: August 27, 1979

JOSEPH N. ALEXANDER
Commissioner
Department of Natural Resources

DNR-79-018-HK

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF NATURAL RESOURCES

IN THE MATTER OF A PROPOSED AMENDMENT TO THE MANAGEMENT PLAN FOR THE MISSISSIPPI WILD AND SCENIC RIVER REGARDING THE MONTICELLO ORDERLY ANNEXATION AREA IN WRIGHT COUNTY.	REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on June 22, 1979, before Howard L. Kaibel, Jr., a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the Department of Natural Resources on July 2, 1979; and

WHEREAS, the Department of Natural Resources has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Department of Natural Resources has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4, and 9 MCAR § 2.110; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Department of Natural Resources has met all requirements of Minn. Stat. § 15.0412, subd. 4.

NOW, THEREFORE, upon receipt of this Report, the Department of Natural Resources has the responsiblity of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General, notifying all persons who requested to be informed that the hearing record has been submitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4.

Dated this 17th day
of September, 1979.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of a Proposed Amendment to the Management Plan for the Mississippi Wild & Scenic River Regarding the Monticello Orderly Annexation Area in Wright County.

CERTIFICATE OF COMPLIANCE

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I am familiar with the subject rules, the proceedings leading to their adoption, and the hearing record. I certify that they conform to statutes and rules regarding rule-making.

Dated: September 25, 1979.

A. W. Clapp III

A. W. CLAPP, III
Special Assistant
Attorney General