

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JOSEPH N. ALEXANDER
Commissioner
Department of Natural Resources

DATE: January 16, 1980

Attn: A. W. CLAPP, III

FROM : JOANNE E. HINDERAKER
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: Rules as Approved In the Matter of the Inclusion in the Minnesota Wild, Scenic and Recreational Rivers System of the Cannon River From Faribault to the Mississippi River, and the Adoption of a Management Plan for the Cannon River.

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
cc: Duane Harves
Susan Robertson

Our File: 363

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ATTORNEY GENERAL

TO : JOSEPH N. ALEXANDER
Commissioner
Department of Natural Resources

DATE: December 21, 1979

Attn: A. W. Clapp, III

FROM : JOANNE E. HINDERAKER
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Inclusion in the Minnesota Wild, Scenic and Recreational Rivers System of the Cannon River From Faribault to the Mississippi River, and the Adoption of a Management Plan for the Cannon River

The rules in the above-captioned matter have not been approved for the following reasons:

1. 6 MCAR § 1.2920 A. 6. c. contains a reference to "designated tributaries." It appears, however, that the "designated tributaries" provision of § 1.2920 A. 5. was not adopted by the Department. Therefore the reference in § 1.2920 A. 6. c. should also be deleted so that the provisions of the rules are consistent.

2. Furthermore, while it is not a fatal defect, because § 1.2920 A. 5. was deleted from the rules as adopted the rules subsequent to that rule should be renumbered accordingly.

3. 6 MCAR § 1.2920 C. 2. c. contains a reference to the "site typicals in these rules." However the typical site attachments contained in 3 S. R. 2179-2181 with the proposed rules are not attached to the rules as adopted. It appears that such diagrams should be attached so as to become a part of the rules.

4. The proposed rules at 3 S. R. 2182 also include a diagram labeled "Typical Signs." It is not clear to this office how this diagram relates to these rules. The diagram is not attached to the rules as adopted. In 6 MCAR § 1.2920 C. 3. c. there is a reference to "orientation signs." Did the Department intend to attach the "Typical Signs" diagram to the adopted rules? If so this matter should be clarified.

The Chief Hearing Examiner requests the resubmission of any rules that are changed subsequent to his review. Therefore, this office suggests that you contact the Chief Hearing Examiner regarding any changes made in the rules.

These rules and any changes made thereto may be resubmitted to this office with three (3) copies of the rules as amended. Copies of the other pertinent documents in the file have been retained by this office. The remainder of the file is returned to you herewith. Please contact me if you have any questions regarding these rules.

JEH/bw
cc: Duane Harves
Susan Robertson

Our File 563

Joanne

12/6 ph. Bill Clapp re missing Cert. Acquisition
12/7 "

Permanent Rule X

Temporary Rule _____

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 12/4/79 DUE DATE 12/24/79 - 1-17-80
- Joannie 12/10

Resubmitted and Received 1-7-80

a. Returned to Agency w/o Filing w/Secretary of State 12/21
b. Approved _____ Date Sent Back to Agency _____

- -

1. Rules as Adopted ✓
Semi-final Rule ✓
2. Rules as Proposed ✓
Semi-

3. Certificate of Board's Authorizing Resolution, where applicable N/A

4. Order for Hearing ✓

5. Notice of Hearing ✓
Sufficiency ✓

6. Secretary of State's List ✓ (one copy only)

7. Certificate of Acquisition of Secretary of State's List See Memo

8. Secretary of State's Certification of Delivery of Secretary of State's List to Agency ✓

9. Affidavit of Mailing ✓
At least 30 days prior to hearing ✓

10. Publication in State Register ✓
At least 30 days prior to hearing _____

11. Statement of Need and Evidence ✓

12. Hearing Examiner's Report ✓

13. Agency's Findings of Fact ✓

14. Certificate of Board's Resolution Adopting Rules, where applicable N/A

15. Order Adopting 11/16/79 ✓
Supplementary Order 11/29/79 ✓ complies with Chief H.E. order

16. Report of Chief Hearing Examiner ✓

17. Order Approving Incorporation by Reference, where applicable N/A

18. Certificate of Compliance with Rulemaking Procedures ✓

19. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓

20. Petition by Public, where applicable N/A

21. Affidavit Mailing, Mgt Plan (see MS 104.35 subd. 2) ✓

22. Order of Chief Hearing Examiner, extension for H.E. report ✓

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

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT Attorney General
Natural Resources

TO : JOANNE HINDERACKER
Special Assistant Attorney General
Administration

DATE: 1-7-80

FROM : BILL CLAPP Bill
Special Assistant Attorney General

PHONE:

SUBJECT: Cannon River Rules

Attached are 5 copies of the corrected - per your letter - rule. I telephoned Duane Harves this morning, who said he had a copy of your letter describing the required modifications, and that another review for substantial change was unnecessary.

dm
enc.

RECEIVED
JAN 7 1980
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Adopted

Department of Natural Resources

Office of Planning

Adopted Rules Governing the Cannon River as Part of the State Wild, Scenic and Recreational Rivers System.

The rules proposed and published at State Register, Volume 3, Number 49, pp. 2169-2182, June 11, 1979 (3 S.R. 2169) are adopted with the following amendments:

Rules as Adopted

Chapter Twenty-Nine: ~~NR-2900~~ 6 MCAR S. 1.2900 Designation, Classification and Management of the Cannon River in Rice, Dakota and Goodhue Counties.

~~NR-2900~~ 6 MCAR S. 1.2900 Designation.

A. The river.

That portion of the Cannon River from the northern city limits of Faribault (the common border of the SE¼ and the NE¼ of Section 19, T110N-R20W) to its confluence with the Mississippi River is hereby designated a component of the Minnesota wild, scenic and recreational rivers system.

B. Authority.

This designation is made by the commissioner of natural resources pursuant to the authority of the Minnesota wild and scenic rivers act (Minn. Stat. 104.31 to 104.40).

C. Shoreland included.

The designation and these rules apply to the river and the adjacent lands as provided for in the land use district descriptions. The land use district boundaries were drawn in accordance with Minnesota Regulations NR 78 (g) (2) (bb).

D. Definition.

The definition of "normal high-water mark" (NR 78 (d)) shall be changed to read:

"Ordinary high-water mark" means a mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. In areas where the ordinary high-water mark is not evident, setbacks shall be measured from the top of the bank of the river channel. A channel is a natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.

E. Severability.

The provisions of these ~~regulations~~ rules shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision or any other part.

~~NR-2910~~ 6 MCAR S. 1.2910 Classification.

The following classifications are made in accordance with the provisions of Minnesota Regulations NR 78 (f).

Recreational:

That portion of the Cannon River and its adjacent lands from the northern city limits of Faribault (the common border of the north and south halves of Sections 19 and 20, T110N-R20W) to the State Hwy. 56 bridge, and from the Lake Byllesby Dam (the common border of Sections 13 and 14, T112N-R18W) to the common border of Sections 7 and 8, T112N-R17W, in Cannon Falls. (The Lake Byllesby Reservoir is excluded from this segment.)

Scenic:

That portion of the Cannon River and adjacent lands from the common border of Sections 7 and 8, T112N-R17W, in Cannon Falls to the river's confluence with the Mississippi River.

~~NR-2920~~ 6 MCAR S. 1.2920 Management.

A. Land use provisions.

1. The commissioner of natural resources hereby adopts the Scenic and Recreational land use districts as identified in the land use district descriptions of these rules ~~and regulations~~. The land use districts were derived in accordance with Minnesota Regulations NR 78 (g) (2) (bb).

2. Minnesota Regulations NR 78-81 shall apply to all lands within the Scenic and Recreational land use districts, except as specified in these ~~regulations.~~ rules.

3. Because some areas along the Cannon River have been considerably developed, and because the wild and scenic rivers act states that management plans shall be prepared "with no unreasonable restrictions upon compatible, pre-existing, economic uses of particular tracts of land. . ." (Minn. Stat 104.35), the municipalities of Cannon Falls, Dundas and Northfield shall adopt ~~regulations~~ rules as specified in ~~NR-2920-D.~~ 6 MCAR S. 1.2920 D.

4. ~~If land is annexed,~~ When land in the land use district is annexed, incorporated or in any other way transferred to another jurisdiction, a moratorium shall exist on all subdivision platting, building permits, construction, grading and filling, and vegetative cutting until the newly responsible unit of government adopts zoning for that land. The zoning shall meet the provisions of these rules ~~and regulations~~ that applied to the land before the transfer. This provision does not apply to work for which lawful permits were previously issued.

~~5. Minnesota Regulations NR 79 (c) (3) (bb) (iii), NR 79 (d) (2) and NR 79 (g) (1) specify regulations concerning designated tributaries. These regulations apply only to lands within the land use district. Designated tributaries along the Cannon River shall be:~~

~~a. Belle Creek~~
~~b. Chub Creek~~
~~c. Heath Creek~~
~~d. Little Cannon River~~
~~e. North Cannon River~~
~~f. Pine Creek~~
~~g. Spring Brook~~
~~h. Trout Brook~~
~~i. Wolf Creek~~

6. Because the Cannon River valley is a major source of sand and gravel in the area and because this resource can be extracted in a manner that will have minor environmental impact, sand and gravel extraction shall be allowed as a conditional use, subject to the following conditions:

a. Commercial manufacturing of sand and gravel by-products shall be nonpermitted uses in the land use district.

b. The following shall be submitted to the local authority as part of the application for a conditional use permit:

1. A detailed site plan.

(2) A soil erosion and sediment control plan showing that the mining operation will not adversely affect the quality of surface or subsurface waters.

(3) A dust and noise control plan.

(4) A detailed site reclamation plan. Reclamation shall be initiated immediately after the termination of the mining operation and upon completion the area shall be restored to as near its original state as practicable.

c. Mining operations shall not take place within 300 feet of the river and designated tributaries. This distance does not apply to water pumps needed for the mining operation. However, appropriation of water from the river shall require a permit from the DNR, Division of Waters.

d. No sand and gravel operation shall be conducted on parcels of land or a combination of parcels of less than 20 acres.

7. To reduce the effects of litter along the river, canoe and inner tube rental establishments shall:

a. Provide disposable refuse containers to those renting canoes and inner tubes.

b. Require the return of refuse containers along with all refuse from the river trip.

8. Existing development in the ~~village~~ unincorporated area of Welch in E½, W½, NE¼ of Section 28, T113N-R16W, north of the river, shall be allowed to continue as now identified by the Goodhue County zoning ordinance, as amended in 1976.

9. Because agricultural uses are permitted in the land use district and because of the pre-existence of agricultural buildings along the Cannon River, Minnesota Regulations NR 79 (c) (3) (dd) shall be amended to read:

Structure height shall not exceed 35 feet, except for buildings used primarily for agricultural purposes.

10. Minnesota Regulations NR 79 (c) (3) (cc) (i) shall be modified to read:

Structures shall be allowed on slopes of greater than 13 percent or on blufflines if structures can meet the following criteria:

a. Sewage system facilities must be installed so as to comply with the Sanitary Provisions (d) of NR 79.

b. Structures must be adequately screened.

c. It must be proven that any potential or actual erosion or sedimentation problems do not exist, and that adequate measures shall be taken to prevent them.

d. Where bearing capacity is in doubt soil boring samples must be taken.

e. Consideration must be given to color and architectural design (including roof slope and orientation), subject to ~~scrutiny~~ approval of the township and county planning commission.

11. NR 79 (b) (2) shall be amended to include the following:

	Land use districts	
	Scenic River	Recreational River
(tt) Sand and gravel extraction, subject to provisions of ~~NR-2920-A.-6.~~ 6 MCAR S. 1.2920 A. 6.	C	C
(uu) Canoe rental establishments, subject to provisions of ~~NR-2920-A.-7.~~ 6 MCAR S. 1.2920 A. 7.	C	C
(vv) Inner tube rental establishments	N	N

12. NR 79 (i) (Utility Companies, Standards and Criteria for Utility Crossings) shall be amended to include:

3. Accessory facilities to power plants (intake and outflow structures), ~~not within the jurisdiction of the local authority,~~ when located in the land use district shall be screened to the maximum extent possible to minimize the visual intrusion on the landscape.

B. Land acquisition.

1. Fee title acquisition from willing sellers is recommended in those areas where recreational sites are needed, as identified in ~~NR 2920 G. 2.~~ 6 MCAR S. 1.2920 C. 2.

2. Scenic easement acquisition from willing sellers is recommended in those areas having outstanding scenic, natural or similar values and in areas with high development potential.

~~3. Because acquisition of lands or interests in land is from willing sellers at market value, some lands recommended for scenic easement acquisition may be purchased in fee title. Additional land or interests in land other than those recommended may be purchased within the land use district to further the policies established in Minn. Stat. 104.32, and the management plan.~~

3. ~~4.~~ Other forms of acquisition, such as use easements, ~~or~~ leases, land exchange, or gifts may be substituted for the recommended acquisition ~~or used to acquire interests in other lands within the land use district~~ when such purchases further the policies of these rules ~~and regulations~~ and Minn. Stat. 104.32.

4. ~~5.~~ The DNR shall consider leasing rest areas for an initial five-year period, with the option for longer leasing or purchase after that period.

5. ~~6.~~ Land or interests in land ~~recommended to be acquired in these rules and regulations~~ will be acquired from willing sellers, ~~when funds are available for such purposes,~~ as provided for in Minn. Stat. 104.37.

~~7. Whenever feasible, land will be exchanged in a manner prescribed by state law to acquire land in the land use district. Land will not be exchanged, however, if such exchanges would adversely affect this or other DNR management programs.~~

6. ~~8.~~ The commissioner of natural resources shall not request or use condemnation to acquire lands in the Cannon River land use district through the wild and scenic rivers program.

C. Recreation management.

1. General.

a. It is the intent of these rules ~~and regulations~~ to manage recreation to provide for the orderly use of public lands and waters within the Scenic and Recreational river land use districts. The development and maintenance of selected land- and water-oriented recreational facilities will help "protect the rights of private landowners, ensure quietude, prohibit trespassing, and maintain the essential quality of wild and scenic river land use districts," as provided for in Minnesota Regulations NR 80 (a) (l).

b. NR 80 (b) (l) shall be amended to impose the current state penalty for a misdemeanor.

2. Uses.

a. Priority areas for development of governmental recreational facilities are listed below. If these parcels are not available for use similar parcels may be used.

Location	Facility	Present Ownership
T111N-R20W, Section 1 in Sechler Park	Campsite, Rest Area	Northfield
T111N-R20W, Section 1, NW¼, on either side of Northfield Mill Dam	Portage	Northfield, Private
T112N-R19W, Section 31 E½ of the NW¼	Access	Carleton College
T112N-R18W, Section 7 S½ of the SE¼, north of river	Campsite, Rest Area	Dakota County
T112N-R18W, Section 8 north of river	Access	Private
T112N-R18W, Section 13 & 14 south of river	Portage	Goodhue County
T112N-R17W, Section 2 NE¼ of the NE¼ of the SE¼	Rest Area	Private
T113N-R16W, Section 35 SW¼ of the NE¼, near Belle Creek	Rest Area	DNR
T113N-R15W, Section 19 south of river	Access	Private
T113N-R15W, Section 22 E½ of the NW¼ of the NW¼	Rest Area	DNR

b. Because sufficient public land exists between Faribault and Northfield, all public recreational facilities in this area shall be located on existing public land.

c. The development of public or private facilities within the land use district shall conform to the site typicals in these rules. ~~and regulations.~~ In addition, when establishing rest areas, sufficient land shall be acquired to provide a 300-foot buffer zone between the activity area and adjacent property.

d. DNR rest areas shall not be established closer than four miles to existing DNR rest areas and shall be inaccessible by road.

e. To establish the Cannon River as a day use river the DNR shall establish no overnight camping areas along the river.

f. All public and private camping areas established along the river shall be and subject to all ~~regulations~~ rules of the Minnesota Pollution Control Agency, the Minnesota Department of Health and all local zoning ordinances.

g. If a recreational site is found in violation of Department of Public Health ~~regulations~~ rules more than three times in one season, the site shall be closed.

h. No special DNR facilities solely for the use of ~~for~~ motorboats shall be provided.

i. The DNR shall not develop or provide for trails within the land use district. This shall not include local trails or state-funded grant-in-aid trails.

j. Snowmobile use on lands in the land use district shall be allowed:

(1) On private lands, only with the permission of the appropriate landowner(s).

(2) On public lands where ~~provided for.~~ the managing agency has designated areas for such use.

3. Maintenance.

a. The DNR shall be responsible for and shall allocate funds for maintenance of DNR recreational facilities within the Cannon River land use district. The DNR is encouraged to hire area residents to help maintain recreational facilities.

b. A "carry-in, carry-out" policy shall be implemented by river users. To help ensure the success of this policy, no trash receptacles shall be provided at DNR rest areas and areas shall be maintained to prevent the establishment of dumps.

c. Orientation signs identifying all recreational facilities along the river, containing the recreational rules for the river and explaining the "carry-in, carry-out" refuse policy shall be posted at accesses.

d. If heavy use of recreational facilities wears down river land, causes erosion or leads to problems with adjacent landowners, DNR sites shall be closed.

4. Enforcement

The DNR's Division of Enforcement shall determine with the local units of government the division of responsibilities for the enforcement of the wild and scenic river user ~~regulations~~ rules (Minnesota Regulations NR 80). The Division of Enforcement shall also take appropriate action to ensure expeditious enforcement of wild and scenic river ~~regulations.~~ rules.

D. Administration.

1. The local zoning authority shall administer the wild and scenic rivers ordinance in accordance with the provisions of NR 81.

2. Dakota and Goodhue counties and the city of Red Wing shall enact or amend such ordinances and maps as necessary to:

a. Establish the Scenic and Recreational land use districts in their jurisdiction according to ~~Minnesota Regulations NR-2910,~~ 6 MCAR S. 1.2910 to include the lands identified in the land use district descriptions.

b. Conform to the provisions of these rules ~~and regulations (NR-2900),~~ (6 MCAR S. 1.2900) except as indicated in ~~NR-2920 D. 4, 5 and 6.~~ 6 MCAR S. 1.2920 D. 4., 5. and 6.

3. Rice County shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational land use district in its jurisdiction according to ~~Minnesota Regulations NR-2910,~~ 6 MCAR S. 1.2910, to include the lands identified in the land use district descriptions.

b. Conform to the provisions of these rules ~~and regulation (NR-2900),~~ (6 MCAR S. 1.2900), except as indicated in ~~NR-2920 D. 4 and 5.~~ 6 MCAR S. 1.2920 D. 4. and 5.

c. It is recommended that Rice County also continue to enforce present agricultural preservation zoning, as identified in Section 15 of the 1975 Rice County zoning ordinance, on lands beyond 350 feet of the ordinary high-water mark.

4. The municipalities of Dundas (In T111N–R20W: that portion located in the S½ of the N½ of Section 15; and Section 11) and Northfield (In T111N–R20W: that portion located in Section 11; Section 2, south of the river; and the SW¼ of the SW¼ of Section 1, east of the river) shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational river land use districts according to ~~NR-2910~~, 6 MCAR S. 1.2910, to include lands identified in the land use district descriptions.

b. Conform to the provisions of Minnesota Regulations NR 82–84 (Municipal Shoreland Management for Natural Environment Waters) except NR 84 (a) (2) and NR 84 (c).

c. Conform to the following provisions of NR 78–81: NR 78(d); NR 79 (b) (2) (aa), (bb), (cc), (dd), (ff) and (gg); NR 80 and NR 81.

d. Conform to the provisions of these rules ~~and regulations (NR-2900).~~ (6 MCAR S. 1.2900).

5. The municipalities of Dundas (In T111N–R20W: that portion located in the N½ of the N½ of Section 15; and Section 10) and Northfield (In T111N–R20W: that portion located in Section 2, north of the river; and Section 1, except the SW¼ of the SW¼, east of the river. In T112N–R20W: Section 36. In T112N–R19W: Sections 30 and 31) shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational river land use districts according to ~~NR-2910~~ 6 MCAR S. 1.2910, to include lands identified in the land use district descriptions.

b. Conform to the provisions of Minnesota Regulations NR 82–84 (Municipal Shoreland Management for General Development Waters), except NR 84 (a) (2) and NR 84 (c).

c. Conform to the following provisions of NR 78–81: NR 78 (d); NR 79 (b) (2) (aa), (bb), (cc), (dd), (ff), and (gg); NR 80 and NR 81.

d. Conform to the provisions of these rules ~~and regulations (NR-2900).~~ (6 MCAR S 1.2900).

6. The municipality of Cannon Falls shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational river land use district according to ~~NR-2910,~~ 6 MCAR S. 1.2910, to include lands identified in the land use district descriptions.

b. Conform to the provisions of Minnesota Regulations NR 82-84 (Municipal Shoreland Management for Recreational Development Waters), except NR 84 (a) (2) and 84 (c).

c. Conform to the following provisions of NR 78-81: NR 78 (d); NR 79 (b) (2) (aa), (bb), (cc), (dd), (ff) and (gg); NR 80 and NR 81.

d. Conform to the provisions of these rules ~~and regulations (NR-2900).~~ (6 MCAR S. 1.2900).

7. Local zoning authorities may retain or adopt regulations that are more restrictive than those required by these rules, ~~and regulations,~~ pursuant to Minn. Stat. 394.21, 394.33 and 462.353.

8. The DNR shall assist local units of government in implementing these rules, ~~and regulations~~, in accordance with Minn. Stat. 104.36.

9. The DNR shall delineate the land use district boundaries on the appropriate zoning maps for the affected local units of government.

10. Every five years the DNR shall conduct a public informational meeting to determine the effectiveness, the progress and the opportunities for improvement of these rules. ~~and regulations~~.

OHWM=ordinary high-water mark

CRI & P RR=Chicago, Rock Island and Pacific Railroad

CGW RR=Chicago-Great Western Railroad

*=undetermined acreage, generally within 1,000' of OHWM

Description		Acreage
T110N-R20W		
Section 19		
SW¼ of NE¼	E of CRI&P RR	3.00
SE¼ of NE¼	" "	38.00
S½ of NE¼ of NE¼	" "	15.00
Section 20		
NW¼		160.00
NW¼ of NE¼		40.00
Section 17		
E½ of SW¼ of SW¼		20.00
SE¼ of SW¼		40.00
SE¼		160.00
NE¼		160.00
Section 16		
N½ of SW¼ of SW¼		20.00
NW¼ of SE¼ of SW¼		10.00

W½ of NE¼ of SW¼	20.00
NW¼ of SW¼	40.00
SW¼ of NW¼	40.00
W½ of SE¼ of NW¼	20.00
W½ of NW¼ of NW¼	20.00

Section 8

SE¼	160.00
S½ of NE¼	80.00
NW¼ of NE¼	40.00
E½ of SE¼ of NW¼	20.00
NE¼ of NW¼	40.00
E½ of NW¼ of NW¼	20.00

Section 9

W¼ of SW¼	40.00

Section 5

E½ of SW¼	80.00
E½ of W½ of SW¼	40.00
E½ of W½ of NW¼	40.00
E½ of NW¼	80.77
NE¼	161.48

Section 4

NW¼	161.28
N½ of NE¼	80.96
N½ of S½ of NE¼	40.00

Section 3

NW¼ of NW¼	40.31
N½ of SW¼ of NW¼	20.00
W½ of NE¼ of NW¼	20.00

T111N-R20W

Section 33

E½ of SE¼ of SE¼	20.00

Section 34

E½ of NW¼	80.00
S½ of NW¼ of NW¼	20.00
SW¼ of NW¼	40.00
NE¼ of SW¼	40.00
W½ of SW¼	80.00
W½ of SE¼ of SW¼	20.00
W½ of NE¼	80.00
NE¼ of NE¼	40.00

Section 27

E¼	160.00
E½ of W½ of NE¼	40.00
E½ of NW¼ of SE¼	20.00
S½ of SW¼ of SE¼	20.00
NW¼ of NW¼ of NE¼	10.00

Section 26

W½ of SW¼	80.00
SW¼ of NW¼	40.00
W½ of NW¼ of NW¼	20.00

Section 22		
E½		320.00
Section 15		
W½ of E½ of SE¼		40.00
W½ of SE¼		80.00
NE¼	within 300' of OHWM only	32.00
Section 10		
SE¼	within 300' of OHWM only	41.00
Section 11		
NW¼ of SW¼	N & W of river	4.00
NW¼ of SW¼	within 300' of OHWM S & E of river	12.00
~~SE¼ of NW¼~~	~~----------~~	~~40.00~~
~~NE¼ of NW¼~~	~~E of GRI&P RR~~	~~36.00~~
~~SW¼ of NW¼~~	~~"~~	~~33.00~~
~~N½ of NW¼ of NE¼~~	~~----------~~	~~20.00~~
~~NW¼ of NW¼~~	~~E of GRI&P RR~~	~~4.00~~
NE ¼	within floodway	*
NW ¼	S & E of river within floodway	*
NW ¼	N & W of river E of CRI & P RR	40.00
Section 2		
~~SW¼ of SE¼~~	~~E of GRI&P RR~~	~~36.00~~

~~SE¼-of-SE¼~~	~~----------~~	~~40.00~~
~~NE¼-of-SE¼~~	~~SE-of-CRI&P-RR~~	~~22.00~~
~~SE¼-of-NW¼-of-SE¼~~	~~"~~	~~4.00~~
SE¼ of SW¼	" "	7.00
SE ¼	N of river	
	S of CRI & P RR	50.00
SE ¼	S of river within floodway or 300' of OHWM, whichever is greater	*

Section 1

Within 300' of OHWM	S & E of river	57.00
NW¼ of SW¼	N & W of river to CRI&P RR	29.00
SW¼ of NW¼	S & E of CRI&P RR	6.00
E½ of NW¼	within 300' of OHWM N & W of river	8.00
N½ of NE¼	" "	19.00
SW¼ of NE¼	within 300' of OHWM N of river	3.00

T112N-R20W

Section 36

SE¼ of SE¼	within 300' of OHWM W of river	5.00

T112N-R19W

Section 31

Within 300' of OHWM 86.00

T111N-R19W

Section 6

NW¼ of NW¼ of NW¼ within 300' of OHWM E of river 2.00

T112N-R19W

Section 30 within 1,000' of OHWM *

~~SE¼ of SW¼ S & E of State Hwy 3 22.00~~

~~SE¼ E of State Hwy 3 152.00~~

~~SW¼ of NE¼ " " 4.00~~

~~E½ of NE¼ E of GSAH 47 49.00~~

Section 29 within 1,000' of OHWM *

~~SW¼ of NW¼ 40.00~~

~~NW¼ of NW¼ S & E of GSAH 47 34.00~~

~~NE¼ of NW¼ 40.00~~

~~N½ of NW¼ of NE¼ 20.00~~

Section 28 within 1,000' of OHWM *

Section 19 within 1,000' of OHWM *

Section 20 within 1 000' of OHWM *

~~SE¼~~	~~S & E of CASH 47~~	~~121.00~~
~~S½ of SW¼~~	~~" "~~	~~23.00~~

Section 21 within 1,000' of OHWM *

~~SW¼~~		~~160.00~~
~~SE¼ of NW¼~~		~~40.00~~
~~NW¼ of SE¼~~		~~40.00~~
~~N½ of NE¼ of SE¼~~		~~20.00~~
~~S½ of NE¼~~		~~80.00~~
~~S½ of NE¼ of NE¼~~		~~20.00~~

Section 22 within 1,000' of OHWM *

~~N½~~		~~160.00~~
~~N½ of SE¼ of NW¼~~		~~20.00~~
~~N½ of SW¼ of NE¼~~		~~20.00~~
~~SW¼ of NW¼~~		~~40.00~~

Section 23 within 1,000' of OHWM *

Section 15 within 1,000' of OHWM *

~~S of CGW RR~~		~~106.00~~

Section 14 within 1,000' of OHWM *

~~W½ of SW¼~~	~~S of CGW RR~~	~~75.00~~
~~N½ of SE¼ of SW¼~~		~~20.00~~
~~NE¼ of SW¼~~		~~40.00~~
~~SE¼ of NW¼~~	~~S of CGW RR~~	~~15.00~~
~~NW¼ of SE¼~~		~~40.00~~
~~N½ of NE¼ of SE¼~~		~~20.00~~

~~NE¼ S of CGW RR 94.00~~

~~SW¼ of NW¼ " " 1.00~~

Section 13 within 1,000' of OHWM *

~~SW¼ of NW¼ 40.00~~

~~N½ S of CGW RR 156.00~~

Section 12 within 1,000' of OHWM *

~~S½ S of CGW RR 102.00~~

T112N-R13W

Section 18

N½ of NE¼ 80.00

NE¼ of NW¼ 40.00

NW¼ of NW¼ 33.98

Section 7

S½ of SE¼ 80.00

~~SE¼ of SW¼ 40.00~~

~~SW¼ of SW¼ 33.69~~

S ½ of SW ¼ within 1,000' of OHWM *

~~T112N-R19W~~

Section 17

N½ of NW¼ W of State Hwy 56 30.00

Section 8

~~S½~~ S½ of SW¼ W of State Hwy 56 and within 1,000' of

		OHWM	*

~~T112N-R18W-~~

Section 13

		$N\frac{1}{2}$ of $SW\frac{1}{4}$ of $NW\frac{1}{4}$	20.00
		$N\frac{1}{2}$ of $NW\frac{1}{4}$	80.00
		$NW\frac{1}{4}$ of $NE\frac{1}{4}$	40.00

Section 12

		~~$SE\frac{1}{4}$ of $SW\frac{1}{4}$~~	~~40.00~~
		~~$S\frac{1}{2}$ of $NE\frac{1}{4}$ of $SW\frac{1}{4}$~~	~~20.00~~
		~~$S\frac{1}{2}$ of $NW\frac{1}{4}$ of $SE\frac{1}{4}$~~	~~20.00~~
		~~$SW\frac{1}{4}$ of $SE\frac{1}{4}$~~	~~40.00~~
		~~$E\frac{1}{2}$ of $SE\frac{1}{4}$~~	~~80.00~~
		$SE\frac{1}{2}$ of $SE\frac{1}{4}$	40.00
		N of river within 1,000' of OHWM	*

T112N-R17W

Section 7

Government	Lot 9		59.54
"	Lot 10	$N\frac{1}{2}$	24.00
"	Lot 10	$S\frac{1}{2}$ within 300' of OHWM	6.00
"	Lot 11	within 300' of OHWM E of river	10.00
"	Lot 11	W of river	5.00
"	Lot 12	within 300' of OHWM N of river	5.00
$SE\frac{1}{4}$		within 300' of	

	OHWM	35.00
Section 18		
Government Lot 3	within 300' of OHWM	2.00
" Lot 2	" "	22.00
" Lot 1	" "	20.00
NE¼	" "	13.00
Section 8		
S½ of NE¼ of NE¼		20.00
SW¼	N of CGW RR	120.00
W½ of SE¼		80.00
NE¼ of SE¼		40.00
S½ of NW¼		40.00
S½ of NE¼		80.00
Section 9		
N¼ of S½		80.00
S½ of N½		160.00
S½ of N½ of N½		80.00
Section 10		
N¼ of S½		80.00
S½ of N½		160.00
S½ of N½ of N½		80.00
Section 11		
N½ of NW¼ of SW¼		20.00
NW¼		160.00

N½ of SW¼ of NE¼	20.00
N½ of NE¼	80.00
Section 12	
N½ of NW¼ of NW¼	20.00
Section 2	
E½ of SW¼ of SE¼	20.00
E½ of SE¼	80.00
SE¼ of NW¼ of SE¼	10.00
S½ of SE¼ of NE¼	20.00
Section 1	
W½ of SW¼	80.00
N½ of NE¼ of SW¼	20.00
S½ of NW¼	80.00
NE¼ of NW¼	41.46
W½ of NE¼	81.44
NE¼ of NE¼	41.41
N½ of SE¼ of NE¼	20.00

T113N-R17W

Section 36	within 1,000' of OHWM	*
~~SE¼ of SE¼ of SW¼~~		~~10.00~~
~~S½ of SE¼~~		~~40.00~~

Section 31	
SW¼ of SW¼	40.06
E½ of SW¼	80.00
SE¼	160.00
T112N-R16W	
Section 6	
N½ of NW¼	62.21
N½ of NE¼	40.00
Section 5	
N½ of NW¼	81.73
NW¼ of NE¼	40.63
T113N-R16W	
Section 32	
S½ of NW¼ of SW¼	20.00
SW¼ of SW¼	40.00
S½ of SE¼ of SW¼	20.00
S½ of SE¼	80.00
NW¼ of SE¼	40.00
W½ of NE¼ of SE¼	20.00
NE¼	160.00
Section 33	
N½ of NW¼ of NW¼	20.00
Section 29	
S½ of SW¼ of SE¼	20.00
SE¼ of SE¼	40.00

Section 28		
SW¼		160.00
N½ of SE¼		80.00
S½ of NE¼		80.00
SE¼ of NW¼		40.00
NE¼ of NW¼	within 300' of OHWM N of river	2.00
NW¼ of NE¼	" "	4.00
Section 27		
SE¼		160.00
SE¼ of SW¼		40.00
N½ of SW¼		80.00
S½ of NW¼		80.00
S½ of SW¼ of NE¼		20.00
Section 26		
SW¼ of SW¼		40.00
S½ of SE¼ of SW¼		20.00
S½ of SW¼ of SE¼		20.00
NE¼ of SW¼ of SE¼		10.00
SE¼ of SE¼		40.00
E½ of NE¼ of SE¼		20.00
Section 34		
N½ of NE¼ of NE¼		20.00
Section 35		
N½		160.00

N½ of S½ of NW¼	40.00
N½ of SW¼ of NE¼	20.00
NW¼ of SE¼ of NE¼	10.00

Section 36

N¼ of NW¼	40.00

Section 25

SW¼	160.00
N½ of SW¼ of SE¼	20.00
N½ of SE¼	80.00
NE¼	160.00
S½ of NW¼	80.00
S½ of NE¼ of NW¼	20.00

T113N-R15W

Section 30

N½ of NW¼	79.60
N½ of SW¼ of NW¼	19.87

Section 19

S½ of SW¼	79.55
S½ of N½ of SW¼	39.73
SE¼	160.00
SE¼ of NE¼	40.00
E½ of SW¼ of NE¼	20.00

Section 20	
N½	320.00
N½ of NW¼ of SW¼	20.00
N½ of NW¼ of SE¼	20.00
E½ of SE¼	80.00
Section 21	
W½ of SW¼	80.00
SE¼ of SW¼	40.00
S½ of NE¼ of SW¼	20.00
W½ of SE¼	80.00
W½ of SE¼ of SE¼	20.00
NE¼ of SE¼ of SE¼	10.00
NE¼ of SE¼	40.00
SE¼ of NE¼	40.00
E½ of SW¼ of NE¼	20.00
SE¼ of NW¼ of NE¼	10.00
S½ of NE¼ of NE¼	20.00
S½ of NW¼ of NW¼	20.00
SW¼ of NW¼	40.00
Section 22	
NW¼	160.00
N½ of NE¼	80.00
W½ of NW¼ of SW¼	20.00
Section 15	
S¼	160.00

Section 14	
SW¼ of SW¼	40.00
S½ of NW¼ of SW¼	20.00
E½ of SW¼	80.00
SE¼	160.00
Section 23	
N½	160.00
Section 24	
N½ of NW¼	80.00
N½ of SW¼ of NW¼	20.00
SE¼ of NW¼	40.00
SW¼ of NW¼	40.00
Government Lot 1	64.94
Section 13	
S½ of NW¼ of SW¼	20.00
S½ of SW¼	80.00
Government Lot 4	36.80
TOTAL ACREAGE	~~13,602.44~~ 11,331.75 plus undetermined acreage (indicated by *), generally within 1,000' of OHWM

DNR Ex 16

dunnage shall be required to remain on the transport involved in foreign commerce until an alternative means of disposal has been approved by the commissioner as complying with the purposes of these rules.

E. Any financial responsibility to accomplish any treatment of dunnage and/or refuse shall belong to those responsible for delivering the dunnage and/or refuse to Minnesota.

~~Agr 192 Definitions~~

~~(a) "Refuse" means any waste material containing any plant or animal material which is carried aboard any vessel.~~

~~(b) "Vessel" means any water carrier used for transporting cargo or passengers in commerce on public water comprising all that part of Lake Superior and the waters extending therefrom up to the point where T. H. #23 crosses the St. Louis River which are situated within the territorial boundary of the State of Minnesota.~~

~~(c) "Dunnage" includes lumber in any form and any other material used aboard a vessel to secure cargo in any manner.~~

Department of Natural Resources

Proposed Rules for Designation, Classification, and Management of the Cannon River from Faribault to the Mississippi River, as a Component of the State's Wild and Scenic River System

Notice of Hearing

Notice is hereby given that public hearings will be held on the above-captioned matter at:

8 p.m. July 17, 1979 at the Red Wing City Library (Footroom), 225 Broadway, Red Wing, Minnesota.

8 p.m. July 18, 1979 at the Dakota County Government Center Board Room 1560 Highway 55, Hastings, Minnesota.

8 p.m. July 19, 1979 at the Faribault Junior High School Auditorium, 315 Northwest Fourth Avenue, Faribault, Minnesota.

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 Allan Klein from the Office of Hearing Examiners. Room 300, 1745 University Avenue, St. Paul, Minnesota 55104 (612-296-8100). The hearing is a rule-making proceeding, conducted according to Minn. Stat. §§ 15.0411-15.0417, 15.051, and 15.052, and the rules for rule-making, which are 9 MCAR §§ 2.101-2.199.

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 rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

After the 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 management plan relates to the following matters:

Reasons for including the Cannon River in the Minnesota Wild, Scenic and Recreational Rivers System.

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."

The proposed classification of the river or segments of the river.

The proposed land use district boundaries which shall not exceed 320 acres per each river mile on both sides (not each side) of the river.

The proposed methods for preserving the river and its adjacent land, including the recommended land acquisition.

The proposed regulations for local land use control, including such matters as lot size and building height and setback requirements, vegetative cutting provisions, use within land use districts, and criteria for utility crossings, public roads and river crossing.

The proposed plan for recreational management within the land use district, including the location and design of campsites, rest areas, and accesses.

The proposed plan for administration of the management plan.

Copies of the management plan are available for inspection at public libraries in Faribault, Northfield, Cannon Falls, Hastings and Red Wing, and at the Legislative Reference Library in the state Capitol. Interested individuals may receive a free copy of the plan by writing or calling the Department of Natural Resources, Office of Planning, Rivers Section, Box 10 Centennial Office Building, St. Paul, MN 55155 (612-296-6784). Copies of the management plan will also be available at the public hearings.

The proposed management plan for the Cannon River has been prepared in accordance with Minnesota Statutes 104.35 and the Statewide Rules and Regulations relating to the Wild, Scenic and Recreational Rivers System (Minnesota Regulations NR 78-81).

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) 296-1720.

Dated this 24th day of May, 1979.

Joseph N. Alexander
Commissioner

Rules as Proposed (all new material)

Chapter Twenty-Nine: 6 MCAR § 1.2900 Designation, Classification and Management of the Cannon River in Rice, Dakota and Goodhue Counties

6 MCAR § 1.2900 Designation.

A. The river. That portion of the Cannon River from the northern city limits of Faribault (the common border of the SE¼ and the NE¼ of Section 19, T110N-R20W) to its confluence with the Mississippi River is hereby designated a component of the Minnesota wild, scenic and recreational rivers system.

B. Authority. This designation is made by the Commissioner of Natural Resources pursuant to the authority of the Minnesota Wild and Scenic Rivers Act (Minn. Stat. §§ 104.31 to 104.40).

C. Shoreland included. The designation and these rules apply to the river and the adjacent lands as provided for in the land use district descriptions. The land use district boundaries were drawn in accordance with Minnesota Regulations NR 78 (g) (2) (bb).

D. Definition. The definition of "normal high-water mark" (NR 78 (d)) shall be changed to read: "Ordinary high-water mark" means a mark delineating the highest water level which has been maintained for a sufficient

period of time to leave evidence upon the landscape. In areas where the ordinary high-water mark is not evident, setbacks shall be measured from the top of the bank of the river channel. A channel is a natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.

E. Severability. The provisions of these regulations shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision or any other part.

6 MCAR § 1.2910 Classification. The following classifications are made in accordance with the provisions of Minnesota Regulations NR 78 (f).

Recreational:

That portion of the Cannon River and its adjacent lands from the northern city limits of Faribault (the commnon border of the north and south halves of Sections 19 and 20, T110N-R20W) to the State Hwy. 56 bridge, and from the Lake Byllesby Dam (the common border of Sections 13 and 14, T112N-R18W) to the common border of Sections 7 and 8, T112N-R17W, in Cannon Falls. (The Lake Byllesby Reservoir is excluded from this segment.)

Scenic:

That portion of the Cannon River and adjacent lands from the common border of Sections 7 and 8, T112N-R17W, in Cannon Falls to the river's confluence with the Mississippi River.

6 MCAR § 1.2920 Management.

(A.) Land use provisions.

1. The Commissioner of Natural Resources hereby adopts the Scenic and Recreational land use districts as identified in the land use district descriptions of these rules and regulations. The land use districts were derived in accordance with Minnesota Rule NR 78 (g) (2) (bb).

2. Minnesota Rules NR 78-81 shall apply to all lands within the Scenic and Recreational land use districts, except as specified in these regulations.

3. Because some areas along the Cannon River have been considerably developed, and because the wild and scenic rivers act states that management plans shall be prepared "with no unreasonable restrictions upon compatible, pre-existing, economic uses of particular tracts of land . . ." (Minn. Stat 104.35), the municipalities of Cannon Falls, Dundas and Northfield all adopt regulations as specified in 6 MCAR § 1.2920 D.

4. If land is annexed, incorporated or in any other way transferred to another jurisdiction a moratorium shall exist on all subdivision platting, building permits, construction, grading and filling, and vegetative cutting until the newly responsible unit of government adopts zoning for that land. The zoning shall meet the provisions of these rules and regulations that applied to the land before the transfer. This provision does not apply to work for which lawful permits were previously issued.

5. Minnesota Rules NR 79 (c) (3) (bb) (iii), NR 79 (d) (2) and NR 79 (g) (1) specify regulations concerning designated tributaries. These regulations apply only to lands within the land use district. Designated tributaries along the Cannon River shall be:

a. Belle Creek
b. Chub Creek
c. Heath Creek
d. Little Cannon River
e. North Cannon River
f. Pine Creek
g. Spring Brook
h. Trout Brook
i. Wolf Creek

6. Because the Cannon River valley is a major source of sand and gravel in the area and because this resource can be extracted in a manner that will have minor environmental impact, sand and gravel extraction shall be allowed as a conditional use, subject to the following conditions:

a. Commercial manufacturing of sand and gravel by-products shall be nonpermitted uses in the land use district.

b. The following shall be submitted to the local authority as part of the application for a conditional use permit:

(1) A detailed site plan.

(2) A soil erosion and sediment control plan showing that the mining operation will not adversely affect the quality of surface or subsurface waters.

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(3) A dust and noise control plan.

(4) A detailed site reclamation plan. Reclamation shall be initiated immediately after the termination of the mining operation and upon completion the area shall be restored to as near its original state as practicable.

c. Mining operations shall not take place within 300 feet of the river and designated tributaries. This distance does not apply to water pumps needed for the mining operation. However, appropriation of water from the river shall require a permit from the DNR, Division of Waters.

d. No sand and gravel operation shall be conducted on parcels of land or a combination of parcels of less than 20 acres.

7. To reduce the effects of litter along the river, canoe and inner tube rental establishments shall:

a. Provide disposal refuse containers to those renting canoes and inner tubes.

b. Require the return of refuse containers along with all refuse from the river trip.

8. Existing development in the village of Welch in E½, W½, NE¼ of Section 28, T113N-R16W, north of the river, shall be allowed to continue as now identified by the Goodhue County zoning ordinance, as amended in 1976.

9. Because agricultural uses are permitted in the land use district and because of the pre-existence of agricultural buildings along the Cannon River, Minnesota Regulations NR 79 (c) (3) (dd) shall be amended to read:

Structure height shall not exceed 35 feet, except for building used primarily for agricultural purposes.

10. Minnesota Regulations NR 79 (c) (3) (cc) (i) shall be modified to read:

Structures shall be allowed on slopes of greater than 13 percent or on blufflines if structures can meet the following criteria:

a. Sewage system facilities must be installed so as to comply with the Sanitary Provisions (d) of NR 79.

b. Structures must be adequately screened.

c. It must be proven that any potential or actual erosion or sedimentation problems do not exist, and that adequate measures shall be taken to prevent them.

d. Where bearing capacity is in doubt soil boring samples must be taken.

e. Consideration must be given to color and architectural design (including roof slope and orientation), subject to scrutiny of the township and county planning commission.

11. NR 79 (b) (2) shall be amended to include the following:

	Land use districts	
	Scenic River	Recreational River
(tt) Sand and gravel extraction, subject to provisions of NR 2920 A. 6.	C	C
(uu) Canoe rental establishments, subject to provisions of NR 2920 A. 7.	C	C
(vv) Inner tube rental establishments	N	N

12. NR 79 (i) (Utility Companies, Standards and Criteria for Utility Crossings) shall be amended to include:

3. Accessory facilities to power plants (intake and outflow structures), not within the jurisdiction of the local authority, when located in the land use district shall be screened to the maximum extent possible to minimize the visual intrusion on the landscape.

(B.) Land acquisition.

1. Fee title acquisition from willing sellers is recommended in those areas where recreational sites are needed, as identified in 6 MCAR § 1.2920 C. 2.

2. Scenic easement acquisition from willing sellers is recommended in those areas having outstanding scenic, natural or similar values and in areas with high development potential.

3. Because acquisition of lands or interests in land is from willing sellers at market value, some lands recommended for scenic easement acquisition may be purchased in fee title. Additional land or interests in land other than those recommended may be purchased within the land use district to further the policies established in Minn. Stat. § 104.32, and the management plan.

4. Other forms of acquisition, such as use easements or leases, may be substituted for the recommended acquisition or used to acquire interests in other lands within the land use district when such purchases further the policies of these rules and regulations and Minn. § 104.32.

5. The DNR shall consider leasing rest areas for an initial five-year period, with the option for longer leasing or purchase after that period.

6. Land or interests in land recommended to be ac-

quired in these rules and regulations will be acquired from willing sellers when funds are available for such purposes, as provided for in Minn. Stat. § 104.37.

7. Wherever feasible, land will be exchanged in a manner prescribed by state law to acquire land in the land use district. Land will not be exchanged, however, if such exchanges would adversely affect this or other DNR management programs.

8. The Commissioner of Natural Resources shall not request or use condemnation to acquire lands in the Cannon River land use district through the wild and scenic rivers program.

C. Recreation management.

1. General.

a. It is the intent of these rules and regulations to manage recreation to provide for the orderly use of public lands and waters within the Scenic and Recreational river land use districts. The development and maintenance of selected land- and water-oriented recreational facilities will help "protect the rights of private landowners, ensure quietude, prohibit trespassing, and maintain the essential quality of wild and scenic river land use districts," as provided for in Minnesota Regulations NR 80 (a) (1).

b. NR 80 (b) (1) shall be amended to impose the current state penalty for a misdemeanor.

2. Uses.

a. Priority areas for development of governmental recreational facilities are listed below. If these parcels are not available for use similar parcels may be used.

Location	Facility	Present Ownership
T111N-R20 W, Section 1 in Sechler Park	Campsite, Rest Area	Northfield
T111N-R20W, Section 1, NW¼, on either side of Northfield Mill Dam	Portage	Northfield, Private
T112N-R19W, Section 31 E½ of the NW¼	Access	Carleton College
T112N-R18W, Section 7 S½ of the SE¼, north of river	Campsite, Rest Area	Dakota County
T112N-R18W, Section 8 north of river	Access	Private
T112N-R18W, Section 13 & 14 south of river	Portage	Goodhue County
T112N-R17W, Section 2 NE¼ of the NE¼ of the SE¼	Rest Area	Private
T113N-R16W, Section 35 SW¼ of the NE¼, near Belle Creek	Rest Area	DNR
T113N-R15W, Section 19 south of river	Access	Private
T113N-R15W, Section 22 E½ of the NW¼ of the NW¼	Rest Area	DNR

b. Because sufficient public land exists between Faribault and Northfield, all public recreational facilities in this area shall be located on existing public land.

c. The development of public or private facilities within the land use district shall conform to the site typicals in these rules and regulations. In addition, when establishing rest areas, sufficient land shall be acquired to provide a 300-foot buffer zone between the activity area and adjacent property.

d. DNR rest areas shall not be established closer than four miles to existing rest areas and shall be inaccessible by road.

e. To establish the Cannon River as a day use river the DNR shall establish no overnight camping areas along the river.

f. All public and private camping areas established along the river shall be periodically inspected and subject to all regulations of the Minnesota Pollution Control Agency, the Minnesota Department of Health and all local zoning ordinances.

g. If a recreational site is found in violation of Department of Public Health regulations more than three times in one season, the site shall be closed.

h. No special DNR facilities for motorboats shall be provided.

i. The DNR shall not develop or provide for trails within the land use district. This shall not include local trails or state-funded grant-in-aid trails.

j. Snowmobile use on lands in the land use district shall be allowed:

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(1) On private lands, only with the permission of the appropriate landowner(s).

(2) On public lands where provided for.

3. Maintenance.

a. The DNR shall be responsible for and shall allocate funds for maintenance of DNR recreational facilities within the Cannon River land use district. The DNR is encouraged to hire area residents to help maintain recreational facilities.

b. A "carry-in, carry-out" policy shall be implemented by river users. To help ensure the success of this policy, no trash receptacles shall be provided at DNR rest areas and areas shall be maintained to prevent the establishment of dumps.

c. Orientation signs identifying all recreational facilities along the river, containing the recreational rules for the river and explaining the "carry-in, carry-out" refuse policy shall be posted at accesses.

d. If heavy use of recreational facilities wears down river land, causes erosion or leads to problems with adjacent landowners, DNR sites shall be closed.

4. Enforcement. The DNR's Division of Enforcement shall determine with the local units of government the division of responsibilities for the enforcement of the wild and scenic river user regulations (Minnesota Rule NR 80). The Division of Enforcement shall also take appropriate action to ensure expeditious enforcement of wild and scenic river regulations.

(D.) Administration.

1. The local zoning authority shall administer the wild and scenic rivers ordinance in accordance with the provisions of NR 81.

2. Dakota and Goodhue counties and the city of Red Wing shall enact or amend such ordinances and maps as necessary to:

a. Establish the Scenic and Recreational land use districts in their jurisdiction according to Minnesota rule 6 MCAR § 1.2910, to include the lands identified in the land use district descriptions.

b. Conform to the provisions of these rules and regulations (6 MCAR § 1.2900, except as indicated in 6 MCAR § 1.2920 D. 4., 5. and 6.

3. Rice County shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational land use district in its jurisdiction according to Minnesota Rule 6 MCAR § 1.2910, to include the lands identified in the land use district descriptions.

b. Conform to the provisions of these rules and regulations (6 MCAR § 1.2900), except as indicated in 6 MCAR § 1.2920 D. 4. and 5.

c. It is recommended that Rice County also continue to enforce present agricultural preservation zoning, as identified in Section 15 of the 1975 Rice County zoning ordinance, on lands beyond 350 feet of the ordinary high-water mark.

4. The municipalities of Dundas (In T111N-R20W: that portion located in the S½ of the N½ of Section 15; and Section 11) and Northfield (In T111N-R20W: that portion located in Section 11; Section 2, south of the river; and the SW¼ of the SW¼ of Section 1, east of the river) shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational river land use districts according to 6 MCAR § 1.2910 to include lands identified in the land use district descriptions.

b. Conform to the provisions of Minnesota Rules NR 82-84 (Municipal Shoreland Management for Natural Environment Waters) except NR 84 (a) (2) and NR 84 (c).

c. Conform to the following provisions of NR 78-81: NR 78(d); NR 79 (b) (2) (aa), (bb), (cc), (dd), (ff) and (gg); NR 80 and NR 81.

d. Conform to the provisions of these rules and regulations (6 MCAR § 1.2900).

5. The municipalities of Dundas (In T111N-R20W: that portion located in the N½ of the N½ of Section 15; and Section 10) and Northfield (In T111N-R20W: that portion located in Section 2, north of the river; and Section 1, except the SW¼ of the SW¼ east of the river. In T112N-R20W: Section 36. In T112N-R19W: Sections 30 and 31) shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational river land use districts according to 6 MCAR § 1.2910, to include lands identified in the land use district descriptions.

b. Conform to the provisions of Minnesota Regulations NR 82-84 (Municipal Shoreland Management for General Development Waters), except NR 84 (a) (2) and NR 84 (c).

c. Conform to the following provisions of NR 78-81: NR 78 (d); NR 79 (b) (2) (aa), (bb), (cc), (dd), (ff), and (gg); NR 80 and NR 81.

d. Conform to the provisions of these rules and regulations (6 MCAR § 1.2900).

6. The municipality of Cannon Falls shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational river land use district according to 6 MCAR § 1.2910, to include lands identified in the land use district descriptions.

b. Conform to the provisions of Minnesota Rules NR 82-84 (Municipal Shoreland Management for Recreational Development Waters), except NR 84 (a) (2) and 84 (c).

c. Conform to the following provisions of NR 78-81: NR 78 (d); NR 79 (b) (2) (aa), (bb), (cc), (dd), (ff) and (gg); NR 80 and NR 81.

d. Conform to the provisions of these rules and regulations (6 MCAR § 1.2900).

7. Local zoning authorities may retain or adopt regulations that are more restrictive than those required by these rules and regulations, pursuant to Minn. Stat. §§ 394.21, 394.33 and 462.353.

8. The DNR shall assist local units of government in implementing these rules and regulations, in accordance with Minn. Stat. § 104.36.

9. The DNR shall delineate the land use district boundaries on the appropriate zoning maps for the affected local units of government.

10. Every five years the DNR shall conduct a public informational meeting to determine the effectiveness, the progress and the opportunities for improvement of these rules and regulations.

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."

Legal descriptions

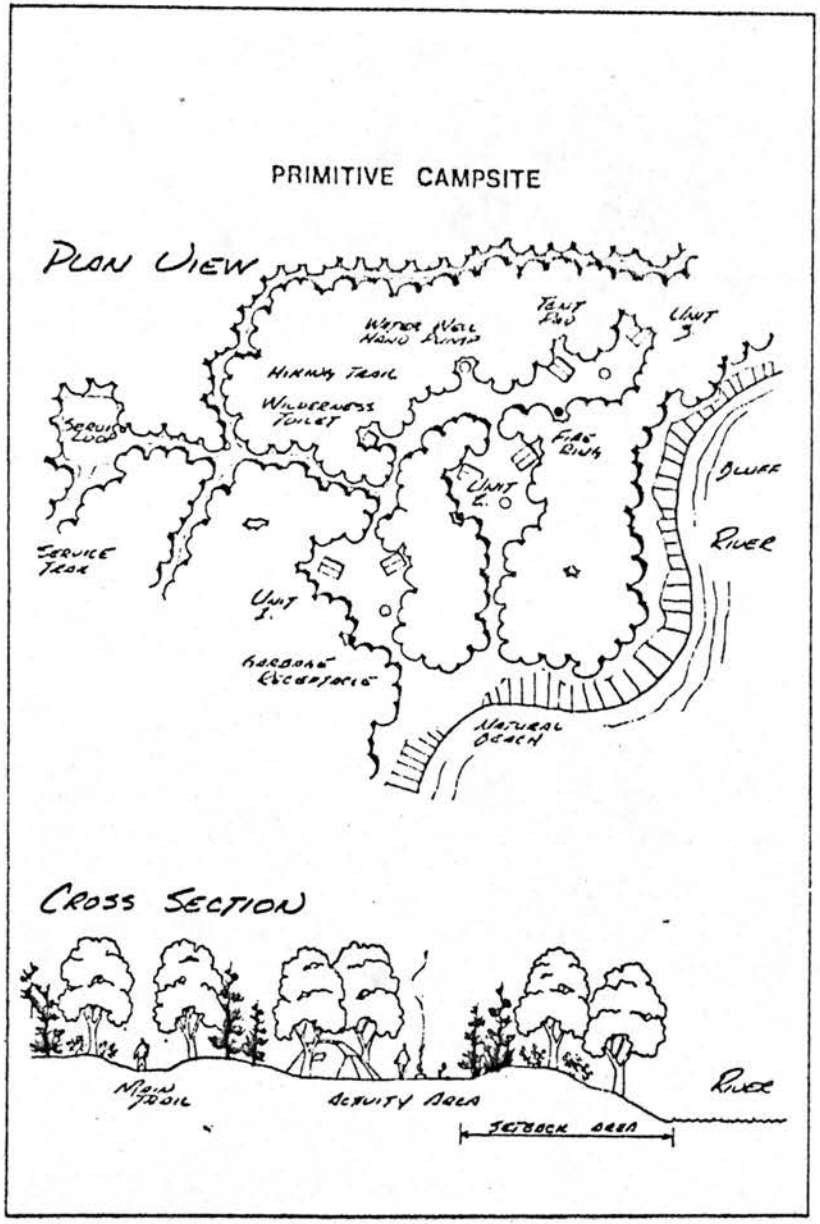
OHWM=ordinary high-water mark
CRI & P RR=Chicago, Rock Island and Pacific Railroad
CGW RR=Chicago-Great Western Railroad

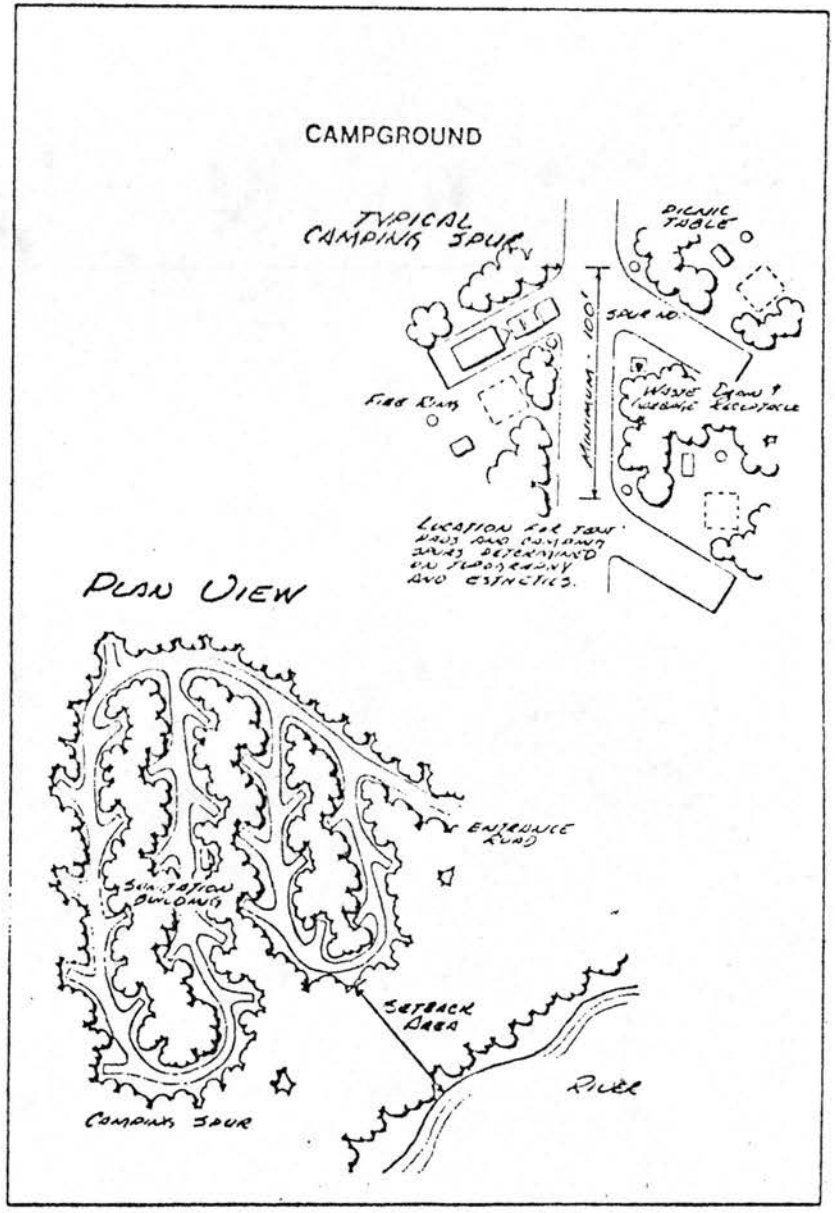
Description		Acreage
T110N-R20W		
Section 19		
SW¼ of NE¼	E of CRI&P RR	3.00
SE¼ of NE¼	" "	38.00
S½ of NE¼ of NE¼	" "	15.00
Section 20		
NW¼		160.00
NW¼ of NE¼		40.00
Section 17		
E½ of SW¼ of SW¼		20.00
SE¼ of SW¼		40.00
SE¼		160.00
NE¼		160.00
Section 16		
N½ of SW¼ of SW¼		20.00
NW¼ of SE¼ of SW¼		10.00
W½ of NE¼ of SW¼		20.00
NW¼ of SW¼		40.00
SW¼ of NW¼		40.00
W½ of SE¼ of NW¼		20.00
W½ of NW¼ of NW¼		20.00
Section 8		
SE¼		160.00
S½ of NE¼		80.00
NW¼ of NE¼		40.00
E½ of SE¼ of NW¼		20.00
NE¼ of NW¼		40.00
E½ of NW¼ of NW¼		20.00
Section 9		
W½ of SW¼		40.00
Section 5		
E½ of SW¼		80.00
E½ of W½ of SW¼		40.00
E½ of W½ of NW¼		40.00
E½ of NW¼		80.77
NE¼		161.48
Section 4		
NW¼		161.28
N½ of NE¼		80.96
N½ of S½ of NE¼		40.00
Section 3		
NW¼ of NW¼		40.31
N½ of SW¼ of NW¼		20.00
W½ of NE¼ of NW¼		20.00
T111N-R20W		
Section 33		
E½ of SE¼ of SE¼		20.00
Section 34		
E½ of NW¼		80.00
S½ of NW¼ of NW¼		20.00
SW¼ of NW¼		40.00
NE¼ of SW¼		40.00
W½ of SW¼		80.00
W½ of SE¼ of SW¼		20.00
W½ of NE¼		80.00
NE¼ of NE¼		40.00
Section 27		
E½		160.00
E½ of W½ of NE¼		40.00
E½ of NW¼ of SE¼		20.00
S½ of SW¼ of SE¼		20.00
NW¼ of NW¼ of NE¼		10.00
Section 26		
W½ of SW¼		80.00
SW¼ of NW¼		40.00
W½ of NW¼ of NW¼		20.00
Section 22		
E½		320.00
Section 15		
W½ of E½ of SE¼		40.00
W½ of SE¼		80.00
NE¼	within 300' of OHWM only	32.00
Section 10		
SE¼	within 300' of OHWM only	41.00
Section 11		
NW¼ of SW¼	N & W of river	4.00
NW¼ of SW¼	within 300' of OHWM S & E of river	12.00
SE¼ of NW¼		40.00
NE¼ of NW¼	E of CRI&P RR	36.00
SW¼ of NW¼	" "	33.00
N½ of NW¼ of NE¼		20.00
NW¼ of NW¼	E of CRI&P RR	4.00
Section 2		
SW¼ of SE¼	E of CRI&P RR	36.00
SE¼ of SE¼		40.00
NE¼ of SE¼	SE of CRI&P RR	22.00
SE¼ of NW¼ of SE¼	" "	4.00
SE¼ of SW¼	" "	7.00
Section 1		
Within 300' of OHWM	S & E of river	57.00
NW¼ of SW¼	N & W of river to CRI&P RR	29.00
SW¼ of NW¼	S & E of CRI&P RR	6.00
E½ of NW¼	within 300' of OHWM N & W of river	8.00
N½ of NE¼	" "	19.00
SW¼ of NE¼	within 300' of OHWM N of river	3.00
T112N-R20W		
Section 36		
SE¼ of SE¼	within 300' of OHWM W of river	5.00
T112N-R19W		
Section 31		
Within 300' of OHWM		86.00
T111N-R19W		
Section 6		
NW¼ of NW¼ of NW¼	within 300' of OHWM E of river	2.00
T112N-R19W		
Section 30		
SE¼ of SW¼	S & E of State Hwy 3	22.00
SE¼	E of State Hwy 3	152.00
SW¼ of NE¼	" "	4.00
E½ of NE¼	E of CSAH 47	49.00
Section 29		
SW¼ of NW¼		40.00
NW¼ of NW¼	S & E of CSAH 47	34.00
NE¼ of NW¼		40.00
N½ of NW¼ of NE¼		20.00
Section 20		
SE¼	S & E of CASH 47	121.00
S½ of SW¼	" "	23.00
Section 21		
SW¼		160.00
SE¼ of NW¼		40.00
NW¼ of SE¼		40.00
N½ of NE¼ of SE¼		20.00
S½ of NE¼		80.00
S½ of NE¼ of NE¼		20.00
Section 22		
N½		160.00
N½ of SE¼ of NW¼		20.00
N½ of SW¼ of NE¼		20.00
SW¼ of NW¼		40.00
Section 15		
S of CGW RR		106.00
Section 14		
W½ of SW¼	S of CGW RR	75.00
N½ of SE¼ of SW¼		20.00
NE¼ of SW¼		40.00
SE¼ of NW¼	S of CGW RR	15.00
NW¼ of SE¼		40.00
N½ of NE¼ of SE¼		20.00
NE¼	S of CGW RR	94.00
SW¼ of NW¼	" "	1.00

Section 13		
SW¼ of NW¼		40.00
N½	S of CGW RR	156.00
Section 12		
S½	S of CGW RR	102.00
T112N-R18W		
Section 18		
N½ of NE¼		80.00
NE¼ of NW¼		40.00
NW¼ of NW¼		33.98
Section 7		
S½ of SE¼		80.00
SE¼ of SW¼		40.00
SW¼ of SW¼		33.69
T112N-R19W		
Section 17		
N½ of NW¼	W of State Hwy 56	30.00
Section 8		
S½ of SW¼	W of State Hwy 56	27.00
T112N-R18W		
Section 13		
N½ of SW¼ of NW¼		20.00
N½ of NW¼		80.00
NW¼ of NE¼		40.00
Section 12		
SE¼ of SW¼		40.00
S½ of NE¼ of SW¼		20.00
S½ of NW¼ of SE¼		20.00
SW¼ of SE¼		40.00
E½ of SE¼		80.00
T112N-R17W		
Section 7		
Government Lot 9		59.54
" Lot 10	N½	24.00
" Lot 10	S½ within 300' of OHWM	6.00
" Lot 11	within 300' of OHWM E of river	10.00
" Lot 11	W of river	5.00
" Lot 12	within 300' of OHWM N of river	5.00
SE¼	within 300' of OHWM	35.00
Section 18		
Government Lot 3	within 300' of OHWM	2.00
" Lot 2	" "	22.00
" Lot 1	" "	20.00
NE¼	" "	13.00
Section 8		
S½ of NE¼ of NE¼		20.00
SW¼	N of CGW RR	120.00
W½ of SE¼		80.00
NE¼ of SE¼		40.00
S½ of NW¼		40.00
S½ of NE¼		80.00
Section 9		
N½ of S½		80.00
S½ of N½		160.00
S½ of N½ of N½		80.00
Section 10		
N½ of S½		80.00
S½ of N½		160.00
S½ of N½ of N½		80.00
Section 11		
N½ of NW¼ of SW¼		20.00
NW¼		160.00
N½ of SW¼ of NE¼		20.00
N½ of NE¼		80.00
Section 12		
N½ of NW¼ of NW¼		20.00
Section 2		
E½ of SW¼ of SE¼		20.00
E½ of SE¼		80.00
SE¼ of NW¼ of SE¼		10.00
S½ of SE¼ of NE¼		20.00
Section 1		
W½ of SW¼		80.00
N½ of NE¼ of SW¼		20.00
S½ of NW¼		80.00
NE¼ of NW¼		41.46
W½ of NE¼		81.44
NE¼ of NE¼		41.41
N½ of SE¼ of NE¼		20.00
T113N-R17W		
Section 36		
SE¼ of SE¼ of SW¼		10.00
S½ of SE¼		40.00
Section 31		
SW¼ of SW¼		40.06
E½ of SW¼		80.00
SE¼		160.00
T112N-R16W		
Section 6		
N½ of NW¼		62.21
N½ of NE¼		40.00
Section 5		
N½ of NW¼		81.73
NW¼ of NE¼		40.63
T113N-R16W		
Section 32		
S½ of NW¼ of SW¼		20.00
SW¼ of SW¼		40.00
S½ of SE¼ of SW¼		20.00
S½ of SE¼		80.00
NW¼ of SE¼		40.00
W½ of NE¼ of SE¼		20.00
NE¼		160.00
Section 33		
N½ of NW¼ of NW¼		20.00
Section 29		
S½ of SW¼ of SE¼		20.00
SE¼ of SE¼		40.00
Section 28		
SW¼		160.00
N½ of SE¼		80.00
S½ of NE¼		80.00
SE¼ of NW¼		40.00
NE¼ of NW¼	within 300' of OHWM N of river	2.00
NW¼ of NE¼	" "	4.00
Section 27		
SE¼		160.00
SE¼ of SW¼		40.00
N½ of SW¼		80.00
S½ of NW¼		80.00
S½ of SW¼ of NE¼		20.00
Section 26		
SW¼ of SW¼		40.00
S½ of SE¼ of SW¼		20.00
S½ of SW¼ of SE¼		20.00
NE¼ of SW¼ of SE¼		10.00
SE¼ of SE¼		40.00
E½ of NE¼ of SE¼		20.00
Section 34		
N½ of NE¼ of NE¼		20.00
Section 35		
N½		160.00
N½ of S½ of NW¼		40.00
N½ of SW¼ of NE¼		20.00
NW¼ of SE¼ of NE¼		10.00
Section 36		
N½ of NW¼		40.00

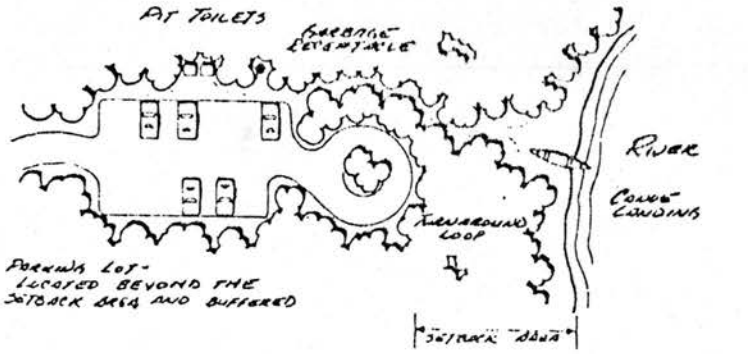
Section 25	
SW¼	160.00
N½ of SW¼ of SE¼	20.00
N½ of SE¼	80.00
NE¼	160.00
S½ of NW¼	80.00
S½ of NE¼ of NW¼	20.00
T113N-R15W	
Section 30	
N½ of NW¼	79.60
N½ of SW¼ of NW¼	19.87
Section 19	
S½ of SW¼	79.55
S½ of N½ of SW¼	39.73
SE¼	160.00
SE¼ of NE¼	40.00
E½ of SW¼ of NE¼	20.00
Section 20	
N½	320.00
N½ of NW¼ of SW¼	20.00
N½ of NW¼ of SE¼	20.00
E½ of SE¼	80.00
Section 21	
W½ of SW¼	80.00
SE¼ of SW¼	40.00
S½ of NE¼ of SW¼	20.00
W½ of SE¼	80.00
W½ of SE¼ of SE¼	20.00
NE¼ of SE¼ of SE¼	10.00
NE¼ of SE¼	40.00
SE¼ of NE¼	40.00
E½ of SW¼ of NE¼	20.00
SE¼ of NW¼ of NE¼	10.00
S½ of NE¼ of NE¼	20.00
S½ of NW¼ of NW¼	20.00
SW¼ of NW¼	40.00
Section 22	
NW¼	160.00
N½ of NE¼	80.00
W½ of NW¼ of SW¼	20.00
Section 15	
S½	160.00
Section 14	
SW¼ of SW¼	40.00
S½ of NW¼ of SW¼	20.00
E½ of SW¼	80.00
SE¼	160.00
Section 23	
N½	160.00
Section 24	
N½ of NW¼	80.00
N½ of SW¼ of NW¼	20.00
SE¼ of NW¼	40.00
SW¼ of NW¼	40.00
Government Lot 1	64.94
Section 13	
S½ of NW¼ of SW¼	20.00
S½ of SW¼	80.00
Government Lot 4	36.80
TOTAL ACREAGE	13,602.44

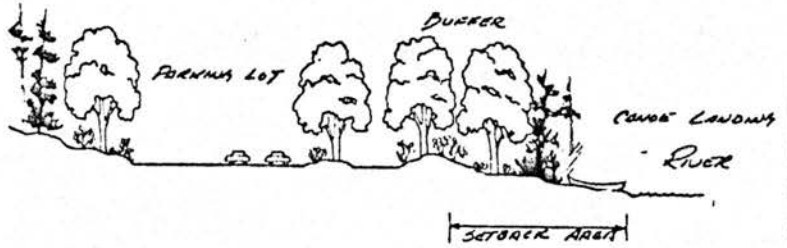
Typical sites





CANOE ACCESS





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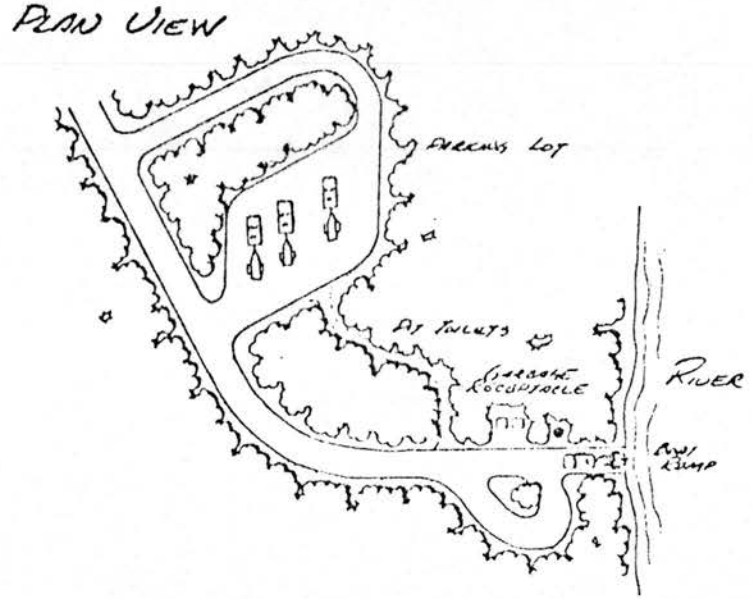

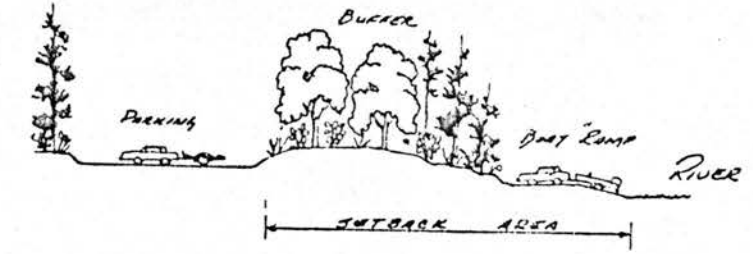

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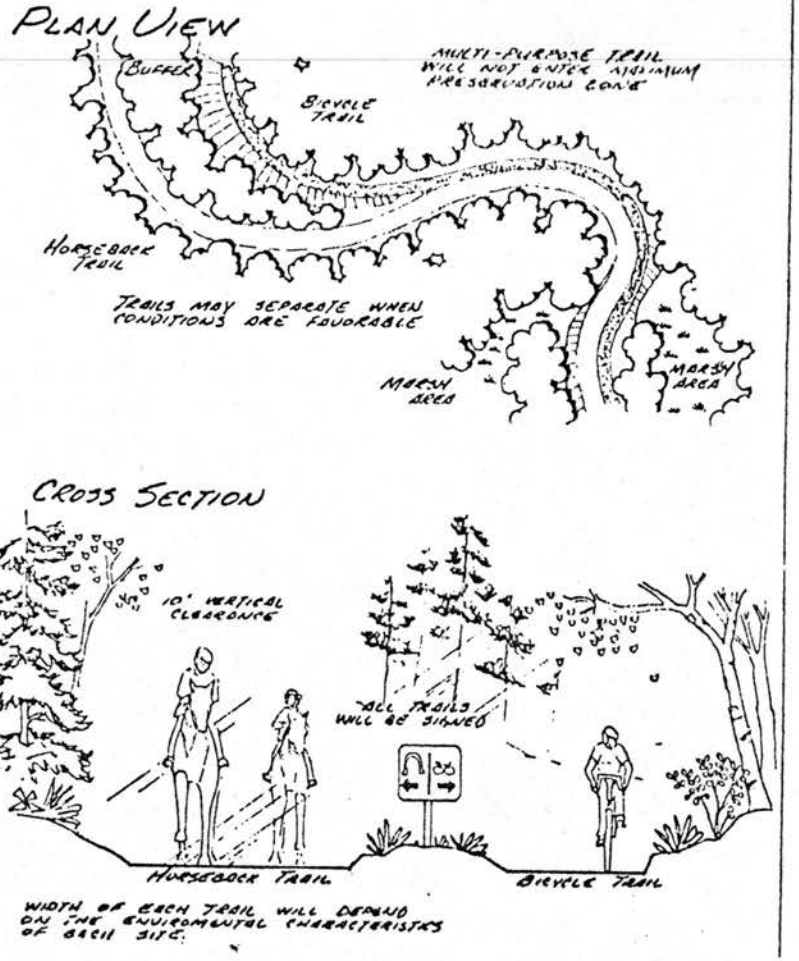
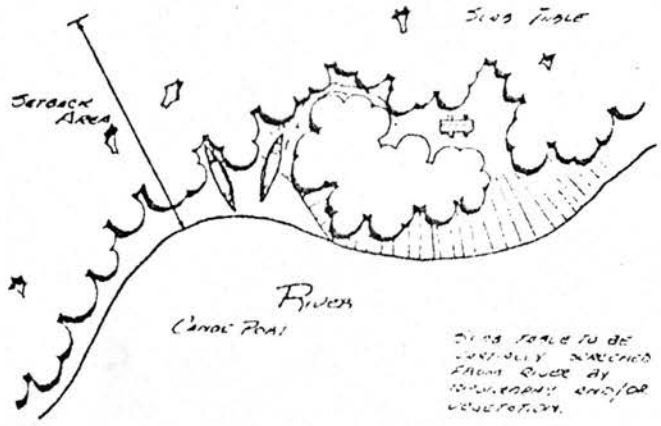
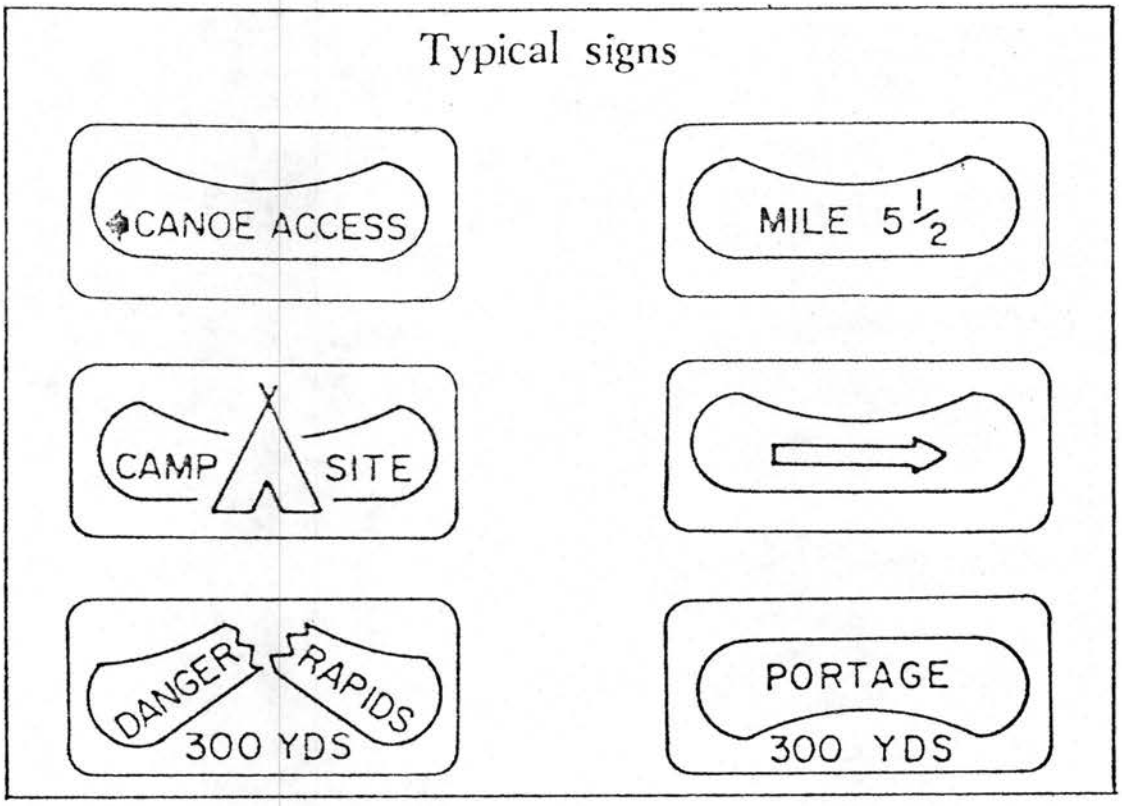


REST AREA





Pollution Control Agency

Proposed Amendment of APC 13 and APC 24 and Proposed Adoption of New Rules 6 MCAR §§ 4.0034, 4.0035, 4.0036, and 4.0037 Relating to the Control of the Emissions of Hydrocarbons

Notice of Hearing

Notice is hereby given that a rule hearing in the above-entitled matter will be held in the Board Room of the Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota, on Monday, July 16, 1979, commencing at 9:30 a.m., and continuing on subsequent days if necessary until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate at the rule hearing. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Myron Greenberg, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8109, either before or after the hearings until the record is closed. The record will remain open for five working days after the hearing ends, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner.

The proposed amendments and rules, if adopted, would establish emission standards and performance specifications and compliance schedules for owners and operators of facilities that emit hydrocarbons. The intent of these rules is to reduce hydrocarbon emission in areas of the state where significant emissions occur and where ozone problems have been identified. The amendments to APC 13 would require certain controls on older petroleum storage vessels located in the Twin Cities, Duluth, and Olmsted and Sherburne Counties. The amendments to APC 24 establish performance standards and compliance schedules that apply to vacuum producing systems and wastewater separators and during process unit turnarounds at petroleum refineries. 6 MCAR § 4.0034 establishes standards of performance and compliance schedules for surface coating facilities in the Twin Cities, Duluth, and Carlton, Olmsted, and Sherburne

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dunnage shall be required to remain on the transport involved in foreign commerce until an alternative means of disposal has been approved by the commissioner as complying with the purposes of these rules.

E. Any financial responsibility to accomplish any treatment of dunnage and/or refuse shall belong to those responsible for delivering the dunnage and/or refuse to Minnesota.

~~Agr 192 Definitions~~

~~(a) "Refuse" means any waste material containing any plant or animal material which is carried aboard any vessel.~~

~~(b) "Vessel" means any water carrier used for transporting cargo or passengers in commerce on public water comprising all that part of Lake Superior and the waters extending therefrom up to the point where T. H. #23 crosses the St. Louis River which are situated within the territorial boundary of the State of Minnesota.~~

~~(c) "Dunnage" includes lumber in any form and any other material used aboard a vessel to secure cargo in any manner.~~

Department of Natural Resources

Proposed Rules for Designation, Classification, and Management of the Cannon River from Faribault to the Mississippi River, as a Component of the State's Wild and Scenic River System

Notice of Hearing

Notice is hereby given that public hearings will be held on the above-captioned matter at:

8 p.m. July 17, 1979 at the Red Wing City Library (Footroom), 225 Broadway, Red Wing, Minnesota.

8 p.m. July 18, 1979 at the Dakota County Government Center Board Room 1560 Highway 55, Hastings, Minnesota.

8 p.m. July 19, 1979 at the Faribault Junior High School Auditorium, 315 Northwest Fourth Avenue, Faribault, Minnesota.

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 Allan Klein from the Office of Hearing Examiners. Room 300, 1745 University Avenue, St. Paul, Minnesota 55104 (612-296-8100). The hearing is a rule-making proceeding, conducted according to Minn. Stat. §§ 15.0411-15.0417, 15.051, and 15.052, and the rules for rule-making, which are 9 MCAR §§ 2.101-2.199.

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 rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

After the 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 management plan relates to the following matters:

Reasons for including the Cannon River in the Minnesota Wild, Scenic and Recreational Rivers System.

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."

The proposed classification of the river or segments of the river.

The proposed land use district boundaries which shall not exceed 320 acres per each river mile on both sides (not each side) of the river.

The proposed methods for preserving the river and its adjacent land, including the recommended land acquisition.

The proposed regulations for local land use control, including such matters as lot size and building height and setback requirements, vegetative cutting provisions, use within land use districts, and criteria for utility crossings, public roads and river crossing.

The proposed plan for recreational management within the land use district, including the location and design of campsites, rest areas, and accesses.

The proposed plan for administration of the management plan.

Copies of the management plan are available for inspection at public libraries in Faribault, Northfield, Cannon Falls, Hastings and Red Wing, and at the Legislative Reference Library in the state Capitol. Interested individuals may receive a free copy of the plan by writing or calling the Department of Natural Resources, Office of Planning, Rivers Section, Box 10 Centennial Office Building, St. Paul, MN 55155 (612-296-6784). Copies of the management plan will also be available at the public hearings.

The proposed management plan for the Cannon River has been prepared in accordance with Minnesota Statutes 104.35 and the Statewide Rules and Regulations relating to the Wild, Scenic and Recreational Rivers System (Minnesota Regulations NR 78-81).

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) 296-1720.

Dated this 24th day of May, 1979.

Joseph N. Alexander
Commissioner

Rules as Proposed (all new material)

Chapter Twenty-Nine: 6 MCAR § 1.2900 Designation, Classification and Management of the Cannon River in Rice, Dakota and Goodhue Counties

6 MCAR § 1.2900 Designation.

A. The river. That portion of the Cannon River from the northern city limits of Faribault (the common border of the SE¼ and the NE¼ of Section 19, T110N-R20W) to its confluence with the Mississippi River is hereby designated a component of the Minnesota wild, scenic and recreational rivers system.

B. Authority. This designation is made by the Commissioner of Natural Resources pursuant to the authority of the Minnesota Wild and Scenic Rivers Act (Minn. Stat. §§ 104.31 to 104.40).

C. Shoreland included. The designation and these rules apply to the river and the adjacent lands as provided for in the land use district descriptions. The land use district boundaries were drawn in accordance with Minnesota Regulations NR 78 (g) (2) (bb).

D. Definition. The definition of "normal high-water mark" (NR 78 (d)) shall be changed to read: "Ordinary high-water mark" means a mark delineating the highest water level which has been maintained for a sufficient

period of time to leave evidence upon the landscape. In areas where the ordinary high-water mark is not evident, setbacks shall be measured from the top of the bank of the river channel. A channel is a natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.

E. Severability. The provisions of these regulations shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision or any other part.

6 MCAR § 1.2910 Classification. The following classifications are made in accordance with the provisions of Minnesota Regulations NR 78 (f).

Recreational:

That portion of the Cannon River and its adjacent lands from the northern city limits of Faribault (the commnon border of the north and south halves of Sections 19 and 20, T110N-R20W) to the State Hwy. 56 bridge, and from the Lake Byllesby Dam (the common border of Sections 13 and 14, T112N-R18W) to the common border of Sections 7 and 8, T112N-R17W, in Cannon Falls. (The Lake Byllesby Reservoir is excluded from this segment.)

Scenic:

That portion of the Cannon River and adjacent lands from the common border of Sections 7 and 8, T112N-R17W, in Cannon Falls to the river's confluence with the Mississippi River.

6 MCAR § 1.2920 Management.

(A.) Land use provisions.

1. The Commissioner of Natural Resources hereby adopts the Scenic and Recreational land use districts as identified in the land use district descriptions of these rules and regulations. The land use districts were derived in accordance with Minnesota Rule NR 78 (g) (2) (bb).

2. Minnesota Rules NR 78-81 shall apply to all lands within the Scenic and Recreational land use districts, except as specified in these regulations.

3. Because some areas along the Cannon River have been considerably developed, and because the wild and scenic rivers act states that management plans shall be prepared "with no unreasonable restrictions upon compatible, pre-existing, economic uses of particular tracts of land . . ." (Minn. Stat 104.35), the municipalities of Cannon Falls, Dundas and Northfield all adopt regulations as specified in 6 MCAR § 1.2920 D.

4. If land is annexed, incorporated or in any other way transferred to another jurisdiction a moratorium shall exist on all subdivision platting, building permits, construction, grading and filling, and vegetative cutting until the newly responsible unit of government adopts zoning for that land. The zoning shall meet the provisions of these rules and regulations that applied to the land before the transfer. This provision does not apply to work for which lawful permits were previously issued.

5. Minnesota Rules NR 79 (c) (3) (bb) (iii), NR 79 (d) (2) and NR 79 (g) (1) specify regulations concerning designated tributaries. These regulations apply only to lands within the land use district. Designated tributaries along the Cannon River shall be:

a. Belle Creek
b. Chub Creek
c. Heath Creek
d. Little Cannon River
e. North Cannon River
f. Pine Creek
g. Spring Brook
h. Trout Brook
i. Wolf Creek

6. Because the Cannon River valley is a major source of sand and gravel in the area and because this resource can be extracted in a manner that will have minor environmental impact, sand and gravel extraction shall be allowed as a conditional use, subject to the following conditions:

a. Commercial manufacturing of sand and gravel by-products shall be nonpermitted uses in the land use district.

b. The following shall be submitted to the local authority as part of the application for a conditional use permit:

(1) A detailed site plan.

(2) A soil erosion and sediment control plan showing that the mining operation will not adversely affect the quality of surface or subsurface waters.

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(3) A dust and noise control plan.

(4) A detailed site reclamation plan. Reclamation shall be initiated immediately after the termination of the mining operation and upon completion the area shall be restored to as near its original state as practicable.

c. Mining operations shall not take place within 300 feet of the river and designated tributaries. This distance does not apply to water pumps needed for the mining operation. However, appropriation of water from the river shall require a permit from the DNR, Division of Waters.

d. No sand and gravel operation shall be conducted on parcels of land or a combination of parcels of less than 20 acres.

7. To reduce the effects of litter along the river, canoe and inner tube rental establishments shall:

a. Provide disposal refuse containers to those renting canoes and inner tubes.

b. Require the return of refuse containers along with all refuse from the river trip.

8. Existing development in the village of Welch in E½, W½, NE¼ of Section 28, T113N-R16W, north of the river, shall be allowed to continue as now identified by the Goodhue County zoning ordinance, as amended in 1976.

9. Because agricultural uses are permitted in the land use district and because of the pre-existence of agricultural buildings along the Cannon River, Minnesota Regulations NR 79 (c) (3) (dd) shall be amended to read:

Structure height shall not exceed 35 feet, except for building used primarily for agricultural purposes.

10. Minnesota Regulations NR 79 (c) (3) (cc) (i) shall be modified to read:

Structures shall be allowed on slopes of greater than 13 percent or on blufflines if structures can meet the following criteria:

a. Sewage system facilities must be installed so as to comply with the Sanitary Provisions (d) of NR 79.

b. Structures must be adequately screened.

c. It must be proven that any potential or actual erosion or sedimentation problems do not exist, and that adequate measures shall be taken to prevent them.

d. Where bearing capacity is in doubt soil boring samples must be taken.

e. Consideration must be given to color and architectural design (including roof slope and orientation), subject to scrutiny of the township and county planning commission.

11. NR 79 (b) (2) shall be amended to include the following:

	Land use districts	
	Scenic River	Recreational River
(tt) Sand and gravel extraction, subject to provisions of NR 2920 A. 6.	C	C
(uu) Canoe rental establishments, subject to provisions of NR 2920 A. 7.	C	C
(vv) Inner tube rental establishments	N	N

12. NR 79 (i) (Utility Companies, Standards and Criteria for Utility Crossings) shall be amended to include:

3. Accessory facilities to power plants (intake and outflow structures), not within the jurisdiction of the local authority, when located in the land use district shall be screened to the maximum extent possible to minimize the visual intrusion on the landscape.

(B.) Land acquisition.

1. Fee title acquisition from willing sellers is recommended in those areas where recreational sites are needed, as identified in 6 MCAR § 1.2920 C. 2.

2. Scenic easement acquisition from willing sellers is recommended in those areas having outstanding scenic, natural or similar values and in areas with high development potential.

3. Because acquisition of lands or interests in land is from willing sellers at market value, some lands recommended for scenic easement acquisition may be purchased in fee title. Additional land or interests in land other than those recommended may be purchased within the land use district to further the policies established in Minn. Stat. § 104.32, and the management plan.

4. Other forms of acquisition, such as use easements or leases, may be substituted for the recommended acquisition or used to acquire interests in other lands within the land use district when such purchases further the policies of these rules and regulations and Minn. § 104.32.

5. The DNR shall consider leasing rest areas for an initial five-year period, with the option for longer leasing or purchase after that period.

6. Land or interests in land recommended to be ac-

quired in these rules and regulations will be acquired from willing sellers when funds are available for such purposes, as provided for in Minn. Stat. § 104.37.

7. Wherever feasible, land will be exchanged in a manner prescribed by state law to acquire land in the land use district. Land will not be exchanged, however, if such exchanges would adversely affect this or other DNR management programs.

8. The Commissioner of Natural Resources shall not request or use condemnation to acquire lands in the Cannon River land use district through the wild and scenic rivers program.

C. Recreation management.

1. General.

a. It is the intent of these rules and regulations to manage recreation to provide for the orderly use of public lands and waters within the Scenic and Recreational river land use districts. The development and maintenance of selected land- and water-oriented recreational facilities will help "protect the rights of private landowners, ensure quietude, prohibit trespassing, and maintain the essential quality of wild and scenic river land use districts," as provided for in Minnesota Regulations NR 80 (a) (1).

b. NR 80 (b) (1) shall be amended to impose the current state penalty for a misdemeanor.

2. Uses.

a. Priority areas for development of governmental recreational facilities are listed below. If these parcels are not available for use similar parcels may be used.

Location	Facility	Present Ownership
T111N-R20 W, Section 1 in Sechler Park	Campsite, Rest Area	Northfield
T111N-R20W, Section 1, NW¼, on either side of Northfield Mill Dam	Portage	Northfield, Private
T112N-R19W, Section 31 E½ of the NW¼	Access	Carleton College
T112N-R18W, Section 7 S½ of the SE¼, north of river	Campsite, Rest Area	Dakota County
T112N-R18W, Section 8 north of river	Access	Private
T112N-R18W, Section 13 & 14 south of river	Portage	Goodhue County
T112N-R17W, Section 2 NE¼ of the NE¼ of the SE¼	Rest Area	Private
T113N-R16W, Section 35 SW¼ of the NE¼, near Belle Creek	Rest Area	DNR
T113N-R15W, Section 19 south of river	Access	Private
T113N-R15W, Section 22 E½ of the NW¼ of the NW¼	Rest Area	DNR

b. Because sufficient public land exists between Faribault and Northfield, all public recreational facilities in this area shall be located on existing public land.

c. The development of public or private facilities within the land use district shall conform to the site typicals in these rules and regulations. In addition, when establishing rest areas, sufficient land shall be acquired to provide a 300-foot buffer zone between the activity area and adjacent property.

d. DNR rest areas shall not be established closer than four miles to existing rest areas and shall be inaccessible by road.

e. To establish the Cannon River as a day use river the DNR shall establish no overnight camping areas along the river.

f. All public and private camping areas established along the river shall be periodically inspected and subject to all regulations of the Minnesota Pollution Control Agency, the Minnesota Department of Health and all local zoning ordinances.

g. If a recreational site is found in violation of Department of Public Health regulations more than three times in one season, the site shall be closed.

h. No special DNR facilities for motorboats shall be provided.

i. The DNR shall not develop or provide for trails within the land use district. This shall not include local trails or state-funded grant-in-aid trails.

j. Snowmobile use on lands in the land use district shall be allowed:

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(1) On private lands, only with the permission of the appropriate landowner(s).

(2) On public lands where provided for.

3. Maintenance.

a. The DNR shall be responsible for and shall allocate funds for maintenance of DNR recreational facilities within the Cannon River land use district. The DNR is encouraged to hire area residents to help maintain recreational facilities.

b. A "carry-in, carry-out" policy shall be implemented by river users. To help ensure the success of this policy, no trash receptacles shall be provided at DNR rest areas and areas shall be maintained to prevent the establishment of dumps.

c. Orientation signs identifying all recreational facilities along the river, containing the recreational rules for the river and explaining the "carry-in, carry-out" refuse policy shall be posted at accesses.

d. If heavy use of recreational facilities wears down river land, causes erosion or leads to problems with adjacent landowners, DNR sites shall be closed.

4. Enforcement. The DNR's Division of Enforcement shall determine with the local units of government the division of responsibilities for the enforcement of the wild and scenic river user regulations (Minnesota Rule NR 80). The Division of Enforcement shall also take appropriate action to ensure expeditious enforcement of wild and scenic river regulations.

D. Administration.

1. The local zoning authority shall administer the wild and scenic rivers ordinance in accordance with the provisions of NR 81.

2. Dakota and Goodhue counties and the city of Red Wing shall enact or amend such ordinances and maps as necessary to:

a. Establish the Scenic and Recreational land use districts in their jurisdiction according to Minnesota rule 6 MCAR § 1.2910, to include the lands identified in the land use district descriptions.

b. Conform to the provisions of these rules and regulations (6 MCAR § 1.2900, except as indicated in 6 MCAR § 1.2920 D. 4., 5. and 6.

3. Rice County shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational land use district in its jurisdiction according to Minnesota Rule 6 MCAR § 1.2910, to include the lands identified in the land use district descriptions.

b. Conform to the provisions of these rules and regulations (6 MCAR § 1.2900), except as indicated in 6 MCAR § 1.2920 D. 4. and 5.

c. It is recommended that Rice County also continue to enforce present agricultural preservation zoning, as identified in Section 15 of the 1975 Rice County zoning ordinance, on lands beyond 350 feet of the ordinary high-water mark.

4. The municipalities of Dundas (In T111N-R20W: that portion located in the S½ of the N½ of Section 15; and Section 11) and Northfield (In T111N-R20W: that portion located in Section 11; Section 2, south of the river; and the SW¼ of the SW¼ of Section 1, east of the river) shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational river land use districts according to 6 MCAR § 1.2910 to include lands identified in the land use district descriptions.

b. Conform to the provisions of Minnesota Rules NR 82-84 (Municipal Shoreland Management for Natural Environment Waters) except NR 84 (a) (2) and NR 84 (c).

c. Conform to the following provisions of NR 78-81: NR 78(d); NR 79 (b) (2) (aa), (bb), (cc), (dd), (ff) and (gg); NR 80 and NR 81.

d. Conform to the provisions of these rules and regulations (6 MCAR § 1.2900).

5. The municipalities of Dundas (In T111N-R20W: that portion located in the N½ of the N½ of Section 15; and Section 10) and Northfield (In T111N-R20W: that portion located in Section 2, north of the river; and Section 1, except the SW¼ of the SW¼ east of the river. In T112N-R20W: Section 36. In T112N-R19W: Sections 30 and 31) shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational river land use districts according to 6 MCAR § 1.2910, to include lands identified in the land use district descriptions.

b. Conform to the provisions of Minnesota Regulations NR 82-84 (Municipal Shoreland Management for General Development Waters), except NR 84 (a) (2) and NR 84 (c).

c. Conform to the following provisions of NR 78-81: NR 78 (d); NR 79 (b) (2) (aa), (bb), (cc), (dd), (ff), and (gg); NR 80 and NR 81.

d. Conform to the provisions of these rules and regulations (6 MCAR § 1.2900).

6. The municipality of Cannon Falls shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational river land use district according to 6 MCAR § 1.2910, to include lands identified in the land use district descriptions.

b. Conform to the provisions of Minnesota Rules NR 82-84 (Municipal Shoreland Management for Recreational Development Waters), except NR 84 (a) (2) and 84 (c).

c. Conform to the following provisions of NR 78-81: NR 78 (d); NR 79 (b) (2) (aa), (bb), (cc), (dd), (ff) and (gg); NR 80 and NR 81.

d. Conform to the provisions of these rules and regulations (6 MCAR § 1.2900).

7. Local zoning authorities may retain or adopt regulations that are more restrictive than those required by these rules and regulations, pursuant to Minn. Stat. §§ 394.21, 394.33 and 462.353.

8. The DNR shall assist local units of government in implementing these rules and regulations, in accordance with Minn. Stat. § 104.36.

9. The DNR shall delineate the land use district boundaries on the appropriate zoning maps for the affected local units of government.

10. Every five years the DNR shall conduct a public informational meeting to determine the effectiveness, the progress and the opportunities for improvement of these rules and regulations.

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Legal descriptions

OHWM=ordinary high-water mark
CRI & P RR=Chicago, Rock Island and Pacific Railroad
CGW RR=Chicago-Great Western Railroad

Description		Acreage
T110N-R20W		
Section 19		
SW¼ of NE¼	E of CRI&P RR	3.00
SE¼ of NE¼	" "	38.00
S½ of NE¼ of NE¼	" "	15.00
Section 20		
NW¼		160.00
NW¼ of NE¼		40.00
Section 17		
E½ of SW¼ of SW¼		20.00
SE¼ of SW¼		40.00
SE¼		160.00
NE¼		160.00
Section 16		
N½ of SW¼ of SW¼		20.00
NW¼ of SE¼ of SW¼		10.00
W½ of NE¼ of SW¼		20.00
NW¼ of SW¼		40.00
SW¼ of NW¼		40.00
W½ of SE¼ of NW¼		20.00
W½ of NW¼ of NW¼		20.00
Section 8		
SE¼		160.00
S½ of NE¼		80.00
NW¼ of NE¼		40.00
E½ of SE¼ of NW¼		20.00
NE¼ of NW¼		40.00
E½ of NW¼ of NW¼		20.00
Section 9		
W½ of SW¼		40.00
Section 5		
E½ of SW¼		80.00
E½ of W½ of SW¼		40.00
E½ of W½ of NW¼		40.00
E½ of NW¼		80.77
NE¼		161.48
Section 4		
NW¼		161.28
N½ of NE¼		80.96
N½ of S½ of NE¼		40.00
Section 3		
NW¼ of NW¼		40.31
N½ of SW¼ of NW¼		20.00
W½ of NE¼ of NW¼		20.00
T111N-R20W		
Section 33		
E½ of SE¼ of SE¼		20.00
Section 34		
E½ of NW¼		80.00
S½ of NW¼ of NW¼		20.00
SW¼ of NW¼		40.00
NE¼ of SW¼		40.00
W½ of SW¼		80.00
W½ of SE¼ of SW¼		20.00
W½ of NE¼		80.00
NE¼ of NE¼		40.00
Section 27		
E½		160.00
E½ of W½ of NE¼		40.00
E½ of NW¼ of SE¼		20.00
S½ of SW¼ of SE¼		20.00
NW¼ of NW¼ of NE¼		10.00
Section 26		
W½ of SW¼		80.00
SW¼ of NW¼		40.00
W½ of NW¼ of NW¼		20.00
Section 22		
E½		320.00
Section 15		
W½ of E½ of SE¼		40.00
W½ of SE¼		80.00
NE¼	within 300' of OHWM only	32.00
Section 10		
SE¼	within 300' of OHWM only	41.00
Section 11		
NW¼ of SW¼	N & W of river	4.00
NW¼ of SW¼	within 300' of OHWM S & E of river	12.00
SE¼ of NW¼		40.00
NE¼ of NW¼	E of CRI&P RR	36.00
SW¼ of NW¼	" "	33.00
N½ of NW¼ of NE¼		20.00
NW¼ of NW¼	E of CRI&P RR	4.00
Section 2		
SW¼ of SE¼	E of CRI&P RR	36.00
SE¼ of SE¼		40.00
NE¼ of SE¼	SE of CRI&P RR	22.00
SE¼ of NW¼ of SE¼	" "	4.00
SE¼ of SW¼	" "	7.00
Section 1		
Within 300' of OHWM S & E of river		57.00
NW¼ of SW¼	N & W of river to CRI&P RR	29.00
SW¼ of NW¼	S & E of CRI&P RR	6.00
E½ of NW¼	within 300' of OHWM N & W of river	8.00
N½ of NE¼	" "	19.00
SW¼ of NE¼	within 300' of OHWM N of river	3.00
T112N-R20W		
Section 36		
SE¼ of SE¼	within 300' of OHWM W of river	5.00
T112N-R19W		
Section 31		
Within 300' of OHWM		86.00
T111N-R19W		
Section 6		
NW¼ of NW¼ of NW¼	within 300' of OHWM E of river	2.00
T112N-R19W		
Section 30		
SE¼ of SW¼	S & E of State Hwy 3	22.00
SE¼	E of State Hwy 3	152.00
SW¼ of NE¼	" "	4.00
E½ of NE¼	E of CSAH 47	49.00
Section 29		
SW¼ of NW¼		40.00
NW¼ of NW¼	S & E of CSAH 47	34.00
NE¼ of NW¼		40.00
N½ of NW¼ of NE¼		20.00
Section 20		
SE¼	S & E of CASH 47	121.00
S½ of SW¼	" "	23.00
Section 21		
SW¼		160.00
SE¼ of NW¼		40.00
NW¼ of SE¼		40.00
N½ of NE¼ of SE¼		20.00
S½ of NE¼		80.00
S½ of NE¼ of NE¼		20.00
Section 22		
N½		160.00
N½ of SE¼ of NW¼		20.00
N½ of SW¼ of NE¼		20.00
SW¼ of NW¼		40.00
Section 15		
S of CGW RR		106.00
Section 14		
W½ of SW¼	S of CGW RR	75.00
N½ of SE¼ of SW¼		20.00
NE¼ of SW¼		40.00
SE¼ of NW¼	S of CGW RR	15.00
NW¼ of SE¼		40.00
N½ of NE¼ of SE¼		20.00
NE¼	S of CGW RR	94.00
SW¼ of NW¼	" "	1.00

Section 13
SW¼ of NW¼ 40.00
N½ S of CGW RR 156.00

Section 12
S½ S of CGW RR 102.00

T112N-R18W
Section 18
N½ of NE¼ 80.00
NE¼ of NW¼ 40.00
NW¼ of NW¼ 33.98

Section 7
S½ of SE¼ 80.00
SE¼ of SW¼ 40.00
SW¼ of SW¼ 33.09

T112N-R19W
Section 17
N½ of NW¼ W of State Hwy 56 30.00

Section 8
S½ of SW¼ W of State Hwy 56 27.00

T112N-R18W
Section 13
N½ of SW¼ of NW¼ 20.00
N½ of NW¼ 80.00
NW¼ of NE¼ 40.00

Section 12
SE¼ of SW¼ 40.00
S½ of NE¼ of SW¼ 20.00
S½ of NW¼ of SE¼ 20.00
SW¼ of SE¼ 40.00
E½ of SE¼ 80.00

T112N-R17W
Section 7
Government Lot 9 59.54
" Lot 10 N½ 24.00
" Lot 10 S½ within 300' of OHWM 6.00
" Lot 11 within 300' of OHWM E of river 10.00
" Lot 11 W of river 5.00
" Lot 12 within 300' of OHWM N of river 5.00
SE¼ within 300' of OHWM 35.00

Section 18
Government Lot 3 within 300' of OHWM 2.00
" Lot 2 " " 22.00
" Lot 1 " " 20.00
NE¼ " " 13.00

Section 8
S½ of NE¼ of NE¼ 20.00
SW¼ N of CGW RR 120.00
W½ of SE¼ 80.00
NE¼ of SE¼ 40.00
S½ of NW¼ 40.00
S½ of NE¼ 80.00

Section 9
N½ of S½ 80.00
S½ of N½ 160.00
S½ of N½ of N½ 80.00

Section 10
N½ of S½ 80.00
S½ of N½ 160.00
S½ of N½ of N½ 80.00

Section 11
N½ of NW¼ of SW¼ 20.00
NW¼ 160.00
N½ of SW¼ of NE¼ 20.00
N½ of NE¼ 80.00

Section 12
N½ of NW¼ of NW¼ 20.00

Section 2
E½ of SW¼ of SE¼ 20.00
E½ of SE¼ 80.00
SE¼ of NW¼ of SE¼ 10.00
S½ of SE¼ of NE¼ 20.00

Section 1
W½ of SW¼ 80.00
N½ of NE¼ of SW¼ 20.00
S½ of NW¼ 80.00
NE¼ of NW¼ 41.46
W½ of NE¼ 81.44
NE¼ of NE¼ 41.41
N½ of SE¼ of NE¼ 20.00

T113N-R17W
Section 36
SE¼ of SE¼ of SW¼ 10.00
S½ of SE¼ 40.00

Section 31
SW¼ of SW¼ 40.06
E½ of SW¼ 80.00
SE¼ 160.00

T112N-R16W
Section 6
N½ of NW¼ 62.21
N½ of NE¼ 40.00

Section 5
N½ of NW¼ 81.73
NW¼ of NE¼ 40.63

T113N-R16W
Section 32
S½ of NW¼ of SW¼ 20.00
SW¼ of SW¼ 40.00
S½ of SE¼ of SW¼ 20.00
S½ of SE¼ 80.00
NW¼ of SE¼ 40.00
W½ of NE¼ of SE¼ 20.00
NE¼ 160.00

Section 33
N½ of NW¼ of NW¼ 20.00

Section 29
S½ of SW¼ of SE¼ 20.00
SE¼ of SE¼ 40.00

Section 28
SW¼ 160.00
N½ of SE¼ 80.00
S½ of NE¼ 80.00
SE¼ of NW¼ 40.00
NE¼ of NW¼ within 300' of OHWM N of river 2.00
" " 4.00
NW¼ of NE¼

Section 27
SE¼ 160.00
SE¼ of SW¼ 40.00
N½ of SW¼ 80.00
S½ of NW¼ 80.00
S½ of SW¼ of NE¼ 20.00

Section 26
SW¼ of SW¼ 40.00
S½ of SE¼ of SW¼ 20.00
S½ of SW¼ of SE¼ 20.00
NE¼ of SW¼ of SE¼ 10.00
SE¼ of SE¼ 40.00
E½ of NE¼ of SE¼ 20.00

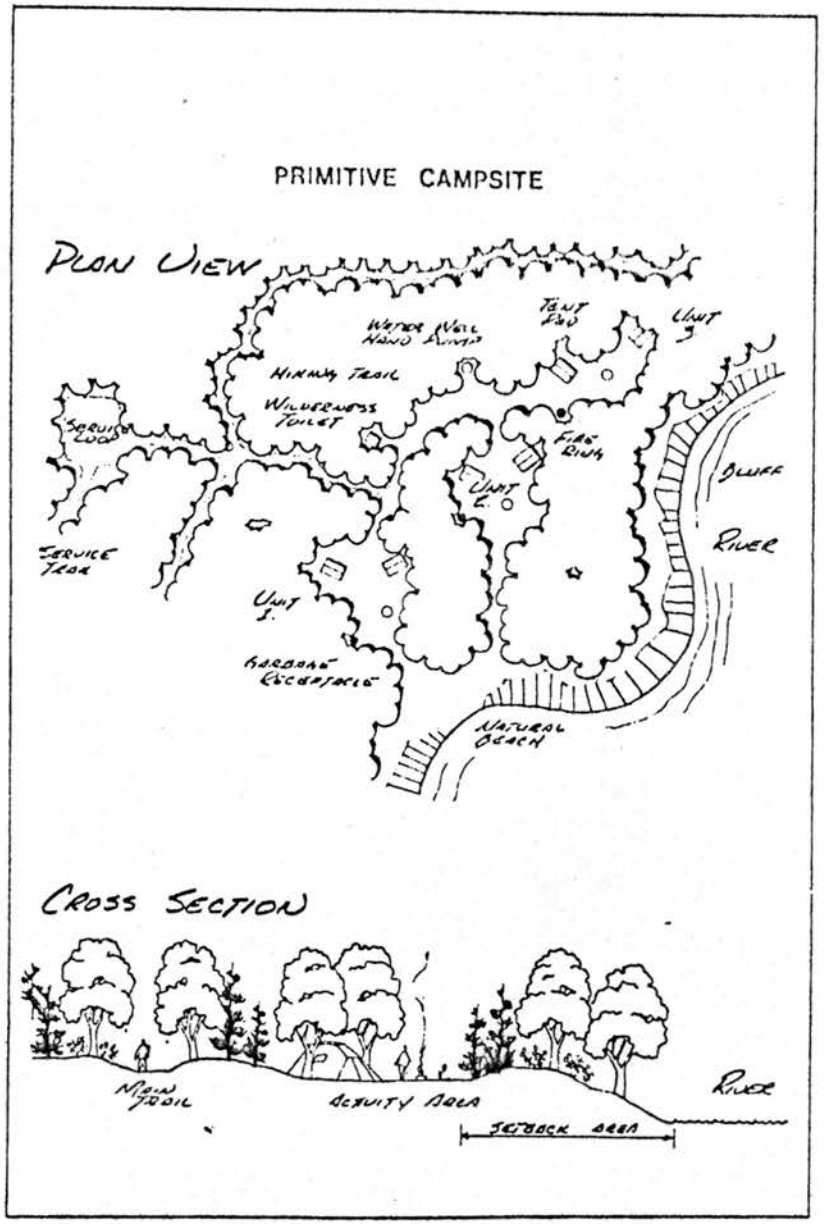
Section 34
N½ of NE¼ of NE¼ 20.00

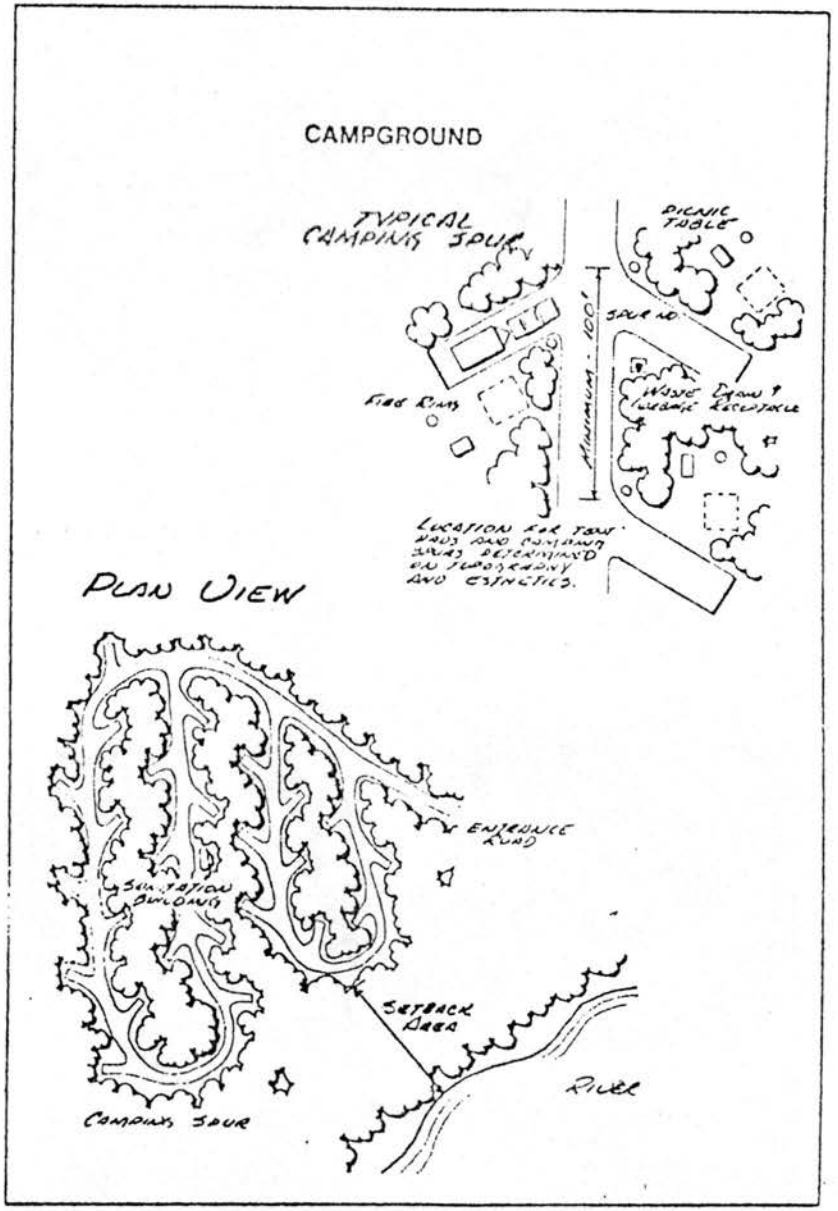
Section 35
N½ 160.00
N½ of S½ of NW¼ 40.00
N½ of SW¼ of NE¼ 20.00
NW¼ of SE¼ of NE¼ 10.00

Section 36
N½ of NW¼ 40.00

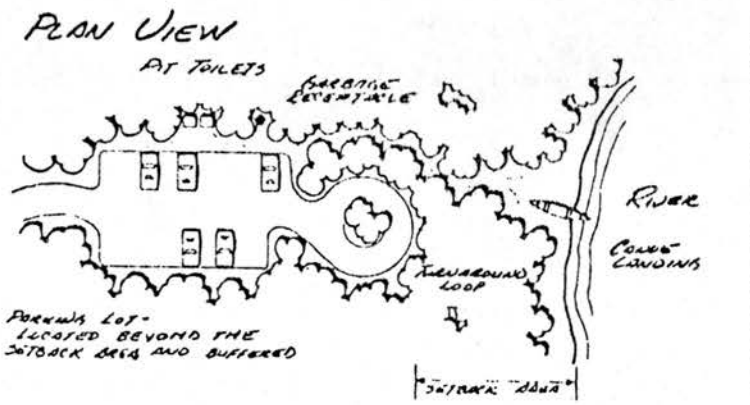
Section 25	
SW¼	160.00
N½ of SW¼ of SE¼	20.00
N½ of SE¼	80.00
NE¼	160.00
S½ of NW¼	80.00
S½ of NE¼ of NW¼	20.00
T113N-R15W	
Section 30	
N½ of NW¼	79.60
N½ of SW¼ of NW¼	19.87
Section 19	
S½ of SW¼	79.55
S½ of N½ of SW¼	39.73
SE¼	160.00
SE¼ of NE¼	40.00
E½ of SW¼ of NE¼	20.00
Section 20	
N½	320.00
N½ of NW¼ of SW¼	20.00
N½ of NW¼ of SE¼	20.00
E½ of SE¼	80.00
Section 21	
W½ of SW¼	80.00
SE¼ of SW¼	40.00
S½ of NE¼ of SW¼	20.00
W½ of SE¼	80.00
W½ of SE¼ of SE¼	20.00
NE¼ of SE¼ of SE¼	10.00
NE¼ of SE¼	40.00
SE¼ of NE¼	40.00
E½ of SW¼ of NE¼	20.00
SE¼ of NW¼ of NE¼	10.00
S½ of NE¼ of NE¼	20.00
S½ of NW¼ of NW¼	20.00
SW¼ of NW¼	40.00
Section 22	
NW¼	160.00
N½ of NE¼	80.00
W½ of NW¼ of SW¼	20.00
Section 15	
S½	160.00
Section 14	
SW¼ of SW¼	40.00
S½ of NW¼ of SW¼	20.00
E½ of SW¼	80.00
SE¼	160.00
Section 23	
N½	160.00
Section 24	
N½ of NW¼	80.00
N½ of SW¼ of NW¼	20.00
SE¼ of NW¼	40.00
SW¼ of NW¼	40.00
Government Lot 1	64.94
Section 13	
S½ of NW¼ of SW¼	20.00
S½ of SW¼	80.00
Government Lot 4	36.80
TOTAL ACREAGE	13,602.44

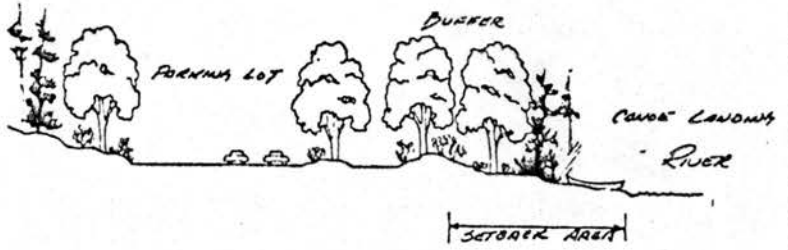
Typical sites



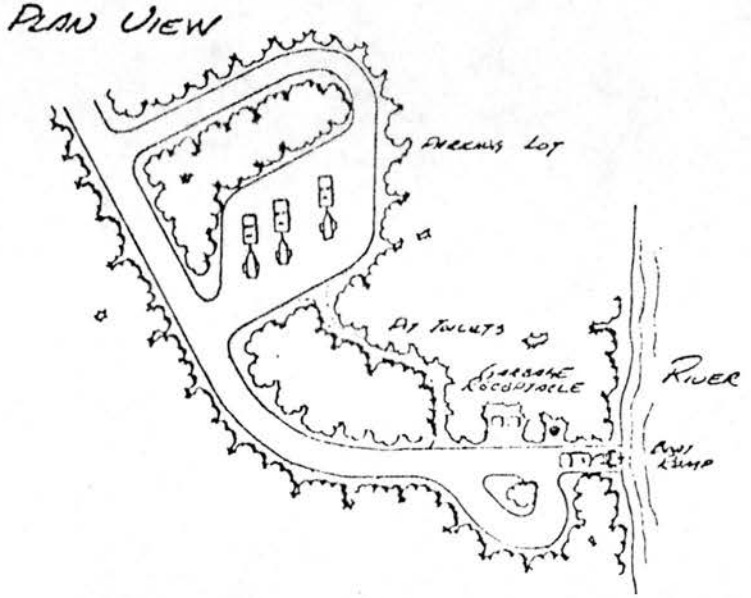


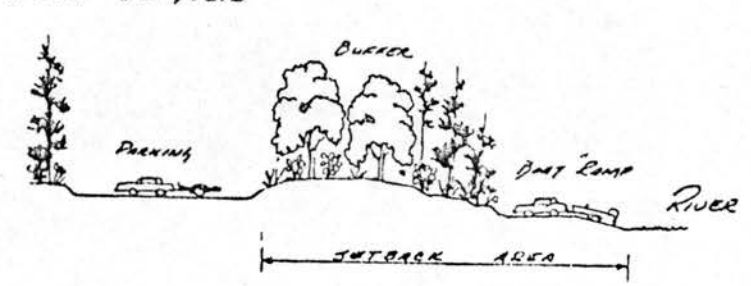
CANOE ACCESS



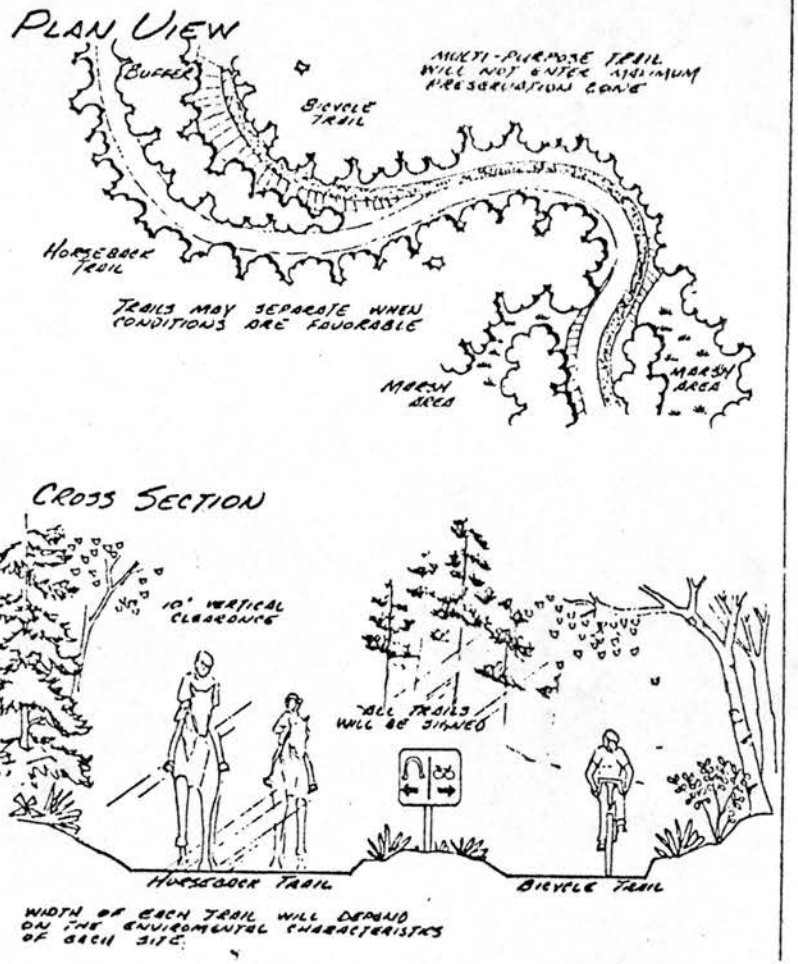


BOAT ACCESS

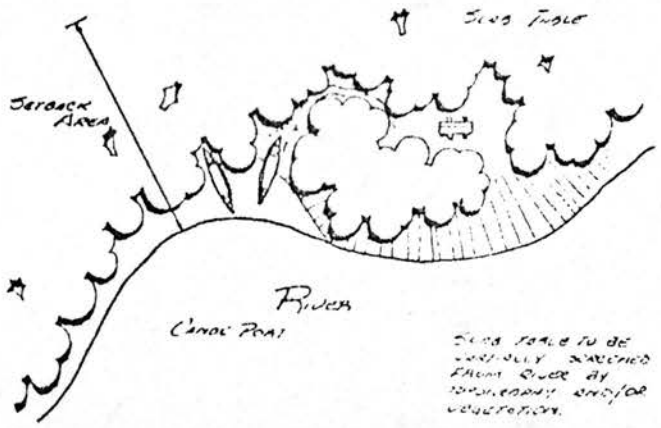


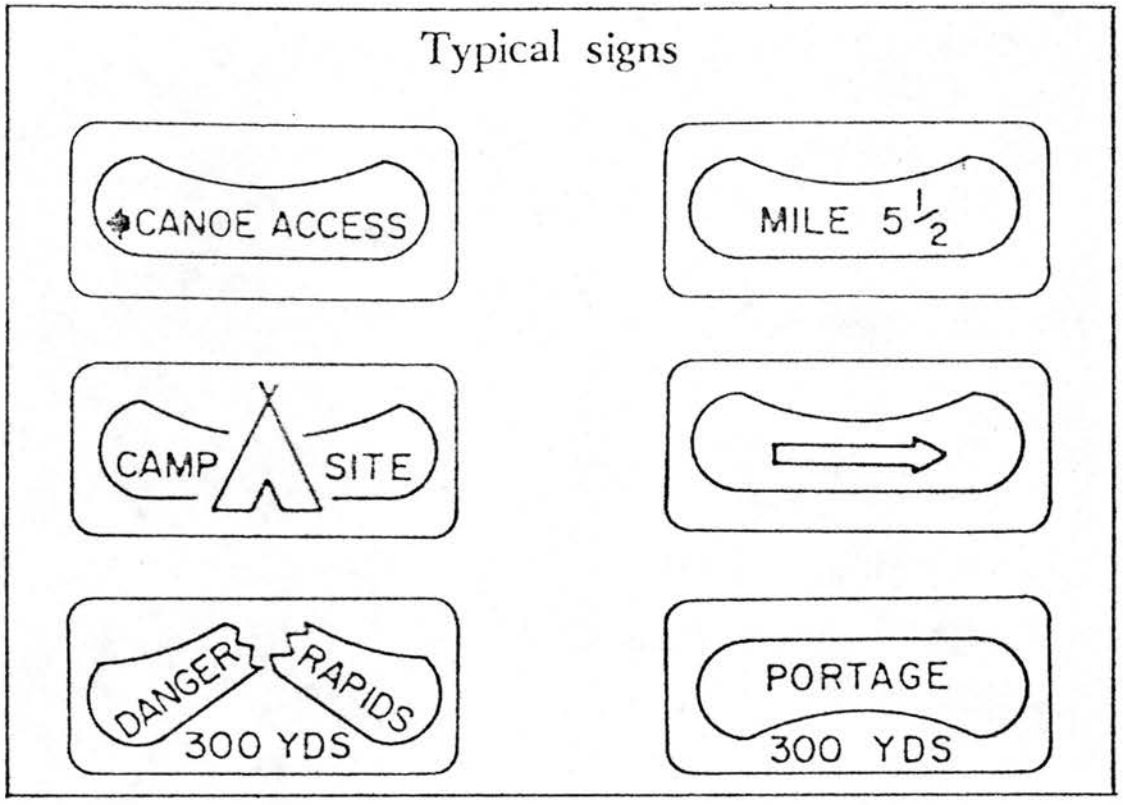


TRAIL DESIGN



REST AREA





Pollution Control Agency

Proposed Amendment of APC 13 and APC 24 and Proposed Adoption of New Rules 6 MCAR §§ 4.0034, 4.0035, 4.0036, and 4.0037 Relating to the Control of the Emissions of Hydrocarbons

Notice of Hearing

Notice is hereby given that a rule hearing in the above-entitled matter will be held in the Board Room of the Minnesota Pollution Control Agency, 1935 W. County Road B2, Roseville, Minnesota, on Monday, July 16, 1979, commencing at 9:30 a.m., and continuing on subsequent days if necessary until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate at the rule hearing. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Myron Greenberg, Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8109, either before or after the hearings until the record is closed. The record will remain open for five working days after the hearing ends, or for a longer period not to exceed twenty calendar days if ordered by the Hearing Examiner.

The proposed amendments and rules, if adopted, would establish emission standards and performance specifications and compliance schedules for owners and operators of facilities that emit hydrocarbons. The intent of these rules is to reduce hydrocarbon emission in areas of the state where significant emissions occur and where ozone problems have been identified. The amendments to APC 13 would require certain controls on older petroleum storage vessels located in the Twin Cities, Duluth, and Olmsted and Sherburne Counties. The amendments to APC 24 establish performance standards and compliance schedules that apply to vacuum producing systems and wastewater separators and during process unit turnarounds at petroleum refineries. 6 MCAR § 4.0034 establishes standards of performance and compliance schedules for surface coating facilities in the Twin Cities, Duluth, and Carlton, Olmsted, and Sherburne

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Inclusion in the Minnesota Wild, Scenic and Recreational Rivers System of the Cannon River from Faribault to the Mississippi River, and the Adoption of a Management Plan for the Cannon River

I am familiar with the subject rules, and with the proceedings leading to their adoption. Based on that and my knowledge of the laws and rules regarding rule-making, I believe these rules have been properly adopted.

Dated December 3, 1979.

A. W. Clapp

A. W. CLAPP, III
Special Assistant
Attorney General

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Proposed Inclusion of the Cannon River, from the City of Faribault to the Mississippi River, in the Minnesota Wild and Scenic Rivers System and the Proposed Adoption of a Management Plan for the Cannon River.

FINDINGS AND CONCLUSIONS OF THE COMMISSIONER

I have reviewed the hearing record and have read the report of the hearing examiner, and the review of the Cannon River Management Plan provided by the State Planning Agency pursuant to the Outdoor Recreation Act of 1975. It is my decision to designate the Cannon River as a component of the State Wild and Scenic Rivers System.

FINDINGS

I adopt the hearing examiner's Findings of Fact and Conclusions on the Cannon River public hearings as mine and incorporate them by reference in this document except for the following:

1. The hearing examiner in his findings number 34 recommended that the land use district extend no more than 30 feet back from the bluffline and where there is no bluffline or where the bluffline is so far back from the river that this proposed line would cause the total size of the district to exceed 320 acres per river mile then the boundaries should be limited to 350 feet on both sides of the river. The hearing examiner stated that he could not find any non-visual factors which have been demonstrated to require an extension of the district beyond what he proposed. After reviewing the hearing record I feel that the Department adequately justified why it is necessary and desirable to establish the larger land use district.

Visibility cannot be the sole criterion in determining the land use district when the management purposes are as varied as those of the wild and scenic rivers program. The overall effects of development, particularly of high-density development and commercial and industrial development must be considered when attempting to preserve and protect the river valley. These types of development would result in extensive clearing of land for structures, roads, essential services and related uses, resulting in more run-off and siltation, increase in noise, decrease in privacy, and most of all significantly changing the natural character of the area.

The hearing examiner did not state the justification for his proposed setback scheme. Apparently the 350 foot figure came from testimony offered by Charles Turnbull at the hearing in Faribault. This, however, was only one part of Mr. Turnbull's proposal. He also recommended that even stronger zoning, Rice County's agricultural preservation zoning, be established as the minimum standards from the 350 foot mark to the extent of the proposed land use district. He also recommended that the DNR retain veto power over any changes to this zoning. The Department found that there was not a particular attribute of the area that justified this change to the statewide standards. The rules of 6 MCAR s. 1.2900 shall apply throughout the wild and scenic rivers land use district. I would, however, strongly encourage Rice County to continue to enforce its more restrictive zoning behind the 350 foot mark.

To fufill the purposes of the Wild and Scenic Rivers Act, I find that the land use district boundaries as originally proposed must be adopted except for the following:

The land use district in Dakota County shall be consistent with the county's existing 1,000 foot shoreland district for the reasons the hearing examiner put forth in his finding number 80.

I disagree with the hearing examiner's recommendation that the land use district in Northfield should remain as originally proposed. After much discussion with the city about their plans for developing the area south of the city and after careful consideration of the potential effects of changing the boundary in this part of

the city, I have found that a compromise is called for. The land use district in the south of the city between the river and State Highway 3 shall be the floodway line, approximately 500 to 800 feet deep, the exact location of which is in the process of being determined. Natural Environment Municipal Shoreland Zoning standards and the rules of 6 MCAR s. 1.2900 shall apply in that area. Municipal Shoreland Zoning would apply outside the land use district to the extent of the floodplain, tailored to take into account present plans for development and future needs of the city. Commercial and industrial uses would be permitted under this ordinance outside the floodway.

The city's plan is to provide for industrial and commercial development in the floodfringe and to retain the floodway in a natural state to be preserved for open space and recreational activities. Sand and gravel extraction will be a nonpermitted use within the floodway along this part of the river. I feel that the intent of the city is consistent with the intent of the management plan for this part of the river. This compromise will still adequately protect the river and will be in harmony with local concerns.

2. The hearing examiner in his findings number 35 concludes that "Regardless of the size of the district, the boundary line should curve with the river (or the bluff), rather than zig zag." The examiner suggests that much landowner testimony opposed a zig zag line but supported a meandering line. As I review the hearing record I find that the examiner misinterpreted the testimony. The issue being raised by the landowners was not how the boundary line of the land use district should be drawn but rather how much land must be included in that district to fulfill the purposes of the Wild and Scenic Rivers Act.

The ease of administration of the management plan at the local level was discussed at the hearings. The Goodhue County Zoning Administrator testified at the hearings that a meandering line would be harder to find than section lines. The boundary line in Goodhue County will follow section lines as originally proposed.

The Dakota County Zoning Administrator stated at the hearings that they had been working with a meandering line for six years and have had no problems administering it. The boundary line in Dakota County will be a meandering line (1,000 feet back from the ordinary highwater mark).

Rice County did not testify at the hearings. However, in discussions with the Rice County Zoning Administrator prior to the hearings he did not see any advantage of one type of line over another. An administrative decision has been made to follow the boundary line in Rice County as originally proposed.

3. The hearing examiner found in his finding number 42, that the Department failed to justify the reasonableness of selecting particular tributaries for protection. However, he did not question the need for designating tributaries.

While I concur with the hearing examiner's finding I feel that the tributaries that flow into the Cannon River that are listed in the rule, 6 MCAR s. 1.2920 A. 5. should be designated tributaries of the Cannon River. Several of these streams are designated trout stream worthy of greater protection. Also, designating tributaries clarifies the ambiguity that exists when the wild and scenic river regulations are superimposed on top of the existing shoreland regulations.

4. The hearing examiner, in his finding number 47, assumed that it was the Department's intent to delete the bluffline setback and replace it with five criteria that must be met when building on the bluff or on the face of the bluff.

This assumption is wrong. Instead, it is the intent of the Department to allow building on the bluffs if the owner is willing and can meet the established standards. If these standards cannot be met then the structure would have to be placed behind the setback distance. Therefore, it is necessary to retain the bluffline setback, NR 79 (c) (3) (bb) (ii).

CONCLUSION

The Cannon River qualifies for designation as a State Wild and Scenic River, and therefore, the Commissioner of Natural Resources is responsible to the legislature for its preservation and protection. Pursuant to the authority given the Commissioner in MN Statutes 104.35 a land use district as discussed in the above Findings shall be established along the Cannon River and the management plan as proposed with the above mentioned changes shall be adopted for that district. The rule amendments recommended by the hearing examiner are justified, except as noted herein.

Due to its natural beauty and its proximity to the Twin Cities, the Cannon River valley has great potential for development and recreational use. The special values of the Cannon River valley that qualify the river for inclusion in the Wild and Scenic Rivers system also make it one of this state's irreplaceable resources.

Protection of this resource from excessive development and recreational overuse through the Wild and Scenic River's Program is imperative. Management standards of the Wild and Scenic River's Program are the minimums needed for the protection and preservation of the Cannon River. I strongly encourage the local units of government along the river to go beyond these minimums in a mutual attempt to protect this outstanding resource.

Dated: November 16, 1979.

JOSEPH N. ALEXANDER, Commissioner
Department of Natural Resources

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF NATURAL RESOURCES

IN THE MATTER OF THE PROPOSED INCLUSION IN THE MINNESOTA WILD, SCENIC AND RECREATIONAL RIVERS SYSTEM OF THE CANNON RIVER FROM FARIBAULT TO THE MISSISSIPPI RIVER, AND OF THE PROPOSED ADOPTION OF A MANAGEMENT PLAN FOR THE CANNON RIVER.	ORDER OF THE CHIEF HEARING EXAMINER

WHEREAS, hearings were held on July 17, 18 and 19, 1979, before Allan W. Klein, 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 the Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the Department of Natural Resources (hereinafter "Department") on October 10, 1979; and

WHEREAS, the Department has now determined to adopt the Management Plan referenced above pursuant to Minn. Stat. § 15.0412, subd. 4; and

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

WHEREAS, except as hereinbelow listed, the Chief Hearing Examiner finds that the final proposed Management Plan is not substantially different from the Plan proposed at the public hearing and that the Department has met all requirements of Minn. Stat. § 15.0412, subd. 4, with the following exceptions:

1. The Hearing Examiner, in Finding 63 (pages 39-40) found that a portage at Welch Dam was both needed and reasonable. However, since the portage was not proposed until the Department submitted its final written comments, it was thus not published in the State Register as required by Minn. Stat. § 15.0412, subd. 4. (On November 14, 1979, the Attorney General, through Joanne E. Hinderaker, Special Assistant Attorney General, refused to approve rules of the Department of Agriculture for failure to publish a

complete text of the proposed rule amendments.) Further, the property in question is privately owned and, as it was not raised in the Notice of Hearing, would affect the rights of the property owner without having given that owner prior notice; thus it is a substantial change under 9 MCAR § 2.111. Therefore, the Department has failed to meet the requirements of Minn. Stat. § 15.0412, subd. 4; the addition of the proposed dam is a substantial change. Thus, pursuant to 9 MCAR § 2.111, the agency shall either withdraw the addition of the Welch Dam portage or reconvene the rule hearing.

2. In his Finding 2, the Commissioner of the Department concurs with the Hearing Examiner's Finding 42 that the Department totally failed to justify the need for and reasonableness of including certain tributaries within the designation areas (6 MCAR § 1.2920.A.5) yet proposed to designate them anyway. Minn. Stat. § 15.0412, subd. 4, requires the Department to make, at the hearing, an affirmative presentation of facts establishing both the need for and reasonableness of its proposed action. In this instance, as the record is void of any discussion concerning the tributaries, there has been a failure of the agency to comply with the provisions of Minn. Stat. § 15.0412, subd. 4, and thus, pursuant to 9 MCAR § 2.111, the tributaries designation must be withdrawn or the hearing reconvened.

NOW, THEREFORE, upon receipt of this Order, in the event the Department withdraws the two sections referred to above, the Department will have the responsibility of submitting the complete hearing record and the Management Plan as adopted by the Department to the Attorney General, notifying all persons who requested to be informed that the record has been submitted to the Attorney General. If approved by the Attorney General, the Department has the responsibility of publishing the Plan in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4.

Dated this 20th day
of November, 1979.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT OFFICE OF HEARING EXAMINERS

Office Memorandum

TO : A. W. CLAPP, III
Special Assistant Attorney General
Department of Natural Resources

DATE: Nov. 20, 1979

FROM : DUANE R. HARVES D124 D.H.
Chief Hearing Examiner

PHONE: 6-8100

SUBJECT: CANNON RIVER DNR-79-021-AK

Enclosed is the Order of the Chief Hearing Examiner in the above-referenced matter.

As I dictate this, I still have not received a copy of the Commissioner's supplemental findings which I believe you and Examiner Klein discussed.

DRH:sh
Enc.
cc: Lee Sheehy or
Joanne Hinderaker

RECEIVED
NOV 21 1979
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF NATURAL RESOURCES

IN THE MATTER OF THE PROPOSED INCLUSION IN THE MINNESOTA WILD, SCENIC AND RECREATIONAL RIVERS SYSTEM OF THE CANNON RIVER FROM FARIBAULT TO THE MISSISSIPPI RIVER, AND OF THE PROPOSED ADOPTION OF A MANAGEMENT PLAN FOR THE CANNON RIVER.	ORDER OF THE CHIEF HEARING EXAMINER

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WHEREAS, the Department has now determined to adopt the Management Plan referenced above pursuant to Minn. Stat. § 15.0412, subd. 4; and

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

WHEREAS, except as hereinbelow listed, the Chief Hearing Examiner finds that the final proposed Management Plan is not substantially different from the Plan proposed at the public hearing and that the Department has met all requirements of Minn. Stat. § 15.0412, subd. 4, with the following exceptions:

1. The Hearing Examiner, in Finding 63 (pages 39-40) found that a portage at Welch Dam was both needed and reasonable. However, since the portage was not proposed until the Department submitted its final written comments, it was thus not published in the State Register as required by Minn. Stat. § 15.0412, subd. 4. (On November 14, 1979, the Attorney General, through Joanne E. Hinderaker, Special Assistant Attorney General, refused to approve rules of the Department of Agriculture for failure to publish a

complete text of the proposed rule amendments.) Further, the property in question is privately owned and, as it was not raised in the Notice of Hearing, would affect the rights of the property owner without having given that owner prior notice; thus it is a substantial change under 9 MCAR § 2.111. Therefore, the Department has failed to meet the requirements of Minn. Stat. § 15.0412, subd. 4; the addition of the proposed dam is a substantial change. Thus, pursuant to 9 MCAR § 2.111, the agency shall either withdraw the addition of the Welch Dam portage or reconvene the rule hearing.

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NOW, THEREFORE, upon receipt of this Order, in the event the Department withdraws the two sections referred to above, the Department will have the responsibility of submitting the complete hearing record and the Management Plan as adopted by the Department to the Attorney General, notifying all persons who requested to be informed that the record has been submitted to the Attorney General. If approved by the Attorney General, the Department has the responsibility of publishing the Plan in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4.

Dated this 20th day
of November, 1979.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

BEFORE JOSEPH N. ALEXANDER
COMMISSIONER OF DEPARTMENT
OF NATURAL RESOURCES, STATE
OF MINNESOTA

In the matter of the proposed inclusion in the Minnesota Wild, Scenic and Recreational Rivers System of the Cannon River from the northern city limits of Faribault to the Mississippi River, and the proposed adoption of a management plan for the Cannon River.

ORDER ADOPTING RULE

WHEREAS, public hearings on the above-captioned matter have been held, and

WHEREAS, the REPORT OF THE HEARING EXAMINER finds all statutory and regulatory requirements have been met, and

WHEREAS, the proposed final rule drafted per the FINDINGS AND CONCLUSIONS OF THE COMMISSIONER has been approved by the chief hearing examiner,

NOW THEREFORE, pursuant to the authority vested in me by Minnesota Statutes Section 104.31 through 104.40, I HEREBY ORDER that the Cannon River is designated a component of the Minnesota Wild and Scenic Rivers System and I adopt the rules identifed as Minnesota Department of Natural Resources Rules and Regulations, Chapter 29, consisting of 6 MCAR s. 1.29000, 1.2910 and 1.2920.

Dated November 16, 1979

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

Joseph N. Alexander
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Inclusion in the Minnesota Wild, Scenic and Recreational Rivers System of the Cannon River from Faribault to the Mississippi River, and the Adoption of a Management Plan for the Cannon River

SUPPLEMENTARY ORDER ADOPTING RULE

Subsequent to my FINDINGS and ORDER of November 16, 1979, the Chief Hearing Examiner, pursuant to his review authority in Minn. Stat. § 15.052 Subd. 4, determined that

1. Because the possibility of a portage at Welch was not raised in the notice of hearing, such a portage cannot be included in the final rule.

2. Because the record is silent as to the need for and reasonableness of applying the zoning provisions to tributaries of the Cannon, the proposed provision cannot be included in the final rule.

The Office of the Attorney General advises me that the Chief Hearing Examiner is correct.

NOW THEREFORE IT IS ORDERED that the Management Plan for the Cannon River adopted by me on November 16, 1979, not include 6 MCAR § 1.2920 A. 5 (the tributaries) and the last entry (the Welch portage) in the list in 6 MCAR § 1.2920 C. 2. a.

Dated November 29, 1979

JOSEPH N. ALEXANDER
Commissioner

DNR Ex 8

Cannon River

Statement of need

Relating to the proposed designation, classification and management of the Cannon River as a scenic and recreational component of the Minnesota wild, scenic and recreational rivers system

With the passage in 1973 of the wild and scenic rivers act (Minnesota Statutes, Sections 104.31-104.40), the Minnesota legislature recognized the need to safeguard rivers that possess "outstanding scenic, recreational, natural, historical, scientific or similar values." The legislature further declared that "because it is in the interest of present and future generations to retain these values, it is... a policy of Minnesota and an authorized public purpose to preserve and protect these rivers" (Minn. Stat. 104.32).

At the same time, the legislature granted to the commissioner of natural resources the authority to designate rivers for inclusion in the wild and scenic rivers system, and to "promulgate statewide minimum standards and criteria for the preservation and protection of shorelands within the boundaries of wild, scenic and recreational rivers" (Minn. Stat. 104.34, subd. 1 and 2).

The need for and reasonableness of the Statewide Standards and Criteria for the Minnesota Wild and Scenic Rivers System (Minnesota Regulations NR 7881), on which the state scenic and recreational rivers proposal for the Cannon River is based, have already been established pursuant to Minn. Stat. 15.0412, subd. 4. (Filed with the Secretary of State and Commissioner of Administration April 29, 1974.)

The DNR believes that the Cannon River exhibits those values necessary to qualify it for protection under the wild and scenic rivers act and the Statewide Standards and Criteria for the Minnesota Wild and Scenic Rivers System. Designation of the river is necessary to protect the Cannon from overdevelopment and the subsequent degradation which now threaten it, from damaging uses along its banks, and from recreational overuse and abuse.

I. ELIGIBILITY

Minn. Stat. 104.33, sub. 1, states: "The whole or segment of any river and its adjacent lands in this state that possess outstanding scenic, recreational, natural, historical, scientific or similar values shall be eligible for inclusion within the Minnesota Wild and Scenic Rivers System."

The Cannon River's values are summarized below. They are discussed at length in Cannon River: Resource Analysis (preliminary draft, April 1979), which is attached and submitted as evidence into the hearing record.

The Cannon River begins its scenic journey in a lake region of glacial drift and moraines and ends in a broad, marshy floodplain at its confluence with the Mississippi. On its way the river weaves through rolling plains, wears away limestone and sandstone as it hurries by steep, jutting cliffs, and winds through a thick, tangled forest of river bottomland vegetation.

The Cannon's history is as colorful as its scenery. Adventurers, opportunists and dreamers explored the valley's mysteries, reaped its wealth and tamed its wilderness. Even earlier, the river valley was occupied by a prehistoric, quasiurban culture. According to the state archaeologist, the Cannon River valley is one of Minnesota's most important archaeological areas. Using information gathered from burial mounds and village sites, archaeologists have pieced together a picture of life here in prehistoric times.

The plant communities in the river valley are an important natural feature. Along the river bottomlands, many of the original plant species have survived two centuries of settlement. Remnants of plant communities that once covered extensive areas of Minnesota can be found elsewhere in the valley. Several rare or protected plant species, including the Minnesota trout-lily and the prairie bush-clover, also grow on the Cannon's banks.

The river and its valley provide an ideal setting for a variety of recreational pursuits. Plentiful wildlife and fish species draw hunters and fishermen, while the valley's sometimes dramatic, sometimes subtle scenery attracts canoeists and hikers. Several recreational sites are located on public lands along the river.

There is no doubt that the Cannon River fully meets the eligibility and classification criteria of the wild and scenic rivers act (Minn. Stat. 104.33, subd. 1 and 2) and Minnesota Regulations NR 78(f) and should be included in the Minnesota wild and scenic rivers system.

II. NEED

Zoning and other methods of protection which currently exist along the Cannon River do not provide the necessary degree of protection that wild and scenic designation would ensure. Initiation and coordination of a plan to protect waters that cross many local government boundaries are difficult, if not impossible, at the local level, a fact the legislature recognized by establishing a state system.

Although local units of government can take steps to control development and recreational problems, they cannot provide consistent protection to lands outside their boundaries. Along the Cannon River there are 15 separate zoning authorities. The degree of protection provided to the river varies considerably from one to another. Many of the existing zoning standards are less restrictive than the proposed wild and scenic river regulations; some are more restrictive. Thus, more protection is given to some areas along the river than to others.

For example, Rice County has established agricultural preservation zoning beyond the 300-foot shoreland district. The minimum lot requirement of one dwelling per 40 acres forces development toward the river, where the minimum lot size is 20,000 square feet. Downstream, Dakota County gives more protection to the river with a 1,000-foot shoreland district with a minimum lot size of two acres. This illustrates the need for consistent minimum zoning standards strong enough to protect the river resources.

The need for consistent and well-enforced land use standards is also evident in light of the increasing population in the river valley and subsequent development pressure along the Cannon River. Such consistency can only be provided under the state wild and scenic rivers system.

In addition, wild and scenic river regulations carry the force and effect of law and are binding on state agencies and special units of government, providing additional protection beyond the authority of any county plan.

Present Statewide Minimum Zoning Standards

The existing state minimum zoning standards along the Cannon River are Minnesota Regulations CONS 70-77, better known as "county shoreland zoning." The goals of its enabling legislation, the shoreland management act, are to protect water quality and promote orderly development. The goal of the wild and scenic rivers act extends beyond this to protect and preserve certain rivers and their adjacent lands in their present condition.

The purpose of zoning is to ensure wise development that is compatible with its surroundings. County shoreland zoning regulations are deficient when applied to rivers. David P. Bryden, a University of Minnesota environmental law professor, confirms this.

In his report, The Inadequacy of "Shoreland Zoning" to Protect Minnesota's Scenic Waterways (copy attached), Bryden states: "The shorelands program is an excellent method for preventing overcrowded, substandard, haphazard lakeshore development. But the program was not intended to be, is not, and cannot be, an adequate basis for preserving a select group of choice segments of the state's waterways."

The wild and scenic rivers act and Minnesota Regulations NR 78-81 provide for the protection of natural and scenic qualities of a river area for an average of 1,320 feet on each side of the river. The shoreland management program provides land use regulations for a 1,000-foot band around lakes but only a 300-foot band along rivers, thus affording much more protection to lakes than rivers.

"Since prevention of septic tank pollution was one of the prime purposes of the shoreland statutes," Bryden states, "the regulated land corridor around lakes and ponds was made much wider than the corridor around rivers and streams since lakes and ponds are more susceptible to eutrophication. Although this distinction is plausible in terms of the single goal of pollution prevention, it does not make sense in terms of such goals as preservation of natural scenic qualities, which are at least as important along rivers and streams as they are around lakes and ponds."

The shoreland program has no provisions for the protection of unique natural areas by scenic easements, acquisition of fee title or other interests in land.

In addition, shoreland zoning allows, if a county so desires, industrial and commercial uses that may not be compatible with a wild and scenic river. Furthermore, shoreland zoning does not address on-land grading and filling, utility crossings or roads and bridges.

The wild and scenic river regulations provide for protection of bluffs within the land use district, an item not addressed under shoreland management.

Shoreland management provisions allow vegetative cutting on a river's banks with minimal restrictions. In light of increasing development pressure, and in view of the fact that farmers are becoming hard pressed to produce more crops, additional clearing of riverside land is probable. Stricter vegetative cutting regulations are necessary to prevent widespread removal of riverside cover that results in severe erosion problems.

County and Township Zoning

Existing zoning standards along the Cannon River vary considerably. While some local zoning ordinances may exceed statewide minimum standards, they do not ensure permanent protection for the river. Local zoning is susceptible to change—change that could be detrimental to the Cannon's natural character.

Local units of government may now use their zoning powers to rezone to less restrictive standards—at will, or under pressure from local economic and political interests. As areas now zoned for higher density development are filled, development pressure increases on adjacent areas; these areas might then be incorporated, annexed or rezoned for urban purposes to reflect this pressure.

In this way the protection of the river is gradually eroded and the river is stripped of its natural qualities. The city of Northfield, for example, recently incorporated a stretch of land along the Cannon south of the city for an industrial park. The process of annexation, currently being conducted in Cannon Falls, may ultimately lead to incorporating river lands east of that city. If growth such as this were to continue unbounded, the Cannon River valley could eventually turn into one long, narrow, urban community.

Wild and scenic river zoning would establish minimum standards which could not be weakened, thus providing the consistent level of protection the river deserves. These standards would not preclude local units of government from applying more restrictive zoning provisions, but would give them support, as development pressure increases, to ensure protection for the river.

Unwarranted variances may also undermine the protection of county and township zoning ordinances. Politics and self-interest can negate an otherwise excellent zoning ordinance. This is not to say that the intentions of local zoning authorities are questionable, nor should it suggest they are unwilling to protect natural areas. However, political realities are involved in granting variances. Intense political pressure can be wielded by parochial economic interests, interests that are too often ranged on side of depletion of our natural resources for economic gain, and too seldom on the side of preservation of an outstanding resource.

If the Cannon River were included in the state wild and scenic rivers system, the state would review and certify variance decisions, rezonings, inconsistent plats, and ordinance amendments, adding stability to a procedure that is subject to abuse.

Land Acquisition

Zoning can protect the Cannon River from overdevelopment, but zoning alone cannot preserve scenic and natural river lands. With only zoning protecting land, areas that can be developed eventually will be developed. For this reason, the wild and scenic rivers act authorizes the purchase of scenic easements.

A scenic easement is simply an agreement whereby a landowner is paid for his promise to keep part of his land in a natural state. The landowner sells some of his rights to his property. Generally these include the right to build, to cut timber, to dump trash, and to grade, drain or fill his property. The easement remains in effect permanently and the property remains in private ownership, still producing revenue for the local taxing authority.

In the future, landowners who have sold a scenic easement may get a tax break. When the highest and best use of the land is the same as the rights sold, the county tax assessor should take into account that a particular use of the land is no longer available and should tax the land accordingly. Sale of development rights should be reflected in lower taxes no matter how great development pressure becomes on adjacent land.

According to the Rural Area Task Force Report to the Metropolitan Council (Metropolitan Council, Febrary 1979), "New measures are needed to provide farmers with additional options upon sale of the farm so that full value is obtained, but without taking the land out of agriculture." The task force identified a development rights program as one alternative but discarded the sale or transfer of development rights as "generally too costly and too complex."

The scenic easement acquisition program, which has worked well for designated wild and scenic rivers, is one alternative. The terms of an easement are completely negotiable between the landowner and the DNR. Easements can be and are purchased over agricultural land, allowing long-term agricultural use of the land. This fulfills the purpose of the easement program—to protect land from development, thereby preserving natural and scenic qualities of the area. At the same time, it gives the landowner financial incentive to continue agricultural practices and helps to prevent the outside pressures, such as increased taxation, that force transfer of the land to non-agricultural land uses.

The Rural Area Task Force Report also recognizes the farmer's need to obtain equity from the farm upon retirement as a crucial issue in the preservation of agricultural land. "Unlike most other occupations, a farmer's retirement does not come from a company pension plan, but rather is often dependent on the sale of the farm."

Land speculators and developers frequently offer the highest price for farmland. There is no assurance that the land will remain in agriculture. Sale of a scenic easement over this land would preclude competition by land speculators and developers. Only farm buyers would be attracted when the land were transferred, thus protecting the land from development.

Recreation

More and more people are using rivers for activities such as fishing, hiking, boating, cross-country skiing, canoeing and camping. For example, state watercraft registration figures from the DNR License Center show the rapid increase in canoe and kayak registration since 1972. Registration has increased from 41,675 in 1972 to 101,322 in 1978, an increase of 143 percent.

Watercraft Registration

Year	Total Watercraft	Total Canoes & Kayaks
1972	400,900	41,675
1973	417,101	56,183
1974	444,763	72,285
1975	453,333	77,958
1976	503,344	90,368
1977	526,323	94,717
1978	541,202	101,322

In addition, phone conversations with county sheriffs indicate that recreational use is increasing on rivers, those that are wild and scenic as well as those that are not.

According to Uel Blank, an extension resource economist at the University of Minnesota, southeastern Minnesota is the state's "sleeping giant" of tourism and recreation (from a news article by Nick Coleman, "Southeastern Minnesota tourism explosion predicted," Minneapolis Tribune, Nov. 21, 1978, p. 2B, copy attached). Blank stated that southestern Minnesota's hills, rivers and hardwood forests offer scenery that "is unsurpassed in many other parts of the world." According to the article, Blank predicted that "over the next 15 years tourism in the region will grow from a $25-million-a-year industry to one that grosses more than $100 million annually from travelers, with an increase of between 3,000 and 4,000 jobs in the tourism field. "

Factors that are increasing the recreational pressures in this region, particularly near the Cannon River, include the following:

1. population growth in nearby communities such as Rochester, Red Wing, Northfield, Cannon Falls and the Twin Cities;
2. availability of more leisure time;
3. increase in popularity of outdoor recreation activities;
4. gas shortage that causes people to drive shorter distances to recreate; and
5. the proximity of the Cannon to the metropolitan area—more than two million Minnesotans live within a two-hour drive of the Cannon River.

The recreation provisions of the state wild and scenic river proposal for the Cannon can't reverse the trend toward greater use, but they can help prevent some of the problems that may accompany this use. Workable alternatives to and control of abuses by increasing numbers of recreational users of the Cannon River are possible through the proposed management plan. The proposal provides specific regulations aimed at the river user's behavior on the river and its adjacent lands. These include misdemeanor fines for littering and trespassing and the initiation of a "carry-in, carry-out" refuse policy that has worked in keeping other areas clean. Also, the wild and scenic river regulations stiffen the existing state trespass law.

The development of sufficient rest areas and accesses can alleviate trespassing and crowding by giving canoeists public areas to picnic and to gain access to the river.

If conflicts arise among rivers users, the DNR can, through a public hearing process, adopt regulations directing or restricting use of the river.

III. REASONABLENESS

The Minnesota Supreme Court recently ruled on the reasonableness of the wild and scenic river statewide standards and criteria for protecting river corridors. (Pine County vs. State of Minnesota, No. 178, filed May 11, 1979. Official site not available.)

The Court unanimously ruled that the wild and scenic river regulations are completely within the mandate of the enabling legislation and are constitutionally valid. The Court also ruled that "a zoning ordinance is not an invalid exercise of the police power where it promotes aesthetics and is reasonably related to promoting the general welfare and other traditional zoning objectives."

The Court's decision also reflected the need for a method such as the wild and scenic rivers program to protect river corridors: "It the zoning ordinance merely reflects the increasing complexity of society and the realization that property must be viewed more interdependently."

The proposal for the Cannon River is reasonable in that it:

1. places "no unreasonable restrictions upon compatible, pre-existing, economic uses of particular tracts of land" (Minn. Stat. 104.35, subd. 1); and
2. includes provisions that "differ from the statewide standards and criteria to the extent necessary to take account of the particular attributes of the area" (Minn. Stat. 104.35, subd. 1). (See amendments below.)

Department representatives met with two groups of local citizens to discuss the management proposal and solicit their opinions and ideas. Even though the citizen groups did not necessarily advocate wild and scenic river designation, they did feel that the river needed protection. Many of the amendments below reflect their concerns.

Amendments

NR 2900 D. amends NR 78(d) "Normal High Water Mark" to clarify the definition of stream bank. Because of the large amount of floodplain along parts of the Cannon, this clarification is necessary to more accurately determine the building setback distances.

NR 2920 A. 8. recognizes the unincorporated village of Welch as a pre-existing rural development center. Since the village limits are presently undefined, this provision delineates a district that includes existing development and allows it to continue. In order not to cause undue economic hardship, the development in this district shall be allowed to continue.

NR 2920 A. 10. amends NR 79 (c) (3) (cc) (i) to allow building on blufflines and on slopes of greater than 13 percent if aesthetic and environmental considerations are taken into account. This amendment is proposed in recognition of the amount of bluffline along the Cannon River and the desire of landowners to build along the bluffs. The conditions that must be met serve the same purposes as a setback.

NR 2920 A. 11. amends NR 79 (b) (2) to include sand and gravel extraction as a conditional use (NR 79 (b) (2) (tt)), subject to the provisions outlined in NR 2920 A. 6. This amendment recognizes that sand and gravel deposits found in the river valley are a significant economic resource of the area and that sand and gravel can be extracted in such a manner as to have minor environmental impact.

NR 2920 A. 11. also amends NR 79 (b) (2) to include canoe rental establishments as conditional uses (NR 79 (b) (2) (uu)), subject to the provisions outlined in NR 2920 A. 7., and includes inner tube rental establishments as nonpermitted uses (NR 79 (b) (2) (vv)).

The increasing recreational use of the Cannon River and the problems associated with it were found to be a major concern of river landowners. NR 2920 A. 7. is a means to control the litter problem along the river.

A recreational survey conducted in 1978 by the North Central Forest Experiment Station (USDA, Forest Service) indicated that the majority of use of the Cannon is generated by rental establishments located along the river. Thus, the amount of inner tube use on the river can be controlled by restricting rental agencies from locating near the river.

NR 2920 A. 12. amends NR 79 (i) to provide for screening of accessory facilities to power plants.

NR 2920 C. 1. b. amends NR 80 (b) (1) to clarify the penalty for littering.

NR 2920 D. 10. provides for a public informational meeting every five years to determine the effectiveness, the progress and the opportunities for improvement of the management plan.

NAMES OF AGENCY PERSONNEL REPRESENTING THE DEPARTMENT OF NATURAL RESOURCES

Jane Harper, Rivers Project Leader
Steve Kirch, Rivers Project Coordinator
A.W. (Bill) Clapp III, Special Assistant Attorney General

CITATIONS TO STATUTES USED FOR THE HEARING

Minnesota Statutes Sections 104.31 - 104.40
Minnesota Statute Section 85.32

Minnesota Statutes 15.0412, subd. 4
Minnesota Regulations CONS 70-77
Minnesota Regulations NR 82-84
Minnesota Regulations NR 78-81

CITATIONS TO DOCUMENTS USED FOR THE HEARING

Bryden, David P. Scenic Waterways: Citizen Task Force "The Inadequacy of 'Shoreland Zoning' to Protect Minnesota's Scenic Waterways." University of MN, Nov. 10, 1972.

Minnesota Department of Natural Resources. A Management Proposal for the Cannon River and Cannon River Resource Analysis. Preliminary Draft April 1979.

Pine County vs. State of Minnesota. Minnesota Supreme Court Decision No. 178, Filed May 11, 1979. Official citation not available.

Coleman, Nick. "Southeastern Minnesota tourism explosion predicted." Minneapolis Tribune. November 21, 1978.

Metropolitan Council. "Rural Area Task Force Report to the Metropolitan Council." Publication No. 02-79-003, Febrary 1979..

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Proposed Inclusion in the Minnesota Wild, Scenic and Recreational Rivers System of the Cannon River from Faribault to the Mississippi River, and of the proposed adoption of a management plan for the Cannon River.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Allan W. Klein on July 17, 1979 at Red Wing, July 18 at Hastings, and July 19 at Faribault.

This was a rules hearing to determine whether the Cannon River should be designated for inclusion in the state's Wild, Scenic and Recreational River System provided for in Minn. Stat. secs. 104.31 to 104.40 (1978). In addition, the hearing also considered the need for and reasonableness of a management plan proposed for the river.

Representing the Department of Natural Resources (hereinafter the "Department" or the "Agency") were A. W. Clapp, III, Special Assistant Attorney General, and Steven Kirch and Jane Harper of the Rivers Project Section of the Agency.

Approximately 100 persons signed the hearing register and approximately 50 persons spoke at the hearings, with the speakers split almost evenly between those who favored and those who opposed designating the river. The record of the hearings remained open until August 8. Approximately 65 written comments were submitted to the Examiner.

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 rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules 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 rule and compliance with Minn. Stat. sec. 15.0412 within ten calendar days. The Department will be responsible for filing the rules 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

PROCEDURAL REQUIREMENTS

1. On June 15, 1979, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.

2. On June 11, 1979, a Notice of Hearing and a copy of the proposed rules were published at 3 State Register 2169.

3. On June 13, 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. In addition, on May 16, 1979, the Department mailed copies of the proposed rules and a justification for them (DNR Ex. 14) to affected landowners and others (DNR Ex. 5).

4. On June 22, 1979, the Department filed the following documents:

(a) The Order for Hearing.
(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 Reasonablenes and Exhibits referenced therein.
(g) All materials received following a Notice of Intent to Solicit Outside Opinion published at 2 State Register 985 (November 14, 1977)
(h) 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, as well as citations to statutes to be used at the hearing and citations to documents to be used at the hearing.

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

At the first hearing, the Department also introduced the minutes of the meetings of the two citizens' advisory councils which provided input into the plan. The department also introduced a list of the various public information activities it had undertaken in connection with this project (DNR Ex. 17).

5. The record remained open through August 8, 1979, for the receipt of written comments and statements, the period having been extended by order of the Hearing Examiner to 20 calendar days following the last hearing. In addition, the date for submission of this Report was extended from September 7th to October 2nd, pursuant to Minn. Stat. sec. 15.0412, subd. 4.

STATUTORY BACKGROUND

6. In 1973, the Legislature enacted the Minnesota Wild and Scenic Rivers Act, which is now contained in Minn. Stat. secs. 104.31 to 104.40. The basic policy of the Act is spelled out in sec. 104.32, which states:

> The legislature finds that certain of Minnesota's rivers and their adjacent lands possess outstanding scenic, recreational, natural, historical, scientific and similar values. Because it is in the interest of present and future generations to retain these values, it is hereby declared to be a policy of Minnesota and an authorized public purpose to preserve and protect these rivers.

The Act goes on to provide that the whole or a segment of any river and its adjacent lands that possess outstanding scenic, recreational, natural, historic, scientific, or similar values shall be eligible for inclusion

within the State's Wild and Scenic Rivers System. The Act then provides three definitions which divide rivers into "wild", "scenic" and "recreational" categories, based upon the degree of development that has occurred on lands adjacent to the river and the amount of artificial change in the flowage of the river.

The Act goes on to direct the Commissioner of Natural Resources to develop criteria for classification and designation of rivers and to promulgate rules containing state-wide minimum standards and criteria for the preservation and protection of shorelands within the boundaries of designated rivers.

7. The Act then provides that for each river which the Commissioner proposes to designate as a part of the system, a management plan must be prepared. The plan is to set forth the proposed classification of the river, and the boundaries of an area along the river (known as the "land use district") to be included within the system. This district can include not more than 320 acres per mile on both sides of the river. The management plan must also include proposed standards governing the use of public lands and waters within the area, and it may include proposed standards for local land use controls. However, the Act provides that there may be no unreasonable restrictions upon compatible, pre-existing, economic uses of particular tracts of land. The Act also specifies the procedures which must be followed before such a plan becomes effective.

Following the effective date of a management plan for a designated river, the Act provides that local governments have six months to adopt or amend their local ordinances and land use district maps to the extent necessary to comply with the standards and criteria of the plan. If a local government fails to adopt adequate ordinances, maps, or amendments thereto within the six-month period, a procedure is set forth which, in effect, forces them to do so.

The Act does not grant the right of eminent domain which would allow the Commissioner to acquire the title to lands from an unwilling seller. It does, however, specifically provide for the acquisition of fee title and scenic easements from willing sellers. Scenic easements limit the use of land for the purpose of protecting the scenic, recreational, or natural characteristics of an area. The Act provides that unless the parties to a scenic easement specifically agree to do so, the easement does not give any person the right to enter on onto the land except as may be necessary for enforcement of the easement.

8. Pursuant to the specific grant of authority noted above, the Commissioner did adopt state-wide standards and criteria for the Minnesota Wild and Scenic Rivers system. These standards, contained in Minn. Rule 6 MCAR secs. 1.0078 to .0081, contain specific provisions regulating the use of land within the boundaries of the land use district established for each river. However, both these state-wide minimum standards and the Act itself provide that the specific management plan for a given river may deviate from the state-wide minimum standards "to the extent necessary to take account of the particular attributes of the area".

9. In understanding the Act, the statewide standards, and existing zoning in the area surrounding the Cannon River, it is helpful to recount one other piece of background information. In the late 1960's, the Legislature enacted a Shoreland Zoning Act, which is contained in Minn. Stat. sec. 105.485. This Act sets forth a method of regulation of land located within 300 feet of a river or stream or the landward side of a floodplain delineated by ordinance, whichever is greater. Like the Wild and Scenic Rivers Act, the Shoreland Management Act also requires the Commissioner to adopt model standards and criteria for the use and development of shoreland. The Shoreland Act provides that such standards and criteria shall deal with building lot area, water frontage suitable for a building site, set back from shorelines, placement and construction of sanitary disposal facilities, designation of types of land uses, and other matters. The Commissioner did adopt such standards, and they are found in 6 MCAR sec. 1.0070 to 1.0077 and 1.0082 to 1.0084.

In a recent case, the Minnesota Supreme Court discussed the relationship between the two acts as follows:

> Although the /Shoreland Management/ Act applied to rivers as well as lakes, the protection provided to rivers was not as extensive. For example, the regulated corridor around lakes extended 1,000 feet back from the water's edge, while it extended only 300 feet back from the edges of streams.
>
> In 1973, realizing that Minnesota's choicest rivers and their surrounding environments were inadequately protected, the Legislature followed the lead of 19 other states and enacted the Minnesota Wild and Scenic Rivers Act. Unlike the old Shoreland Zoning law, this Act does not apply to thousands of bodies of water. Instead, the DNR is required to select and study individual rivers for inclusion in the system.[1]

10. It is specifically found that Minn. Stat. sec. 104.35, which is part of the Minnesota Wild and Scenic Rivers Act, does grant to the Commissioner statutory authority to adopt the proposed rules.

PROPOSED RULES: OVERVIEW

11. Before beginning with a section by section analysis of the proposed rules and the public reaction to them, it is helpful to gain a broader overview of them. First of all, the rules provide that the river shall be divided into three segments. The first segment (that part of the river to the south and west of the city of Faribault) is not designated as a part of the state system. The second segment, which runs from Faribault to Cannon Falls, is designated as recreational. However, the Lake Byllesby Reservoir is excluded from this segment. The third segment, which runs from Cannon Falls to the Mississippi River, is designated as scenic.

12. The proposed rules in the management plan logically divide themselves into three major segments: Land use controls, scenic easement acquisitions, and recreation management. The land use provisions describe the extent of the land use district, and then go on to state that the

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1. County of Pine v. State Dept. of Nat. Res., 280 N.W. 2d 625 at 626 and 627 (Minn. 1979).

statewide minimum criteria found in 6 MCAR sec. 1.0078 to 1.0081 shall apply to all lands within the land use district except where specific exceptions are made. The statewide criteria contain a list of permitted, conditional, and non-permitted uses, zoning dimension provisions (such as lot size, building setback, placement), height restrictions, sanitary facilities setbacks, subdivision regulations, vegetative cutting provisions, grading and filling provisions, and other matters. The scenic easement provisions include a list of areas where the Department hopes to acquire scenic easements, provisions for leasing rather than acquiring easements, and a prohibition against condemnation. Perhaps the greatest deviation from the statewide standards occurs in the third general area, that of recreation management. These deviations can generally be characterized as limitations placed upon the DNR's ability to "develop" the river for recreation. It was explained at the hearing that these limitations were adopted at the request of advisory councils and local landowners, who feared that the Department might, by overdevelopment, cause an increase in the number of recreational users, resulting in increased problems for local landowners such as trespassing, littering, and vandalism.

ADVISORY COUNCILS

13. In late 1977, the then Commissioner appointed a number of local citizens to the Cannon River Advisory Council. On January 24, 1978, the first meeting of the Advisory Council took place. According to the minutes of that meeting (all of the minutes were introduced into the record and can be found in DNR Exs. 18 and 19), there was discussion of ways to increase the number of council members so that more farmers would be represented. A second meeting of the council took place on January 31, 1978, at which time it was determined that in order to increase the number of voting members, it would be necessary to split the council into two bodies. This was accomplished, and the remaining work of the Council was carried on by two groups: The East Cannon River Advisory Council (whose minutes are in DNR Ex. 18) and the West Cannon River Advisory Council (whose minutes are in DNR Ex. 19).

14. Many of the members of both advisory councils testified at the hearings. It would be a fair characterization of their testimony to state that the council meetings were "exciting". For example, on April 18, 1978, the West Council voted, 7 to 6, in favor of a resolution to the Commissioner that the portion of the river under its consideration not be designated under the Act. It was later determined that a 2/3 majority was required for such an action, and so the West Council continued its work. The East Council, in its last meeting on February 13, 1979, unanimously passed a resolution stating that unless the size of the land use district was substantially reduced, the East Council withdrew its support of designation and the proposed management plan.

15. As noted in the overview of the recreational restriction rules, the Councils did have a substantial impact upon the final form of the proposed rules. A review of the minutes of the two councils indicates that a great deal of time and effort was provided by members of the public (with

no compensation) in an attempt to bridge the gap between local landowners and the Department.

SECTION BY SECTION ANALYSIS

16. 6 MCAR sec. 2900 A.: Designation.

As described more fully in proposed rule 2910, the Department proposes to designate as a "recreational" river that segment of the Cannon River from the north city limits of Faribault to just west of Cannon Falls, with the exception of the Lake Byllesby Reservoir. From that point just to the west of Cannon Falls, easterly to the river's confluence with the Mississippi, the Department proposes to designate that segment of the river "scenic".

There was substantial testimony at the hearing on the issue of whether or not the river met the standards for designation, which are set forth in the statute (at sec. 104.33), and the statewide minimum criteria (at 6 MCAR 1.0078 F.). The rule, which is more specific than the statute, provides that a scenic river is one which meets the following tests:

(a) It exists in its natural condition without significant artificial modification such as impoundment, diversion, or straightening. Low dams, diversion works or other minor structures shall not automatically bar its inclusion.

(b) The lands adjacent to the river still present an overall natural character, but in places may have been developed for agricultural, residential or other land uses. Small communities that are limited to short reaches of the total area would not bar a river from scenic classification.

(c) Although roads and railroads may occasionally bridge certain rivers, they will not automatically bar such classification.

(d) Although short stretches of conspicuous roads and railroads and longer stretches of inconspicuous and well-screened roads or railroads paralleling the river may exist, they will not bar such classification.

It should be noted that nowhere in the above standards is there any reference to water quality. Water quality is a requirement for "wild" classification, but not for "scenic" or "recreational". Therefore, the testimony regarding water quality is irrelevant to the issue of whether the proposed segments are properly classified and subject to designation. Such testimony would be relevant if a portion were proposed for "wild" designation, but that is not the case.

17. In the management plan booklet (DNR Ex. 15), it is stated that the area proposed for "scenic" classification, which covers a distance of 24 miles, may be described as follows:

1. Physical description: Much of the heavily wooded valley is considered floodplain, but rock ledges and scenic bluffs are common as the river runs past Cannon Falls to its confluence with the Mississippi. These limestone and sandstone bluffs may rise more than 250 feet above the river.

2. Existing Development: This stretch of river is crossed by 12 power lines, one railroad bridge and three road bridges. A gravel road parallels 2.8 miles of river. Less than ten homes and barns are visible from the river. Although this development precludes the wild classification, the high bluffs and many heavily wooded areas present the "largely undeveloped . . . overall natural character" required for the scenic classification. The Welch Dam . . . which creates a small reservoir,

does not significantly detract from the scenic, recreational and natural values of the river.

The resource analysis booklet (DNR Ex. 14), at pp. 5 through 29, contains a thorough description of the entire river proposed for designation.

Although most of the public comments (and much of the Department's material as well) generalized about the whole river, there are certain comments which, either because of their content or because of the location of the sender, appear to be directed at one segment or the other. For example, Public Ex. 7 is from a lady who lives in Red Wing. She stated:

> Anyone who has lived near the Cannon River, as I have for most of my life, must be aware of its scenic beauty and of the great variety along its borders - in some areas peaceful pastures, in others rich bottom land or steep rocky cliffs exposing millions of years of rock layers. Birds, plants and animals along the river depend on it for their existence as they have for thousands of years.

An archaeologist from Northfield wrote, in Pub. Ex. 10:

> Without any doubt, the Cannon River Valley is one of the most important archaeological areas in Minnesota, and there is evidence that it was inhabited by prehistoric peoples for the last 8000 years or more. Along the seven-mile stretch from Welch to the mouth of the Cannon, there are already more than 50 recorded archaeological sites. Of these, some are camp or village sites, others are mounds or mound groups - a survey in the 1880's recorded nearly 800 mounds along this part of the valley. A few sites are located on the bluff tops but the majority are found within the lower reaches of the valley, usually the terraces along the river channel.

A man from St. Paul wrote, in Pub. Ex. 49:

> I have canoed from Welch to Red Wing several times, and found that stretch very scenic and definitely worth protecting from development. . . . Areas along the river that I know to have unusual botanic value are (1) the floodplain on the west side of T.H. 61 where it crosses the river valley north of Red Wing . . . . (2) Downstream from Welch, about 1 - 2 miles, there are deciduous forests on the south side. Those on the steeper slopes are now in better condition since much cutting of dead and dying elms has torn up the forest on the flatter sites. This is in the vicinity of the entrance of Belle Creek into the Cannon. The steep prairie bluffs on the north side of the Cannon are also interesting botanically. (3) Belle Creek itself has been stated . . . to be the northern-most tributary of the Mississippi that supports large populations of rapid water dwelling insects, along with numerous species of small fish. It should be saved, as a stream with its own valley, to protect the habitat of these organisms. The botanical aspect to the stream valley lies in the fine deciduous forests found there and in the scenic upper part of the valley near Vasa.

In Public Ex. 54, the Board of Directors of the Audubon Chapter of Minneapolis described the area near the confluence of Cannon and the Mississippi as a "major center of prehistoric Indian life".

However, in Public Ex. 61, a resident of Welch stated:

> The land close to the Cannon River that is flat land is in a floodplain area so only agriculture can produce in these areas. Zoning laws by local county ordinances prevent any building or developments of other commercial property in this floodplain area.

A review of the Red Wing hearing indicates that the vast majority of the individuals who spoke, whether they were for the plan or against the plan, did not argue that the area from Cannon Falls to Red Wing did not have the qualities required for designation. As Harvey Nelson, an opponent of the

plan, put it: "The arguments are not over the qualities of the river, rather they are over the zoning restrictions which the DNR proposes."

18. With regard to a "recreational" river, the designation proposed for the western portion of the Cannon, the relevant rule (6 MCAR Sec. 1.0078 F.) requires that a river have the following characteristics:

(a) May have undergone some impoundment or diversion in the past greater than that permitted for "scenic" rivers.

(b) May have adjacent lands which are considerably developed for a full range of agricultural or other land use, but that are still capable of being managed so as to further the purposes of the Act.

(c) May be readily accessible by preexisting roads or railroads.

19. The Department's management plan booklet (DNR Ex. 15) describes the western segment as follows:

> 1. Physical description: Below Faribault the river twists and turns past wooded banks. Bank swallows dart into cliffs of sandstone and limestone; oxbow ponds and sloughs harbor wood ducks, teal and mallards. Between Faribault and Northfield is Rice County's Cannon River Wilderness Area, a maple and basswood forest with a profuse ground cover of wild berry bushes, trillium, wild ginger and yellow lady's slipper. Deer, pheasants, muskrats, beavers, raccoons and herons abound. Between Northfield and Cannon Falls the Cannon flows gently through a heavily wooded valley with low banks.
>
> 2. Existing development: Despite its great beauty, the recreational rather than scenic classification is recommended for this stretch of the Cannon because of the great amount of agricultural land and the many structures present here. Three railroad bridges, 15 road bridges and 10 power lines cross the river in this segment. There are more than 30 homes visible from the river. State Highway 3 and gravel roads parallel the river for six miles and at times are visible from the river. Two dams--the Northfield Dam at river mile 41.6 and the Byllesby Dam at river mile 27.0--impound the river.

20. The public comments regarding this western segment were far more divided than those on the eastern segment. The following are representative of those favoring designation:

From a woman in West Virginia, Public Ex. 3 states:

> Having had a part in the establishment of a small part of the Cannon River as a wilderness park in Rice County I want to express my hope that the rest of the river may retain what is left of its natural character. The times that I have canoed on the river will always be among my most valued memories. Although I may never again be able to enjoy its beauty I hope that the Cannon will be preserved to be enjoyed by the present and future generations. Houses and hotdog stands, etc., have a limited lifetime and can be rebuilt, but the river and its surroundings once destroyed are gone forever.

A woman from Bridgewater Township wrote in Public Ex. 11:

> I live in Bridgewater Township about ½ mile from the river. I often spend time on the Cannon in Rice County Park, and I have frequently canoed on the river between Faribault and Northfield. I treasure this river, and I believe that we cannot wait any longer to implement a plan which at least maintains, if not improves its present condition. Its beauty has no price tag, but its degradation would impoverish us all.

A man from Austin wrote in Public Ex. 42:

> Everyone seems to agree that the Cannon River meets all the criteria for a Minnesota Wild and Scenic River. It has "outstanding scenic, recreational, natural, and scientific values." The beautiful movie shown at the Hastings public hearing established this fact convincingly for all of us that saw it. I was happy to learn about so many of the historical facts that were presented in this film. The gentleman in the picture stated that we shall never be able to see the river as it was when he was a boy. He indicated that the river has lost much of its original charm. I am sure that the coming years will bring more negative changes and that we need to plan now to see that the river is protected so that it will always be as natural as possible.

The film described in the comment was shown only at the Hastings hearing (due to time limitations). It portrayed the Cannon primarily through photographs, but also contained some oral commentary.

A woman from Northfield wrote in Public Ex. 8:

> In my judgment, the Cannon River should be designated as a component of the state's Wild and Scenic River System to ensure a higher quality of life for those who enjoy the area and to maintain the value of property affected by the designation.
>
> The river should be protected while it is still beautiful, an important natural asset for us all.

A teacher from Carleton College, in Northfield, stated that he used the Cannon as part of a federally-funded workshop in Hydrology and Biology of Rivers, Ponds and Marshes which he gives for junior and senior high school teachers. He wrote in Public Ex. 52:

> In summary the Cannon River and its banks deserves all of the protection that it can get because it is one of the few semi-wild places left in our region and thus becomes an area that we use to learn what the land was like in pre-agricultural times and what changes have occurred since. I think this perspective will help us to refine our notions of what stewardship of the land means.

The Board of Directors of the Minnesota Ornithologists' Union passed a resolution which states, in Public Ex. 38, as follows:

> The Cannon River can provide an important wildlife corridor for the protection of natural flora and fauna in this key Minnesota hardwoods and grassland area. Its wild river designation and management will help protect this valuable central Minnesota outdoor laboratory for natural science research, study and compatible recreation. It will also provide a corridor of managed preserve that can serve as a sanctuary and wildlife "seed" area to benefit the surrounding communities. The value of such "ribbons of green" will grow with increasing development and population expansion in the years ahead. Such green areas along the river, also will serve as natural filters to help improve the quality of the water entering the river.

21. On the other hand, there were those who opposed the plan, claiming that this part of the Cannon was nothing extraordinary and did not meet the statutory and rule criteria for designation.

The Town Boards of Sciota, Randolph and Waterford all passed identical resolutions which state in Public Exs. 16, 17 and 18:

> The Minnesota Wild and Scenic Rivers Act, Section 104.32, states that "<u>certain</u> of Minnesota's rivers and their adjacent lands <u>possess</u> <u>outstanding</u> scenic, recreational, natural, historical, scientific and similar values." (underline in original) In typical legislative

fashion, the state legislature has left the DNR to determine which rivers are outstanding, and has offered no guidelines to choose outstanding rivers worthy of designation. In fact, DNR staff have publicly stated that it is the intention of the DNR to eventually include every major river in Minnesota within the wild and scenic program. No attempt has been made to show that the Cannon possesses "outstanding" characteristics. Though the residents of the Cannon Valley love the river, and it is beautiful in many areas, the fact remains that in the upper reaches, the Cannon is a rather ordinary stream running through an agricultural area. The fact that it has tree lined banks, a few historical sites and occasional large woodlots is no more extraordinary than the fact that it also has sewage treatment plants and roads along its side. In short, the DNR has not complied with the Wild and Scenic Rivers Act by not showing that the proposed Recreational segment of the Cannon River has outstanding qualities which sets its aside from other Minnesota rivers. By publicly stating that the Department actually intends to include all of Minnesota's major rivers in the wild and scenic program, we believe that the DNR has shown itself to be operating in direct conflict with the letter and intent of the state statute.

However, opponents more often agreed that this segment was beautiful but urged that the best way to keep it that way was to not designate it because of the belief that designation would lead to increased use of the river by recreationists.

Two women from Northfield wrote in Public Ex. 43:

We are landowners along the Cannon River and are opposed to the DNR Management Plan. We feel that our township and county officials understand how to take care of the river and land better than someone not familiar with the area. In fact they are doing just that.

After seeing the film of the Cannon River at the Hastings meeting, you know how beautiful the river is. It is that way because for over 100 years, the farmers and landowners have loved and respected the river. It will never stay the quiet little meandering river if the crowds of canoeists, campers and picnickers from the Twin Cities flock down every weekend. They will chase the wildlife away and ruin the river. The Cannon River will be another Apple River if the DNR continues to print those beautiful brochures and send them to anyone and everyone. We do not object to canoeists using the river, but let them find the river themselves. Meanwhile we farmers, landowners and county officials will keep on protecting the Cannon River without the DNR.

The theme of the above was stated numerous times, in different ways; in Public Ex. 32, a man from Northfield wrote:

I have owned this farm since 1928 and I hope we can keep it the way it is by keeping the DNR from this territory.

The river hasn't changed since we came here, and it won't if you let the farmers control it and not let the public come in for vandalism and littering.

You know as well as I do what it will be if you have a bunch of strangers come in here.

A woman from Northfield who used to live along the river, and whose son's family now lives on the same farm, wrote in Public Ex. 33:

When our boys were small they used to go and play down by the river which isn't too far from the house. But, it isn't safe now for our grandchildren since they have made it such a public place.

> Also the boys and I used to walk about two miles down the river on a Sunday afternoon. It was just beautiful down there, but all has changed now, and not for the better.

At the hearings, the most vocal opponents of designation appeared to come from the western segment of the river area, rather than the eastern. For example, although most people agreed that the river met the qualifications for designation (even though they did not favor it), some questioned the need for designation at this time. One of the most outspoken opponents stated:

> Everybody seems to think that there's nobody in the room--nobody on the river--that thinks that the river shouldn't be protected. Well I for one think this almighty river has run for so many years--it didn't just start two years ago--this river has run for a long time. Why does it need protection now? If it is good enough for these city dudes and college professors that want to come in on it now, I think they'd better leave it alone, keep their damn noses out, and let the local farmers handle it the way they have in the past. As far as building on the river, it's just like locking the barn door after the horse has gone. From the City of Northfield to the City of Faribault, there's but room for at least ten more houses in the whole territory. There is absolutely no more development land left. What isn't in the floodplains is impossible to get to. We have the County parks and the other parks; there's absolutely no way there can be any more building in there.

22. That comment and others like it raise a different question in the same general category as those previously discussed. That different question is whether present controls are adequate to achieve the goals of the Act. The previous comments were selected on the basis of whether they addressed the question of whether or not the river and its adjacent lands met the standards in the statute and the rules for designation. But the last comment raises the question of the need for designation in light of current controls. Therefore, current controls must be examined.

The easiest way to examine current controls is to do so on a county-by-county basis. There are three counties affected by the proposed designation. They are Rice, Dakota and Goodhue.

23. In Rice County, land immediately bordering on the Cannon is subject to County Shorelands Zoning, with the Cannon being designated as a General Development waterway. This means that the restrictions of the Shorelands Management Act, Minn. Stat. Sec. 105.485 and its related rules, Minn. Rule 6 MCAR Sec. 1.0070, et seq. and 6 MCAR Sec. 1.0082, et seq, apply. Essentially, this Shorelands Management scheme regulates activities on land located within 300 feet of the river. It provides for minimum lot sizes of 20,000 square feet (which is a bit less than one half an acre) and a minimum lot width of 100 feet. Buildings must be set back at least 75 feet from the river, and can be no higher than 25 feet.

Beyond the 300 foot strip which is regulated as described above, other county zoning restrictions apply, their details varying depending upon how the land is zoned. Most of the land from Faribault to Northfield is zoned Agricultural "A", which is a very restrictive scheme designed to protect agricultural lands. Dwellings are limited to one home per 40-acre parcel.

Lots must be at least one acre in size for a single-family dwelling (or two acres for a two-family dwelling), and lots must be at least 175 feet wide.

The Rice County Zoning Ordinance does not provide an "overlay" system, wherein the most restrictive zoning would apply. Therefore, the practical effect of the existing zoning is to permit more houses near the river than further away from it. Not only could there be more houses, but they could be on smaller sized lots, and have narrower lot widths. The restrictive agricultural zoning which exists beyond the 300 foot strips has the effect of forcing development toward the river, rather than away from it.

As a member of the Northfield City Council testified (speaking individually, not on behalf of the Council):

> Rice County is seeing increasing pressure for development in its rural areas, with a large influx of people wanting land adjacent to water, and land relatively isolated from other residential development. Already a third tier of homes is being built around some of its lakes. Fortunately, the County has passed an excellent zoning ordinance for the protection of agricultural land, but this limit on development in the agricultural district will force rural residential development near the river, where zoning standards are much more lenient. (Public Ex. 22)

24. Dakota County has a far different system than does Rice. Most of the zoning is done by townships, not by the county. The County does not have county-wide zoning, except that under the Shorelands Management Act, it has zoning authority over lands adjacent to the Cannon.

Dakota County has designated the Cannon as a "Natural Environment" waterway, which means that its zoning authority is effective over a strip of land 1000 feet from the river (rather than Rice County's 300-foot jurisdiction). Within this strip, the County zoning is "overlayed" on the township zoning, which means that the more restrictive provision of the two would apply.[2] Within the 1000 foot strip, lots must be at least two acres in size, be at least 200 feet wide, buildings must be set back 200 feet from the river, and septic systems must be set back at least 150 feet from the river (some of these restrictions are lessened in areas where sewers exist. See, DNR Ex. 15, p. 16).

25. The final county to be examined is Goodhue. Like Rice County, Goodhue has county-wide zoning. However, it is examined last because the Examiner is least certain as to how its zoning scheme works. The reason for the uncertainty is the overlay question: Does the County's system

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2. According to statute, this should always result in the County zoning being at least the minimum. Minn. Stat. Sec. 394.33, subd. 1 provides that once a county has adopted an "official control" (such as a shoreland zoning ordinance), townships may only enact or enforce more restrictive controls, but they may not enact or enforce less restrictive ones. However, a letter from the county zoning administrator raises some question regarding how this overlay system is working in reality. The letter (Public Ex. 45A) states, "In the event that the township adopts less restrictive standards than those found in the Shoreland Zoning Ordinance, a permit approval at the township level could very likely be denied by the county." If the Examiner understands the cited statute correctly, the situation described in the letter should never occur because the township should never have (or at least should never enforce) less restrictive zoning.

provide for the more restrictive zoning provisions to govern in an overlap situation, or doesn't it? For example, much of the County's land is zoned "agricultural", and like Rice County, such zoning is designed to preserve agricultural lands, and is thus quite restrictive.

A real estate salesperson who lives near the river testified as follows:

> It's already been mentioned that we have zoning ordinances that are in effect, and I want to tell you in Goodhue County they are really tough, because you have this 1000-foot requirement between residences and there are setbacks and every other thing that happens in here.

That 1000-foot requirement between residences is not set forth in the Department's Table of Zoning Restrictions contained on pages 16 and 17 of DNR Ex. 15. However, in its post-hearing comments (DNR Ex. 26), the Department indicates that in land zoned "Agricultural", there is a 1000-foot restriction between dwellings.

The Cannon River, in Goodhue County, is classified as "General Development" for purposes of the Shorelands Zoning Ordinance. Thus, as in Rice County, there is a 300-foot strip on either side of the river where lot size is restricted (to 24,000 square feet), lot width must be at least 100 feet, and the building must be set back 75 feet from the river.

The unanswered question, however, is whether within that 300-foot strip, buildings must also be separated by 1000 feet. If Goodhue County did operate on the overlay principle, then it would apply. But if it did not use the overlay principle, then it would not. Section III, subd. 1 of the County's Zoning Ordinance says that the agricultural zoning district "may" overlap on others, in which case the most restrictive would apply. What does the ordinance mean when it says the A district "may" overlap? Is it designed to give discretion to zoning Administrators? The minutes of the East Cannon River Advisory Council for March 28, 1978, reflect the following:

> There is some confusion on how the Goodhue County zoning ordinances are administered. Much of the land along the river would be in a general development area. However, much of this land is also agricultural so it is over-lapped between agriculture and scenic. Under that, Goodhue County requires that each dwelling must be at least 1000 feet apart and located on an established public road as of April 3, 1974. Lot sizes must be one acre in agricultural zone. Previously this was five acres. In the more liberal general development zone lot sizes can be 24,000 square feet.

While the second sentence would lead one to believe that this is an overlay situation, the last few sentences about lot sizes indicate otherwise. The Examiner can only conclude that he does not know how the overlay provision of the Goodhue County zoning system operates.

26. In summary, it can be seen that there is substantial variation in the existing zoning provisions of the three counties involved. If one goes beyond the counties to the townships, even more variety appears, as can be seen from the Department's Table of Zoning Restrictions. on pages 16 and 17 of DNR Ex. 15 While the Shorelands Management Program does impose some uniformity within the first 300 feet (in Dakota County, 1000 feet), beyond that strip the differences increase depending on the zoning classification applied to the land.

27. More important, however, to the question of the adequacy of existing zoning is the fact that demand for housing in unusually desirable areas such as the Cannon Valley has already resulted in land being used for that purpose. While there was substantial debate at the hearings about the extent of housing development and how much "buildable" land remained, nobody questioned the comparative desirability of living in the area. For example, one lady testified that one of the reasons she and her family moved to the area from the Twin Cities 13 years ago was to get away from the city. Now, however, she is opposed to allowing more people to build because she wants to keep the area "as is" and preserve those values which brought her here in the first place. She did not think there would be much development in the future, and disagreed with a man who lives in St. Paul, but who has some land along the river, who stated that between Red Wing and Hastings, there were now numerous subdivisions. He feared that in the next 20 years they would proliferate further south and west into the Cannon Valley. He did not think that the landowners who sold their land for those existing subdivisions were any different from today's landowners who would succumb to the same economic pressures in the future. As the two viewpoints were put forward and debated, one of the farmer-landowners who had been most active in opposing the plan stated:

> You can't stop development of the whole country. It's true that DNR is going to stop development, with this plan, in the valley somewhat but they're not restricting the whole area and that he (the man who feared future subdivisions) has to realize that people have a right to develop their property to some extent. . . .

This theme of not restricting private development also appeared in two related documents. The first is a resolution which was passed at the town meeting of Waterford Township held in April of 1978 (DNR Ex. 20). It reads, in part, as follows:

> We oppose the DNR proposal because we believe that the power to restrict land use, which is included in the proposal, will interfere with the ability of already hard-pressed farmers to use their land to its best economic advantage.

The second is a petition, signed by <u>all</u> of the resident landowners along the Cannon in Waterford, Randolph and Sciota Townships. It reads as follows:

> We the undersigned are all property owners whose property borders the Cannon River. We as property owners oppose any Governmental Agency restricting the use and enjoyment of our private property. We particularly oppose the proposals of the DNR concerning the Cannon River. Any and all of these proposals is a serious encroachment on our right to use and enjoy our property.

Others who sounded the same theme made it clear that they were concerned about condemnation (which is <u>not</u> authorized in the Act) and restrictions on the use of their land for agricultural purposes. While neither the designation nor the plan would restrict cultivating or pasturing <u>per se</u>, there are some related activities that might be restricted such as clear cutting close to the river for the installation of center pivot irrigation equipment.

28. One of the basic arguments made by the Department in support of designation is that even though some may think that local controls have

served the area well to date, there can be no assurance that future local governments will not lessen their controls in the face of local pressures for economic gain. As the Statement of Need puts it:

> Local units of government may now use their zoning powers to rezone to less restrictive standards--at will, or under pressure from local economic and political interests. As areas now zoned for higher density development are filled, development pressure increases on adjacent areas; these areas might then be incorporated, annexed or rezoned for urban purposes to reflect this pressure.
>
> In this way the protection of the river is gradually eroded and the river is stripped of its natural qualities. The city of Northfield, for example, recently incorporated a stretch of land along the Cannon south of the city for an industrial park. The process of annexation, currently being conducted in Cannon Falls, may ultimately lead to incorporating river lands east of that city. If growth such as this were to continue unbounded, the Cannon River valley could eventually turn into one long, narrow, urban community.
>
> Wild and scenic river zoning would establish standards which could not be weakened, thus providing the consistent level of protection the river deserves. These standards would not preclude local units of government from applying more restrictive zoning provisions, but would give them support, as development pressure increases, to ensure protection for the river.
>
> Unwarranted variances may also undermine the protection of county and township zoning ordinances. Politics and self-interest can negate an otherwise excellent zoning ordinance. This is not to say that the intentions of local zoning authorities are questionable, nor should it suggest they are unwilling to protect natural areas. However, political realities are involved in granting variances. Intense political pressure can be wielded by parochial economic interests, interests that are too often ranged on side of depletion of our natural resources for economic gain, and too seldom on the side of preservation of an outstanding resource.
>
> If the Cannon River were included in the state wild and scenic rivers system, the state would review and certify variance decisions, rezonings, inconsistent plats, and ordinance amendments, adding stability to a procedure that is subject to abuse.

This was buttressed by one local official, the City Councilwoman from Northfield cited earlier, who stated:

> There will be another kind of pressure on local governments: that from landowners who, for one reason or another, want the dollars that will come from subdivisions along the river. We have already seen a very great loss of natural habitat of marshes and hedge-rows, and a loss of the precious natural resource of topsoil, because of this real need for dollars. The vegetation that is left along the river must be protected in order to preserve the river resource.
>
> Last September the Minneapolis Star printed an article about what is happening in Sherburne County, where development pressures are very great, and crowded tract homes are being built along the Mississippi with County Board approval. Open tree-less lawns are mowed right up to the river; there is increasing run-off and increasing erosion of the banks, all of this with County Board approval. I would like to think that our counties along the Cannon would never permit such activities, but ten years from now the County Board members may have a greater

respect for housing desires or subdivision profits than for the soil and water and long-range public good.

> Local governments are very probably more responsive to the needs of local people, and while this normally can be a very good thing, it could also do permanent harm to the Cannon River, a public resource that crosses many local jurisdictions. Local governments are responsive because they are necessarily political; their membership changes every year or two, and so do their policies, and pressures are constant for rezonings, special uses and variances, making long-range planning very difficult. Intergovernmental cooperation on zoning for a project of this size would be nearly impossible.

Such statements brought responses from other local government officials. The identical resolutions of Sciota, Waterford and Randolph Townships state:

> However, we find it particularly ironic that the DNR has chosen to use as one of its arguments for designation, the assertion that local units of government are unstable and that they are unable to resist development pressures and preserve the Cannon River environment. The fact is that it has been local units and residents that have cared for the Cannon for the past 100 years, and that during the time when the Cannon has been under study by the DNR, local units of government in the Cannon River Valley have remained virtually unchanged, while the DNR has gone through three commissioners and several staff shake-ups in the Rivers Section. Anyone with experience in Minnesota knows quite well that the state government, and the DNR in particular, are at least as susceptible to political and economic pressures as are local units of government.

A member of the Red Wing City Council testified as follows:

> I believe that all of the governmental bodies could and should opt for local control. I think that we are people who want to be responsive to our constituents. We will be.

Numerous other letters from both public officials and members of the public made the point that local governmental units are responsive to the people that elected them and that they did not feel that the DNR would exhibit the same kind of responsiveness to local concerns.

29. There is no question but that the most frequent argument raised against designation is that it will lead to increased use of the river which, in turn, will result in an increase in trespass, littering, vandalism, traffic and associated "people problems". Virtually all of the persons who spoke or wrote in opposition to designation mentioned this fear, and to many, it was the primary concern. Person after person stated that they did not care if people used the river for canoeing or other recreation, but they did care, very seriously, when those users left beer cans to be fragmented in hay bailers or scattered other litter behind them; when people indiscriminately camped and started fires on private property; when they tore down carefully planted trees for firewood; when they parked their cars so that farmers with wide equipment could not pass and had to go miles out the way to get home; or when they held loud parties far into the night, complete with fist fights and requests to use a farmer's telephone for calling police. That is what the local landowners find most objectionable about designation.

There can be no question that these problem presently exist (to varying degrees) and will continue regardless of designation. However, would designation increase these problems? The Cannon is already a Canoe and Boating Route, and has been so labeled since 1967. The overall population of the state is increasing, but far more importantly, the use of nature-oriented "outdoor" recreation appears to be increasing at a dramatically higher rate. For example, the estimated population of the state in 1972 was 3,877,000. In 1978, it was estimated to be 4,008,000. That is an increase of only 3.4%. However, during the same period, 1972 to 1978, the numbers of canoe and kayaks registered with the DNR (statewide) grew from 41,675 to 101,322, a growth of 143%. A second factor to take into account is the dramatic increase in gasoline prices, with its anticipated increase in emphasis on recreation which is "close to home". That would suggest increased use of the Cannon as opposed to the BWCA or similarly located recreation areas for those people in the southern part of the state, particularly the metropolitan areas. Those two factors alone would suggest that canoe-oriented waterways close to the metropolitan region are going to see an increase in recreational use, regardless of designation. But will designation add to what is already a problem? That really depends on the amount of promotion done by the Department and others.

A person who is in a good position to evaluate promotion, John Wexler, Conservation Director of the Minnesota Canoe Association, had this to say about promotion:

> I strongly support the wild and scenic rivers, the state wild and scenic rivers program. I do not support the national wild and scenic rivers program because they advertise the program, and I don't like to see a river being overused, so I think the state wild and scenic river program is a very good program because it's not being advertised like the "Feds" advertise their rivers. The Minnesota Canoe Association, I can guarantee you so long as I'm a member, will not support any designation of the Cannon as a national wild and scenic river. As a state river we do, but not as a national.

Designation also brings with it certain positive features regarding litter, trespass and other problems feared by the landowners along the river. It gives the Department greater authority to deal with these problems, but, as will be discussed in greater detail below, that authority is virtually meaningless unless the Department allocates adequate people and funds to enforce the recreation management rules set forth in the proposed management plan. The potential for improvement, nonetheless, is heightened if the river is designated.

30. Finally, designation has one other positive feature—it provides the Department with the tool of scenic easement acquisition. A scenic easement is a bundle of rights which a landowner may sell to the Department if he chooses to. There is no provision in the statute, the rule, or the management plan, for involuntary scenic easement sales. The scenic easement is subject to negotiation of its terms between the landowner and the Department, but a sample scenic easement, set forth on page 46 of the Resource Analysis, provides that the Department will pay a landowner if he agrees to restrict new building, topographic changes (such as excavations), tree cut-

ting, dumping and road or utility construction within the area covered by the easement. The scenic easement does not alter the private property concept (e.g., it does not open the land up to the public) yet it permits a landowner to be paid for preserving land in its present condition. The land may still be used for crop growing, pasturage, or whatever current use it is in, and its use may be changed from time to time so long as none of the restrictions in the easement are violated. Designation gives both the landowner and the Department the option of using this new tool of scenic easement sale if they can agree on price and the details of the restrictions.

31. Having given careful consideration to all of the testimony and different arguments put forth both in favor of designation and in opposition to it, the Examiner finds that it is appropriate to designate the Cannon River as a part of the state's wild and scenic river system. As detailed more fully above, this finding is based upon the fact that the river does meet the qualifications for designation set forth in the statute and the rule; that existing zoning is uneven and is subject to change in response to individual and local concerns which are bound to conflict with the statutory concern for preservation of the river; that it gives the Department new tools to more effectively cope with the "people problems" associated with recreational use; and that the most frequently and vehemently stated argument against designation--that designation alone will bring more river users and a corresponding increase in trespassing, littering, vandalism and similar problems--does not stand up when analyzed.

Size of Land Use District

32. Proposed Rule 2900.C. and 2920 A.1. both relate to the size of the land use district. The question of how large this district ought to be was second only, in terms of frequency and intensity of comment, to the question of whether the river should be designated at all. Minn. Stat. sec. 104.35, subd. 1 (1978) provides that the management plan shall set forth the boundaries of the area along the river to be included within the system, which boundaries shall not include more than 320 acres per river mile on both sides of the river. The Department's proposed plan contains a land use district which averages 263.6 acres per river mile. Assuming equal setback on both sides of the river, the maximum land use district permissible under the statute would extend 1320 feet back from the river. Under the Department's proposed plan, the land use district averages 1100, feet from the river. Contained within this average, however, are substantial variations in width. These variations are due, in part, to the fact that the boundaries of the land use district generally follow section lines or fractions thereof in a "zig-zag" manner. The boundaries of the land use district may be seen on plates 1 through 8 found at the end of DNR Ex. 15. The legal descriptions of the land use district may be found at pages 43-45 of that document.

At the hearing, many people criticized the proposed district as being too large. A smaller district, they argued, would adequately fulfill the goal of the Act. In response, the Department stated that it was, in fact,

just because of the goals of the Act that the district had to be as large as proposed. Therefore, it is appropriate to examine more closing the Act and the rules to determine their impact upon this question. In Section 104.35, subd. 1, the Commissioner is directed to prepare a management plan "with no unreasonable restrictions upon compatible, pre-existing, economic uses of particular tracts of land to preserve and enhance the values that cause the river to be proposed for inclusion in the system." The statute goes on to provide:

> The plan shall give primary emphasis to the area's scenic, recreational, natural, historical, scientific and similar values.

The only rule of any help is the introductory paragraph of 6 MCAR Sec. 1.0079, which provides as follows:

> In order to preserve and protect those rivers and adjacent lands which possess outstanding scenic, recreational, natural, hostorical, scientific, and smiliar values, to reduce the effects of over-crowding and poorly planned development of such adjacent lands, to prevent pollution, to provide ample space on lots for sanitary facilities, to preserve natural beauty and quietude, to maintain property values, and to promote the general welfare, land use ordinances and official zoning district maps shall be enacted or amended . . . to comply with the management plan . . . .

It would seem that in order for the Department to justify the need for and reasonableness of its proposed land use district, the primary point of reference in evaluating the Department's proposal (and the public's opposition) should be the standards set forth in the statute and the rule. The Department argues, in DNR Ex. 26, that in order to achieve these varied management purposes, they all must be taken into account, and that the most obvious one -- visibility from the river -- cannot be the sole criterion to determine the extent of the management district. However, in dealing with visibility from the river as a criterion, the Department admits that a 300-foot land use district would be sufficient unless one is concerned with including the bluffs. An examination of the contour lines on plates 1 through 8 indicates that in some places the bluffs are very steep and quite close to the river, such as the area near river mile 14 at Welch, contained on plate No. 7. However, in other areas, the bluffs appear to be nonexistent or at least far removed from the river, such as the area on either side of Dundas on plate No. 2. It is true, as one opponent alleged at the hearing, that in some places the land use district would have to be extremely large in order to include the bluffs on both sides. The Department pointed out that it was limited to 320 acres per river mile, and thus could not always include the bluffs.

The Department stated that visibility cannot be the sole criterion because of the varied management purposes of the Act. If the land use district were limited to 300 feet on either side of the river, the Department believes that high density development beyond the 300-foot mark would have a number of adverse consequences contrary to the purposes of the Act. They cite extensive clearing for homes, as well as the roads and utilities necessary to serve those homes. They believe that such extensive clearing would result in additional runoff and siltation into the river. They also believe

that allowing high density development beyond a 300-foot boundary would result in increased noise on the river itself, resulting in a decreased sense of privacy for river users. They also argue that such clearing would result in a decrease in the overall "natural character" of the area. In contrast to high density development beyond 300 feet, the Department argues that by extending the land use district beyond such a boundary, and allowing only moderate development in the district, persons would have a greater sense of privacy and quietude, and the more moderate development would help to maintain the property values.

33. Opponents of the Department's 1100-foot land use district pointed out that in both the advisory councils, it was the size of the proposed land use district which constituted the greatest stumbling block to support of the plan by the councils. Both councils came up with compromises which they put forward both in their recommendations and at the hearings. The East Cannon River Advisory Council compromise is set forth on page 38 of DNR Ex. 15. It essentially provides for differing district sizes depending on the nature of the land:

a. If the land is agricultural, the district should extend 300 feet from the river.

b. If the land is timberland or in a wild state, the district should extend 450 feet from the river.

c. In either case, if the landowner consents, the district could extend as far back as 1,000 feet.

The West Cannon River Advisory Council's compromise proposal is set forth in the minutes of that body, which were introduced into the record as DNR Ex. 19. Looking at the fourth page in that document entitled, "Land Use District Committee Report", and the minutes of the December 12, 1978 meeting, as well as the testimony of the Council's chair, Charles Turnbull, it appears that the compromise suggests a number of tiers, as follows:

a. For the first 350 feet from the river, lot sizes must be at least two acres and 250 feet wide along the river. All of the rules from the management plan would apply to this first tier.

b. From the 350-foot mark to 1,320 feet, the "second tier", current Rice County zoning rules pertaining to the number of residential structures on agricultural land and associated building specifications would aplly. None of the rules in the management plan would apply to this tier.

In order to make this feasible, the Committee recommended that the Department be given veto power over any changes in the Rice County Zoning Ordinance if they do not already have such power.

34. A review of some of the public comment with regard to the size of the land use district is in order. A member of the East Cannon River Advisory Council testified that the 300/450/1,000 foot compromise they suggested gave the Department more than was needed to accomplish the goals of the Act. He pointed out that on his property, the Department has proposed to include land which is a quarter of a mile from the river, and cannot be seen. He also favored the use of a meandering line (a fixed number of feet from the river) as the boundary of the land use district rather than the Department's zigzag proposal.

The Goodhue County Zoning Administrator testified that a meandering line would be harder to find than section lines. The chair of the East Council stated that the East Council unanimously voted against designation if the proposed land use district could not be narrowed, and believed that the Department "wasted" a lot of land by trying to follow section lines. Finally, he stated that a Department representative had agreed to a 300-foot land use district at one time, but because of personnel changes, that representative was no longer involved in the project.

The Dakota County Zoning Administrator stated that he had been working with a meandering line for six years pursuant to the Shoreline Management Act, and had never had a problem locating such a line. At that point, the Department responded by stating that the use of zigzag lines was for the benefit of landowners so that they could easily determine where the more restrictive provisions apply to their land, and that the zig-zag proposal was not for the benefit of zoning administrators.

An alternate to the East Council stated that as he interpreted the Act, visibility was a primary concern, and that at most points on the river a 300-foot boundary would be adequate because woods obscured any activity beyond such a 300-foot line.

It was following that comment that a representative of the Department made what this Examiner considers to be a very important statement. She stated that one of the reasons that the Department extended its district beyond 300 feet was to take in certain known archeological sites. When asked by the Examiner if those sites were indicated anywhere in the documents supplied at the hearing, she responded that they were not. Rather, they were the subject of inter-agency communications between the State Historical Society (where the state archeologist is located) and the Department. She was then asked whether they are deemed to be "official secrets", and she responded affirmatively. While the Examiner understands the rationale for not publicizing the location of archeological sites before qualified archeologists have been able to work on those sites, the failure to disclose the sites runs contrary to the philosophy and the clear letter of Minn. Stat. sec. 15.0412, subd. 4 (1978), and Minn. Rule 9 MCAR sec. 2.105 G. It is impossible for the Examiner or the public to take these sites into account in evaluating the land use district because they do not know where they are.

A former DNR employee testified that one of the reasons for a zigzag boundary line was because the river does change its course over time, and there would be legal problems, in his opinion, created by a line which changes over time. The Examiner would point out that in some places the line does appear to be a fixed distance back from the river (rather than a zigzag), and some provisions of the rules are based on setbacks from the river. In the event of a change in course, both of those boundaries would have to change.

The individual who made the film shown at the Hastings hearing referred to earlier stated that between Faribault and Northfield, the banks are high and a person on the river generally cannot see 300 feet back from

the river. However, beyond Northfield, in some places, the land is very flat and some farmers cultivate it right up to the bank.

An interesting point was made by a state representative, who pointed out that in Dakota County, his constituents are already restricted by a 1,000 foot setback under the Shoreline Management Act.

A supporter of the plan from Duluth testified that he believed that 300 feet was inadequate because of noise from activities only 300 feet from the river invading a river user's sense of privacy.

A woman from Bridgewater Township, near Northfield, testified that she believed that it would be easier for landowners if the line did meander, but that she believed that the proposed land use district was too wide. She believed that in Northfield, at least, the boundaries of the floodplain were adequate boundaries for the district, and that in areas where there was no floodplain delineated, 300 feet would be adequate.

A number of individuals who served on both advisory councils supported the compromises put forward by their councils.

A man from Welch wrote, in Public Ex. 61:

> We just finished a canoe trip down the Cannon River, and our group noticed three things that make the river what it is: The water, the trees along the riverbanks, and the bluffs. We couldn't see over the riverbank to know what was there; cows, corn fields, horses, or weeds, homes, farms or whatever. The homes and farms we could see sure didn't spoil the beauty of the river.
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> * * *
>
> The bluffs take care of themselves. No developments can be built on these bluff sides which are in a vertical position . . . and access to these bluffs is impossible except by foot or canoe. Any development on top of these bluffs wouldn't hurt the scenic view of the river anyway because of the local zoning laws.

Another person wrote, in Public Ex. 62, "If we need any footage along the river I think one-quarter mile is in very bad taste, as well as 350 feet. I'd say 50 feet on each side would be plenty with no construction up to 350 feet."

One fact which cannot be overlooked in determining the reasonableness of the Department's proposal in light of these public comments is the setback requirements for construction. In the scenic segment, buildings must be setback 150 feet from the river. In the recreational segment, they must be setback 100 feet. Given the fact that those building setbacks will apply (there was no substantial criticism of them), does the Department's proposed 1100-foot average depth district meet the test of need and reasonableness? The Examiner finds, based on the evidence and arguments put forth at the hearing and in the documents, that the key to that question lies in the bluffs. It makes little sense to the Examiner to go through this very controversial process in order to have a river whose banks are free of clearcutting and overdevelopment of home sites when, by raising one's level of vision only slightly, a river user encounters a suburban-type string of visibly intrusive homesites along the bluff. For that reason, the Examiner would find that a wider land use district, such as that proposed by the Department, is both needed and reasonable. However, in order to tailor the

proposed land use district to the demonstrated needs, the Examiner would propose, as a preferred alternative to the Department's original proposal, that the Commissioner give serious consideration to a land use district which extended no more than 30 feet back from the bluffline. In areas where there is no bluffline, or where the bluffline is so far back from the river that this proposed line would cause the total size of the district to exceed 320 acres per river mile, then the rationale for the proposed boundary disappears. In such a case, the Examiner would recommend that the boundaries be limited to 350 feet on both sides of the river.[3]

35. Implicit in the above recommendation is a finding that there has not been an adequate showing of the reasonableness of a zigzag line as opposed to a meandering line. As has already been noted, the concept of a meandering line is already built into the regulatory scheme in setback rules, and when landowners support a meandering line in the face of statements by the Department that the zigzag line is for the landowner's convenience, the Department's justification for the zigzag line does not hold up. In addition, the Examiner believes that the zigzag line created unnecessary opposition to the plan because landowners could not understand the need for the incursions into their land which were the result of the line. Regardless of the size of the district, the boundary line should curve with the river (or the bluff), rather than zigzag.

Section-By-Section Discussion of Other Rules

36. Proposed Rule 2900 D. modifies the statewide standards, in particular 6 MCAR sec. 1.0078 D., to change the definition of "normal high watermark". Earlier in this Report, when referring to setbacks or other measurements, the Examiner has used the term "from the river". Actually, the appropriate language would be "from the ordinary high watermark". The reason for having any definition at all is that when one is talking about distances from the river, but the river's elevation varies from time to time so that the actual point where water meets land varies, it is important that there be a constant point from which such measurements may be made. Thus arises the need for having an ordinary high watermark.

The definition proposed by the Department varies from the statewide standards by adding an additional sentence to further define a word used earlier. In its Statement of Need, the Department pointed out that this addition is necessary because of the large amount of floodplain along parts of the Cannon. The only comment with regard to this change came from Pub. Exhibit 23, wherein a statewide environmental organization suggested that

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3. The question before the Examiner is not "what is the most reasonable size for the land use district?" Because of the way the Administrative Prodedure Act applies to these hearings, the question is "has the Department demonstrated, by an affirmative presentation of facts at the hearing, the need for and reasonableness of its proposed land use district?" The Examiner wants to make it clear to the Commissioner that he has not overlooked the non-visual factors enumerated in the Act and the rule cited at the beginning of this discussion. However, the Examiner cannot find any non-visual factors which have been demonstrated to require an extension of the district beyond that proposed above.

the definition would have a more readily ascertainable meaning if the word "normal" was used where "ordinary" appears. The Examiner finds that the Department's proposal is reasonable, and that it may, if it chooses to, adopt the suggestion from Public Exhibit 23.

37. Proposed Rule 2900 E. is a standard severability clause, which received no comment at the hearing. In light of the substantial public controversy surrounding these rules, it is found to be both needed and reasonable.

38. Section 2910 deals with classification, and describes the two river segments proposed for designation, with the western segment being proposed for recreational status and the eastern segment being proposed for scenic status.

A number of comments argued that the western segment ought to be designated as scenic rather than recreational. These comments came from a lady in Northfield (Public Ex. 2) who suggested the change in order to offer greater protection to the great blue herons which live in the area between the Rice County Wilderness Park and the bridge carrying Highway 3 south of Dundas. The lady from West Virginia, whose letter has already been referred to earlier, urged that the whole stretch from Faribault to Northfield be designated scenic because of a fear that a future DNR (under political pressure to accommodate population pressures in the future) might build campsites "on every level spot." The St. Paul Audubon Society, in Pub. Ex. 14, argued that the whole river deserved scenic classification, and that despite the "problems" with the western segment set forth in the management proposal (and quoted above), the state standards for scenic classification were still met. Essentially similar comments were received from the Sierra Club (Pub. Ex. 23), the Minnesota Ornithologists' Union (Pub. Ex. 38), and the Minneapolis Chapter of the Audubon Society (Pub. Ex. 54).

The Examiner finds that the Department's proposed classification of the western segment as recreational has been demonstrated to be both needed and reasonable. The Act gives to the Commissioner discretion as to whether to designate any segment of any river as part of the state system, and the Examiner believes that this discretion extends to the question of which classification ought to be given to any particular segment. Of course, if the Department cannot justify a given classification, the Examiner would so state. But in this case, the Examiner has found that the proposed recreational designation is needed and reasonable. Based upon the public comments and the facts set forth the Department's presentation, the Examiner believes that there is a discernible difference between the western segment and the eastern segment which justifies the differing treatment.

39. Proposed Rule 2920 A.1. and 2. are straightforward provisions. The first deals with the land use district, and has been discussed in conjunction with proposed Rule 2900 C. at length. The second merely states that the statewide standards shall apply to all lands within the land use districts, "except as specified in these regulations". One of the key features of the regulatory scheme for designated rivers is the imposition of

statewide minimum criteria unless the particular attributes of the area require that they be modified. Proposed Rule 2920 A.2. merely codifies this concept. The only comment which the Examiner would make is that the word "regulations" is outmoded, and throughout these rules wherever that word appears the Examiner would recommend to the Commissioner that the word "rules" be substituted in its place.

40. Proposed Rule 2920 A.3. is also a reflection of the statutory scheme. The statute provides that management plans must contain "no unreasonable restrictions upon compatible, pre-existing, economic uses of particular tracts of land". This rule recognizes that considerable development has taken place in certain areas, and singles out the municipalities of Cannon Falls, Dundas and Northfield for special treatment which will be discussed in greater detail in connection with proposed Rule 2920 D. It is found to be both needed and reasonable. The next rule, however, prevents these municipalities from taking undue advantage of this special status through annexation.

41. Proposed Rule 2920 A.4. contains two essential concepts. The first is that if land is annexed or in any other way transferred to another jurisdiction (such as a municipality), a moratorium shall exist on all subdivision platting, building permits, vegetative cutting, and other activities until the newly responsible unit of government adopts zoning for the land. The second concept is that the new zoning must meet the provisions of these rules which applied to the land before the transfer.

The justification for this provision was brought out in an exchange between the Chairman of the Waterford Town Board and the Special Assistant Attorney General. The Town Board Chairman argued that certain commercial and industrial activities would be allowed within the City of Northfield, but not in the Township of Waterford, stating that this created an incentive for annexation. The Special Assistant Attorney General pointed out that the provisions of this particular rule would prevent any lessening of restrictions as a result of annexation, thereby removing at least this incentive for annexation.

A suggestion from the State Planning Agency contained in Public Ex. 15 is very well taken. The present rule begins, "If land is annexed . . . or in any other way transferred to another jurisdiction a moratorium shall exist . . . ." The State Planning Agency suggestion is that this initial phrase be modified to read, "When land within the land use district is annexed . . . or in any other way transferred to another jurisdiction a moratorium shall exist . . . ." The difference between the two is that the suggested amendment would make it clear that this provision only applies to land within the land use district.

The Examiner finds that the Department's proposal is both needed and reasonable as a means of protecting the river and not allowing the differences created by this plan to become the motivation for annexation. He recommends to the Commissioner that the State Planning Agency language be substituted for the original language for increased clarity, but the Commissioner may exercise his judgment in making such a change.

42. Proposed Rule 2920 A.5. points out that certain of the statewide standards relate to designated tributaries. They regulate conduct on land within the land use district if it is adjacent to one of the designated tributaries. Because the statewide standards are applied to land within the land use district, it is necessary to designate the tributaries where these special provisions will apply.

The Examiner has been unable to locate any justification for designating the nine tributaries which are set forth in proposed Rule 2920 A.5. Indeed, the only concrete reference to tributaries in the record at all which the Examiner could locate is contained in Pub. Ex. 49, a letter from a gentlemen at the University of Minnesota, St. Paul Campus. In that letter, Belle Creek is discussed, particularly with respect to its botanic and fisheries qualities.

Due to the lack of an affirmative presentation by the Department, the Examiner finds that the Department has failed to justify the reasonableness of selecting the particular tributaries which it did. While the explanation may be contained in a document which the Examiner has overlooked, in which case the Commissioner may issue an appropriately amended finding on this point, the Examiner recommends that the Commissioner retain the first sentence of this proposed rule, but delete the remainder of it and substitute therefor a statement to the effect that no tributaries have been designated.

43. Proposed Rules 2920 A.6. and 2920 A.11.tt. should be read together, as they both deal with sand and gravel extraction within the land use district. Under the statewide standards, 6 MCAR sec. 1.0079 B.2., sand and gravel extraction would be a nonpermitted use. In the case of the Cannon, the statewide standards are modified to make sand and gravel extraction a conditional use subject to certain conditions set forth in 2920 A.6.

The Statement of Need (DNR Ex. 8) points out that sand and gravel deposits found in the river valley are a significant economic resource of the area and that these deposits can be extracted in such a manner as to have a minor environmental impact. At the hearing, public opinion was divided. One lady from Bridgewater Township argued that the rule ought to be amended to make it clear that existing operations could continue without additional restrictions being imposed upon them as a result of this plan. The Examiner believes that that is the case even though it is not stated. For example, one of the conditions proposed for a conditional use permit is that commercial manufacturing of byproducts shall be a nonpermitted use. If there is, at present, a byproduct manufacturing operation located within the land use district, such an operation could continue as a nonconforming use. However, were the operator of that plant desirous of opening a similar plant a few miles away, within the land use district, he would not be permitted to do so after the effective date of these rules. On the other hand, a man from St. Paul testified immediately prior to that woman to the effect that there ought to be stronger standards for sand and gravel extraction. That comment was expanded upon in Pub. Ex. 14, which questioned the need to allow any sand and gravel extraction within the proposed land use district. However, the comment went on, if extraction is determined to be

essential for the area's economy, the proposed conditions ought to be strengthened by adding additional standards for dust and noise control, by requiring a performance bond for site reclamation and erosion and sediment control, and in particular, by not lessening the proposed 300-foot buffer zone between the river and such mining operations.

Additional written comments were received on this proposed rule. The State Planning Agency recommended that active gravel pits be identified on a map, and somewhere in the management plan or resource analysis the areas most likely to experience sand and gravel mining should be identified. In addition, the State Planning Agency recommended that a citation be added to Rule 2920 A.6.c. to more clearly indicate the appropriate statute involved in that rule. The Minnesota Ornithologists' Union recommended, in Public Ex. 38, that no pits or similar topographic changes be allowed within 660 feet of the edge of the floodplain. The Minneapolis Chapter of the Audubon Society, in Pub. Ex. 54, questioned the need to allow any sand and gravel extraction along the river, but if it was determined to be necessary, they strongly supported the Department's proposal restricting its occurrence within 300 feet of the river.

The most detailed comment with regard to sand and gravel came from the Minnesota Department of Transportation (Mn/DOT) in Pub. Ex. 27. While generally supporting the Department's proposal, the comment pointed out that the river valley is a major source of deposits vital to state and local road agencies. The comment suggested that most deposits would be unaffected by the proposed 300-foot setback. However, it suggested that a clarification be added to the provision requiring that operations be conducted on parcels of land or combinations of parcels at least 20 acres in size. The comment stated:

> It should be clarified whether the 20 acre minimum applies to the ownership of a parcel containing a pit, or to a leased area containing a pit, or to a combination thereof. Most of the Mn/DOT pit sources are leased and the lease areas are larger than 20 acres. However, others would be affected and a clarification would be helpful.

In its post-hearing comments, the Department responded by stating that the minimum parcel size would apply to both owned and leased areas, including the combination of both. The Examiner agrees with the Department in this statement. The proposed rule makes no differentiation between ownership and leasehold interest. While the Commissioner could add a clarifying statement should he think it necessary, the Examiner believes that Mn/DOT's fear is unfounded and that the rule as proposed is reasonable. Another concern of Mn/DOT is the requirement (for new excavation operations) of a site reclamation plan. The proposed rule states that in addition to requiring such a plan, reclamation shall be initiated immediately after the termination of the mining operation and upon completion, the area shall be restored to as near its original state as practicable. Mn/DOT asked for clarification of the phrase "restored to as near its original state as practicable". The comment asked:

> Does this mean minor reshaping, topsoiling and seeding? Or does it mean filling the pit to its original contours? In the first case the restoration would be feasible; in the latter it would not.

In its post-hearing comment, the Department responded by stating that county ordinances might address this topic in greater detail. The Examiner would note that the language "to as near its original state as practicable" offers a reasonable standard. While county ordinances may be more restrictive, they cannot be less restrictive. The Examiner would take notice of the existence of specific sand and gravel ordinances in some townships, and would point out that these are very detailed with regard to reclamation provisions. To attempt to duplicate such detail in these rules would, in the opinion of the Examiner, be excessive. Mn/DOT also asked what was meant by the phrase "termination of the mining operations". The comment assumed that the intent of the statement is to require reclamation after the cessation of mining operations, and had no objections if that were the case. However, if it were to be interpreted as requiring reclamation at the close of each year's operation, Mn/DOT believed that to be unrealistic. The Examiner agrees with Mn/DOT's assumption, because to restore a gravel pit to its original state on an annual basis makes no sense in light of the purposes of the Act and the existence of a deviation from the statewide standards for sand and gravel extraction. There was certainly no suggestion at the hearings that the Department had any such intention. To clarify this point, the Commissioner could add the word "ultimate" before the phrase "cessation of activities" if he feels it necessary.

The final comment of Mn/DOT related to the manufacture of sand and gravel byproducts. Mn/DOT stated:

> We trust that prohibition of the manufacture of sand and gravel by-products . . . does not include bituminous or concrete batch plants, either temporary or permanent. If it does include them, it would have a significant adverse effect on the construction industry.

In response to that comment, the Department stated, in DNR Ex. 26, that it did, indeed, mean to prohibit such operations. It pointed out that the land use district (as proposed by the Department) only extended an average of 1100 feet from the river and restricting such operations in such an area "should not significantly effect the construction industry". The first question to be answered in connection with this dispute is whether the Department's interpretation is consistent with the wording of the rule. The Examiner believes that it is. The next question to be asked is whether the Department's prohibition is reasonable. The Examiner believes that the key to that question lies in the overall context in which this rule is proposed. It should not be forgotten that under the statewide standards, both sand and gravel extraction and byproduct manufacturing would be nonpermitted uses. The Department is permitted to deviate from those statewide standards to the extent necessary to take into account the local attributes of the area. The existence of sand and gravel deposits are a local attribute of the area. However, the same cannot be said for permitting byproduct manufacturing operations. Therefore, the Examiner believes that the Department's interpretation is not only consistent with the language of the proposed rule, but is in fact consistent with the whole philosophy permitting the Department to deviate from the statewide standards in the first place. In order to clarify this interpretation, the Examiner recommends to

the Commissioner that the following language be added to Rule 2920 A.6.a. as a new sentence:

> This shall include both temporary or permanent bituminous or concrete batch plants.

However, the proposed rule is found to be both needed and reasonable with or without the additional language.

Considering all of the above, can it be said that the proposed rule has been demonstrated to be both needed and reasonable? The Examiner finds that it can be. While there is merit to the performance bond recommendation noted earlier, the Examiner believes that to add such a requirement at this point would be a substantial change. However, in light of the final rule in this set, requiring public informational meetings every five years to improve these rules, he would suggest that the Commissioner raise such a proposal at that time and with the benefit of at least some experience of operation under this rule.

44. Proposed Rule 2920 A.7. requires canoe and innertube rental establishments to provide disposal refuse containers to renters and require the return of those containers with refuse from the river trip. The source of this recommendation can be found on page 2 of the recommendations of the Recreational, Historical and Scientific Use Committee of the West Cannon River Advisory Council. A somewhat similar resolution came out of the East Cannon River Advisory Council, but the East Council recommended that containers be placed at pickup points along the river for the disposal of such refuse containers. An earlier proposal raised in one of the Councils was that canoe rental establishments require the return of the disposal refuse container before returning any rental deposit, but this was not adopted by the Department based on a belief that it did not have the statutory authority to impose such a requirement.

The Department's justification for this proposal was linked with another one, which is contained in Rule 2920 C.3.b., which provides for the implementation of a "carry-in, carry-out" policy for river users. That rule also provides that no trash receptacles shall be provided at DNR rest areas, and that such areas shall be maintained to prevent the establishment of dumps.

At the hearing, Department representatives stated that such proposals had worked in other recreational areas. Department representatives also stated that increasing recreational use of the Cannon and problems associated with such use were a major concern of river landowners, and that these rules were designed as a means to control the litter problem along the river.

The Examiner has already spoken to the concerns of landowners, and they will not be repeated here except to remind readers that the vast majority of comments from people opposed to designation included references to such "people pollution" problems as litter.

At the hearing, the Conservation Director of the Minnesota Canoe Association voiced that body's support for the carry-in, carry-out rule. Another speaker from Saint Paul also cited it as a method of controlling litter. However, the Vice Chair of the West Council stated that he did not

believe that the first part of these requirements would be effective (that portion relating to rental establishments) because, in his opinion, 75% of the canoes on the river are owned by users, rather than rented. That is controverted by an assertion on page 7 of the Statement of Need that a survey conducted in 1978, indicated that the majority of use of the Cannon is generated by rental establishments located along the river. However, it is unclear whether that assertion relates to canoe rental, innertube rental, or both.

The Examiner finds that these two related provisions are a reasonable approach to the fervently stated need for litter control. Their adoption is recommended.

45. Proposed Rule 2920 A.8. perhaps more properly belongs in the sections relating to the land use district, for it permits existing development to continue in the Village of Welch consistent with the Goodhue County zoning ordinance. In the Statement of Need, the Department stated:

> /This rule/ recognizes the unincorporated Village of Welch as a pre-existing rural development center. Since the village limits are presently undefined, this provision delineates a district that includes existing development and allows it to continue. In order not to cause economic hardship, the development in this district shall be allowed to continue.

This would appear to be similar to the justification put forth for the cities of Cannon Falls, Dundas and Northfield noted earlier.

The proposal drew no adverse comment, but it did draw two suggestions for improvement. The first came from the State Planning Agency, which asked whether the use of the word "village" meant an unincorporated area. The Commissioner may want to consider substituting the words "unincorporated area". The second came from the Sierra Club, which pointed out, in Pub. Ex. 23, that there was no definition of "existing development". They stated that they believe that this should be defined so that there is no question about it in the future. Since the rule is extremely specific with regard to the location of this development, the Examiner questions whether there can be much doubt regarding its character. He does not recommend that the Commissioner make the proposed change. However, should the Commissioner desire to do so, he must be very careful to include all existing development in the specified parcel, for to exclude one or more types would certainly appear to be a substantial change.

The Examiner finds that the Department has shown both the need for and reasonableness of this proposed rule in the same manner as it did for the cities.

46. Proposed Rule 2920 A.9. amends the statewide standard relating to building height to provide an exemption for buildings "used primarily for agricultural purposes". The rule, itself, refers to the pre-existence of agricultural buildings and agricultural use as a permitted use in the district. The table of county and township zoning standards contained in DNR Ex. 15 at pages 16 and 17 shows a varied pattern of existing restrictions, but indicates that Rice County and Cannon Falls both have exemptions for agricultural structures. The proposal drew no criticism at the hearing. It is found to be both needed and reasonable.

47. Proposed Rule 2920 A.10. amends the statewide standards relating to building near the bluffline if certain criteria are met. The statewide standards, in 6 MCAR sec. 1.0079 C.3.bb.(ii), state that structures shall be setback at least 30 feet from the bluffline in a scenic area, and 20 feet from the bluffline in a recreational area. A cursory reading of the rules would suggest that that rule would remain unchanged. 6 MCAR sec. 1.0079 C.3.cc.(i) states:

> Structures shall not be located on slopes greater than 13% unless such structures can be screened and sewage disposal system facilities can be installed so as to comply with the sanitary provisions /of section C of that rule/.

It can be seen that that statewide standard essentially sets two conditions on buildings proposed for slopes greater than 13%. The practical effect of the Department's proposed change is to add three conditions to the existing two, and permit building on blufflines as well as slopes greater than 13% if all five conditions are met. According to the Statement of Need, the amendment is proposed in recognition of the amount of bluffline along the river and the desire of landowners to build along the bluffs. The aesthetic and environmental considerations contained in the conditions are alleged to serve the same purposes of a setback. That statement, taken from the Statement of Need, raises a question in the Examiner's mind as to whether it was the intent of the Department to delete the 30 and 20-foot setbacks contained in Section C.3.bb. of the statewide standards or not. Some light is shed on this question by examining the source of the proposal, which was recommendation No. 5 of the Economic Use Committee of the West Cannon River Advisory Council. That proposal read as follows:

> A bluffline is that point where the slope of the land becomes more than 12%. There may be more than one bluffline along each side of the river. Structures may not be built in the land use districts on land sloping more than 12% unless special measures are taken to control erosion, and the screening of the structure should allow the homeowners' view of the rivers.

The Examiner's concern regarding the intent of the Department's proposal is highlighted in two places. In the minutes of the October 24 West Council Meeting, at paragraph 8, it is stated:

> "Subcommittee C also recommends that buildings may be erected on the slope of more than 12% if proper screening and watershed provisions are completed. <u>This recommendation also eliminates bluffline set-back</u>. We need to check the Rice County ordinance at this point." (Emphasis added)

A meeting of the West Council which took place on January 16, 1979, includes in its minutes the following:

> 11. Further review of regulations and subcommittee work included the notation that . . . bluffline and slope regulations had been combined.

In summary, it is unclear as to whether it was the intent of the Department to delete the bluffline setback provisions or not. The rule, as proposed, is contradictory, because by not deleting 6 MCAR sec. 1.0079 C.3. bb.(ii), the 30 and 20-foot bluffline setbacks remain in effect. However, the proposed language provides that structures shall be allowed on slopes of greater than 13% <u>or on blufflines</u> if they can meet five tests. Based

upon the history of the proposal (to the extent it can be understood from the minutes of the West Council Meetings) and the insertion of the three words underlined in the last sentence, the Examiner concludes that it must have been the Department's intent to delete the 30 and 20-foot setback provisions. The remainder of the discussion which follows relating to this rule is based on the assumption that that conclusion is correct. If it is correct, the Commissioner should amend the rule to indicate that the bluff-line setback provision in the statewide standards is deleted.

48. Based on the conclusion set forth above, the public comments may be considered. Comments came from only two sources: The Sierra Club (Pub. Ex. 23), and the State Planning Agency (Pub. Ex. 15). The Sierra Club suggested that one of the five conditions, which states that soil boring samples must be taken when "their bearing capacity is in doubt" ought to be revised so as to require tests in all instances, and if the sample demonstrates bearing capacity greater than a stated figure or benchmark, then construction should be permitted. The comment points out that there is no standard as to adequacy of the bearing capacity, nor is the phrase "in doubt" defined. The State Planning Agency also raised a question with regard to this section, asking whether the "bearing capacity" referred to weight-bearing capacity, or water-bearing capacity. The Examiner believes that it is important that this bearing question be specified one way or the other so that there is no confusion. The comment of the Sierra Club is of even greater concern. By requiring soil soil boring samples, but not including any standard that those tests must meet, people may be left in doubt as to whether they can or cannot comply with the rule. However, the Examiner believes that the site-by-site nature of this process, which must take into account such factors as soil type, drainage patterns and other individualized factors makes such precision difficult, if not impossible, to cover in a rule such as this.

The State Planning Agency also asked whether it was the intention of the Department to modify the statewide standard only for the Cannon River, or for all wild and scenic rivers. Regardless of the intention of the Department, the only way in which the statewide standards could be modified for all wild and scenic rivers would be to modify the standards themselves. The proposed modificatation can only apply to the Cannon River.

The State Planning Agency also pointed out that the standards set forth in subparagraph c could be better worded. It presently reads as follows:

> It must be proven that any potential or actual erosion or sedimentation problems do not exist, and that adequate measures shall be taken to prevent them.

The State Planning Agency asked who will be required to prove that these problems do not exist, to whom must it be proven, and how will this occur. The Examiner believes that the person proposing to build the structure will have to make a showing to the issuer of a building permit. Just how that showing is made will depend on the particular facts of each case. The Examiner agrees with the State Planning Agency that the wording ought to be made more clear to answer these questions, and while he believes that the

rule is adequate as suggested, he definitely recommends to the Commissioner that the wording be changed to answer these questions.

The final issue raised by the State Planning Agency relates to subparagraph e. That subparagraph states that consideration must be given to color and architectural design (including roof slope and orientation), subject to scrutiny of the township and county planning commission. The State Planning Agency asks whether a township planning board is the correct forum for questions about architectural compatibility. Their comment also asked whether "scrutiny" means "approval". The Examiner does not know of any other forum for questions about architectural compatibility unless the State Planning Agency is suggesting that the DNR serve such a function. The rule states that the township and county planning commissions shall exercise such scrutiny, and that was the intent of the Department. The Examiner does not recommend that any other interpretation be given to the proposal with regard to the forum for questions about architectural compatibility. However, the Examiner does agree with the Planning Agency regarding the word "scrutiny". The use of that word leaves the effectiveness of the proposed rule in substantial doubt. Such doubt renders it inadequate from the standpoint of reasonableness. In order for the proposed subparagraph to be reasonable, the finds that the word "scrutiny" must be changed to "approval".

49. Proposed rule 2920.A.11 amends the table of uses contained in the statewide standards in three areas. First of all, it adds sand and gravel extraction as a conditional use, subject to the provisions of proposed Rule 2920 A.6., which is discussed above. Secondly, it makes canoe rental establishments conditional uses, subject to the provisions of proposed rule 2920 A.7., which is also discussed above. Finally, and a matter which has not yet been discussed, is the inclusion in the table of a category of non-permitted uses, that of inner tube rental establishments.

This final provision barring the initiation of new inner tube rental establishments in the land use district was explained by the Department in its Statement of Need as a device to control the amount of inner tube use on the river. At the hearing in Hastings, the Departmental representatives stated that the effect of this inclusion was to permit existing inner tube rental establishments to continue in operation, and also to permit individuals to bring their own inner tubes, but to prohibit new inner tube establishments. The representative went on to state that rentals generate a major use on the river, which is apparently based on a 1978 study by the North Central Forest Experiment Station of the U. S. Department of Agriculture's Forest Service which indicated that the majority of use of the Cannon is generated by rental establishments located along the river.

The proposed change drew support (and no opposition) at the hearings. For example, a spokesman for the St. Paul Chapter of the Audubon Society stated that such a ban was justified as a means of reducing littering. In Public Ex. 14, that comment was expanded upon by stating that inner tubes are inherently more conducive to littering. "With a canoe, it is easy to place a beverage can or candy wrapper inside the canoe. However, with an inner tube, unfortunately, the easiest and most convenient place to toss a

can is usually the river, itself." That statement was buttressed by comparisons between the Cannon and the Apple River in Wisconsin by those people who feared that the Cannon might become another Apple.

The Examiner finds that in light of the serious concerns with littering, such a proposal is needed. In light of the inherent difference between a canoe and an inner tube, it is found to be reasonable.

50. Proposed Rule 2920 A.12. amends the statewide standards to further restrict the installation of utility facilities in the land use district. It provides that accessory facilities to power plants, such as intake and outflow structures, shall be screened to the maximum extent possible to minimize visual intrusion on the landscape. The Sierra Club, in Pub. Ex. 23, felt that it was appropriate to require screening in all instances because equipment can be located well back from the river and screened. However, the State Planning Agency raised a question of whether the language did not inadvertently exclude municipally-owned power plants. The concern of the Agency is with limiting language which reads "not within the jurisdiction of the local authority". To understand this comment, it is necessary to understand the background of the proposal.

The Inter-governmental Relations Committee of the West Council originally recommended that the power of eminent domain within the land use district be superseded by maintenance of the values which qualified the Cannon for designation as a scenic and recreational river. The Department did not adopt this recommendation as part of its management plan, but rather included it in a "recommendations" section, found on page 37 of DNR Ex. 15, because they felt it was beyond their authority to include. The East Council stated, in a recommendation from its Economic Use Committee, that environmental zoning is enforced so that it is almost impossible for power plants to be sited along the Cannon. In response to the East Council's comment, the Department stated that the Power Plant Siting Act, Minn. Stat. secs. 116C.51 to 116C.69, would not allow power plants in the land use district. To the best of the Examiner's knowledge, there is no such prohibition in that Act. However, in rules adopted pursuant to that Act (which have the force and effect of law), the following language appears:

> The following land areas shall not be certified as a site for a large electric power generating plant except for use for water intake structures or water pipelines. . . state wild, scenic and recreational rivers and their land use districts . . . . If the board includes any of these lands within a site for use for water intake structures or water pipelines, it may impose appropriate conditions in the certificate of site compatibility which protect those lands for the purpose for which they were designated. The board shall also consider the adverse effects of proposed sites on these areas which are located wholly outside the boundaries of these areas.

That prohibition is contained in 6 MCAR sec. 3.074 H.2.b. To the best of the Examiner's knowledge, that rule applies to municipally-owned generating facilities as well as others.

51. Getting back to the comment of the State Planning Agency, which suggests that the Department's proposed rule might exclude municipally-owned power plants, the Examiner does not believe that such was the intention of the Department, nor that such an int erpretation results from the

language of the rule. However, to clarify this point, it is recommended that the rule be modified to clearly indicate that municipally-owned power facilities are covered as well as others. There has been no justification suggested for excluding municipally-owned plants. Therefore, if it was the intent to exclude such plants, the rule is found to be unreasonable. However, by clarifying this point, the rule may be made reasonable. It is found to be needed to further the goals of the Act.

SCENIC EASEMENTS AND LAND ACQUISITION

52. Minn. Stat. sec. 104.37, provides that to further the purposes of the Wild and Scenic Rivers Act, the State may acquire title, scenic easements, or other interests in land by purchase, grant, gift, or other lawful means. That statute also provides that the Commissioner may designate and develop appropriate areas of public land along designated rivers for facilities, including primitive campsites, picnic sites, portages, water access sites, sanitation facilities and interpretive display.

The statewide standards provide, in 6 MCAR sec. 1.0078 G.2.cc., that the management plan shall include proposed methods for preserving the river and its adjacent lands. Subparagraphs of that rule provide that such methods may include the purchase of scenic easements or fee title to land when preservation dictates stricter limits on shoreland development than land use controls can impose, and fee ownership or use easements may be acquired for campsites, accesses, launch areas, and other public uses of land. As has been mentioned before, but which the Examiner believes bears mentioning again, neither the Act nor the the statewide standards permit the use of condemnation to acquire any interests in any lands. This has been buttressed by a proposed rule which will be discussed below which clearly states that the Commissioner shall not request or use condemnation to acquire lands in the land use district through the Wild and Scenic Rivers Program.

Because the Commissioner may not condemn land, all of the sites and areas proposed for either acquisition in fee title or acquisition of scenic or use easements must be purchased on a parcel-by-parcel basis from willing sellers. As noted earlier, if the Department and the seller cannot agree on either price or terms of an agreement, there will be no sale. Therefore, all of the proposed sites and areas are no more than just proposed at this time. The Examiner questions the need for extensive rules regarding these areas because of their very tentative nature at this point. This tentative nature has also required the Department to write numerous exceptions into these rules, which make them close to "non-rules". What they really say is that if there is a willing seller, and if agreement can be reached on price and terms (and implicitly, if the Department has sufficient monies), then here are the areas the Department is interested in, and here is the manner in which it intends to proceed. However, because the statewide standards do require that the plan include proposed methods for preserving the river, and specifically suggest the criteria for scenic easements, fee title, and use easement acquisition, the Examiner believes that it is appropriate to have them in the management plan. With those caveats, the Examiner will proceed to consider the provisions on a rule-by-rule basis.

53. Proposed Rule 2920 B.1. states that fee title acquisition from willing sellers is recommended in those areas (identified in a later rule) where recreational sites are needed. The later rule (2920 C.2.a.) lists ten specific sites as "priority areas for development of governmental recreational facilities".

Although persons did not focus on these two rules specifically, there was a great deal of generalized comment about "DNR land grab", "toe in the door to acquire lots of land up and down the valley", and similar statements. Local officials also expressed concern about taking land off the tax rolls. On the other hand, one man from St. Paul testified that acquisition of rest areas might well serve to lessen incidents of trespass, and when discussing a later rule dealing with the posting of signs to identify the location of such areas, there were comments to the effect that if people knew where they could find rest areas and sanitary facilities, they would be less likely to use private lands for such purposes.

Because of the statewide standard noted immediately above, and because the Examiner does agree with the concern of the Department to specify, with some precision, those instances in which it will attempt to acquire land in fee title in order to allay landowners' fears of indiscriminate and widespread acquisition, the Examiner finds that the proposed rule is both needed and reasonable.

54. Proposed Rule 2920 B.2. relates to scenic easements. It provides that acquisition of scenic easements from willing sellers is recommended in areas having outstanding scenic, natural or similar values, as well as in areas with high development potential. The effect of this rule is to set standards for the acquisition of scenic easements.

The Department's Statement of Need, at pp. 4 and 5, contains a discussion of scenic easements, which discussion will not be repeated at this point. In addition, a sample scenic easement agreement is contained on page 46 of DNR Ex. 14, the Resource Analysis booklet. In addition, scenic easements are discussed at pages 23 and 24 of the Management Proposal booklet, DNR Ex. 15.

Public comment was divided. One individual stated that he thought that scenic easements were a good idea because they offered protection to the river by removing the best areas for development while still permitting agriculture and existing uses. On the other hand, at least one landowner who owns land proposed for a scenic easement, stated his unalterable opposition to granting an easement.

The Examiner finds that the proposed rule does provide some standards for scenic easement acquisition, and thus is both needed and reasonable.

55. Proposed Rule 2920 B.3. states that some lands recommended for scenic easement acquisition may be purchased in fee title and that additional land or interests in land other than those recommended, may be purchased to further the policies established in the Act and the Plan.

The only comment with respect to this rule came from the State Planning Agency, which stated:

> The rules should specify under what conditions the DNR will buy land in fee title. It is casual language such as this that gets landowners into a frenzy.

The Examiner agrees with the second statement contained in that comment. While the tentative nature of the sites and areas proposed for acquisition requires that the Department have some flexibility, if a landowner is unwilling to sell either fee title or a scenic easement, this specific rule is so vague as to be virtually meaningless. Why should the Department desire to purchase fee title to land rather than acquire scenic easement across it? The only reason that the Examiner can think is that the Department has been thwarted in its plans to acquire a specified parcel to be used as a rest area, for example, and needs a substitute. However, the Department has already provided for such an eventuality in 2920 C.2.a. The statewide standards provide limitations on acquisitions of land in fee title, and no justification has been offered for varying those standards in the case of the Cannon. No justification has been shown for the need for this rule, and it is recommended that it be deleted.

56. Proposed Rule 2920 B.4. provides that other forms of acquisition, such as use easements or leases, may be substituted for the recommended acquisition or used to acquire interests in other lands within the district when such purchases further the policies of these rules and the Act. There was no comment with respect to this rule, either from the Department or from the public. However, the statewide standards do specifically provide for use easements and leases. Leases are the subject of a subsequent rule. While the Examiner cannot quarrel with the reference to use easements or leases as substitutes for acquisition of land recommended in the plan, he sees no need to suggest that other lands might also be subject to such other forms of acquisition. Therefore, the proposed rule is found to be unreasonable unless the words "or used to acquire interests in other land within the land use district" are deleted.

57. Proposed Rule 2920 B.5. provides that the Department shall consider leasing rest areas for an initial five-year period, with the option for longer leasing or purchase thereafter. This rule is an outgrowth of a recommendation from the East Council, contained in paragraph 6 of its summary of recommendations, which is contained in DNR Ex. 18. Further review of the minutes of that Council indicate that on March 28, 1978, a member of the audience raised the possibility of five-year leases rather than outright acquisitions for campsites. Two meetings later, on April 11, 1978, there was a discussion of control and maintenance of campsites. Such items as vandalism, litter, access, and supervision were mentioned. Following that discussion, the Council unanimously passed a motion which states that rest areas could be purchased or leased for an initial five-year period with potential for longer leasing or ultimate purchase thereafter. The purpose of this rule is to provide a testing period to determine whether campsites do, in fact, result in vandalism, litter and other "people problems" so that they do not become permanent if those problems become too great.

There was very little discussion of this leasing proposal at the hearings. The State Planning Agency, however, asked what would happen if a lease expired, and could not be renewed. Would there be a danger of people using that site without permission out of habit?

Because the need for recreational sites must be balanced against the opposition of at least some landowners to selling their land for such sites, a lease arrangement for a trial period appears to be a viable compromise. If, as some supporters of the Plan suggest, the fears of the landowners will not materialize, the opposition to an outright sale may well disappear. On the other hand, if those landowners who predict that the existence of such sites will create these "people problems" are correct, then a lease for a fixed term of years would appear to give the landowner relief from permanent problems. The concern of the State Planning Agency may or may not be a realistic one. The Examiner cannot evaluate it at this time. In light of the discussion above, the Examiner finds the provision for leases to be both needed and reasonable, and recommends its adoption.

58. Proposed Rule 2920 B.6. and B.8. merely restate the Department's contentions that the Commissioner may not condemn lands in the district for the Program and that all interests in land, whether fee, easement, lease or otherwise, will be acquired from willing sellers. In light of the oft-expressed concern of local residents regarding these issues, they were explicitly provided for in the rules. The State Planning Agency raised a question regarding the necessity of one phrase in Rule B.6., which provides that acquisitions will only occur "when funds are available for such purposes". While it appears to be self-evident that no acquisitions will occur if the Department does not have money for them, the Examiner recommends that this phrase be deleted so that there is no question that landowners may make gifts to the Department should they desire. Both the Act and the statewide standards provide that the Department may acquire interests in land by gift or devise. Should a landowner desire to do so, this phrase should not be in the rules lest it be interpreted to prevent the use of such tools. Since it may be construed to conflict with the Act, the Examiner cannot find the Rule to be reasonable unless it is deleted. However, with that deletion, the Examiner finds the Rule to be both needed and reasonable to the allay of fears of local landowners.

59. Proposed Rule 2920 B.7. provides that wherever feasible, land will be exchanged in order to acquire land in the district so long as such exchanges do not adversely affect this or other Departmental management programs. There was no discussion of this proposal, to the best of the Examiner's recollection, in the record. To the extent that it is already a requirement of state law, then these rules certainly would not modify that. To the extent that it is a new provision, it is required that the Department demonstrate the need for and reasonableness of it. They failed to do this, and therefore, the Examiner recommends that it be deleted.

RECREATION MANAGEMENT

60. As should be obvious by now, management of recreational users along the river was a primary concern of local residents. Interestingly enough, they were joined in some instances by environmental groups and user groups who apparently recognized that it was in the best interests of their members to support restrictions on recreational use suggested by local residents. The provisions in sec. C of the Rules can generally be

characterized as restrictions upon the Department aimed at minimizing the problems which recreational users create for local landowners.

61. Proposed Rule 2920 C.1.a. is an "intent and purpose" type rule which states that it is the intent of these rules to provide for the orderly use of public lands and waters within the district and restates a provision from the statewide standards as justification for the rules which restrict over-development of recreational facilities. Since a person unfamiliar with the events of the last few years which have lead up to the promulgation of these rules might wonder why the Department is proposing a series of rules which essentially restrict its flexibility, it is found that the inclusion of this material would assist readers in understanding what follows. Therefore, it is found to be both needed and reasonable, and is recommended for adoption.

62. Proposed Rule 2920 C.1.b. purports to amend a statewide standard to reflect current criminal penalties for littering (which are out of date as they are set forth in the standard). It reads:

> NR 80 (b) (1) shall be amended to impose the current state penalty for a misdemeanor.

The rule referred to reads as follows:

> Pursuant to Minnesota Statutes, section 609.68, whoever unlawfully deposits garbage, rubbish, offal, or the body of a dead animal or other litter in or upon any public highway, public waters or the ice thereon, public lands, or without the consent of the owner, private lands or water or ice thereon, may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than $100.

The cited statute (609.68) states that whoever engages in one of these acts is guilty of a misdemeanor. In 1977, the Legislature amended various sections of Chapter 609 to increase penalties, and at the present time, section 609.03(3) provides that the penalty for a misdemeanor is imprisonment for not more than 90 days or a fine of not more than $500, or both. The purpose of the amendment is to ensure that the new penalty, and not the old one, would be applied to anybody who was convicted of a violation. This amendment is found to be both needed and reasonable to remove any possibility that a violator might be able to claim that because the littering was committed on land located within a wild and scenic river land use district, he was thereby entitled to a lower fine than if he had committed it anywhere else.

This proposal was deemed to be "absolutely essential" for coming to terms with increased use of the river by a member of the West Council who submitted Pub. Ex. 11. The Sierra Club, in Pub. Ex. 23, recommended that the wording of the proposal be changed to read:

> As applied to the Cannon Scenic and Recreational River, whoever is in violation of NR 80 (b) (1) or NR 2900 shall be guilty of a misdemeanor.

The Examiner does not recommend this proposed change because he has questions about whether the Department may, by rule, create a new criminal offense. Such would be the effect of including the reference to NR 2900.

63. Proposed Rule 2920 C.2.a. sets forth a list of priority areas for development of governmental recreational facilities. The need for and reasonableness of such a list has been discussed above, and will not be

repeated. However, in its posthearing comments, contained in DNR Ex. 26, the Department states that the Plan overlooks a necessary portage at the Welch Dam and wants to add that portage to the list of priority areas. An examination of Plate No. 7 in DNR Ex. 15 does not indicate any reference to this portage. While it is essentially a matter of common sense that one would need a portage around a dam, there may well be a problem with the timing of this addition to the list. That will have to be decided by the Chief Hearing Examiner under his authority in reviewing for substantial change. Based upon the argument that it is necessary to have a portage around a dam for canoeists to use, the proposal is found to be both needed and reasonable.

64. Proposed Rule 2920 C.2.b. states that all public recreational facilities between Faribault and Northfield will be located on existing public land because there is sufficient public land in that segment. This proposal came out of the Inter-governmental Relations Committee of the West Council. Its justification is explained in the rule.

The only criticism of the proposal came from the State Planning Agency, which suggested that the wording be changed to eliminate the justification from the rule and to limit sites to land that is currently publicly owned. No reasoning was given for this proposed change, and the Examiner does not recommend it because it would appear to substantially limit the flexibility of the Department to deal with future changes in land ownership. While the Examiner agrees with the Agency that there is no need to have the justification contained in the rule, whether it is there or not is a minor matter. However, for the reasons stated above, he does not recommend that the word "currently" be inserted.

It is found that the Department's proposal is both needed and reasonable. While it would be desirable to eliminate the justification for the proposal in the manner suggested by the State Planning Agency, that is a stylistic matter which is left to the discretion of the Commissioner.

65. Proposed Rule 2920 C.2.c. really contains two rules. The first requires both public and private facilities to conform to the site typicals in these rules. The second requires that sufficient land be acquired when establishing rest areas to provide a 300-foot buffer zone between the activity area and adjacent property.

With regard to the first of these, there was no public comment. The site typicals (which are contained at the end of the proposed rules) have been used in other management plans, and appear to be lifted "verbatim" from previous plans. It would appear necessary to include such a provision in the rules if the site typicals are to have any binding effect.

With respect to the second of these, a Departmental representative stated that one of the advisory Councils wanted to be sure that there was adequate separation between the recreationists and adjacent landowners. In fact, Resolution No. 12 of the East Council does provide the basis for a 300-foot zone. However, in that resolution, the buffer zone is proposed to be between the activity area and the "rest of the site". It is not clear exactly what the Council meant by that language. However, the Department's proposal is certainly a reasonable interpretation of it. The only criticism

of the proposal came from the State Planning Agency, which questioned the necessity of always acquiring such a buffer zone. The Agency suggested it might be more appropriate to acquire land for the buffer only at the request of the adjacent property owners. It would appear that the Planning Agency is attempting to balance the concerns of those who fear excessive land purchases against the desires for an adequate buffer zone. The Examiner finds merit in both the Agency's and the Department's proposals, but as stated before, the question is not which is the most reasonable, but rather whether the Department has shown the need and reasonableness of its proposal. The Examiner believes that it has, and finds that the entire rule, as proposed, to be both needed and reasonable.

66. Proposed Rule 2920 C.2.d. provides that DNR rest areas shall not be established closer than four miles to existing rest areas, and in addition, shall be inaccessible by road. At the hearing, a Departmental representative stated that one of the advisory Councils wanted to limit the Department's ability to develop campsites. Reference to the recommendations of the East Council shows this four-mile separation to have been proposed by them. In addition, the provision relating to inaccessibility by road came from one of the Councils.

With respect to the four-mile proposal, the Minneapolis Chapter of the Audubon Society expressed concern because young children might require rest areas more frequently than every four miles, and if recreational use increases substantially, it may be necessary to have more frequent rest areas in order to reduce wear on individual sites. The comment suggests that a better approach would be to set a maximum number of rest areas and then give the Department flexibility in siting them. The Examiner believes that the record contains substantial evidence that there is a need for established rest areas. However, because of the requirement that such areas be acquired only from willing sellers, it may be difficult for the Department to live with the four-mile limit, while still achieving the goal of having an adequate number of areas. While he does see the need for flexibility, the Examiner would recommend to the Commissioner that he adopt the proposal as suggested because the Department's staff apparently feels that it can live with the limitation.

With regard to the requirement that such areas be inaccessible by road, the State Planning Agency asked how such areas could be maintained. Again, while the Examiner sees some merit in this comment, he believes that the Department's staff is in the best position to evaluate its own abilities, and if it feels it can live with the limitation, then it ought to be adopted.

In summary, the Examiner finds that the Department has made proposals which it feels it can live with which were based on advisory Council recommendations. The Examiner finds them to be both needed and reasonable.

67. Proposed Rule 2920 C.2.e. provides that the Department shall establish no overnight camping areas along the river. A Departmental representative stated that this came from one of the advisory Councils. An examination of the resolutions of the East Council indicates that it was a

part of Resolution No. 9. As with others of this series, the purpose is to reduce problems which have arisen in the past with late night parties, fires, and trespassing by campers.

The vice-chair of the West Council stated that he thought that this provision was unenforceable in that people would camp regardless of whether they were allowed to or not. The State Planning Agency points out that in an earlier rule, two campsites are listed for future acquisition, but this rule would appear to prevent such acquisition. The comment asks, "Do you mean that the DNR will not establish any more camping areas?" It would appear from the minutes of the February 13, 1979, meeting of the West Council that the intent of the Department at that time was to exclude DNR campsites, but allow private or county campsites. Immediately below that comment is a statement that the statewide standard creating a 12-mile interval for overnight campsites would not apply to the Cannon. From these two, one can gather that it was the intent of the West Council, at least, that there be no overnight campsites established by the Department. The question of the State Planning Agency is perhaps answered if the intent of the Department was to acquire those two campsites for day use, rather than overnight use. That explanation would make the two proposed rules consistent. If, however, that was not the intent of the Department, and they did, in fact, intend for those two listed campsites to be overnight, then based upon the record as a whole, and the statements of the Department made at the hearings, the Examiner would urge that those two sites be eliminated. In other words, they can be used for daytime use, but not overnight use. With that caveat, the Department's proposal is found to be both needed and reasonable.

68. Proposed Rule 2920 C.2.f. provides that all public and private camping areas shall be periodically inspected and subject to all regulations of the Pollution Control Agency, the Department of Health, and all local zoning ordinances. A Departmental representative stated at the hearing that this was inserted at the request of one of the Councils, and it is contained in Resolution No. 5 of the East Council. The State Planning Agency asked if there were any reason why this would not already be the case, with or without this rule, and questioned whether the provision needed to be stated. The Examiner agrees with the State Planning Agency that there is no need to reinforce existing rules. However, in this case, there is a change from existing rules in that the Department's rule not only provides that camping areas shall be subject to PCA and Health Department regulation, but also provides that the campsites shall be periodically inspected. It is this additional factor which leads the Examiner to reject the comment of the State Planning Agency, and recommend that the Commissioner adopt the rule as proposed because it is both needed and reasonable.

69. Proposed Rule 2920 C.2.g. provides that if a recreational site is found to be in violation of Health Department rules more than three times in one season, the site shall be closed. Again, this came from a resolution of the East Council.

The State Planning Agency questioned whether such a provision was normal Health Department practice, and also questioned whether the DNR could enforce it if it were not. The Examiner believes that the DNR would have

authority to close a site if an adequate standard for such closing were set forth in a DNR rule. In this case, such a standard has been set forth, and so even if closure were not required by the Department of Health, it could be required by the Department of Natural Resources.

The Sierra Club stated that this provision simply duplicates present Health Department regulations. While that may be the case, as stated above, the Examiner believes that the existence of such a provision in a DNR rule gives the DNR a standard by which it can exercise its own enforcement authority separate and apart from that of the Health Department. The Examiner recommends that the rule be adopted as proposed.

70. Proposed Rule 2920 C.2.h. states that no special DNR facilities for motorboats shall be provided. At the hearing, a Department staff person stated that this rule was justified because the Cannon River, by its very nature, was inappropriate for motorboat use. Nobody challenged this assertion. However, in a written comment, the State Planning Agency questioned the wording of the restriction, asking what is meant by the word "special". The Agency asked "Will facilities be provided or not?" The Agency's comment appears to be well taken, because when one looks at the source of this restriction, the recommendations of the Recreational, Historical and Scientific Use Committee of the West Council, that Committee recommended that no form of motorized boating be permitted. It appears that what the Department is doing is restricting its own ability to install special facilities for motorboat use, but not going so far as the Council recommended. This is a policy decision which is within the discretion of the Department to make, and since it has not proposed a rule one way or the other on motorboat use, the Examiner cannot impose one upon the Department. What the Examiner can do, however, is look to what the Department has proposed, which is a restriction on special facilities for motorboat use. The Examiner finds such a restriction to be both needed and reasonable, but should the Commissioner desire to satisfy the question of the State Planning Agency, he could do so without changing the meaning of the rule by inserting words such as "solely for the use of motorboats" in place of the word "special". However, such a change is not required in order to make the rule reasonable.

71. Proposed Rule 2920 C.2.i. was perhaps the most widely criticized of this series of restrictions on the Department. It provides that the Department shall not develop or provide for trails within the land use district. It goes on to state that this restriction shall not include local trails or state-funded grant-in-aid trails. Because of the diverse nature of the comments on this proposal, the Examiner will take some time to outline its background.

The Recreational, Historical and Scientific Use Committee of the West Council proposed that the Plan include the following prohibition:

> No corridor trails of any kind shall be established beyond those already in existence in the Rice County Cannon River Wilderness Area.

In addition to that, the East Council passed a resolution as follows:

> Resolved, That the present railroad right-of-way in land use district be offered to adjoining landowners upon abandonment; that they be given first option to purchase because any use of this corridor other than agricultural would be incompatible with preservation of Cannon River as stated in management plan.

Therefore, as one looks at the comments, both for and against the Department's proposal, one must realize that the background of many of these comments relates to a specific abandoned railroad right-of-way, while other comments relate to trails in general.

A woman who has lived on the St. Croix River for many years testified that when railroads were given land as an incentive for them to build, that was land which belonged to the people. She argued that if the land is no longer needed by the railroad, it should revert back to its original source: the people as a whole. She referred to a resolution of the Goodhue County Board of Commissioners, which was introduced into the record as DNR Ex. 24. That Resolution reads as follows:

> WHEREAS, the Department of Natural Resources has proposed that the Cannon River be designated as a Wild and Scenic River from the City of Cannon Falls to the Mississippi River, and
>
> WHEREAS, the preliminary plans for said designation apparently exclude the use of abandoned railway land in the proposed area for recreational trails,
>
> NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners of Goodhue County go on record as being in favor of the use of said abandoned railway property for recreational trails, and the establishment of other recreational trails within the area as appropriate.

The next speaker, a member of the Red Wing City Council, used that resolution to state that recreational trails and bikeways are a "hidden" part of the Plan, and that the Plan could be changed the day after it is adopted to provide for them. The Department challenged that statement, stating that if the Plan is adopted, it cannot be changed without going through the same public hearing process that was gone through to adopt it in the first place.

A man from St. Paul testified that local residents should be more concerned about the good aspects of trails rather than the bad ones, but he was countered by a member of the West Council who argued that trespassing was his biggest personal concern and that already he was encountering trouble with cut fences. He stated, "No trails; never."

A woman from Cannon Falls wrote, in Pub. Ex. 5, that by concentrating on canoe access and occasional places for picnicking and camping, and by, not providing for trails along the river, the Department had adopted a policy which should minimize the problems for landowners. A member of the West Council, in Pub. Ex. 11, wrote that the ban on imposed corridor trails on private land will steer responsible river users to public places and away from private river banks. A number of statewide organizations, however, indicated a concern about the proposed prohibition. The St. Paul Chapter of the Audubon Society wrote, in Pub. Ex. 14, that the railroad bed along the river from Cannon Falls to the Mississippi could be developed as a trail with excellent scenic and recreational value. The statement agreed that motorized vehicles would not be appropriate, and there would need to

be strict prohibitions against trespassing and littering. They suggested that all these would be appropriate issues for a trail management plan. The Sierra Club, in Pub. Ex. 23, was concerned about the finality of adopting this rule. They expressed the same sentiments about the Cannon Falls-Mississippi railroad bed as were expressed in the previous comment. The Minneapolis Audubon Chapter, in Pub. Ex. 54, also noted the same concerns regarding that railroad bed.

State laws, rules and policies relating to both the establishment of trails and the sale of railroad right-of-way have been in the limelight in the last few years, and the Examiner will not attempt to summarize them at this point. He is sure that the Commissioner knows full well the diversity of thinking on such topics. The specific question to be asked is whether the proposed prohibition is needed and reasonable. The Department essentially views this as a "trade-off" needed to gain local support for the Wild and Scenic Rivers Designation and Management Plan. Certainly, members of the Department staff have spent far more time discussing these issues with local residents than the Examiner could spend in the three hearings which were held. From those hearings, and the written comments, it is clear to the Examiner that public acceptance of this plan is crucial to its effectiveness. Therefore, to the extent that the Department has made a judgment that this provision is needed in order to gain public acceptance, the Examiner will concur in that decision. In addition, it is reasonable because it does not promise more than the Department can deliver. It relates only to Departmentally established or funded trails. The Examiner recommends its adoption.

72. Proposed Rule 2920 C.2.j. states that snowmobile use in the district shall be allowed on private lands only with the permission of the appropriate landowners, and on public lands only where provided for. As with the previous provision, there was divided opinion on this. A member of the West Council testified that he and his family had planted 1200 trees on the bluff last summer, but that snowmobiles had ruined a lot of them. Pub. Ex. 47 came from a woman in Northfield who stated that some of her neighbors owned beef cattle which were pastured in the area. She stated that noisy snowmobiles were bad for those cattle. On the other hand, a man who lives south of Faribault and owns property across the river from a game management area, testified that he thought that snowmobiles ought to be allowed on public property. Finally, the Sierra Club, in Pub. Ex. 23, stated that the language of the Plan should be amended so as to prohibit snowmobile use on public lands "except on designated trails".

There was no opposition to the proposal that snowmobiling be allowed on private lands only with the permission of the appropriate landowners. Certainly, any other provision for use of private lands would be a drastic departure from the statewide standards and other state laws relating to trespassing and using private lands. The fact that those private lands are located within a land use district should not change the requirement that permission be obtained prior to crossing them. That portion of the proposed

rule is found to be both needed and reasonable.

The Examiner is more concerned with the language relating to public lands, which permits snowmobiling "where provided for". Nowhere in the Plan is there any indication of what that means, although the Examiner believes that the comment from the Sierra Club is probably closest to what the Department intended: that the Department or other public landowners have the discretion to designate trails or areas for snowmobile use and that those would be the only areas in which snowmobiling would be allowed. The Examiner believes that the concept proposed is both needed and reasonable, but he would strongly recommend to the Commissioner that the language be made more specific. A possible change might be "on public lands where the managing entity has posted signs indicating that such use is permitted". By fixing the standard to some specific item, such as posting of signs, the concern of the Sierra Club will be satisfied.

MAINTENANCE AND ENFORCEMENT

73. One of the most widely discussed concepts at the hearing was adequate enforcement. Both supporters and opponents argued strongly that without adequate enforcement, many of the provisions designed to protect the River and adjacent landowners would be far less meaningful than otherwise. Many of the specific points will be brought up toward the end of this section in connection with proposed Rule 2920 C.4., but the Examiner wishes to point out to the Commissioner that one of the broadest areas of agreement among all who commented on the proposal was the need for adequate enforcement.

74. Proposed Rule 2920 C.3.a. provides that the DNR shall be responsible for and shall allocate funds for maintenance of DNR recreational facilities within the district. It also provides that the Department is encouraged to hire area residents to help maintain recreational facilities. It was pointed out by a Departmental representative that the provisions directing the Department to allocate funds for maintenance and urging it to hire residents came from the advisory Councils. There was no criticism of this proposed rule, and the Examiner finds it to be both needed and reasonable.

75. Proposed Rule 2920 C.3.b. has already been discussed. It contains the "carry-in carry-out" policy as well as other provisions. As noted earlier, it is recommended for adoption in its present form.

76. Proposed Rule 2920 C.3.c. relates to orientation signs, requiring that they be posted at accesses and further that they identify recreational sites along the river, spell out the recreational rules for use of the river, and explain the "carry-in carry-out" policy. There was no opposition to this rule, and the statements in support of it have been noted previously in connection with other provisions. It is recommended for adoption in its present form, having been shown to be both needed and reasonable.

77. Proposed Rule 2920 C.3.d. provides that Departmental recreational sites shall be closed if any of three problems occur: (1) If heavy

use wears down river land; (2) If heavy use causes erosion; or (3) If heavy use leads to problems with adjacent landowners. It was explained at the hearing that this was put in at the recommendation of the advisory Councils, and it drew no criticism. The State Planning Agency, however, suggested dropping the word "heavy", which modifies the word "use" in the three conditions. The Planning Agency did not give any explanation for its proposal, and the Examiner is at somewhat of a loss to ascertain what the argument might be in favor of deleting it. He therefore makes no recommendation with regard to the proposed change, but does find that the proposed rule has been shown to be both needed and reasonable.

78. Proposed Rule 2920 C.4. is the rule dealing with enforcement noted earlier. It provides that the DNR's Division of Enforcement shall determine, with local units of government, the division of responsibilities for enforcement of the user regulations, and that the Division of Enforcement shall also take action to ensure expeditious enforcement of all of the wild and scenic river regulations.

A member of the West Council from Bridgewater Township wrote as follows:

> However, I strongly sympathize with the frustrations a river landower already feels when careless people misuse his land. I would therefore urge the State and the DNR to make more funds available for more conservation officers who could help enforce the recreation regulations. This would substantively remove one justified reason for opposition to the Plan.

A letter from the Director of the Carleton College Arboretum, Pub. Ex. 19, generally supported the Plan but felt that it had two major omissions. One of them was that the Department had to be extremely diligent in policing the river for litter and misuse of private and public property because the success of this program depends on the Department accepting much more burden than do individual landowners.

A number of persons stated that local enforcement authorities simply did not have sufficient personnel to adequately enforce the proposed rules. This was stated in Pub. Ex. 41, and by several people at the hearings. A specific proposal to combat this problem was suggested by a number of statewide organizations and individuals who argued in favor of the Department designating a specific individual as the enforcement officer for the Cannon. They stated that the landowners ought to be able to know who they could call in the event of a problem. The suggestion was made in Pub. Ex. 14, Pub. Ex. 23, and Pub. Ex. 35, as well as by a number of speakers. In response to a question, a Departmental representative stated that the nearest permanent "station" for conservation officers at the present time was in Rochester. , However, the representative also stated that the Department hoped to be able to obtain special funding to assist local enforcement authorities to enforce the rules.

The subject of local funding was also raised by the State Planning Agency, which asked whether the Department could enforce the rules without the cooperation of local units and whether those local units would be given funds to help implement and enforce required changes to the zoning

ordinances. The Examiner would point out to the Commissioner statements made in the three township resolutions noted earlier, Pub. Ex. 16-18. Those resolutions state:

> Finally, the DNR has included several management proposals for river use, litter, trespass, etc., which are all well and good. However, the DNR then admits at public meetings that they have neither the intention nor the capability to enforce the proposals. Rules and regulations are just paper without enforcement, and even the DNR admits that. It would seem to us, that by promoting more use of the River without any real management program, the DNR will actually be causing a degradation of the river environment through its Recreational designation.

While the Examiner has neither the authority nor the facts to enable him to evaluate the capabilities of the Department's Division of Enforcement and require that any specific action be taken, he would strongly urge the Commissioner to consider carefully the designation of a single individual person whom landowners (and others) could contact when necessary. While ideally that person would be located immediately on the river, even if that person were in Rochester giving local people a name and a telephone number to contact would be a substantial improvement over nothing at all. This ought not to be done in the rule. The Examiner recommends that the proposal be adopted as written, it having been shown to be needed and reasonable.

REQUIRED ORDINANCE CHANGES AND OTHER ADMINISTRATIVE MATTERS

79. As discussed in an early portion of this Report, the overall regulatory scheme for wild and scenic rivers states that once a management plan has been adopted, local units of government have six months to amend their zoning ordinances and land use maps to conform to the management plan. Section D of the proposed rules essentially is a technical section provided for the convenience of local governmental units in amending their ordinances. The Examiner will not go through this section on a rule-by-rule basis because there is little to say about each of them. Rather, he will only discuss those proposals where there is some question about the Department's justification or where specific public concerns were raised.

80. The first of these occurs in proposed Rule 2920 D.2., specifically as it relates to Dakota County. It will be recalled from an earlier discussion of existing zoning that Dakota County administers its shoreland management ordinance with a 1,000-foot boundary. The county has requested that it be allowed to keep its existing 1,000-foot boundary rather than conforming to a different land-use boundary for the Wild and Scenic River Land Use District. In a map which is contained in the record as Pub. Ex. 45 B, it can be seen that because of the 1,000-foot boundary, the vast majority of land which would be included in the land use district proposed by the Department is already included in the shoreland zoning district. Small portions of land not already included in the district would be covered by the Department's proposal, while the shoreland management district includes a roughly equal amount of land that would not be included in the Department's proposal. In Pub. Ex. 20, the county argues that because of the existing

district, it ought to be granted an exception from the requirement of imposing a new district. It proposes that its existing shoreland management district be substituted for the Department's proposed district in order to eliminate confusion on the part of landowners and to increase ease of administration. The county is willing to change its shoreland management ordinance to conform with the provisions of the management plan to the extent that those of the management plan are more restrictive. Therefore, it is only the boundaries which are at issue.

In its posthearing comments, DNR Ex. 26, the Department staff stated that it felt that this proposal was a reasonable request and recommended that it be adopted. It argued that this would not be a substantial change because the proposed boundaries included an average of 247 acres per river mile, while the county's suggestion covers an average of 242 acres per river mile. The Department agreed with the County that adopting the county's existing district would result in less confusion on the part of landowners who are already familiar with, and have accepted over the years, the existing boundaries.

The Examiner agrees that this change would avoid problems of administration and simplify matters for landowners.

An additional benefit of such a change would be that it would eliminate need to modity the rule for one other matter which the Examiner believes ought to be taken care of. In the event that the Dakota County proposal is not adopted, the Examiner would draw attention to testimony from Walter Kiedt and Elmer Schultz, two landowners who testified at the hearing in Hastings. They pointed out that their land is bordered by County Road 94 and the Great Western Railway. More specifically, their land is located on Plates No. 3 and 4 of DNR Ex. 15. Kiedt's land is near the marker on the plate indicating County Road 94, and Schultz's is to the east of it on Plate No. 4. They point out that immediately past Schultz' land, the northern boundary of the proposed management district ceases to zigzag and follows the railway and the county road. They questioned the need for including portions of their land in the proposed land use district which are to the north of the railroad and the county road because the river cannot be seen from those northerly portions, and it appeared that the only reason for including their land in the land use district was to accommodate the Department's desire to use section lines in the zigzag manner described earlier. An examination of the topographic lines on these plates indicates that there is no readily discernible bluff line on the northern side of the river in the areas in question. There is no evidence that the hearing to indicate any need for including their land to the north of the railroad and county road in the land use district, and in its posthearing comments, the Department stated that if the land use district in Dakota Co. is changed, as was suggested by the Examiner immediately above, no change would be necessary in response to the comments by Kiedt and Schultz. Even if the Dakota County proposal is not adopted, the Department's staff agreed that Kiedt and Schultz were correct and the change which they propose should be made in order to be

consistent with the boundary of the rest of the land use district along this stretch of the river.

In summary, the Examiner agrees with Kiedt and Schultz that the Department has failed to show any need for including any portions of their land to the north of the railroad and the county road in the proposed land use district. Regardless of whether the Dakota County proposal is accepted or not, the Examiner specifically finds that the land use district ought not to extend to the north of the county road and railroad over the lands of Kiedt and Schultz.

81. Proposed Rule 2920 D.4. and D.5. deal, in part, with the City of Northfield. In a letter which is marked as Pub. Ex. 60, the City essentially requested two changes in the land use district. If one looks at Plates 2 and 3, it can be seen that, for the most part, the land use district boundaries meander to parallel the river. However, at the far northeastern and the far southwestern corners of the City, the land use district zigzags, following section lines. What the City is proposing is that the zigzag lines be replaced by meandering lines at both edges of the City. The stated reason for this is that the City is in the process of designating floodways and floodplains, and it prefers to have the lines be more reflective of the floodplain boundaries rather than the following section and quarter-section lines. However, during the hearing, it was learned that the City is proposing a commercial and industrial park on the south side of the river, between Dundas and Babcock Park. This proposed park would be bounded on the south and east by Highway 3, and on the north and west by the floodway of the river. It was stated by a representative to the Northfield Planning Commission that Northfield is running out of commercial and industrial space and that the City, its industrial commission, and landowners along the corridor have been planning for an expansion of industrial space.

The Examiner believes it is antithetical to the purposes of the Act to make exceptions in the land use district for future commercial and industrial development. Indeed, in recommending a land use district extending 30 feet beyond the bluff line, the Examiner was thinking of agricultural and scattered residential uses beyond that 30-foot boundary, not commercial and industrial. If anything, it would seem that the boundaries of the land use district ought to be expanded to provide a greater buffer from commercial and industrial development. The Examiner does not recommend that the proposals of the City be adopted. While the land use district does narrow within the City in recognition of existing development, this southern portion appears to be almost entirely undeveloped and in a natural condition. Its treatment ought to be consistent with other areas of similar development.

82. The final proposed rule is proposed 2920 D.10. It requires the Department to conduct a public informational meeting every five years to determine the effectiveness, the progress, and the opportunities for improvement of these rules. The only public comment on this rule came from the Sierra Club, which in Pub. Ex. 23, stated:

> The Wild and Scenic Rivers Program is properly conceived by the Department of Natural Resources as a program requiring the broadest possible degree of public participation. This proposal recognizes that fact, and should be supported.

While the Examiner would hope that communication between the landowners and the Department would be on a regular basis as problems arose which needed solution, it is good to fix, in advance, a time for an overall review of these rules. The Examiner finds the proposal to be both needed and reasonable.

Based on the foregoing Findings, the Examiner makes the following:

CONCLUSIONS OF LAW

1. Due, timely and adequate legal notice of the hearing was properly served and published by the Department.

2. The Department has complied with all relevant requirements of statute or rule, with one immaterial exception. Minn. Rule 9 MCAR sec. 2.102 D states that any agency desiring to initiate a rule hearing shall first file with the Chief Hearing Examiner or his designee a statement as to the number of persons expected to attend the hearing and the estimated length of time it will be necessary for the agency to present its evidence at the hearing. This information was not filed by the Department in writing. However, it was presented to the Examiner by telephone in the process of setting the dates and times for the hearings. Therefore, the failure to file it in writing is not deemed to be a substantial error, particularly since it did not affect the public.

3. With the exceptions noted in the Findings, the Department is found to have demonstrated its statutory authority to adopt the proposed rules, as well as the need for and reasonableness of them.

Based on the foregoing, the Examiner makes the following:

R E C O M M E N D A T I O N

The Examiner recommends that the proposed rules be modified as suggested in the Findings and that so modified, they be adopted.

Dated this 10th day of October, 1979.

Allan W. Klein

ALLAN W. KLEIN
Hearing Examiner

E X H I B I T S

DNR Ex. 1 - Notice of Intent to Solicit Outside Opinion, published in the State Register On November 14, 1977.
DNR Ex. 2 - Order for Hearing.
DNR Ex. 3 - Notice of Hearing executed May 24, 1979.
DNR Ex. 4 - Certificate of Secretary of State dated May 31, 1979.
DNR Ex. 5 - Affidavit of Mailing to Cannon River mailing list notarized on May 17, 1979.
DNR Ex. 6 - Affidavit of Mailing to Secretary of State's list executed on June 13, 1979.
DNR Ex. 7 - Names of agency personnel representing the Department and citations to statutes and documents used for the hearing.
DNR Ex. 8 - Statement of Need.
DNR Ex. 9 - Report of David P. Bryden: "Scenic Waterways: Citizens Task Force", dated November 10, 1972.
DNR Ex. 10 - Copy of Minnesota Supreme Court case, County of Pine v. DNR, (May 11, 1979)
DNR Ex. 11 - Copy of Minneapolis Tribune, Tuesday, November 21, 1978. "Southeastern Minnesota Tourism Explosion Predicted", pp. 2 B and 4 B.
DNR Ex. 12 - Copy of "Rural Area Task Force Report to the Metropolitan Council, February, 1979".
DNR Ex. 13 - Secretary of State's mailing list.
DNR Ex. 14 - "Cannon River: Resource Analysis", DNR, April, 1979.
DNR Ex. 15 - Rules as proposed, included in "A Management Proposal for the Cannon River", preliminary draft, DNR, April, 1979.
DNR Ex. 16 - Copy of rules as printed in State Register, Monday, June 11, 1979, 3 S.R. 2169 - 2182.
DNR Ex. 17 - "Record of Public Involvement and Education Attempts", one page, DNR.
DNR Ex. 18 - Copy of minutes of East Cannon River Advisory Council, with cover letter by William L. Christianson, secretary, dated May 24, 1979.
DNR Ex. 19 - Minutes of West Cannon River Advisory Council, list of members, recommendations, and land use district committee report.
DNR Ex. 20 - Composite exhibit: Resolution of Waterford Town Board and citizens of Waterford Township Statement dated April 10, 1978: Petition of all resident property owners bordering Cannon River in Waterford and Sciota Townships.
DNR Ex. 21 - Letter from Chas. E. Nelson, Town Clerk of Sciota Township dated March 23, 1978, memorializing unanimous vote of annual town meeting in opposition to proposed plan.
DNR Ex. 22 - Letter from Molly Woehrlin, undated (received May 15, 1979) in support of plan.
DNR Ex. 23 - Letter from Scott M. Bruce, undated (received May 17, 1979) in support of proposal.
DNR Ex. 24 - Certified copy of resolution of Goodhue County Board of Commissioners dated May 1, 1979, in favor of the use of abandoned railway property for recreational trails.
DNR Ex. 25 - Letter from Bob Zibble, secretary, Red Wing Wildlife League, dated July 13, 1979, supporting plan.
DNR Ex. 26 - Post hearing Comments, DNR.

Public Exhibits

Pub. Ex. 1 - Letter from Dorothy Chipault dated May 24, 1979, supporting plan.
Pub. Ex. 2 - Letter from Patti L. Haskins, dated July 11, 1979, supporting the plan, but urging change in designation for segment.
Pub. Ex. 3 - Letter from Jacqueline E. May dated June 24, 1979, supporting plan but urging change in designation.
Pub. Ex. 4 - Letter from Mrs. Marcella K. Mathews dated July 1, 1979, supporting plan.
Pub. Ex. 5 - Letter from Anne C. Ulmer dated July 3, 1979, supporting plan.
Pub. Ex. 6 - Letter from Bill and Ruth Andberg dated July 2, 1979, supporting plan.
Pub. Ex. 7 - Letter from Mrs. Frank G. Chesley dated July 7, 1979, supporting plan.
Pub. Ex. 8 - Letter from E. Ann Kelley dated July 12, 1979, supporting plan but urging increase in number of conservation officers.
Pub. Ex. 9 - Letter from Dr. Roy F. Anderson dated July 13, 1979, supporting plan.
Pub. Ex. 10 - Statement from Christina Harrison, archaeologist, dated July 8, 1979, urging consideration of significant cultural resources

Pub. Ex. 10 - Statement from Christina Harrison, archaeologist, dated July 8, 1979, urging consideration of significant cultural resources in area while determining future of waterway.

Pub. Ex. 11 - Letter from Julie Klassen dated July 10, 1979, supporting plan but urging more funding for conservation officers.

Pub. Ex. 12 - Letter from Jon Eric Nelson dated July 18, 1979, supporting plan.

Pub. Ex. 13 - Letter from Trish Marx dated July 12, 1979, supporting plan.

Pub. Ex. 14 - Statement from St. Paul Audubon Society dated July 12, 1979, generally supporting plan but questioning designation, sand and gravel extraction, and prohibition against trails. Statement supports innertube rental ban and urges appointment of a specific conservation officer for the river.

Pub. Ex. 15 - Memorandum from Joe Sizer, State Planning Agency, dated July 17, 1979, generally supporting plan but urging numerous revisions.

Pub. Ex. 16 - Position statement adopted by Sciota Town Board on July 9, 1979, opposing plan.

Pub. Ex. 17 - Position statement adopted by Randolph Town Board on July 17, 1979, opposing plan.

Pub. Ex. 18 - Position statement adopted by Waterford Town Board on July 9, 1979, opposing plan.

Pub. Ex. 19 - Letter from C. E. Buchwald dated July 16, 1979, supporting plan but urging changes. This letter was read into the record.

Pub. Ex. 20 - Comments adopted by Dakota County Board of Commissioners on July 17, 1979, proposing exception to plan for Dakota County. These comments were read into the record at the hearing.

Pub. Ex. 21 - Resolution of Northfield City Council dated July 9, 1979, supporting the plan.

Pub. Ex. 22 - Statement of Marie Jensen, member of Northfield City Council, read into the record July 19.

Pub. Ex. 23 - Letter from Sierra Club dated July 12, 1979, supporting plan but recommending changes.

Pub. Ex. 24 - Statement of Representative Robert Vanasek, read into the record July 19, 1979. Supports plan, but talks about property valuation increase Limitations.

Pub. Ex. 25 - Statement dated July 19, 1979 from Calvin Dahm, supporting the plan. This was read into the record on July 19.

Pub. Ex. 26 - Letter from Eleanor Shogren, dated July 17, 1979, supporting plan.

Pub. Ex. 27 - Letter from Commissioner Richard Braun, Department of Transportation, July 17, 1979, expressing specific concerns.

Pub. Ex. 28 - Letter from John Dudley dated July 21, 1979, opposing plan but suggesting local governments get together and enact uniform ordinances.

Pub. Ex. 29 - Letter from Mr. and Mrs. Marcus Pond dated July 21, 1977, opposing plan because of noise and litter.

Pub. Ex. 30 - Letter from Clarence Robinson dated July 21, 1979, in favor of plan.

Pub. Ex. 31 - Letter from Mrs. A. M. Duffy dated July 9, 1979, opposing plan because of trails.

Pub. Ex. 32 - Letter from Chris Nelson dated July 19, 1979 in opposition to plan.

Pub. Ex. 33 - Letter from Mrs. Henry Bongers, received July 23, 1979, opposing plan for fear that DNR will take family farm.

Pub. Ex. 34 - Letter from Mrs. William Marzolf dated July 22, 1979, in favor of plan.

Pub. Ex. 35 - Letter from Vincent Shay dated July 20, 1979 in favor of plan with suggestions for improvements.

Pub. Ex. 36 - Letter from Elmer and Cora Schultz dated July 22, 1979, opposing the plan.

Pub. Ex. 37 - Letter from James and Marilyn Gryč received July 26, 1979, opposing the plan because benefits are all one way.

Pub. Ex. 38 - Letter from Minnesota Ornithologists' Union dated July 24, 1979, enclosing statement of Board of Directors in favor of plan but with changes.

Pub. Ex. 39 - Letter from Georgiana Campbell dated July 23, 1979, in support of plan.
Pub. Ex. 40 - Letter from Roberta Little dated July 12, 1979, opposing plan.
Pub. Ex. 41 - Letter from five members of Taylor Family dated July 24, 1979, opposing plan for succinctly stated reasons.
Pub. Ex. 42 - Letter dated July 19, 1979 from Russell Harding supporting plan for educational reasons.
Pub. Ex. 43 - Letter from Margaret and Marcella Dudley, dated July 24, 1979, opposing plan because of crowding.
Pub. Ex. 44 - Letter from Leslie Drentlaw dated July 26, 1979, opposing plan.
Pub. Ex. 45A - Letter from Jeffrey Connell, Dakota County Planning Department, setting forth specifics regarding existing zoning and Dakota County's position regarding curved line, rather than jagged line for land use district.
Pub. Ex. 45B - A map, enclosed with Pub. Ex. 45A, which shows existing Dakota County zoning district and proposed land use district.
Pub. Ex. 46 - Letter from Madeline Johnson dated July 29, 1979, supporting plan and alleging intimidation.
Pub. Ex. 47 - Letter from Mrs. Alvin Drentlaw dated July 27, 1979, opposing plan.
Pub. Ex. 48 - Letter from Lois Anderson dated August 1, 1979, supporting plan.
Pub. Ex. 49 - Letter from Thomas Morley dated July 31, 1979, supporting plan because of plant protection.
Pub. Ex. 50 - Letter from Martha Taylor dated August 2, 1979, supporting plan.
Pub. Ex. 51 - Letter from John O'Connor dated August 2, 1979, opposing more land control.
Pub. Ex. 52 - Letter from Gary Wagenbach dated August 2, 1979, supporting plan because of his past uses of river for educational purposes.
Pub. Ex. 53 - Letter from Robert E. Little dated September 1, 1979, opposing plan.
Pub. Ex. 54 - Statement of Audubon Chapter of Minneapolis supporting plan but suggesting changes.
Pub. Ex. 55 - Letter from Mrs. Nona Little oppposing plan.
Pub. Ex. 56 - Letter from Mark Schultz dated August 2, 1979, supporting plan.
Pub. Ex. 57 - Letter from Mrs. John De Vere Heeat received August 7, 1979, supporting plan as good compromise.
Pub. Ex. 58 - Statement from National Audubon Society received August 8, 1979, supporting plan.
Pub. Ex. 59 - Letter from Mrs. Jeannine Bongers dated August 5, 1979, opposing plan because of litter.
Pub. Ex. 60 - Letter from City of Northfield dated August 6, 1979, suggesting changes in land use district within city.
Pub. Ex. 61 - Letter from Ray Ham dated August 5, 1979, opposing plan, especially size of land use district.
Pub. Ex. 62 - Letter from John Chester dated August 5, 1979, opposing plan particularly size of land use district.
Pub. Ex. 63 - Letter from Dan and Marilyn Tersteeg dated August 5, 1979, opposing plan but suggesting trial period.
Pub. Ex. 64 - Letter from Jerry Engstrand dated August 8, 1979, supporting plan in order to have consistent standards.
Pub. Ex. 65 - Letter from Wayne Sames dated August 8, 1979, supporting plan because river qualifies.
DNR Ex. 66 - Letter from Randal Burns dated August 8, 1979 (received late).
Pub. Ex. 67 - Letter from International Ecology Society dated August 4, 1979 (received late).
Pub. Ex. 68 - Letter from R. L. Eikum dated August 8, 1979 (received late).
Pub. Ex. 69 - Resolution from Northfield Farm Bureau Unit mailed August 14, 1979 (received late).

STATE OF MINNESOTA

BEFORE JOSEPH N. ALEXANDER
COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES,
STATE OF MINNESOTA

The proposed inclusion in the Minnesota Wild, Scenic and Recreational Rivers System of the Cannon River from Faribault to the Mississippi River, and the proposed adoption of a management plan for the Cannon River.

ORDER FOR HEARING.

In accordance with the Minnesota Wild and Scenic Rivers Act (Minnesota Statutes, Sections 104.31 through 104.40) the Commissioner of Natural Resources has prepared a management plan for the above-captioned segment of the river as a component of the state's Wild and Scenic Rivers System. The Commissioner must hold public hearings in each affected county, but not before copies of the management plan have been available to the public for at least 60 days.

NOW, THEREFORE, IT IS ORDERED this 24th day of May, 1979 that public hearings be held on the above-captioned matter, in the manner provided by Minnesota Statutes, Sections 15.0411 through 15.051 and Section 15.052, at the following times and places.

8 p.m. July 17, 1979 at the Red Wing City Library (Footroom), 225 Broadway, Red Wing, Minnesota.

8 p.m. July 18, 1979 at the Dakota County Government Center Board Room, 1560 Highway 55, Hastings Minnesota.

8 p.m. July 19, 1979 at the Faribault Junior High School Auditorium, 315 Northwest Fourth Avenue, Faribault, Minnesota.

IT IS FURTHER ORDERED that Notice of Hearing be provided by mail or publication, as possible and appropriate, to the Secretary of State's mailing list, Office of State Register, members of the Legislature, affected local governmental bodies, shoreland owners, conservation and outdoor recreation groups, and the general public.

IT IS FURTHER ORDERED that the Notice of Hearing name places where copies of the management plan will be available for inspection.

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

Joseph N. Alexander
Commissioner
Department of Natural Resources

Department of Natural Resources

Proposed rules for designation,
classification, and management
of the Cannon River from Faribault
to the Mississippi River, as a
component of the state's wild and
scenic river system.

Notice of Hearing

Notice is hereby given that public hearings will be held on the above-captioned matter at:

8 p.m. July 17, 1979 at the Red Wing City Library (Footroom), 225 Broadway, Red Wing, Minnesota.

8 p.m. July 18, 1979 at the Dakota County Government Center Board Room, 1560 Highway 55, Hastings, Minnesota.

8 p.m. July 19, 1979 at the Faribault Junior High School Auditorium, 315 Northwest Fourth Avenue, Faribault, Minnesota.

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 Allan Klein from the Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104 (612-296-8100). The hearing is a rule-making proceeding, conducted according to Minn. Stat. §§ 15.0411 - 15.0417, 15.051, and 15.052, and the rules for rule-making, which are 9 MCAR §§ 2.101 - 2.199.

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 rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

After the 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 management plan relates to the following matters:

Reasons for including the Cannon River in the Minnesota Wild, Scenic and Recreational Rivers System.

The proposed classification of the river or segments of the river.

The proposed land use district boundaries which shall not exceed 320 acres per each river mile on both sides (not each side) of the river.

The proposed methods for preserving the river and its adjacent land, including the recommended land acquisition.

The proposed regulations for local land use control, including such matters as lot size and building height and setback requirements, vegetative cutting provisions, use within land use districts, and criteria for utility crossings, public roads and river crossing.

The proposed plan for recreational management within the land use district, including the location and design of campsites, rest areas, and accesses.

The proposed plan for administration of the management plan.

Copies of the management plan are available for inspection at public libraries in Faribault, Northfield, Cannon Falls, Hastings and Red Wing, and at the Legislative Reference Library in the state Capitol. Interested individuals may receive a free copy of the plan by writing or calling the Department of Natural Resources, Office of Planning, Rivers Section, Box 10 Centennial Office Building, St. Paul, MN 55155 (612-296-6784). Copies of the management plan will also be available at the public hearings.

The proposed management plan for the Cannon River has been prepared in accordance with Minnesota Statutes 104.35 and the. Statewide Rules and Regulations relating to the Wild, Scenic and Recreational Rivers System (Minnesota Regulations NR 78-81).

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 other 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) 296-1720.

Dated this 24th day of May, 1979

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

Joseph N. Alexander
Commissioner
Department of Natural Resources

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the matter of the proposed inclusion in the Minnesota Wild, Scenic and Recreational Rivers System of the Cannon River From Faribault to the Mississippi River, and of the proposed adoption of a management plan for the Cannon River.

AFFIDAVIT OF MAILING

Darcy Pepper, being first duly sworn, deposes and says:

That on the 16th day of May, 1979 at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached documents, "Cannon River Resource Analysis," "A Management Proposal for the Cannon River," and "Addendum to a Management Proposal for the Cannon River," 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 listed on the attached Cannon River mailing list.

Subscribed and sworn to before me

this 17th day of May, 1979

Jerry J. Bachman

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 the proposed inclusion in the Minnesota Wild, Scenic and Recreational Rivers System of the Cannon River from Faribault to the Mississippi River, and of the proposed adoption of a management plan for the Cannon River.

CERTIFICATION

I hereby certify that the attached 584 labels and 3 sheet(s) constitute the complete list of persons, associations, and other interested groups who as of 1 0'clock PM, the 31st day of May, 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: Dianne M. Scott

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the matter of the proposed inclusion in the Minnesota Wild, Scenic and Recreational Rivers System of the Cannon River from Faribault to the Mississippi River, and of the proposed adoption of a management plan for the Cannon River.

AFFIDAVIT OF MAILING

Darcy Pepper, being first duly sworn, deposes and says:

That on the 13th day of June, 1979 at the City of St. Paul, County of Ramsey, State of Minnesota, she 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 listed on the attached Certificate of the Secretary of State.

Darcy Pepper

Subscribed and sworn to before me this 13 day of June, 1979

Jerry J. Bachman

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

DNR-79-021-AK

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF NATURAL RESOURCES

IN THE MATTER OF THE PROPOSED INCLUSION IN THE MINNESOTA WILD, SCENIC AND RECREATIONAL RIVERS SYSTEM OF THE CANNON RIVER FROM FARIBAULT TO THE MISSISSIPPI RIVER, AND THE PROPOSED ADOPTION OF A MANAGEMENT PLAN FOR THE CANNON RIVER.

ORDER OF THE CHIEF HEARING EXAMINER

WHEREAS, the above-entitled matter came on for hearing before Hearing Examiner Allan W. Klein on July 17, 18, 19 and 23, 1979; and

WHEREAS, the record remained open until August 8, 1979; and

WHEREAS, Minnesota Statutes § 15.0412, subd. 4, provides that the Hearing Examiner shall issue his report within 30 days of the close of the record, thus indicating that the report should be issued on or before September 7, 1979; and

WHEREAS, pursuant to Minnesota Statutes § 15.0412, subd. 4, both the Hearing Examiner and the Agency have requested an extension until October 2, 1979, for the issuance of the report due to the complexity and the extent of the record and, additionally, the hearing schedule of the Hearing Examiner.

NOW, THEREFORE, IT IS ORDERED that the time for issuance of the Hearing Examiner's report in this matter is extended to October 2, 1979.

Dated this 12th day of September, 1979.

DUANE R. HARVES
Chief Hearing Examiner

DNR Ex 1

DEPARTMENT OF

NATURAL RESOURCES

Inclusion of the Cannon River

(Faribault to Mississippi River)

in the Minnesota Wild, Scenic and

Recreational Rivers System

Notice of Intent to Solicit Outside Opinion

Notice is hereby given that the Department of Natural Resources has begun consideration of the possible designation of that portion of the Cannon River from the confluence of the Straight River northeast of Faribault to the river's confluence with the Mississippi River north of Red Wing as a component of the Minnesota Wild, Scenic and Recreational Rivers System. This designation would not apply to Byllesby Reservoir. In order to adequately determine the nature and utility of any rules associated with this designation, the Department of Natural Resources hereby requests information and comments from all interested individuals or groups concerning the subject matter of this proposed designation.

All interested or affected persons/or groups are requested to participate. Statements of information and comments may be made orally or in writing.

Please address these comments to:

Department of Natural Resources

Rivers Section

B-95 Centennial Building

St. Paul, Minnesota 55155

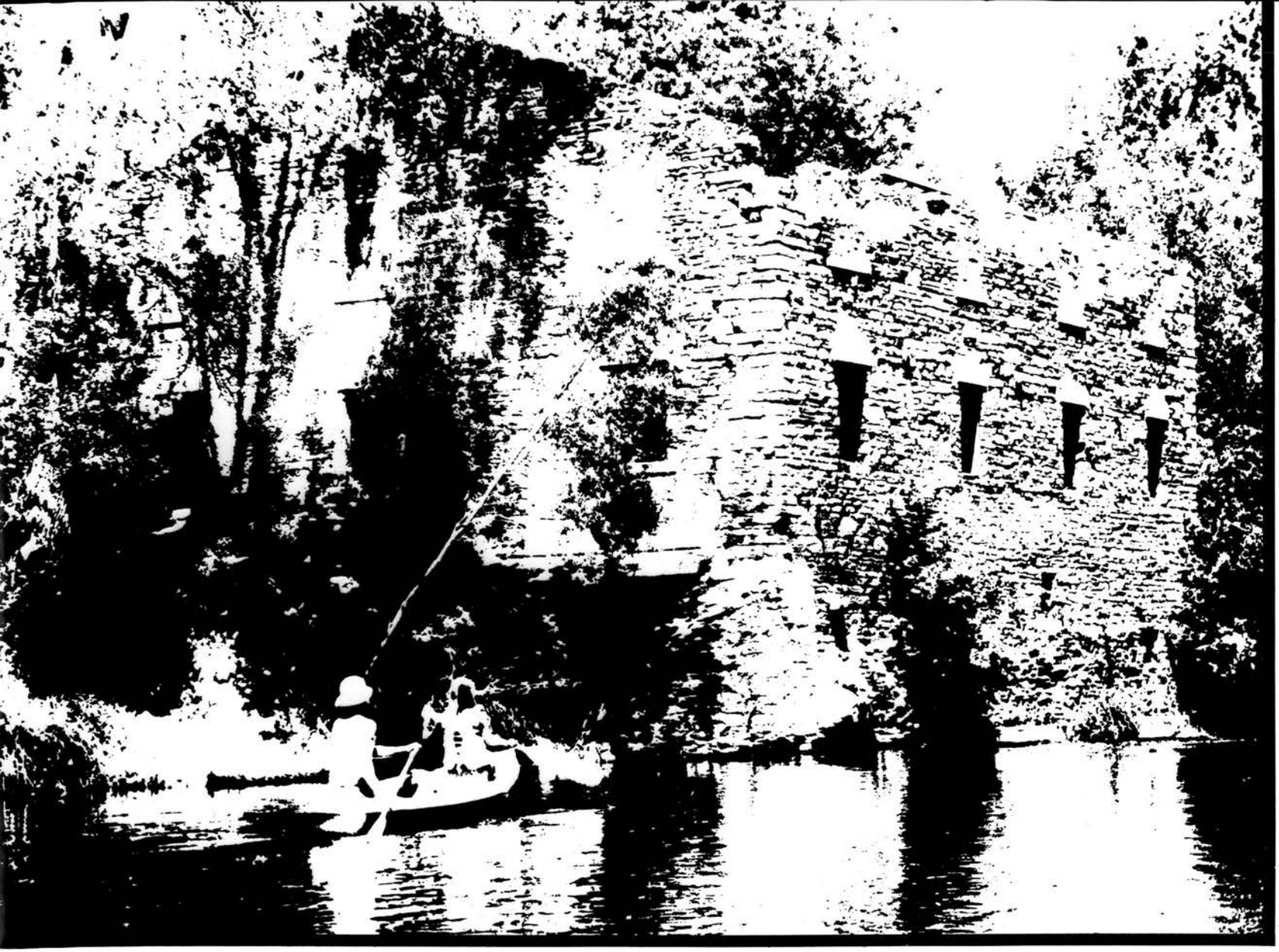
Oral statements of information and comment will be received during regular business hours (8:00 a.m. - 4:30 p.m.) over the phone at 612-296-6784, and in person at the above address.

No final action on this proposal can be taken until public hearings are conducted according to the rule-making provisions of Minnesota Statutes, Sections 15.04-15.049. Sixty days notice of these public hearings will be published in the State Register. All statements of information and comment will be received until the hearing record closes.

Any proposed rules, if adopted, could regulate land uses, recreational development and use of this portion of the Cannon River. Designation as a component of the Minnesota Wild, Scenic and Recreational Rivers System would also give the Department of Natural Resources the authority to purchase riverside lands or interests in land from willing sellers.

William B. Nye

William B. Nye, Commissioner



Wild and Scenic
Rivers Program

Minnesota Department
of Natural Resources

April 1979

Cannon River
Resource Analysis

This resource analysis of the Cannon River was prepared by the Rivers Section and the Bureau of Engineering.

Rivers Section

Paul Swenson, supervisor
Jane Harper, rivers project leader
Steve Kirch, rivers project coordinator
Linda Watson, editor
Kathy Brandl, assistant editor
Ellen Herman and James Sogaard, researchers
Sherry Lee Nunnelee, word processor technician

Bureau of Engineering

Roger Liska, graphics supervisor
Tim Latourelle, draftsman
Brian Conway, graphic art specialist

Photo Credits

Page 6, rivers section staff. Pages 7 and 10, Walt Wettschreck. Pages 13 and 20, Chuck Wechsler, MDNR. Page 15, Ted Hammond, MDNR. Page 18, Leonard Lee Rue III. Page 28, Gary Bistram.

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Introduction

This resource analysis for the Cannon River shows that the river possesses the outstanding scenic, recreational, natural, historical, scientific and similar values necessary to qualify it for inclusion in the Minnesota wild and scenic rivers system. A separate booklet, entitled A Management Proposal for the Cannon River, explains the methods the Department of Natural Resources (DNR) proposes to protect the river.

The wild and scenic rivers program

In 1973 the state legislature recognized that the state's outstanding rivers--rivers such as the Cannon--should be safeguarded for the benefit of present and future generations of Minnesotans. The legislature passed the wild and scenic rivers act (Minnesota Statutes, Sections 104.31-104.40) to "preserve and protect" Minnesota rivers that exhibit "outstanding scenic, recreational, natural, historical, scientific and similar values." (See appendix for complete text.)

The act is not meant to restore rivers and river lands to wilderness, but is meant to prevent the damage to exceptional rivers that can be caused by uncontrolled development and recreational overuse. To protect rivers, the act prescribes local zoning, land and scenic easement acquisition from willing sellers and recreation management.

There are now five rivers in the Minnesota wild and scenic rivers system: the Kettle River in Pine county, designated in 1975; the Mississippi River from St. Cloud to Anoka (1976); the North Fork of the Crow River in Meeker County (1976); the Minnesota River from Lac qui Parle to Franklin (1977); and the Rum River from Lake Ogechie to Anoka (1978).

There are six other river segments under consideration for possible inclusion in the system: the Cloquet River, the St. Louis River, the Snake River, the Minnesota River from Franklin to Le Sueur, the Cannon River from Faribault to the Mississippi, and the North Fork of the Crow River in Wright and Hennepin counties.

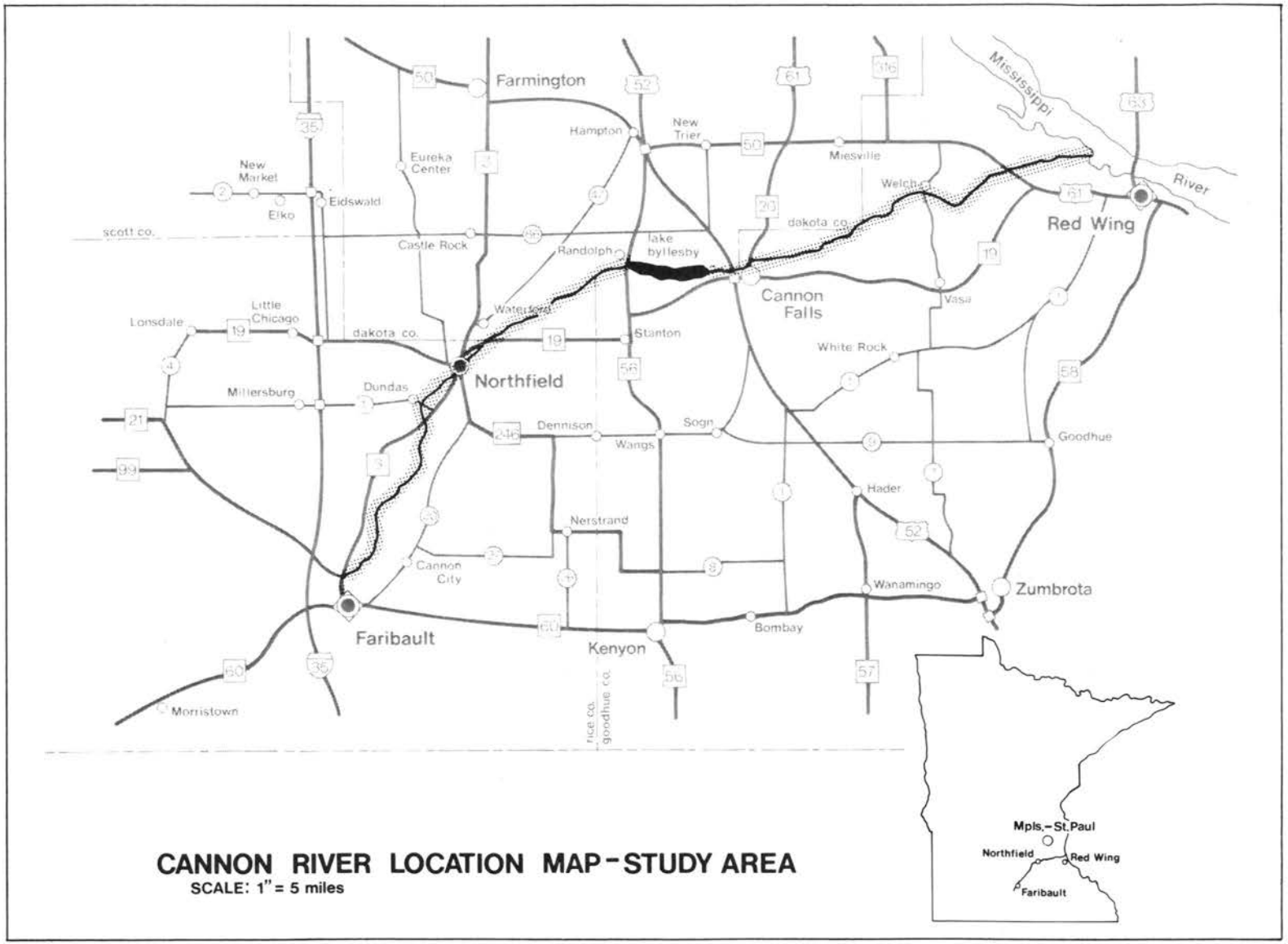
The wild and scenic rivers act requires the preparation of a management plan before a river can be designated as part of the wild and scenic rivers system. Management provisions for a state wild and scenic river must for the most part meet standards contained in the Statewide Standards and Criteria for the Minnesota Wild and Scenic Rivers System (Minnesota Regulations NR 78-81, in appendix). However, these standards may be modified to take into account special characteristics of the river under consideration.

A preliminary management proposal for the Cannon River has been prepared by DNR Rivers Section staff after a study of the river through field surveys, books, reports and meetings with an advisory committee composed of area residents. A copy of the proposal accompanies this resource analysis. Additional copies of both documents are available from the Rivers Section, Department of Natural Resources, Box 10 Centennial Office Building, St. Paul, MN 55155 (612-296-6784).

The management proposal will be presented to concerned citizens through a series of public meetings in towns near the river. During the meetings, area residents and other interested persons may examine the proposal, ask questions and make recommendations. The proposal will be amended if suggestions made at these meetings indicate that changes are necessary.

Area residents and others will also have a chance to debate the merits of the management proposal at public hearings conducted by a representative of the state Office of Hearing Examiners. The hearing examiner will write his findings and make a recommendation to the commissioner of natural resources, who then will decide whether to include the river in the wild and scenic rivers sytem.

If the Cannon is designated a wild and scenic river, the rules and regulations section of the management proposal (NR 2900) will carry the force of law and will be adopted and administered by local governments along the river.



CANNON RIVER LOCATION MAP - STUDY AREA

SCALE: 1" = 5 miles

Study conclusions

The DNR has determined that the Cannon River exhibits those outstanding qualities--scenic, recreational, historical, scientific and natural--that qualify the river, from Faribault to its confluence with the Mississippi River, for protection under the wild and scenic rivers act.

Scenic

The Cannon begins in a lake region of glacial drift and moraines. The river winds through a valley of rolling plains, limestone and sandstone cliffs and gentle bluffs, meeting the Mississippi in a broad, marshy floodplain.

Cornfields and grassy meadows pasturing cattle sometimes border the river. Fence posts, a farmhouse, barn or silo break the flat horizon. A soft agrarian scent steals one's attention.

In other areas, jutting, steep rock ledges and cliffs curb the river's flow. Swallows nest in cavities hollowed in the weathered stone walls.

On its journey to the Mississippi the Cannon flows through lush stretches of river bottom forest. Virginia creeper and wild grape coil around trunks and tug insistently at branches. In the spring, flowering basswoods exude a provocative scent. Summer's sweetness colors and weights the branches of wild berry thickets.

As the river rounds a bend below Welch, its corridor opens to an upward view of a scantily covered bluff. In autumn, the sun warms the grassy exposure and enhances the brilliance of the bluff's aspen yellow and sumac red.

In its sometimes dramatic, sometimes subtle scenery, the Cannon River valley shares in Minnesota's fragile wealth of natural beauty.

Historical

The Cannon's history is as colorful as its scenery. The river valley attracted adventurers, opportunists, dreamers and robbers.

The river first offered transportation--to the Indians who lived along its banks and to the fur traders who took advantage of the valley's abundance of wildlife.

The westward tide of American expansion brought settlers enticed by reports of fertile land and dense stands of hardwoods. The forests fell to the young, timber-hungry region when development of the railroad brought improved shipping facilities. The settlers harnessed the river to power sawmills in prosperous riverside communities. But the timber harvest far outstripped the annual growth and the supply rapidly dwindled.

Removal of the forests opened the land for cultivation. Soon wheat fields dominated the landscape and idle sawmills were converted to grist mills. By the late 1800s the Cannon River valley was producing flour of a quality unsurpassed in the nation. But this era too came to an end, as soil exhaustion and insects caused repeated wheat failures.

The railroads, which had once aided the settlers' prosperity, now enabled the concentration of milling in the Twin Cities and gave the metropolitan mills access to the wheat fields of the west. The Cannon River valley ceased to be a milling center; remnants of abandoned grist mills may still be seen along the river's banks.

Today, with the development of modern farming techniques, the river valley has re-established its prominence in Minnesota agriculture.

Scientific and Natural

According to the state archaeologist, the Cannon River valley is one of Minnesota's most important archaeological areas. Using information gathered from burial mounds and village sites, archaeologists have pieced together a picture of life here in prehistoric times.

By 1000 A.D. the area near the junction of the Cannon and Mississippi rivers was a major center of Indian life. This Oneota Indian culture was probably the closest prehistoric Minnesota people came to an urban society. The Oneota lived in large villages on the river terraces, cleared and cultivated land in the river bottoms, hunted and fished in the river valley.

Vast numbers of archaeological sites have already been lost

to cultivation and construction, yet much remains to be learned about this ancestral American culture.

The variety of plant communities in the river valley are an important natural feature. Along the river bottomlands, many of the original plant species have survived two centuries of settlement. Remnants of plant communities that once covered extensive areas of Minnesota can be found elsewhere in the valley. Several rare or protected plant species, including the Minnesota trout-lily and the prairie bush-clover, also grow on the Cannon's banks.

Recreational

The Cannon River valley provides an ideal setting for a variety of recreational pursuits. Hunters may encounter many different game species, including white-tailed deer, mink, muskrat, red and gray fox and beaver. Lucky anglers can catch such game fish as walleye, sauger, largemouth and smallmouth bass, white bass and northern pike.

The valley's scenic beauty attracts canoeists and hikers, and offers a natural studio to the outdoor photographer. Several recreational sites are located on public lands along the river.

To minimize the harm caused by excessive development and overuse of this important resource, proper management is necessary. By working together we can ensure that the qualities that make the Cannon what it is today will not be lost tomorrow.



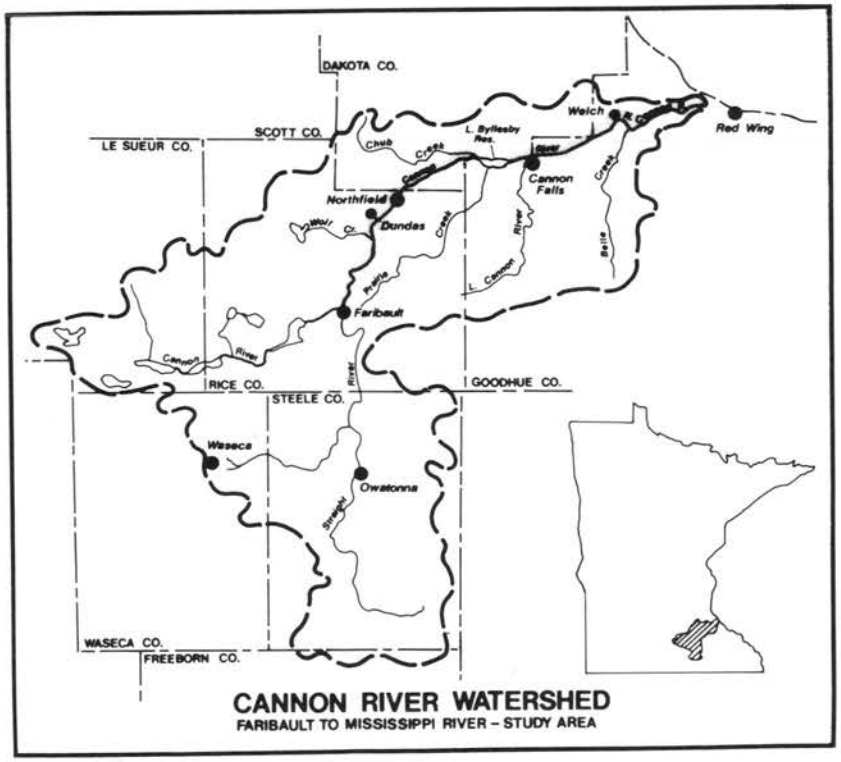


THE RIVER

Geology and watershed

Sandstone, limestone and other sedimentary rock form impressive outcrops along the Cannon River. The gray Platteville Limestone and the white St. Peter Sandstone are found upstream of Dundas. Downstream, between Dundas and Welch, the massive Prairie du Chien Dolomite, the Jordan Sandstone, the St. Lawrence Formation and the Franconia Formation form the river bluffs.

Pleistocene glacial deposits occasionally as deep as 400 feet cover most of the watershed. Among these deposits are the glacial outwash, ground moraine and end moraine of the Wisconsin period that are found along most of the river. River alluvium -- the silt, sand and gravel deposits left by the river-- often covers the glacial deposits. Bedrock exposures are common for a short stretch north of Faribault and again below the Byllesby Reservoir. Many private wells draw water from glacial deposits, while municipalities tap aquifers found in several different layers of bedrock. Much of the groundwater is untapped. Long-term groundwater decline is nowhere evident. Groundwater in many of the bedrock layers is easily polluted, largely through numerous sinkholes. A sinkhole is a surface depression caused by the collapse of an underground cavity in limestone.



CANNON RIVER WATERSHED
FARIBAULT TO MISSISSIPPI RIVER - STUDY AREA

Much of the south-central part of the Cannon River watershed is a glacial till plain that ranges in altitude from 1,100 to 1,200 feet above sea level. End moraines form ridges on the east, west and south borders of the plain. The eastern moraine, which marks the eastern terminus of the Wisconsin glacier, rises to more than 1,300 feet above sea level and forms ridges 50 to 100 feet above the plain. End moraine ridges in the northwest are less marked, but extend directly north across the river valley.

The Cannon River drops an average of about 4.9 feet per mile in its path to the Mississippi River near Red Wing. The drainage area of the river is 1,462 square miles. The largest tributary is the Straight River, which joins the Cannon at Faribault.

The U.S. Geological Survey, Water Resources Division, gathered flow data from a continuous-record recording station at Welch from 1911 to 1913 and from 1931 to 1970. The station is now used only to measure crest stages. The drainage area at the Welch station is about 1,320 square miles.

The Cannon River responds quite dramatically to rain, although the lakes, swamps and groundwater reservoirs in the watershed maintain the river's flow during times of no rain. Peak flows usually occur during spring runoff in early April. The maximum discharge recorded at the Welch station is 36,100 cubic feet per second. The minimum discharge is 2.5 c.f.s. Average discharge is 490 c.f.s.

Landform and soils

A consideration of landform and soils is essential to sound land use planning. Each landform and soil type presents particular problems and potentials for development, agriculture and other land uses.

The Cannon River valley is generally characterized by level to gently sloping uplands, steep valley slopes and bottomlands prone to flooding.

The Cannon's floodplain (bottomland) is generally unsuitable for commercial or residential development. It is variably suited for agricultural cultivation, permanent pasture, hay, woodlands and wildlife habitat. The low fertility and low water retention capacity of certain bottomland soils (for example, the Estherville soils) restricts their suitability for agricultural production.

Three basic landform/soil types are found on the bottomlands of the Cannon River valley. Closest to the river are alluvial lands subject to frequent flooding, showing little soil formation and generally unsuitable for agricultural crops. West of Cannon Falls on the higher bottomlands are soils of the Colo-Estherville-Waukegan association. This association is composed of poorly to excessively drained loams of medium to coarse texture. East of Cannon Falls the Marsh-McPaul-Radford association can be found. It is characterized by depressional, very poorly drained marshes and nearly level, moderately well to poorly drained medium-textured soils.

The uplands encompass two basic landforms: generally level toplands and steep valley walls. Four primary soil associations occur both on the toplands and valley walls. The Lester-Hayden-Le Sueur and Ostrander-Maxfield-Klinger associations are found west of Cannon Falls; east of Cannon Falls are the Seaton-Racine-Marlean and Timula-Frontenac associations. These associations contain well to poorly drained loams formed in glacial tills, loess, very recent alluvium and bedrock residuum.

Closest to the river these soil associations occur on steep to very steep valley walls, where they are often excessively drained and prone to drought, very rapid runoff and erosion. The valley walls are unsuitable for development, agricultural crops or heavy grazing.

Water quality

Water quality of the Cannon River from Faribault to Red Wing is good to fair. It is suitable for most wildlife and recreation.

The Cannon River exceeds the maximum fecal coliform count set by the Minnesota Pollution Control Agency (PCA). The river's water quality meets most other PCA standards.

The PCA has classified the Cannon as a 2B river. A 2B river is defined in this way:

"The quality of this class of the intrastate waters of the state shall be such as to permit the propagation and maintenance of cool– or warm–water sport or commercial fishing and be suitable for aquatic recreation of all kinds, including bathing, for which the waters may be usable."

The PCA classification is a goal and is not meant to reflect the present water quality.

The PCA operated two water quality testing sites on the Cannon River until November 1977, when both were discontinued. The sites were at State Highway 56 near

Randolph (river mile 31.6) and at U.S. Highway 61 west of Red Wing (river mile 7.1). The Randolph site began operation in 1974. The other site was used from 1963 to 1965 and from 1972. Monthly samples were taken at both sites. At these stations the fecal coliform count violated PCA standards in more than one–half of the samples taken.

PCA standards for a 2B river set a limit of 200 fecal coliforms per 100 milliliters of water. The mean coliform count for the station at U.S. Highway 61 was 2,095.95 per 100 milliliters. The mean coliform count of the Randolph samples was 8,513.16 per 100 milliliters.

Fecal coliforms are bacteria found in the intestines of warm–blooded animals. High fecal coliform counts may indicate the presence of pathogenic organisms that cause skin irritations and intestinal diseases.

Fecal coliforms usually enter the river in large numbers through effluent from polluted runoff and deficient sewage treatment plants and septic systems.

The fecal coliform count in the Cannon is four to eight times greater during high water than in low water, an indication that runoff contains significant amounts of manure.

Faribault's present sewage treatment plant, constructed in 1965, discharges into the Straight River a short distance upstream from its junction with the Cannon. The plant's discharge exceeds PCA limits for biochemical oxygen demand and total suspended solids for secondary treatment plants. Faribault is now upgrading its plant to meet PCA standards.

Dundas has no sewage treatment facility and is served by individual septic systems, which do not work well in the soil and bedrock of this area. Raw effluent reaches the water table and the river through poor soils or fissures in bedrock. Some systems drain through pipes leading directly to the river.

The Northfield sewage plant, built in 1958 and upgraded in 1966, discharges into the Cannon. Standards for secondary treatment plants are not being met. Effluent quality will worsen as population increases. Northfield has begun to improve its plant and is meeting interim standards required by the PCA. Dundas may be included in the Northfield system.

The Cannon Falls plant, built in 1964, will have to be improved to meet PCA effluent standards.

Welch township is served by individual septic tanks which discharge into the Cannon by a common drain tile.



Vegetation

Before white settlement the Cannon River between Faribault and Red Wing flowed through three major types of vegetation: the "Big Woods," tall-grass prairie and river bottom forest. Of these three, only the river bottom forest remains essentially unchanged.

The Big Woods, a translation of the early French name grand bois, covered much of central and east-central Minnesota. Along the Cannon River, it was found from Faribault to Northfield. The Big Woods was dominated by sugar maple, elm, basswood and red oak. Much of the woods was lost to logging in the 1850s and its fertile soils were converted to farmland. Only a few patches remain today.

Farther east, the river traveled through the tall-grass prairie region. Extending from Northfield to Cannon Falls, the prairie supported a rich variety of grasses and herbs such as big bluestem, Indian grass and prairie clover. A few small shrubs and trees such as wild roses and wolfberry also grew here. Because the prairie depended on periodic fires to maintain itself, it has been nearly eradicated through fire prevention practices and agriculture.

The rich river bottom forest grew on the floodplain from west of Welch to the Cannon's mouth at the Mississippi. This forest was similar to the Big Woods except for such species as cottonwood, ash, box elder, willow, soft maple and hackberry. Most of this plant community remains today. With the establishment of fire controls it has spread westward into the region that was formerly prairie.

Oak openings and aspen-oak lands also were found in scattered areas along the Cannon. Sparsely wooded lands with small stands of oak or hickory were characteristic of the oak openings. The aspen-oak lands contained dense young stands of quaking and bigtooth aspen. Oaks, elms, ash and basswood were also present. Both of these vegetative types were fire dependent and, therefore, were lost to fire control practices. Vegetation was also lost to cultivation and development.

Along the river bottomlands, the plant species of two centuries ago are still present today. American elm, green ash and soft maple are frequently observed species of trees. Other trees found near the river include cottonwood, box elder, black walnut, butternut, bitternut, red oak and basswood. The undergrowth includes red osier dogwood, wild black currant, gooseberry and red raspberry. Virginia creeper and wild grape are also common.

The warmer, drier south-facing bluffs of the Cannon host such plant species as sumac, red cedar, box elder, slippery elm, hackberry, wild plum, prickly ash, quaking aspen, bittersweet, and burr and red oak.

The so-called "goat prairies" are found on the steeper south-facing bluffs. Resembling the tall-grass prairies, they are in fact unique assemblages of plants from the tall-grass prairies, the sand plains and the more westerly short-grass prairies. Dependent on periodic fires for maintenance, the goat prairies have been reduced by the invasion of juniper, aspen, smooth sumac and prickly ash. Several plants found here are compass plant, silky aster, blazing star, nodding ladies tress and Indian grass.

Along the cooler, wetter north-facing slopes are sugar maple, red oak, paper birch and ironwood.

Two plant species along the Cannon River are rare not only in Minnesota but in all of North America. They are the Minnesota trout-lily (Erythronium propullans), a small spring wildflower of the lily family, and the prairie bush-clover (Lespedeza leptostachya), a member of the legume, or pea, family. The prairie bush-clover has been found in Cottonwood, Crow Wing and Goodhue counties. It also grows in Illinois, Wisconsin and Iowa, but is always rare and local.

Many more plants along the Cannon River are rare in Minnesota, although they may be common locally. The rare plants list presented here has been compiled from the species collection at the University of Minnesota herbarium.

Rare or protected plants

Ferns and their allies--Pteridophyta
Adder's-tongue family -- Ophioglossaceae
dissected grape fern-- Botrychium dissectum
True fern family -- Polypodiaceae
slender hip fern-- Cheilanthes Feei
long beech fern-- Thelypteris Phegopteris
fragile fern-- Cystopteris fragilis var. laurentiana
maidenhair spleenwort-- Asplenium Trichomanes
Club moss family -- Lycopodiaceae
ground pine-- Lycopodium complanatum var. flabelliforme
shining club moss-- Lycopodium lucidulum var. occidentale

Flowering Plants--Angiospermae
Arum family -- Araceae
green dragon-- Arisaema Dracontium
Sedge family -- Cyperaceae
head-like sedge-- Carex cephaloidea
crow-spur sedge-- Carex crus coryi
stiff sedge-- Carex Muhlenbergii
Grass family -- Gramineae
fescue grass-- Festuca paradoxa
District of Columbia panic grass-- Panicum columbianum
woodland speargrass-- Poa nemoralis var. interior
Lily family -- Liliaceae
Michigan lily-- Lilium michiganense
Minnesota trout-lily-- Erythronium propullans
nodding trillium-- Trillium cernuum
declining trillium-- Trillium flexipes
snow trillium-- Trillium nivale
Pink family -- Caryophyllaceae
rock sandwort-- Arenaria dawsonensis
mouse-ear chickweed-- Cerastium arvense var. villosum
snowy campion-- Silene nivea
fleshy chickweed-- Stellaria crassifolia
Composite family -- Compositae
meadow aster-- Aster prenanthoides
great Indian-plantain-- Cacalia Muhlenbergii
cudweed-- Gnaphalium Macounii
Mustard family -- Cruciferae
purple rocket-- Iodanthus pinnatifidus
lesquerella-- Lesquerella argentea
sissile-flowered yellow cress-- Rorippa sessiliflora
Spurge family -- Euphorbiaceae
six-angled spurge-- Euphorbia hexagona
Gentian family -- Gentianaceae
white gentian-- Gentiana flavida
closed gentian-- Gentiana Andrewsii var. Andrewsii
closed gentian-- Gentiana Andrewsii var. dokatica
fringed gentian-- Gentiana crinita
stiff gentian-- Gentiana quinquefolia var. occidentalis
Mint family -- Labiatae
many colored skullcap-- Scutellaria ovata var. versicolor
Legume family -- Leguminosae
low milk vetch-- Astragalus lotiflorus
tick clover-- Desmodium illinoense
prairie bush-clover-- Lespedeza leptostachys
Orchid family -- Orchidaceae
putty root-- Aplectrum hyemale
pretty grass pink-- Calopogon pulchellus
spotted coral root-- Corallorhiza maculata
large yellow lady's slipper-- Cypripedium Calceolus var. pubescens
small white lady's slipper-- Cypripedium candidum
showy lady's slipper-- Cypripedium reginae
downy rattlesnake plantain-- Goodyera pubescens
prairie white fringed orchid-- Habenaria leucophaea
bracted green orchid-- Habenaria viridis var. bracteata
lily-leaved twayblade-- Liparis lilifolia
showy orchis-- Orchis spectabilis
nodding ladies-tress-- Spiranthes cernua
Maple family -- Aceraceae
black maple-- Acer nigrum
Moschatel family -- Adoxaceae
little musk-- Adoxa Moschatellina
Cashew family -- Anacardiaceae
poison sumac-- Rhus Vernix
Ginseng family -- Araliaceae
bristly sarsaparilla-- Aralia hispida
ginseng-- Panax quinquefolium

Barberry family — Berberidaceae
May-apple-- Podophyllum peltatum
Honeysuckle family — Caprifoliaceae
grape honeysuckle-- Lonicera prolifera
Bluebell family — Campanulaceae
cardinal flower-- Lobelia Cardinalis
Loosestrife family — Lythraceae
scarlet ammannia-- Ammannia coccinea
Water-lily family — Nymphaeaceae
water chinquapin-- Nelumbo pentapetala
Plantain family — Plantaginaceae
bracted plantain-- Plantago aristata
Buckwheat family — Polygonaceae
erect knotweed-- Polygonum erectum
Rose family — Rosaceae
tree Juneberry-- Amelanchier arborea
alder-leaved Juneberry-- Amelanchier alnifolia
Nicollet's cinquefoil-- Potentilla Nicolletii
mild rose-- Rosa blanda f. carpohispida
Madder family — Rubiaceae
buttonbush-- Cephalanthus occidentalis
Figwort family — Scrophulariaceae
carpenter's square-- Scrophularia marilandica
Vine family — Vitaceae
five-leaved Virginia creeper-- Parthenocissus quinquefolia



Frequently observed plants

River bottomlands:

American elm -- Ulmus americana
green ash -- Fraxinus pennsylvanica var. subintegerrima
soft maple -- Acer saccharinum
cottonwood -- Populus deltoides
box elder -- Acer Negundo
black walnut -- Juglans nigra
butternut -- Juglans cinerea
bitternut -- Carya cordiformis
red oak -- Quercus rubra
basswood -- Tilia americana
red osier dogwood -- Cornus stolonifera
wild black currant -- Ribes americanum
gooseberry -- Ribes hirtellum
red raspberry -- Rubus strigosus
virginia creeper -- Parthenocissus inserta
wild grape -- Vitis spp.
poison ivy -- Rhus radicans
stinging nettle -- Urtica dioica
wood nettle -- Boehmeria cylindrica

North-facing slopes:

sugar maple -- Acer saccharum
red oak -- Quercus rubra
paper brich -- Betula papyrifera
ironwood -- Ostrya virginiana

South-facing slopes:

staghorn sumac -- Rhus typhina
red cedar -- Juniperus virginiana
box elder -- Acer Negundo
slippery elm -- Ulmus rubra
hackberry -- Celtis occidentalis
wild plum -- Prunus americana
prickly ash -- Xanthoxylum americanum
quaking aspen -- Populus tremuloides
bittersweet -- Celastrus scandens
burr oak -- Quercus macrocarpa
red oak -- Quercus rubra

Goat prairies:

compass plant -- Silphium laciniatum
silky aster -- Aster sericeus
blazing star -- Liatris spp.
nodding ladies tress -- Spiranthes cernua
Indian grass -- Sorghastrum nutans
white prairie clover -- Petalostemum candidum
purple prairie clover -- Petalostemum purpureum
mountain mint -- Pycnanthemum spp.
big bluestem -- Andropogon Gerardi
bastard toadflax -- Comandra Richardsiana
flowering spurge -- Euphorbia corollata
pasque flower -- Anemone patens var. Wolfgangiana

Wildlife

The Cannon River valley provides habitat for a wide variety of wildlife. In addition to the woods, prairie, wetlands and croplands in the valley, rock outcrops, springs, farm buildings, bridges and cutbanks provide habitats attractive to some species.

The big brown bat, for example, is especially fond of barns. The kingfisher, bank swallow, rough-winged swallow, mink, weasel and otter all use cutbanks for nesting and denning places. Cliff swallows and phoebes use bridges and rock cliffs for nesting. Small woodland ponds are attractive mating places for frogs.

Twenty-six species of amphibians and reptiles are known or expected to be common along the Cannon River. Among them is the mud puppy, the largest salamander in Minnesota and the only one that regularly retains its larval state throughout life. The once abundant leopard frog, recently reduced in numbers, perhaps by disease or pesticides, is also found here. The venomous timber rattlesnake inhabits rocky bluffs above the river east of Cannon Falls.

Species reported along the Cannon but rare in Minnesota include the wood turtle, Blanding's turtle, map turtle and massasauga rattlesnake. All are at or near the northwestern extreme of their ranges. Other species observed occasionally include the cricket frog, six-lined racer, false map turtle, pickerel frog and brown soft-shelled turtle.

More than 100 species of birds are known or expected to breed regularly along the Cannon. Twenty–two other species, rare, irreguar or reduced in numbers, may breed here.

A breeding colony of about 50 pairs of great blue herons was observed recently along the river. Other noteworthy species are the pileated woodpecker, whip-poor-will, red-tailed hawk, barred owl and great horned owl. Ospreys fish the river during migration, and bald eagles winter in the vicinity.

Game birds found in the area include the mallard, gadwall, pintail, green-winged teal, blue-winged teal, redhead, wood duck, ruffed grouse, bobwhite, ring-necked pheasant, gray (Hungarian) partridge, snipe, woodcock, rail and coot.

Thirty-six native species of mammals are known to be or



are expected to be common along the Cannon. These include the spotted skunk, whose numbers have recently declined, perhaps because of rabies. There are reports of bobcats, formerly very common in southeastern Minnesota, but decimated by trapping, hunting and loss of habitat. Otters, once common throughout the state but also decimated, are probably present in small numbers. The coyote, fairly common in northern Minnesota, is rare along the Cannon.

Although the distribution of some small mammals has not been fully researched and reported, a number of these species are expected to be found along the Cannon because of habitat conditions. These include the pine vole, rock vole, pocket mouse, harvest mouse and least weasel.

Game species present in the river valley include the cottontail rabbit, gray and fox squirrel, raccoon, red and gray fox, mink, muskrat, beaver and white-tailed deer.

Amphibians and reptiles

Species considered regionally rare, decimated or irregular in occurrence are indicated by an asterisk (*).

mud puppy -- Necturus maculosus
common newt -- Notophthalmus viridescens
tiger salamander -- Ambystoma tigrinum
American toad -- Bufo americanus
*cricket frog -- Acris crepitans
swamp tree frog -- Pseudacris nigrita
gray tree frog -- Hyla versicolor
gray tree frog -- Hyla chrysoscelis
green frog -- Rana clamitans
leopard frog -- Rana pipiens
*pickerel frog -- Rana palustris
wood frog -- Rana sylvatica
black-banded skink -- Eumeces septentrionalis
*six-lined racer -- Cnemidophorus sexlineatus
smooth green snake -- Opheodrys vernalis
fox snake -- Elaphe vulpina
hognosed snake -- Heterodon contortix
milk snake -- Lampropeltis triangulum
red-bellied snake -- Storeria occipitomaculata
DeKay's snake -- Storeria dekayi
plains garter snake -- Thamnophis radix
common garter snake -- Thamnophis sirtalis
blue racer -- Coluber constrictor
timber rattlesnake -- Crotalus horridus
*massasauga -- Sistrurus catenatus
common water snake -- Natrix sipedon
spiny soft-shelled turtle -- Amyda spinifera
snapping turtle -- Chelydra serpentina
common painted turtle -- Chrysemys picta
*Blanding's turtle -- Emys blandingii
*wood turtle -- Clemmys insculpta
*map turtle -- Graptemys geographica
*false map turtle -- Graptemys pseudogeographica
*brown soft-shelled turtle -- Amyda mutica

Bird species breeding in the river valley

Species considered rare or irregular in the Cannon River valley are indicated by an asterisk (*). Because common names of bird species have been standardized and widely used, Latin names are not included on this list.

pied-billed grebe
great blue heron
green heron
*common egret
*black-crowned night heron
*yellow-crowned night heron
least bittern
American bittern
mallard
*gadwall
*pintail
*green-winged teal
blue-winged teal
shoveler
wood duck
*redhead
ruddy duck
red-tailed hawk
*red-shouldered hawk
*broad-winged hawk
*Swainson's hawk
marsh hawk
sparrow hawk
ruffed grouse
*bobwhite
ring-necked pheasant
gray partridge
*king rail
Virginia rail
sora
eastern kingbird
great crested flycatcher
eastern phoebe
*willow flycatcher
least flycatcher
eastern wood pewee
horned lark
tree swallow
bank swallow
rough-winged swallow
barn swallow
cliff swallow
purple martin
blue jay
common crow
black-capped chickadee
tufted titmouse
white-breasted nuthatch
*brown creeper
house wren
long-billed marsh wren
short-billed marsh wren
catbird
brown thrasher
robin
wood thrush
*veery
eastern bluebird
*cedar waxwing
blue-gray gnatcatcher
loggerhead shrike
starling
*Bell's vireo
red-eyed vireo
yellow-throated vireo
warbling vireo
prothonotary warbler
blue-winged warbler
yellow warbler
cerulean warbler
*chestnut-sided warbler
ovenbird
Louisiana waterthrush
common gallinule
American coot
killdeer
American woodcock
common snipe
spotted sandpiper
Forster's tern
black tern
rock dove
mourning dove
yellow-billed cuckoo
black-billed cuckoo
screech owl
great horned owl
barred owl
*short-eared owl
whip-poor-will
common nighthawk
chimney swift
ruby-throated hummingbird
belted kingfisher
common flicker
pileated woodpecker
red-bellied woodpecker
red-headed woodpecker
yellow-bellied sapsucker
hairy woodpecker
downy woodpecker
yellowthroat
yellow-breasted chat
American redstart
house sparrow

eastern meadowlark
western meadowlark
yellow-headed blackbird
redwinged blackbird
orchard oriole
northern oriole
Brewer's blackbird
common grackle
brown-headed cowbird

scarlet tanager
cardinal
rose-breasted grosbeak
indigo bunting
dickcissel
*pine siskin
American goldfinch
rufous-sided towhee
savannah sparrow

grasshopper sparrow
vesper sparrow
lark sparrow
chipping sparrow
*clay-colored sparrow
field sparrow
swamp sparrow
song sparrow



Mammals

Species considered regionally rare, decimated or irregular in occurrence are indicated by an asterisk (*).

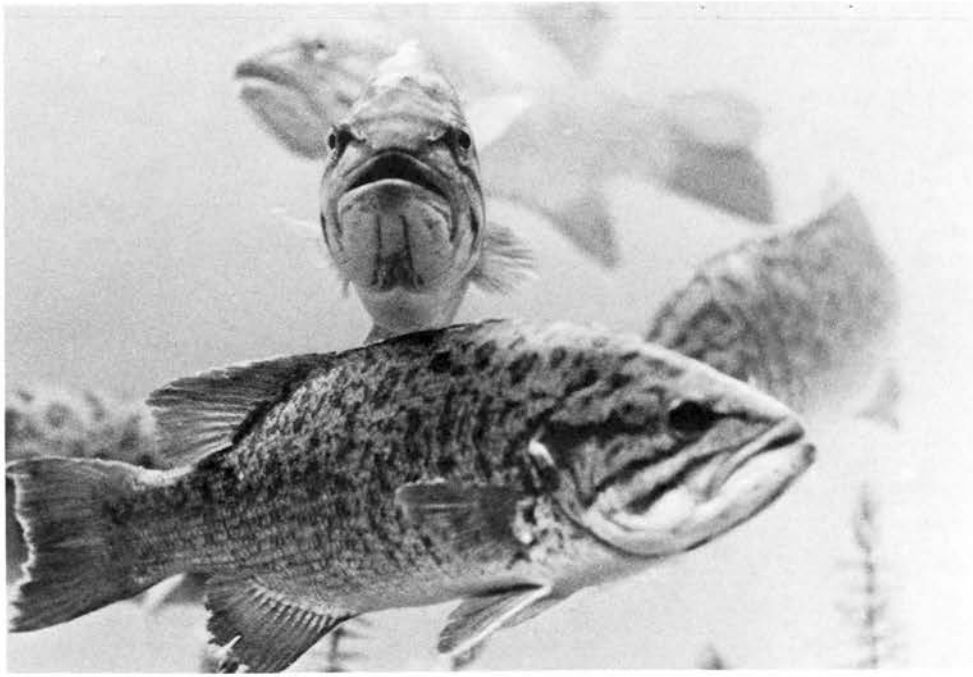
common mole -- Scalopus aquaticus
*pygmy shrew -- Microsorex hoyi
masked shrew -- Sorex cinereus
*least shrew -- Cryptotis parva
short-tailed shrew -- Blarina brevicauda
little brown bat -- Myotis lucifugus
*Keen's little brown bat -- Myotis keeni
big brown bat -- Eptesicus fuscus
pipistrelle - - Pipistrellus subflavus
silver-haired bat -- Lasionycteris noctivagans
red bat -- Lasiurus borealis
*hoary bat -- Lasiurus cinereus
white-tailed jackrabbit -- Lepus townsendii
eastern cottontail -- Sylvilagus floridanus
woodchuck -- Marmota monax
thirteen-lined ground squirrel -- Spermophilus tridecemlineatus
Franklin's ground squirrel -- Spermophilus franklini
eastern chipmunk -- Tamias striatus
red squirrel -- Tamiasciurus hudsonicus
gray squirrel -- Sciurus carolinensis
fox squirrel -- Sciurus niger
southern flying squirrel -- Glaucomys volans
*northern flying squirrel -- Glaucomys sabrinus
pocket gopher -- Geomys bursarius
beaver -- Castor canadensis
prairie white-footed mouse -- Peromyscus maniculatus bairdi
northern white-footed mouse -- Peromyscus leucopus
*pine vole -- Microtus pinetorum
common meadow mouse -- Microtus pennsylvanicus
prairie vole -- Microtus ochrogaster
red-backed vole -- Clethrionomys gapperi
muskrat -- Ondatra zibethica
*pocket mouse -- Perognathus flavescens
meadow jumping mouse -- Zapus hudsonius
*harvest mouse -- Reithrodontomys megalotis
raccoon -- Procyon lotor
short-tailed weasel -- Mustela erminea
long-tailed weasel -- Mustela frenata
*least weasel -- Mustela nivalis
mink -- Mustela vison
*otter -- Lontra canadensis
spotted skunk -- Spilogale putorius
striped skunk -- Mephitis mephitis
badger -- Taxidea taxus
red fox -- Vulpes vulpes
gray fox -- Urocyon cinereoargenteus
*coyote -- Canis latrans
Bobcat -- Felis rufus
white-tailed deer -- Odocoileus virginianus

Fish

Because of its generally good water quality, the Cannon River supports a wide variety of fish life, including several popular game and pan fish. Fish frequently travel from the Mississippi up the Cannon to the Welch Dam; this area is reported to be a good fishing spot.

There are about 50 fish species that are known residents of the Cannon. Such sought-after game fish as walleye, sauger, rock bass, smallmouth bass, largemouth bass, white bass, northern pike and black crappie are found here. Other fish harbored in the Cannon include black bullheads, bluegills, pumpkinseeds, suckers, redhorses and carp. A more complete list of species is presented at the end of this section.

There are a few fish found in the Cannon that are relatively uncommon in Minnesota. The suckermouth minnow, for example, is found only in the southeastern counties of the state. The southern redbelly dace is found only in southern tributaries of the Mississippi River and reaches its northernmost range in the Cannon. A recent find in the Cannon is the burbot, rare in this part of the state.



The banded darter, at one time thought to be rare, has since been found to be abundant in southern Minnesota. In the Cannon it is the most common darter.

Other fish in the Cannon, though common, are nevertheless interesting. The fathead minnow, for example, is both a good bait minnow and useful in mosquito control. The mimic shiner is an important forage fish for walleye, and its presence here helps maintain the walleye population. The presence of redhorse species in the Cannon indicates that its water quality is good. These fish are some of the first to succumb when water becomes polluted or continuously turbid.

Electro-fishing surveys of the Cannon River were conducted by the DNR in May and July 1977. Electro-fishing is a technique used to temporarily immobilize fish within a small area by introducing an electric field into the water. Fish then can be netted, identified, weighed, measured and returned to the water unharmed.

The May survey was conducted in two short segments of the river. In Section 1, the 1.5 miles above the U.S. Highway 61 bridge (river mile 8.5-7.0), a total of 114 fish were caught. Of these, 84 percent were rough fish and 15 percent were game fish. Rough fish include carp, sucker, redhorse, buffalo and quillback; game fish include such species as smallmouth bass, largemouth bass, sunfish, walleye, northern pike, channel catfish and white bass. Minnows, bullheads and sheepsheads make up the balance.

In Section 2, the 1.5 miles above the mouth of Trout Brook (river mile 19.5-18.0), 247 fish were sampled; 80 percent were rough fish, 18 percent were game fish and 2 percent were forage fish.

In the July 1977 survey, the 10 river miles between the Northfield Dam and the State Highway 56 bridge (river mile 41.6-31.6) were shocked. Out of the 1,356 fish sampled in this stretch, 86.3 percent were rough fish, 5.0 percent were game fish and 8.7 percent were minnows.

Fish species

walleye -- Stizostedion vitreum
sauger -- Stizostedion canadense
rock bass -- Ambloplites rupestris
smallmouth bass -- Micropterus dolomieui
largemouth bass -- Micropterus salmoides
white bass -- Morone chrysops
northern pike -- Esox lucius
black crappie -- Pomoxis nigromaculatus
white sucker -- Catostomus commersoni
silver redhorse -- Moxostoma anisurum
golden redhorse -- Moxostoma erythrurum
northern redhorse -- Moxostoma macrolepidotum
black bullhead -- Ictalurus melas
bluegill -- Lepomis macrochirus
pumpkinseed -- Lepomis gibbosus
northern hog sucker -- Hypentelium nigricans
gizzard shad -- Dorsoma cepedianum
creek chub -- Semotilus atromaculatus
carp -- Cyprinus carpio
log perch -- Percina caprodes
spotfin shiner -- Notropis spilopterus
freshwater drum -- Aplodinotus grunniens
quillback -- Carpiodes cyprinus
Johnny darter -- Etheostoma nigrum
rainbow darter -- Etheostoma caeruleum
suckermouth minnow -- Phenacobius mirabilis
southern redbelly dace -- Chrosomus erythrogaster
banded darter -- Etheostoma zonale
fathead minnow -- Pimephales promelas
mimic shiner -- Notropis volucellus
burbot -- Lota lota
blacknose dace -- Rhinichthys atratulus
longnose dace -- Rhinichthys cataractae
emerald shiner -- Notropis atherinoides
stoneroller -- Campostoma anomalum
bigmouth shiner -- Notropis dorsalis
sand shiner -- Notropis stramineus
bluntnose minnow -- Pimephales notatus
brassy minnow -- Hybognathus hankinsoni
finescale dace -- Chrosomus neogaeus
common shiner -- Notropis cornutus
silver chub -- Hybopsis storeriana
blackside darter -- Percina maculata
slenderhead darter -- Percina phoxocephala
river darter -- Percina shumardi
spottail shiner -- Notropis hudsonius
striped fantail darter -- Etheostoma flabellare
silver lamprey -- Ichthyomyzon unicuspis
stone cat -- Noturus flavus
green sunfish -- Lepomis cyanellus
northern redbelly dace -- Chrosomus eos
speckled chub -- Hybopsis aestivalis
rosey faced shiner -- Notropis rubellus

Recreation

The Cannon River valley's resources lend themselves naturally to a variety of outdoor activities, including fishing, hunting, canoeing, inner-tubing, camping and hiking.

The Cannon valley and surrounding areas provide excellent habitat for both large and small game. Migratory waterfowl find resting and breeding areas in the many marshes and potholes near Red Wing. The river supports a fair game fish population that includes walleyes, smallmouth bass and sunfish.

The Cannon is popular with canoeists. During the paddling season the water is generally at a level that permits canoeing. The river's moderate current and the absence of difficult rapids make the river ideal for novice boaters and family outings. The high bluffs and other beautiful scenery in the valley contribute to the river's appeal.

Floating the river in inner tubes is another popular activity on the Cannon, especially near Welch. The Cannon receives heavier tubing use than most other streams in the state. In fact, it is one of the few state rivers where an outfitter caters to inner-tubing.

The natural character of the river valley also encourages camping, hiking, nature observation and photography.

The accompanying table shows the existing public recreational facilities along the Cannon River.

Public recreation facilities

River Mile	Site Indentification	Ownership	Operation-Maintenance	Facilities
51.2-47.4	Cannon River Wilderness Area	Rice County	Rice County	River left: Toilets, picnic shelter, picnic tables, garbage cans, crushed rock parking lot and road, designated campsites, fire rings and hiking trails. River right: Campsites, fire rings and hiking trails.
45.1	Dundas City Park	Village of Dundas	Village of Dundas	Two baseball diamonds, picnic shelter, picnic tables, garbage cans, water fountains, toilets, fire grills, campground, canoe access and crushed rock parking lot and road.
43.3-42.1	Sechler Park	Northfield	Northfield	Undeveloped.

42.5-42.1	Babcock Park	Northfield	Northfield	Baseball diamond, archery range, swing set, sandbox and outdoor toilets.
42.1-41.9	Riverside Park	Northfield	Northfield	Covered shelter, picnic tables, water faucets, fire grills, garbage cans, toilets and crushed rock parking lot and road.
32.3-32.0	Dakota County parkland	Dakota County	Dakota County	Rest area with no facilities.
27.1	Lake Byllesby access	Dakota County	Dakota County	Access and dock about 300 yards from campsite.
27.0	Lake Byllesby Park	Dakota County	Dakota County	Campground, swimming beach, drinking water and toilets.
27.0	Goodhue County parkland	Goodhue County	Goodhue County	Boat launch.
25.3-	Lower Hannah's Bend Park	Searle's Grain Company. 25-year lease to Cannon Falls.	Cannon Falls	Picnic shelter, picnic tables, toilets, archery range, boat access with dock and crushed rock road and parking lot.
25.2	Upper Hannah's Bend Park	Cannon Falls	Cannon Falls	Park benches, picnic tables and playground equipment.
25.0	Riverside Park	Cannon Falls	Cannon Falls	Covered shelter (donated by Izaak Walton League), toilets, picnic tables, playground equipment, garbage cans, water fountain and crushed rock road and parking lot. Access is possible, though there is no developed access.
7.0	DNR access	DNR	DNR	Access and parking lot.

Population

Trends and projections indicate that the steady increase in population in the Cannon River area will continue. Tables A, B and C illustrate these trends in the counties, cities and townships near the Cannon River.

TABLE A: County Population Trends.

County	1970	1976 (est.)	% Increase	2000 Projection
Dakota	139,808	175,400	25.5	293,300
Goodhue	34,804	39,000	12.1	48,600
Rice	41,582	43,200	3.9	50,200
Total	216,194	257,600	19.2	392,100

TABLE B: City Population Trends.

City	1960	1970	1975	% Change
Faribault	16,926	16,595	16,255	-2.1
Dundas	488	460	477	+3.7
Northfield	8,707	10,235	11,165	+9.1
Cannon Falls	2,055	2,072	2,376	+14.7
Red Wing	10,528	12,834	14,063	+9.6
Total	38,704	42,196	44,336	+5.1

TABLE C: Township Population Trends.

Township	1960	1970	1975	% Change
Cannon City	955	1,062	1,077	+1.4
Bridgewater	1,019	1,315	1,303	-0.9
Waterford	420	521	499	-4.2
Sciota	213	213	216	+1.4
Randolph	178	267	366	+37.1
Stanton	475	722	826	+14.4
Cannon Falls	741	1,023	1,238	+21.0
Welch	510	529	571	+7.9
Vasa	803	784	833	+0.06
Total	5,314	6,436	6,929	+7.7

More than 2 million Minnesotans live within a two-hour drive of the Cannon River. The population of the seven-county metropolitan area, estimated at 2 million in 1976, is expected to increase to about 2.9 million by 2000. Because of this increase in population and in view of the proximity of the Cannon River to the metropolitan area, recreational use of the river is expected to increase.

Archaeology

The Cannon River valley is one of the most important archaeological areas in Minnesota, according to Christy Caine, state archaeologist and Hamline University professor.

By 1000 A.D. the area near the junction of the Cannon and Mississippi rivers was a major center of prehistoric Indian life. This Oneota Indian culture, apparently related to the great Middle Mississippian center at Cahokia, Illinois, was probably the closest prehistoric Minnesota people came to an urban society.

Earlier prehistoric cultures of the Middle Woodland period

antedate the Oneota and numbers of the burial mounds of the region can be attributed to these forerunners. Pre–pottery cultures of the Archaic and Paleo-Indian periods also exist in the Cannon River area. Although none of the archaeological sites of these very early times have been excavated, surface collections of artifacts from the uplands bordering the river valley demonstrate that such sites do exist.

The Cannon River was part of an east-west route that linked the peoples of the eastern rivers with those of the western plains. Instead of ascending the Mississippi to its junction with the Minnesota River and continuing west up the Minnesota, it was more common to take the Cannon westward and portage from its upper reaches to the Minnesota.

About 25 burial mound concentrations and five village sites have been recorded along the Cannon River. Thousands of burial mounds, once common along ridgetops and high river terraces, have been lost to cultivation and construction. But archaeologists, excavating mounds and village sites that escaped destruction, have pieced together a picture of life in this society.

Two such sites along the Cannon River are the Bryan Village and Fort Sweeney sites. Fort Sweeney, listed in the National Register of Historic Places, is across the Cannon River from Welch. Situated on a high hill overlooking the river valley, the Fort Sweeney site contains 41 pits, mounds and other earthworks. Excavation has led archaeologists to believe that this was a burial ground or ceremonial place.

The Bryan Site, a large prehistoric village and burial area, lies on a high terrace immediately south of the Cannon River near Red Wing. A rich deposit of gravel was discovered in this terrace and was leased by the Minnesota State Highway Department. When the gravel was removed from the eastern end of the area, a number of burials were exposed and later investigated by the University of Minnesota. When the topsoil was stripped off land further to the west, a large number of black dirt–filled holes indicating storage pits and the presence of an ancient Indian village were revealed. The site has since been destroyed.

The Oneota people lived in extensive villages housing from 600 to 800 people. At least some residents, as evidenced by the Bryan Site, occupied small, semi–subterranean houses. Sometimes surrounded by a protective wall or palisade, the villages were often located on flat river terraces above the bottomlands. Deep underground storage pits for vegetables were dug throughout the villages.

The Oneota people depended on the cultivation of corn, beans, squash, sunflowers and tobacco. Timbered areas in the river bottoms were cleared and small garden plots planted. Hunting and fishing were still important, however; bison remained a staple food.

The storage pits are of special interest to archaeologists because such pits were often used for village refuse after they were no longer fit for storing vegetables. They therefore often contain broken tools, parts of pottery vessels and animal bones and ashes. Small projectile points, scrapers and other unbroken tools were sometimes lost in these pits. Whole pots occasionally were dropped into pits and broken. Consequently, according to one researcher, "archaeological treasures may be found in the midst of prehistoric garbage."

Oneota pottery and stone weapons and tools, such as arrowheads, knives, axes and hide scrapers, have been found at the village sites. Bone tools also were commonly used. A hoe, made of a bison or elk shoulder blade, is one of the most frequently found bone tools. Awls, fish hooks, needles, dice and bracelets of bone were also used in Oneota villages. Shells were usually used as personal ornaments, and sometimes as spoons and dippers.

Oneota cultures are ancestral to many of the historically known Siouan–speaking groups of the Midwest. Tribes such as the Winnebago, Iowa, Missouri and Oto developed from this village farming–bison hunting prehistoric culture.

History

The Cannon River, winding through the rich farming country of southeastern Minnesota, has played a significant role in the development of this area. First a transportation route for Indians and fur traders, the Cannon later attracted settlers, powering sawmills and grist mills in the prosperous communities on its banks.

French fur traders called the Cannon La Riviere aux Canots, "the river of canoes." Indians and traders frequently hid their canoes near the river's mouth as they set out to hunt in the adjoining prairie lands.

The river's present name, a mispronunciation of the original French, comes from the narratives of explorer Zebulon Pike's expedition in 1805–06. Pike used the name Canoe River when telling of his journey up the Mississippi, and the name Cannon River in the account of his return trip.

According to another explorer, Joseph Nicollet, the Dakota Indians called the Cannon Inyan bosndata, or Standing Rock. The name referred to an eroded rock column near the river in Dakota County, later called Castle Rock by white settlers.

One of the first permanent settlers of the Cannon River valley, Alexander Faribault, came as an agent of the American Fur Company in 1826 or 1827. He established a trading post at the Dakota village of Tetonka Tonah, located on what was later to be known as Cannon Lake. During the late 1820s Minnesota was dotted with fur trading posts, most controlled by the American Fur Company. Their business was considerable. In a single year on the Cannon Faribault's trade included 1,100 minks, 2,050 pounds of deerskins, 39,080 muskrats and smaller numbers of buffalo robes, martens, raccoons, lynx, fox and beaver.

Some years after his arrival, impressed with the possibilities for water power at the confluence of the Straight and Cannon rivers, Faribault relocated his trading post here, eventually building the first frame house in Rice County in the town he founded.

For many years Faribault and several other traders were the only white inhabitants of the area. However, with the ratification in 1852 of the Treaty of Mendota with the Dakota Indians, the area was opened for settlement and the era of immigration began. Men such as Faribault and John W. North, the founder of Northfield, set about securing land along the Cannon River not only for town sites, but for dam sites as well.

The Cannon River and its tributaries had several advantages which were widely advertised in Eastern papers to attract settlers: the streams offered power facilities; large level floodplains offered extensive tracts of fertile land; and the uplands offered dense stands of hardwoods interspersed with openings of natural grassland.

The local papers did some advertising as well. An editorial in the Faribault Herald proclaimed the virtues of the Cannon River valley:

> The rich sandy loam of the valleys of the Cannon and Straight Rivers yields the most abundant crops in turn for little effort. The country is well watered by streams, and wells are easily dug which furnish abundance of pure water at a depth of from 12 to 30 feet. . . Beet, rutabaga and onion sown broadcast and harrowed in, yield enormously. Cranberries grow wild; there are groves of plums and wild berries, strawberries which easily can be cultivated. Crab apples, which make excellent sauce and pies, are good baked, and make the very best of jelly, superior to any other and are to be had by the bushel for the picking. Gooseberries grow wild also and our streams are bordered with fine grapes. . .
>
> The thousands of acres of maple forest furnish us with sugar and syrup, equal to the best. The sugar cane was tried here last year and succeeded admirably. In fact every needful thing will grow here. Winter wheat and spring wheat is unsurpassed by any.
>
> Game is abundant enough to pay for hunting. Our sharpshooters get deer, and any one that can fire a gun can get plenty of prairie chickens with very little trouble. . . Fish are so plentiful and so large that the whole truth would sound like a fish story. . . In the spring and fall our lakes are covered with ducks and geese, and our woods during the season are alive with pigeons and partridges. Not much danger of starving.

From reports connected with the military service, Minnesota has the healthiest climate in the United States. The dryness of our atmosphere is especially favorable to persons inclined to lung complaints.

As the influx of immigrants began, the territorial government built roads to accommodate them. Cannon Falls was located on one of the most important of these roads, that which ran from Dubuque, Iowa, to St. Paul. Cannon Falls was a stopping place and a fording place for thousands of immigrants in the 1850s. Their passage through town was complicated by the fact that for many years there was no permanent bridge over the Cannon River. A letter from an early settler, published in 1903 in the Cannon Falls Beacon, recalls the mid-19th century on the river:

One of the greatest trials for us who lived on the north side of the Big Cannon was the lack of a permanent bridge. For many years there were none that would stand the spring freshets and the breaking up of the ice. A kind of ferry was tried, then a pontoon bridge. In the winter we had always a safe bridge, and in summer a ford, but for three or four weeks every spring there would be no way we could safely get to town.

The Cannon River valley's place in the history of American fiction was probably due to Minnesota's (unearned) reputation as a haven for those suffering from lung complaints. Author Edward Eggleston came to southeastern Minnesota in 1856, seeking a cure for a chronic respiratory infection. His book, The Mystery of Metropolisville, is the story of a typical boom town that collapsed when the Panic of 1857 wiped out its false prosperity. The town is modeled on Cannon City, where Eggleston spent his first few weeks in Minnesota.

The effects of the Panic of 1857 were alleviated somewhat in the Cannon River valley by the 1859 ginseng boom in Minnesota.

The Chinese demand for wild ginseng root was great- -they looked upon the root as a cure-all tonic. In Minnesota ginseng grew luxuriantly in the Big Woods, a dense hardwood forest dominated by large deciduous trees, particularly sugar maple, basswood, elm and red oak. The eastern edge of the Big Woods ran along the Cannon River through Faribault and Northfield.

In the fall of 1858, advertisements in the Faribault weekly newspapers offering money for ginseng spurred the rush to the woods.

Red Wing also had a short-lived ginseng boom. On June 18, 1859 the Red Wing Sentinel announced under the headline "Ginseng Fever" that "premonitory symptoms of this epidemic, which is raging so extensively in some parts of this State, have made their appearance in our usually healthy community." Within a week the ginseng fever was raging to the point where it threatened to "depopulate" the city. Anyone who could "bear the inconvenience of a hot sun, mosquitoes and woodticks" was advised to go out and dig.

However, by June 29 the boom appeared to be over. The Faribault Central Republican reported that the ginseng trade had fallen off rapidly and the supply was nearly exhausted.

Hides, furs and ginseng root, compact articles of relatively high value for their weight, were the principal exports of the Cannon River area before the opening of railroad service here in the late 1850s. With improved shipping facilities, the exploitation of the Big Woods began and the number of sawmills along the river increased dramatically. The river valley contributed to the extension of the rails across the Dakotas by furnishing ties to lay the tracks. Another large part of the annual cut was shipped to the Twin Cities, where it was used for local building and the manufacture of barrels.

The cut greatly exceeded the annual growth so that the timber supply was rapidly diminished. As the supply dwindled, the market for the ties also lessened because the railroads had completed their greatest period of expansion. Finally, the removal of the forest opened the land for cultivation. Very little of the Big Woods was removed for the single purpose of clearing land.

The wheat fields of the northwest, the Red River valley, Canada and the Dakotas had not been broken, and the Cannon River valley became one of the most important wheat areas in the country. The sawmills were soon converted to grist mills; by 1877 there were 15 flour mills along the 20 miles of river between Faribault and Northfield alone.

Adelbert Ames, part owner of a flour mill in Northfield, predicted as early as 1866 that the mill would "prove a gold

mine to us by and by." Ten years later the mill's flour took a first prize in the Centennial Exposition in Philadelphia.

In 1874, and for years thereafter, Goodhue County was described as the banner wheat county in the United States, in both acres sown and bushels produced. In 1873 it was said to have produced 3.25 million bushels, nearly one–half of which were milled locally.

By 1880 the Cannon River mills were producing flour of such quality that it commanded the highest prices on the New York and London exchanges.

At Dundas, travelers can still see the aging limestone walls of the Archibald mill. One of the largest mills on the Cannon, the Archibald mill occupied a three–story building and had four pairs of millstones. Farmers sometimes drove wheat as far as 80 miles to use the Archibald facilities. Both the mill and the Archibald house were entered in the National Register of Historic Places in 1976.

The excellent quality of the Cannon River flour was due largely to the New Process milling developed by two French–Canadian brothers, Nicholas and Edmund La Croix, who were brought to the river valley by Alexander Faribault. Through the process developed by the La Croix brothers it was possible to make fine white flour out of hard spring wheat middlings, a fact that made Cannon River millers among the most famous in the world.

The decline of the Cannon River valley as a wheat center is attributable to repeated wheat failures caused by soil exhaustion and insects. The railroads which contributed to the lumbering and milling prosperity of the Cannon River valley later aided in its decline. The speeding up of freight, combined with rate reductions, led to the concentration of milling in the Twin Cities. Expansion of the railroads to the wheat lands of the west hastened the decline of wheat production. By 1910 the Cannon River area ceased to be a milling center and only one of the 15 mills between Faribault and Northfield remained.

To many living during the 19th century the swift waters of the Cannon River meant water power and industry, but to Ignatius Donnelly, Minnesota representative to Congress from 1863 to 1868, that water meant transportation. Donnelly put through Congress a project whereby the U.S. government made a survey of Rice, Goodhue and Dakota counties with the



object of developing a short steamboat route from the Minnesota River to the Mississippi River via the Cannon River and a series of locks. Needless to say, Donnelly's steamboat route never materialized.

No account of the history of the Cannon River valley would be complete without mention of the Jesse James gang's 1876 attempt to raid the Northfield bank, now the cause for annual celebration by that city.

Originally intending to rob the Mankato bank, the gang rode on to Northfield when Jesse James was recognized on the streets of Mankato. Two members of the gang, sent ahead to survey the prospects in Northfield, reported that the situation looked promising. It wasn't. The townspeople put up a stiff fight with guns commandeered from the hardware stores, killing two of the outlaws. Of the six gang members who escaped, posses captured three and killed one. Jesse James and his brother, Frank, managed to escape the territory.

As settlers came to the Cannon River valley, counties were established and cities platted. Here are brief descriptions of how some of the settlements along the river originated:

Rice County: Established March 5, 1853, and named in honor of Henry Mower Rice, one of the two first U.S. senators from Minnesota.

Faribault, the county seat, was platted in 1855, organized in 1858 as a township and incorporated as a city in 1872. The city was named after its founder, fur trader Alexander Faribault.

Northfield, platted in 1855, incorporated as a village in 1871 and as a city in 1875, commemorates John W. North, its founder.

Dundas, platted in 1857 and chartered in 1879, bears the name of a large town in Ontario commemorating Henry Dundas, an eminent British statesman. Its founders, Edward T. and John M. Archibald, came from Dundas in Ontario, built a flour mill here and made some of the finest flour in the state.

Goodhue County: Established March 5, 1853, and named in honor of James Madison Goodhue, the first printer and editor in Minnesota, whose influential writing helped persuade settlers to come to the state.

Red Wing, the location of a mission to the Dakota Indians in 1837, was first settled for farming and Indian trading in 1850–52; was chosen to be the county seat in 1853; and was incorporated as a city in 1857. Red Wing was the name of a succession of Dakota chiefs whose band resided where the city now stands. The Dakota name for this place was Rhemnicha. This means Hill–Water–Wood place, formed by three Dakota words: Rhe, a high hill or ridge, mini, water, and chan, wood. The name refers to the Barn Bluff and other high river bluffs, and to the abundance of water and wood, which made it an ideal campground.

Cannon Falls, settled in 1854 and organized in 1858, derived its name from a waterfall located here which was buried in 1910 through the construction of a dam across the Cannon River.

Welch, settled in 1857 and organized in 1864, was then named Grant, in honor of General U.S. Grant, but it was renamed Welch in 1872 to commemorate Abraham Edwards Welch of Red Wing. He volunteered at Lincoln's first call for troops at the outbreak of the Civil War and was a first lieutenant in the First Minnesota regiment. Later he was a major in the Fourth Minnesota regiment, and died from wounds received at the battle of Vicksburg.

Dakota County: Established October 27, 1849 and named for the Dakota Indians, whose name means alliance or league.

Randolph, established in April 1858, was then named Richmond, in honor of John Richmond, the first settler within its limits. This name was rejected in September 1858 because there was another Richmond in the state; and in October it was renamed Randolph, after the Virginia statesman, John Randolph.

Waterford, established in 1858, received its name from a ford across the Cannon River. This ford was on the old trail from St. Paul to Faribault.

APPENDIX

The wild and scenic rivers act

MINNESOTA STATUTES 104.31 to 104.40
(Includes 1977 Amendments)

An act relating to natural resources; preservation and management of wild and scenic rivers; establishing a system of classifications of such rivers as wild, scenic, or recreational; providing policies and standards for administration thereof.

Be it enacted by the Legislature of the State of Minnesota:

104.31 WILD AND SCENIC RIVERS ACT. Sections104.31 to 104.40 may be cited as the "Minnesota wild and scenic rivers act."

104.32 POLICY. The legislature finds that certain of Minnesota's rivers and their adjacent lands possess outstanding scenic, recreational, natural, historical,scientific and similar values. Because it is in the interest of present and future generations to retain these values, it is hereby declared to be a policy of Minnesota and an authorized public purpose to preserve and protect these rivers.

104.33 SYSTEM; CRITERIA FOR INCLUSION. Subdivision 1. The whole or a segment of any river and its adjacent lands in this state that possesses outstanding scenic, recreational, natural, historical, scientific, or similar values shall be eligible for inclusion within the Minnesota wild and scenic rivers system. "River" means a flowing body of water such as a stream or a segment or tributary thereof, and may include lakes through which the river or stream flows.

Subd. 2. Rivers or segments thereof included within the system shall be classified as wild, scenic, or recreational.

(a) "Wild" rivers are those rivers that exist in a free–flowing state, with excellent water quality, and with adjacent lands that are essentially primitive. "Free–flowing" means existing in natural condition without significant artificial modification such as impoundment, diversion, or straightening. The existence, however, of low dams, diversion works or other minor structures at the time any river is proposed for inclusion shall not automatically bar its inclusion as a wild, scenic, or recreational river.

(b) "Scenic" rivers are those rivers that exist in a free–flowing state and with adjacent lands that are largely undeveloped.

(c) "Recreational" rivers are those rivers that may have undergone some impoundment or diversion in the past and may have adjacent lands that are considerably developed, but that are still capable of being managed so as to further the purposes of sections 104.31 to 104.40.

104.34 COMMISSIONER'S DUTIES. Subdivision 1. The commissioner of natural resources shall be responsible for administering the wild and scenic rivers system and his duties shall include but not be limited to conducting studies, developing criteria for classification and designation of rivers, designating rivers for inclusion within the system, and management of the components of the system, including promulgation of regulations with respect thereto.

Subd. 2. The commissioner shall promulgate, in the manner provided in chapter 15, statewide minimum standards and criteria for the preservation and protection of shorelands within the boundaries of wild, scenic, and recreational rivers. Such standards and criteria (a) may include but need not be limited to the matters covered in the commissioner's standards and criteria for shoreland areas, as set out in section 105.485, except that the distance limitations contained in section 105.485 do not apply to standards and criteria for wild, scenic, and recreational rivers; (b) shall further the purposes of sections 104.31 to 104.40 and of the classifications of rivers established hereunder; and (c) shall apply to the same local governments as are or may hereafter be specified in section 105.485.

104.35 MANAGEMENT PLANS; HEARINGS; ESTABLISHMENT. Subdivision 1. For each river proposed to be included in the wild and scenic rivers system, the commissioner shall prepare a management plan, with no unreasonable restrictions upon compatible, pre-existing, economic uses of particular tracts of land, to preserve and enhance the values that cause the river to be proposed for inclusion in the system. The plan shall give primary emphasis to the area's scenic, recreational, natural, historical, scientific and similar values. The plan shall set forth the proposed classification of the river and segments thereof, and the boundaries of the area along the river to be included within the system. The boundaries shall include not more than 320 acres per mile on both sides of the river. The plan shall include proposed regulations governing the use of public lands and waters within the area, which may differ from any such statewide regulations to the extent necessary to take account of the particular attributes of the area. The plan may include proposed standards and criteria adopted pursuant to section 104.34 for local land use controls that differ from the statewide standards and criteria to the extent necessary to take account of the particular attributes of the area.

Subd. 2. The commissioner shall make the proposed management plan available to affected local governmental bodies, shoreland owners, conservation and outdoor recreation groups, and the general public. Not less than 60 days after making such information available, the commissioner shall conduct a public hearing on the proposed management plan in the county seat of each county which contains a portion of the designated area, in the manner provided in chapter 15.

Subd. 3. Upon receipt of the hearing examiner's report, the commissioner shall immediately forward the proposed management plan to the state planning agency for review pursuant to section 86A.09, subdivision 3, except that the review by the state planning agency shall be completed or be deemed completed within 30 days after receiving the proposed management plan and the review by the governor shall be completed or be deemed completed within 15 days after receipt. Within 60 days after receipt of the hearing examiner's report, the commissioner shall decide whether to designate by order the river or segment thereof as a wild, scenic, or recreational river and, if so designated, shall adopt a management plan to govern the area. The commissioner shall notify and inform public agencies and private landowners of the plan and its purposes so as to encourage their cooperation in the management and use of their land in a manner consistent with the plan and its purposes.

Subd. 4. The legislature may at any time designate additional rivers to be included within the system, delete rivers previously included in the system, or change the classification of rivers theretofore classified by the commissioner.

104.36 LOCAL LAND USE ORDINANCES. Subdivision 1. Within six months after establishment of a wild, scenic, or recreational river area, each local government containing any portion thereof shall adopt or amend its local ordinances and land use district maps to the extent necessary to comply with the standards and criteria of the commissioner and the management plan. If a local government fails to adopt adequate ordinances, maps, or amendments thereto within six months, the commissioner shall adopt such ordinances, maps, or amendments in the manner and with the effect specified in section 105.485, subdivisions 4 and 5.

Subd. 2. The commissioner shall assist local governments in the preparation, implementation and enforcement of the ordinances required herein, within the limits of available appropriations and personnel.

104.37 ACQUISITION OF INTERESTS IN LAND; DEVELOPMENT. Subdivision 1. To further the purposes of sections 104.31 to 104.40, the commissioner of administration, for the commissioner of natural resources, may acquire the title, scenic easements or other interests in land, by purchase, grant, gift, devise, exchange, lease, or other lawful means. "Scenic easement" means an interest in land, less than the fee title, which limits the use of such land for the purpose of protecting the scenic, recreational, or natural characteristics of a wild, scenic or recreational river area. Unless otherwise expressly and specifically provided by

the parties, such easement shall be (a) perpetually held for the benefit of the people of Minnesota; (b) specifically enforceable by its holder or any beneficiary; and (c) binding upon the holder of the servient estate, his heirs, successors and assigns. Unless specifically provided by the parties, no such easement shall give the holder or any beneficiary the right to enter on the land except for enforcement of the easement.

Subd. 2. The commissioner of natural resources may designate and develop appropriate areas of public land along wild, scenic, and recreational rivers as water waysides for facilities compatible with the class of river, including, as appropriate, primitive campsites, picnic sites, portages, water access sites, sanitation facilities, and interpretive display.

Subd. 3. The commissioner of natural resources may mark canoe and boating routes along a wild, scenic, or recreational river, consistent with the classification and characteristics of the river, including points of interest, portages, campsites, dams, rapids, waterfalls, whirlpools, and other hazards to navigation. Canoe routes, boating routes, campsites, and portages marked under this subdivision shall not be subject to the provisions of section 160.06.

Subd. 4. The commissioner of natural resources may designate all or a portion of a state wild, scenic, or recreational river that possesses the necessary qualifications as a state trout stream, and make habitat improvement as may be necessary, desirable, and consistent with the classification of the river.

104.38 RESPONSIBILITIES OF OTHER GOVERNMENTAL UNITS. All state, local and special governmental units, councils, commissions, boards, districts, agencies, departments and other authorities shall exercise their powers so as to further the purposes of sections 104.31 to 104.40 and management plans adopted by the commissioner hereunder. Land owned by the state, its agencies and subdivisions shall be administered in accordance with the management plan, and no land owned by such governmental bodies within the designated boundaries of a wild, scenic or recreational river area shall be transferred to any other person or entity if such transfer would be inconsistent with such plan.

104.39 FEDERAL–STATE RELATIONS. Nothing in sections 104.31 to 104.40 shall preclude a river in the Minnesota wild and scenic rivers system from becoming a part of the federal wild and scenic rivers system as established in the Wild and Scenic Rivers Act, Public Law 90–542; 16 United States Code Section 1271 et seq., as amended. The commissioner is authorized to seek, alone or in conjunction with other governmental authorities, financial and technical assistance from the federal government and to enter into written cooperative agreements for the joint administration of a Minnesota river in the federal wild and scenic rivers system.

104.40 CONFLICT WITH OTHER LAWS. Each river in the wild and scenic rivers system shall be subject to the provisions of sections 104.31 to 104.40, provided that in case of conflict with some other law of this state the more protective provision shall apply.

NR 78-81

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES
Rules and Regulations

CHAPTER SIX: NR 78-81
STATEWIDE STANDARDS AND CRITERIA FOR THE MINNESOTA WILD AND SCENIC RIVERS SYSTEM

NR 78 General Provisions

(a) STATEMENT OF POLICY

It is in the interest of present and future generations to preserve and protect the outstanding scenic, recreational, natural, historical, and scientific values of certain Minnesota rivers and their adjacent lands. Accordingly, the Commissioner of Natural Resources does hereby provide standards and criteria for the preservation, protection, and management of such rivers, as authorized by Laws of Minnesota 1973, Chapter 271.

(b) SCOPE

The standards and criteria established in NR 78-81 will provide minimum statewide requirements for the selection, classification, management and control of Wild, Scenic and Recreational Rivers and their land use districts.

(c) JURISDICTION

(1) The standards and criteria for Wild, Scenic, and Recreational Rivers hereby established in NR 78-81 shall pertain to public waters and to public and private lands within the land use districts as defined in the management plan.

(2) The extent of the lands so covered is a maximum of 320 acres per each mile of river on both sides (not each side) of those rivers or river segments which the Commissioner of Natural Resources has designated as components of the Minnesota Wild and Scenic Rivers System.

(3) All state, local, and special governmental units, councils, commissions, boards, districts, agencies, departments and other authorities shall exercise their powers so as to further the purpose of the Minnesota Wild and Scenic Rivers Act and management plans adopted thereunder.

(4) Land owned by the state, its agencies and subdivisions shall be administered in accordance with the management plan. No land so owned within the land use district shall be transferred if the Commissioner determines such transfer is inconsistent with the plan.

(5) In case of conflict between a provision of the Minnesota Wild and Scenic Rivers Act of these rules and regulations and some other law of this state or provisions of existing local ordinances, the more protective provision shall apply.

(d) DEFINITIONS

For the purpose of these regulations, certain terms or words used herein shall be interpreted as follows: The word "shall" is mandatory, not per-

missive. All distances unless otherwise specified shall be measured horizontally.

"Agricultural Use" means the management of land for production of farm crops such as vegetables, fruit trees, grain and other crops, and their storage on the area, as well as for the raising thereon of farm poultry, domestic pets, and domestic farm animals.

"Bluffline" means a line along the top of a slope connecting the points at which the slope becomes less than 13%. This applies to those slopes within the land use district which are beyond the setback provision from the normal high water mark.

"Building Line" means that line measured across the width of the lot at the point where the main structure is placed in accordance with setback provisions.

"Campground" means an area accessible by vehicle and containing campsites or camping spurs for tent and trailer camping.

"Clear-cutting" means the removal of an entire stand of vegetation.

"Cluster Development" means a pattern of subdivision development which places housing units into compact groupings while providing a network of commonly owned or dedicated open space.

"Commissioner" means the Commissioner of Natural Resources.

"Conditional Use" means a use of land which is permitted within a zoning district only when allowed by the County Board of Commissioners or their legally designated agent after a public hearing, if certain conditions are met which eliminate or minimize the incompatibility with other permitted uses of the district.

"Essential Services" means underground or overhead gas, electrical, steam or water distribution systems; collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith; but not including buildings or transmission services.

"Forestry" means the management, including logging, of a forest, woodland, or plantation and related research and educational activities, including the construction, alteration or maintenance of woodroads, skidways, landings, and fences.

"Land Use District" means those lands designated by the Commissioner as the protected land corridor along those rivers or river segments which the Commissioner has designated as components of the Minnesota Wild and Scenic Rivers System. The boundaries of such land use district shall include not more than 320 acres per each mile of river on both sides (not each side) of the river.

"Mining Operation" means the removal from the land of stone, sand and gravel, coal, salt, iron, copper, nickel, granite, petroleum products or other material for commercial, industrial, or governmental purposes.

"Nonconforming Use" means any use of land established before the effective date of a county or local ordinance which does not conform to the use restrictions of a particular zoning district. This should not be confused with substandard dimensions of a conforming use.

"Normal High Water Mark" means a mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. In areas where the normal high water mark is not evident, setbacks shall be measured from the stream bank.

"Open Space Recreational Uses" means recreation use particularly oriented to and utilizing the outdoor character of an area; including hiking and riding trails, primitive campsites, campgrounds, waysides, parks, and recreation areas.

"Primitive Campsites" means an area that consists of individual remote campsites accessible only by foot or water.

"Scenic Easement" means an interest in land, less than the fee title, which limits the use of the land for the purpose of protecting the scenic, recreational, or natural characteristics of Wild, Scenic or Recreational River areas. Unless otherwise expressly and specifically provided by the parties, such easement shall be (a) perpetually held for the benefit of the people of Minnesota; (b) specifically enforceable by its holder or any beneficiary; and (c) binding on the holder of the servient estate, his heirs, successors and assigns. Unless specifically provided by the parties, no such easement shall give the holder or any beneficiary the right to enter on the land except for enforcement of the easement.

"Selective cutting" means the removal of single scattered trees.

"Setback" means the minimum horizontal distance between a structure and the normal high water mark or between a structure and a road or highway.

"Sewage Disposal System" means any system for the collection, treatment and dispersion of sewage including but not limited to septic tanks, soil absorption systems, and drain fields.

"Single Family Dwelling" means a detached building containing one dwelling unit.

"Structure" means any building, sign, or appurtenance thereto, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, or gas lines, including towers, poles and other supporting appurtenances.

"Subdivision" means improved or unimproved land or lands which are divided for the purpose of ready sale or lease, or divided successively within a five year period for the purpose of sale or lease, into three or more lots or parcels of less than five acres each, contiguous in area and which are under common ownership or control.

"Substandard Use" means any use of shorelands existing prior to the date of enactment or amendment of a county or local ordinance which is permitted within the applicable land use district but does not meet the minimum lot area, length of water frontage, structure setbacks or other dimensional standards of the ordinance.

"Variance" means a modification or variation of the provisions of the local ordinance where it is determined that, by reason of exceptional

circumstances, the strict enforcement of any provision of the local ordinance would cause unnecessary hardship, or that strict conformity with the provisions of the local ordinance would be unreasonable, impractical or not feasible under the circumstances. This shall be evaluated according to the provisions contained in NR 81.

"Watershed Management or Flood Control Structure" means a dam, floodwall, wingdam, dike, diversion channel, or an artificially deepened or widened stream channel following the same or approximately the same course as the natural channel, or any other structure for altering or regulating the natural flow condition of a river or stream. The term "watershed management or flood control structure" does not include pilings, retaining walls, gabion baskets, rock riprap, or other facilities intended primarily to prevent erosion and which must be authorized by permit from the Commissioner.

"Wetland" means land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp, or marsh.

(e) SEVERABILITY

The provisions of these regulations shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision or any other part.

(f) RIVERS ELIGIBLE FOR INCLUSION

To be eligible for inclusion in the Minnesota Wild and Scenic Rivers System, a river or segment of a river, and its adjacent lands must possess outstanding scenic, recreational, natural, historical, scientific, or similar values. The river or its segments shall be classified into one or more of the three classes of rivers: Wild, Scenic and Recreational. Each river shall be managed so as to preserve and protect the values which qualify it for designation and classification.

(1) Wild rivers are those that exist in a free-flowing state with excellent water quality and with adjacent lands that are essentially primitive.

(aa) "Free-flowing" means existing in natural condition without significant artificial modification such as impoundment, diversion, or straightening. The existence, however, of low dams, diversion works or other minor structures shall not automatically bar its inclusion as a Wild, Scenic, or Recreational river.

(bb) "Excellent water quality" means that the water quality is in or approaches natural condition with no significant evidence of man's activities.

(cc) "Adjacent lands that are essentially primitive" means that the river's adjacent lands should possess a wilderness or natural-like appearance. These adjacent lands should be substantially free of habitation and other evidence of man's intrusion. However, the existence of a few unobstrusive structures along the river would not bar a river from Wild river classification nor would a limited amount of domestic livestock grazing and pasture land, and cropland developed for the production of hay.

Wild rivers should not be paralleled by conspicuous and well-traveled roads or railroads. Short inconspicuous and well-screened stretches would not bar a river from Wild river classification, nor would a bridge or utility crossings.

(2) Scenic rivers are those rivers that exist in a free-flowing state and with adjacent lands that are largely undeveloped.

(aa) "Free-flowing state" has the same meaning for Scenic rivers as it does for Wild rivers.

(bb) "Adjacent lands that are largely undeveloped" means that the adjacent lands still present an overall natural character, but in places may have been developed for agricultural, residential or other land uses. Small communities that are limited to short reaches of the total area would not bar a river from Scenic river classification.

Although roads and railroads may occasionally bridge certain rivers, this will not bar such rivers from Scenic river classification, nor will short stretches of conspicuous roads and railroads and longer stretches of inconspicuous and well screened roads or railroads paralleling the river.

(3) Recreational rivers are those rivers that may have undergone some impoundment or diversion in the past and that may have adjacent lands which are considerably developed, but that are still capable of being managed so as to further the purposes of this act.

(aa) "May have undergone some impoundment or diversion in the past" means that there may be preexisting water resource development and diversions having an environmental impact greater than that described for wild and scenic rivers.

(bb) "May have adjacent lands that are considerably developed" means that the bordering lands may have already been developed for a full range of agricultural or other land uses. Recreational rivers also may be readily accessible by preexisting roads or railroads.

(g) PROCEDURE FOR INCLUDING A RIVER: MANAGEMENT PLANS

(1) For each river proposed to be included in the Wild and Scenic Rivers System, the Commissioner shall prepare a management plan. The plan shall:

(aa) Give emphasis to the preservation and protection of the area's scenic, recreational, natural, historic, and similar values.

(bb) Place no unreasonable restrictions upon compatible, pre-existing, economic uses of particular tracts of land.

(2) Each Management Plan shall include:

(aa) The proposed classification of the river or appropriate segments.

(bb) The proposed land use district boundaries which shall not exceed 320 acres per each mile of river on both sides (not each side) of the river.

(cc) The proposed methods for preserving the river and its adjacent lands.

(i) Land use controls, applied through local zoning ordinances, will be employed to preserve and protect the values of the river which justified its selection and classification.

(ii) Scenic easements or fee title to land may be acquired when preservation dictates stricter limits on shoreland development than land use controls can impose.

(iii) Fee ownership, or, when sufficient, use easements, may be acquired for campsites, accesses, launch areas, trails, and other public uses of land.

(iv) The Commissioner can acquire fee and lesser interests in land by purchase, grant, gift, devise, exchange or lease.

(dd) The proposed regulations for local land use control. These shall be consistent with the river classification, but may differ from the standards and criteria of NR 78-81 to the extent necessary to take account of the particular attributes of the area.

(ee) The proposed regulations, if any, for water surface use of the river.

(ff) The proposed plan for recreational management within the land use district.

(gg) The proposed plan for administration of the management plan.

NR 79 Land Use Provisions

In order to preserve and protect those rivers and adjacent lands which possess outstanding scenic, recreational, natural, historical, scientific, and similar values, to reduce the effects of over-crowding and poorly planned development of such adjacent lands, to prevent pollution, to provide ample space on lots for sanitary facilities, to preserve natural beauty and quietude, to maintain property values, and to promote the general welfare, land use ordinances and official zoning district maps shall be enacted or amended by the county or municipality to comply with the Management Plan promulgated for lands within the jurisdiction of the local authority.

(a) LAND USE DISTRICTS

(1) The land use controls set forth herein shall apply to the area within the land use district boundaries described in the management plan, and determined in accordance with NR 78 (g) (2) (bb).

(2) The following land use districts shall be established in accordance with the classification of the river in the management plan:

(aa) Wild River Land Use District

(bb) Scenic River Land Use District

(cc) Recreational River Land Use District

(b) USE WITHIN LAND USE DISTRICTS

(1) Nonconforming Uses and Substandard Uses

(aa) Nonconforming Uses

All uses in existence prior to the effective date of enactment or amendment of the ordinance, which do not conform to the use restrictions of the newly established land use district are nonconforming uses. Under the authority permitted by law, local authorities may adopt provisions to regulate and control, reduce the number or extent of, or gradually eliminate nonconforming uses. Local authorities shall provide for the gradual elimination of sanitary facilities inconsistent with CONS 72 (b) (2), (b) (3), and (b) (5) over a period of time not to exceed five (5) years from the date of enactment of the local ordinance.

(bb) Substandard Uses

All uses in existence prior to the effective date of enactment or amendment of the ordinance which are permitted uses within the newly established land use district, but do not meet the minimum lot area, setbacks or other dimensional requirements of the ordinance are substandard uses. All substandard uses, except for substandard signs, shall be allowed to continue subject to the following conditions and exceptions:

(i) Any structural alteration or addition to a substandard use which will increase the substandard dimensions shall not be allowed.

(ii) Each local authority shall provide for the gradual ammortization of substandard signs over a period of time not to exceed five (5) years from the enactment or amendment of the ordinance.

(2) Permitted and Conditional Uses
In the following table of uses:

P means Permitted Use

C means Conditional Use

N means Nonpermitted Use

Certain of the following uses are subject to the ZONING DIMENSION PROVISIONS and SANITARY PROVISIONS. See (c) and (d). All of the following uses are subject to the VEGETATIVE CUTTING PROVISIONS and the GRADING AND FILLING PROVISIONS. See (g) and (h).

	LAND USE DISTRICTS		
	Wild River	Scenic River	Rec. River
(aa) Governmental campgrounds, subject to management plan specifications.	N	P	P
(bb) Private campgrounds, subject to management plan specifications.	N	C	C
(cc) Public accesses, road access type with boat launching facilities subject to management plan specifications.	N	P	P
(dd) Public accesses, trail access type, subject to management plan specifications.	P	P	P
(ee) Temporary docks.	C	C	P
(ff) Other governmental open space recreational uses, subject to management plan specifications.	P	P	P

	LAND USE DISTRICTS		
	Wild River	Scenic River	Rec. River
(gg) Other private open space recreational uses, subject to management plan specifications.	C	C	C
(hh) Agricultural uses.	P	P	P
(ii) Single family residential uses.	P	P	P
(jj) Forestry uses.	P	P	P
(kk) Essential services.	P	P	P
(ll) Sewage disposal systems.	P	P	P
(mm) Private roads and minor public streets.	P	P	P
(nn) Signs approved by federal, state, or local government which are necessary for public health and safety and signs indicating areas that are available, or not available, for public use.	P	P	P
(oo) Signs not visible from the river that are not specified in (nn).	P	P	P
(pp) Governmental resource management for improving fish and wildlife habitat; wildlife management areas; nature areas; accessory roads.	P	P	P
(qq) Underground mining that does not involve surface excavation in the land use district.	C	C	C
(rr) Utility transmission power lines and pipelines, subject to the provisions of NR 79 (i).	C	C	C
(ss) Public roads, subject to the provisions in NR 79 (j).	C	C	C

All uses not listed as permitted or conditional uses shall not be allowed within the applicable land use district.

(c) ZONING DIMENSION PROVISIONS

(1) Substandard Lots

(aa) Lots of record in the office of the County Register of Deeds (or Registrar of Titles) on the effective date of enactment or amendment of the local land use ordinance, which do not meet the requirements of NR 79 (c) shall be allowed as building sites provided the proposed use is consistent with the local ordinance and the SANITARY PROVISIONS, NR 79 (d), and the ZONING DIMENSION PROVISIONS, NR 79 (c), are complied with to the greatest extent practicable.

(bb) If in a group of two or more contiguous lots under a single ownership any individual lot does not meet the lot width requirements of the local ordinance, such individual lot cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots under the same ownership so that the combination of lots will equal one or more parcels of land each meeting the lot width requirements of the local ordinance, or to the greatest extent practicable.

(2) Lot Size

(aa) For lots platted or created by metes and bounds description, the minimum size shall be:

(i) For Wild Rivers: At least 6 acres in area, and at least 300 feet in width at the building line and at least 300 feet at the water line for lots abutting a wild river.

(ii) For Scenic Rivers: At least 4 acres in area, and at least 250 feet in width at the building line and at least 250 feet at the water line for lots abutting a scenic river.

(iii) For Recreational Rivers: At least 2 acres in area and at least 200 feet in width at the building line and at least 200 feet at the water line for lots abutting a recreational river.

(bb) Smaller lot sizes may be permitted for planned cluster developments. See NR 79 (f).

(3) Structures: Density, Setback, Placement, Height

(aa) Density of Dwelling Units

(i) The density of dwelling units shall not exceed 1 dwelling unit per lot.

(bb) Setback Provisions

Structures, except signs specified in NR 79 (b) (2) (nn), essential services, private roads, and minor public streets, shall be placed so as to satisfy all setback requirements of the following three minimum setback tables.

(i) From the normal high water mark:

Wild River	200 feet
Scenic River	150 feet
Recreational River	100 feet

(ii) From a bluffline:

Wild River	40 feet
Scenic River	30 feet
Recreational River	20 feet

(iii) From tributaries designated in the management plan:

Wild River	100 feet
Scenic River	100 feet
Recreational River	100 feet

(cc) Placement of Structures

(i) Structures shall not be located on slopes greater than 13% unless such structures can be screened and sewage disposal system facilities can be installed so as to comply with the SANITARY PROVISIONS (d).

(ii) Where a floodplain ordinance exists, no structure shall be located in the floodway of a stream as defined in Minnesota Statutes Chapter

104.02 and furthermore shall be placed at an elevation consistent with any such applicable floodplain management ordinances. Where no floodplain ordinances exist, the elevation to which the lowest floor of a structure, including a basement, shall be placed, shall be determined after an evaluation of available flood information and shall be consistent with the statewide Standards and Criteria for Management of Flood Plain Areas of Minnesota.

(dd) Structure height shall not exceed 35 feet.

(d) SANITARY PROVISIONS

(1) The sanitary provision standards set forth in Minn. Regs. Cons. 72 of the Statewide Standards and Criteria for Management of Shoreland Areas of Minnesota shall apply to Wild, Scenic and Recreational river land use districts.

(2) However, the provisions of Cons. 72 (b) (4) are superseded by the following setback provisions for septic tank and soil absorption systems.

	Setback from the normal high water mark
Wild River	150 feet
Scenic River	100 feet
Recreational River	75 feet
Tributaries	75 feet

(e) WATERSHED MANAGEMENT AND FLOOD CONTROL STRUCTURE PROVISIONS

Minnesota Statutes Section 105.42, as amended, requires a permit from the Commissioner of Natural Resources before any change is made in the course, current, or cross section of public waters.

(f) SUBDIVISION REGULATIONS

(1) Land Suitability

No land may be subdivided which is held unsuitable by the local authority, or the Commissioner, for the proposed use because of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the community.

(2) Subdivision Standards

The provisions otherwise set forth in NR 79 shall apply to all plats except Planned Cluster Developments.

(3) Planned Cluster Developments

Local ordinances shall contain provisions for allowing planned cluster developments when the proposed clustering provides a means of preserving agricultural land, open space, woods, scenic views and other features of the natural environment. Smaller lot sizes than those permitted in NR 79 (c) (2) may be allowed for planned cluster developments provided:

(aa) Preliminary plans are approved by the Commissioner of Natural Resources prior to their enactment by the local authority.

(bb) Central sewage facilities are installed which at least meet the applicable standards, criteria, rules or regulations of the Minnesota Department of Health and the Pollution Control Agency.

(cc) Open space is preserved. This may be accomplished through the use of restrictive deed covenants, public dedication, granting of scenic easements, or other methods.

(dd) There is not more than one centralized boat launching facility for each cluster.

(g) VEGETATIVE CUTTING PROVISIONS

(1) On lands within 200 feet of the normal high water mark of Wild Rivers, 150 feet of the normal high water mark of Scenic Rivers, 100 feet of the normal high water mark of Recreational Rivers and lands within 100 feet of the normal high water mark of tributaries designated in the management plan and on lands 40 feet landward of the bluffline on Wild Rivers, 30 feet landward of the bluffline on Scenic Rivers, and 20 feet landward of the bluffline on Recreational Rivers, the following standards shall apply:

(aa) Clear cutting, except for any authorized public services such as roads and utilities, shall not pe permitted.

(bb) **Selective** cutting of trees in excess of 4 inches in diameter at breast height is permitted provided that cutting is spaced in several cutting operations and a continuous tree cover is maintained, uninterrupted by large openings. In cases where the existing tree cover has been interrupted by large openings in the past, selective cutting should be performed so as to maintain a continuous tree cover in the remaining wooded areas.

(cc) The above cutting provisions will not be deemed to prevent:

(i) The removal of diseased or insect infested trees, or of rotten or damaged trees that present safety hazards;

(ii) Pruning understory vegetation, shrubs, plants, bushes, grasses, or from harvesting crops, or cutting suppressed trees or trees less than four inches in diameter at breast height.

(2) Clear cutting anywhere in Wild, Scenic, or Recreational River Land Use Districts is subject to the following standards and criteria:

(aa) Clear cutting shall not be used as a cutting method where soil, slope, or other watershed conditions are fragile and subject to injury.

(bb) Clear cutting shall be conducted only where clear-cut blocks, patches or strips are, in all cases, shaped and blended with the natural terrain.

(cc) The size of clear cut blocks, patches, or strips shall be kept at the minimum necessary.

(dd) Where feasible all clear cuts shall be conducted between September 15 and May 15. If natural regeneration will not result in adequate vegetative cover, areas in which clear cutting is conducted shall be replanted to prevent erosion and to maintain the aesthetic quality of the area. Where feasible, replanting shall be performed in the same spring, or the following spring.

(h) GRADING AND FILLING PROVISIONS

(1) Grading and filling in of the natural topography which is not accessory to a permitted or conditional use shall not be permitted in the land use district.

(2) Grading and filling in of the natural topography which is accessory to a permitted or conditional use shall be performed in a manner which minimizes earthmoving, erosion, tree clearing, and the destruction of natural amenities and shall be controlled by the local ordinance.

(3) Grading and filling in of the natural topography shall also meet the following standards:

(aa) The smallest amount of bare ground is exposed for as short a time as feasible.

(bb) Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is planted.

(cc) Methods to prevent erosion and trap sediment are employed, and

(dd) Fill is stabilized to accepted engineering standards.

(4) Excavation of material from, or filling in a Wild, Scenic, or Recreational River, or construction of any permanent structures or navigational obstructions therein is prohibited, unless authorized by a permit from the Commissioner pursuant to Minnesota Statutes, Section 105.42.

(5) No state or local authority shall authorize the drainage or filling in of wetlands within Wild, Scenic, or Recreational River Land Use Districts.

(i) UTILITY COMPANIES, STANDARDS AND CRITERIA FOR UTILITY CROSSINGS

(1) Permits

(aa) All utility crossings (transmission and distribution) of Wild, Scenic, or Recreational Rivers, or of state lands within their land use districts which are under the control of the Commissioner, require a permit from the Commissioner pursuant to Minnesota Statutes, Sections 84.415 or 105.42. In reviewing permit applications for such crossings, primary consideration shall be given to crossings that are proposed to be located with or adjacent to existing public facilities, such as roads and utilities.

(bb) Utility **transmission** crossings of lands within the jurisdiction of the local authority within Wild, Scenic, or Recreational River Land Use Districts, require a conditional use permit from the local authority. **Transmission** means electric power, telephone, and telegraph lines, cables, or conduits which are used to transport large blocks of power between two points — with respect to electric power, generally, 69 kilo-volts or more— or main or pipeline crossings for gas, liquids, or solids in suspension which are used to transport large amounts of gas, liquids, or solids in suspension between two points. A conditional use permit is not required for high voltage (200 kilo-volts or greater) transmission lines under the control of the Environmental Quality Council, pursuant to Minnesota Statutes, Section 116C.61.

Distribution means lines, cables, or conduits or mains or pipelines used to distribute power, water, gas, or other essential services to the utility company's customers. These are essential services. A conditional use permit is not required for essential services.

(2) Standards and Criteria for utility **transmission** crossings of lands within the jurisdiction of the local authority within Wild, Scenic, or Recreational River Land Use Districts:

(aa) Policy

It is essential to regulate utility transmission crossings of lands within the jurisdiction of the local authority within Wild, Scenic, or Recreational River Land Use Districts in order to provide maximum protection and preservation of the natural environment and to minimize any adverse effects which may result from such utility crossings. These standards and criteria provide a basic framework of environmental considerations concerning such a proposed crossing. The considerations deal with route design, structure design, construction methods, safety considerations, and right-of-way maintenance.

(bb) Standards and Criteria

For each environmental consideration listed in these standards and criteria, the applicant shall indicate how he is satisfying the consideration, where applicable, or if he is not, why not. In dealing with route design considerations the applicant must, where applicable, also supply data on relevant site conditions. The local authority shall issue a conditional use permit if the applicant shows he has satisfied, to the extent feasible, these environmental considerations.

In general, avoid Wild, Scenic and Recreational River Land Use Districts, especially Wild River Land Use Districts, whenever practicable. But if there is no feasible alternative, the following standards and criteria shall apply.

(i) Route Design

With regard to topography:

(aaa) Avoid steep slopes.

(bbb) Avoid scenic intrusions into stream valleys and open exposures of water.

(ccc) Avoid scenic intrusions by avoiding ridge crests and high points.

(ddd) Avoid creating tunnel vistas by, for example, building deflections into the route or using acceptable screening techniques.

With regard to location:

(eee) Avoid entering areas within 200 feet of Wild, Scenic, and Recreational Rivers and avoid entering areas within 100 feet of designated tributaries with Wild, Scenic, or Recreational River Land Use Districts except where the utility has been authorized by the Commissioner to cross Wild, Scenic, or Recreational Rivers or tributaries within their land use districts.

With regard to vegetation:

(fff) Avoid wetlands.

(ggg) Run along fringe of forests rather than through them.

But if it is necessary to route through forests, then utilize open areas in order to minimize destruction of commercial forest resources.

With regard to soil characteristics:

(hhh) Avoid soils whose high susceptibility to erosion would create sedimentation and pollution problems during and after construction.

(iii) Avoid areas of plastic soils which would be subject to extensive slippage.

(jjj) Avoid areas with high water tables, especially if construction requires excavation.

With regard to crossing of public waters:

(kkk) Utility crossings of public waters requires a permit from the Commissioner pursuant to Minnesota Statutes, Section 84.415 or 105.42.

With regard to open space recreation areas:

(lll) Avoid them whenever practicable.

(ii) Structure Design

With regard to locating the utility overhead or underground:

(aaa) Primary considerations must be given to underground placement in order to minimize visual impact. If the proposal is for overhead placement, the applicant shall explain the economic, technological, or land characteristic factors, which make underground placement infeasible. Economic considerations alone shall not be the major determinant.

(bbb) If overhead placement is necessary, the crossing should be hidden from view as much as practicable.

With regard to the appearance of the structures:

(ccc) They shall be made as compatible as practicable with the natural area with regard to: Height and width, materials used, and color.

With regard to the width of the right-of-way:

(ddd) The cleared portion of the right-of-way should be kept to a minimum.

(iii) Construction methods

(aaa) Construct across wetlands in the winter in order to minimize damage to vegetation, and in order to prevent erosion and sedimentation.

(bbb) Construct at times when local fish and wildlife are not spawning or nesting.

(ccc) Effective erosion and sedimentation control programs shall be conducted during all clearing, construction, or reconstruction operations in order to prevent the degradation of the river and adjacent lands.

(iv) Safety Considerations

Applicants must adhere to applicable Federal and State safety regulations, both with regard to prevention (such as safety valves and circuit breakers) and with regard to emergency procedures in the event of failure (fire suppression, oil spill cleanup).

(v) Right-of-Way Maintenance

(aaa) If possible, natural vegetation of value to fish or wildlife, and which does not pose a hazard to or restrict reasonable use of the utility, shall be allowed to grow in the right-of-way.

(bbb) Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and trees, should be planted and maintained on the rights-of-way.

(ccc) Chemical control of vegetation is discouraged. But where such methods are justified, chemicals used and the manner of their use must be in accordance with rules, regulations and other requirements of all state and federal agencies with authority over the use.

(ddd) The Management Plan may identify areas suitable for utility corridors.

(j) PUBLIC ROADS, RIVER CROSSINGS

(1) Permits

(aa) A permit as established in Minnesota Statutes, Section 105.42, is required for the construction or reconstruction, removal, or abandonment of any road or railroad crossing, of a public water.

In reviewing permit applications required for road or railroad crossings, primary consideration shall be given to crossings located with or adjacent to existing facilities, such as roads and utilities.

(bb) A conditional use permit from the local authority shall be required for any construction of new public roads, or the reconstruction of any existing public roads within Wild, Scenic, or Recreational River Land Use Districts. **Public roads** include township, county, and municipal roads and highways which serve or are designed to serve flows of traffic between communities or other traffic generating areas. **Public roads** also include public streets and roads which serve as feeders or traffic-ways between minor public streets and major roads. A conditional use permit is not required for minor public streets which are streets intended to serve primarily as an access to abutting properties.

(2) Standards and Criteria for construction of new public roads, or the reconstruction of any existing roads within Wild, Scenic, or Recreational River Land Use Districts.

(aa) Policy

It is essential to regulate the construction of new public roads and reconstruction of existing public roads within Wild, Scenic, and Recreational River Land Use Districts in order to provide maximum protection and preservation of the natural environment and to minimize any adverse effects which may result from such development. These standards and criteria provide a basic framework of environmental considerations concerning such proposed road construction. The considerations deal with route design, construction methods, safety considerations, right-of-way maintenance, and waysides.

(bb) Standards and Criteria

For each environmental consideration listed below, the applicant shall indicate how he is satisfying the consideration, where applicable, or if he is

not, why not. In dealing with route design considerations, the applicant must, where applicable, also supply data on relevant site conditions. The local authority shall issue a conditional use permit if the applicant shows he has satisfied, to the extent feasible, these environmental considerations.

In general, avoid Wild, Scenic, and Recreational River Land Use Districts, especially Wild River Land Use Districts, whenever practicable. But if there is no feasible alternative, the following standards and criteria shall apply.

(i) Route Design

With regard to topography:

(aaa) Avoid steep slopes.

(bbb) Avoid scenic intrusion into stream valleys and open exposures of water.

(ccc) Avoid scenic intrusion by avoiding ridge crests and high points.

With regard to location:

(ddd) Avoid new public road construction within 200 feet of Wild, Scenic, and Recreational Rivers and avoid new public road construction within 100 feet of designated tributaries within Wild, Scenic, or Recreational River Land Use Districts, except where a crossing of a Wild, Scenic, or Recreational River has been authorized by the Commissioner.

With regard to vegetation:

(eee) Avoid wetlands.

(fff) Run along fringes of forests rather than through them. But if it is necessary to route through forests, then utilize open areas in order to minimize destruction of commercial forest.

With regard to soil characteristics:

(ggg) Avoid soils whose high susceptibility to erosion would create sedimentation and pollution problems during and after construction.

(hhh) Avoid areas of plastic soils which would be subject to extensive slippage.

(iii) Avoid areas with high water tables, especially if construction requires excavation.

With regard to crossing of public waters:

(jjj) A permit from the Commissioner is required for a road or railroad crossing, or reconstruction, removal, or abandonment of any existing road or railroad crossing, of a public water.

With regard to open space recreation areas:

(kkk) Avoid them whenever practicable.

(ii) Construction methods

(aaa) Construct new roads so they rest as "lightly on the land" as feasible, avoiding cuts and fills so as to blend into the natural terrain so that it appears to be a part of the natural landscape.

(bbb) Reconstruction of an existing public road or railroad should be performed in a manner that would minimize any adverse effect on the natural beauty and environment of the river.

(ccc) Effective erosion and sedimentation control programs shall be conducted during all clearing, construction, or reconstruction operations in order to prevent the degradation of the river and its adjacent lands.

(ddd) Construct across wetlands in a manner which minimizes damage to vegetation, and in a manner preventing erosion and sedimentation.

(eee) Construct at times when local fish and wildlife are not spawning or nesting.

(iii) Safety Considerations

Applicants must adhere to applicable Federal and State Safety regulations with regard to new road construction or reconstruction of an existing road.

(iv) Right-of-Way Maintenance

(aaa) If possible, natural vegetation of value to fish or wildlife, and which does not pose a safety hazard, shall be allowed to grow in the roadside right-of-way.

(bbb) Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs, and trees should be planted and maintained on the roadside right-of-way.

(ccc) Chemical control of vegetation is discouraged. But where such methods are justified, chemicals used and the manner of their use must be in accordance with rules, regulations and other requirements of all state and federal agencies with authority over their use.

(v) Highway Waysides

Highway waysides shall be designed in such a manner so as to harmonize with the surroundings.

NR 80 Public Use of Waters and Lands within Wild, Scenic, and Recreational River Land Use Districts

(a) POLICY

(1) In order to protect the rights of private landowners, to ensure quietude, to prohibit trespassing, to prevent littering, and to maintain the essential quality of Wild, Scenic and Recreational Rivers and their land use districts, the Commissioner and local governments shall adopt measures to manage the use and enjoyment of the rivers and their land use districts by the public.

(2) The public use and enjoyment of Wild, Scenic, and Recreational Rivers and their land use districts is limited to the public waters and designated publicly owned lands and interests in land within the land use districts. Private lands which may be located within the Land Use District do not become public in any sense. As otherwise provided in NR 78, private landowners may grant scenic easements in their land to the State of Minnesota. However, unless specifically provided by the parties, no such easement shall give the holder or any beneficiary the right to enter on the land except for enforcement of the easement.

(3) The restrictions set forth in NR 80 (b) shall not apply to persons who have been authorized by the Commissioner or by the appropriate local government to possess such items for the sole purpose of removing such items from the area.

(b) RESTRICTIONS

(1) Pursuant to Minnesota Statutes, Section 609.68, whoever unlawfully deposits garbage, rubbish, offal, or the body of a dead animal, or other litter in or upon any public highway, public waters or the ice thereon, public lands, or without the consent of the owner, private lands or water or ice thereon, may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than $100.

(2) No person shall discharge a firearm while traveling on or using a Wild, Scenic, or Recreational River, except for the purpose of hunting during those times and in those areas in which hunting for protected animals is allowed.

(3) No person traveling over or using publicly owned lands within Wild, Scenic, or Recreational River Land Use Districts shall use trail bikes, all-terrain vehicles, or vehicles of a similar nature, provided that snowmobiles may be provided for in accordance with the management plan. This provision shall not apply to the lawful use of such vehicles on public roads and public streets.

(4) Overnight camping, fires or campfires shall not be allowed on publicly owned lands within Wild, Scenic, or Recreational River Land Use Districts, except in areas posted or designated by the Commissioner for such purposes.

(5) No person traveling on or using a Wild, Scenic, or Recreational River shall enter upon private lands within the land use district unless he has permission from the landowner, lessee, or occupant.

(6) Anyone violating any of the provisions of NR 80 (b) shall be guilty of a misdemeanor.

(c) WATER SURFACE ZONING

Any regulations which may be necessary to reduce conflicts among users of a particular river, or between users and nearby residents, shall be promulgated as part of the management plan for the river, or as amendments thereto. The boundaries of such areas shall be described with particularity in the management plan.

NR 81 General Administration

(a) IMPLEMENTING THE PROPOSED MANAGEMENT PLAN

(1) Adoption of the management plan, and adoption or amendment of local ordinances to comply with the management plan, shall be carried out pursuant to the procedures described in Laws of Minnesota 1973, Chapter 271, sections 5 and 6.

(2) When the Commissioner deems it necessary to expedite the preservation and protection of the designated river, he may request the local authority to initially implement the land use controls described in the adopted management plan by passing an interim zoning resolution, providing such a resolution would be otherwise lawful.

(b) CERTIFYING CERTAIN ACTIONS

(1) In order to ensure that the standards herein are not nullified by unjustified exceptions in particular cases, and to promote uniformity in the treatment of applications for such exceptions, a review and certification procedure is hereby established for certain local land use decisions. These certain decisions consist of any decisions which (1) directly affect the use of land within a Wild, Scenic, or Recreational River Land Use District, and (2) are one of the following types of action:

(aa) Adopting or amending an ordinance regulating the use of land, including rezoning of particular tracts of land.

(bb) Granting a variance from a provision of the local land use ordinance which relates to the ZONING DIMENSION PROVISIONS of NR 79 (c) and any other zoning dimension provisions established in the management plan.

(cc) Approving a plat which is inconsistent with the local land use ordinance.

(2) No such action shall be effective unless and until the Commissioner has certified that the action (1) complies with the Minnesota Wild and Scenic Rivers Act, the statewide standards and criteria, and the management plan; and (2) conforms to the following decision guides:

(aa) A land use ordinance or amendment must comply with the Act, the statewide standards and criteria, and the management plan.

(bb) The grant of a variance requires the presence of these conditions:

(i) The strict enforcement of the land use controls will result in unnecessary hardship. "Hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use under the conditions allowed by the zoning provisions. Economic considerations alone shall not constitute a hardship if any reasonable use for the property exists under the terms of the ordinance.

(ii) Granting of the variance is not contrary to the purpose and intent of the zoning provisions herein established by these standards and criteria, and is consistent with the comprehensive management plan adopted by the Commissioner.

(iii) There are exceptional circumstances unique to the subject property which were not created by the landowner.

(iv) Granting of the variance will not allow any use which is neither a Permitted or Conditional use in the land use district in which the subject property is located.

(v) Granting of the variance will not alter the essential character of the locality as established by the management plan.

(vi) Exception:

Where a setback pattern from the normal high water mark has already been established on both sides of the proposed building site, the setback of

the proposed structure may be allowed to conform to that pattern. (This provision shall apply only to lots which do not meet the minimum lot width restrictions of the ordinance).

(cc) Approval of a plat which is inconsistent with the local land use ordinance is permissible only if the detrimental impact of the inconsistency is more than overcome by other protective characteristics of the proposal.

(3) Procedures for the certification process

(aa) A copy of all notices of any public hearings, or where a public hearing is not required, a copy of the application to consider zoning amendments, variances, or inconsistent plats under the local ordinance shall be received by the Commissioner at least thirty (30) days prior to such hearings or meetings to consider such actions. The notice or application shall include a copy of the proposed ordinance or amendment, or a copy of the proposed inconsistent plat, or a description of the requested variance.

(bb) The local authority shall notify the Commissioner of its final decision on the proposed action, within 10 days of the decision.

(cc) The Commissioner shall, no later than 30 days from the time he receives notice of the final decision, communicate to the local authority either:

(i) Certification of approval, with or without conditions; or

(ii) Notice of non-approval.

(dd) The action becomes effective when and only when either:

(i) The final decision taken by the local authority has previously received certification of approval from the Commissioner; or

(ii) The local authority receives certification of approval after its final decision; or

(iii) Thirty days have elapsed from the day the Commissioner received notice of the final decision, and the local authority has received from the Commissioner neither certification of approval nor notice of non-approval; or

(iv) The Commissioner certifies his approval after conducting a public hearing.

(ee) In the case of notice of non-approval of an ordinance or a variance or an inconsistent plat, either the applicant, or the chief executive officer of the county or municipality, may, within 30 days of said notice, file with the Commissioner a demand for hearing. If the demand for hearing is not made within the 30 days, the notice of non-approval becomes final. Also:

(i) The hearing shall be held in an appropriate local community within 60 days of the demand for it but not before 2 weeks published notice. Notice and the conduct of the hearing and the allocation of costs of the hearing shall be accomplished in the same manner as provided in Minnesota Stats. 105.44, subdivisions 5 and 6 (1971) as amended.

(ii) Within 30 days after the hearing, the Commissioner shall either certify his approval of the proposed action, or deny it. His decision shall be based upon findings of fact made on substantial evidence found in the hearing record. If the Commissioner concludes that the proposed action satisfies the standards and criteria of NR 81 (b) (2), then he shall certify his approval; otherwise, he shall deny it.

(c) REVIEWING APPLICATIONS FOR CONDITIONAL USE PERMITS

A copy of all notices of any public hearings, or where a public hearing is not required, a copy of the application to consider issuance of a conditional use permit shall be received by the Commissioner at least thirty (30) days prior to such hearings or meetings to consider issuance of a conditional use permit. A copy of the decision shall be forwarded to the Commissioner within ten (10) days of such action.

(d) COPIES OF ALL PLATS SUPPLIED TO THE COMMISSIONER

Copies of all plats within the boundaries of wild, scenic, or recreational river land use districts shall be forwarded to the Commissioner within ten (10) days of approval by the local authority.

Sample scenic easement contract

The grantee, its successors, assigns, and agents thereof, shall have the right to enter upon the "Scenic Area" for the purposes of inspection and enforcement of the terms and covenants contained herein, together with such right to remove from the "Scenic Area" any unauthorized structure, material, object or thing.

NO RIGHTS HEREIN ARE GRANTED TO THE GENERAL PUBLIC FOR ACCESS TO OR ENTRY UPON THE "SCENIC AREA" FOR ANY PURPOSE.

The grantor_, for _____heirs, executors and administrators, do__ covenant that there shall be:

1. No topographic changes or alteration of the natural landscape within or upon said "Scenic Area" by excavation, drainage, filling, dumping or any other means without a written authorization from the commissioner of natural resources.

2. No building, permanent or mobile, constructed or placed in the "Scenic Area". Buildings in place on the date hereof may be maintained or repaired, but may not be replaced or relocated within the "Scenic Area" or changed in size externally in any manner without a written authorization from the commissioner of natural resources.

3. No other structures or devices, whether permanent or temporary, hereafter constructed or placed in the "Scenic Area" without a written authorization from the commissioner of natural resources. Except that authorization from the commissioner is not required for low fences of the kind normally used to control livestock; for "no trespassing" or "for sale" signs less than 4 square feet in area; and, if the property does not have a dwelling on it, for camping and recreational equipment sufficient for one family which is removed from the area when not in use; or, if the property has a dwelling on it, for the usual items associated with single family residential use.

4. No destruction, cutting, trimming or removing of trees, shrubs, bushes or plants without a written authorization from the commissioner of natural resources. This covenant shall not apply to the cutting of lawns or weeds, or to the harvesting of agricultural crops, or to the removing of trees or shrubs that are dead or are dying from insect infestation or disease.

5. No dumping of ashes, trash, junk, rubbish, sawdust, garbage or offal upon the "Scenic Area".

6. No conveyance of any other easement for any purpose, including but not limited to road or utility, upon or within the "Scenic Area" without a written authorization from the commissioner of natural resources.

7. No use made of the "Scenic Area" in violation of the restrictive covenants herein.

This easement and the covenants contained herein shall run with the land, and shall be binding on all persons and entities who shall come into ownership or possession of the property that comprises the "Scenic Area" or any part thereof as described herein.

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A Management Proposal for the Cannon River

April 1979
Preliminary Draft

Wild and Scenic Rivers Program – Minnesota Department of Natural Resources

This management proposal for the Cannon River was prepared by the Rivers Section and the Bureau of Engineering.

Rivers Section

Paul Swenson, supervisor
Jane Harper, rivers project leader
Steve Kirch, rivers project coordinator
Linda Watson, editor
Kathy Brandl, assistant editor
Sherry Lee Nunnelee, word processor technician

Bureau of Engineering

Roger Liska, graphics supervisor
Tim Latourelle, draftsman

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Cannon River citizens advisory council

The following people were nominated by area legislators and local public officials to serve on the Cannon River Citizens Advisory Committee for this wild and scenic river study. Although the committee members worked with the Department of Natural Resources to review this management proposal for the Cannon River, they do not necessarily advocate designation of the Cannon as a wild and scenic river.

West Cannon River Advisory Council

Warren Babcock
Nerstrand

John Bongers
Faribault

Dale Borgstahl
Faribault

William Broderson
Northfield

Jon Finger
Dundas

Bernard Hollinger
Dundas

Julie Klassen
Northfield

Robert Little
Dundas

Jerry Mohrig
Northfield

Constance Sansome
Northfield

Joel Schilling
Northfield

Roger Sorem
Dundas

Charles Turnbull
Faribault

William Weaver
Dundas

Clark Webster
Northfield

East Cannon River Advisory Council

David Ahlers
Cannon Falls

Gilbert Axelson
Welch

Michael Barrett
Randolph

Walter Betcher
Welch

Kenneth Brage
Cannon Falls

James Bryan
Red Wing

William Christianson
Red Wing

John Dudley
Northfield

Clemens Nelson
Welch

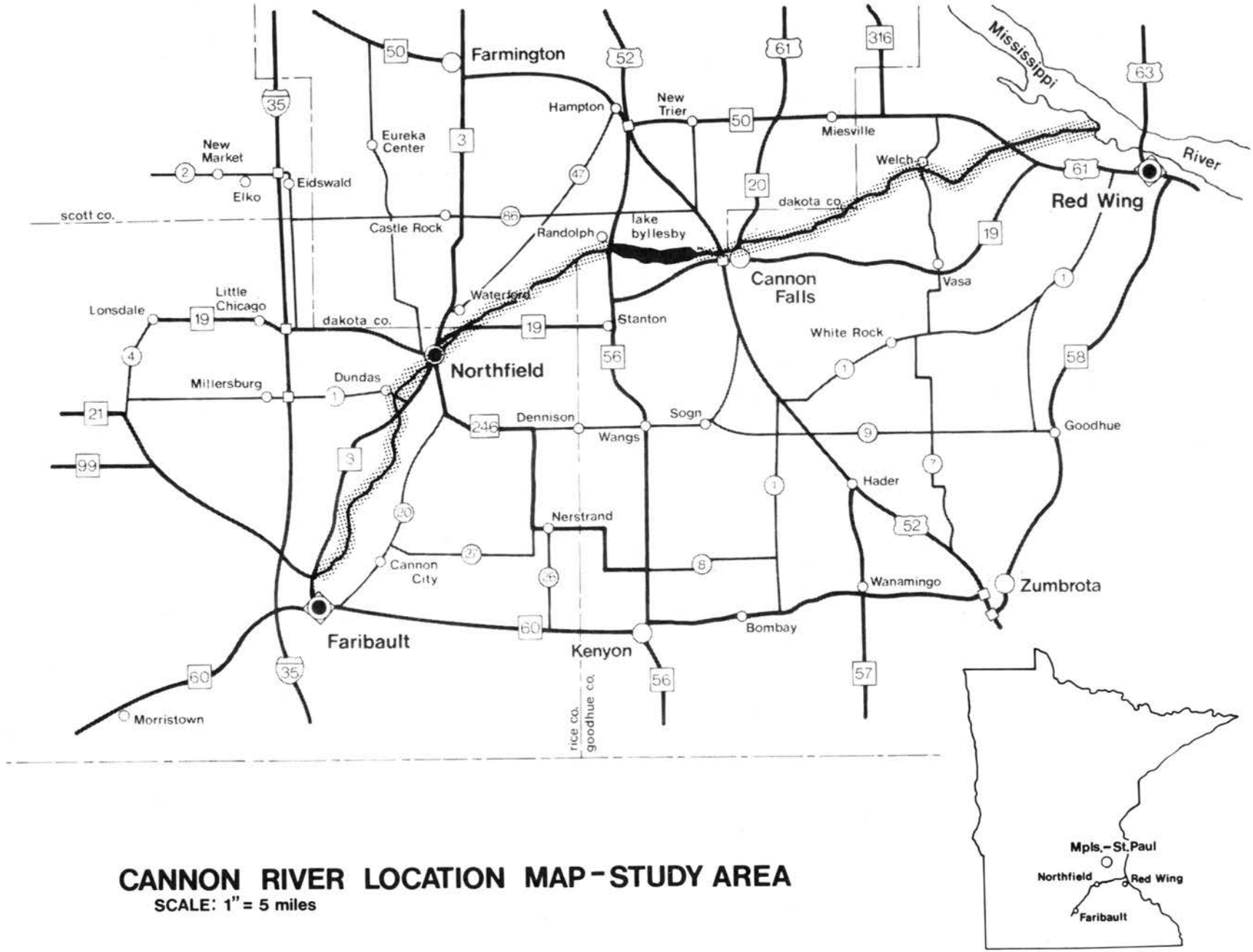
Bob Richardson
Pine Island

Robert Roush
Cannon Falls

Clarence Theel
Cannon Falls

Dan Bowe
Welch

Harvey Nelson
Cannon Falls



CANNON RIVER LOCATION MAP - STUDY AREA

SCALE: 1" = 5 miles

Introduction

The wild and scenic rivers act, passed by the legislature in 1973, directs the Department of Natural Resources (DNR) to "preserve and protect" Minnesota rivers that exhibit "outstanding scenic, recreational, natural, historical, scientific and similar values."

The act is not meant to restore river areas to wilderness, but is meant to protect Minnesota's exceptional rivers from the degradation that is caused by uncontrolled development and recreational overuse.

The DNR, Rivers Section, recommends that the Cannon River from Faribault to the Mississippi River (excluding Lake Byllesby) be managed as part of the wild and scenic rivers system. This management plan proposes specific management techniques to protect and manage the Cannon River and its adjacent lands.

The Rivers Section studied the Cannon by conducting river surveys and through books, reports and conversations with area residents to determine whether the river qualifies as a wild and scenic river. The results of this study are in the accompanying document, the Cannon River: Resource Analysis.

Rivers Section staff then met with two advisory councils composed of area residents who were nominated by legislators and local public officials. The advisory councils met to evaluate proposed management techniques and to recommend others. These techniques were incorporated into a management plan for the river that will control development and use of the river to minimize their adverse effects. This plan is necessary before a river can be included in the Minnesota wild and scenic rivers system.

The Rivers Section will present this management plan to landowners and other concerned citizens through a series of public meetings in communities near the river. During the meetings, citizens will examine the plan, ask questions and make recommendations. The Rivers Section will amend the plan if suggestions made at these meetings indicate that changes are necessary.

Area residents and others will have another chance to debate the merits of the management plan at public hearings held in the county seat of each county along the river. The hearings will be conducted by a representative of the State Office of Hearing Examiners. The hearing examiner will write findings of fact and will make a recommendation to the commissioner of natural resources, who then will decide whether to designate the Cannon as part of the wild and scenic rivers system.

If the Cannon River is designated, the rules and regulations section of this plan (NR 2900) will be filed as a public legal document and will have the force of law.

The Statewide Standards and criteria for the Minnesota Wild and Scenic Rivers System (Minnesota Regulations NR 78-81) and the wild and scenic rivers act (Minnesota Statutes, Sections 104.31-104.40) are printed in full in the appendix of the Cannon River: Resource Analysis, a copy of which accompanies this management proposal. Additional copies of both documents are available from the Rivers Section, Department of Natural Resources, Box 10 Centennial Office Building, St. Paul, MN 55155 (612-296-6784).

The need for protection

With the passage of the wild and scenic rivers act (Minnesota Statutes, Sections 104.31-104.40), the state legislature recognized the need to safeguard Minnesota's exceptional rivers--rivers that exhibit "outstanding scenic, recreational, natural, historical, scientific and similar values."

The legislature declared that, "because it is in the interest of present and future generations to retain these values, it is. . .a policy of Minnesota and an authorized public purpose to preserve and protect these rivers" (Minn. Stat. 104.32).

At the same time, the legislature granted to the commissioner of natural resources the authority to designate rivers for inclusion in the system (Minn. Stat. 104.34, subd. 1), and to promulgate statewide minimum standards and criteria for the "preservation and protection of shorelands within the boundaries of wild, scenic and recreational rivers" (Minn. Stat. 104.34, subd. 2).

The wild and scenic rivers act and the Statewide Standards and Criteria for the Minnesota Wild and Scenic Rivers System (Minnesota Regulations NR 78-81) are printed in full in Cannon River: Resource Analysis, a copy of which accompanies this management proposal.

The DNR believes that the outstanding values of the Cannon River qualify it for designation under the eligibility and classification criteria of the wild and scenic rivers act and NR 78-81. Designation of the river from Faribault to the Mississippi is necessary to protect it from the degradation caused by overdevelopment and damaging uses along its banks and from recreational overuse and abuse.

The Cannon's outstanding values are discussed at length in Cannon River: Resource Analysis. Proposed classifications for specific stretches of the river are set forth under "Management Recommendations," which begins on page 10 of this proposal.

Local zoning controls and other methods of protecting the Cannon River that are now possible (short of state wild and scenic river designation) are inadequate to preserve its outstanding values. The fact that the legislature established a state system is a recognition that the initiation and coordination of a plan to protect waters that cross many local government boundaries are impossible at the local level. Intense political pressure can be wielded by narrow economic interests, interests that are too often ranged on the side of depletion of our natural resources for economic gain, and too seldom on the side of preservation of an outstanding public resource.

Pressure for development, uses that are incompatible with the natural river environment and increases in recreational use require controls that only the state wild and scenic rivers system can provide.

In addition, wild and scenic river regulations are binding on other state agencies, providing additional protection beyond the authority of any county or municipal plan.

Present statewide minimum zoning standards

The existing minimum zoning standards along the Cannon River are Minnesota Regulations CONS 70-77, better known as "county shoreland zoning." The Cannon River is a General Development stream under the shorelands program, the least protected class.

"The shorelands program is an excellent method for preventing overcrowded, substandard, haphazard lakeshore development," according to David P. Bryden, a University of Minnesota law professor. "But the program was not intended to be, is not, and cannot be, an adequate basis for preserving a select group of choice segments of the state's waterways" (from Bryden's 1972 report, The Inadequacy of "Shoreland Zoning" to Protect Minnesota's Scenic Waterways).

Under CONS 70-77, the regulated land corridor around lakes is 1,000 feet, while along rivers it is only 300 feet, thus affording much more protection to lakes than to rivers.

"Since prevention of septic tank pollution was one of the prime purposes of the shorelands statutes," Bryden states, "the regulated land corridor around lakes and ponds was made much wider than the corridor around rivers and streams [since lakes and ponds are more susceptible to eutrophication]. Although this distinction is plausible in terms of the single goal of pollution prevention, it does not make sense in terms of such goals as preservation of natural scenic qualities, which are at least as important along rivers and streams as they are around lakes and ponds."

In addition, shoreland zoning allows, if a county so desires, industrial and commercial uses which may be harmful to a river, and tree-cutting on a river's banks with minimal restrictions. Furthermore, shoreland zoning does not address on-land grading and filling, utility crossings, or roads and bridges.

Finally, "the 'shoreland zoning' program is inherently incapable of preserving choice stretches of Minnesota's waterways," Bryden states, because simple zoning will not prevent development where any development whatsoever would destroy the outstanding characteristics of a river. "Other tools are necessary. Zoning has a role to play, but only as part of an interesting set of regulatory techniques, including land acquisition powers, set forth in a statute which focuses specifically upon preserving segments of our finest waterways."

County and township zoning

Present county and township zoning standards, while they may exceed statewide minimum standards, do not ensure permanent protection for the Cannon River. Local zoning is vulnerable to changes and abuses that could be detrimental to the Cannon's natural character.

Local units of government are now free to rezone to less restrictive standards—at will, or under pressure from local economic and political interests. As areas now zoned for development are filled, development pressure increases on adjacent areas; these areas will probably be rezoned to reflect this pressure. In this way the protection of the river is gradually eroded and the river is stripped of its natural qualities.

Wild and scenic river zoning would establish minimum standards which could not be weakened, thus providing a consistent, minimum level of protection for the river as a whole. The standards would not, however, preclude local units of government from applying more restrictive zoning provisions.

Historically, development in Minnesota has tended to center around and along bodies of water. This tendency shows no sign of change. The city of Northfield, for example, recently incorporated a stretch of land along the Cannon south of the city for an industrial park. The city of Cannon Falls is currently conducting an annexation study regarding the possibilities of incorporating land along the river to the east.

As these communities expand—and, with much of the Twin Cities within easy commuting distance of the river, there can be no doubt that they will—the potential exists for the Cannon to become one long, narrow urban community. Protection under the wild and scenic rivers system would prevent a drastic change to the river's character that would be caused by such overdevelopment.

Unwarranted variances may also undermine the protection of county and township zoning ordinances. Politics and self-interest can negate an otherwise excellent zoning ordinance. If the Cannon River were included in the state wild and scenic rivers system the state would review and certify variance decisions, adding a check and balance to a procedure that is subject to abuse.

Land acquisition

Zoning alone, even wild and scenic river zoning, cannot preserve forever the outstanding natural and scenic values of the Cannon River. Eventually, land that could be developed would be developed. For this reason, the wild and scenic rivers act provides for the acquisition of scenic easements from willing sellers. A scenic easement is simply an agreement whereby a landowner is paid for his promise not to build, to cut timber, to dump trash, or to grade, fill or drain selected portions of his riverside property. The easement remains in effect permanently, running with the title to the land. A scenic easement precludes development and therefore provides permanent protection that zoning can't.

Recreation

More and more people are using rivers for activities such as fishing, hiking, boating, cross-country skiing, canoeing and camping. For example, state watercraft registration figures from the DNR License Center show the rapid increase in canoe and kayak registration since 1972.

Watercraft Registration

Year	Total watercraft	Total Canoes & Kayaks
1972	400,900	41,675
1973	417,101	56,183
1974	444,763	72,285
1975	453,333	77,958
1976	503,344	90,368
1977	526,323	94,717
1978	541,202	101,322

The recreation provisions of the state wild and scenic river proposal for the Cannon won't reverse the trend toward greater river use, but they will help prevent some of the problems that may accompany this use. Workable alternatives to and control of abuse by increasing numbers of recreational users of the Cannon River are at the heart of the proposed management plan. The proposal provides specific regulations aimed at the river user's behavior on the river and its adjacent lands. These include misdemeanor fines for littering and trespassing and the initiation of a "carry-in, carry-out" refuse policy that has worked in keeping other recreational areas clean.

The development of sufficient campsites and accesses can alleviate trespassing and crowding by giving canoeists and other recreationists public areas for camping.

If littering, trespassing or vandalism become problems at sites and on nearby private land, the DNR and local law authorities can police or close sites to eliminate these problems.

If conflicts arise among river users, the DNR can, through a public hearing process, adopt regulations directing or restricting use of the stream if the people using the river and the landowners feel such regulations are necessary.

Thus, it should be clear that among the principal beneficiaries are landowners and residents along the Cannon.

Management recommendations

Regulations that would protect the outstanding values of the Cannon River are contained in the rules and regulations section of this proposal and are explained below. If the Cannon is included in the Minnesota wild and scenic rivers system, the Cannon River rules and regulations (NR 2900) will be filed as a public legal document, and will be available for purchase from the state Documents Section, 140 Centennial Office Building, St. Paul, MN 55155. In addition, affected local units of government will be required to adopt and enforce wild and scenic river provisions as part of their zoning ordinances.

The three management methods proposed for the Cannon River—land use management, land acquisition from willing sellers, and recreation management—are provided for by the Minnesota wild and scenic rivers act (Minnesota Statutes, Sections 104.31-104.40). These techniques are designed to protect the river in its present condition. The management methods are specified in the Statewide Standards and Criteria for the Minnesota Wild and Scenic Rivers System (Minnesota Regulations NR 78-81). Wild and scenic river management regulations may differ from the statewide standards for a specific river to the extent necessary to take into account particular attributes of the area (Minnesota Statutes, Section 104.35). Such changes are included in the proposed Cannon River regulations.

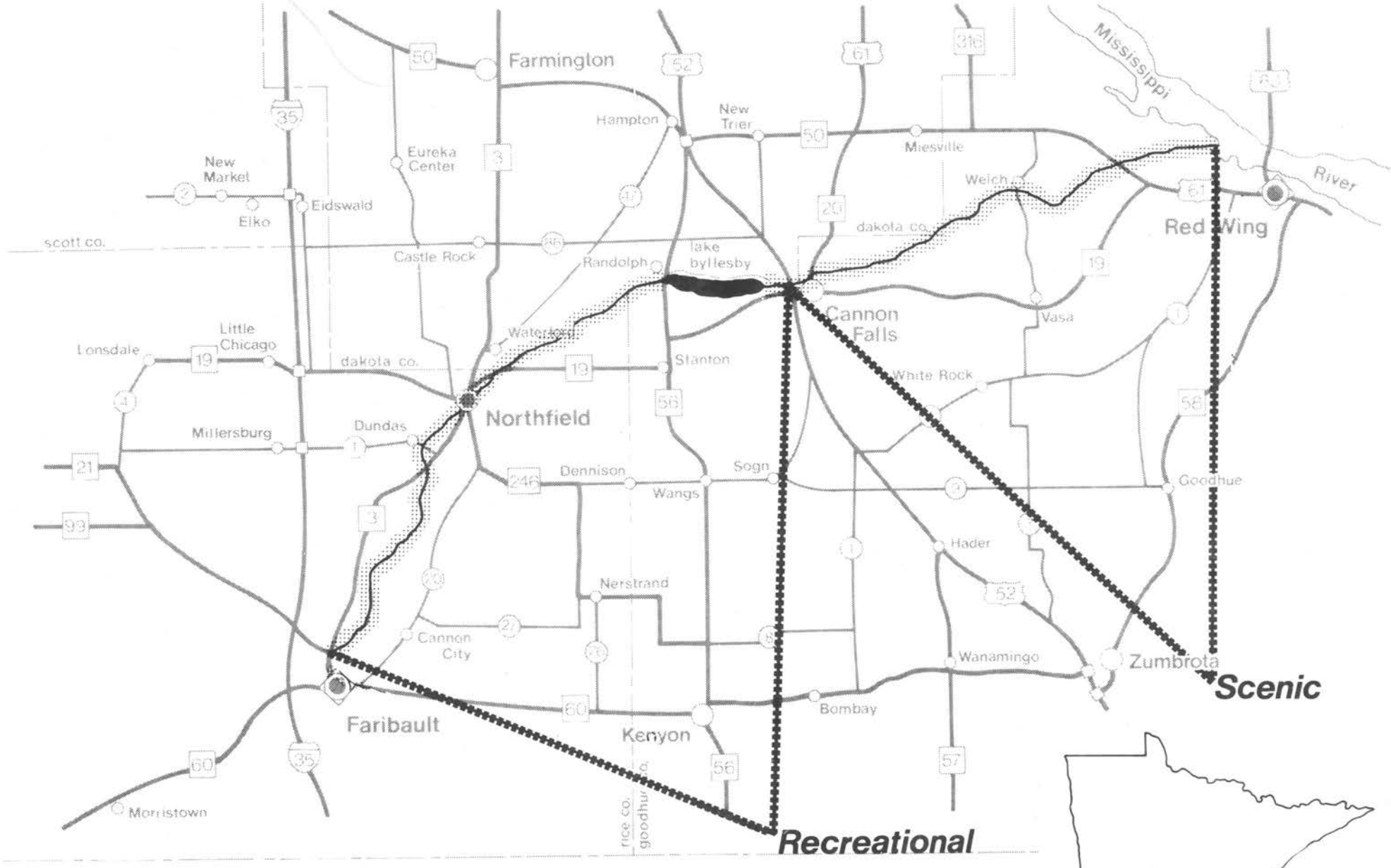
If the Cannon River is designated a part of the wild and scenic rivers system, the three management methods will apply only to lands in a management area called the "land use district." (The land use district is shown on the land management maps and its legal description is contained in the rules and regulations.) The district varies in width, but in accordance with the wild and scenic rivers act, does not comprise more than 320 acres per river mile.

The land use district boundaries generally follow lines defined by the U.S. Government Survey of 1870. The district includes areas that are environmentally sensitive, as determined by field surveys, maps and aerial photographs.

Land Use District Acreage

Total acreage: 13,602.44
River miles: 51.6
Average acreage per river mile: 263.61

River mile	Acreage
58-57	87
57-56	309
56-55	303
55-54	243
54-53	268
53-52	235
52-51	243.93
51-50	247.87
50-49	319
49-48	320
48-47	313
47-46	248
46-45	116
45-44	123
44-43	184
43-42	94
42-41	76
41-40	140
40-39	197
39-38	205
38-37	315
37-36	258
36-35	271
35-34	236
34-33	247
33-32	266.67
32-31	80
27-26	283
26-25	177.54
25-24	81
24-23	267
23-22	291
22-21	260
21-20	293
20-19	319
19-18	302.46
18-17	266.12
17-16	272.95
16-15	296.41
15-14	304
14-13	265
13-12	301
12-11	317
11-10	320
10-9	296
9-8	310.02
8-7	295.73
7-6	315
6-5	258
5-4	319
4-3	309
3-2	316
2-1	312
1-0	309.74



CANNON RIVER CLASSIFICATIONS

SCALE: 1" = 5 miles

Classifications

The specific land use provisions used to manage a wild and scenic river depend on how the river is classified. The wild and scenic rivers act establishes three possible river classifications: wild, scenic and recreational.

A river or river segment may be classified wild if it "exists in a free-flowing state, with excellent water quality, and with adjacent lands that are essentially primitive." Scenic rivers "exist in a free-flowing state. . .with adjacent lands that are largely undeveloped." Recreational rivers "may have undergone some impoundment or diversion in the past and may have adjacent lands that are considerably developed," but that are still capable of being managed so as to further the purposes of the wild and scenic rivers act. (See Minnesota Regulations NR 78 (f), "Rivers Eligible for Inclusion.")

The proposed classifications for the Cannon River are scenic and recreational. Classifications of specific river segments are shown on the classification map and described below as well as in the proposed rules and regulations.

RECREATIONAL CLASSIFICATION: From the northern city limits of Faribault (the common border of the north and south halves of Sections 19 and 20, T110N-R20W) to the State Highway 56 bridge, and from the Byllesby Dam (the common border of Sections 13 and 14, T112N-R18W) to the common border of Sections 7 and 8, T112N-R17W, in Cannon Falls. (The Byllesby Reservoir is excluded from this segment.)

River miles: 57.2 to 31.6 and 27.0 to 24.0

Distance: 28.6 miles

Physical description: Below Faribault the river twists and turns past wooded banks. Bank swallows dart into cliffs of sandstone and limestone; oxbow ponds and sloughs harbor wood ducks, teal and mallards. Between Faribault and Northfield is Rice County's Cannon River Wilderness Area, a maple and basswood forest with a profuse ground cover of wild berry bushes, trillium, wild ginger and yellow lady's slipper. Deer, pheasants, muskrats, beavers, raccoons and herons abound. Between Northfield and Cannon Falls the Cannon flows gently through a heavily wooded valley with low banks.

Existing development: Despite its great beauty, the recreational rather than scenic classification is recommended for this stretch of the Cannon because of the great amount of agricultural land and the many structures present here. Three railroad bridges, 15 road bridges and 10 power lines cross the river in this segment. There are more than 30 homes visible from the river. State Highway 3 and gravel roads parallel the river for six miles and at times are visible from the river. Two dams—the Northfield Dam at river mile 41.6 and the Byllesby Dam at river mile 27.0—impound the river.

Recreational development: Three accesses and two campsites are available for public use. Other public recreational facilities, including toilets, picnic shelters, fire rings and hiking trails, can be found along this stretch of the Cannon.

SCENIC CLASSIFICATION: From the common border of Sections 7 and 8, T112N-R17W, in Cannon Falls, to the river's confluence with the Mississippi River.

River miles: 24.0 to 0.0

Distance: 24.0 miles

Physical description: Much of the heavily wooded valley is considered floodplain, but rock ledges and scenic bluffs are common as the river runs past Cannon Falls to its confluence with the Mississippi. These limestone and sandstone bluffs may rise more than 250 feet above the river.

Existing development: This stretch of river is crossed by 12 power lines, one railroad bridge and three road bridges. A gravel road parallels 2.8 miles of river. Less than 10 homes and barns are visible from the river. Although this development precludes the wild classification, the high bluffs and many heavily wooded areas present the "largely undeveloped. . .overall natural character" required for the scenic classification. The Welch Dam (river mile 13.0), which creates a small reservoir, does not significantly detract from the scenic, recreational and natural values of the river.

Recreational development: The DNR has leased a parcel of land at the Highway 61 bridge crossing for development as an access by spring 1979.

Land use management

There are 15 zoning authorities—counties, cities and townships—in the Cannon River study area. Figure 1 shows the zoning standards now in effect along the river. The degree of protection provided to the river by these standards varies considerably from one location to another, illustrating the need for consistent minimum zoning standards.

Wild and scenic river status would ensure that the Cannon River have consistent, protective minimum zoning standards. Consistent standards are important: poor management of riverside land by even one local government can have a detrimental effect on the aesthetic values—and the property values—of land across the river and downstream. Figure 2 shows the proposed standards for the Cannon River.

Rezoning of riverside land in response to development pressure can also harm the Cannon River. Rezoning to standards less restrictive than wild and scenic minimums would not be allowed under wild and scenic river regulations, ensuring that protection for the river would be lasting.

However, if the river were designated, local units of government could adopt or retain zoning provisions more restrictive than those contained in wild and scenic river standards.

Wild and scenic river zoning is not meant to prevent development, but to prevent the damage to the river environment that is caused by overdevelopment. Wild and scenic river land use provisions establish specific dimensional requirements for newly platted lots and new buildings along the river and control uses that may degrade the river.

The provisions would not apply to existing lots and buildings and most present land uses. Uses harmful to the river would not be allowed to expand.

Lot sizes and widths determine the potential population density along the river. Under present zoning, as many as 104 lots per river mile (including both banks and assuming all land were suitable for building) could be established in the first tier of development along the Cannon. Under proposed wild and scenic river regulations, a maximum of 42 lots per river mile along scenic stretches and a maximum of 52 lots per river mile along recreational stretches could be established.

The larger wild and scenic river lot sizes prevent overcrowding of homes along the river and indirectly reduce the number of roads, the clearing of brush and timber, and the installation of sewers and septic tanks that occur with lot development. The dimensional requirements also include setbacks for new buildings and septic systems. Setbacks help prevent erosion and pollution, and keep homes and other buildings from dominating the riverscape.

Figure 1

COUNTY AND TOWNSHIP ZONING STANDARDS

GOVERNMENT UNIT	ZONING DISTRICT	LOT SIZE (sewered)	LOT SIZE (unsewered)	LOT WIDTH Waterline (sewered)	LOT WIDTH Waterline (unsewered)	LOT WIDTH Building Line (sewered)	LOT WIDTH Building Line (unsewered)	BUILDING SETBACK FROM RIVER	SEPTIC SETBACK FROM RIVER	MAXIMUM BUILDING HEIGHT
Rice County	Agric. — 1 family / 2 family	NA	1 acre[6] / 2 acres	NA	NA	NA	175 ft.	NA	NA	25 ft.[1]
	Agric. Urban Expansion (A-1) — 1 family / mult. family	NA	35 acres / 20,000 sq. ft.	NA	NA	NA	175 ft.	NA	NA	25 ft.[1]
	Rural Residential (RA) — 1 family / 2 family	12,000 sq. ft. / 18,000 sq. ft.	NA	NA	NA	80 feet / 120 feet	NA	NA	NA	25 ft.
	General Development-Shorelands (GDS)[5]	NA	20,000 sq. ft.	NA	100 ft.	NA	100 ft.	75 ft.	75 ft.	25 ft.
Goodhue County — COUNTY	Agric. — farm dwelling	NA	None	NA	NA	NA	NA	NA	NA	35 ft.
	Agric. — non-farm dwelling	NA	1 acre	NA	NA	NA	100 ft.	NA	NA	35 ft.
	General Development-Shorelands (GDS)[5]	NA	24,000 sq. ft.	NA	100 ft.	NA	100 ft.	75 ft.	50 ft.	35 ft.
STANTON TOWNSHIP	Agricultural	NA	5 acre	NA	NA	NA	300 ft.	NA	NA	NA
	One Family Residential (R-1)	NA	1 acre	NA	NA	NA	170 ft.	NA	NA	25 ft.
	One Family Residential (R-2)	½ acre	NA	NA	NA	85 ft.	NA	NA	NA	25 ft.
	Multiple Residential (R-3)	22,000 sq. ft.[2]	NA	NA	NA	100 ft.	NA	NA	NA	35 ft.
	Recreational Development-Shorelands (RDS)[5]	NA	40,000 sq. ft.	NA	150 ft.	NA	150 ft.	100 ft.	75 ft.	NA
CANNON FALLS TOWNSHIP	Agric. — farmstead / 1 family / camps, cottages	NA	40 acres / 1 acre / 5 acres	NA	NA	NA	NA / 200 ft. / 300 ft.	200 ft.	NA	35 ft.
	Residential	12,000 sq. ft.	1 acre	NA	NA	80 ft.	200 ft.	75 ft.	NA	30 ft.
Dakota County — COUNTY	Nat. Env. Shorelands (NE)[4] — riparian	20,000 sq. ft.	2 acres	90 ft.	200 ft.	90 ft.	200 ft.	200 ft. unsewered / 75 ft. sewered	150 ft.	NA
	Nat. Env. Shorelands (NE)[4] — non-riparian	15,000 sq. ft.								
DOUGLAS TOWNSHIP	Agric. — farm dwelling	NA	None[6]	NA	NA	NA	100 ft.	NA	100 ft.	None[3]
	Agric. — non-farm		1 acre							
RANDOLPH TOWNSHIP	Agricultural	NA	5 acres	NA	NA	NA	350 ft.	NA	NA	30 ft.

Minimum county zoning standards apply to all land along the river, except that land within municipalities.

Township zoning standards that are more restrictive than county zoning standards apply in those townships indicated on the chart. County zoning standards apply in all townships not listed.

NA Not applicable.

1. For non-agricultural structures.
2. Additional square footage required for additional units.
3. Maximum height of 35 feet for conditional uses.

(Figure 1 continued)

MUNICIPALITY ZONING STANDARDS

GOVERNMENT UNIT	ZONING DISTRICT	LOT SIZE (sewered)	LOT SIZE (unsewered)	LOT WIDTH Waterline (sewered)	LOT WIDTH Waterline (unsewered)	LOT WIDTH Building Line (sewered)	LOT WIDTH Building Line (unsewered)	BUILDING SETBACK FROM RIVER	SEPTIC SETBACK FROM RIVER	MAXIMUM BUILDING HEIGHT
Cannon Falls	Agricultural	NA	1 acre	NA	NA	NA	150 ft.	NA	NA	25 ft.[1]
	Industrial	None	NA	NA	NA	None	NA	NA	NA	40 ft.
	Residential (RA)	9,000 sq.ft.	NA	NA	NA	70 ft.	NA	NA	NA	25 ft.[1]
	Residential (RB) 1,2 family / mult.family	7,500 sq.ft.	NA	NA	NA	50 ft. / 75 ft.	NA	NA	NA	35 ft.
Dundas	Residential	NA	6,000 sq.ft.	NA	NA	NA	NA	NA	NA	NA
	Commercial	NO RESTRICTIONS								
	Industrial	NO RESTRICTIONS								
Northfield	Agricultural-Open Space-Institutional (A-1)	NA	5 acres	NA	NA	NA	90 ft.	NA	NA	NA
	One & Two Family Residential (R-2) 1 family / 2 family / mult.family / pub.bldg.		8,500 sq.ft. / 5,000 sq.ft. / 3,680 sq.ft. / 10,000 sq.ft.	NA	NA	NA	60 ft. / 65 ft. / 90 ft. / 75 ft.	NA	NA	NA
	Downtown Core Commercial (C-1)	2,000 sq.ft.	NA	NA	NA	20 ft.	NA	NA	NA	NA
	Downtown Fringe--Commercial (C-2) commercial / mult. family	8,500 sq.ft. / 1,800 sq.ft.	NA	NA	NA	60 ft.	NA	NA	NA	NA
	Highway-Auto Commercial (C-4)	8,500 sq.ft.	NA	NA	NA	66 ft.	NA	NA	NA	NA
	General Industrial (I-2)	10,000 sq.ft.	NA	NA	NA	100 ft.	NA	NA	NA	NA
	Walk-up Apartments (R-4)	1,800 sq.ft. per dwelling unit	NA	NA	NA	NA	NA	NA	NA	2½ stories
	Mobile Homes (R-6)	MOBILE HOME ORDINANCE								
Red Wing	Agricultural	NA	5 acres	NA	NA	NA	300 ft.	NA	NA	30 ft.

4. Dakota County has only shoreland zoning standards, which apply within 1,000 feet from the river.

5. Zoning applies within 300 feet from the river.

6. Situated on a 40-acre parcel of land

Figure 2

PROPOSED WILD AND SCENIC RIVER MINIMUM ZONING STANDARDS

	LOT SIZE (unsewered)	LOT WIDTH Waterline (unsewered)	LOT WIDTH Building Line (unsewered)	BUILDING SETBACK FROM RIVER	SEPTIC SETBACK FROM RIVER	MAXIMUM BUILDING HEIGHT	BLUFFLINE SETBACK
SCENIC	4 acres	250 ft.	250 ft.	150 ft.	100 ft.	35 ft.*	30 ft.
RECREATIONAL	2 acres	200 ft.	200 ft.	100 ft.	75 ft.	35 ft.*	20 ft.

*Except for buildings used primarily for agricultural purposes.

Existing structures that do not meet the dimensional requirements of NR 79 (where they are referred to as "substandard") would be allowed to remain. Additions to these structures would be allowed, provided that the substandard dimension were not increased. For example, unless a variance were obtained, an addition to the riverfront side of an existing house would not be allowed if it caused the building setback to be less than that required under wild and scenic zoning regulations.

Another standard would apply to contiguous, platted lots. If these lots did not meet wild and scenic width requirements and were all owned by the same individual, they would have to be combined to meet wild and scenic lot width requirements before development or sale. This is meant to discourage subdivision under old standards when it is known that new standards are imminent.

Rivers are often the sites of apartments, industrial plants, mining operations and intensively developed recreational facilities. These types of developments can degrade the aesthetic and natural qualities of the river. The following are some potentially detrimental land uses now permitted along the Cannon River.

two-family dwellings
multiple-family dwellings
mobile home courts
industrial activity
public schools
hospitals
electric power generation
community centers
commercial establishments

Permitted and conditional uses for wild and scenic rivers are listed in Minnesota Regulations NR 79. Conditional uses would require approval by local units of government.

All uses that exist prior to the effective date of a local wild and scenic ordinance, but that are considered nonpermitted uses, would be allowed to continue as nonconforming uses. However, local authorities could adopt provisions to regulate or gradually eliminate these types of land uses.

Because of increasing development pressure and the need for cropland, additional clearing of wooded river lands appears inevitable. Removal of natural vegetation adjacent to the river can and often has resulted in severe soil erosion and river siltation problems.

Rice, Dakota and Goodhue county zoning ordinances contain vegetative cutting provisions that apply to rural areas. No vegetative cutting regulations have been established for urban areas, except by the city of Red Wing.

In Rice and Goodhue counties the removal of vegetation is restricted within 35 feet of the river, except to allow a "view corridor" to the river. In Dakota County, the removal of vegetation is restricted within 100 feet of the river except to allow clearing of up to 25 percent of the lot frontage to provide a "view corridor." In Red Wing clear cutting is allowed with a conditional use permit.

The proposed wild and scenic rules and regulations do not allow clear cutting of vegetation within the building setback areas. Selective cutting of trees larger than four inches in diameter at breast height is permitted if continuous tree cover is maintained. The removal of diseased, insect-infested, rotten or damaged trees; the pruning of understory vegetation; the harvesting of crops; and the cutting of suppressed trees or trees less than four inches in diameter are also permitted.

The vegetative cutting provisions ensure that structures and other developments are adequately screened from the river and erosion is minimized.

If the river is designated, grading and filling, utility crossings, and construction or alteration of public roads within the land use district will also be regulated by wild and scenic land use provisions.

Exceptions to wild and scenic zoning standards

Wild and scenic standards for new development in urban riverside areas would be altered to take into account their existing development patterns.

The General Development municipal shoreland standards (Minnesota Regulations NR 82) in Figure 3 would apply to the land use district in the cities of Dundas (except the S½ of the N½ of Section 15, and Section 11, T111N-R20W), and Northfield (except Section 11 and the south side of the river to the southern boundary of Babcock Park in Sections 1 and 2, T111N-R20W).

Recreational Development municipal shoreland standards (Minnesota Regulations NR 82) in Figure 4 would apply to the land use district in Cannon Falls.

Natural Environment municipal shoreland standards (Minnesota Regulations NR 82) in Figure 5 would apply to the land use district in the S½ of the N½ of Section 15, and Section 11, T111N-R20W, in the city of Dundas; and Section 11 and the south side of the river to the southern boundary of Babcock Park in Sections 1 and 2, T111N-R20W, in the city of Northfield.

Figure 3

General Development Municipal Shoreland Standards

Minimum lot size, without public sewer	20,000 sq. ft.
Minimum lot size	
riparian lots with public sewer	15,000 sq. ft.
off-river lots with public sewer	10,000 sq. ft.
Minimum shoreline and building line lot width	
without public sewer	100 ft.
with public sewer	75 ft.
Minimum building setback from ordinary high-water mark	
without public sewer	75 ft.
with public sewer	50 ft.
Minimum building setback from road and highway right-of-ways	
federal, state or county trunk highway	50 ft.
town road, public street, or others not classified	20 ft.
Maximum building height limitation*	35 ft.
Maximum total lot area covered by impervious surface	30%
Septic tank and soil absorption system setback	50 ft.

*Building height limitation does not apply to buildings used primarily for agricultural purposes.

Figure 4

Recreational Development Municipal Shoreland Standards

Minimum lot size, without public sewer	40,000	sq. ft.
Minimum lot size		
riparian lots with public sewer	20,000	sq. ft.
off-river lots with public sewer	15,000	sq. ft.
Minimum shoreline and building line lot width		
without public sewer	150	ft.
with public sewer	75	ft.
Minimum building setback from ordinary high-water mark		
without public sewer	100	ft.
with public sewer	75	ft.
Minimum building setback from road and highway right-of-ways		
federal, state or county trunk highway	50	ft.
town road, public street, or others not classified	20	ft.
Maximum building height limitation*	35	ft.
Maximum total lot area covered by impervious surface	30%	
Septic tank and soil absorption system setback	75	ft.

*Building height limitation does not apply to buildings used primarily for agricultural purposes.

Figure 5

Natural Environment Municipal Shoreland Standards

Minimum lot size, without public sewer	80,000	sq. ft.
Minimum lot size		
riparian lots with public sewer	40,000	sq. ft.
off-river lots with public sewer	20,000	sq. ft.
Minimum shoreline and building line lot widths		
without public sewer	200	ft.
with public sewer	125	ft.
Minimum building setback from ordinary high-water mark		
without public sewer	200	ft.
with public sewer	150	ft.
Minimum building setback from road and highway right-of-ways		
federal, state or county trunk highway	50	ft.
town road, public street or others not classified	20	ft.
Maximum building height limitation*	35	ft.
Maximum total lot area covered by impervious surface	30%	
Septic tank and soil absorption system setback	150	ft.

*Building height limitation does not apply to buildings used primarily for agricultural purposes.

Land acquisition

Zoning can protect the Cannon from overdevelopment, but zoning alone cannot preserve scenic and natural river lands. With only zoning protecting land, areas that can be developed eventually will be developed. For that reason the wild and scenic rivers act authorizes the purchase of land and scenic easements to preserve some riverside lands.

The act does not authorize the acquisition of land by eminent domain (condemnation). All purchases require willing sellers.

Because the DNR can buy land and easements only from willing sellers, the management plan can only recommend areas to be purchased. The final decision is the landowner's.

The wild and scenic rivers act authorizes the commissioner of natural resources to "acquire the title, scenic easements or other interests in land, by purchase, grant, gift, devise, exchange, lease or other lawful means." The DNR may negotiate to purchase lands from willing sellers anywhere in the land use district with any of the above methods.

Priority areas recommended for acquisition are shown on the land management maps.

Scenic easements

A scenic easement is a relatively new concept in land management. It is simply an agreement whereby a landowner is paid for his promise to leave selected parts of his riverside land in its present, natural condition. Terms of the easement may include promises not to build, to cut timber, to dump trash, or to grade, fill or drain property. This easement remains in effect permanently and runs with the title to the land.

The specific conditions of the easement are negotiated between the DNR and the landowner. The landowner then is paid the appraised value of the property rights he has sold.

A scenic easement does not make land public; trespassing is a misdemeanor.

Scenic easements offer advantages to the landowner as well as to the DNR:

*The landowner is paid for his land, although he retains the title and most property rights, and is able to continue most land uses. Management and maintenance of the land remain private responsibilities.
*Scenic easements cost less than purchase in fee title; management objectives nevertheless are accomplished.

*The land remains on the tax rolls, producing revenue for the local taxing authority. Future tax assessments, however, should be based on the fact that some development rights have been sold.
*Scenic easements remain in effect permanently, providing long-term protection that land use controls do not.

The DNR may wish to acquire scenic easements on these lands:

*Lands highly visible from the river valley.
*Lands next to, or across the river from, parks, forests or other public lands.
*Lands possessing outstanding scenic, scientific, natural, historical and other similar values.
*Lands with high development potential.

Other acquisition

Some lands proposed for scenic easement acquisition may be purchased in fee title. Because outright purchase of land would cost more than buying scenic easements, and would subsequently remove the land from local tax rolls, the DNR would purchase only:

*Lands possessing outstanding scenic, natural, scientific, historical or other similar values that could best be protected in public ownership.
*Lands that would consolidate existing blocks of public land and enhance the recreational value and preserve the natural character of the area.
*Lands that would be used for recreational sites, such as campsites, accesses and rest areas.

Land acquired in fee title would be subject to the rules and regulations of the management plan.

Recreation management

The wild and scenic rivers program is not intended to promote recreation, but to prevent the problems recreation can bring. Heavy use of campsites, accesses and other facilities can wear down river land, cause erosion, and lead to littering and vandalism.

With the rising interest in outdoor recreation, more and more people will be using rivers. The registration of 12,000 new canoes and kayaks each year in Minnesota reflects this trend. In addition, the Cannon River is only an hour's drive from the Twin Cities. So, use of the Cannon by canoeists, fishermen and others is expected to increase. Conflict between users, and between users and landowners, may increase. Therefore, proper recreational management of the Cannon is essential to protect the river and its adjacent lands.

The proposed rules and regulations for the Cannon River provide specific regulations aimed at river user behavior. Trespass laws would be stiffened, and a carry-in, carry-out policy, which has worked well elsewhere in the state, would be initiated to reduce litter. If problems occurred, public sites would be closed.

The rules and regulations provide for the establishment of accesses, rest areas and campsites to meet river user needs. Adequate facilities are necessary to provide a place for users to gain access, camp or picnic along the river without trespassing on private property. Sites would be large enough to provide sufficient buffer between users and adjacent landowners.

All recommended recreational facilities are described in the rules and regulations and are shown on the management maps. If recommended sites are now in private ownership, the DNR hopes to buy or lease the land. However, the DNR can buy land only from willing sellers; if the landowner does not wish to sell or lease his land to the DNR, an alternative site may be sought.

Access

Control of access to a river is important to maintain its qualities. Too many accesses or improper spacing can lead to recreation overuse problems. Too few can lead to trespass problems. In general, accesses would be separate from other recreational facilities and would be designed to discourage use as party spots and places for loitering.

Accesses along the Cannon River would have a parking area and a site from which to launch a canoe or small boat. Because the Cannon is not suitable for large motorboats, boat launching ramps would not be constructed by the DNR.

Campsites

Some primitive campsites are recommended along the river. The distance between campsites and their relationship to accesses is important: properly spaced facilities can prevent trespassing problems.

Campsite development would be limited to what is necessary to ensure public health and safety. Public river-oriented camping facilities would not be provided in close proximity to private recreational developments designed to serve the same recreational needs. They would be accessible only by river when possible. The sites would include tent pads, fire rings or grates, rustic tables and pit-type latrines, where feasible.

Rest areas

Rest areas are intended primarily for day use by fishermen, boaters, canoeists and picnickers. Because most of the existing rest areas provide a full range of picnic facilities, new rest areas would be similar to primitive campsites. The clearing of brush would be kept to the minimum necessary to accommodate rustic tables, benches, fire rings or grates, and toilets.

Signs

Signs would be used to identify access points, campsites, portages and hazards. They would be designed according to the sign typicals in the rules and regulations.

Orientation signs would be located at all access points. They would show the location of recreational facilities available for public use. The regulations that govern river use would also be posted on these signs.

Maintenance

The DNR would be responsible for the maintenance of DNR recreational facilities within the Cannon River land use district.

Enforcement

The DNR Division of Enforcement and local law enforcement agencies would be responsible for enforcing the wild and scenic river user regulations.

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

Regulations

CHAPTER TWENTY-NINE: NR 2900

DESIGNATION, CLASSIFICATION AND MANAGEMENT OF THE CANNON RIVER IN RICE, DAKOTA AND GOODHUE COUNTIES.

NR 2900 DESIGNATION

A. THE RIVER

That portion of the Cannon River from the northern city limits of Faribault (the common border of the SE¼ and the NE¼ of Section 19, T110N-R20W) to its confluence with the Mississippi River is hereby designated a component of the Minnesota wild, scenic and recreational rivers system.

B. AUTHORITY

This designation is made by the commissioner of natural resources pursuant to the authority of the Minnesota wild and scenic rivers act (Minnesota Statutes, Sections 104.31 to 104.40).

C. SHORELAND INCLUDED

The designation and these rules apply to the river and the adjacent lands as provided for in the land use district descriptions. The land use district boundaries were drawn in accordance with Minnesota Regulations NR 78 (g) (2) (bb).

D. DEFINITION

The definition of "normal high-water mark" (NR 78 (d)) shall be changed to read: "Ordinary high-water mark" means a mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. In areas where the ordinary high-water mark is not evident, setbacks shall be measured from the top of the bank of the river channel. A channel is a natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct flowing water either continuously or periodically.

E. SEVERABILITY

The provisions of these regulations shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision or any other part.

NR 2910 CLASSIFICATION

The following classifications are made in accordance with the provisions of Minnesota Regulations NR 78 (f).

Recreational:

That portion of the Cannon River and its adjacent lands from the northern city limits of Faribault (the common border of the north and south halves of Sections 19 and 20, T110N-R20W) to the State Hwy. 56 bridge, and from the Lake Byllesby Dam (the common border of Sections 13 and 14, T112N-R18W) to the common border of Sections 7 and 8, T112N-R17W, in Cannon Falls. (The Lake Byllesby Reservoir is excluded from this segment.)

Scenic:

That portion of the Cannon River and adjacent lands from the common border of Sections 7 and 8, T112N-R17W, in Cannon Falls to the river's confluence with the Mississippi River.

NR 2920 MANAGEMENT

A. LAND USE PROVISIONS

1. The commissioner of natural resources hereby adopts the Scenic and Recreational land use districts as identified in the land use district descriptions of these rules and regulations. The land use districts were derived in accordance with Minnesota Regulations NR 78 (g) (2) (bb).

2. Minnesota Regulations NR 78-81 shall apply to all lands within the Scenic and Recreational land use districts, except as specified in these regulations.

3. Because some areas along the Cannon River have been considerably developed, and because the wild and scenic rivers act states that management plans shall be prepared "with no unreasonable restrictions upon compatible, pre-existing, economic uses of particular tracts of land. . ." (Minnesota Statutes, Section 104.35), the municipalities of Cannon Falls, Dundas and Northfield shall adopt regulations as specified in NR 2920 D.

4. If land is annexed, incorporated or in any other way transferred to another jurisdiction, a moratorium shall exist on all subdivision platting, building permits, construction, grading and filling, and vegetative cutting until the newly responsible unit of government adopts zoning for that land. The zoning shall meet the provisions of these rules and regulations that applied to the land before the transfer. This provision does not apply to work for which lawful permits were previously issued.

5. Minnesota Regulations NR 79 (c) (3) (bb) (iii), NR 79 (d) (2) and NR 79 (g) (l) specify regulations concerning designated tributaries. These regulations apply only to lands within the land use district. Designated tributaries along the Cannon River shall be:

a. Belle Creek
b. Chub Creek
c. Heath Creek
d. Little Cannon River
e. North Cannon River
f. Pine Creek
g. Spring Brook
h. Trout Brook
i. Wolf Creek

6. Because the Cannon River valley is a major source of sand and gravel in the area and because this resource can be extracted in a manner that will have minor environmental impact, sand and gravel extraction shall be allowed as a conditional use, subject to the following conditions:

a. Commercial manufacturing of sand and gravel by-products shall be nonpermitted uses in the land use district.

b. The following shall be submitted to the local authority as part of the application for a conditional use permit:

i. A detailed site plan.

ii. A soil erosion and sediment control plan showing that the mining operation will not adversely affect the quality of surface or subsurface waters.

iii. A dust and noise control plan.

iv. A detailed site reclamation plan. Reclamation shall be initiated immediately after the termination of the mining operation and upon completion the area shall be restored to as near its original state as practicable.

c. Mining operations shall not take place within 300 feet of the river and designated tributaries. This distance does not apply to water pumps needed for the mining operation. However, appropriation of water from the river will require a permit from the DNR, Division of Waters.

d. No sand and gravel operation shall be conducted on parcels of land or a combination of parcels of less than 20 acres.

7. Cannon Valley Center (NW¼ of the NW¼ of Section 10, north of the river in T112N-R17W) shall be allowed to continue as a permitted use and all new construction or reconstruction of facilities shall comply with the provisions of these rules and regulations.

8. Existing development in the village of Welch within the land use district, as delineated on the Goodhue County zoning map, shall be allowed to continue as a permitted or conditional use as now identified by the local zoning authority.

9. Because agricultural uses are permitted in the land use district and because of the pre-existence of agricultural buildings along the Cannon River, Minnesota Regulations NR 79 (c) (3) (dd) shall be amended to read:
   Structure height shall not exceed 35 feet, except for buildings used primarily for agricultural purposes.

10. Minnesota Regulations NR 79 (c) (3) (cc) (i) shall be modified to read:
    Structures shall be allowed on slopes of greater than 13 percent or on blufflines if structures can meet the following criteria:

    a. Sewage system facilities must be installed so as to comply with the Sanitary Provisions (d) of NR 79.

    b. Structures must be adequately screened.

    c. It must be proven that any potential or actual erosion or sedimentation problems do not exist, and that adequate measures shall be taken to prevent them.

    d. Where bearing capacity is in doubt soil boring samples must be taken.

    e. Consideration must be given to color and architectural design (including roof slope and orientation), subject to scrutiny of the township and county planning commission.

11. The grading and filling provisions (Minnesota Regulations NR 79 (h)) shall require a permit from the local zoning authority.

12. NR 79 (i) (Utility Companies, Standards and Criteria for Utility Crossings) shall be amended to include:
    3. Accessory facilities to power plants (intake and outflow structures), not within the jurisdiction of the local authority, when located in the land use district shall be screened to the maximum extent possible to minimize the visual intrusion on the landscape.

13. Because any use of an abandoned railroad right-of-way other than for agriculture would be incompatible with preservation of the river valley as stated in these rules and regulations, the adjacent landowners shall be given first option to purchase any abandoned railroad right-of-way.

B. LAND ACQUISITION

1. Fee title acquisition from willing sellers is recommended in those areas where recreational sites are needed, as identified in NR 2920 C. 2.

2. Scenic easement acquisition from willing sellers is recommended in those areas having outstanding scenic, natural or similar values and in areas with high development potential.

3. Because acquisition of lands or interests in land is from willing sellers at market value, some lands recommended for scenic easement acquisition may be purchased in fee title. Additional land or interests in land other than those recommended may be purchased within the land use district to further the policies established in Minnesota Statutes, Section 104.32, and the management plan.

4. Other forms of acquisition, such as use easements or leases, may be substituted for the recommended acquisition or used to acquire interests in other lands within the land use district when such purchases further the policies of these rules and regulations and Minnesota Statutes, Section 104.32.

5. The DNR shall consider leasing rest areas for an initial five-year period, with the option for longer leasing or purchase after that period.

6. Land or interests in land recommended to be acquired in these rules and regulations will be acquired from willing sellers when funds are available for such purposes, as provided for in Minnesota Statutes, Section 104.37.

7. Whenever feasible, land will be exchanged in a manner prescribed by state law to acquire land in the land use district. Land will not be exchanged, however, if such exchanges would adversely affect this or other DNR management programs.

8. The commissioner of natural resources shall not request or use condemnation to acquire lands in the Cannon River land use district through the wild and scenic rivers program.

C. RECREATION MANAGEMENT

1. General

a. It is the intent of these rules and regulations to manage recreation to provide for the orderly use of public lands and waters within the Scenic and Recreational river land use districts. The development and maintenance of selected land- and water-oriented recreational facilities will help "protect the rights of private landowners, ensure quietude, prohibit trespassing, and maintain the essential quality of wild and scenic river land use districts," as provided for in Minnesota Regulations NR 80 (a) (1).

b. NR 80 (b) (1) shall be amended to impose the current state penalty for a misdemeanor.

2. Uses

a. Priority areas for development of governmental recreational facilities are listed below. If these parcels are not available for use similar parcels may be used.

Location	Facility	Present Ownership
T111N-R20W, Section 1 in Sechler Park	Campsite, Rest Area	Northfield
T111N-R20W, Section 1, NW¼, on either side of Northfield Mill Dam	Portage	Northfield, Private
T112N-R19W, Section 31 E½ of the NW¼	Access	Carleton College
T112N-R18W, Section 7 S½ of the SE¼, north of river	Campsite, Rest Area	Dakota County
T112N-R17W, Section 2 NE¼ of the NE¼ of the SE¼	Rest Area	Private
T113N-R16W, Section 35 SW¼ of the NE¼, near Belle Creek	Rest Area	DNR
T113N-R15W, Section 22 E½ of the NW¼ of the NW¼	Rest Area	DNR

b. Because sufficient public land exists between Faribault and Northfield, all public recreational facilities in this area shall be located on existing public land.

c. The development of public or private facilities within the land use district shall conform to the site typicals in these rules and regulations. In addition, when establishing rest areas, sufficient land shall be acquired to provide a 300-foot buffer zone between the activity area and adjacent property.

d. DNR rest areas shall not be established closer than four miles to existing rest areas and shall be inaccessible by road.

e. The DNR shall establish no overnight camping areas along the river.

f. All public and private camping areas established along the river shall be continually supervised and subject to all regulations of the Minnesota Pollution Control Agency, the Minnesota Department of Health and all local zoning ordinances.

g. If a recreational site is found in violation of Department of Public Health regulations more than three times in one season, the site shall be closed.

h. No special DNR facilities for motorboats shall be provided.

i. No rental of inner tubes shall be allowed within the land use district.

j. No state corridor trails shall be established within the land use district. This shall not include local trails.

k. Snowmobile use on lands in the land use district shall be allowed:

i. On private lands, only with the permission of the appropriate landowner(s).

ii. On public lands where provided for.

3. Maintenance

a. The DNR shall be responsible for and shall allocate funds for maintenance of DNR recreational facilities within the Cannon River land use district. The DNR is encouraged to hire area residents to help maintain recreational facilities.

b. To reduce the effects of litter along the river:

i. Canoe rental establishments shall provide disposable refuse containers to those renting canoes.

ii. A "carry-in, carry-out" policy shall be implemented. To help ensure the success of this policy, no trash receptacles shall be provided at recreational sites and areas shall be maintained to prevent the establishment of dumps.

c. Orientation signs identifying all recreational facilities along the river, containing the recreational rules for the river and explaining the "carry-in, carry-out" refuse policy shall be posted at accesses.

d. If heavy use of recreational facilities wears down river land, causes erosion or leads to problems with adjacent landowners, public sites shall be closed.

4. Enforcement

The DNR's Division of Enforcement shall determine with the local units of government the division of responsibilities for the enforcement of the wild and scenic river user regulations (Minnesota Regulations NR 80). The Division of Enforcement shall also take appropriate action to ensure expeditious enforcement of wild and scenic river regulations.

D. ADMINISTRATION

1. The local zoning authority shall administer the wild and scenic rivers ordinance in accordance with the provisions of NR 81, except that all notices of public hearings to consider variances or conditional uses shall be received by the commissioner of natural resources at least 10 days prior to such hearings.

2. Dakota and Goodhue counties and the city of Red Wing shall enact or amend such ordinances and maps as necessary to:

a. Establish the Scenic and Recreational land use districts in their jurisdiction according to Minnesota Regulations NR 2910, to include the lands identified in the land use district descriptions.

b. Conform to the provisions of these rules and regulations (NR 2900), except as indicated below.

3. Rice County shall enact or amend such ordinances and maps as necessary to:

   a. Establish the Scenic land use district in its jurisdiction according to Minnesota Regulations NR 2910, to include the lands identified in the land use district descriptions.

   b. Conform to the provisions of these rules and regulations (NR 2900), except as indicated below.

   c. It is recommended that Rice County also continue to enforce present agricultural preservation zoning, as identified in the 1975 zoning ordinance, on lands beyond 350 feet of the ordinary high-water mark.

4. The municipalities of Dundas (In T111N–R20W: that portion located in the S½ of the N½ of Section 15; and Section 11) and Northfield (In T111N–R20W: that portion located in Section 11; Section 2, south of the river; and the SW¼ of the SW¼ of Section 1, east of the river) shall enact or amend such ordinances and maps as necessary to:

   a. Establish the Scenic and Recreational river land use districts according to NR 2910, to include lands identified in the land use district descriptions.

   b. Conform to the provisions of Minnesota Regulations NR 82–84 (Shoreland Management for Natural Environment Waters) except NR 84 (a) (2) and NR 84 (c).

   c. Conform to the following provisions of NR 78–81: NR 78(d); NR 79 (b) (2) (aa), (bb), (cc), (dd), (ff) and (gg); NR 80 and NR 81.

   d. Conform to the provisions of these rules and regulations (NR 2900).

5. The municipalities of Dundas (In T111N–R20W: that portion located in the N½ of the N½ of Section 15; and Section 10) and Northfield (In T111N–R20W: that portion located in Section 2, north of the river; and Section 1, except the SW¼ of the SW¼, east of the river. In T112N–R20W: Section 36. In T112N–R19W: Sections 30 and 31) shall enact or amend such ordinances and maps as necessary to:

   a. Establish the Scenic and Recreational river land use districts according to NR 2910, to include lands identified in the land use district descriptions.

   b. Conform to the provisions of Minnesota Regulations NR 82–84 (Shoreland Management for General Development Waters), except NR 84 (a) (2) and NR 84 (c).

c. Conform to the following provisions of NR 78–81: NR 78 (d); NR 79 (b) (2) (aa), (bb), (cc), (dd), (ff), and (gg); NR 80 and NR 81.

d. Conform to the provisions of these rules and regulations (NR 2900).

6. The municipality of Cannon Falls shall enact or amend such ordinances and maps as necessary to:

a. Establish the Recreational river land use district according to NR 2910, to include lands identified in the land use district descriptions.

b. Conform to the provisions of Minnesota Regulations NR 82-84 (Shoreland Management for Recreational Waters), except NR 84 (a) (2) and 84 (c).

c. Conform to the following provisions of NR 78-81: NR 78 (d); NR 79 (b) (2) (aa), (bb), (cc), (dd), (ff) and (gg); NR 80 and NR 81.

d. Conform to the provisions of these rules and regulations (NR 2900).

7. Local zoning authorities may retain or adopt regulations that are more restrictive than those required by these rules and regulations, pursuant to Minnesota Statutes, Sections 394.21, 394.33 and 462.353.

8. The DNR shall assist local units of government in implementing these rules and regulations, in accordance with Minnesota Statutes, Section 104.36.

9. The DNR shall delineate the land use district boundaries on the appropriate zoning maps for the affected local units of government.

Recommendations

The following recommendations were introduced by the Cannon River advisory councils. It is beyond the authority of the wild and scenic rivers program to make them legally binding. Because they will help maintain the existing character of the river valley, it is strongly urged that the affected agencies take action on these recommendations.

1. It is recommended that the legislature appropriate to the state archaeologist funds to conduct an inventory of the archaeological sites along the Cannon River. It is also recommended that funds be appropriated for the preservation of those sites having outstanding scientific significance.

2. To ensure that the historical heritage of the Cannon River will be protected for the enjoyment of present and future generations, it is recommended that the Minnesota Historical Society conduct an inventory of all historically important sites within the land use district and recommend appropriate methods of preservation of those sites having outstanding significance.

3. It is recommended that scientific sites (archaeological, botanical, zoological, etc.) be located and protected through the wild and scenic rivers program and the scientific and natural areas program of the DNR.

4. Because the maintenance and improvement of the water quality of the Cannon River is a critical part of the total management of the river, it is recommended that the DNR, the Pollution Control Agency and the Department of Health work closely together in order to ensure that water quality standards will be maintained.

5. It is recognized that the power of eminent domain within the land use district should be superseded by maintenance of the values that qualified the Cannon River for designation as a Scenic and Recreational river. Therefore, it is recommended that the power of eminent domain of other programs and agencies not be used for purposes inconsistent with the intent of the wild and scenic rivers program. It is further recommended that the legislature pass a law to effect this.

6. It is recommended that an access be developed at Alexander Faribault Park, upstream of the study area.

7. In order to reduce litter along the river, it is recommended that canoe rental establishments require the return of the disposable refuse containers before returning rental deposit.

East council land use district proposal

The East Cannon River Advisory Council has proposed that the following river land use district be established from Northfield to the Mississippi:

a. 300 feet from the high-water mark on agricultural land;
b. 450 feet from the high-water mark on timber land or land in a wild state; and
c. no more than 1,000 feet from the high-water mark if the landowner consents to have his land included.

Before this proposal could be implemented, the following concerns would have to be addressed.

The most obvious problem is the cost and difficulty involved in administering such a fragmented land use district. At great expense to the county and the taxpayers of Minnesota, the land along the river would have to be classified on a case-by-case basis, acre by acre, before a land use district could be determined. This would impose an unreasonable burden on the county's planning and zoning staff.

Before parcels of land could be classified, definitions of agricultural land, timber land and wild land would have to be established. Could all land be classified in such a clear-cut manner? If land were pastured every few years but not on a regular basis would it be considered agricultural land? If wild lands were converted to agricultural lands or vice versa would the district then be changed to reflect the change in land use? If so, a public hearing—at the county's expense—would be necessary to change the zone district.

Residential land is not mentioned in this proposal. Would it be excluded from the district entirely?

If a landowner consented to inclusion of his land in the 1,000-foot district and then sold it, would the new landowner have the right to decide whether his land would be included in the 1,000-foot district or would the original owner's decision be binding on the property title? If the new owner's land were similar to a neighbor's land that had a smaller land use district, the new owner could challenge the application of the district on his land as discriminatory regulation and unequal protection under the law.

Farmland, already cleared and accessible, is very desirable from a developer's point of view because it is relatively easy and inexpensive to develop. This land will feel development pressure first. Yet, under the east council's proposal, agricultural land would receive the least protection from overdevelopment.

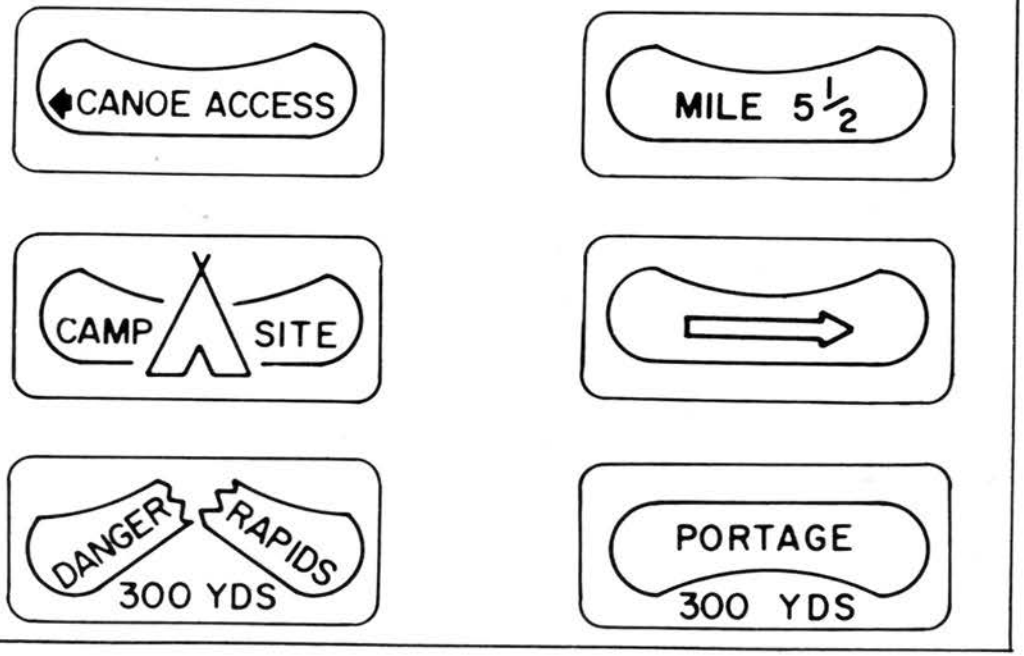
Bluff areas, although they are more difficult and more expensive to build on, are also desirable building sites because of the scenic vistas they afford. However, the damage that can be done to blufflands through improper development or over-development may be irreparable. The east council's district would not even reach the bluffs.

To give the most protection to land with little or no development potential (floodplain timberland), and the least protection to land with the greatest development potential offers no long-term protection to the river valley. Permanent protection should not be based on temporary land uses and ownership.

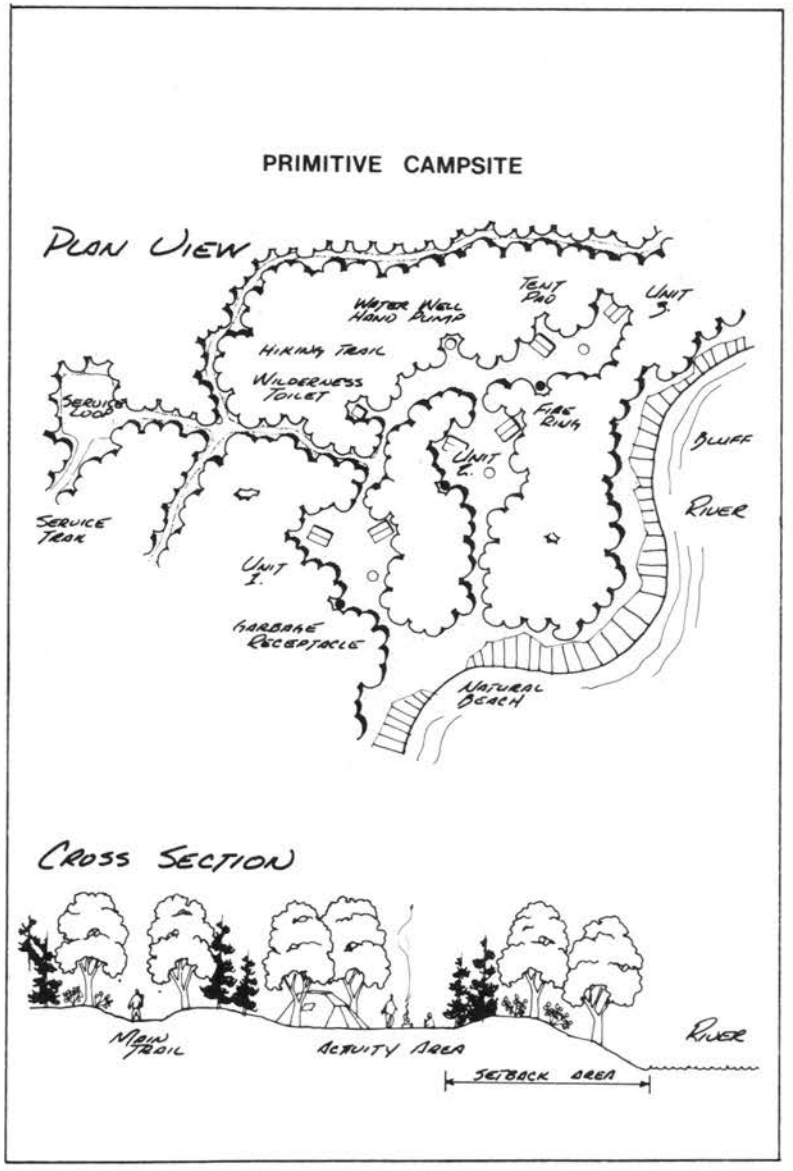
The wild and scenic rivers program was established to give rivers more protection than the shoreland management program's 300-foot district now provides. For the Cannon River the DNR's proposed land use district would extend an average of 1,100 feet from the river. This is the minimum amount necessary to give protection to the bluffs that form the valley walls. On previously designated wild and scenic rivers, land use districts extending an average of 1,000 feet from the river were accepted as being sufficient to protect the river valley.

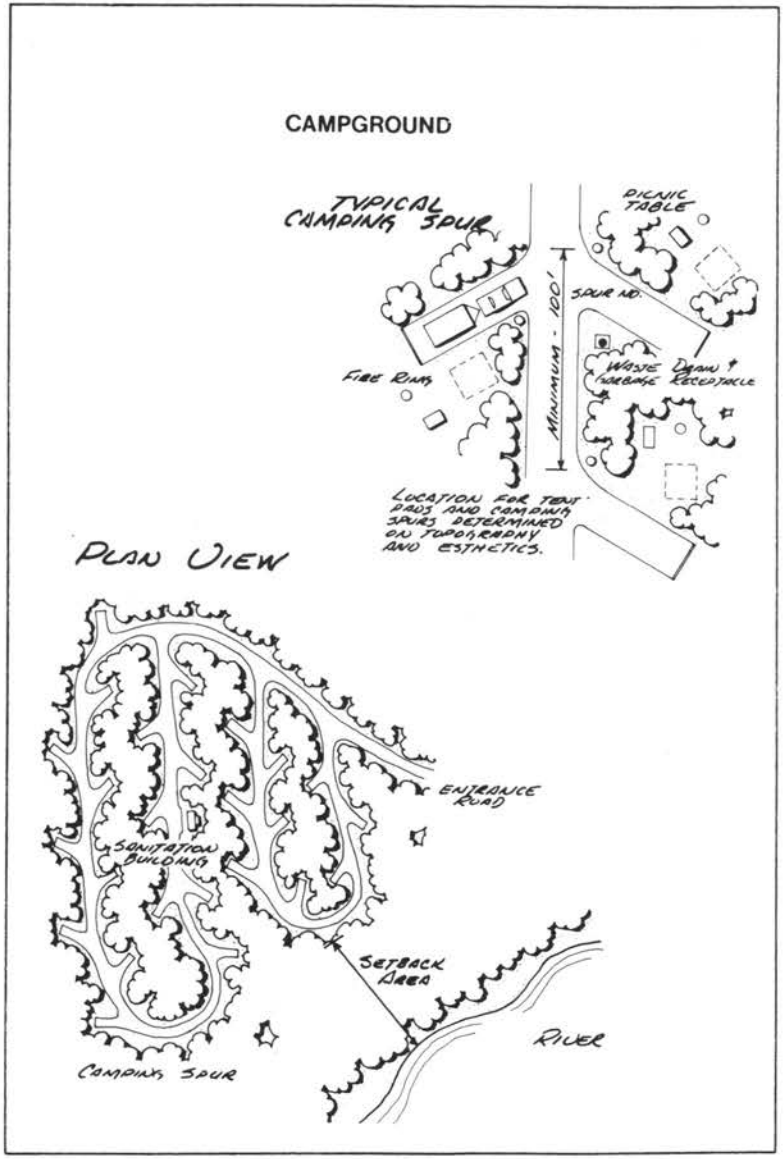
Establishing the proposed DNR land use district would not only be consistent with management of other wild and scenic rivers, but would also be easily administered, would give equal consideration to all parcels of similar land and would fulfill the intent of the wild and scenic rivers program—to establish long-term protection for the river corridor beyond that which already exists.

Typical signs

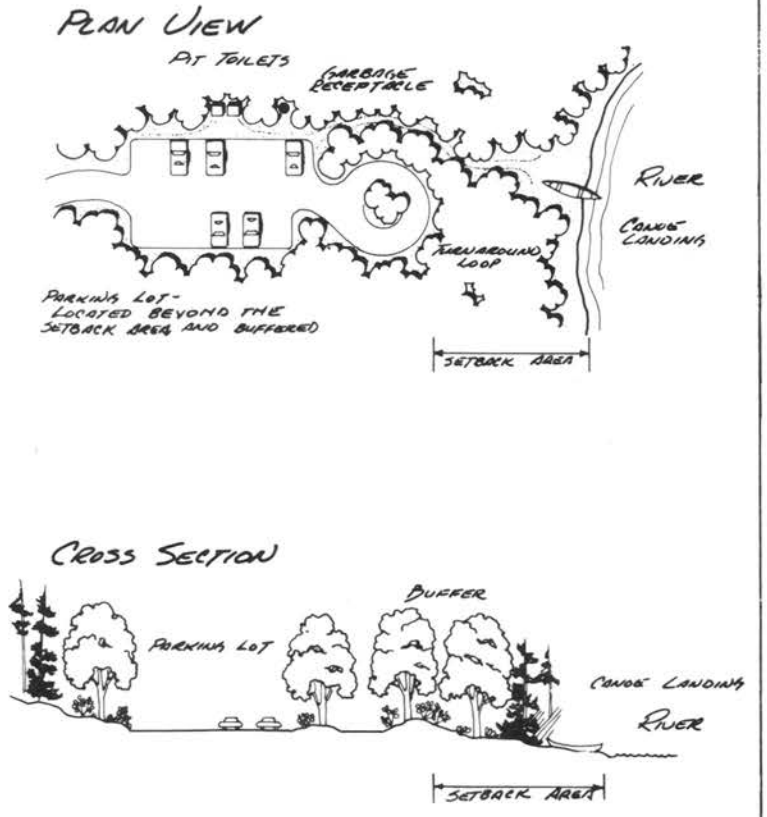


Typical sites

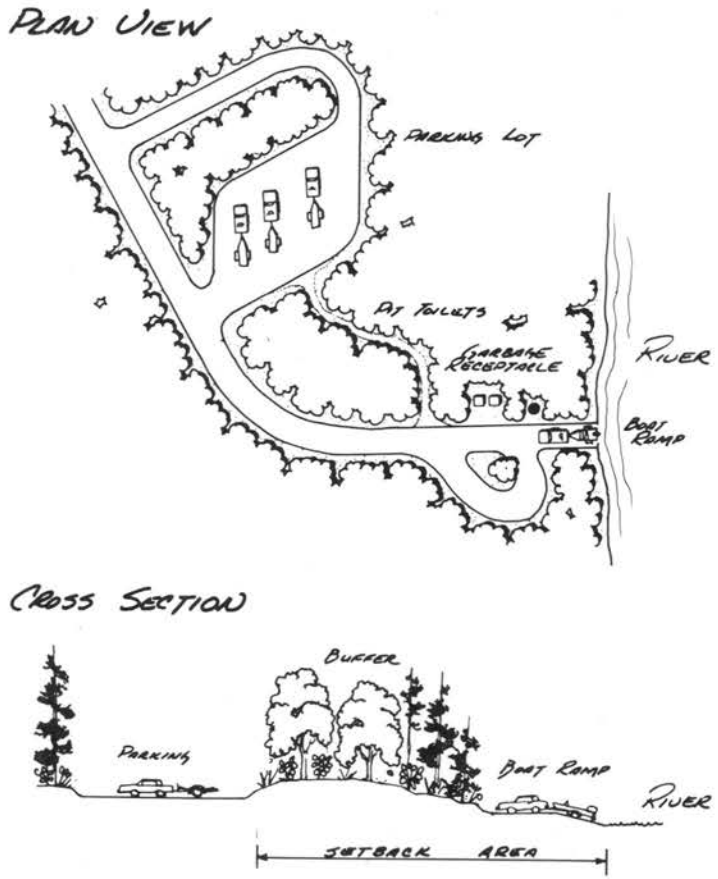




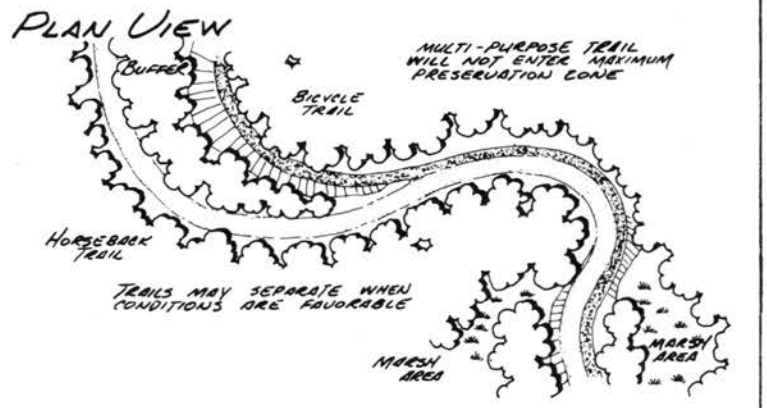
CANOE ACCESS

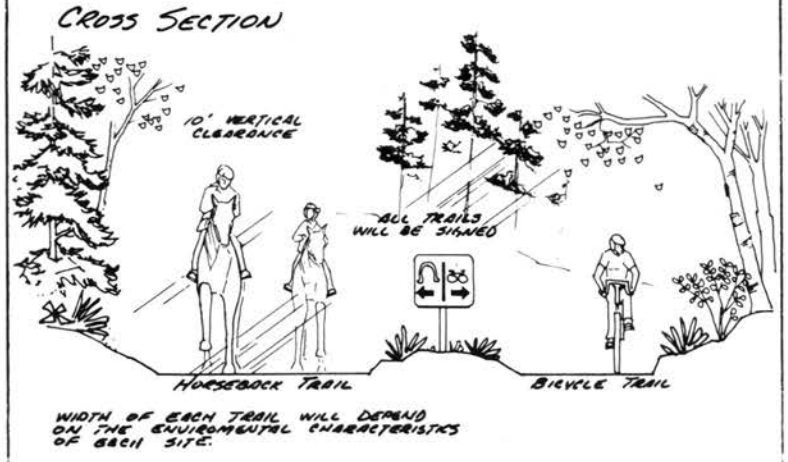


BOAT ACCESS



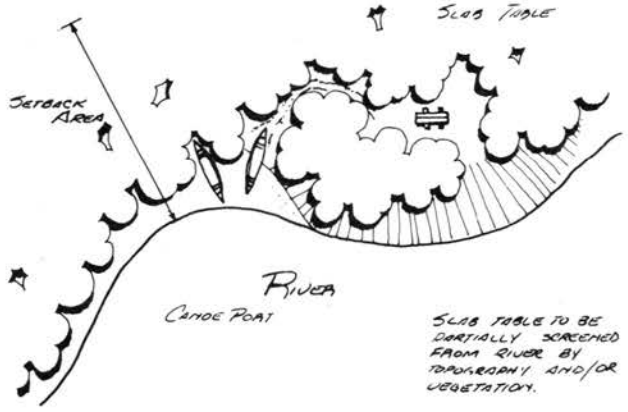
TRAIL DESIGN





WIDTH OF EACH TRAIL WILL DEPEND ON THE ENVIROMENTAL CHARACTERISTICS OF EACH SITE.

REST AREA



SLAB TABLE TO BE PARTIALLY SCREENED FROM RIVER BY TOPOGRAPHY AND/OR VEGETATION.

Legal descriptions

OHWM=ordinary high-water mark
CRI & P RR=Chicago, Rock Island and Pacific Railroad
CGW RR=Chicago-Great Western Railroad

Description		Acreage
T110N-R20W		
Section 19		
SW¼ of NE¼	E of CRI&P RR	3.00
SE¼ of NE¼	" "	38.00
S½ of NE¼ of NE¼	" "	15.00
Section 20		
NW¼		160.00
NW¼ of NE¼		40.00
Section 17		
E½ of SW¼ of SW¼		20.00
SE¼ of SW¼		40.00
SE¼		160.00
NE¼		160.00
Section 16		
N½ of SW¼ of SW¼		20.00
NW¼ of SE¼ of SW¼		10.00
W½ of NE¼ of SW¼		20.00
NW¼ of SW¼		40.00
SW¼ of NW¼		40.00
W½ of SE¼ of NW¼		20.00
W½ of NW¼ of NW¼		20.00
Section 8		
SE¼		160.00
S½ of NE¼		80.00
NW¼ of NE¼		40.00
E½ of SE¼ of NW¼		20.00
NE¼ of NW¼		40.00
E½ of NW¼ of NW¼		20.00
Section 9		
W½ of SW¼		40.00
Section 5		
E½ of SW¼		80.00
E½ of W½ of SW¼		40.00
E½ of W½ of NW¼		40.00
E½ of NW¼		80.77
NE¼		161.48
Section 4		
NW¼		161.28
N½ of NE¼		80.96
N½ of S½ of NE¼		40.00
Section 3		
NW¼ of NW¼		40.31
N½ of SW¼ of NW¼		20.00
W½ of NE¼ of NW¼		20.00
T111N-R20W		
Section 33		
E½ of SE¼ of SE¼		20.00
Section 34		
E½ of NW¼		80.00
S½ of NW¼ of NW¼		20.00
SW¼ of NW¼		40.00
NE¼ of SW¼		40.00
W½ of SW¼		80.00
W½ of SE¼ of SW¼		20.00
W½ of NE¼		80.00
NE¼ of NE¼		40.00
Section 27		
E½		160.00
E½ of W½ of NE¼		40.00
E½ of NW¼ of SE¼		20.00
S½ of SW¼ of SE¼		20.00
NW¼ of NW¼ of NE¼		10.00
Section 26		
W½ of SW¼		80.00
SW¼ of NW¼		40.00
W½ of NW¼ of NW¼		20.00
Section 22		
E½		320.00
Section 15		
W½ of E½ of SE¼		40.00
W½ of SE¼		80.00
NE¼	within 300' of OHWM only	32.00
Section 10		
SE¼	within 300' of OHWM only	41.00
Section 11		
NW¼ of SW¼	N & W of river	4.00
NW¼ of SW¼	within 300' of OHWM S & E of river	12.00
SE¼ of NW¼		40.00
NE¼ of NW¼	E of CRI&P RR	36.00
SW¼ of NW¼	" "	33.00
N½ of NW¼ of NE¼		20.00
NW¼ of NW¼	E of CRI&P RR	4.00
Section 2		
SW¼ of SE¼	E of CRI&P RR	36.00
SE¼ of SE¼		40.00
NE¼ of SE¼	SE of CRI&P RR	22.00
SE¼ of NW¼ of SE¼	" "	4.00
SE¼ of SW¼	" "	7.00
Section 1		
Within 300' of OHWM	S & E of river	57.00
NW¼ of SW¼	N & W of river to CRI&P RR	29.00
SW¼ of NW¼	S & E of CRI&P RR	6.00
E½ of NW¼	within 300' of OHWM N & W of river	8.00
N½ of NE¼	" "	19.00
SW¼ of NE¼	within 300' of OHWM N of river	3.00
T112N-R20W		
Section 36		
SE¼ of SE¼	within 300' of OHWM W of river	5.00
T112N-R19W		
Section 31		
Within 300' of OHWM		86.00
T111N-R19W		
Section 6		
NW¼ of NW¼ of NW¼	within 300' of OHWM E of river	2.00
T112N-R19W		
Section 30		
SE¼ of SW¼	S & E of State Hwy 3	22.00
SE¼	E of State Hwy 3	152.00
SW¼ of NE¼	" "	4.00
E½ of NE¼	E of CSAH 47	49.00
Section 29		
SW¼ of NW¼		40.00
NW¼ of NW¼	S & E of CSAH 47	34.00
NE¼ of NW¼		40.00
N½ of NW¼ of NE¼		20.00
Section 20		
SE¼	S & E of CASH 47	121.00
S½ of SW¼	" "	23.00
Section 21		
SW¼		160.00
SE¼ of NW¼		40.00
NW¼ of SE¼		40.00
N½ of NE¼ of SE¼		20.00
S½ of NE¼		80.00
S½ of NE¼ of NE¼		20.00
Section 22		
N½		160.00
N½ of SE¼ of NW¼		20.00
N½ of SW¼ of NE¼		20.00
SW¼ of NW¼		40.00
Section 15		
S of CGW RR		106.00
Section 14		
W½ of SW¼	S of CGW RR	75.00
N½ of SE¼ of SW¼		20.00
NE¼ of SW¼		40.00
SE¼ of NW¼	S of CGW RR	15.00
NW¼ of SE¼		40.00
N½ of NE¼ of SE¼		20.00
NE¼	S of CGW RR	94.00
SW¼ of NW¼	" "	1.00

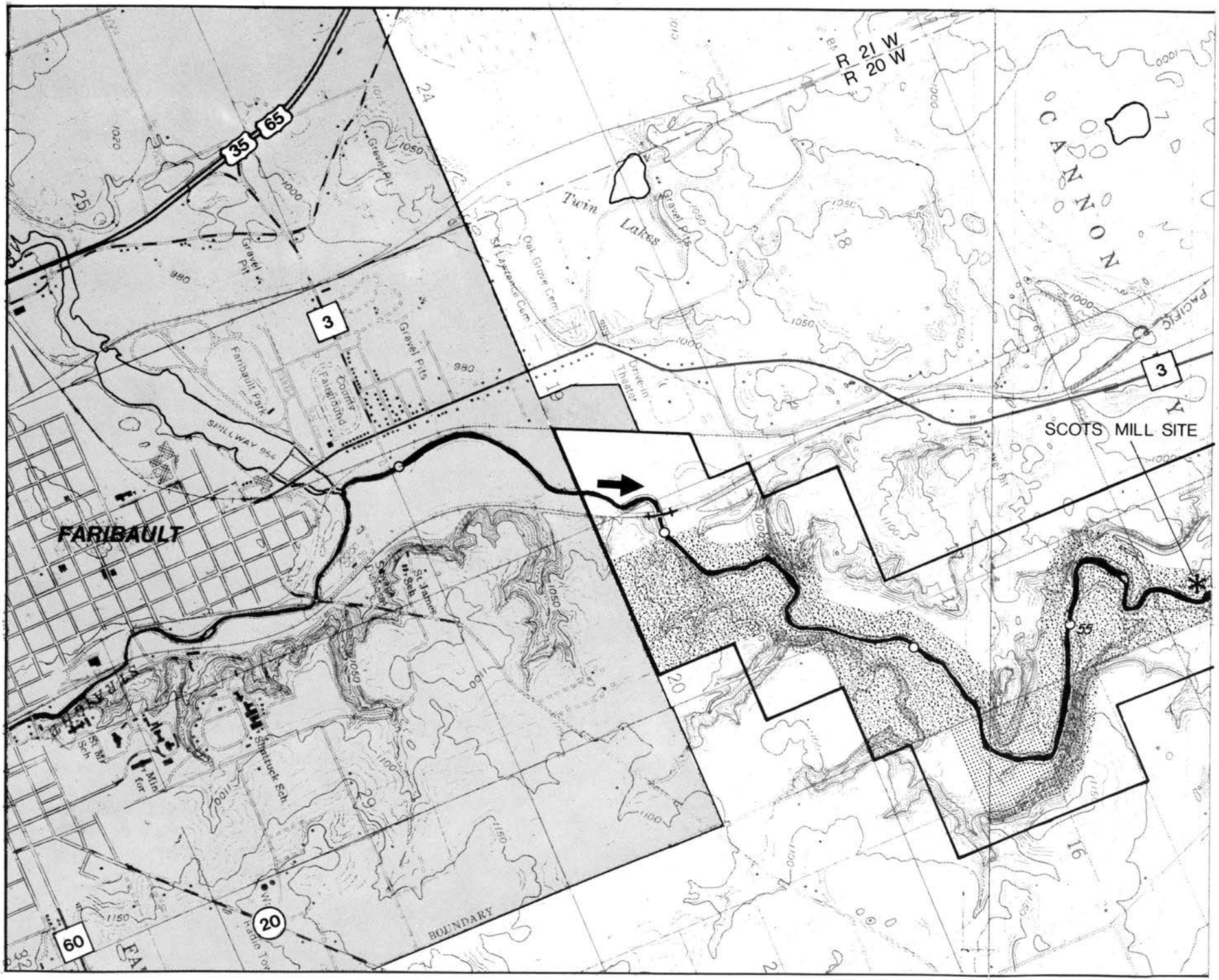
Section 13		
SW¼ of NW¼		40.00
N½	S of CGW RR	156.00
Section 12		
S½	S of CGW RR	102.00
T112N-R18W		
Section 18		
N½ of NE¼		80.00
NE¼ of NW¼		40.00
NW¼ of NW¼		33.98
Section 7		
S½ of SE¼		80.00
SE¼ of SW¼		40.00
SW¼ of SW¼		33.69
T112N-R19W		
Section 17		
N½ of NW¼	W of State Hwy 56	30.00
Section 8		
S½ of SW¼	W of State Hwy 56	27.00
T112N-R18W		
Section 13		
N½ of SW¼ of NW¼		20.00
N½ of NW¼		80.00
NW¼ of NE¼		40.00
Section 12		
SE¼ of SW¼		40.00
S½ of NE¼ of SW¼		20.00
S½ of NW¼ of SE¼		20.00
SW¼ of SE¼		40.00
E½ of SE¼		80.00
T112N-R17W		
Section 7		
Government Lot 9		59.54
" Lot 10	N½	24.00
" Lot 10	S½ within 300' of OHWM	6.00
" Lot 11	within 300' of OHWM E of river	10.00
" Lot 11	W of river	5.00
" Lot 12	within 300' of OHWM N of river	5.00
SE¼	within 300' of OHWM	35.00
Section 18		
Government Lot 3	within 300' of OHWM	2.00
" Lot 2	" "	22.00
" Lot 1	" "	20.00
NE¼	" "	13.00
Section 8		
S½ of NE¼ of NE¼		20.00
SW¼	N of CGW RR	120.00
W½ of SE¼		80.00
NE¼ of SE¼		40.00
S½ of NW¼		40.00
S½ of NE¼		80.00
Section 9		
N½ of S½		80.00
S½ of N½		160.00
S½ of N½ of N½		80.00
Section 10		
N½ of S½		80.00
S½ of N½		160.00
S½ of N½ of N½		80.00
Section 11		
N½ of NW¼ of SW¼		20.00
NW¼		160.00
N½ of SW¼ of NE¼		20.00
N½ of NE¼		80.00
Section 12		
N½ of NW¼ of NW¼		20.00
Section 2		
E½ of SW¼ of SE¼		20.00
E½ of SE¼		80.00
SE¼ of NW¼ of SE¼		10.00
S½ of SE¼ of NE¼		20.00
Section 1		
W½ of SW¼		80.00
N½ of NE¼ of SW¼		20.00
S½ of NW¼		80.00
NE¼ of NW¼		41.46
W½ of NE¼		81.44
NE¼ of NE¼		41.41
N½ of SE¼ of NE¼		20.00
T113N-R17W		
Section 36		
SE¼ of SE¼ of SW¼		10.00
S½ of SE¼		40.00
Section 31		
SW¼ of SW¼		40.06
E½ of SW¼		80.00
SE¼		160.00
T112N-R16W		
Section 6		
N½ of NW¼		62.21
N½ of NE¼		40.00
Section 5		
N½ of NW¼		81.73
NW¼ of NE¼		40.63
T113N-R16W		
Section 32		
S½ of NW¼ of SW¼		20.00
SW¼ of SW¼		40.00
S½ of SE¼ of SW¼		20.00
S½ of SE¼		80.00
NW¼ of SE¼		40.00
W½ of NE¼ of SE¼		20.00
NE¼		160.00
Section 33		
N½ of NW¼ of NW¼		20.00
Section 29		
S½ of SW¼ of SE¼		20.00
SE¼ of SE¼		40.00
Section 28		
SW¼		160.00
N½ of SE¼		80.00
S½ of NE¼		80.00
SE¼ of NW¼		40.00
NE¼ of NW¼	within 300' of OHWM N of river	2.00
NW¼ of NE¼	" "	4.00
Section 27		
SE¼		160.00
SE¼ of SW¼		40.00
N½ of SW¼		80.00
S½ of NW¼		80.00
S½ of SW¼ of NE¼		20.00
Section 26		
SW¼ of SW¼		40.00
S½ of SE¼ of SW¼		20.00
S½ of SW¼ of SE¼		20.00
NE¼ of SW¼ of SE¼		10.00
SE¼ of SE¼		40.00
E½ of NE¼ of SE¼		20.00
Section 34		
N½ of NE¼ of NE¼		20.00
Section 35		
N¼		160.00
N½ of S½ of NW¼		40.00
N½ of SW¼ of NE¼		20.00
NW¼ of SE¼ of NE¼		10.00
Section 36		
N½ of NW¼		40.00

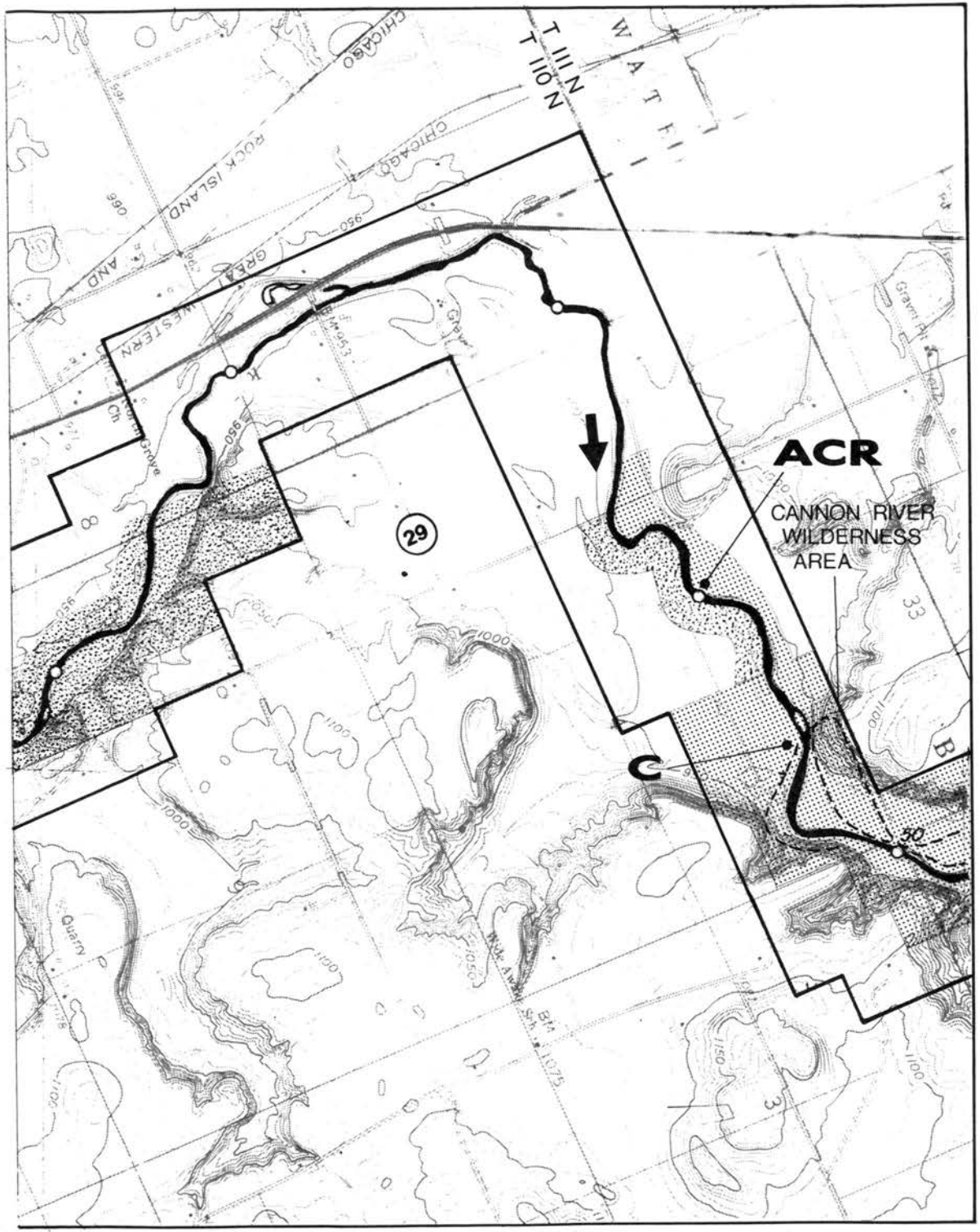
Section 25	
SW¼	160.00
N½ of SW¼ of SE¼	20.00
N½ of SE¼	80.00
NE¼	160.00
S½ of NW¼	80.00
S½ of NE¼ of NW¼	20.00
T113N-R15W	
Section 30	
N½ of NW¼	79.60
N½ of SW¼ of NW¼	19.87
Section 19	
S½ of SW¼	79.55
S½ of N½ of SW¼	39.73
SE¼	160.00
SE¼ of NE¼	40.00
E½ of SW¼ of NE¼	20.00
Section 20	
N½	320.00
N½ of NW¼ of SW¼	20.00
N½ of NW¼ of SE¼	20.00
E½ of SE¼	80.00
Section 21	
W½ of SW¼	80.00
SE¼ of SW¼	40.00
S½ of NE¼ of SW¼	20.00
W½ of SE¼	80.00
W½ of SE¼ of SE¼	20.00
NE¼ of SE¼ of SE¼	10.00
NE¼ of SE¼	40.00
SE¼ of NE¼	40.00
E½ of SW¼ of NE¼	20.00
SE¼ of NW¼ of NE¼	10.00
S½ of NE¼ of NE¼	20.00
S½ of NW¼ of NW¼	20.00
SW¼ of NW¼	40.00
Section 22	
NW¼	160.00
N½ of NE¼	80.00
W½ of NW¼ of SW¼	20.00
Section 15	
S¼	160.00
Section 14	
SW¼ of SW¼	40.00
S½ of NW¼ of SW¼	20.00
E½ of SW¼	80.00
SE¼	160.00
Section 23	
N¼	160.00
Section 24	
N½ of NW¼	80.00
N½ of SW¼ of NW¼	20.00
SE¼ of NW¼	40.00
SW¼ of NW¼	40.00
Government Lot 1	64.94
Section 13	
S½ of NW¼ of SW¼	20.00
S½ of SW¼	80.00
Government Lot 4	36.80
TOTAL ACREAGE	13,602.44

Managements Maps

LEGEND

- 61 FEDERAL HIGHWAY
- 3 STATE HIGHWAY
- 20 C.S.A.H.
- 75 COUNTY ROAD
- RAILROAD
- RIVER MILE
- DAM
- GAME REFUGE


R 21 W
R 20 W
FARIBAULT
SCOTS MILL SITE
BOUNDARY
Twin Lakes
Gravel Pits
Gravel Pit
Faribault Park
Fairground
Shattuck Sch
St Mary's Sch
St James
Oak Grove Cem
St Lawrence Cem
Orpheum Theater
SPILLWAY 954
CANNON
PACIFIC
35
65
3
60
20
55



CANNON RIVER
Management Maps

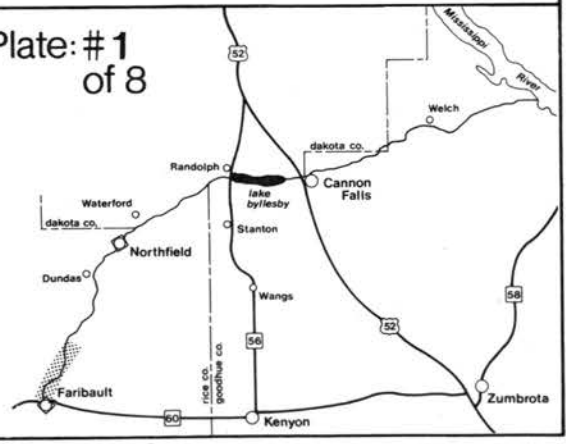
- LAND USE DISTRICT
- PUBLIC OWNERSHIP
- PROPOSED SCENIC EASEMENT
- PROPOSED FEE TITLE
- HIKING/CROSS COUNTRY SKI TRAIL
- HISTORIC SITE

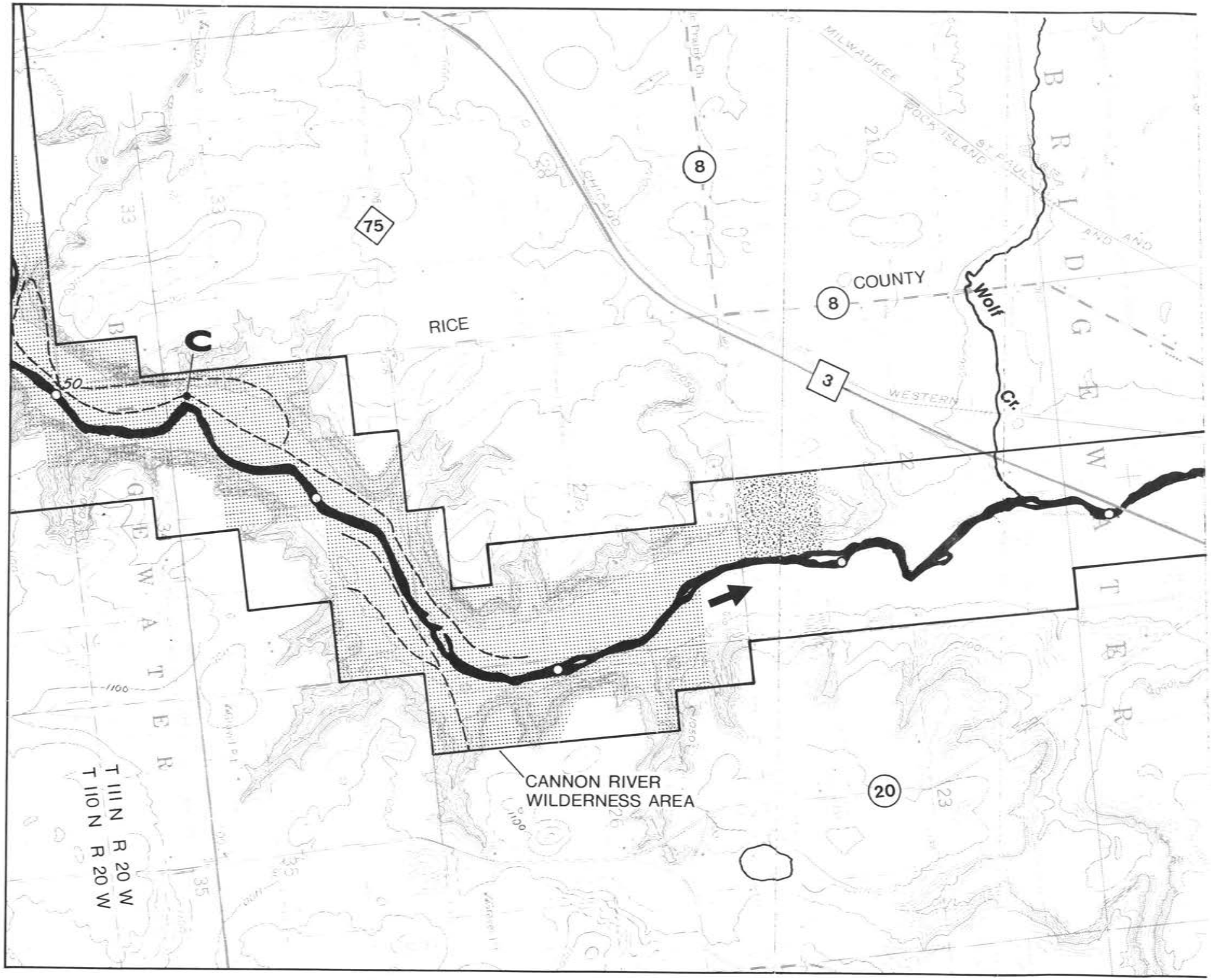
EXISTING	PROPOSED	FACILITY
A	A	ACCESS
C	C	CAMPSITE
R	R	REST AREA
P	P	PORTAGE
IIIII		RAPIDS

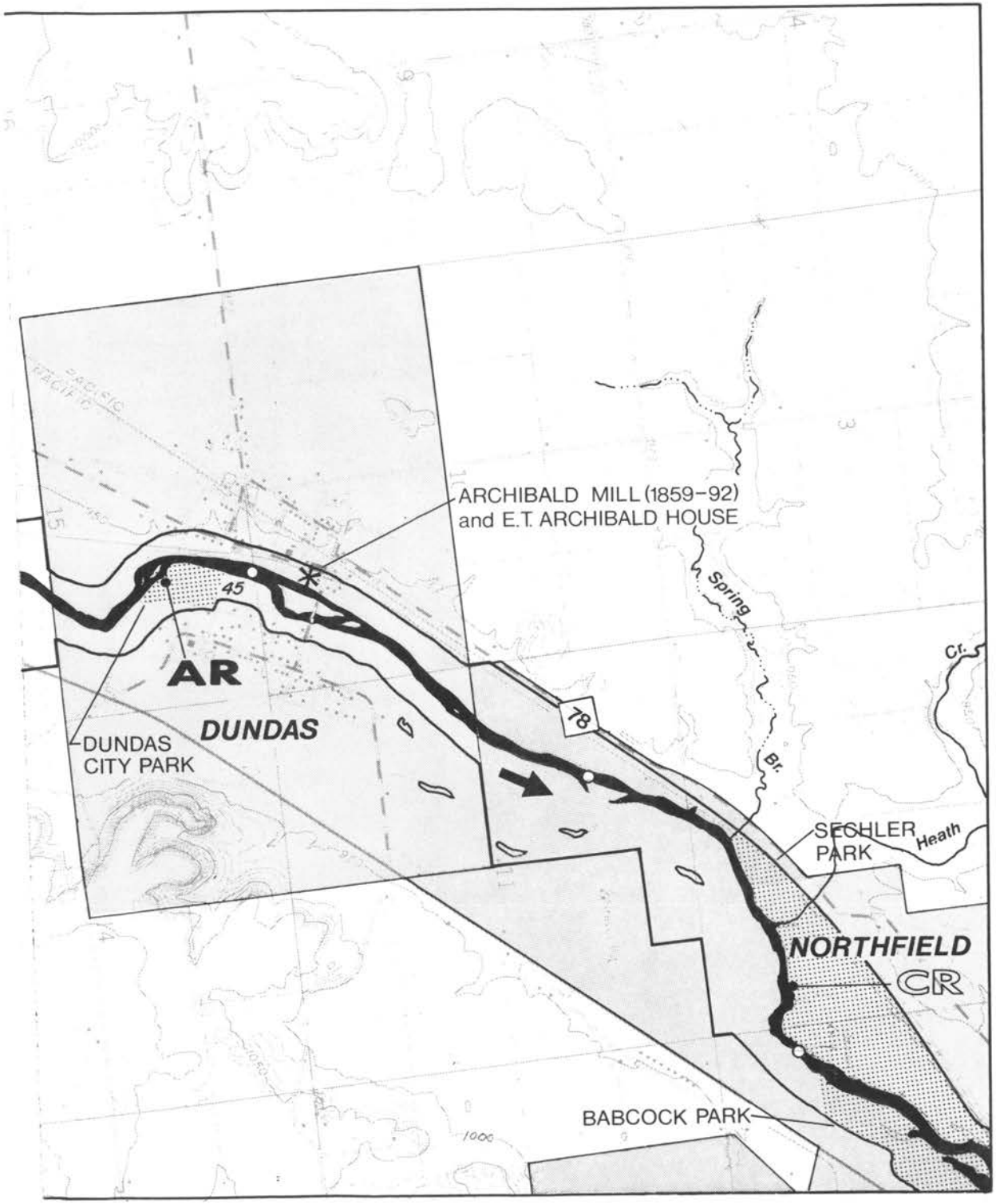
ZONING PROVISIONS OF THIS PLAN SHALL APPLY TO ALL LANDS WITHIN THE LAND USE DISTRICT.

SCALE: 1"= 2000'

Plate: #1 of 8




75
8
8
COUNTY
RICE
C
50
3
Wolf
Cr.
CANNON RIVER
WILDERNESS AREA
20
T 111 N R 20 W
T 110 N R 20 W



CANNON RIVER
Management Maps

- LAND USE DISTRICT
- PUBLIC OWNERSHIP
- PROPOSED SCENIC EASEMENT
- PROPOSED FEE TITLE
- ---- HIKING/CROSS COUNTRY SKI TRAIL
- * HISTORIC SITE

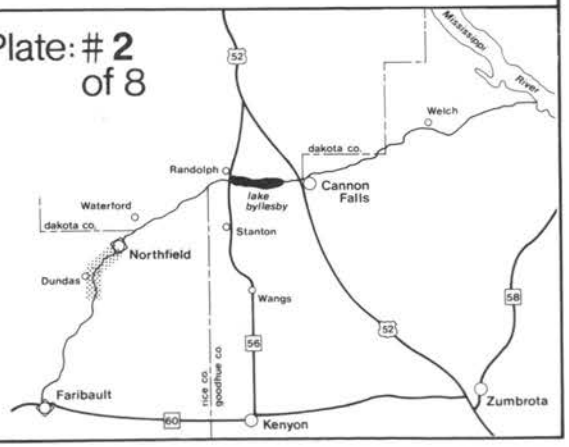
EXISTING	PROPOSED	FACILITY
A	A	ACCESS
C	C	CAMPSITE
R	R	REST AREA
P	P	PORTAGE
||||		RAPIDS

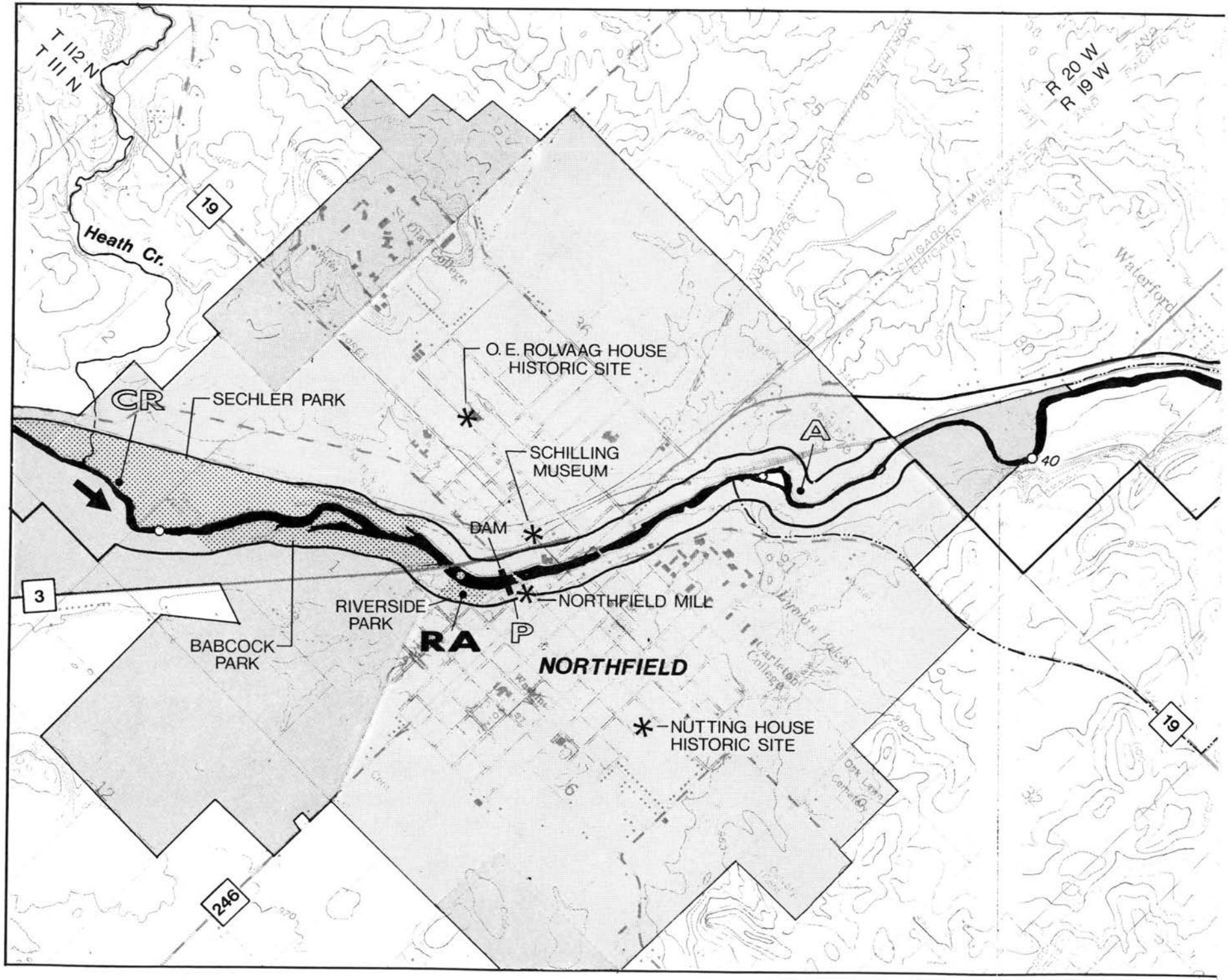
N

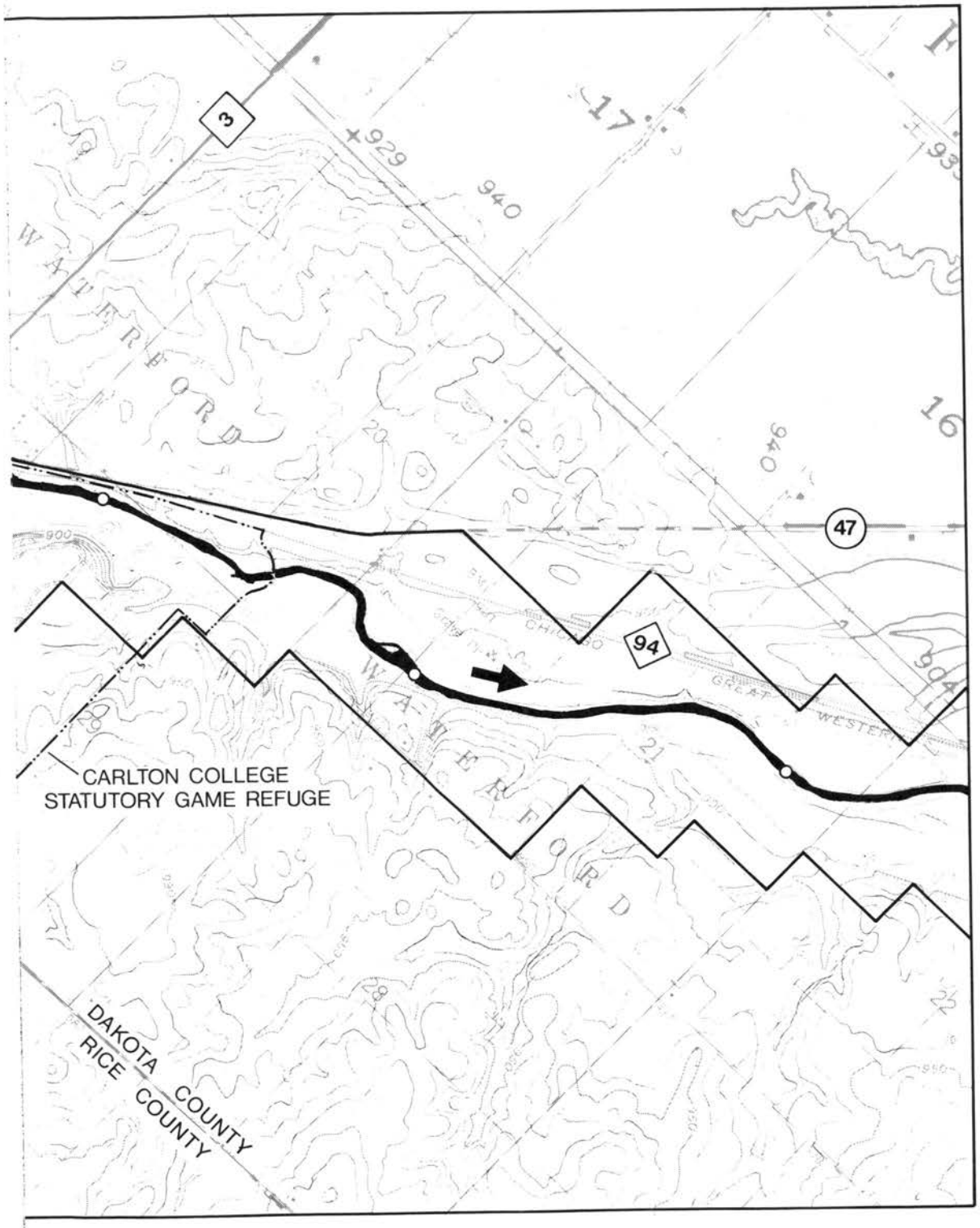
ZONING PROVISIONS OF THIS PLAN SHALL APPLY TO ALL LANDS WITHIN THE LAND USE DISTRICT.

SCALE: 1"= 2000'

Plate: # 2 of 8




T 112 N
T 111 N
R 20 W
R 19 W
Heath Cr.
19
O. E. ROLVAAG HOUSE
HISTORIC SITE
CR
SECHLER PARK
SCHILLING
MUSEUM
A
40
DAM
3
RIVERSIDE
PARK
NORTHFIELD MILL
RA
P
BABCOCK
PARK
NORTHFIELD
NUTTING HOUSE
HISTORIC SITE
19
246
Waterford
Carleton College
Lyman Lakes
Oak Lawn Cemetery



CANNON RIVER
Management Maps

- LAND USE DISTRICT
- PUBLIC OWNERSHIP
- PROPOSED SCENIC EASEMENT
- PROPOSED FEE TITLE
- ---- HIKING/CROSS COUNTRY SKI TRAIL
- * HISTORIC SITE

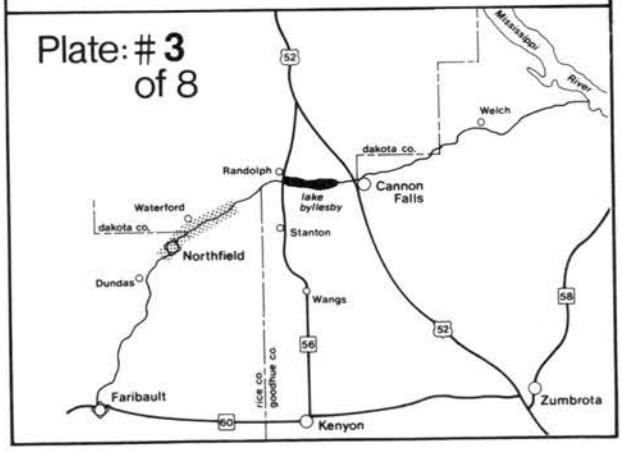
EXISTING	PROPOSED	FACILITY
A	A	ACCESS
C	C	CAMPSITE
R	R	REST AREA
P	P	PORTAGE
||||		RAPIDS

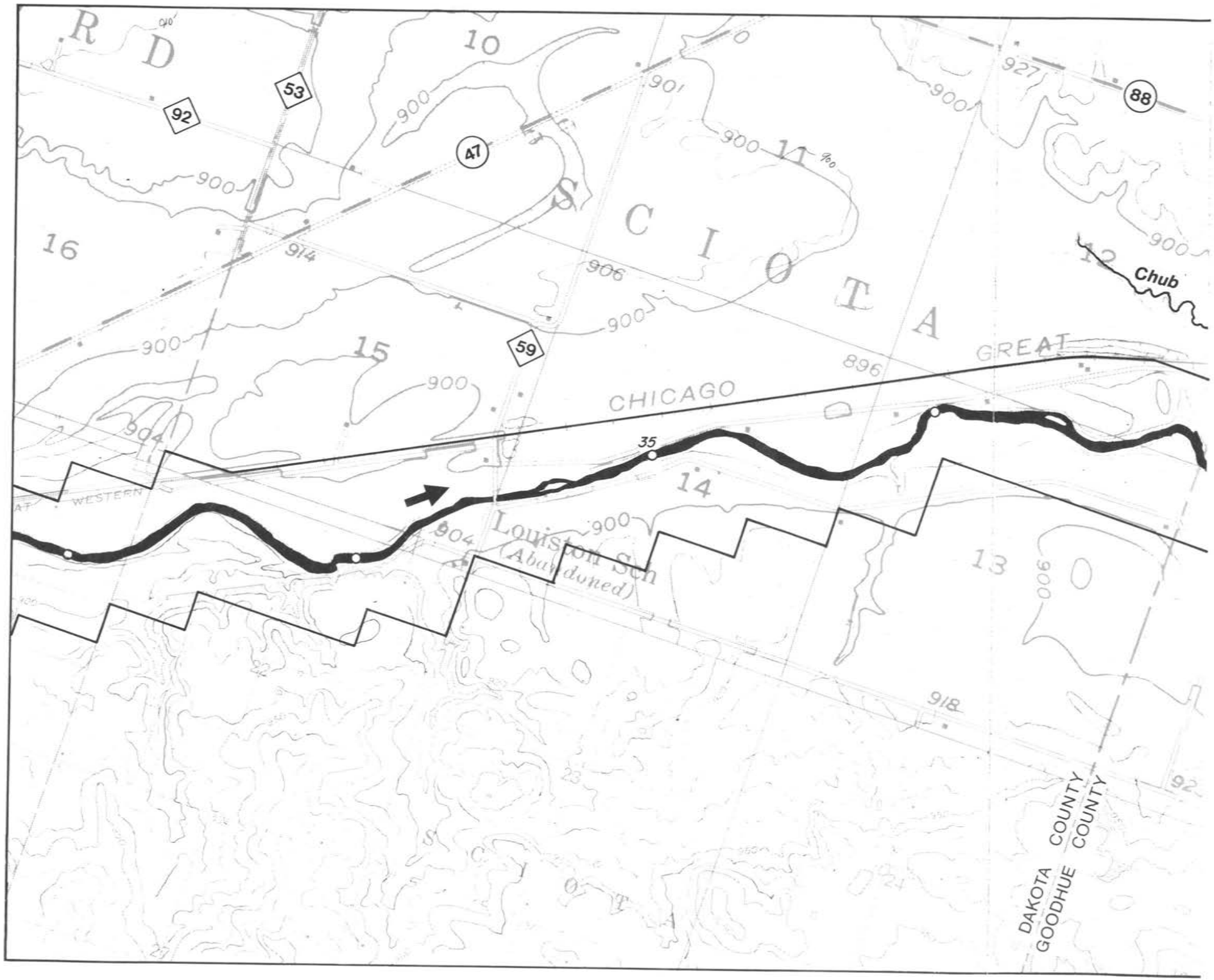
ZONING PROVISIONS OF THIS PLAN SHALL APPLY TO ALL LANDS WITHIN THE LAND USE DISTRICT.

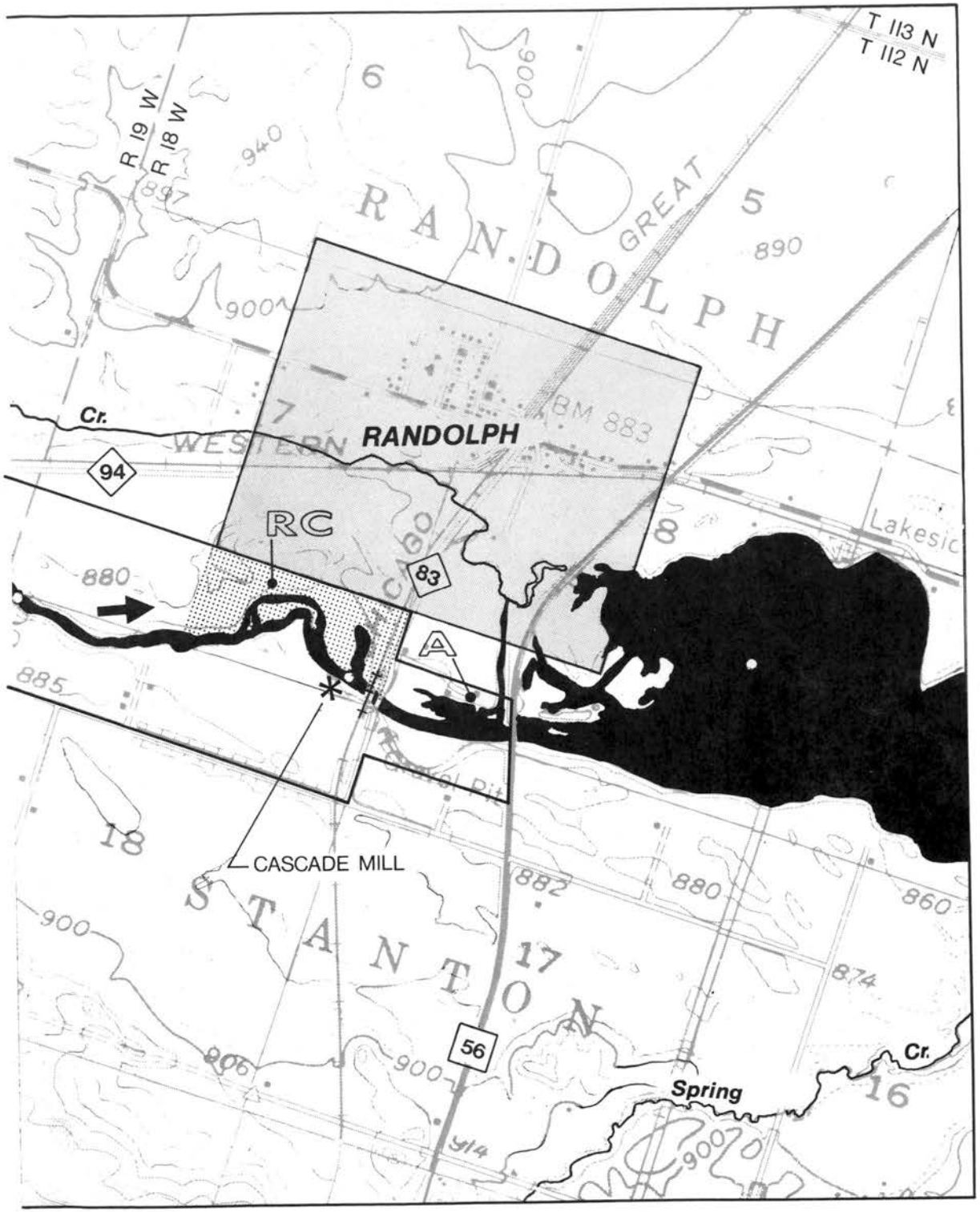
N

SCALE: 1"= 2000'

Plate: # 3 of 8




R D
10
11
12
S C I O T A
16
15
14
13
92
53
47
59
88
900
901
914
906
896
904
918
927
35
Chub
GREAT
CHICAGO
WESTERN
Louiston Sch
(Abandoned)
DAKOTA COUNTY
GOODHUE COUNTY



CANNON RIVER
Management Maps

- LAND USE DISTRICT
- PUBLIC OWNERSHIP
- PROPOSED SCENIC EASEMENT
- PROPOSED FEE TITLE
- ---- HIKING/CROSS COUNTRY SKI TRAIL
- * HISTORIC SITE

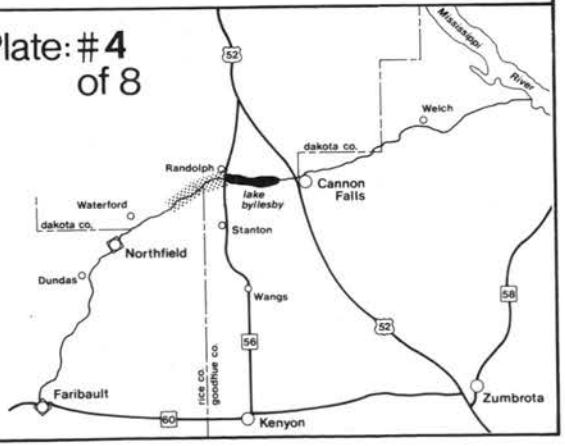
EXISTING	PROPOSED	FACILITY
A	A	ACCESS
C	C	CAMPSITE
R	R	REST AREA
P	P	PORTAGE
|||||		RAPIDS

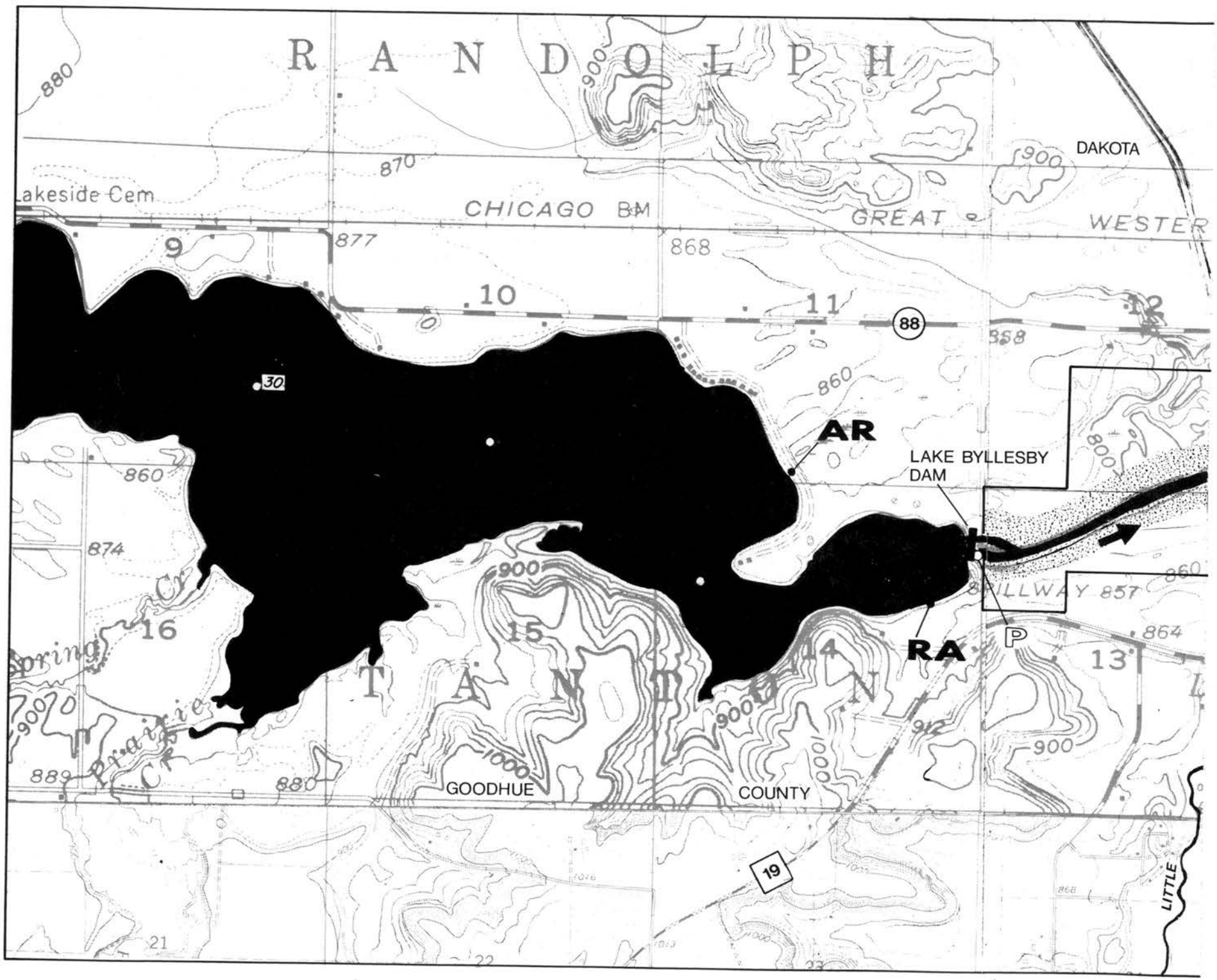
N

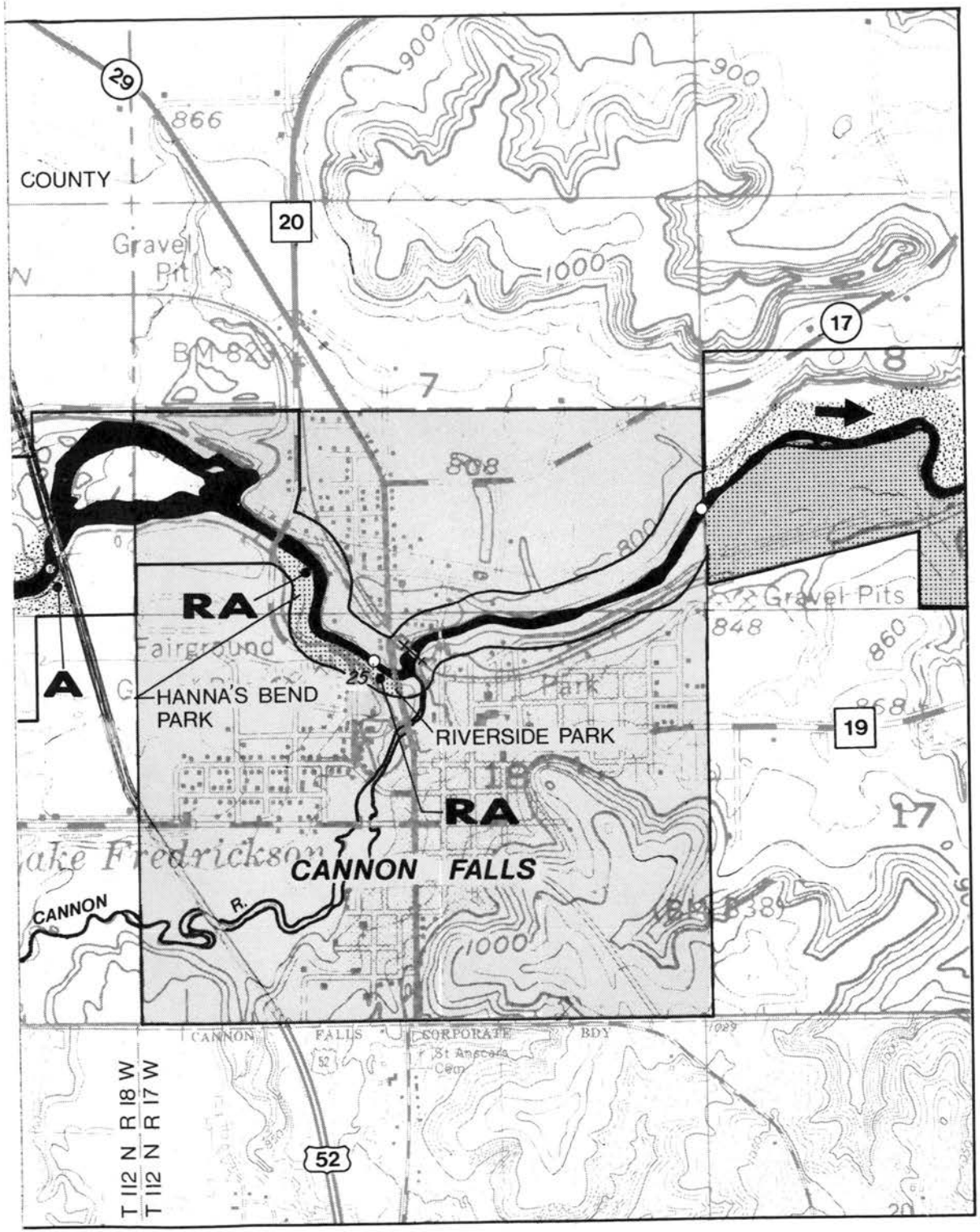
ZONING PROVISIONS OF THIS PLAN SHALL APPLY TO ALL LANDS WITHIN THE LAND USE DISTRICT.

SCALE: 1"= 2000'

Plate: # 4 of 8




RANDOLPH
DAKOTA
Lakeside Cem
CHICAGO B&M
GREAT WESTER
880
870
900
877
868
9
10
11
88
30
860
AR
LAKE BYLLESBY
DAM
874
900
SPILLWAY 857
16
15
14
13
RA
P
Spring Cr
Prairie Cr
T 111 N
900
1000
912
864
889
880
GOODHUE
COUNTY
19
21
22
LITTLE



CANNON RIVER
Management Maps

- LAND USE DISTRICT
- PUBLIC OWNERSHIP
- PROPOSED SCENIC EASEMENT
- PROPOSED FEE TITLE
- ---- HIKING/CROSS COUNTRY SKI TRAIL
- * HISTORIC SITE

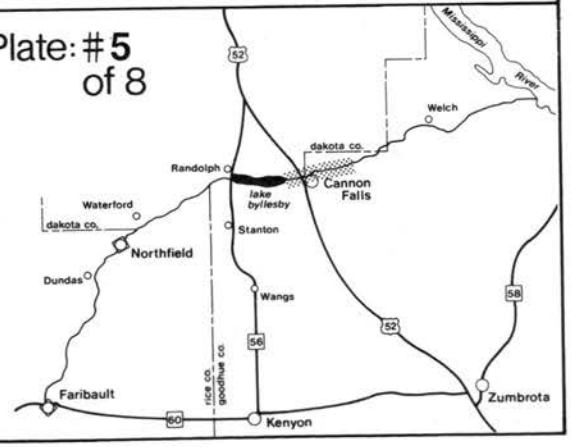
EXISTING	PROPOSED	FACILITY
A	A	ACCESS
C	C	CAMPSITE
R	R	REST AREA
P	P	PORTAGE
||||		RAPIDS

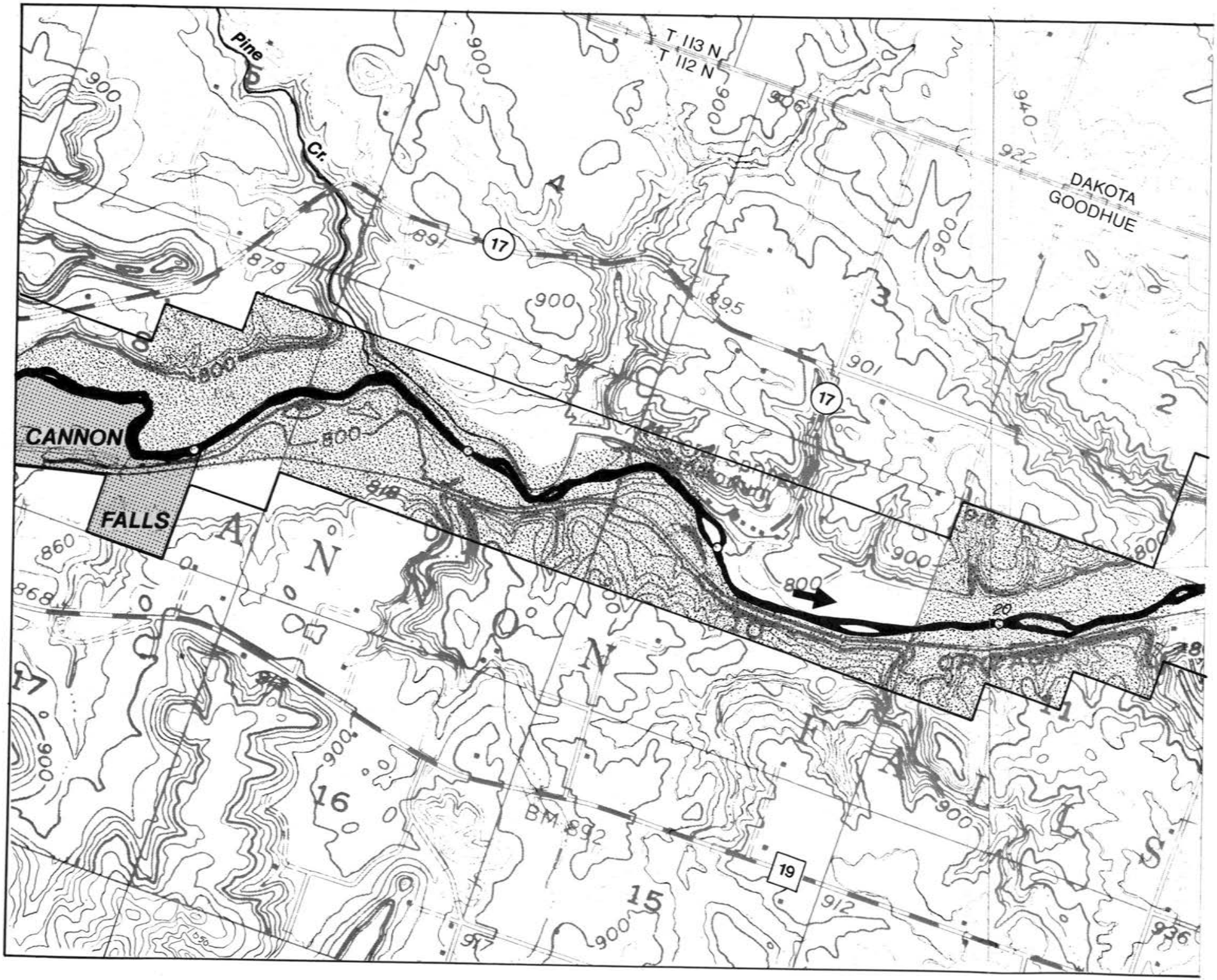
ZONING PROVISIONS OF THIS PLAN SHALL APPLY TO ALL LANDS WITHIN THE LAND USE DISTRICT.

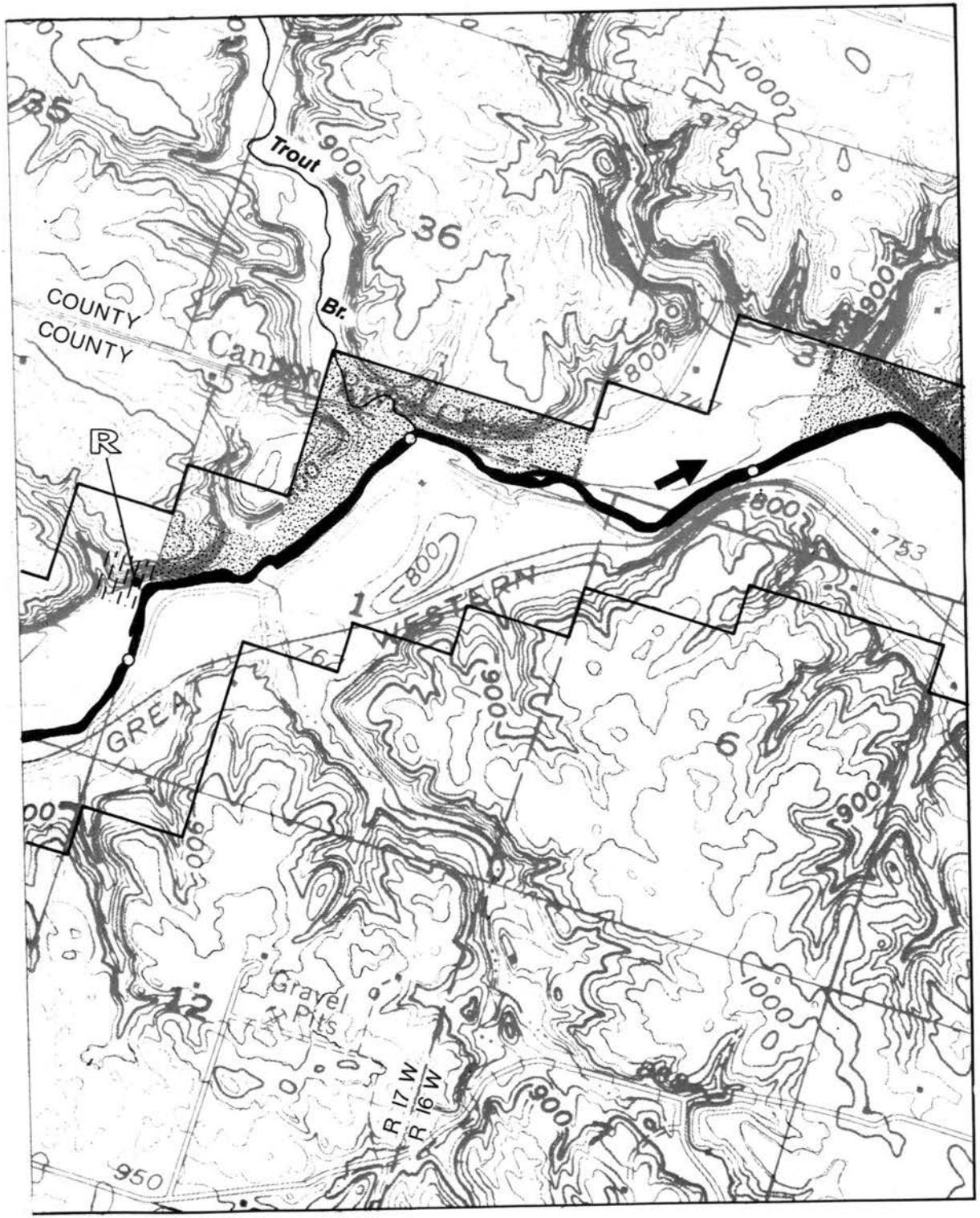
N

SCALE: 1"= 2000'

Plate: #5 of 8




Pine Creek
T 113 N
T 112 N
DAKOTA
GOODHUE
CANNON
FALLS
17
19
20
BM 892
900
800
880
860
868
912
936
940
922
879
891
895
901
16
15



CANNON RIVER
Management Maps

- LAND USE DISTRICT
- PUBLIC OWNERSHIP
- PROPOSED SCENIC EASEMENT
- PROPOSED FEE TITLE
- ---- HIKING/CROSS COUNTRY SKI TRAIL
- * HISTORIC SITE

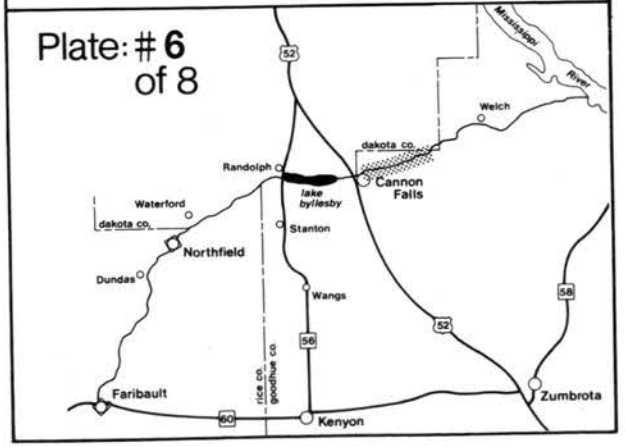
EXISTING	PROPOSED	FACILITY
A	A	ACCESS
C	C	CAMPSITE
R	R	REST AREA
P	P	PORTAGE
IIIII		RAPIDS

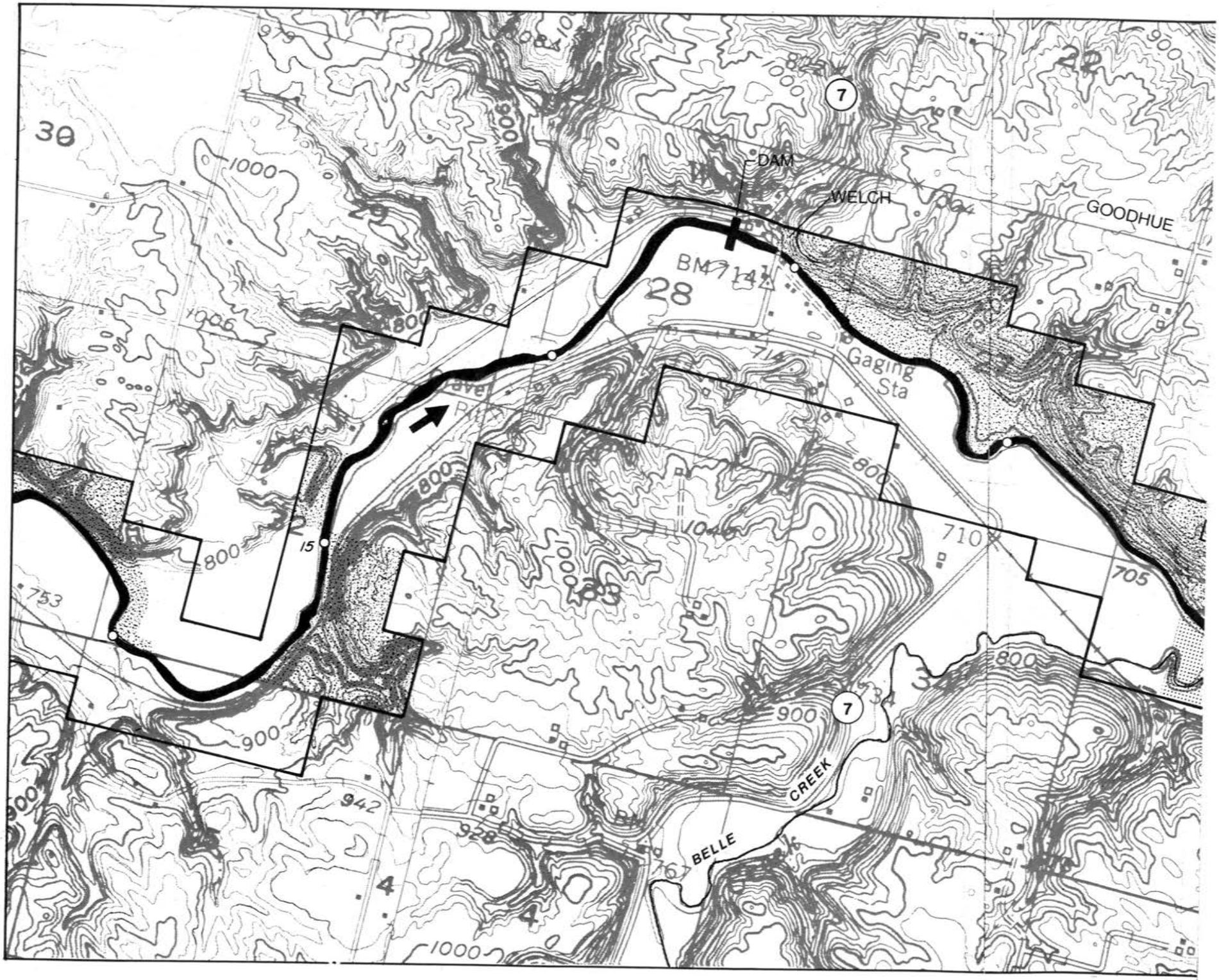
N

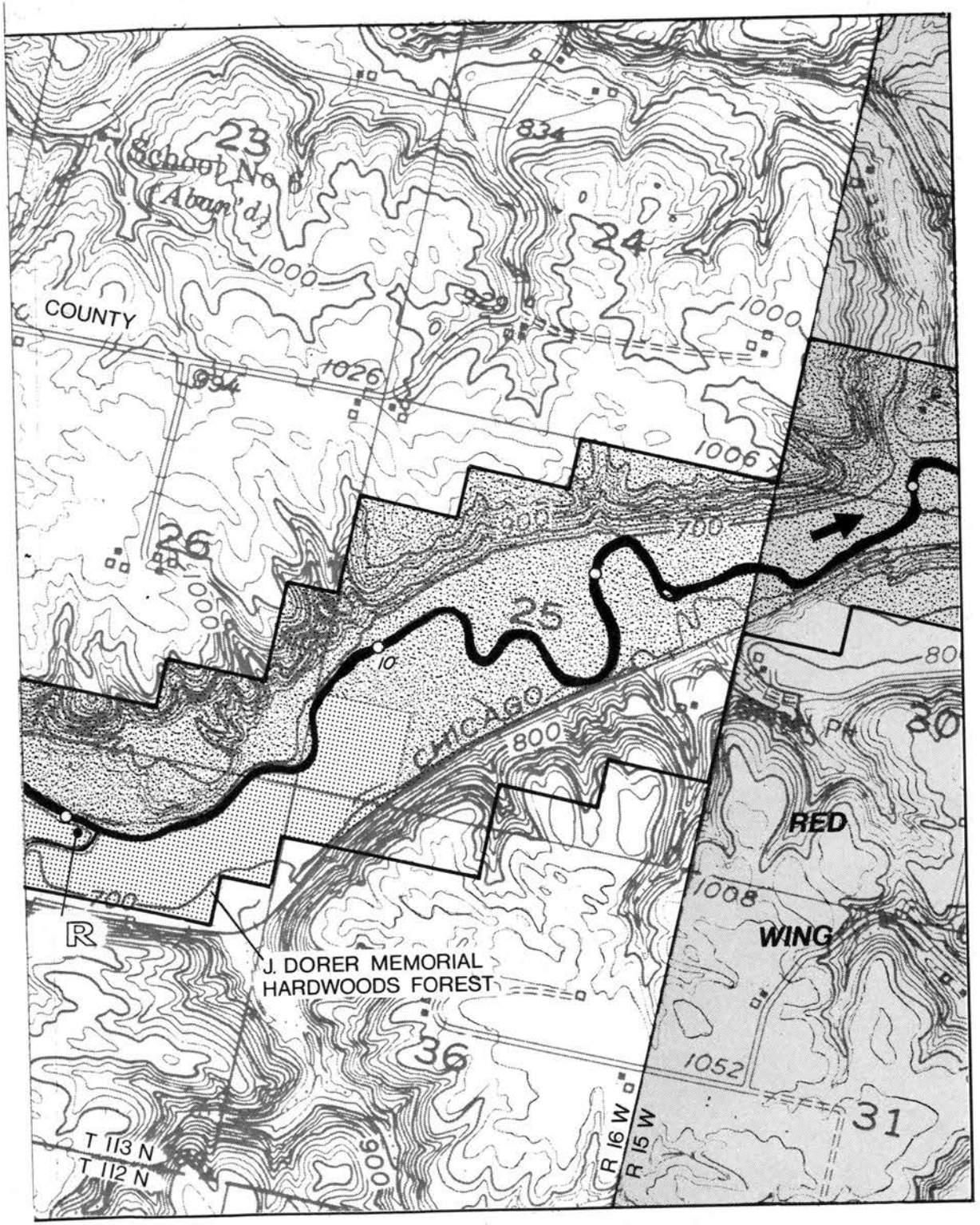
ZONING PROVISIONS OF THIS PLAN SHALL APPLY TO ALL LANDS WITHIN THE LAND USE DISTRICT.

SCALE: 1"= 2000'

Plate: # 6 of 8




DAM
WELCH
GOODHUE
BM 714
28
Gaging Sta
BELLE
CREEK
7
15
4
30
1000
800
900
710
705
753
942
928



CANNON RIVER
Management Maps

- LAND USE DISTRICT
- PUBLIC OWNERSHIP
- PROPOSED SCENIC EASEMENT
- PROPOSED FEE TITLE
- ---- HIKING/CROSS COUNTRY SKI TRAIL
- * HISTORIC SITE

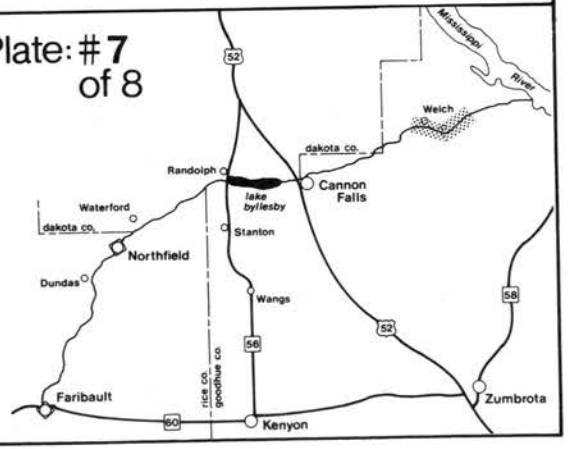
EXISTING	PROPOSED	FACILITY
A	A	ACCESS
C	C	CAMPSITE
R	R	REST AREA
P	P	PORTAGE
||||		RAPIDS

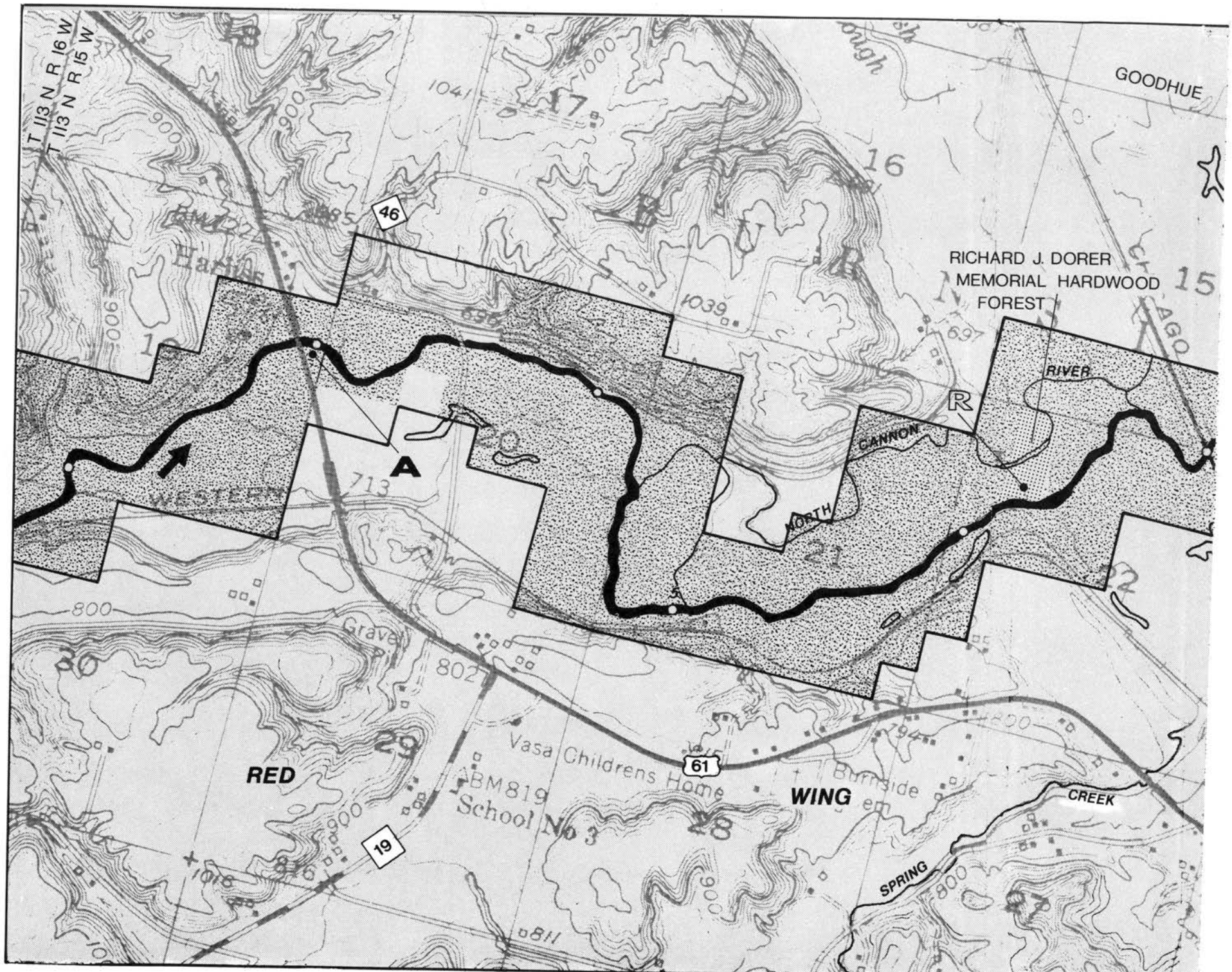
ZONING PROVISIONS OF THIS PLAN SHALL APPLY TO ALL LANDS WITHIN THE LAND USE DISTRICT.

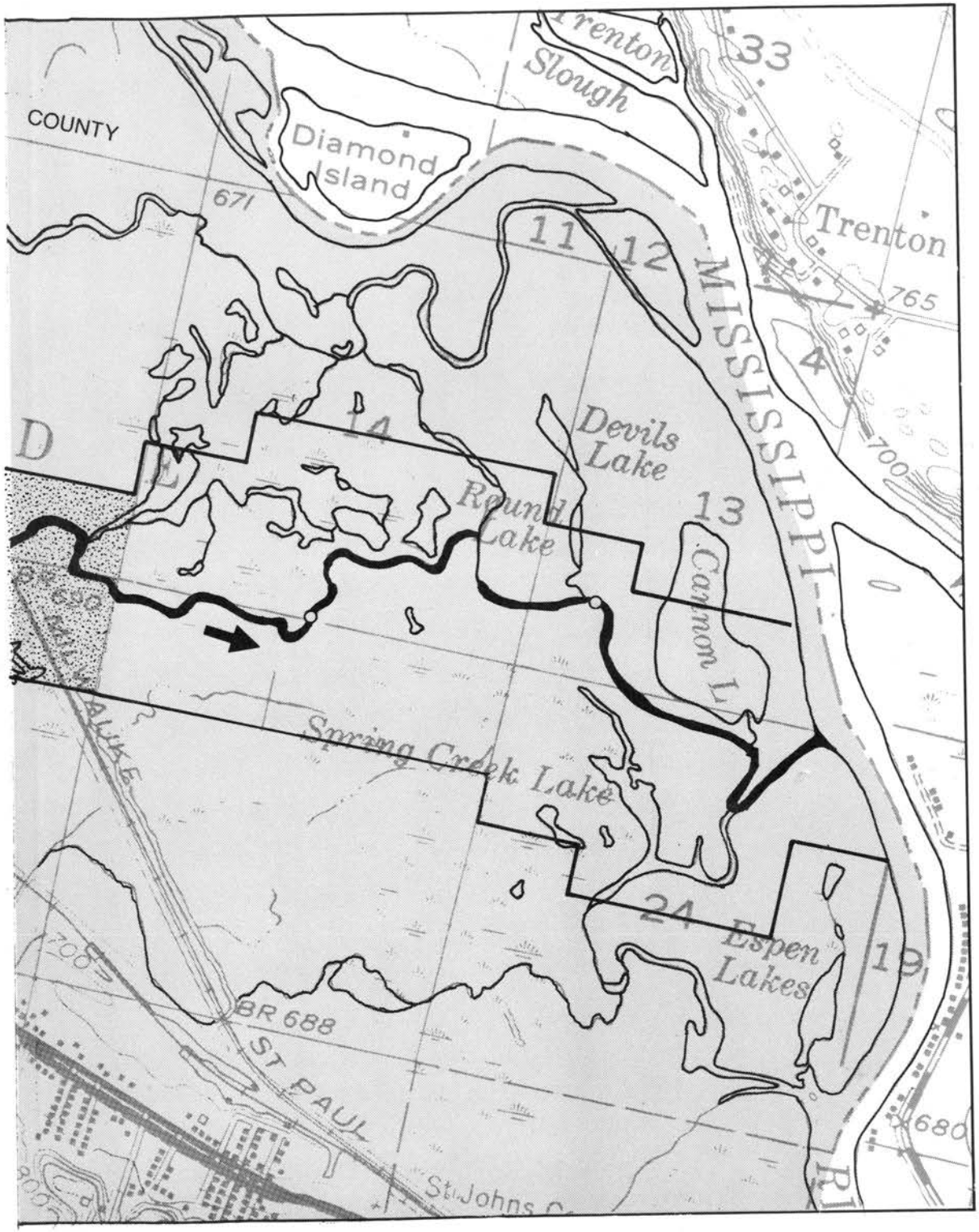
N

SCALE: 1"= 2000'

Plate: #7
of 8




T 113 N R 16 W
T 113 N R 15 W
GOODHUE
RICHARD J. DORER
MEMORIAL HARDWOOD
FOREST
RIVER
CANNON
NORTH
WESTERN
A
RED
WING
Vasa Childrens Home
School No 3
Burnside
CREEK
SPRING
Gravel
46
61
19
1041
1039
1000
900
800
713
802
696
697
1016
BM819



CANNON RIVER
Management Maps

- LAND USE DISTRICT
- PUBLIC OWNERSHIP
- PROPOSED SCENIC EASEMENT
- PROPOSED FEE TITLE
- ---- HIKING/CROSS COUNTRY SKI TRAIL
- * HISTORIC SITE

EXISTING	PROPOSED	FACILITY
A	A	ACCESS
C	C	CAMPSITE
R	R	REST AREA
P	P	PORTAGE
||||		RAPIDS

N

ZONING PROVISIONS OF THIS PLAN SHALL APPLY TO ALL LANDS WITHIN THE LAND USE DISTRICT.

SCALE: 1"= 2000'

Plate: # **8** of 8

