

Minnesota Attorney General: Administrative Rules Proceedings

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Water Resources Board

Adopted Permanent Rules Relating to the Comprehensive Local Water Management Act

Rules as Adopted

9300.0010 DEFINITIONS.

Subpart 1. **Applicability.** The definitions in this part and in Minnesota Statutes, section 110B.02 apply to parts 9300.0020 to 9300.0210.

Subp. 2. **Geographic indicator.** "Geographic indicator" means latitude and longitude; or township, range, section, and 40-acre parcel.

Subp. 3. **Local units of government.** "Local units of government" means municipalities, towns, counties, soil and water conservation districts, watershed districts, organizations formed for the joint exercise of powers under Minnesota Statutes, section 471.59, and other special purpose districts or authorities exercising authority in water and related land resources management at the local level.

Subp. 4. **Minor watershed unit.** "Minor watershed unit" means each of the approximately 5,600 minor watershed units delineated on the state watershed boundaries map prepared pursuant to the requirements of Laws of Minnesota 1977, chapter 455, section 33, subdivision 7, paragraph (a) and the accompanying data base, and the revisions of that data base.

Subp. 5. **Protected waters.** "Protected waters" means those waters of the state identified as public waters or wetlands under Minnesota Statutes, section 105.37, subdivision 14 or 15, or section 105.391, subdivision 1.

Subp. 6. **State board.** "State board" means the Minnesota Water Resources Board created by Minnesota Statutes, section 105.71, subdivision 1.

Subp. 7. **Watershed management organization.** "Watershed management organization" has the meaning given in Minnesota

Statutes, section 473.876, subdivision 9.

Subp. 8. **Watershed units.** "Watershed units" has the meaning given in Minnesota Statutes, section 110B.02, subdivision 10.

PURPOSE AND PROCEDURE OF PLANNING

9300.0020 PURPOSES OF PLANNING PROCESS AND SCOPE OF PLAN.

Subpart 1. **Purposes.** The purposes of a comprehensive water plan are to:

A. identify existing and potential problems and opportunities for the protection, management, and development of water and related land resources; and

B. develop objectives and carry out a plan of action to promote sound hydrologic management of water and related land resources, effective environmental protection, and efficient management.

Subp. 2. **Scope.** In order to gain sufficient understanding of existing natural features and other phenomenon that serve as the basis for a comprehensive water plan, the county must assemble available information about the physical environment and the surface water, ground water, and related land resources. Information is relevant for inclusion in the plan if it provides the basis for understanding a county's present or future water-related conditions, and if it contributes to the understanding of water-related opportunities or problems that are or will be faced by a county.

After collecting the required information, the county must determine the implications of the information for present and future land and water use, assess those implications, and identify opportunities and problems based on this assessment. The county must then develop its goals, objectives, and plan of action for addressing identified problems and opportunities.

9300.0030 PROCEDURES FOR WATER PLANNING.

Subpart 1. **Applicability.** A county board that decides to develop a comprehensive water plan under Minnesota Statutes, chapter 110B shall use the procedures provided in this part to

facilitate public participation and intergovernmental coordination.

Subp. 2. **Resolution to develop plan.** A county board deciding to develop a comprehensive water plan must adopt a resolution requiring the development of a plan.

Subp. 3. **Notice of decision to develop plan.** Within 30 days after adoption of a resolution requiring the development of a comprehensive water plan, the county shall send notice of its decision to develop a plan to:

A. the county boards of contiguous counties;

B. the governing bodies of counties, watershed districts, and watershed management organizations that have jurisdiction in each watershed unit wholly or partly within the county;

C. the governing bodies of all local units of government wholly or partly within the county;

D. the regional development commission, if any; and

E. the state board.

Upon receipt of the resolution, the state board shall notify each of the state agencies identified in part 9300.0170, subpart 2 and any other agency the state board deems appropriate.

Subp. 4. **Request for local plans and official controls.** Within 30 days after adoption of a resolution requiring the development of a comprehensive water plan, the county shall request from all local units of government having jurisdiction within the county the following information:

A. any existing water and related land resources plans and official controls; and

B. any conflicts, problems, or opportunities that those local units want examined and addressed in the comprehensive water plan.

The information must be submitted within 60 days of the county board's request.

Subp. 5. **Public informational meeting required.** Within 90 days of the notice required in subpart 3, the county board shall hold a public informational meeting. At the meeting, the county

board should solicit information about issues, problems, and opportunities to be considered in the plan. The county shall publish notice of the meeting in the official newspaper of the county at least ten days but not more than 30 days before the meeting. The county also shall notify the groups identified in subpart 3 at least 30 days before the meeting.

Subp. 6. **Meetings with local units of government within the county.** The county board adopting the resolution shall conduct meetings with local units of government exercising authority in water and related land resources management within the county during the plan preparation and implementation.

Subp. 7. **Public participation process.** The county board developing a comprehensive water plan shall ensure that there is a process for public participation during plan development and implementation.

Subp. 8. **Record of meetings.** A county must maintain a record of each meeting held under subparts 5, 6, and 7. The record shall include minutes and a list of the people in attendance and who they represented.

Subp. 9. **Delegation.** The county board is responsible for the comprehensive water plan, but may delegate all or part of the preparation of the comprehensive water plan to a local unit of government, regional development commission, or a resource conservation and development committee that is willing to carry out this assignment. If a county delegates all or part of the comprehensive water plan preparation, it must ensure that public meetings are recorded and that there is a process for public participation in the preparation of the plan.

CONTENTS OF A COMPREHENSIVE WATER PLAN

9300.0040 DATA CONSISTENCY WITH STATE PLANNING AGENCY GUIDELINES.

Data collected after the effective date of parts 9300.0010 to 9300.0210 for a comprehensive water plan must follow the guidelines for consistency established by the Minnesota State Planning Agency. To assure consistency, this data must include a geographic indicator.

Data must also be coded using recommended standard identifiers, where available. Standard identifiers are: the Minnesota unique well number for wells and the protected waters inventory identification number for surface waters.

Consistency of map scales is also recommended, where possible. The information required to be presented in map form by parts 9300.0050 and 9300.0070 may be combined on multiple maps or map overlays.

9300.0050 PHYSICAL ENVIRONMENT, LAND USE, AND DEVELOPMENT.

Summarizing information about the physical environment enables a county to understand the present conditions affecting water and related land resources. At a minimum, the following information about the county's physical environment, land use, and development must be included in the comprehensive water plan:

A. Precipitation:

(1) a map or list of the location of precipitation gaging stations in the county;

(2) a map showing isolines of normal annual total precipitation in inches; and

(3) a map showing isolines of normal total precipation in inches for the period May through September.

B. Geology and water resources:

(1) a map or description of important aquifer systems, confining layers, and flow characteristics to the extent known;

(2) a description of ground and surface water interconnections, such as recharge and discharge areas, where they are known;

(3) a map of boundaries and flow directions of watershed units and minor watershed units; and

(4) a map of state protected waters and public drainage ditches, including the location of any existing dams and control structures.

C. Soils:

(1) a general soils maps and description of soils

infiltration characteristics; and

(2) a map of erosion-prone soils.

D. Map of original vegetation.

E. Description of general topographic relief of watershed units based on United States Geological Survey topographic maps.

F. Land use and public utility services:

(1) a general map of existing land uses;

(2) a map showing the areas served by storm sewers, sanitary sewers, and public water systems; and

(3) a map or list by geographic indicator showing the location of community public water supply intakes and wells.

G. Land ownership:

(1) a map showing the ownership of local, state, federal, and Indian tribal lands; and

(2) a map showing lands with easements that relate to water resources, where that information is available.

9300.0060 EXPECTED CHANGES TO PHYSICAL ENVIRONMENT, LAND USE, AND DEVELOPMENT.

A comprehensive water plan must identify expected changes in the physical environment, land use, and development described in part 9300.0050. Information that may be used to predict changes include population projections, comprehensive plans, official controls, state and federal regulations, and plans for road, water, and sewer extensions. Expected changes that must be included in the plan are expected changes to land use and cover; expected changes in public utility services; and other expected changes potentially affecting water resources.

9300.0070 SURFACE WATER, GROUND WATER, AND RELATED LAND RESOURCES.

Subpart 1. **Applicability.** Summarizing information about the surface water, ground water, and related land resources, enables a county to characterize its water and related land resources, and to identify problems and opportunities. The level of detail should be determined in conjunction with

neighboring counties, based on the information available, the extent and use of the resource, and the degree to which problems and opportunities are identified. The information should be listed by watershed unit and ground water systems where appropriate. At a minimum, information about existing county resources must include the information required by subparts 2 to 5, when that information is available.

Subp. 2. **Water quantity information.** The following information about water quantity must be included in the plan:

A. Surface water:

(1) a description of high, mean, and low flows on streams;

(2) a list of lakes where the state has established ordinary high water marks;

(3) a list of permitted withdrawals from lakes and streams, including the location by geographic indicator, source, use, and amounts withdrawn;

(4) a list of lakes and streams in the county for which state protected levels or flows have been established;

(5) a description of known water use conflicts, including those caused by ground water pumping that affects surface water; and

(6) the implications of surface water quantity information for present and future water and land uses and an assessment of those implications.

B. Ground water:

(1) a list of wells covered by state appropriation permits, including the location by geographic indicator, amounts of water appropriated, type of use, and aquifer source;

(2) a description of known well interference problems and water use conflicts;

(3) a list of state observation wells located in the county including geographic indicator, unique well number, aquifers measured, years of record, and average monthly levels; and

(4) the implications of ground water quantity information for present and future water and land uses and an assessment of those implications.

Subp. 3. **Water quality information.** The following information about water quality must be included in the plan:

A. Surface water:

(1) a map or list of the state water quality management classifications for each stream and lake;

(2) a summary of available lake and stream water quality monitoring data; examples of these kinds of data are:

(a) bacteriological contamination indicators (for example, total coliform counts);

(b) inorganic chemicals (for example, phosphorus, nitrogen, and metals);

(c) organic chemicals (for example, petroleum constituents, pesticides, and organic solvents);

(d) sedimentation (for example, suspended solids);

(e) dissolved oxygen; and

(f) excessive growth or deficiency of aquatic plants;

(3) a summary of information from informal sources relating to surface water quality, such as fish kills; and

(4) the implications of surface water quality information for present and future water and land use, and an assessment of those implications.

B. Ground water:

(1) A summary of available water quality data, including routinely monitored sites. Examples of data are:

(a) bacteriological contamination indicators (for example, total coliform counts);

(b) inorganic chemicals (for example, nitrate/nitrite and metals concentrations); and

(c) organic chemicals (for example, organic solvents, petroleum constituents, and pesticides).

(2) The implications of ground water quality information for present and future water and land uses with emphasis on those with potential health-related impacts and an assessment of those implications.

Where possible, the information required in this item should be presented by aquifer system and geographic area.

Subp. 4. **Information on special land uses and conditions that influence quality and quantity.** The following information about special land uses and conditions must be included in the plan:

A. Eroding lands:

(1) a description or map by watershed unit of areas where eroding lands are causing sedimentation problems;

(2) water quality and quantity implications for watercourses, water basins, ditches, and wetlands of sedimentation and an assessment of those implications; and

(3) an assessment by watershed unit of the effects of land use and cover on quantity and quality of runoff.

B. Irrigation:

(1) a map or list by geographic indicator of irrigated acreage; and

(2) for any county containing more than 1,000 acres of irrigated land in any one township, the implications of irrigation for present and future land and water use and an assessment of those implications.

C. Drainage:

(1) a table listing the public drainage systems in the county and the amounts expended, by year, for repair work on each system;

(2) an assessment of any significant water quality and quantity effects due to public or private ditch systems; and

(3) a summary of any known water quality and quantity information from engineering reports and modeling efforts on ditches in the county.

D. Pollutant sources:

(1) a map or list by geographic indicator of known closed and open sanitary landfills, closed and operating open dumps, and Minnesota Superfund hazardous waste sites and a summary of available water quality information relating to these sites;

(2) a map or list by geographic indicator of feedlots, abandoned wells not sealed in accordance with state statutes and rules, underground storage tank sites, and permitted wastewater discharges under chapter 7001, and a summary of available water quality information relating to these sites;

(3) a list by geographic indicator of facilities that have hazardous waste generator identification numbers; and

(4) the implications of pollutant sources for present and future water and land uses and an assessment of those implications.

E. Special geologic conditions:

(1) a map of known geologic conditions, such as karst areas, buried valleys, or sand plains that may pose concerns relating to water quality or quantity; and

(2) the implications of special conditions for present and future water and land uses and an assessment of those implications.

Subp. 5. **Information on related land resources.** The following information about related land resources shall be included in the plan:

A. Wetlands:

(1) maps of wetlands identified under the National Wetlands Inventory, where available;

(2) a summary of plans for wetlands with controlled outlets, such as plans for draw downs;

(3) a description of the United States Corps of Engineers, Section 404 permit requirements affecting county waters; and

(4) the implications of wetlands for present and future water uses with special consideration for water quality,

flood attenuation, wildlife, and recreation, and an assessment of those implications.

B. Floodplains:

(1) a map showing those areas delineated as floodplain by existing local ordinances or in proposed ordinances that have a due date established by the Minnesota Department of Natural Resources or the Federal Emergency Management Agency;

(2) a map of areas with known flooding problems;

(3) an estimate of average annual flood damages, if available; and

(4) an assessment of the adequacy and enforcement of existing floodplain ordinances.

C. Shorelands:

(1) a list of local units of government with approved shoreland ordinances;

(2) a list of protected waters, and their shoreland classifications under Minnesota Statutes, section 105.485; and

(3) an assessment of the adequacy and enforcement of the shoreland ordinances.

D. Water-based recreation lands:

(1) a map and description of water oriented recreational resources listed in the State Comprehensive Outdoor Recreation Plan;

(2) a map of public water accesses;

(3) a map and description of state or federally designated wild and scenic rivers and state designated canoe and boating routes; and

(4) an assessment of the adequacy of water-based recreational lands for present and future use.

E. Fish and wildlife habitat:

(1) a map and description of any state designated wildlife management areas and any lakes with state designated classifications for game or fish management within the county;

(2) a map and description of any state designated

trout lakes or trout streams within the county;

(3) a list and description of the state ecological and management classifications and use attainability for lakes and streams, where available;

(4) a list and description of the conclusions and recommendations of biological surveys or reconnaissance studies, where available;

(5) a description of state management plans for fish and wildlife areas, where available; and

(6) an assessment of the adequacy of fish and wildlife habitat for present and future use.

F. Unique features and scenic areas:

(1) a map or description of unique features and scenic areas with relationships to water including state designated natural and scientific areas, areas containing county, state, and federal rare and endangered species, and other features such as waterfalls, springs, and historic mills; and

(2) the implications of unique features and scenic areas for present and future water and land use, and an assessment of those implications.

9300.0080 EXPECTED CHANGES TO SURFACE WATER, GROUND WATER, AND RELATED LAND RESOURCES.

Subpart 1. **Changes to be included.** Changes may be anticipated in distribution, availability, quality, and use of water resources in a county. To assess the probability and effect of potential changes to its water resources, a county must list, consider, and describe the impacts on those resources from the following areas of potential change:

A. changes to the physical environment, land use, and development identified under part 9300.0060;

B. special land and water uses or conditions, and trends within or without the county that might affect a county's water and related land recources; and

C. the influence of existing programs on water and

related land resources and the administrative, technical, and financial capability of the county to develop and implement new programs.

Subp. 2. **Method of listing.** Expected changes should be listed by watershed unit and ground water system, where appropriate, for water quantity, water quality, special land uses and conditions, and related land resources categories.

9300.0090 PROBLEMS AND OPPORTUNITIES.

Subpart 1. **Purpose.** Identification of problems and opportunities is needed to guide the county in developing its objectives and plan of action.

Subp. 2. **Description of problems and opportunities.** For each watershed unit and ground water system, where appropriate, the comprehensive water plan must identify key issues relating to water quality, quantity, special land uses and conditions, and related land resources. The plan must discuss assets or opportunities, as well as problems associated with each issue.

Subp. 3. **Determining issues, problems, and opportunities.** A county must determine water related issues, problems, and opportunities in its comprehensive water plan. At a minimum, a county must gather information about water related problems and opportunities in the following manner:

A. investigate those problems and opportunities disclosed at public meetings and in written comments;

B. investigate those problems and opportunities that affected local units of government want examined;

C. assess information gathered under parts 9300.0050 to 9300.0080; and

D. assess the status and adequacy of official controls, plans, and other local, state, or federal programs concerning water and related land uses.

9300.0100 ESTABLISHMENT OF COUNTY GOALS.

The comprehensive water plan must state goals for present and future water and land uses to set the framework for determining plan objectives and related actions.

9300.0110 OBJECTIVES AND PLAN OF ACTION.

The objectives and plan of action should be tailored to address the problems and opportunities previously identified in the comprehensive water plan. A comprehensive water plan must state measurable objectives and a plan of action for each watershed unit and ground water system, where appropriate, for each of the following categories:

A. opportunities and problems in surface and ground water quality and quantity identified pursuant to part 9300.0090;

B. significant special land uses and conditions that influence water quantity and quality based on opportunities and problems identified pursuant to part 9300.0090; and

C. related land resources opportunities and problems identified pursuant to part 9300.0090.

9300.0120 PRIORITY ACTION CATEGORIES.

Subpart 1. **Priorities required.** A county must establish priorities in the plan of action relating to water quality, water quantity, special land uses or conditions that influence water quality and quantity, and related land resources.

Subp. 2. **Priority development.** A comprehensive water plan must state priorities of action that reflect the urgency of the problem or opportunity identified.

Subp. 3. **Priority description.** In describing the priorities, the comprehensive water plan must describe those actions that will be taken by the county alone, and those actions that will require the cooperation of other local units of government or state and federal agencies, and must state whether the county board has received commitments for that cooperation.

9300.0130 DESCRIPTION OF RECOMMENDED CHANGES IN STATE PROGRAMS.

If changes in state programs, policies, and requirements that a county considers important to water management in the county are recommended in the comprehensive water plan, the description of those changes must include:

A. identification of the specific program, policy, or requirement for which change is recommended by the county;

B. a statement of the specific changes recommended by the county; and

C. the reasons the county considers the changes important.

9300.0140 LOCAL REVIEW AND POTENTIAL CONFLICTS.

Subpart 1. **Applicability.** The procedures in this part apply to local review and to the identification and resolution of existing and potential conflicts between a comprehensive water plan and the plans or local controls of: (1) local units of government within the county preparing the water plan; (2) contiguous counties; and (3) water management organizations, watershed districts, and joint powers boards sharing jurisdiction over watershed units and ground water systems affected by the comprehensive water plan.

Subp. 2. **Identification of conflicts.** Conflicts or potential conflicts that occur between the comprehensive water plan and the existing or proposed plans of local units of government must be identified either during the planning process or during review of the comprehensive water plan by other local units of government.

Subp. 3. **During plan preparation.** Local units of government must notify the county board intending to develop a comprehensive water plan of any conflicts that those local units want examined and addressed in the comprehensive water plan in accordance with part 9300.0030, subpart 4.

Subp. 4. **During plan review.**

A. Before it is submitted to the state board for review, the comprehensive water plan must be submitted for review and comment to:

(1) all local units of government wholly or partly within the county preparing the plan;

(2) all applicable regional development commissions;

(3) all contiguous counties and water management organizations; and

(4) other counties, watershed districts, intercounty joint powers boards, and watershed management organizations within the same watershed unit or ground water system as the county preparing the plan that may be affected by the plan.

B. In their comments on the plan, other local units of government must identify and describe any conflicts they have with the plan not already identified in the plan. The local unit must state its position on any relevant conflict identified by the county for consideration by the state board during the board's review of the plan.

C. Comments shall be submitted as required by Minnesota Statutes, section 110B.08, subdivision 3.

Subp. 5. **Description of conflicts.** The description of a conflict in the comprehensive water plan or in the comments of local units of government must include:

A. the units of local government or state agencies involved in the conflict;

B. the comprehensive water plan provisions or omissions causing the conflict;

C. any local plan or control that conflicts with the comprehensive water plan and that would require change;

D. the objections of the local unit of government to the comprehensive water plan; and

E. suggested measures to resolve the conflict other than making the change indicated.

Subp. 6. **Process to resolve conflicts.** The comprehensive water plan must state whether there is a process underway to resolve identified conflicts. If there have been unsuccessful attempts to resolve conflicts, those attempts must be described.

9300.0150 INCORPORATION OF PLANS AND RULES OF WATERSHED DISTRICTS AND INTERCOUNTY JOINT POWERS BOARDS.

Subpart 1. **Incorporation required.** A county must

incorporate plans and rules of watershed districts or intercounty joint powers boards with jurisdiction within the county into its comprehensive water plan and may change the plans and rules it incorporates if the requirements of this part are met.

Subp. 2. **Changes to plans and rules.** To change the plans or rules of a watershed district or intercounty joint powers board that a county incorporates into its comprehensive water plan, a county must demonstrate in its plan that changes to the district or intercounty plans or rules are necessary, and that these changes are supported by each county that selects members on the respective boards.

If all affected counties do agree on watershed district or intercounty joint powers board plan or rule revisions, resolutions of support for recommended changes must be attached to the plan.

Subp. 3. **Criteria for changing plans and rules.** To make changes in a watershed district or intercounty joint powers board plan or rule that a county incorporates into its comprehensive water plan, the county must demonstrate that the plan or rule does not adhere to the principles in part 9300.0170, subpart 4.

9300.0160 IMPLEMENTATION PROGRAM.

Subpart 1. **Program and schedule required.** The comprehensive water plan must state how and when the plan will be implemented to meet the objectives and carry out the actions described in part 9300.0110. Components and schedules that are described previously do not have to be repeated.

Subp. 2. **Program.** An implementation program may include data collection programs, educational programs, capital improvement projects, project feasibility studies, enforcement strategies, amendments to existing official controls, adoption of new official controls, and other actions. If the county considers no actions are necessary to address identified problems or opportunities it must explain why actions are not

needed. Staff and financial resources available or needed to carry out the comprehensive water plan must be stated.

Subp. 3. **Schedule.** The implementation schedule must state the time in which each of the actions contained in the implementation program will be taken.

Subp. 4. **Agreements with local units.** If a county board has made any agreement for the implementation of a comprehensive water plan or portions of a plan by a local unit of government within the county, that local unit must be specified, the responsibility indicated, and a description included indicating how and when the implementation will happen.

Subp. 5. **Capitol improvement program.** If capital improvement projects are proposed to implement the comprehensive water plan, the projects must be described in the plan. The description of a proposed capital improvement project must include the following information:

A. the physical components of the project, including their approximate size, configuration, and location;

B. the purposes of the project and their relationship to the objectives in the comprehensive water plan;

C. the proposed schedule for project construction;

D. the expected federal, state, and local costs;

E. the types of financing proposed, such as special assessments, ad valorem taxes, and grants; and

F. the sources of local financing proposed for the project, such as subcounty, countywide, or multicounty.

REVIEW OF COMPREHENSIVE WATER PLANS
BY STATE AGENCIES AND THE STATE BOARD

9300.0170 STATE REVIEW.

Subpart 1. **Submittal to state board.** After conducting the public hearing required by Minnesota Statutes, section 110B.08, subdivision 4, the county board must submit to the state board ten copies of its comprehensive water plan, all written comments received on the plan, a transcript or tape recording of the public hearing held on the plan, and a summary of changes made

to the plan as a result of the local review process.

In order to determine whether a comprehensive water plan is consistent with state law, the state board shall make the determinations in the manner provided by subparts 2, 3, and 4.

Subp. 2. **State board consultation with agencies.** Upon receipt of a comprehensive water plan and supporting documents, the state board shall transmit a copy of the plan to the departments of agriculture, health, and natural resources; the pollution control agency; the state planning agency; the environmental quality board; and any other state agency the state board believes could assist it in determining whether the plan is consistent with state law. An agency receiving a copy of the plan shall determine whether any portion of the plan is contrary to state law. Within 45 days of receipt of a comprehensive water plan from the state board, a state agency must submit a letter to the board identifying the portions of the plan that the agency has determined to be inconsistent with state law.

Subp. 3. **State board determination of consistency with other plans.** In determining whether a comprehensive water plan is consistent with state law, the state board shall determine whether the plan is consistent with the plan of another county or counties wholly or partially within affected watershed units or ground water systems, as required by Minnesota Statutes, section 110B.04, subdivision 4, clause (4), that has already been approved by the board or that has already been submitted under subpart 1. To determine consistency, the board shall consider the compatibility of the plans' goals, objectives and related actions, and implementation programs. If the board determines that the unapproved or subsequently submitted plan would not impede achievement of the goals, objectives, related actions, and implementation programs of the approved or previously submitted plan or plans, the board shall find the plan consistent with the plan or plans.

Subp. 4. **Principles for review.** To determine whether a comprehensive water plan conforms to the requirements of

Minnesota Statutes, section 110B.04, subdivision 4, clause (3), the state board shall determine whether the plan conforms to the following principles:

A. Sound hydrologic management of water:

(1) significant upstream and downstream effects on surface water, and up-gradient and down-gradient effects on ground water, of actions impacting water and related land resources should be fully considered;

(2) natural water storage and retention systems should be preserved and used to the maximum extent practical;

(3) water management decisions should be based on sound data and technical analysis;

(4) interrelationships between surface and ground water, land and water use, and quality and quantity of water should be recognized; and

(5) potential variations in precipitation, both short-term and long-term, should be fully considered.

B. Effective environmental protection:

(1) potential cumulative effects of proposed actions should be considered;

(2) prevention of potential water and related land resources problems should be emphasized;

(3) the overall quality of the environment should be protected or enhanced; and

(4) public health and safety should be protected or enhanced.

C. Efficient management:

(1) the total benefits of water programs and projects should exceed the total costs;

(2) water management programs should be adequately funded to achieve high-priority objectives;

(3) comprehensive water planning should be coordinated with other related planning programs to fill management gaps and minimize duplication of effort;

(4) comprehensive approaches to identified problems and opportunities should be considered; and

(5) water conservation practices should be used to the maximum extent practical.

Subp. 5. **State board decision.** Within 90 days after the filing of a comprehensive water plan and supporting documents with the state board, the board shall approve or disapprove a comprehensive water plan and provide the county board notice of the approval or disapproval of the plan. The state board shall approve a plan only if it determines that the plan is consistent with state law. If a plan is disapproved, the state board shall as part of its notice of disapproval provide the county board with a written statement of its reasons for disapproval.

Subp. 6. **Resubmittal.** A disapproved comprehensive water plan must be revised by the county board and resubmitted to the state board within 120 days after receiving notice of disapproval, unless the state board extends the period for good cause at the county's request. The state board must identify those portions of a disapproved plan that require revision. Upon receipt of revised portions of the plan, the state board shall follow the same review process as for an originially submitted plan.

IMPLEMENTING AN APPROVED COMPREHENSIVE WATER PLAN

9300.0180 AMENDMENT OF LOCAL PLANS AND OFFICIAL CONTROLS.

Subpart 1. **Notification after plan adoption.** After a county board has adopted an approved comprehensive water plan or amendments to the plan, the county board that adopted the plan shall notify local units of government within the county of the adoption of the plan or amendments. Within 90 days of the notification, local units must submit existing water and related land resources plans and official controls to the county board for review.

Subp. 2. **County review.** Within 180 days, the county board shall review the plans and official controls submitted and identify any inconsistencies between the local plans and official controls and the comprehensive water plan. In conducting the review, the county board shall determine the need

for local units of government to revise plans, adopt new controls or revise existing controls, and specify the necessary measures to bring the local plans and official controls into conformance with the comprehensive water plan.

Subp. 3. **Local appeal.** If a local unit of government disagrees with any changes to its plans or official controls recommended by the county board, the local unit has 60 days after receiving the county's recommendations to appeal the recommendations to the state board.

Subp. 4. **Revision to local plans and official controls.** After receiving the recommendations of the county board, or after resolution of an appeal, a local unit of government has 180 days to initiate revisions to its plans and official controls. New or revised plans and official controls must be submitted to the county board for review and recommendations in the manner provided by this part for submission of existing plans and official controls.

9300.0190 AMENDMENT OF A COMPREHENSIVE WATER PLAN.

Subpart 1. **Amendment required.** A comprehensive water plan must apply to every year through the year 1995 or any later year that is evenly divisible by five.

Subp. 2. **Description required.** The comprehensive water plan must describe the procedure the county will use for amendment of the plan.

Subp. 3. **Procedure and criteria.** Amendments to a comprehensive water plan shall be reviewed in the same manner, and are subject to the same criteria for approval, as an initial comprehensive water plan.

RESOLUTION OF DISPUTES

9300.0200 INFORMAL RESOLUTION OF DISPUTES.

Subpart 1. **Applicability.** A county preparing or that has prepared a comprehensive water plan or another local unit of government may use the procedures provided in this part to:

A. determine the meaning of any provision of Minnesota Statutes chapter 110B, or parts 9300.0010 to 9300.0210;

B. resolve any conflict between two comprehensive water plans;

C. resolve any conflict between a comprehensive water plan and any local plans or official controls; or

D. settle any other dispute relating to a comprehensive water plan.

Use of the procedure provided in this part is without prejudice to any party's use of the procedure provided for in Minnesota Statutes, section 110B.25, subdivision 2, and part 9300.0210.

Subp. 2. **Request for meeting; response.** A local unit of government desiring a meeting with the state board chair shall submit a written request to the chair identifying the issue involved, the local unit or units of government involved, and the pertinent provisions of the comprehensive water plan, statute, or rule involved in the dispute. The chair shall in writing acknowledge receipt of the request and, if the request complies with the requirements of this part, notify the other involved local units of government and request a written response from them. If the request for a meeting does not satisfy the requirements of this part or, if there is no response from other interested local units of government, the chair shall make a reasonable effort to obtain the required information in another manner.

Subp. 3. **Response and meeting.** When the chair obtains the response of other involved local units of government or has made reasonable efforts to obtain it, the chair may attempt to resolve the issue informally or shall set a meeting between the chair and the involved local units of government and adequately inform those units in writing of the issues, time, date, and place of the meeting. At the meeting, a local unit of government may be represented by any person or persons of its choosing, subject to control by the chair, and the chair may consider any relevant evidence or argument by a local unit of government that any reasonable person would rely upon to resolve the issues in question. The decision of the chair may be

announced at the hearing or be made later but in either case shall be reduced to writing and a copy sent to all interested local units of government. The decision of the chair is effective 60 days following the decision of the chair unless a petition is filed within that time pursuant to Minnesota Statutes, section 110B.25, subdivision 3, for a contested case hearing under that section.

9300.0210 FORMAL RESOLUTION OF DISPUTES.

Subpart 1. **Applicability.** A county or other local unit of government may petition for a contested case hearing by satisfying the requirements of Minnesota Statutes, section 110B.25, subdivisions 2 and 3, and this part.

Subp. 2. **Petition for hearing.** A petition for a hearing shall be made in writing and addressed to the state board. The petition shall contain:

A. the name of the local unit of government petitioning and the names, addresses, and phone numbers of the officers of the local unit or other person representing the local unit for the purposes of the petition;

B. a request for a hearing;

C. a statement of the allegations or issues to be determined by the hearing; and

D. proof of service of a copy of the petition on all other involved local units of government.

Subp. 3. **Filing of petition.** A petition is considered filed with the state board when it is received by the board. Upon receipt of the petition, the board shall acknowledge its receipt in writing.

Subp. 4. **Request for judge.** Within five days of receipt of a sufficient petition for a hearing, the state board shall file a request under part 1400.5300 for the assignment of an administrative law judge.

Subp. 5. **Hearings.** Hearings are governed by the contested case procedure of Minnesota Statutes, chapter 14 and by parts 1400.5100 to 1400.8400.

Subp. 6. **Hearing fees.** For the purpose of apportioning the fees of the Office of Administrative Hearings and transcript fees, the state board shall not be considered a party to the proceeding.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN – 7 1987
Joan Anderson Growe
Secretary of State
2:10 PM

APPROVED AS TO FORM AND LEGALITY
1/6 1987
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
ASSISTANT ATTORNEY GENERAL

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

Environmental Protection Division

TO: ATTN: DWIGHT G. WAGENIUS
Special Assistant Attorney General

DATE: 1/7/87

FROM: J. MICHAEL MILES
Assistant Attorney General

PHONE: 296-6555

SUBJECT: Permanent Rules Relating to the Comprehensive Local Water Management Act

The above-referenced rule has been approved as to its legality by the Attorney General on 1/6/87.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

JMM/rmk
Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR#1338

RULE REVIEW CHECKLIST

File No. 1338 Docket No. 05.0009.0300

DATE RECEIVED 12-23-86
REVIEW DATE 1-2-87
DUE DATE 1-6-87

APPROVED 1/2/87
DISAPPROVED
WITHDRAWN

ADOPTED W/O HEARING X
EMERGENCY RULE

REVISOR APPROVED 12-30-86
REVISOR DISAPPROVED
FILED W/SEC. STATE 1/7/87
RETURNED TO AGENCY Called 1/7 ~~Send to~~ Client Pick

X Rule as adopted (4 copies)

X Notice to Solicit Outside Information/Opinion
8-26-85 Date published in State Register
Comments

___ Petition for Adoption of a Rule

X Board's Authorizing Resolution

X Proposed rule
yes Revisor's Certificate

X Notice of Intent to Adopt Rule
110B.10 Subd 2 Statutory Authority
none Small business statement
none Expenditure of public money statement
none Signature

X Statement of Need and Reasonableness

X Affidavit of Mailing Notice of Intent to Adopt Rule
11-6-86 Date 30/25 days before adoption

X Publication in State Register
11-10-86 Date 30/25 days before adoption

X Resolution Adopting

X Findings of Fact, Conclusions & Order Adopting
12-12-86 Date

X Written requests, submissions or comments

X Declaration of attorney
Dwight Wagenius Name of SAAG representing agency

___ Notice of Submission to Attorney General

___ Affidavit of Mailing Notice to Attorney General

Lake, Pine and St. Louis Counties, will be held before the State Executive Council at their regularly scheduled meeting at 8:30 o'clock a.m. on October 2, 1985. At the time of the issuance of this notice, the meeting is scheduled to be held in the State Capitol, St. Paul, Minnesota. No land or water areas within the Boundary Waters Canoe Area Wilderness or Voyageurs National Park are included in this lease sale.

Prior to the time of sale, the Commissioner of Natural Resources, Box 45, 500 Lafayette Road, St. Paul, Minnesota 55146, will receive sealed bids and applications for leases covering minerals in state lands, in accordance with Minnesota Rules, parts 6125.0100 through 6125.0700, the copper, nickel, and associated minerals rules, issued under the authority of Minnesota Statutes Sections 93.08-93.12 and 93.25.

Each application and bid, together with a certified check, cashier's check, or bank money order, payable to the State Treasurer in the sum of $50.00, must be submitted in a bid envelope obtained from the Commissioner.

At the time specified, the Commissioner, together with the State Executive Council, will publicly open the bids and announce the amount of each bid separately. Leases will be awarded by the Commissioner, with the approval of the State Executive Council, to the highest bidder for the respective mining units, but no bids will be accepted that do not equal or exceed the base royalty rates set forth in the rules or that do not comply with all provisions of the rules. The right is reserved to the State, through the Executive Council, to reject any or all bids.

The purpose of Minnesota's copper, nickel, and associated minerals rules is to promote and regulate the prospecting for, mining and removal of copper, nickel, and associated minerals on state-owned and state-administered lands. These rules, and the leases issued under the rules, authorize exploration and development of these minerals and impose certain requirements on the lessee. The requirements include: the payment of minimum rentals which increase with the passage of time, the payment of royalty for all ore mined and removed, the submission of data and other reports, and the addressing of certain environmental considerations. In addition, the state lessee must comply with all applicable regulatory laws.

In the absence of satisfactorily demonstrated past technical and financial competence to perform under similar circumstances, a bidder may be required to provide evidence of technical and financial competence to perform under the state's lease to prospect for, mine and remove copper, nickel, and associated minerals. The information requested by the Commissioner must be submitted within 30 days of the date of the request. The State, through the Executive Council, may refuse to award a lease to any bidder not supplying satisfactory evidence of technical and financial competence to perform under the state lease.

Upon the award of a lease, the check submitted with the bid will be deposited with the State Treasurer as a fee for the lease. All bids not accepted will become void, and the checks accompanying such bids will be returned to the respective bidders.

Application and bid forms, bid envelopes, instructions on how bids are to be submitted, copies of the rules (Minnesota Rules, parts 6125.0100-6125.0700) and copies of the Copper, Nickel, and Associated Minerals Unit Book, listing the land areas designated by the Commissioner as mining units, may be obtained from Elwood F. Rafn, Director, Division of Minerals, Box 45, DNR Building, 500 Lafayette Road, St. Paul, Minnesota 55146.

Application for each copy of the Copper, Nickel, and Associated Minerals Unit Book must be accompanied by a certified check, cashier's check, or bank money order, payable to the State Treasurer in the sum of $25.00, as a fee for such Mining Unit Book, plus $1.50 State of Minnesota Sales Tax. Unit Books will also be available for inspection at the Hibbing and St. Paul Offices of the Division of Minerals.

August 19, 1985

Joseph N. Alexander, Commissioner
Department of Natural Resources

Water Resources Board

Outside Opinion Sought Regarding Rules on Local Water Plans

Notice is hereby given that the Water Resources Board is seeking information and opinions from sources outside the agency to assist it in preparing rules on county water plan content, and plan review and contested case procedure. Adoption of these rules is authorized by Minnesota Laws 1985, Special Session, chapter 2, section 5 (to be codified as Minnesota Statutes, section 110B.10, subdivision 2 (1985)), which requires the agency to adopt rules to implement the Comprehensive Local Water Management Act.

The Board also intends to prepare rules on the content and review of watershed district overall plans and watershed management organization plans, which require Board review and approval under Minnesota Statutes, sections 112.46 and 473.878 (1984), respectively. Adoption of rules on Board review of watershed plans is authorized by Minnesota Statutes, section 105.71, subdivision 1 (1984).

The Water Resources Board requests information and comments concerning the subject matter of these rules. Information and comments may be submitted in writing or orally during regular business hours to: Dan Steward, Water Resources Board, 500 Lafayette Road, First Floor, St. Paul, Minnesota 55146, (612) 296-2840.

Information and comments must be received by November 14, 1985. All written materials received by the Water Resources Board will become part of the rulemaking record.

Mel Sinn
Executive Director

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of $5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration General Services Bureau

Request for Proposals for a Food Service Management Contract

The Department of Administration is requesting proposals for a five-year food service contract for the five office building cafeterias located in the Capitol Complex in Saint Paul. The contract shall have a five year term and be in effect from November 1, 1985 to October 31, 1990. This contract has an estimated value of $1,300,000.00.

Responders are to project the total costs of their food services, and to detail the quality and quantity of items in their menu cycles.

A Request for Proposals is to be obtained by calling or writing:

James L. Ware
Department of Administration
50 Sherburne Avenue, Room G-25
Saint Paul, Minnesota 55155
Telephone: (612) 296-9901

Proposal responses must be submitted no later than 4:30 p.m. on September 24, 1985.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
Contract	Seed—Lawn Grass	Various State Agencies	Various	$9,000-10,000
Rebid 12-700-86682	Telephone System	Health	Rochester	Contact buyer
26-071-15816	Liquid Chromatography System	Mankato State University	Mankato	Contact buyer

No. 3

CERTIFICATE OF THE
WATER RESOURCES BOARD'S
AUTHORIZING RESOLUTION

I, Marlin Rieppel, do hereby certify that I am a member and the secretary of the Water Resources Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Water Resources Board duly and properly called and held on the 10th day of October 1986, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> "RESOLVED, that Mel Sinn, the executive director of the Water Resources Board, is hereby granted the authority and directed to sign and to give Notice of the Water Resources Board's Intent to Adopt a rule Without a Public Hearing governing implementation of the Comprehensive Local Water Management Act to all persons who have registered their names with the Water Resources Boad for that purpose; to publish the Notice and rule in the State Register; and to perform any and all acts incidental thereto."

IN WITNESS THEREOF, I have hereunto subscribed my name this 10th day of October 1986.

Marlin Rieppel
Secretary of the Board

Attested By:

Erika Sitz
Board Member

Water Resources Board

Proposed Permanent Rules Relating to the Comprehensive Local Water Management Act

Rules as Proposed (all new material)

9300.0010 DEFINITIONS.

Subpart 1. **Applicability.** The definitions in this part and in Minnesota Statutes, section 110B.02 apply to parts 9300.0020 to 9300.0210.

Subp. 2. **Geographic indicator.** "Geographic indicator" means latitude and longitude; or township, range, section, and 40-acre parcel.

Subp. 3. **Local units of government.** "Local units of government" means municipalities, towns, counties, soil and water conservation districts, watershed districts, organizations formed for the joint exercise of powers under Minnesota Statutes, section 471.59, and other special purpose districts or authorities exercising authority in water and related land resources management at the local level.

Subp. 4. **Minor watershed unit.** "Minor watershed unit" means each of the approximately 5,600 minor watershed units delineated on the state watershed boundaries map prepared pursuant to the requirements of Laws of Minnesota 1977, chapter 455, section 33, subdivision 7, paragraph (a) and the accompanying data base, and the revisions of that data base.

Subp. 5. **Protected waters.** "Protected waters" means those waters of the state identified as public waters or wetlands under Minnesota Statutes, section 105.37, subdivision 14 or 15, or section 105.391, subdivision 1.

Subp. 6. **State board.** "State board" means the Minnesota Water Resources Board created by Minnesota Statutes, section 105.71, subdivision 1.

Subp. 7. **Watershed management organization.** "Watershed management organization" has the meaning given in Minnesota

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Statutes, section 473.876, subdivision 9.

Subp. 8. **Watershed units.** "Watershed units" has the meaning given in Minnesota Statutes, section 110B.02, subdivision 10.

PURPOSE AND PROCEDURE OF PLANNING

9300.0020 PURPOSES OF PLANNING PROCESS AND SCOPE OF PLAN.

Subpart 1. **Purposes.** The purposes of a comprehensive water plan are to:

A. identify existing and potential problems and opportunities for the protection, management, and development of water and related land resources; and

B. develop objectives and carry out a plan of action to promote sound hydrologic management of water and related land resources, effective environmental protection, and efficient management.

Subp. 2. **Scope.** In order to gain sufficient understanding of existing natural features and other phenomenon that serve as the basis for a comprehensive water plan, the county must assemble available information about the physical environment and the surface water, ground water, and related land resources. Information is relevant for inclusion in the plan if it provides the basis for understanding a county's present or future water-related conditions, and if it contributes to the understanding of water-related opportunities or problems that are or will be faced by a county.

After collecting the required information, the county must determine the implications of the information for present and future land and water use, assess those implications, and identify opportunities and problems based on this assessment. The county must then develop its goals, objectives, and plan of action for addressing identified problems and opportunities.

9300.0030 PROCEDURES FOR WATER PLANNING.

Subpart 1. **Applicability.** A county board that decides to develop a comprehensive water plan under Minnesota Statutes, chapter 110B shall use the procedures provided in this part to

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facilitate public participation and intergovernmental coordination.

Subp. 2. **Resolution to develop plan.** A county board deciding to develop a comprehensive water plan must adopt a resolution requiring the development of a plan.

Subp. 3. **Notice of decision to develop plan.** Within 30 days after adoption of a resolution requiring the development of a comprehensive water plan, the county shall send notice of its decision to develop a plan to:

A. the county boards of contiguous counties;

B. the governing bodies of counties, watershed districts, and watershed management organizations that have jurisdiction in each watershed unit wholly or partly within the county;

C. the governing bodies of all local units of government wholly or partly within the county;

D. the regional development commission, if any; and

E. the state board.

Upon receipt of the resolution, the state board shall notify each of the state agencies identified in part 9300.0170, subpart 2 and any other agency the state board deems appropriate.

Subp. 4. **Request for local plans and official controls.** Within 30 days after adoption of a resolution requiring the development of a comprehensive water plan, the county shall request from all local units of government having jurisdiction within the county the following information:

A. any existing water and related land resources plans and official controls; and

B. any conflicts, problems, or opportunities that those local units want examined and addressed in the comprehensive water plan.

The information must be submitted within 60 days of the county board's request.

Subp. 5. **Public informational meeting required.** Within 90 days of the notice required in subpart 3, the county board shall hold a public informational meeting. At the meeting, the county

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board should solicit information about issues, problems, and opportunities to be considered in the plan. The county shall publish notice of the meeting in the official newspaper of the county at least ten days but not more than 30 days before the meeting. The county also shall notify the groups identified in subpart 3 at least 30 days before the meeting.

Subp. 6. **Meetings with local units of government within the county.** The county board adopting the resolution shall conduct meetings with local units of government exercising authority in water and related land resources management within the county during the plan preparation and implementation.

Subp. 7. **Public participation process.** The county board developing a comprehensive water plan shall ensure that there is a process for public participation during plan development and implementation.

Subp. 8. **Record of meetings.** A county must maintain a record of each meeting held under subparts 5, 6, and 7. The record shall include minutes and a list of the people in attendance and who they represented.

Subp. 9. **Delegation.** The county board is responsible for the comprehensive water plan, but may delegate all or part of the preparation of the comprehensive water plan to a local unit of government, regional development commission, or a resource conservation and development committee that is willing to carry out this assignment. If a county delegates all or part of the comprehensive water plan preparation, it must ensure that public meetings are recorded and that there is a process for public participation in the preparation of the plan.

CONTENTS OF A COMPREHENSIVE WATER PLAN

9300.0040 DATA CONSISTENCY WITH STATE PLANNING AGENCY GUIDELINES.

Data collected after the effective date of parts 9300.0010 to 9300.0210 for a comprehensive water plan must follow the guidelines for consistency established by the Minnesota State Planning Agency. To assure consistency, this data must include a geographic indicator.

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Data must also be coded using recommended standard identifiers, where available. Standard identifiers are: the Minnesota unique well number for wells and the protected waters inventory identification number for surface waters.

Consistency of map scales is also recommended, where possible. The information required to be presented in map form by parts 9300.0050 and 9300.0070 may be combined on multiple maps or map overlays.

9300.0050 PHYSICAL ENVIRONMENT, LAND USE, AND DEVELOPMENT.

Summarizing information about the physical environment enables a county to understand the present conditions affecting water and related land resources. At a minimum, the following information about the county's physical environment, land use, and development must be included in the comprehensive water plan:

A. Precipitation:

(1) a map or list of the location of precipitation gaging stations in the county;

(2) a map showing isolines of normal annual total precipitation in inches; and

(3) a map showing isolines of normal total precipation in inches for the period May through September.

B. Geology and water resources:

(1) a map or description of important aquifer systems, confining layers, and flow characteristics to the extent known;

(2) a description of ground and surface water interconnections, such as recharge and discharge areas, where they are known;

(3) a map of boundaries and flow directions of watershed units and minor watershed units; and

(4) a map of state protected waters and public drainage ditches, including the location of any existing dams and control structures.

C. Soils:

(1) a general soils maps and description of soils

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infiltration characteristics; and

(2) a map of erosion-prone soils.

D. Map of original vegetation.

E. Description of general topographic relief of watershed units based on United States Geological Survey topographic maps.

F. Land use and public utility services:

(1) a general map of existing land uses;

(2) a map showing the areas served by storm sewers, sanitary sewers, and public water systems; and

(3) a map or list by geographic indicator showing the location of community public water supply intakes and wells.

G. Land ownership:

(1) a map showing the ownership of local, state, federal, and Indian tribal lands; and

(2) a map showing lands with easements that relate to water resources, where that information is available.

9300.0060 EXPECTED CHANGES TO PHYSICAL ENVIRONMENT, LAND USE, AND DEVELOPMENT.

A comprehensive water plan must identify expected changes in the physical environment, land use, and development described in part 9300.0050. Information that may be used to predict changes include population projections, comprehensive plans, official controls, state and federal regulations, and plans for road, water, and sewer extensions. Expected changes that must be included in the plan are expected changes to land use and cover; expected changes in public utility services; and other expected changes potentially affecting water resources.

9300.0070 SURFACE WATER, GROUND WATER, AND RELATED LAND RESOURCES.

Subpart 1. **Applicability.** Summarizing information about the surface water, ground water, and related land resources, enables a county to characterize its water and related land resources, and to identify problems and opportunities. The level of detail should be determined in conjunction with

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neighboring counties, based on the information available, the extent and use of the resource, and the degree to which problems and opportunities are identified. The information should be listed by watershed unit and ground water systems where appropriate. At a minimum, information about existing county resources must include the information required by subparts 2 to 5, when that information is available.

Subp. 2. **Water quantity information.** The following information about water quantity must be included in the plan:

A. Surface water:

(1) a description of high, mean, and low flows on streams;

(2) a list of lakes where the state has established ordinary high water marks;

(3) a list of permitted withdrawals from lakes and streams, including the location by geographic indicator, source, use, and amounts withdrawn;

(4) a list of lakes and streams in the county for which state protected levels or flows have been established;

(5) a description of known water use conflicts, including those caused by ground water pumping that affects surface water; and

(6) the implications of surface water quantity information for present and future water and land uses and an assessment of those implications.

B. Ground water:

(1) a list of wells covered by state appropriation permits, including the location by geographic indicator, amounts of water appropriated, type of use, and aquifer source;

(2) a description of known well interference problems and water use conflicts;

(3) a list of state observation wells located in the county including geographic indicator, unique well number, aquifers measured, years of record, and average monthly levels; and

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(4) the implications of ground water quantity information for present and future water and land uses and an assessment of those implications.

Subp. 3. **Water quality information.** The following information about water quality must be included in the plan:

A. Surface water:

(1) a map or list of the state water quality management classifications for each stream and lake;

(2) a summary of available lake and stream water quality monitoring data; examples of these kinds of data are:

(a) bacteriological contamination indicators (for example, total coliform counts);

(b) inorganic chemicals (for example, phosphorus, nitrogen, and metals);

(c) organic chemicals (for example, petroleum constituents, pesticides, and organic solvents);

(d) sedimentation (for example, suspended solids);

(e) dissolved oxygen; and

(f) excessive growth or deficiency of aquatic plants;

(3) a summary of information from informal sources relating to surface water quality, such as fish kills; and

(4) the implications of surface water quality information for present and future water and land use, and an assessment of those implications.

B. Ground water:

(1) A summary of available water quality data, including routinely monitored sites. Examples of data are:

(a) bacteriological contamination indicators (for example, total coliform counts);

(b) inorganic chemicals (for example, nitrate/nitrite and metals concentrations); and

(c) organic chemicals (for example, organic solvents, petroleum constituents, and pesticides).

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(2) The implications of ground water quality information for present and future water and land uses with emphasis on those with potential health-related impacts and an assessment of those implications.

Where possible, the information required in this item should be presented by aquifer system and geographic area.

Subp. 4. **Information on special land uses and conditions that influence quality and quantity.** The following information about special land uses and conditions must be included in the plan:

A. Eroding lands:

(1) a description or map by watershed unit of areas where eroding lands are causing sedimentation problems;

(2) water quality and quantity implications for watercourses, water basins, ditches, and wetlands of sedimentation and an assessment of those implications; and

(3) an assessment by watershed unit of the effects of land use and cover on quantity and quality of runoff.

B. Irrigation:

(1) a map or list by geographic indicator of irrigated acreage; and

(2) for any county containing more than 1,000 acres of irrigated land in any one township, the implications of irrigation for present and future land and water use and an assessment of those implications.

C. Drainage:

(1) a table listing the public drainage systems in the county and the amounts expended, by year, for repair work on each system;

(2) an assessment of any significant water quality and quantity effects due to public or private ditch systems; and

(3) a summary of any known water quality and quantity information from engineering reports and modeling efforts on ditches in the county.

D. Pollutant sources:

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(1) a map or list by geographic indicator of known closed and open sanitary landfills, closed and operating open dumps, and Minnesota Superfund hazardous waste sites and a summary of available water quality information relating to these sites;

(2) a map or list by geographic indicator of feedlots, abandoned wells not sealed in accordance with state statutes and rules, underground storage tank sites, and permitted wastewater discharges under chapter 7001, and a summary of available water quality information relating to these sites;

(3) a list by geographic indicator of facilities that have hazardous waste generator identification numbers; and

(4) the implications of pollutant sources for present and future water and land uses and an assessment of those implications.

E. Special geologic conditions:

(1) a map of known geologic conditions, such as karst areas, buried valleys, or sand plains that may pose concerns relating to water quality or quantity; and

(2) the implications of special conditions for present and future water and land uses and an assessment of those implications.

Subp. 5. **Information on related land resources.** The following information about related land resources shall be included in the plan:

A. Wetlands:

(1) maps of wetlands identified under the National Wetlands Inventory, where available;

(2) a summary of plans for wetlands with controlled outlets, such as plans for draw downs;

(3) a description of the United States Corps of Engineers, Section 404 permit requirements affecting county waters; and

(4) the implications of wetlands for present and future water uses with special consideration for water quality,

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flood attenuation, wildlife, and recreation, and an assessment of those implications.

B. Floodplains:

(1) a map showing those areas delineated as floodplain by existing local ordinances or in proposed ordinances that have a due date established by the Minnesota Department of Natural Resources or the Federal Emergency Management Agency;

(2) a map of areas with known flooding problems;

(3) an estimate of average annual flood damages, if available; and

(4) an assessment of the adequacy and enforcement of existing floodplain ordinances.

C. Shorelands:

(1) a list of local units of government with approved shoreland ordinances;

(2) a list of protected waters, and their shoreland classifications under Minnesota Statutes, section 105.485; and

(3) an assessment of the adequacy and enforcement of the shoreland ordinances.

D. Water-based recreation lands:

(1) a map and description of water oriented recreational resources listed in the State Comprehensive Outdoor Recreation Plan;

(2) a map of public water accesses;

(3) a map and description of state or federally designated wild and scenic rivers and state designated canoe and boating routes; and

(4) an assessment of the adequacy of water-based recreational lands for present and future use.

E. Fish and wildlife habitat:

(1) a map and description of any state designated wildlife management areas and any lakes with state designated classifications for game or fish management within the county;

(2) a map and description of any state designated

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trout lakes or trout streams within the county;

(3) a list and description of the state ecological and management classifications and use attainability for lakes and streams, where available;

(4) a list and description of the conclusions and recommendations of biological surveys or reconnaissance studies, where available;

(5) a description of state management plans for fish and wildlife areas, where available; and

(6) an assessment of the adequacy of fish and wildlife habitat for present and future use.

F. Unique features and scenic areas:

(1) a map or description of unique features and scenic areas with relationships to water including state designated natural and scientific areas, areas containing county, state, and federal rare and endangered species, and other features such as waterfalls, springs, and historic mills; and

(2) the implications of unique features and scenic areas for present and future water and land use, and an assessment of those implications.

9300.0080 EXPECTED CHANGES TO SURFACE WATER, GROUND WATER, AND RELATED LAND RESOURCES.

Subpart 1. **Changes to be included.** Changes may be anticipated in distribution, availability, quality, and use of water resources in a county. To assess the probability and effect of potential changes to its water resources, a county must list, consider, and describe the impacts on those resources from the following areas of potential change:

A. changes to the physical environment, land use, and development identified under part 9300.0060;

B. special land and water uses or conditions, and trends within or without the county that might affect a county's water and related land recources; and

C. the influence of existing programs on water and

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related land resources and the administrative, technical, and financial capability of the county to develop and implement new programs.

Subp. 2. **Method of listing.** Expected changes should be listed by watershed unit and ground water system, where appropriate, for water quantity, water quality, special land uses and conditions, and related land resources categories.

9300.0090 PROBLEMS AND OPPORTUNITIES.

Subpart 1. **Purpose.** Identification of problems and opportunities is needed to guide the county in developing its objectives and plan of action.

Subp. 2. **Description of problems and opportunities.** For each watershed unit and ground water system, where appropriate, the comprehensive water plan must identify key issues relating to water quality, quantity, special land uses and conditions, and related land resources. The plan must discuss assets or opportunities, as well as problems associated with each issue.

Subp. 3. **Determining issues, problems, and opportunities.** A county must determine water related issues, problems, and opportunities in its comprehensive water plan. At a minimum, a county must gather information about water related problems and opportunities in the following manner:

A. investigate those problems and opportunities disclosed at public meetings and in written comments;

B. investigate those problems and opportunities that affected local units of government want examined;

C. assess information gathered under parts 9300.0050 to 9300.0080; and

D. assess the status and adequacy of official controls, plans, and other local, state, or federal programs concerning water and related land uses.

9300.0100 ESTABLISHMENT OF COUNTY GOALS.

The comprehensive water plan must state goals for present and future water and land uses to set the framework for determining plan objectives and related actions.

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9300.0110 OBJECTIVES AND PLAN OF ACTION.

The objectives and plan of action should be tailored to address the problems and opportunities previously identified in the comprehensive water plan. A comprehensive water plan must state measurable objectives and a plan of action for each watershed unit and ground water system, where appropriate, for each of the following categories:

A. opportunities and problems in surface and ground water quality and quantity identified pursuant to part 9300.0090;

B. significant special land uses and conditions that influence water quantity and quality based on opportunities and problems identified pursuant to part 9300.0090; and

C. related land resources opportunities and problems identified pursuant to part 9300.0090.

9300.0120 PRIORITY ACTION CATEGORIES.

Subpart 1. **Priorities required.** A county must establish priorities in the plan of action relating to water quality, water quantity, special land uses or conditions that influence water quality and quantity, and related land resources.

Subp. 2. **Priority development.** A comprehensive water plan must state priorities of action that reflect the urgency of the problem or opportunity identified.

Subp. 3. **Priority description.** In describing the priorities, the comprehensive water plan must describe those actions that will be taken by the county alone, and those actions that will require the cooperation of other local units of government or state and federal agencies, and must state whether the county board has received commitments for that cooperation.

9300.0130 DESCRIPTION OF RECOMMENDED CHANGES IN STATE PROGRAMS.

If changes in state programs, policies, and requirements that a county considers important to water management in the county are recommended in the comprehensive water plan, the description of those changes must include:

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A. identification of the specific program, policy, or requirement for which change is recommended by the county;

B. a statement of the specific changes recommended by the county; and

C. the reasons the county considers the changes important.

9300.0140 LOCAL REVIEW AND POTENTIAL CONFLICTS.

Subpart 1. **Applicability.** The procedures in this part apply to local review and to the identification and resolution of existing and potential conflicts between a comprehensive water plan and the plans or local controls of: (1) local units of government within the county preparing the water plan; (2) contiguous counties; and (3) water management organizations, watershed districts, and joint powers boards sharing jurisdiction over watershed units and ground water systems affected by the comprehensive water plan.

Subp. 2. **Identification of conflicts.** Conflicts or potential conflicts that occur between the comprehensive water plan and the existing or proposed plans of local units of government must be identified either during the planning process or during review of the comprehensive water plan by other local units of government.

Subp. 3. **During plan preparation.** Local units of government must notify the county board intending to develop a comprehensive water plan of any conflicts that those local units want examined and addressed in the comprehensive water plan in accordance with part 9300.0030, subpart 4.

Subp. 4. **During plan review.**

A. Before it is submitted to the state board for review, the comprehensive water plan must be submitted for review and comment to:

(1) all local units of government wholly or partly within the county preparing the plan;

(2) all applicable regional development commissions;

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(3) all contiguous counties and water management organizations; and

(4) other counties, watershed districts, intercounty joint powers boards, and watershed management organizations within the same watershed unit or ground water system as the county preparing the plan that may be affected by the plan.

B. In their comments on the plan, other local units of government must identify and describe any conflicts they have with the plan not already identified in the plan. The local unit must state its position on any relevant conflict identified by the county for consideration by the state board during the board's review of the plan.

C. Comments shall be submitted as required by Minnesota Statutes, section 110B.08, subdivision 3.

Subp. 5. **Description of conflicts.** The description of a conflict in the comprehensive water plan or in the comments of local units of government must include:

A. the units of local government or state agencies involved in the conflict;

B. the comprehensive water plan provisions or omissions causing the conflict;

C. any local plan or control that conflicts with the comprehensive water plan and that would require change;

D. the objections of the local unit of government to the comprehensive water plan; and

E. suggested measures to resolve the conflict other than making the change indicated.

Subp. 6. **Process to resolve conflicts.** The comprehensive water plan must state whether there is a process underway to resolve identified conflicts. If there have been unsuccessful attempts to resolve conflicts, those attempts must be described.

9300.0150 INCORPORATION OF PLANS AND RULES OF WATERSHED DISTRICTS AND INTERCOUNTY JOINT POWERS BOARDS.

Subpart 1. **Incorporation required.** A county must

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incorporate plans and rules of watershed districts or intercounty joint powers boards with jurisdiction within the county into its comprehensive water plan and may change the plans and rules it incorporates if the requirements of this part are met.

Subp. 2. **Changes to plans and rules.** To change the plans or rules of a watershed district or intercounty joint powers board that a county incorporates into its comprehensive water plan, a county must demonstrate in its plan that changes to the district or intercounty plans or rules are necessary, and that these changes are supported by each county that selects members on the respective boards.

If all affected counties do agree on watershed district or intercounty joint powers board plan or rule revisions, resolutions of support for recommended changes must be attached to the plan.

Subp. 3. **Criteria for changing plans and rules.** To make changes in a watershed district or intercounty joint powers board plan or rule that a county incorporates into its comprehensive water plan, the county must demonstrate that the plan or rule does not adhere to the principles in part 9300.0170, subpart 4.

9300.0160 IMPLEMENTATION PROGRAM.

Subpart 1. **Program and schedule required.** The comprehensive water plan must state how and when the plan will be implemented to meet the objectives and carry out the actions described in part 9300.0110. Components and schedules that are described previously do not have to be repeated.

Subp. 2. **Program.** An implementation program may include data collection programs, educational programs, capital improvement projects, project feasibility studies, enforcement strategies, amendments to existing official controls, adoption of new official controls, and other actions. If the county considers no actions are necessary to address identified problems or opportunities it must explain why actions are not

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needed. Staff and financial resources available or needed to carry out the comprehensive water plan must be stated.

Subp. 3. **Schedule.** The implementation schedule must state the time in which each of the actions contained in the implementation program will be taken.

Subp. 4. **Agreements with local units.** If a county board has made any agreement for the implementation of a comprehensive water plan or portions of a plan by a local unit of government within the county, that local unit must be specified, the responsibility indicated, and a description included indicating how and when the implementation will happen.

Subp. 5. **Capitol improvement program.** If capital improvement projects are proposed to implement the comprehensive water plan, the projects must be described in the plan. The description of a proposed capital improvement project must include the following information:

A. the physical components of the project, including their approximate size, configuration, and location;

B. the purposes of the project and their relationship to the objectives in the comprehensive water plan;

C. the proposed schedule for project construction;

D. the expected federal, state, and local costs;

E. the types of financing proposed, such as special assessments, ad valorem taxes, and grants; and

F. the sources of local financing proposed for the project, such as subcounty, countywide, or multicounty.

REVIEW OF COMPREHENSIVE WATER PLANS
BY STATE AGENCIES AND THE STATE BOARD

9300.0170 STATE REVIEW.

Subpart 1. **Submittal to state board.** After conducting the public hearing required by Minnesota Statutes, section 110B.08, subdivision 4, the county board must submit to the state board ten copies of its comprehensive water plan, all written comments received on the plan, a transcript or tape recording of the public hearing held on the plan, and a summary of changes made

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to the plan as a result of the local review process.

In order to determine whether a comprehensive water plan is consistent with state law, the state board shall make the determinations in the manner provided by subparts 2, 3, and 4.

Subp. 2. **State board consultation with agencies.** Upon receipt of a comprehensive water plan and supporting documents, the state board shall transmit a copy of the plan to the departments of agriculture, health, and natural resources; the pollution control agency; the state planning agency; the environmental quality board; and any other state agency the state board believes could assist it in determining whether the plan is consistent with state law. An agency receiving a copy of the plan shall determine whether any portion of the plan is contrary to state law. Within 45 days of receipt of a comprehensive water plan from the state board, a state agency must submit a letter to the board identifying the portions of the plan that the agency has determined to be inconsistent with state law.

Subp. 3. **State board determination of consistency with other plans.** In determining whether a comprehensive water plan is consistent with state law, the state board shall determine whether the plan is consistent with the plan of another county or counties wholly or partially within affected watershed units or ground water systems, as required by Minnesota Statutes, section 110B.04, subdivision 4, clause (4), that has already been approved by the board or that has already been submitted under subpart 1. To determine consistency, the board shall consider the compatibility of the plans' goals, objectives and related actions, and implementation programs. If the board determines that the unapproved or subsequently submitted plan would not impede achievement of the goals, objectives, related actions, and implementation programs of the approved or previously submitted plan or plans, the board shall find the plan consistent with the plan or plans.

Subp. 4. **Principles for review.** To determine whether a comprehensive water plan conforms to the requirements of

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Minnesota Statutes, section 110B.04, subdivision 4, clause (3), the state board shall determine whether the plan conforms to the following principles:

A. Sound hydrologic management of water:

(1) significant upstream and downstream effects on surface water, and up-gradient and down-gradient effects on ground water, of actions impacting water and related land resources should be fully considered;

(2) natural water storage and retention systems should be preserved and used to the maximum extent practical;

(3) water management decisions should be based on sound data and technical analysis;

(4) interrelationships between surface and ground water, land and water use, and quality and quantity of water should be recognized; and

(5) potential variations in precipitation, both short-term and long-term, should be fully considered.

B. Effective environmental protection:

(1) potential cumulative effects of proposed actions should be considered;

(2) prevention of potential water and related land resources problems should be emphasized;

(3) the overall quality of the environment should be protected or enhanced; and

(4) public health and safety should be protected or enhanced.

C. Efficient management:

(1) the total benefits of water programs and projects should exceed the total costs;

(2) water management programs should be adequately funded to achieve high-priority objectives;

(3) comprehensive water planning should be coordinated with other related planning programs to fill management gaps and minimize duplication of effort;

(4) comprehensive approaches to identified problems and opportunities should be considered; and

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(5) water conservation practices should be used to the maximum extent practical.

Subp. 5. **State board decision.** Within 90 days after the filing of a comprehensive water plan and supporting documents with the state board, the board shall approve or disapprove a comprehensive water plan and provide the county board notice of the approval or disapproval of the plan. The state board shall approve a plan only if it determines that the plan is consistent with state law. If a plan is disapproved, the state board shall as part of its notice of disapproval provide the county board with a written statement of its reasons for disapproval.

Subp. 6. **Resubmittal.** A disapproved comprehensive water plan must be revised by the county board and resubmitted to the state board within 120 days after receiving notice of disapproval, unless the state board extends the period for good cause at the county's request. The state board must identify those portions of a disapproved plan that require revision. Upon receipt of revised portions of the plan, the state board shall follow the same review process as for an originially submitted plan.

IMPLEMENTING AN APPROVED COMPREHENSIVE WATER PLAN

9300.0180 AMENDMENT OF LOCAL PLANS AND OFFICIAL CONTROLS.

Subpart 1. **Notification after plan adoption.** After a county board has adopted an approved comprehensive water plan or amendments to the plan, the county board that adopted the plan shall notify local units of government within the county of the adoption of the plan or amendments. Within 90 days of the notification, local units must submit existing water and related land resources plans and official controls to the county board for review.

Subp. 2. **County review.** Within 180 days, the county board shall review the plans and official controls submitted and identify any inconsistencies between the local plans and official controls and the comprehensive water plan. In conducting the review, the county board shall determine the need

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for local units of government to revise plans, adopt new controls or revise existing controls, and specify the necessary measures to bring the local plans and official controls into conformance with the comprehensive water plan.

Subp. 3. **Local appeal.** If a local unit of government disagrees with any changes to its plans or official controls recommended by the county board, the local unit has 60 days after receiving the county's recommendations to appeal the recommendations to the state board.

Subp. 4. **Revision to local plans and official controls.** After receiving the recommendations of the county board, or after resolution of an appeal, a local unit of government has 180 days to initiate revisions to its plans and official controls. New or revised plans and official controls must be submitted to the county board for review and recommendations in the manner provided by this part for submission of existing plans and official controls.

9300.0190 AMENDMENT OF A COMPREHENSIVE WATER PLAN.

Subpart 1. **Amendment required.** A comprehensive water plan must apply to every year through the year 1995 or any later year that is evenly divisible by five.

Subp. 2. **Description required.** The comprehensive water plan must describe the procedure the county will use for amendment of the plan.

Subp. 3. **Procedure and criteria.** Amendments to a comprehensive water plan shall be reviewed in the same manner, and are subject to the same criteria for approval, as an initial comprehensive water plan.

RESOLUTION OF DISPUTES

9300.0200 INFORMAL RESOLUTION OF DISPUTES.

Subpart 1. **Applicability.** A county preparing or that has prepared a comprehensive water plan or another local unit of government may use the procedures provided in this part to:

A. determine the meaning of any provision of Minnesota Statutes chapter 110B, or parts 9300.0010 to 9300.0210;

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B. resolve any conflict between two comprehensive water plans;

C. resolve any conflict between a comprehensive water plan and any local plans or official controls; or

D. settle any other dispute relating to a comprehensive water plan.

Use of the procedure provided in this part is without prejudice to any party's use of the procedure provided for in Minnesota Statutes, section 110B.25, subdivision 2, and part 9300.0210.

Subp. 2. **Request for meeting; response.** A local unit of government desiring a meeting with the state board chair shall submit a written request to the chair identifying the issue involved, the local unit or units of government involved, and the pertinent provisions of the comprehensive water plan, statute, or rule involved in the dispute. The chair shall in writing acknowledge receipt of the request and, if the request complies with the requirements of this part, notify the other involved local units of government and request a written response from them. If the request for a meeting does not satisfy the requirements of this part or, if there is no response from other interested local units of government, the chair shall make a reasonable effort to obtain the required information in another manner.

Subp. 3. **Response and meeting.** When the chair obtains the response of other involved local units of government or has made reasonable efforts to obtain it, the chair may attempt to resolve the issue informally or shall set a meeting between the chair and the involved local units of government and adequately inform those units in writing of the issues, time, date, and place of the meeting. At the meeting, a local unit of government may be represented by any person or persons of its choosing, subject to control by the chair, and the chair may consider any relevant evidence or argument by a local unit of government that any reasonable person would rely upon to resolve the issues in question. The decision of the chair may be

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announced at the hearing or be made later but in either case shall be reduced to writing and a copy sent to all interested local units of government. The decision of the chair is effective 60 days following the decision of the chair unless a petition is filed within that time pursuant to Minnesota Statutes, section 110B.25, subdivision 3, for a contested case hearing under that section.

9300.0210 FORMAL RESOLUTION OF DISPUTES.

Subpart 1. **Applicability.** A county or other local unit of government may petition for a contested case hearing by satisfying the requirements of Minnesota Statutes, section 110B.25, subdivisions 2 and 3, and this part.

Subp. 2. **Petition for hearing.** A petition for a hearing shall be made in writing and addressed to the state board. The petition shall contain:

A. the name of the local unit of government petitioning and the names, addresses, and phone numbers of the officers of the local unit or other person representing the local unit for the purposes of the petition;

B. a request for a hearing;

C. a statement of the allegations or issues to be determined by the hearing; and

D. proof of service of a copy of the petition on all other involved local units of government.

Subp. 3. **Filing of petition.** A petition is considered filed with the state board when it is received by the board. Upon receipt of the petition, the board shall acknowledge its receipt in writing.

Subp. 4. **Request for judge.** Within five days of receipt of a sufficient petition for a hearing, the state board shall file a request under part 1400.5300 for the assignment of an administrative law judge.

Subp. 5. **Hearings.** Hearings are governed by the contested case procedure of Minnesota Statutes, chapter 14 and by parts 1400.5100 to 1400.8400.

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Subp. 6. **Hearing fees.** For the purpose of apportioning the fees of the Office of Administrative Hearings and transcript fees, the state board shall not be considered a party to the proceeding.

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to the Comprehensive Local Water Management Act

AGENCY: Water Resources Board

MINNESOTA RULES: Chapter 9300

The attached rules are approved for publication in the State Register

APPROVED AS TO FORM AND LEGALITY

1/6 19 87

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
ASSISTANT ATTORNEY GENERAL

David S. Niss
Assistant Revisor

No. 5

Water Resources Board

Proposed Permanent Rules Relating to the Comprehensive Local Water Management Act

Notice of Intent to Adopt a Rule Without a Public Hearing

Notice is hereby given that the State Water Resources Board intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes 1985 Supplement, section 110B.10, Subd. 2.

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. Comments are encouraged. Each comment should identify the portion of the proposed rule being addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rule within the 30-day comment period. If 25 or more persons submit written requests for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule being addressed, the reason for the request, and any change proposed. If a public hearing is required, the Water Resources Board will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Karen Schultz
Water Resources Board
500 Lafayette Road, Box 34
St. Paul, Mn. 55101
Telephone: 612 - 296-2840

The proposed rule may be modified if the modifications are supported by data and views submitted to the Water Resources Board and do not result in a substantial change in the proposed rule as noticed.

A free copy of the proposed rule may be obtained by calling or writing Karen Schultz. The proposed rule concerns county comprehensive water plans developed pursuant to the Comprehensive Local Water Management Act - Minnesota Statutes 1985 Supplement, chapter 110B. The Act encourages each county to develop and implement a comprehensive water plan. The proposed rule would govern county comprehensive water planning procedures, plan content, plan review,

plan amendment, and conflict resolution. Counties that voluntarily decide to develop and implement comprehensive water plans pursuant to chapter 110B would have to comply with the proposed rule. The proposed rule was developed with the assistance of the Water Resources Board's Local Advisory Committee, which includes six county commissioners, one county administrator, one city administrator, one Township Association administrator, three soil and water conservation district supervisors, one watershed district manager, one watershed district administrator, one state university professor, and one citizen member.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Karen Schultz upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to Karen Schultz.

Dated: 5 November 1986

Mel Sinn, Executive Director
Water Resources Board

No. 6

STATE OF MINNESOTA
WATER RESOURCES BOARD

(612) 296-2840

500 Lafayette Road
Box 34
St. Paul, Minnesota 55101

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In the Matter of Proposed Rules for
Implementation of the Comprehensive
Local Water Management Act
- - - - - - - - - - - - - - - - - - -

STATEMENT OF NEED
AND REASONABLENESS

The Water Resources Board (Board) proposes to adopt rules governing implementation of the Comprehensive Local Water Management Act, Minnesota Statutes chapter 110B (Supp. 1985).

This statement sets out the need for and reasonableness of the proposed rules. The statement is divided into six parts. Part I sets out the Board's authority to adopt the rules. Part II discusses the history of the Comprehensive Local Water Management Act. Part III sets out the process followed by the Board, consistent with the enabling statutes, in developing the proposed rules. Part IV constitutes the specific affirmative presentation of the need for and reasonableness of the proposed rules. Part V reflects the Board's consideration of the impacts of the proposed rules on expenditure of public monies by local public bodies, on agricultural land, and on small businesses, as required by Minn. Stat. secs. 14.11 and 14.115. Part VI is a single statement of conclusion.

I. AUTHORITY

Specific authority to promulgate rules for implementation of the Comprehensive Local Water Management Act is granted by Laws of Minnesota 1985, First Special Session, chapter 2, section 5, subdivision 2. General rulemaking authority is given to the Board by Minn. Stat. sec. 105.71, subd. 1 (1984).

II. HISTORY OF THE COMPREHENSIVE LOCAL WATER MANAGEMENT ACT

In 1979 the Minnesota Water Planning Board proposed a water management strategy for the state in a report entitled "Toward Efficient Allocation and Management: A Strategy to Preserve and Protect Water and Related Land Resources". A key element of the proposed strategy was the encouragement of local involvement in water planning:

"At the local level, the state should encourage and facilitate initiation of water management plans and projects. Encouraging the development of water management plans is viewed as an effective way for local government to 1) address water management problems systematically and comprehensively; 2) provide a focus for citizen involvement and participation in the solution of water problems; 3) speed up state agency approval of permits that might be required in plan implementation by having prior acceptance of plans at state and regional levels; and 4) facilitate the administration of state permit programs by local authorities whenever feasible." (From "Summary of the Management Strategy", pages 67-68 of the June 1979 report).

In Laws of Minnesota 1980, chapter 548, section 2, the Legislature directed the Water Planning Board to further define the role of local government in water management. The Water Planning Board issued its findings and recommendations in a January 1981 report entitled "Special Study on Local Water Management." The Water Planning Board recommended a strengthened local-state partnership in water management, with counties to be designated as the "fundamental decision-makers" on water management at the local level.

In 1985, the Legislature enacted the Comprehensive Local Water Management Act, which provides the vehicle for county government to take the lead role in water planning and management at the local level, as recommended by the Water Planning Board. Following state approval of a county comprehensive water plan, other local units of government must amend existing water and related land resources plans and official controls as necessary to bring them into conformance with the county plan.

III. RULE DEVELOPMENT PROCESS

The Water Resources Board entered into a Memorandum of Agreement with the State Planning Agency shortly after the effective date of the Comprehensive Local Water Management Act to promote cooperative efforts in implementing state-level responsibilities given by the Act, including development of rules.

On August 26, 1985 a Notice of Intent to Solicit Outside Opinion on rules for implementation of the Comprehensive Local Water Management Act was published in the State Register (10 S.R. 544).

The Water Resources Board published notice of vacancies on the local advisory committee required by Minn. Stat. sec. 110B.10, subd. 3 in the State Register on September 2, 1985 (10 S.R. 594), and mailed the notice to about 250 local units of government, organizations, and individuals. The Water Resources Board received applications from fifty interested persons. In October 1985 the Water Resources Board appointed a local advisory committee made up of six county commissioners, one county planning administrator, three soil and water conservation district supervisors, one watershed district manager, one watershed district administrator, one city administrator, the director of the Minnesota Association of Townships, a university professor, and one unaffiliated public member.

The State Planning Agency, under the terms of the Memorandum of Agreement, organized and staffed a separate interagency technical advisory committee.

The two advisory committees met several times between November 1985 and September 1986 to develop recommended draft rules for implementation of the Comprehensive Local Water Management Act.

The first draft of recommended rules was completed in June 1986, and was distributed to state agencies and local units of government during July and August of 1986 to solicit their comments. The first draft of rules was also mailed to over forty environmental, conservation, and public policy organizations for their review. The first draft of rules also was presented to county commissioners at nine separate regional meetings of the Association of Minnesota Counties during August 1986.

All the comments received during this informal review process were considered by the local advisory committee and technical advisory committee in September 1986. Many of the comments were incorporated into a second draft of recommended rules in late September 1986. The Water Resources Board approved publication of proposed rules at its October 1986 meeting.

Copies of all written comments received on the draft rules are available for review at the Water Resources Board's office.

IV. SUBSTANTIVE DISCUSSION OF PROPOSED RULES

Minn. Stat. sec. 14.23 (1984) requires an agency proposing rules for adoption to make an affirmative presentation of facts establishing the need for and reasonableness of the rules proposed. In general terms, this means that an agency must set forth the reasons for proposing rules and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists that requires administrative attention and reasonableness means that the solution proposed by the agency is a proper one.

The need for these proposed rules comes from the importance of wisely managing our essential water resources; addressing water management problems systematically and comprehensively; providing a focus for citizen involvement at the local level; involving local units of government in water management; and from the legislative mandate of Minn. Stat. sec. 110B.10, subd. 2.

Reasonableness is the opposite of arbitrariness and caprice, and means that there is a rational basis for the Board's proposed action. The purpose of the remainder of this section is to demonstrate that each provision is a reasonable approach to its defined function.

PART 9300.0010 DEFINITIONS.

Subpart 1. Applicability.

This subpart explains that the definitions apply to the remaining Parts of the proposed rule. It also refers to the definitions contained in the Comprehensive Local Water Management Act (CLWMA) to alert the reader that the proposed rule must be read in conjunction with the CLWMA.

Subp. 2. Geographic indicator.

"Geographic indicator" needs to be defined because it is a technical term. The term is used in the proposed rule in instances where required data must be identified by geographic location. Most water-related data is meaningless unless it is tied to a specific geographic location.

A "geographic indicator" also allows water data to be integrated into the Minnesota Land Management Information System, as required by Minn. Stat. sec. 110B.04, subd. 7. The definition is consistent with the State Planning Agency's data compatibility guidelines referred to in Minn. Stat. sec. 110B.04, subd. 7.

Subp. 3. Local units of government.

This definition is the same as the one contained in the CLWMA. It is repeated in the proposed rule because the statutory definition is much broader than the common use definition and needs to be emphasized for clarity.

Subp. 4. Minor watershed unit.

This term is defined because it is a technical term used in the rules that refers to specific areas delineated on the state watershed boundaries map. The term is not defined in the CLWMA.

Subp. 5. Protected waters.

This term is defined to ensure consistency of interpretation with other state agency rules, particularly the rules of the Minnesota Department of Natural Resources, which has regulatory jurisdiction over "protected waters".

Subp. 6. State board.

The proposed rule uses the term "state board" to refer to the Minnesota Water Resources Board to shorten the text.

Subp. 7. Watershed management organization.

This definition is the same as the one contained in the CLWMA. It is repeated in the proposed rule because it is not a commonly used term and needs to be emphasized for clarity.

Subp. 8. Watershed units.

The proposed rule refers the reader to the definition contained in the CLWMA. The term is used throughout the proposed rule and is defined because it refers to specific areas delineated on the state watershed boundaries map.

PART 9300.0020 PURPOSES OF PLANNING PROCESS AND SCOPE OF PLAN.

Subpart 1. Purposes.

This subpart states the purposes of preparing a comprehensive water plan. It is included to help counties understand the benefits of comprehensive water planning. The expressed purposes are consistent with the policies contained in the CLWMA.

Subp. 2. Scope.

This subpart is introductory. It provides an overview of the basic steps involved in preparing a local water plan. Specific planning procedures will be discussed as they appear in the proposed rule.

PART 9300.0030 PROCEDURES FOR WATER PLANNING.

Subpart 1. Applicability.

This paragraph introduces the substantive procedures the proposed rule requires a county to follow if it prepares a plan under the CLWMA. A majority of the comments received on the first draft of the proposed rule addressed Part 9300.0030. This Part was revised to strengthen the opportunity for public participation and intergovernmental coordination.

Subp. 2. Resolution to develop plan.

This subpart requires a county to adopt a resolution if it decides to prepare a plan pursuant to the CLWMA. Compliance with the CLWMA is voluntary; therefore, the decision to prepare a plan must be made by vote of the county board of commissioners.

Subp. 3. Notice of decision to develop plan.

This subpart requires the county board to notify specific parties of its decision to develop a plan within 30 days of its decision.

Early notice is important because it provides other local units and interested agencies an opportunity to participate in the planning process from the beginning. It is the first step in establishing a cooperative and coordinative planning process, consistent with the CLWMA.

Subp. 4. Request for local plans and official controls.

This subpart requires the county to request from all local units within the county existing water plans and official controls, and any conflicts, problems, or opportunities the local units want the county to examine and address in the comprehensive water plan.

A county needs to know what other plans exist in order to fully utilize them in preparing the comprehensive water plan. They will enable the county to describe any possible conflicts between the comprehensive water plan and other local plans. It is reasonable to require the county to request these local plans and official controls at the beginning of the planning process to facilitate coordination between the county and other local units.

Subp. 5. Public informational meeting required.

This subpart requires the county to conduct a public informational meeting within 90 days of the notice of its decision to prepare a plan. It requires publication of meeting notice in the official newspaper of the county, and notification of the parties that received notice of the county's decision to prepare a plan.

An early public informational meeting is needed to provide the public, as well as interested local units and state agencies, with an opportunity to present information to the county about water-related issues, problems, and opportunities they believe should be considered in the comprehensive water plan.

The meeting will benefit the county by making it aware of water-related issues early in the planning process.

An early public informational meeting is not required by the CLWMA, but was considered very important by the local advisory committee and by the state agencies represented on the technical advisory committee.

Subp. 6. Meetings with local units of government within the county.

This subpart requires the county to conduct meetings with other local units during plan preparation and implementation.

Meetings with other local units is required by Minn. Stat. sec. 110B.04, subd. 3 to facilitate interlocal coordination.

The League of Minnesota Cities was especially concerned about this process, and urged that the proposed rule require "periodic" meetings. This subpart is reasonable because it requires meetings, but leaves the decisions on the number and timing of meetings up to the county board.

Subp. 7. Public participation process.

This subpart requires the county to ensure that there is an opportunity for public participation during plan development and implementation.

The process will assist the county in determining what problems and opportunities are important to county residents. It will give the public an opportunity to provide information and guidance to the county board during the formative stages of plan development. It also will allow the county to consider major public concerns prior to the formal public hearing required late in the planning process by Minn. Stat. sec. 110B.08, subd. 4.

It is reasonable because it provides the county the flexibility of deciding the format, number, and timing of opportunities for public input.

Subp. 8. Record of meetings.

This subpart requires a county to maintain a record of the meetings held under subparts 5, 6, and 7.

This requirement is needed to document a county's compliance with the planning procedures. It also will be important to have a record of the meetings if conflicts remain unresolved at the conclusion of the planning process, because it will provide the Water Resources Board with information on a county's efforts to coordinate with other local units and to address issues raised by the public.

It is reasonable because it doesn't require a county to prepare an expensive verbatim record, but it does require that a county prepare meeting minutes and a list of people in attendance and who they represented.

Subp. 9. Delegation.

This subpart makes the delegation provision of Minn. Stat. sec. 110B.04, subd. 2, more specific by stating that delegation can only be made to parties willing to carry out planning responsibilities. It also makes it clear that a county remains responsible for ensuring public participation and a record of meetings when it delegates planning duties.

The Minnesota Association of Townships wanted the proposed rule to make clear that a county could not delegate planning responsibilities to local units that did not desire to become involved. The proposed rule does that. It is reasonable because the CLWMA did not intend the county to be able to delegate planning responsibilities to other local units without their consent.

PART 9300.0040 DATA CONSISTENCY WITH STATE PLANNING AGENCY GUIDELINES.

This Part requires that new data collected by a county for inclusion in a comprehensive water plan must be consistent with State Planning Agency guidelines for data compatibility. This will allow the new data to be integrated into the state's computer data base, as required by Minn. Stat. sec. 110B.04, subd. 7.

This Part makes the CLWMA more specific by requiring new data to include a geographic indicator and, where appropriate, unique well numbers and protected waters inventory identification numbers. These indicators and identifiers will allow the new data to be integrated into the state's computer data base.

This part also encourages a county to use consistent map scales, where possible. It also makes it clear that information required to be presented in map form by later Parts of the proposed rule map be combined on a single map.

This Part is reasonable because the requirements are consistent with standard methods of data identification, and information gathered from state agencies will automatically include the standard identifiers. This standardization will benefit both the state and the local units of government now and in the future.

PART 9300.0050 PHYSICAL ENVIRONMENT, LAND USE, AND DEVELOPMENT.

This Part lists the basic information required to be presented in a comprehensive water plan on a county's physical environment, land use, and development to comply with Minn. Stat. sec. 110B.04, subd. 6 (1). This Part requires information under the headings of precipitation, geology and water resources, soils, topography, land use and public utility services, and land ownership.

This basic information is needed to enable a county to understand the existing physical conditions affecting water and related land resources.

Information on normal precipitation is essential to any analysis of water availability. It also provides a benchmark for determining whether precipitation in a particular year was abnormally high or low, which is needed to assess the expected frequency of flooding or low flow conditions.

Information on geology and water resources is essential to developing a basic understanding of a county's hydrologic characteristics, including both surface and ground water.

Soils information is needed to judge suitability for various land uses and the impact different land use would have on water resources.

Land use information is needed to assess runoff rates and volumes, sources of point and nonpoint pollution, and areas particularly vulnerable to water problems.

Land ownership information is needed to assess potential opportunities and constraints in managing existing or potential water problems.

The information required by this Part is reasonable because most of it is readily available from other governmental units or agencies. Part 9300.0020, subp. 2 states that information is required only if it is available.

PART 9300.0060 EXPECTED CHANGES TO PHYSICAL ENVIRONMENT, LAND USE, AND DEVELOPMENT.

This Part requires a county to identify expected changes to the physical environment, land use, and development to comply with Minn. Stat. sec. 110B.04, subd 6 (1).

Consideration of expected changes is needed to enable a county to anticipate water-related problems before they occur and develop management strategies to avoid or minimize expected problems. It also enables a county to take advantage of opportunities that may be available to gain multiple use of existing resources or provide additional protection to priority water and related land resources.

PART 9300.0070 SURFACE WATER, GROUND WATER, AND RELATED LAND RESOURCES.

This Part lists the basic information required to be presented in a comprehensive water plan on a county's surface water, ground water, and related land resources to comply with Minn. Stat. sec. 110B.04, subd 6 (2).

Subpart 1. Applicability.

This subpart states that the level of detail of information required by this Part should be determined in conjunction with neighboring counties. This will facilitate intercounty coordination.

It also states that the information should be presented by watershed unit and ground water systems where appropriate. This is necessary because the CLWMA requires comprehensive water plans to address water problems in the context of watershed units and ground water systems. This is necessary because surface water and ground water movement is unrelated to political unit boundaries, and problems and solutions often transcend political boundaries.

Subp. 2. Water quantity information.

Quantity information for both surface and ground water is needed for a county to gain an understanding of water availability and use, and to enable a county to identify existing and potential problems relating to water quantity later in the planning process.

This basic information is fundamental to a county's understanding of its water and related land resources. It is needed to enable a county to understand the quantity, quality, distribution, availability, and existing uses of its water and related land resources. It

also is needed to enable a county to assess the implications of the information, or lack of good information, for future water and land use. It also is needed to help a county gain an understanding of the scope of state and federal regulatory programs and where management gaps may exist.

Subp. 3. Water quality information.

Quality information for both surface and ground water is needed to enable a county to understand the present condition of its water resources, limitations on its usefulness for various purposes, and to identify any water quality trends. It is also important for a county to find out where important water quality information is lacking, in order to assess future information needs.

Subp. 4. Information on special land uses and conditions that influence quality and quantity.

Information on special land uses and conditions that influence water quality and quantity is needed to assist a county in understanding the significant effects various special land uses can have on water resources.

This subpart requires information on eroding lands, irrigation, drainage, pollutant sources, and special geologic conditions.

Information on eroding lands is needed because erosion is one of the primary mechanisms by which pollutants reach water basins and watercourses. Erosion of the beds and banks of water basins and watercourses themselves also can cause serious water management problems.

Information on irrigation is needed to enable a county to assess potential ground water quantity and quality problems.

Information on public and private drainage systems is needed because artificial drainage can have profound effects on peak discharge rates and land use. In a county with intensive drainage systems, management of the systems can be one of the most difficult water problems facing the county board.

Information on pollutant sources is needed because landfills, hazardous waste sites, feedlots, wastewater discharges and other major sources of pollution can have a significant effect on the quality and potential use of a county's water resources.

Information on special geologic conditions is needed to enable a county to assess the vulnerability of its ground water systems to various sources of pollution.

Subp. 5. Information on related land resources.

Information on related land resources is needed to enable a county to understand the important interrelationships between certain land resources and a county's water resources. Poorly planned use or

development of certain land resources can have significant effects on water quality qnd quantity. This subpart requires information under the headings of wetlands, floodplains, shorelands, water-based recreation lands, fish and wildlife habitat, and unique features and scenic areas.

Information on wetlands is needed because of the role of wetlands in filtering water pollutants, storing floodwaters, and providing wildlife habitat and recreational opportunities. It is also important for a county to have information on its wetlands because they are regulated by both the state DNR and the federal Corps of Engineers.

Information on floodplains is needed because this is where floodwaters can cause tremendous amounts of property losses. Floodplain management is primarily carried out by local governments through floodplain zoning and regulation, and is an essential element of a comprehensive water plan.

Information on shorelands is needed because shoreland management is also a primary responsibility of local governments through shoreland zoning and regulation. Shoreland use can have significant effects on flood damage, water quality, recreational opportunities, and aesthetics.

Information on water-based recreation lands is needed to enable a county to evaluate the adequacy of these resources for present and future use.

Information on fish and wildlife habitat is needed to enable a county to understand the scope of state and federal fish and wildlife habitat plans and programs in the county, to understand the importance these resources have to the county's recreational opportunities and economy, and to assess the adequacy of these resources for present and future use.

Information on unique features and scenic areas is needed to ensure that a county gives consideration to these resources in its planning process, and recognizes the special protections they may have under other governmental programs.

The information required by Part 9300.0070 is reasonable because most of it is readily available from other governmental units or agencies. The proposed rule states that information is required only if it is available.

PART 9300.0080 EXPECTED CHANGES TO SURFACE WATER, GROUND WATER, AND RELATED LAND RESOURCES.

This Part requires a county to identify expected changes to the surface water, ground water, and related land resources to comply with Minn. Stat. sec. 110B.04, subd. 6 (2).

Consideration of expected changes is needed to enable a county to anticipate water-related problems before they occur and develop management strategies to avoid or minimize expected problems. It also

equips a county to take advantage of opportunities that may be available to gain multiple use of existing resources or provide additional protection to priority water and related land resources.

PART 9300.0090 PROBLEMS AND OPPORTUNITIES.

This Part requires a county to identify problems and opportunities based on the water-related information it has gathered and the comments it has received from interested parties. It also requires a county to identify key issues relating to water quality, water quantity, special land uses and conditions, and related land resources.

Identification of problems and opportunities is a fundamental element of any comprehensive planning process. It is needed to guide a county in developing its goals, objectives, priorities, and plan of action later in the planning process.

It is reasonable because a county will have the information gathered under Parts 9300.0050 to 9300.0080, and the comments received at meetings held under Part 9300.0030, to use in identifying water problems and opportunities.

PART 9300.0100 ESTABLISHMENT OF COUNTY GOALS.

Parts 9300.0100 and 9300.0110 are the essence of the planning functions set out in the proposed rules.

Part 9300.0100 requires a county to state long-term goals for present and future water and land uses in its comprehensive water plan.

A statement of goals is needed to express the water and related land resources conditions that will be sought by the county.

It is reasonable to require a statement of goals because they are necessary to establish the framework for determining shorter-term objectives and a plan of action.

This part reflects the long-term implications of Minn. Stat. sec. 110B.04, subd. 6 (3).

PART 9300.0110 OBJECTIVES AND PLAN OF ACTION.

This Part requires a county to state measurable objectives and a plan of action in its comprehensive water plan to address problems and opportunities identified under Part 9300.0090.

Objectives and a plan of action are required to comply with Minn. Stat. sec. 110B.04, subd. 6 (3). They are needed to help ensure that the water planning process results in positive actions being taken to achieve the county's water management goals.

Requiring objectives and a plan of action is reasonable because they are crucial to successful implementation of a comprehensive water plan.

PART 9300.0120 PRIORITY ACTION CATEGORIES.

Subpart 1. Priorities required.

This subpart requires a county to establish priorities in its plan of action.

Subp. 2. Priority development.

This subpart requires that the priorities established reflect the urgency of problems and opportunities.

Subp. 3. Priority description.

This subpart requires a county to describe the actions to be taken by the county alone, and the actions requiring the cooperation of other local units or agencies. It also requires a county to state whether it has received commitments for needed cooperation.

Part 9300.0120 is needed to ensure that a county will assign priorities to specific elements of its plan of action. It is important to define priorities because no county will be able to take immediate action on all of its water management objectives. Action on certain water problems, such as major river flooding and groundwater contamination, may require cooperative efforts at the local, state, and federal levels and long-term approaches to alleviate the problem. Other actions, such as improving enforcement of county floodplain and zoning ordinances, can be taken quickly by the county acting independently.

Requiring a county to establish priorities in its plan of action is reasonable because it will allow county residents and other interested parties to evaluate a county's performance in implementing the plan.

PART 9300.0130 DESCRIPTION OF RECOMMENDED CHANGES IN STATE PROGRAMS.

This Part defines what must be included in a plan to describe recommended changes in state programs, policies, and requirements, if a county decides to include such recommendations. Minn. Stat. sec. 110B.04, subd. 6 (4) allows a county to describe changes it considers important to local water management.

This part requires the description of recommended changes to identify the specific program, policy, or requirement being addressed; to state the specific changes recommended; and to state the reasons the county considers the changes important.

It is reasonable because the recommendations would have no value if the state were unable to understand their intent and the reasons for them.

PART 9300.0140 LOCAL REVIEW AND POTENTIAL CONFLICTS.

Subpart 1. Applicability.

Minn. Stat. sec. 110B.08 requires local review and comment on a county's comprehensive water plan. This subpart states that Part 9300.0140 applies to the local plan review process, and the identification and resolution of conflicts between a comprehensive water plan and other local plans or official controls. See Minn. Stat. sec. 110B.04, subd. 6 (5) and (6).

Subp. 2. Identification of conflicts.

This subpart requires that conflicts between the comprehensive water plan and other local plans must be identified either during the planning process or in the formal local review process. It is consistent with Minn. Stat. sec. 110B.04, subd. 6 (5) and (6).

Subp. 3. During plan preparation.

This subpart requires other local units to notify the county developing a comprehensive water plan of any conflicts pursuant to Part 9300.0030, subp. 4, if they want the conflicts addressed during plan preparation.

Subp. 4. During plan review.

This subpart requires other local units to notify the county submitting a comprehensive water plan to them for their review of any conflicts not already identified in the county's proposed plan, if they want the conflict considered by the Water Resources Board during state review.

Subp. 5. Description of conflicts.

This subpart defines how a conflict between local plans must be described in a comprehensive water plan.

Subp. 6. Process to resolve conflicts.

This subpart requires a comprehensive water plan to describe what attempts have been made, or are underway, to resolve any conflicts between local plans.

Part 9300.0140 is needed to ensure that a comprehensive water plan adequately describes existing or potential conflicts with other local plans before it is submitted to the Water Resources Board for review. It also is needed to facilitate local resolution of conflicts during plan preparation or during the local review process.

It is reasonable because it will be advantageous to both the county and the state for as many local conflicts as possible to be resolved prior to submission of a comprehensive water plan for state review. Local issues should be resolved locally whenever possible.

PART 9300.0150 INCORPORATION OF PLANS AND RULES OF WATERSHED DISTRICTS AND INTERCOUNTY JOINT POWERS BOARDS

This Part follows Minn. Stat. sec. 110B.04, subd. 5, and makes it more specific by requiring that a county that changes the plans or rules of a watershed district or intercounty joint powers board that it incorporates into its comprehensive water plan must attach to its plan resolutions of support for the changes from all affected counties. It also defines a standard for demonstrating the necessity of the changes, which is that the plan element or rule requiring change does not adhere to the principles in Part 9300.0170, subpart 4.

This Part is needed to ensure that changes in watershed district or intercounty joint powers board plans or rules are supported by all affected counties, and to define the criteria that will be used to evaluate whether a county has adequately demonstrated the necessity for making the changes.

This Part is reasonable because it will ensure intercounty coordination on proposed changes to watershed plans or rules, and will help reduce controversies over proposed changes during the state review process.

PART 9300.0160 IMPLEMENTATION PROGRAM.

Subpart 1. Program and schedule required.

This subpart requires a county to state how and when the comprehensive water plan will be implemented.

Subp. 2. Program.

This subpart provides examples of what an implementation program could include, and requires a county to state the staff and financial resources available and needed to carry out the plan. It also requires a county that determines no actions are needed to explain why actions are not needed to address identified problems or opportunities.

Subp. 3. Agreements with local units.

This subpart requires a county to identify any components of its implementation program that will be carried out by another local unit by agreement, and to describe how and when such components will be implemented.

Subp. 4. Capital improvement program.

This subpart requires a county to describe any proposed capital improvement projects, and defines the information that must be presented to adequately describe such projects.

Part 9300.0160 is needed to add specificity to Minn. Stat. sec. 110B.04, subd. 6 (7), which requires comprehensive water plans to include an implementation program. It is necessary to require a

county to evaluate the staff and financial resources necessary to carry out its plan to ensure realistic expectations about what the plan will accomplish. It is necessary to require a county to explain why no actions are needed, if that is what the county board determines, to add accountability to the county's decisions on water management. It is necessary to require a county to identify plan components that will be implemented by other local units to ensure adequate coordination has occurred between the county and other local units. It is necessary to require a county to fully describe proposed capital improvement projects to ensure that the public, affected local units, and state agencies are adequately informed of proposed projects that could have significant financial, hydrologic, and environmental effects.

Part 9300.0160 is reasonable because the information it requires is essential to evaluating whether the implementation program is consistent with the plan's objectives and plan of action.

PART 9300.0170 STATE REVIEW.

Subpart 1. Submittal to state board.

This subpart requires a county to submit ten copies of its comprehensive water plan to the Water Resources Board for state review pursuant to Minn. Stat. sec. 110B.08, subd. 5. It also defines the "record" of the public hearing that must be submitted to be a transcript or tape recording. The county must include all comments received on the plan and a summary of changes made to the plan as a result of local review.

Subp. 2. State board consultation with agencies.

This subpart requires the Water Resources Board to transmit a copy of a comprehensive water plan upon receipt to each of the agencies listed in Minn. Stat. sec. 110B.08, subd. 5. The list includes the principal state agencies with expertise or authority in water and related land resources management. It also requires each of these agencies to review the plan for consistency with state law, and to identify within 45 days any portions of a plan it determines to be inconsistent with state law.

Subp. 3. State board determination of consistency with other plans.

This subpart establishes a standard for judging the consistency of a comprehensive water plan with the comprehensive water plans of other counties wholly or partially within affected watershed units or groundwater systems. The Water Resources Board must find a plan consistent with another plan, if it determines that the plan would not impede achievement of the goals, objectives, related actions, and implementation programs of the other plan.

Subp. 4. Principles for review.

This subpart defines the principles of sound hydrologic management of water, effective environmental protection, and efficient management that Minn. Stat. sec. 110B.04, subd. 4 (3) requires comprehensive water plans to be based upon.

The hydrologic principles emphasize the importance of: considering upstream and downstream effects of actions; preserving and using natural water retention areas; basing decisions on good information and technical analysis; recognizing important interrelationships between surface and ground water, land use and water use, and water quality and quantity; and considering the variability of precipitation amounts. The principles of effective environmental protection recognize that: cumulative effects of actions should be considered; prevention of problems should be emphasized; overall environmental quality should be protected or enhanced; and public health and safety should be protected. The principles of efficient management were defined as follows: benefits of programs and projects should exceed the costs; programs should be funded adequately to achieve high-priority plan objectives; local water planning should be coordinated with other related local planning programs to minimize gaps and duplication of effort; comprehensive solutions to problems should be considered; and water conservation should be practiced.

The principles are reasonable because they embody concepts widely accepted by professional hydrologists and resource managers, and are stated in terms broad enough to provide counties flexibility.

Subp. 5. State board decision.

This subpart describes the procedure the Water Resources Board must follow in notifying a county of approval or disapproval of a comprehensive water plan. It is a restatement of provisions of Minn. Stat. sec. 110B.08, subd. 5, and is included merely to make the rules understandable.

Subp. 6. Resubmittal.

This subpart requires the Water Resources Board to identify those portions of a disapproved comprehensive water plan that require revision. It also states that the Water Resources Board must follow the same review procedures for revised portions of plans as it follows for originally submitted plans.

Part 9300.0170 is needed to add specificity to the general plan review procedures contained in Minn. Stat. sec. 110B.08. The requirement for ten copies of a comprehensive water plan to be submitted is to allow immediate transmittal to other agencies upon receipt. The requirement for a transcript or tape recording of the county's public hearing on its plan is needed to ensure an adequate record. Subpart 2 is needed to add certainty to the consultation process required by Minn. Stat. sec. 110B.08, subd. 5. The standard for determining plan consistency with other plans is needed to inform

counties of the test that will be used, and to add certainty to these decisions. Principles of sound hydrologic management of water, effective environmental protection, and efficient management need to be defined to provide an underlying basis for evaluating a plan's consistency with state law in cases where conflicts arise over whether a plan conforms with the intent of the law.

Part 9300.0170 is reasonable because it will help counties understand the procedure and criteria the Water Resources Board will use in reviewing plans, and will promote consistency in plan review.

PART 9300.0180 AMENDMENT OF LOCAL PLANS AND OFFICIAL CONTROLS.

Subpart 1. Notification after plan adoption.

This subpart is a restatement of Minn. Stat. sec. 110B.12, subd. 2 and is included only for the purpose of making the proposed rule complete and understandable. It requires a county that adopts an approved comprehensive water plan to notify local units within the county, and provides the local units 90 days to forward their water and related land resources plans and official controls to the county for review.

Subp. 2. County review.

This subpart requires a county board to review the local plans and official controls submitted to it pursuant to subpart 1 within 180 days.

Requiring a specific review period is needed because the CLWMA does not specify any timeframe for county action.

It is reasonable because 180 days is the same time period provided for revision of local plans and official controls in response to county recommendations for changes.

Subp. 3. Local appeal.

This subpart gives local units 60 days to appeal county board recommendations for changes to the Water Resources Board. It is a restatement of Minn. Stat. sec. 110B.12, subd. 4 and is included only for the purpose of making the proposed rule complete and understandable.

Subp. 4. Revision to local plans and official controls.

This subpart is merely a restatement of Minn. Stat. sec. 110B.12, subds. 3 and 5, and is included only for the purpose of making the proposed rule complete and understandable.

PART 9300.0190 AMENDMENT OF A COMPREHENSIVE WATER PLAN.

Subpart 1. Amendment required.

This subpart requires a comprehensive water plan to extend through the year 1995 or any later year evenly divisible by five.

Minn. Stat. sec. 110B.04, subd. 4 (5) requires a comprehensive water plan to be updated before the period covered expires.

Subp. 2. Description required.

This subpart requires a comprehensive water plan to describe the procedure the county will use for amending the plan.

Subp. 3. Procedure and criteria.

This subpart states that plan amendments must be prepared and reviewed in the same manner as an initial plan. It is consistent with Minn. Stat. sec. 110B.08, subd. 7, which requires plan amendments to be submitted to the Water Resources Board in the same manner as a comprehensive water plan.

Subparts 1 and 2 of Part 9300.0190 are merely restatements of Minn. Stat. sec. 110B.04, subds. 4 (5) and 6 (8), and are included only for the purpose of making the proposed rule complete and understandable.

Subpart 3 makes the CLWMA more specific by requiring that amendments to a comprehensive water plan must be reviewed in the same manner as an initial plan. This subpart is reasonable because it provides a county flexibility in determining the plan amendment procedure it will follow.

PART 9300.0200 INFORMAL RESOLUTION OF DISPUTES.

Subpart 1. Applicability.

This subpart states that the procedures provided in Part 9300.0200 may be used by a county or another local unit to: determine the meaning of any provision of the CLWMA or these proposed rules; resolve any conflict between comprehensive water plans or between a comprehensive water plan and a local plan or official control; or settle any other dispute relating to a comprehensive water plan. It further states that use of the informal dispute resolution procedures of Part 9300.0200 is without prejudice to any party's use of the formal dispute resolution procedures of Part 9300.0210.

Subp. 2. Request for meeting; response.

This subpart requires a local unit desiring to initiate informal resolution of a dispute to submit a written request for a meeting with the chair of the Water Resources Board. It requires the request to identify the issue involved, the local units involved, and the pertinent provisions of the plan, statute, or rule involved in the dispute. It also requires the chair to acknowledge requests for a meeting in writing, and to request written responses from other interested local units.

Subp. 3. Response and meeting.

This subpart allows the chair to either informally resolve the dispute or call a meeting with the involved local units. At a

meeting, the chair may consider any relevant evidence or argument on the issues in dispute. The chair's decision must be reduced to writing and sent to all interested local units. It is effective after 60 days, unless a petition is filed within that time for a contested case hearing under Minn. Stat. sec. 110B.25, subd. 3 and Part 9300.0210, subpart 2.

Part 9300.0200 is needed to establish procedures for the informal dispute resolution process provided under Minn. Stat. sec. 110B.25, subd. 1. It is reasonable because it provides all parties with proper notice, an opportunity to present evidence and argument on the issues, and adequate time to decide whether to petition for a contested case hearing. The informal dispute resolution process will provide an opportunity to work out local disputes with minimal expenditures of time and money.

PART 9300.0210 FORMAL RESOLUTION OF DISPUTES.

Subpart 1. Applicability.

This subpart explains that a county or other local unit may petition for a contested case hearing by satisfying the requirements of Minn. Stat. sec. 110B.25, subds. 2 and 3, and Part 9300.0210.

Subp. 2. Petition for hearing.

This subpart requires a petition for a contested case hearing to contain information necessary to lay the groundwork for an effective hearing: the name of local unit petitioning; the name, address, and phone number of the person representing the local unit; a request for hearing; a statement of the issues; and proof of service of a copy of the petition on all other involved local units.

Subp. 3. Filing of petition.

This subpart states that a petition is considered filed upon receipt by the Water Resources Board. It also requires the Board to acknowledge receipt in writing.

Subp. 4. Request for judge.

This subpart requires the Water Resources Board to file a request for an administrative law judge under part 1400.5300 within five days of receipt of a sufficient petition to deal with contested issues expeditiously.

Subp. 5. Hearings.

This subpart states that hearings are governed by the contested case procedures of Minn. Stat. chapter 14 and by parts 1400.5100 to 1400.8400.

Subp. 6. Hearing fees.

This subpart states that the Water Resources Board shall not be considered a party to the contested case proceeding for the purpose of apportioning hearing costs.

Part 9300.0210 is needed to add specificity to the formal dispute resolution process provided under Minn. Stat. sec. 110B.25, subds. 2 and 3. It is reasonable because it will make the formal dispute resolution process easier to follow and understand. It is reasonable not to consider the Water Resources Board as a party to a formal dispute resolution proceeding because the Board will be acting in a quasi-judicial capacity.

V. CONSIDERATION OF IMPACTS ON EXPENDITURES OF PUBLIC MONIES BY LOCAL PUBLIC BODIES, AGRICULTURAL LAND, AND SMALL BUSINESSES

A. Expenditures of Public Monies by Local Public Bodies (Minn. Stat. sec. 14.11, subd. 1)

Preparation of a comprehensive water plan by a county under the CLWMA is not mandatory. Adoption of the proposed rules will not require the expenditure of public moneys by local public bodies, unless a county elects to prepare a comprehensive water plan.

B. Agricultural Land (Minn. Stat. sec. 14.11, subd. 2)

The proposed rules will not have any direct adverse effects on agricultural lands in the state.

C. Small Businesses (Minn. Stat. sec. 14.115)

The proposed rules will not have any direct effects on small businesses in the state.

VI. CONCLUSION

The staff of the Water Resources Board has in this statement made its presentation of facts establishing the need for and reasonableness of the proposed rules relating to the Comprehensive Local Water Management Act.

Date: November 7, 1986

Mel Sinn
Executive Director
Water Resources Board

No. 7

STATE OF MINNESOTA
WATER RESOURCES BOARD

(612) 296-2840

In the Matter of the Proposed Adoption of the Rule of the State Water Resources Board Governing Implementation of the Comprehensive Local Water Management Act

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
)ss
COUNTY OF RAMSEY)

KAREN SCHULTZ, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the state Water Resources Board's rulemaking mailing list is accurate, complete, and current as of this 12th day of December 1986.

That on the 6th day of November 1986 at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt A Rule Without a Public Hearing by depositing in the United States Mail, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Karen Schultz
Secretary

STATE OF Minnesota
COUNTY OF Ramsey

Subscribed and sworn to before me this 17 day of December 1986

My Commission Expires Jan. 9, 1989

MARGARET M. WINKEL
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES JANUARY 9, 1989

Frundt, Frundt & Johnson
Attorneys at Law
117 W. 5th Street
Blue Earth, Mn. 56013
Attn: Judith G. Schotzko

Broeker, Hartfeldt, Hedges
and Grant
Attorneys at Law
2850 Metro Drive - Suite 800
Minneapolis, Mn. 55420

Sam Ruhle
Office of Admin. Hearings
400 Summit Bank Bldg.
310 So. Fourth Avenue
Minneapolis, Mn. 55415

Conrad M. Fredin
Attorney at Law
811 First Nat. Bank Bldg.
Duluth, Mn. 55802

Phillips Legislative Serv.
459 Rice Street
St. Paul, Mn. 55103

G V Welk, Manager
Regulatory Compliance & Serv.
Northern States Power Co.
414 Nicollet Mall
Minneapolis, Mn. 55401

Thomas M. Polt
Attorney at Law
McCarthy Bldg.
Eyota, Mn. 55934

M. S. Schumacher
Minneapolis Tribune
425 Portland Avenue
Minneapolis, Mn. 55488

Frank Mixa
Executive Director
Lake Minnetonka Cons. Dist.
402 E. Lake Street
Wayzata, Mn. 55391

General Mills, Inc.
Attn: J. W. Haun
P.O. Box 1113
Minneapolis, Mn. 55440

Robert A. Silvagni
U of M - Physical Plant Dept.
200 Shops Building
319 - 15th Avenue SE
Minneapolis, Mn. 55455

Kenneth Peterson
Executive Director
MPIRG
2412 University Ave SE
Minneapolis, Mn. 55414

James Miller
Senior Attorney
MPIRG
2412 University Avenue SE
Minneapolis, Mn. 55414

Susan P. Robertson
Executive Director
Room 430, State Office Building
St. Paul, Mn. 55155

Bruce T. Rowe, Administrator
Community Health Services Board
325 Lake Avenue S. Suite 604
Duluth, Mn. 55802

an invoice of projected costs. The department shall disburse the remaining 20 percent when the grantee work program is complete and the department receives a satisfactory final report.

B. For grants greater than $40,000, the department shall disburse ten percent of the grant amount when it receives an invoice requesting disbursement. Following the initial disbursement, the department shall reimburse grantees quarterly for actual expenses incurred during the preceding three months when the grantee submits an invoice and a financial statement documenting these expenses, until 90 percent of the grant amount has been disbursed. The department shall disburse the remaining ten percent when the grantee work program is complete and the department receives a satisfactory final report.

Subp. 4. **Required reports.** The grantee shall submit to the department on the first of each month a one to two page report briefly stating the activities that have taken place during the month. The grantee shall provide the department with three copies of a final report and financial statement, describing all activities that took place during the grant period. The final report must summarize planning and implementation steps in chronological order and identify all parties involved during the grant period.

Subp. 5. **Records.** The grantee shall maintain financial records according to generally recognized accounting methods for a period of not less than three years from the date of the execution of the contract of all transactions related to the receipt and expenditure of grant money.

Subp. 6. **Grant agreement deviations.** Unless the grantee demonstrates to the department that the grantee's circumstances have changed since execution of the grant agreement to such an extent that a deviation is necessary to complete the agreed upon work program, no grant funds may be used to finance activities by consultants or local staff if the activities are not included in the grant agreement. A grantee may not contract out all its energy-related activities to consultants unless the grantee demonstrates to the department that such contracting is necessary to complete the work program.

4160.5900 GRANT CLOSE-OUT.

Subpart 1. **Evaluation.** The department shall conduct an evaluation of the final report and all the required reports and financial documents within 60 days of their submission by the grantee to the department. The evaluation shall assess:

A. whether the local share contributed was equal to or greater than ten percent of the total cost of the agreed upon work program;

B. whether the agreed upon work program was completed; and

C. whether the governing body has formally reviewed the completed final report.

Subp. 2. **Review.** Upon completion of a satisfactory evaluation by the department, the department shall disburse the remaining ~~20 percent of the grant~~ amount owed to the grant recipient. If the results of the evaluation are unfavorable to the grantee and the grantee does not agree with the findings of the evaluation, the grantee may request a review by the commissioner.

Water Resources Board

Proposed Permanent Rules Relating to the Comprehensive Local Water Management Act

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the State Water Resources Board intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes 1985 Supplement, section 110B.10, Subd. 2.

All persons have 30 days in which to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. Comments are encouraged. Each comment should identify the portion of the proposed rule being addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rule within the 30-day comment period. If 25 or more persons submit written requests for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule being addressed, the reason for the request, and any change proposed. If a public hearing is required, the Water Resources Board will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Karen Schultz
Water Resources Board
500 Lafayette Road, Box 34
St. Paul, Mn. 55101
Telephone: 612-296-2840

The proposed rule may be modified if the modifications are supported by data and views submitted to the Water Resources Board and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Karen Schultz upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to Karen Schultz.

Dated: 24 September 1986

Mel Sinn, Executive Director
Water Resources Board

Rules as Proposed (all new material)

9300.0010 DEFINITIONS.

Subpart 1. **Applicability.** The definitions in this part and in Minnesota Statutes, section 110B.02 apply to parts 9300.0020 to 9300.0210.

Subp. 2. **Geographic indicator.** "Geographic indicator" means latitude and longitude; or township, range, section, and 40-acre parcel.

Subp. 3. **Local units of government.** "Local units of government" means municipalities, towns, counties, soil and water conservation districts, watershed districts, organizations formed for the joint exercise of powers under Minnesota Statutes, section 471.59, and other special purpose districts or authorities exercising authority in water and related land resources management at the local level.

Subp. 4. **Minor watershed unit.** "Minor watershed unit" means each of the approximately 5,600 minor watershed units delineated on the state watershed boundaries map prepared pursuant to the requirements of Laws of Minnesota 1977, chapter 455, section 33, subdivision 7, paragraph (a) and the accompanying data base, and the revisions of that data base.

Subp. 5. **Protected waters.** "Protected waters" means those waters of the state identified as public waters or wetlands under Minnesota Statutes, section 105.37, subdivision 14 or 15, or section 105.391, subdivision 1.

Subp. 6. **State board.** "State board" means the Minnesota Water Resources Board created by Minnesota Statutes, section 105.71, subdivision 1.

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Subp. 7. **Watershed management organization.** "Watershed management organization" has the meaning given in Minnesota Statutes, section 473.876, subdivision 9.

Subp. 8. **Watershed units.** "Watershed units" has the meaning given in Minnesota Statutes, section 110B.02, subdivision 10.

PURPOSE AND PROCEDURE OF PLANNING

9300.0020 PURPOSES OF PLANNING PROCESS AND SCOPE OF PLAN.

Subpart 1. **Purposes.** The purposes of a comprehensive water plan are to:

A. identify existing and potential problems and opportunities for the protection, management, and development of water and related land resources; and

B. develop objectives and carry out a plan of action to promote sound hydrologic management of water and related land resources, effective environmental protection, and efficient management.

Subp. 2. **Scope.** In order to gain sufficient understanding of existing natural features and other phenomenon that serve as the basis for a comprehensive water plan, the county must assemble available information about the physical environment and the surface water, ground water, and related land resources. Information is relevant for inclusion in the plan if it provides the basis for understanding a county's present or future water-related conditions, and if it contributes to the understanding of water-related opportunities or problems that are or will be faced by a county.

After collecting the required information, the county must determine the implications of the information for present and future land and water use, assess those implications, and identify opportunities and problems based on this assessment. The county must then develop its goals, objectives, and plan of action for addressing identified problems and opportunities.

9300.0030 PROCEDURES FOR WATER PLANNING.

Subpart 1. **Applicability.** A county board that decides to develop a comprehensive water plan under Minnesota Statutes, chapter 110B shall use the procedures provided in this part to facilitate public participation and intergovernmental coordination.

Subp. 2. **Resolution to develop plan.** A county board deciding to develop a comprehensive water plan must adopt a resolution requiring the development of a plan.

Subp. 3. **Notice of decision to develop plan.** Within 30 days after adoption of a resolution requiring the development of a comprehensive water plan, the county shall send notice of its decision to develop a plan to:

A. the county boards of contiguous counties;

B. the governing bodies of counties, watershed districts, and watershed management organizations that have jurisdiction in each watershed unit wholly or partly within the county;

C. the governing bodies of all local units of government wholly or partly within the county;

D. the regional development commission, if any; and

E. the state board.

Upon receipt of the resolution, the state board shall notify each of the state agencies identified in part 9300.0170, subpart 2 and any other agency the state board deems appropriate.

Subp. 4. **Request for local plans and official controls.** Within 30 days after adoption of a resolution requiring the development of a comprehensive water plan, the county shall request from all local units of government having jurisdiction within the county the following information:

A. any existing water and related land resources plans and official controls; and

B. any conflicts, problems, or opportunities that those local units want examined and addressed in the comprehensive water plan.

The information must be submitted within 60 days of the county board's request.

Subp. 5. **Public informational meeting required.** Within 90 days of the notice required in subpart 3, the county board shall hold a public informational meeting. At the meeting, the county board should solicit information about issues, problems, and opportunities to be considered in the plan. The county shall publish notice of the meeting in the official newspaper of the county at least ten days but not more than 30 days before the meeting. The county also shall notify the groups identified in subpart 3 at least 30 days before the meeting.

Subp. 6. **Meetings with local units of government within the county.** The county board adopting the resolution shall conduct meetings with local units of government exercising authority in water and related land resources management within the county during the plan preparation and implementation.

Subp. 7. **Public participation process.** The county board developing a comprehensive water plan shall ensure that there is a process for public participation during plan development and implementation.

Subp. 8. **Record of meetings.** A county must maintain a record of each meeting held under subparts 5, 6, and 7. The record shall include minutes and a list of the people in attendance and who they represented.

Subp. 9. **Delegation.** The county board is responsible for the comprehensive water plan, but may delegate all or part of the preparation of the comprehensive water plan to a local unit of government, regional development commission, or a resource conservation and development committee that is willing to carry out this assignment. If a county delegates all or part of the comprehensive water plan preparation, it must ensure that public meetings are recorded and that there is a process for public participation in the preparation of the plan.

CONTENTS OF A COMPREHENSIVE WATER PLAN

9300.0040 DATA CONSISTENCY WITH STATE PLANNING AGENCY GUIDELINES.

Data collected after the effective date of parts 9300.0010 to 9300.0210 for a comprehensive water plan must follow the guidelines for consistency established by the Minnesota State Planning Agency. To assure consistency, this data must include a geographic indicator.

Data must also be coded using recommended standard identifiers, where available. Standard identifiers are: the Minnesota unique well number for wells and the protected waters inventory identification number for surface waters.

Consistency of map scales is also recommended, where possible. The information required to be presented in map form by parts 9300.0050 and 9300.0070 may be combined on multiple maps or map overlays.

9300.0050 PHYSICAL ENVIRONMENT, LAND USE, AND DEVELOPMENT.

Summarizing information about the physical environment enables a county to understand the present conditions affecting water and related land resources. At a minimum, the following information about the county's physical environment, land use, and development must be included in the comprehensive water plan:

A. Precipitation:

(1) a map or list of the location of precipitation gaging stations in the county;

(2) a map showing isolines of normal annual total precipitation in inches; and

(3) a map showing isolines of normal total precipation in inches for the period May through September.

B. Geology and water resources:

(1) a map or description of important aquifer systems, confining layers, and flow characteristics to the extent known;

(2) a description of ground and surface water interconnections, such as recharge and discharge areas, where they are known;

(3) a map of boundaries and flow directions of watershed units and minor watershed units; and

(4) a map of state protected waters and public drainage ditches, including the location of any existing dams and control structures.

C. Soils:

(1) a general soils maps and description of soils infiltration characteristics; and

(2) a map of erosion-prone soils.

D. Map of original vegetation.

E. Description of general topographic relief of watershed units based on United States Geological Survey topographic maps.

F. Land use and public utility services:

(1) a general map of existing land uses;

(2) a map showing the areas served by storm sewers, sanitary sewers, and public water systems; and

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(3) a map or list by geographic indicator showing the location of community public water supply intakes and wells.

G. Land ownership:

(1) a map showing the ownership of local, state, federal, and Indian tribal lands; and

(2) a map showing lands with easements that relate to water resources, where that information is available.

9300.0060 EXPECTED CHANGES TO PHYSICAL ENVIRONMENT, LAND USE, AND DEVELOPMENT.

A comprehensive water plan must identify expected changes in the physical environment, land use, and development described in part 9300.0050. Information that may be used to predict changes include population projections, comprehensive plans, official controls, state and federal regulations, and plans for road, water, and sewer extensions. Expected changes that must be included in the plan are expected changes to land use and cover; expected changes in public utility services; and other expected changes potentially affecting water resources.

9300.0070 SURFACE WATER, GROUND WATER, AND RELATED LAND RESOURCES.

Subpart 1. **Applicability.** Summarizing information about the surface water, ground water, and related land resources, enables a county to characterize its water and related land resources, and to identify problems and opportunities. The level of detail should be determined in conjunction with neighboring counties, based on the information available, the extent and use of the resource, and the degree to which problems and opportunities are identified. The information should be listed by watershed unit and ground water systems where appropriate. At a minimum, information about existing county resources must include the information required by subparts 2 to 5, when that information is available.

Subp. 2. **Water quantity information.** The following information about water quantity must be included in the plan:

A. Surface water:

(1) a description of high, mean, and low flows on streams;

(2) a list of lakes where the state has established ordinary high water marks;

(3) a list of permitted withdrawals from lakes and streams, including the location by geographic indicator, source, use, and amounts withdrawn;

(4) a list of lakes and streams in the county for which state protected levels or flows have been established;

(5) a description of known water use conflicts, including those caused by ground water pumping that affects surface water; and

(6) the implications of surface water quantity information for present and future water and land uses and an assessment of those implications.

B. Ground water:

(1) a list of wells covered by state appropriation permits, including the location by geographic indicator, amounts of water appropriated, type of use, and aquifer source;

(2) a description of known well interference problems and water use conflicts;

(3) a list of state observation wells located in the county including geographic indicator, unique well number, aquifers measured, years of record, and average monthly levels; and

(4) the implications of ground water quantity information for present and future water and land uses and an assessment of those implications.

Subp. 3. **Water quality information.** The following information about water quality must be included in the plan:

A. Surface water:

(1) a map or list of the state water quality management classifications for each stream and lake;

(2) a summary of available lake and stream water quality monitoring data; examples of these kinds of data are:

(a) bacteriological contamination indicators (for example, total coliform counts);

(b) inorganic chemicals (for example, phosphorus, nitrogen, and metals);

(c) organic chemicals (for example, petroleum constituents, pesticides, and organic solvents);

(d) sedimentation (for example, suspended solids);

(e) dissolved oxygen; and

(f) excessive growth or deficiency of aquatic plants;

(3) a summary of information from informal sources relating to surface water quality, such as fish kills; and

(4) the implications of surface water quality information for present and future water and land use, and an assessment of those implications.

B. Ground water:

(1) A summary of available water quality data, including routinely monitored sites. Examples of data are:

(a) bacteriological contamination indicators (for example, total coliform counts);

(b) inorganic chemicals (for example, nitrate/nitrite and metals concentrations); and

(c) organic chemicals (for example, organic solvents, petroleum constituents, and pesticides).

(2) The implications of ground water quality information for present and future water and land uses with emphasis on those with potential health-related impacts and an assessment of those implications.

Where possible, the information required in this item should be presented by aquifer system and geographic area.

Subp. 4. **Information on special land uses and conditions that influence quality and quantity.** The following information about special land uses and conditions must be included in the plan:

A. Eroding lands:

(1) a description or map by watershed unit of areas where eroding lands are causing sedimentation problems;

(2) water quality and quantity implications for watercourses, water basins, ditches, and wetlands of sedimentation and an assessment of those implications; and

(3) an assessment by watershed unit of the effects of land use and cover on quantity and quality of runoff.

B. Irrigation:

(1) a map or list by geographic indicator of irrigated acreage; and

(2) for any county containing more than 1,000 acres of irrigated land in any one township, the implications of irrigation for present and future land and water use and an assessment of those implications.

C. Drainage:

(1) a table listing the public drainage systems in the county and the amounts expended, by year, for repair work on each system;

(2) an assessment of any significant water quality and quantity effects due to public or private ditch systems; and

(3) a summary of any known water quality and quantity information from engineering reports and modeling efforts on ditches in the county.

D. Pollutant sources:

(1) a map or list by geographic indicator of known closed and open sanitary landfills, closed and operating open dumps, and Minnesota Superfund hazardous waste sites and a summary of available water quality information relating to these sites;

(2) a map or list by geographic indicator of feedlots, abandoned wells not sealed in accordance with state statutes and rules, underground storage tank sites, and permitted wastewater discharges under chapter 7001, and a summary of available water quality information relating to these sites;

(3) a list by geographic indicator of facilities that have hazardous waste generator identification numbers; and

(4) the implications of pollutant sources for present and future water and land uses and an assessment of those implications.

E. Special geologic conditions:

(1) a map of known geologic conditions, such as karst areas, buried valleys, or sand plains that may pose concerns relating to water quality or quantity; and

(2) the implications of special conditions for present and future water and land uses and an assessment of those implications.

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Subp. 5. **Information on related land resources.** The following information about related land resources shall be included in the plan:

A. Wetlands:

(1) maps of wetlands identified under the National Wetlands Inventory, where available;

(2) a summary of plans for wetlands with controlled outlets, such as plans for draw downs;

(3) a description of the United States Corps of Engineers, Section 404 permit requirements affecting county waters; and

(4) the implications of wetlands for present and future water uses with special consideration for water quality, flood attenuation, wildlife, and recreation, and an assessment of those implications.

B. Floodplains:

(1) a map showing those areas delineated as floodplain by existing local ordinances or in proposed ordinances that have a due date established by the Minnesota Department of Natural Resources or the Federal Emergency Management Agency;

(2) a map of areas with known flooding problems;

(3) an estimate of average annual flood damages, if available; and

(4) an assessment of the adequacy and enforcement of existing floodplain ordinances.

C. Shorelands:

(1) a list of local units of government with approved shoreland ordinances;

(2) a list of protected waters, and their shoreland classifications under Minnesota Statutes, section 105.485; and

(3) an assessment of the adequacy and enforcement of the shoreland ordinances.

D. Water-based recreation lands:

(1) a map and description of water oriented recreational resources listed in the State Comprehensive Outdoor Recreation Plan;

(2) a map of public water accesses;

(3) a map and description of state or federally designated wild and scenic rivers and state designated canoe and boating routes; and

(4) an assessment of the adequacy of water-based recreational lands for present and future use.

E. Fish and wildlife habitat:

(1) a map and description of any state designated wildlife management areas and any lakes with state designated classifications for game or fish management within the county;

(2) a map and description of any state designated trout lakes or trout streams within the county;

(3) a list and description of the state ecological and management classifications and use attainability for lakes and streams, where available;

(4) a list and description of the conclusions and recommendations of biological surveys or reconnaissance studies, where available;

(5) a description of state management plans for fish and wildlife areas, where available; and

(6) an assessment of the adequacy of fish and wildlife habitat for present and future use.

F. Unique features and scenic areas:

(1) a map or description of unique features and scenic areas with relationships to water including state designated natural and scientific areas, areas containing county, state, and federal rare and endangered species, and other features such as waterfalls, springs, and historic mills; and

(2) the implications of unique features and scenic areas for present and future water and land use, and an assessment of those implications.

9300.0080 EXPECTED CHANGES TO SURFACE WATER, GROUND WATER, AND RELATED LAND RESOURCES.

Subpart 1. **Changes to be included.** Changes may be anticipated in distribution, availability, quality, and use of water resources in a county. To assess the probability and effect of potential changes to its water resources, a county must list, consider, and describe the impacts on those resources from the following areas of potential change:

A. changes to the physical environment, land use, and development identified under part 9300.0060;

B. special land and water uses or conditions, and trends within or without the county that might affect a county's water and related land recources; and

C. the influence of existing programs on water and related land resources and the administrative, technical, and financial capability of the county to develop and implement new programs.

Subp. 2. **Method of listing.** Expected changes should be listed by watershed unit and ground water system, where appropriate, for water quantity, water quality, special land uses and conditions, and related land resources categories.

9300.0090 PROBLEMS AND OPPORTUNITIES.

Subpart 1. **Purpose.** Identification of problems and opportunities is needed to guide the county in developing its objectives and plan of action.

Subp. 2. **Description of problems and opportunities.** For each watershed unit and ground water system, where appropriate, the comprehensive water plan must identify key issues relating to water quality, quantity, special land uses and conditions, and related land resources. The plan must discuss assets or opportunities, as well as problems associated with each issue.

Subp. 3. **Determining issues, problems, and opportunities.** A county must determine water related issues, problems, and opportunities in its comprehensive water plan. At a minimum, a county must gather information about water related problems and opportunities in the following manner:

A. investigate those problems and opportunities disclosed at public meetings and in written comments;

B. investigate those problems and opportunities that affected local units of government want examined;

C. assess information gathered under parts 9300.0050 to 9300.0080; and

D. assess the status and adequacy of official controls, plans, and other local, state, or federal programs concerning water and related land uses.

9300.0100 ESTABLISHMENT OF COUNTY GOALS.

The comprehensive water plan must state goals for present and future water and land uses to set the framework for determining plan objectives and related actions.

9300.0110 OBJECTIVES AND PLAN OF ACTION.

The objectives and plan of action should be tailored to address the problems and opportunities previously identified in the comprehensive water plan. A comprehensive water plan must state measurable objectives and a plan of action for each watershed unit and ground water system, where appropriate, for each of the following categories:

A. opportunities and problems in surface and ground water quality and quantity identified pursuant to part 9300.0090;

B. significant special land uses and conditions that influence water quantity and quality based on opportunities and problems identified pursuant to part 9300.0090; and

C. related land resources opportunities and problems identified pursuant to part 9300.0090.

9300.0120 PRIORITY ACTION CATEGORIES.

Subpart 1. **Priorities required.** A county must establish priorities in the plan of action relating to water quality, water quantity, special land uses or conditions that influence water quality and quantity, and related land resources.

Subp. 2. **Priority development.** A comprehensive water plan must state priorities of action that reflect the urgency of the problem or opportunity identified.

Subp. 3. **Priority description.** In describing the priorities, the comprehensive water plan must describe those actions that will be taken by the county alone, and those actions that will require the cooperation of other local units of government or state and federal agencies, and must state whether the county board has received commitments for that cooperation.

9300.0130 DESCRIPTION OF RECOMMENDED CHANGES IN STATE PROGRAMS.

If changes in state programs, policies, and requirements that a county considers important to water management in the county are recommended in the comprehensive water plan, the description of those changes must include:

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A. identification of the specific program, policy, or requirement for which change is recommended by the county;

B. a statement of the specific changes recommended by the county; and

C. the reasons the county considers the changes important.

9300.0140 LOCAL REVIEW AND POTENTIAL CONFLICTS.

Subpart 1. **Applicability.** The procedures in this part apply to local review and to the identification and resolution of existing and potential conflicts between a comprehensive water plan and the plans or local controls of: (1) local units of government within the county preparing the water plan; (2) contiguous counties; and (3) water management organizations, watershed districts, and joint powers boards sharing jurisdiction over watershed units and ground water systems affected by the comprehensive water plan.

Subp. 2. **Identification of conflicts.** Conflicts or potential conflicts that occur between the comprehensive water plan and the existing or proposed plans of local units of government must be identified either during the planning process or during review of the comprehensive water plan by other local units of government.

Subp. 3. **During plan preparation.** Local units of government must notify the county board intending to develop a comprehensive water plan of any conflicts that those local units want examined and addressed in the comprehensive water plan in accordance with part 9300.0030, subpart 4.

Subp. 4. **During plan review.**

A. Before it is submitted to the state board for review, the comprehensive water plan must be submitted for review and comment to:

(1) all local units of government wholly or partly within the county preparing the plan;

(2) all applicable regional development commissions;

(3) all contiguous counties and water management organizations; and

(4) other counties, watershed districts, intercounty joint powers boards, and watershed management organizations within the same watershed unit or ground water system as the county preparing the plan that may be affected by the plan.

B. In their comments on the plan, other local units of government must identify and describe any conflicts they have with the plan not already identified in the plan. The local unit must state its position on any relevant conflict identified by the county for consideration by the state board during the board's review of the plan.

C. Comments shall be submitted as required by Minnesota Statutes, section 110B.08, subdivision 3.

Subp. 5. **Description of conflicts.** The description of a conflict in the comprehensive water plan or in the comments of local units of government must include:

A. the units of local government or state agencies involved in the conflict;

B. the comprehensive water plan provisions or omissions causing the conflict;

C. any local plan or control that conflicts with the comprehensive water plan and that would require change;

D. the objections of the local unit of government to the comprehensive water plan; and

E. suggested measures to resolve the conflict other than making the change indicated.

Subp. 6. **Process to resolve conflicts.** The comprehensive water plan must state whether there is a process underway to resolve identified conflicts. If there have been unsuccessful attempts to resolve conflicts, those attempts must be described.

9300.0150 INCORPORATION OF PLANS AND RULES OF WATERSHED DISTRICTS AND INTERCOUNTY JOINT POWERS BOARDS.

Subpart 1. **Incorporation required.** A county must incorporate plans and rules of watershed districts or intercounty joint powers boards with jurisdiction within the county into its comprehensive water plan and may change the plans and rules it incorporates if the requirements of this part are met.

Subp. 2. **Changes to plans and rules.** To change the plans or rules of a watershed district or intercounty joint powers board that a county incorporates into its comprehensive water plan, a county must demonstrate in its plan that changes to the district or intercounty plans or rules are necessary, and that these changes are supported by each county that selects members on the respective boards.

If all affected counties do agree on watershed district or intercounty joint powers board plan or rule revisions, resolutions of support for recommended changes must be attached to the plan.

Subp. 3. **Criteria for changing plans and rules.** To make changes in a watershed district or intercounty joint powers board

plan or rule that a county incorporates into its comprehensive water plan, the county must demonstrate that the plan or rule does not adhere to the principles in part 9300.0170, subpart 4.

9300.0160 IMPLEMENTATION PROGRAM.

Subpart 1. **Program and schedule required.** The comprehensive water plan must state how and when the plan will be implemented to meet the objectives and carry out the actions described in part 9300.0110. Components and schedules that are described previously do not have to be repeated.

Subp. 2. **Program.** An implementation program may include data collection programs, educational programs, capital improvement projects, project feasibility studies, enforcement strategies, amendments to existing official controls, adoption of new official controls, and other actions. If the county considers no actions are necessary to address identified problems or opportunities it must explain why actions are not needed. Staff and financial resources available or needed to carry out the comprehensive water plan must be stated.

Subp. 3. **Schedule.** The implementation schedule must state the time in which each of the actions contained in the implementation program will be taken.

Subp. 4. **Agreements with local units.** If a county board has made any agreement for the implementation of a comprehensive water plan or portions of a plan by a local unit of government within the county, that local unit must be specified, the responsibility indicated, and a description included indicating how and when the implementation will happen.

Subp. 5. **Capitol improvement program.** If capital improvement projects are proposed to implement the comprehensive water plan, the projects must be described in the plan. The description of a proposed capital improvement project must include the following information:

A. the physical components of the project, including their approximate size, configuration, and location;

B. the purposes of the project and their relationship to the objectives in the comprehensive water plan;

C. the proposed schedule for project construction;

D. the expected federal, state, and local costs;

E. the types of financing proposed, such as special assessments, ad valorem taxes, and grants; and

F. the sources of local financing proposed for the project, such as subcounty, countywide, or multicounty.

REVIEW OF COMPREHENSIVE WATER PLANS

BY STATE AGENCIES AND THE STATE BOARD

9300.0170 STATE REVIEW.

Subpart 1. **Submittal to state board.** After conducting the public hearing required by Minnesota Statutes, section 110B.08, subdivision 4, the county board must submit to the state board ten copies of its comprehensive water plan, all written comments received on the plan, a transcript or tape recording of the public hearing held on the plan, and a summary of changes made to the plan as a result of the local review process.

In order to determine whether a comprehensive water plan is consistent with state law, the state board shall make the determinations in the manner provided by subparts 2, 3, and 4.

Subp. 2. **State board consultation with agencies.** Upon receipt of a comprehensive water plan and supporting documents, the state board shall transmit a copy of the plan to the departments of agriculture, health, and natural resources; the pollution control agency; the state planning agency; the environmental quality board; and any other state agency the state board believes could assist it in determining whether the plan is consistent with state law. An agency receiving a copy of the plan shall determine whether any portion of the plan is contrary to state law. Within 45 days of receipt of a comprehensive water plan from the state board, a state agency must submit a letter to the board identifying the portions of the plan that the agency has determined to be inconsistent with state law.

Subp. 3. **State board determination of consistency with other plans.** In determining whether a comprehensive water plan is consistent with state law, the state board shall determine whether the plan is consistent with the plan of another county or counties wholly or partially within affected watershed units or ground water systems, as required by Minnesota Statutes, section 110B.04,

KEY: 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." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

subdivision 4, clause (4), that has already been approved by the board or that has already been submitted under subpart 1. To determine consistency, the board shall consider the compatibility of the plans' goals, objectives and related actions, and implementation programs. If the board determines that the unapproved or subsequently submitted plan would not impede achievement of the goals, objectives, related actions, and implementation programs of the approved or previously submitted plan or plans, the board shall find the plan consistent with the plan or plans.

Subp. 4. **Principles for review.** To determine whether a comprehensive water plan conforms to the requirements of Minnesota Statutes, section 110B.04, subdivision 4, clause (3), the state board shall determine whether the plan conforms to the following principles:

A. Sound hydrologic management of water:

(1) significant upstream and downstream effects on surface water, and up-gradient and down-gradient effects on ground water, of actions impacting water and related land resources should be fully considered;

(2) natural water storage and retention systems should be preserved and used to the maximum extent practical;

(3) water management decisions should be based on sound data and technical analysis;

(4) interrelationships between surface and ground water, land and water use, and quality and quantity of water should be recognized; and

(5) potential variations in precipitation, both short-term and long-term, should be fully considered.

B. Effective environmental protection:

(1) potential cumulative effects of proposed actions should be considered;

(2) prevention of potential water and related land resources problems should be emphasized;

(3) the overall quality of the environment should be protected or enhanced; and

(4) public health and safety should be protected or enhanced.

C. Efficient management:

(1) the total benefits of water programs and projects should exceed the total costs;

(2) water management programs should be adequately funded to achieve high-priority objectives;

(3) comprehensive water planning should be coordinated with other related planning programs to fill management gaps and minimize duplication of effort;

(4) comprehensive approaches to identified problems and opportunities should be considered; and

(5) water conservation practices should be used to the maximum extent practical.

Subp. 5. **State board decision.** Within 90 days after the filing of a comprehensive water plan and supporting documents with the state board, the board shall approve or disapprove a comprehensive water plan and provide the county board notice of the approval or disapproval of the plan. The state board shall approve a plan only if it determines that the plan is consistent with state law. If a plan is disapproved, the state board shall as part of its notice of disapproval provide the county board with a written statement of its reasons for disapproval.

Subp. 6. **Resubmittal.** A disapproved comprehensive water plan must be revised by the county board and resubmitted to the state board within 120 days after receiving notice of disapproval, unless the state board extends the period for good cause at the county's request. The state board must identify those portions of a disapproved plan that require revision. Upon receipt of revised portions of the plan, the state board shall follow the same review process as for an originially submitted plan.

IMPLEMENTING AN APPROVED COMPREHENSIVE WATER PLAN

9300.0180 AMENDMENT OF LOCAL PLANS AND OFFICIAL CONTROLS.

Subpart 1. **Notification after plan adoption.** After a county board has adopted an approved comprehensive water plan or amendments to the plan, the county board that adopted the plan shall notify local units of government within the county of the adoption of the plan or amendments. Within 90 days of the notification, local units must submit existing water and related land resources plans and official controls to the county board for review.

Subp. 2. **County review.** Within 180 days, the county board shall review the plans and official controls submitted and identify any inconsistencies between the local plans and official controls and the comprehensive water plan. In conducting the review, the county board shall determine the need for local units of government to revise plans, adopt new controls or revise existing controls, and specify the necessary measures to bring the local plans and official controls into conformance with the comprehensive water plan.

Subp. 3. **Local appeal.** If a local unit of government disagrees with any changes to its plans or official controls recommended by the county board, the local unit has 60 days after receiving the county's recommendations to appeal the recommendations to the state board.

Subp. 4. **Revision to local plans and official controls.** After receiving the recommendations of the county board, or after resolution of an appeal, a local unit of government has 180 days to initiate revisions to its plans and official controls. New or revised plans and official controls must be submitted to the county board for review and recommendations in the manner provided by this part for submission of existing plans and official controls.

9300.0190 AMENDMENT OF A COMPREHENSIVE WATER PLAN.

Subpart 1. **Amendment required.** A comprehensive water plan must apply to every year through the year 1995 or any later year that is evenly divisible by five.

Subp. 2. **Description required.** The comprehensive water plan must describe the procedure the county will use for amendment of the plan.

Subp. 3. **Procedure and criteria.** Amendments to a comprehensive water plan shall be reviewed in the same manner, and are subject to the same criteria for approval, as an initial comprehensive water plan.

RESOLUTION OF DISPUTES

9300.0200 INFORMAL RESOLUTION OF DISPUTES.

Subpart 1. **Applicability.** A county preparing or that has prepared a comprehensive water plan or another local unit of government may use the procedures provided in this part to:

A. determine the meaning of any provision of Minnesota Statutes chapter 110B, or parts 9300.0010 to 9300.0210;

B. resolve any conflict between two comprehensive water plans;

C. resolve any conflict between a comprehensive water plan and any local plans or official controls; or

D. settle any other dispute relating to a comprehensive water plan.

Use of the procedure provided in this part is without prejudice to any party's use of the procedure provided for in Minnesota Statutes, section 110B.25, subdivision 2, and part 9300.0210.

Subp. 2. **Request for meeting; response.** A local unit of government desiring a meeting with the state board chair shall submit a written request to the chair identifying the issue involved, the local unit or units of government involved, and the pertinent provisions of the comprehensive water plan, statute, or rule involved in the dispute. The chair shall in writing acknowledge receipt of the request and, if the request complies with the requirements of this part, notify the other involved local units of government and request a written response from them. If the request for a meeting does not satisfy the requirements of this part or, if there is no response from other interested local units of government, the chair shall make a reasonable effort to obtain the required information in another manner.

Subp. 3. **Response and meeting.** When the chair obtains the response of other involved local units of government or has made reasonable efforts to obtain it, the chair may attempt to resolve the issue informally or shall set a meeting between the chair and the involved local units of government and adequately inform those units in writing of the issues, time, date, and place of the meeting. At the meeting, a local unit of government may be represented by any person or persons of its choosing, subject to control by the chair, and the chair may consider any relevant evidence or argument by a local unit of government that any reasonable person would rely upon to resolve the issues in question. The decision of the chair may be announced at the hearing or be made later but in either case shall be reduced to writing and a copy sent to all interested local units of government. The decision of the chair is effective 60 days following the decision of the chair unless a petition is filed within that time pursuant to Minnesota Statutes, section 110B.25, subdivision 3, for a contested case hearing under that section.

9300.0210 FORMAL RESOLUTION OF DISPUTES.

Subpart 1. **Applicability.** A county or other local unit of government may petition for a contested case hearing by satisfying the requirements of Minnesota Statutes, section 110B.25, subdivisions 2 and 3, and this part.

Subp. 2. **Petition for hearing.** A petition for a hearing shall be made in writing and addressed to the state board. The petition shall contain:

KEY: 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." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

A. the name of the local unit of government petitioning and the names, addresses, and phone numbers of the officers of the local unit or other person representing the local unit for the purposes of the petition;

B. a request for a hearing;

C. a statement of the allegations or issues to be determined by the hearing; and

D. proof of service of a copy of the petition on all other involved local units of government.

Subp. 3. **Filing of petition.** A petition is considered filed with the state board when it is received by the board. Upon receipt of the petition, the board shall acknowledge its receipt in writing.

Subp. 4. **Request for judge.** Within five days of receipt of a sufficient petition for a hearing, the state board shall file a request under part 1400.5300 for the assignment of an administrative law judge.

Subp. 5. **Hearings.** Hearings are governed by the contested case procedure of Minnesota Statutes, chapter 14 and by parts 1400.5100 to 1400.8400.

Subp. 6. **Hearing fees.** For the purpose of apportioning the fees of the Office of Administrative Hearings and transcript fees, the state board shall not be considered a party to the proceeding.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Energy and Economic Development

Adopted Permanent Rules Relating to the Governor's Rural Development Council, Rural Development Grants

The rules proposed and published at *State Register*, Volume 11, Number 9, pages 375-383, September 1, 1986 (11 S.R. 375) are adopted as proposed.

Department of Human Services

Adopted Permanent Rules Relating to Nursing Home Payment Rate Determination

The rules proposed and published at the *State Register*, Volume 11, Number 10, pages 426-428, September 8, 1986 (11 S.R. 426) are adopted as proposed.

No. 10

CERTIFICATE OF THE
WATER RESOURCES BOARD'S
RESOLUTION ADOPTING RULES
FOR IMPLEMENTATION OF THE
COMPREHENSIVE LOCAL WATER MANAGEMENT ACT

I, Duane Ekman, do hereby certify that I am a member and the Chairman of the Minnesota Water Resources Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board, duly and properly called and held on the 12th day of December 1986, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> "RESOLVED, that the rule relating to implementation of the Comprehensive Local Water Management Act is approved and adopted, pursuant to authority vested in the Board by Minnesota Statutes chapter 110B (Supp. 1985). Mel Sinn, the executive director of the Board, is authorized to modify the rule if necessary to obtain the approval of the rule by the attorney general and to perform the necessary acts to provide that the rule shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 12th day of December 1986.

Duane R. Ekman

Duane Ekman
Chairman

Attested By

Marlin Rieppel

Marlin Rieppel
Secretary

No. 11

STATE OF MINNESOTA
WATER RESOURCES BOARD

(612) 296-2840

500 Lafayette Road
Box 34
St. Paul, Minnesota 55101

In the Matter of the Proposed Adoption of the Rule of the State Water Resources Board Governing Implementation of the Comprehensive Local Water Management Act	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Board's intent to adopt the above-entitled rule was published in the State Register on November 10, 1986 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on November 6, 1986. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking.

Two written comments on the rule were received by the agency.

One written request for a public hearing on the rule was received by the agency. No requests for notice of submission to the attorney general were received by the agency.

No changes have been made to the proposed rule as published in the State Register on November 10, 1986.

Based on the comments and evidence in the record before the agency, the Board concludes that the above-entitled rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule governing implementation of the Comprehensive Local Water Management Act as proposed is adopted this 12th day of December 1986, pursuant to authority vested in the Board by Laws of Minnesota 1985, First Special Session, chapter 2, section 5, subdivision 2.

Duane R. Ekman
Chairman

No. 12

WASECA SOIL AND WATER CONSERVATION DISTRICT

212 - 15th Ave. N.E., Box 5
Waseca, Minnesota 56093
Telephone (507) 835-4831

MINNESOTA
SOIL AND WATER CONSERVATION DISTRICTS

DEC 1986
RECEIVED
Water Resources
Board

December 2, 1986

Karen Schultz
Water Resources Board
500 Lafayette Road
Box 34
St. Paul, MN 55101

Dear MS Schultz:

RE: Proposed rules relating to Comprehensive Water Planning

We have reviewed the proposed rules for Water Management and feel this has merit, but we do have a concern about the funding of this project. Is the funding to be a State grant? or is it to be funded entirely by County funds?

Also, when this is implemented, how much money will be available to each county? Who will handle the funds? Is the final adoption left to the County Board of Commissioners?

Sincerely,

Larry Hagen

Larry Hagen, Chairman
Board of Supervisor's

BECKER SOIL AND WATER CONSERVATION DISTRICT

1000 - 8th St. S.E.
Detroit Lakes, Minnesota 56501
Telephone (218) 847-2651

MINNESOTA
SOIL AND WATER CONSERVATION DISTRICTS

DEC 1986
RECEIVED
Water Resources
Board

December 8, 1986

To: Karen Schultz
Water Resources Board
500 Lafayette Road, Box 34
St. Paul, Minn. 55101

Subject: Proposed Permanent Rules Relating to the Comprehensive Local Water Management Act

The Becker Soil and Water Conservation District has gone on record opposing the adoption of the Water Management Rules without conducting public hearings.

It was implied during the informational meetings held accross the state that public hearings would be held before adoption of the rules. Thus giving concerned persons an opportunity to prepare and address their concerns of the rules.

Sincerely,

Russ Okeson

Russ Okeson, Chairman
Becker SWCD

STEARNS COUNTY SOIL AND WATER
CONSERVATION DISTRICT

3700 West Division Street
St. Cloud, MN 56301
Telephone (612) 251-6718

MINNESOTA
SOIL AND WATER CONSERVATION DISTRICTS

DEC 1986
RECEIVED
Water Resources
Board

December 9, 1986

Karen Schultz
Water Resources Board
500 Lafayette Road, Box 34
St. paul, MN 55101

Dear Ms. Schultz:

RE: Proposed Rules for the Comprehensive Local Water Management Planning.

The Stearns County Soil and Water Conservation District Board and Staff thanks you for the opportunity to comment on the above proposed rules.

Some of the positive things are:

1) It provides State leadership continuity to adequately address local resource problems.

2) It provides for local authority and responsibility.

3) It helps the county to establish a water resource plan that will be a minimum standard for all local units of government within its borders.

4) It will help people learn that water is not a matter of private ownership, but rather it is a resource that belongs to everyone collectively.

Some of our concerns with the proposed rules are:

1) The time frames outlined seem somewhat unclear to us. In particular we would like to stress that once a County Board decides to adopt the above rules and develop a plan they must have enough time to do the job properly. In Stearns County it could conceivably take 1 or 2 years just to gather data. We are opposed to any time frames that would result in a rushed, poor quality plan.

2) How does the United States Corp of Engineers 33 CFR 330.5 impact Section 404 to manage their water resources?

While we are discussing our water resources, could we address another concern? Several stage agencies/departments have technical and/or general data on Minnesota water resources. No one has a handle on all this information. Could the State Planning Agency become a clearing house for all of this data on a county by county basis. We feel this would save duplication of investigation and money at the local level as well as the state level.

There are no provisions in this legislation to have a cash flow for the counties to develop this Comprehensive Local Water Management Plan.

Sincerely yours,

STEARNS COUNTY SOIL AND WATER
CONSERVATION DISTRICT

Joe Fitzgerald

Joe Fitzgerald
Executive Director

cc: Ken Hopke, Stearns County Planning Department
Ron Nargang, MN Soil & Water Conservation Board



STATE OF MINNESOTA

WATER RESOURCES BOARD

In the Matter of the Adoption of
the Rule of the State Water Resources
Board Governing Implementation of the
Comprehensive Local Water Management Act

DECLARATION OF COUNSEL

I, Dwight S. Wagenius, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed without exception.

Dec. 19, 1986

Dwight S. Wagenius

DWIGHT S. WAGENIUS
Special Assistant
Attorney General
520 Lafayette Road
Suite 200
St. Paul, MN 55155
(612) 296-7344
Counsel for the
Water Resources Board

STATE OF MINNESOTA
WATER RESOURCES BOARD

(612) 296-2840

500 Lafayette Road
Box 34
St. Paul, Minnesota 55101

RECEIVED
DEC 17 1986
ATTORNEY GENERAL'S OFFICE
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155

December 17, 1986

Mr. Dwight Wagenius
Special Assistant Attorney General
Pollution Control Agency
520 Lafayette Road
Suite 200
St. Paul, Mn. 55101

Re: Transmittal of Rulemaking Record

Dear Mr. Wagenius:

I am hereby transmitting to you the complete rulemaking record in the matter of the Proposed Adoption of the Rule of the State Water Resources Board Governing Implementation of the Comprehensive Local Water Management Act. I request that you review the record in your capacity as the Water Resources Board's legal advisor as directed by Minnesota Rules, part 2010.0300 (M). I understand that if you find that the record complies with all pertinent statutes and rules, you will prepare a Declaration of Counsel and forward it and the record to the Attorney General pursuant to Minn. Stat. sec. 14.26.

Attached is a complete listing of the documents in the enclosed rulemaking record. It is accurate and complete to the best of my knowledge. Please note that the Board received no responses to its Notice Seeking Outside Opinion Regarding Rules (Minn. Stat. sec. 14.10).

I appreciate your assistance.

Sincerely,

Mel Sinn
Executive Director

Attach.

No. 2

STATE OF MINNESOTA
WATER RESOURCES BOARD

(612) 296-2840

500 Lafayette Road
First Floor
St. Paul, Minnesota 55146

February 12, 1986

The Hon. Sen. Carl W. Kroening
Chairman, Legislative Committee to
Review Administrative Rules
55 State Office Building
St. Paul, Minn. 55155

Dear Senator Kroening:

In accordance with Minnesota Statutes Section 14.12 I am reporting that the Water Resources Board did not publish notice of intent to adopt rules required by the Comprehensive Local Water Management Act (Laws of Minnesota 1985 First Special Session, Chapter 2, Section 5, Subdivision 2) within 180 days of the Act's effective date.

The Board is working on proposed rules, even though the Legislature did not provide any new staff positions or dollars for implementation of the Act. In August 1985 the Board published notice of intent to solicit outside opinion on rules for the Act, and also entered into an agreement with the State Planning Agency to promote cooperative efforts of the Board and the Agency in carrying out the Board's new responsibilities under the Act. The Agency has organized a technical advisory committee to develop recommendations on rule content. In October 1985 the Board appointed the local advisory committee required by the Act. Due to budget constraints, the Board notified potential committee members that it would be unable to reimburse their travel expenses.

The two committees plan to make recommendations on proposed rules to the Board by April 1986. The Board hopes to be able to publish proposed rules by July 1986.

Sincerely,

Mel Sinn
Executive Director

CC- Senator Randolph Peterson
Representative Virgil Johnson
Governor Rudy Perpich
John Wells, State Planning Agency
Water Resources Board Members

Minnesota Water Resources Board
500 Lafayette Road
Box 34
St. Paul, Minnesota 55101

- -
In the Matter of the Adoption of the
Rule of the State Water Resources Board
Governing Implementation of the
Comprehensive Local Water Management Act
- -

LIST OF
DOCUMENTS IN
RULEMAKING RECORD

1. Photocopy of the notice of solicitation of outside information and opinions as published in the State Register.

2. Photocopy of the agency's report, pursuant to Minn. Stat. sec. 14.12, of its failure to publish notice of intent to adopt the rule within 180 days after the effective date of the Comprehensive Local Water Management Act.

3. Certificate of the agency's authorizing resolution to give notice of the agency's intent to adopt the rule without a public hearing.

4. Copy of the proposed rule with a certificate of approval as to form by the revisor of statutes attached.

5. Notice of intent to adopt the rule without a public hearing as mailed.

6. Statement of need and reasonableness in support of the proposed rule.

7. Affidavit of mailing of the notice of intent to adopt the rule without a public hearing to all persons and groups whose names appear on the agency's list maintained pursuant to Minn. Stat. sec. 14.14, subd. 1a.

8. Photocopy of the notice of intent to adopt the rule without a public hearing as published in the State Register.

9. Four copies of the rule as adopted.

10. Certificate of the agency's authorizing resolution to approve and adopt the rule.

11. Findings of fact, conclusions, and order adopting the rule.

12. All written requests, submissions, and comments on the rule received by the agency.

Office of the Revisor of Statutes
Administrative Rules

No. 4

David S. Niss
Assistant Revisor
297-2948

700 State Office Building
435 Park Street
St. Paul, MN 55155-1297

October 15, 1986

OCT 1986
RECEIVED
Water Resources Board

Mr. Melvin A. Sinn
Executive Director
Water Resources Board
500 Lafayette Road
Saint Paul, Minnesota 55146

RE: RD973 Comprehensive Local Water Management Act

Dear ~~Mr. Sinn~~ Mel:

We are enclosing six copies of your rule, approved as to form. Please submit two copies to the State Register.

If you have any questions, do not hesitate to call.

Very truly yours,

David S. Niss

DSN/ms
Enclosure

No. 9

Office of the Revisor of Statutes

Administrative Rules

David S. Niss
Assistant Revisor
297-2948

700 State Office Building
435 Park Street
St. Paul, MN 55155-1297

November 15, 1986



Mr. Melvin A. Sinn
Executive Director
Water Resources Board
500 Lafayette Road
Saint Paul, Minnesota 55146

RE: AR0973 Comprehensive Local Water Management Act

Dear Mr. Sinn:

Enclosed is a stripped copy of your proposed rules as published in the State Register. The copy shows the text of the rules as you proposed them with the stricken text deleted and the underscoring removed.

If your proposed emergency rules or proposed rules adopted without public hearing are adopted without modification, please submit the required number of copies of this document to the Attorney General for final approval. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will then input the changes, approve the document as to form, and provide you with copies to submit to the Attorney General.

If your proposed rules are adopted after public hearing without modification, please submit one copy of this document to our office for final approval as to form. If these rules are to be modified, please use this copy to indicate the modifications you wish to make. Our office will input the changes, approve the document as to form, and provide you with copies.

Very truly yours,

DSN/cs

David S. Niss

DSN/jc
Encl.

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

ADDRESS REPLY TO:
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155
TELEPHONE: (612) 297-1075

December 22, 1986

Martha Casserly
Special Assistant Attorney General
Administration Division
204 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Re: Adoption of the Rule of the State Water Resources Board Governing Implementation of the Comprehensive Local Water Management Act

Dear Ms. Casserly:

Enclosed for your review pursuant to Minn. Stat. § 14.26 is the whole rulemaking record in the above-referenced rulemaking proceeding.

Please call me if you have any questions. Thank you.

Sincerely,

DWIGHT B. WAGENIUS
Special Assistant
Attorney General

Environmental Protection
Division

DWS:mah

Enclosure

RECEIVED
DEC 23 1986
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Notice of intent

No small Business Statement

No expenditure of public money Statement

No signature

110B.10 Subd 2 ok

Rule ✓