

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

FILE COPY

ATTORNEY GENERAL

June 13, 1988

BILL CLAPP
Special Assistant Attorney General
Natural Resources Division

MARTHA J. CASSERLY
Special Assistant
Attorney General

296-6839

In the Matter of the Adopted Permanent Rules Relating to Mississippi River Land Use Acreages - RR#1493

The above-referenced rule has been approved as to its legality by the Attorney General on June 13, 1988.

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

Also enclosed are any petitions, requests, submissions 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 establish 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.

MJC:bbl

Enclosures

cc: Maryanne Hruby
Duane Harves

Rush

RULE REVIEW CHECKLIST

File No. 1493 Docket No. 05·0009·0592

DATE RECEIVED 6-3-88 ADOPTED W/O HEARING X

REVIEW DATE ~~6-12-88~~ 6/13/88 EMERGENCY RULE _____

DUE DATE 6-17-88

REVISOR APPROVED _____

APPROVED 6·13·88 by mjc REVISOR DISAPPROVED _____

DISAPPROVED √√ FIELD W/SEC.STATE _____

WITHDRAWN _____ RETURNED TO AGENCY _____

√ Rule as adopted (4 copies)

___ ~~Notice to Solicit Outside Information/Opinion~~

_____ ~~Date published in State Register~~

_____ ~~Comments~~

√ Petition for Adoption of a Rule

___ ~~Board's Authorizing Resolution~~

√ Proposed rule

_____ Revisor's Certificate

√ Notice of Intent to Adopt Rule

104.35 Statutory Authority

no Small Business Statement

no Expenditure of public money statement

yes Signature

√ Statement of Need and Reasonableness

yes Small Business Statement

no Fees - § 16A.128

√ Affidavit of Mailing Notice of Intent to Adopt Rule

3/30/88 Date 30/25 days before adoption

√ Publication in State Register

4/4/88 Date 30/25 days before adoption

___ ~~Resolution Adopting~~

√ Findings of Fact, Conclusions & Order Adopting

5/27/88 Date

___ ~~Written requests, submissions or comments~~

√ Declaration of attorney

Bill Clapp Name of SAAG representing agency

___ ~~Notice of Submission to Attorney General~~

___ ~~Affidavit of Mailing Notice to Attorney General~~

MJC

Department of Natural Resources

Adopted Permanent Rules Relating to Mississippi River Land Use Acreages

Rules as Adopted

6105.0900 LAND MANAGEMENT TOTALS.

Subpart 1. **Land use district acreages.** Land use district acreages are as follows:

A. East Bank:

Sherburne County	7,103.57
Anoka County	630.54
Total	7,734.11

B. West Bank:

Stearns County	1,537.33
Wright County	4,714.03
Hennepin County	964.25
Total	7,215.61
Grand Total	14,949.72

Subp. 2. **Scenic easement acreages.** Scenic easement acreages are as follows:

A. East Bank:

Sherburne County	3,114.07
Anoka County	200.95
Total	3,315.02

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Wright County	1,111.12
Hennepin County	274.26
Total	1,988.87
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Subp. 3. **Fee title acreages.** Fee title acreages are as follows:

A. East Bank:

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Total	322.89
Grand Total	792.55

6105.0910 LAND USE DISTRICT ACREAGES.

Subpart 1. to 13. [Unchanged.]

Subp. 14. **T 123 N - R 28 W.** The land use district acreage for T 123 N - R 28 W in Stearns County is as follows:

Section 1
Government Lot 1 10.60 acres (within 300 feet of river)
Government Lot 2 10.00 acres (within 300 feet of river)
Government Lot 3 21.10 acres (all east of railroad right of way)

Subp. 15. to 25. [Unchanged.]

Subp. 26. **Total acreages.** The total land use district acreages for Sherburne, Anoka, Stearns, Wright, and Hennepin Counties are as follows:

Sherburne County Total	7,103.57
Anoka County Total	630.54
Stearns County Total	1,537.33
Wright County Total	4,675.23
Hennepin County Total	964.25
West of River Total	7,215.61
East of River Total	7,734.11
Grand Total	14,949.72

APPROVED AS TO FORM AND LEGALITY

June 13 19 88

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JUN 13 1988

Joan Anderson Growe
Secretary of State

12:12 P.M.

Request Approval ASAP (4/13/88)

6/7/88 Missing Documents

Proposed Rule w/Reviser Certificate - rec'd 6.9.88
Declaration of Counsel - rec'd - 6.9.88
Telephoned Bill - He will take care of it.

Statement of Need + Reasonableness

memo dated 1/27/88 is not attached -
Bill Zachman is mailing it to us. - rec'd - 6.7

Findings

There is not a statement regarding ~~#~~ No requests rec'd for notice when rule is submitted to A.G. nor a statement that they did not receive any comments, should have, but dismiss apparently

Authority

104.35: "The plan shall include proposed rules."
If this is part of "a plan," then there is rulemaking authority

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : MDNR-Div. of Waters

DATE : March 10 , 1988

TO : File - Mississippi River

FROM : Bill Zachmann, Hydrologist BZ
Wild and Scenic Rivers Program

PHONE : 6-9224

SUBJECT : STATEMENT OF NEED AND REASONABLENESS - MISSISSIPPI RIVER RULE BOUNDARY AMENDMENTS

This memo is intended to serve as the file document for fulfilling the Statement of Need and Reasonableness for the above referenced rule amendments.

Amendments to the rule were developed after an evaluation of the Mississippi River rule by Dale Homuth and Bill Zachmann, Division of Waters during the period November, 1987 ending February, 1988. County, city and township administrators have actively participated in the evaluation.

The boundary amendments remove 57.5 acres of land from the back part of the district that is served by public sewer. Public service was available in this area at the time the district boundaries were established, but the implemented land use controls did not reflect this. Instead, low density residential, agricultural, and open space recreation uses were the only uses allowed. These allowable uses limit the development potential of the area given the public services that are available. Land remaining in the district is a 300' wide corridor parallel to the Mississippi River in Govt. Lots 1 and 2. Additionally, staff recommended a boundary change in Govt. Lot 3, to remove 14 acres, thereby making the boundary delineation of Govt. Lots 1 ans 2 more consistent in relation to Govt. 3 and adjacent district boundaries. As a condition of the above boundary amendment, the landowner has agreed to development restrictions within 300' from the river in Government Lots 1 and 2. This is more restrictive than current minimums would allow.

The attached memorandum from Dale Homuth to Bill Zachmann, dated, 1/27/88 and the accompanying background information are hereby made part of this Statement of Need and Reasonableness. Additionally, the above proposed amendment will not adversely affect small businesses or agriculture.

Additional documents pertaining to the Mississippi River boundary amendment are on file at the Division of Waters, Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN. 55155-4032.

BZ:fw

Attachment

SF-00006-02

STATE OF MI. .ESOTA

DEPARTMENT NATURAL RESOURCES - WATERS

Office Memorandum

TO : Bill Zachmann, W & S Rivers Hydrologist DATE: 1/27/88



FROM : Dale Homuth, Area Hydrologist PHONE: 255-4278

SUBJECT: PROPOSED MISSISSIPPI W & S RIVER BOUNDARY AMENDMENT, STEARNS COUNTY

As we discussed on the phone today, attached are all materials relating to the proposal of Hospitality Development Corp. to Amend the W & S River Boundaries along the Mississippi River in Section 1, T123N-R28W (St. Augusta Twp.). The following materials are attached for your review and consideration:

1. Petition of Hospitality Devel. Corp asking for the Rule Amendment.
2. Resolution of the City of St. Cloud supporting the amendment.
3. Resolution of St. Augusta Twp. supporting the amendment.
4. Resolution of the Stearns County Board supporting the amendment.
5. A completed W & S Boundary Amendment Worksheet, as per Oper. Manual.
6. Photographs of the site.
7. Various maps and air photos on which I have illustrated the existing and proposed boundaries.
8. Preliminary development plans for the site.
9. Various correspondence concerning this matter.

In general, I support this proposed boundary amendment. I have also recommended two additional minor amendments for the areas immediately north and south of Hospitality Devel. Corps' property. One would simply make the boundary more logical and the other would remove a Northwestern Bell Building from the District that was accidentally built on the boundary line.

The only remaining concerns I have about this proposal relate to the City's future handling of this property. My analysis of the property proposed to be dropped shows that no development will be visible from the river unless it is over 40 feet in height. Proposed city zoning for this area contains no restriction on height. Also, the City has not as yet adopted any zoning for this area including the 300 feet that would remain in the District. I feel we need some assurances that St. Cloud will willingly amend their Ordinance upon approval of the annexation to meet or exceed all State W & S River Standards. Finally, there has been some discussion about the City possibly requiring the developer to put the 300 ft. area in a scenic easement or protective covenant and to allow the City Parks people to develop a trail along the old Railroad right of way. Perhaps we should obtain some written assurances that these things will be done before we approve the amendment.

Contact me if you have any questions about this matter or if you need further materials. You should expect the developer to be contacting you to discuss the timing of the possible amendment.

c: David Hills, Reg. Hydrologist/attachments

Attachments

NANCY JOHNSON
HDC 932-38

I. BACKGROUND INFORMATION

a. Has the local unit of government passed a resolution endorsing an amendment to the land use district boundary?

✓ Yes (Provide a copy of resolution)
All 3 involved units Have passed resolutions.

___ No (STOP; No rule amendments lacking local County Board/City Council/Town Board endorsement.)

b. The amendment proposed is in a: ___ Wild; ✓ Scenic; ___ Recreational District.

c. Land is proposed to be: ✓ Remove from; ___ Added to; the District.

d. The number of acres involved is:

	Present	Proposed
Gov. lot #1 =	31.26	→ 10.5
" " #2 =	32.74	→ 10.0
" " #3 =	35.07	→ 21.1
	99.07	41.6

52.5 Acres (to nearest 0.01 acre)

e. Is any of the area in a Floodway ~~Yes~~ No (yes/no); Flood Fringe ~~Yes~~ No? (List acres)

f. Under the community's present zoning ordinance for the amendment area, list the required information in Column X of Table 1.

Table 1. Zoning Standards Comparisons

	Column X Existing Standards	Column Y Proposed Standards
i) Minimum lot sizes [sq. ft. or acres]	4 acres	no minimum Area*
		40 ft min Frontage
ii) Applicable structure setbacks*		
- River (OHW)	150'	NA
- Bluff	30'	NA
- Sewage (OHW)	100'	NA
- Other (list)		
iii) Max building height	35'	none *

*If the area is beyond the 1st development tier, has no bluff areas, etc. enter "N/A" as appropriate.

	Column X	Column Y
iv) Allowable Uses - Permitted	Standard WTS River Uses	All Commercial Uses such as retail, medical, office, etc.
- Conditionally Permitted	11	Shopping Centers over 100,000 ft^2.
v) Prohibited Uses	11	Single & 2 family ~~residential~~, ~~Industrial~~, Manufacturing, etc.

g. Are there any DNR natural heritage elements known to be within or near the amendment area? If yes, will an amendment to the district adversely affect them? (Explain) no

double check

h. Are there any wetland types 2-8 (U.S. F.W.S. Circ. 39) within the area proposed for amendment? ___ Yes X No

If yes, list:

Type(s) _____
Total size _____ (acres)
Acres within amendment area _____
PWI # _____ (if type 3-5)
Permit history, if any, for wetlands). _____

_____

i. Please attach a scaled map of the local land use district, showing the river, significant vegetative and topographic features, the area proposed for amendment, road alignments, current and proposed adjacent zoning district delineations, and any other items appropriate on the map (U.S.G.S. topo map copies acceptable).

j. Photos of the area in question as viewed from the river and surrounding area, plus aerial photos, if available, should accompany this worksheet. ATTACH AT BACK.

II. JUSTIFICATION FOR AMENDMENT

a. Describe why this amendment is needed?
Public sewer is available to this property and it is in the process of being annexed into the City. Current W+S boundaries are based only on the 320 acres per river mile rule, with little thought given as to what property it covers or whether it's visible from the river. Amendment is needed to allow City to use this site located at a major intersection of I-94 as a commercial site -

b. Based on the map in Item 1. i., does the proposed amendment result in a "spot zoning" appearance? (If yes, either the amendment as proposed must be resubmitted to eliminate spot zoning and be re-evaluated or be denied at this time.) Yes to some degree, but mainly because it's proposed to use a 300' boundary instead of a Gov. lot line boundary. This ~~is~~ is consisant with other W+S River Boundaryies.

c. Have other possibilities or methods to resolve existing land use conflicts been explored that would preclude a rule amendment?

X Yes (explain) ___ No (why not?)

City's original intent was to apply their W+S ordinance provisions to the property. This would have allowed structures to be setback 50' from river, and I am opposed to such an amendment.

d. Go back to Table 1 in Part I. f. of the worksheet and fill in Column Y according to the zoning standards that would apply under the proposed amendment.

e. Generally, from Table 1, would an amendment as proposed result in More Restrictive or Less Restrictive zoning standards than those now in effect? (Briefly explain)
Less Restrictive. City proposes to zone area as a C 5- Hwy Commercial District.

f. Explain how the proposed amendment either conflicts with or is consistent with and compliments the community's comprehensive land use plan for the area? (Be detailed in responding to this question).
City is in the process of developing amendments to its plan and Ordinance to cover this new area.

Need these before process begins.

g. Are there other similar land use conflicts or zoning issues in other parts of the land use district and in the jurisdiction of the community?

___ Yes; how many and type _____ X* No (go to Part III.b)

i) If yes, what is the community's plan of action to resolve these conflicts or issues?

* I have discussed this with both Co. & City Staff. These appear to be only changes needed. I did make it clear that no such changes would be again made in Stearns Co. for a long time.

ii) Would additional land use district boundary amendments be one alternative to resolving these conflicts or issues? (Explain)

III. SUMMARY FOR ACTION ON THIS PROPOSAL

a. If the answer to item II. g. ii) (above) is 'yes', and the local unit of government has not reviewed the entire land use district subject to their jurisdiction for additional, justifiable land use district rule amendments prior to endorsing the proposed amendment herein, this amendment must be tabled until a more complete and thorough review of the program in the community is conducted.

b. If the answer to item II. g. is 'no', and the amendment being proposed addresses a unique land use conflict in the community that a rule change could resolve, and

	TRUE	FALSE
i) The proposed amendment does not appear to be detrimental to or conflict with the river land use district and community long range planning;	✓	
ii) Zoning provisions will not be substantially less restrictive by allowing a higher density of use;	✓	
iii) Those uses that would be allowed by the amendment that aren't presently allowed would be handled as conditionally permitted uses;	✓	
iv) The amendment will not result in a 'spot' zoning appearance to the community's zoning map; and	✓	
v) The amendment will not adversely affect existing small businesses or agriculture.	✓	

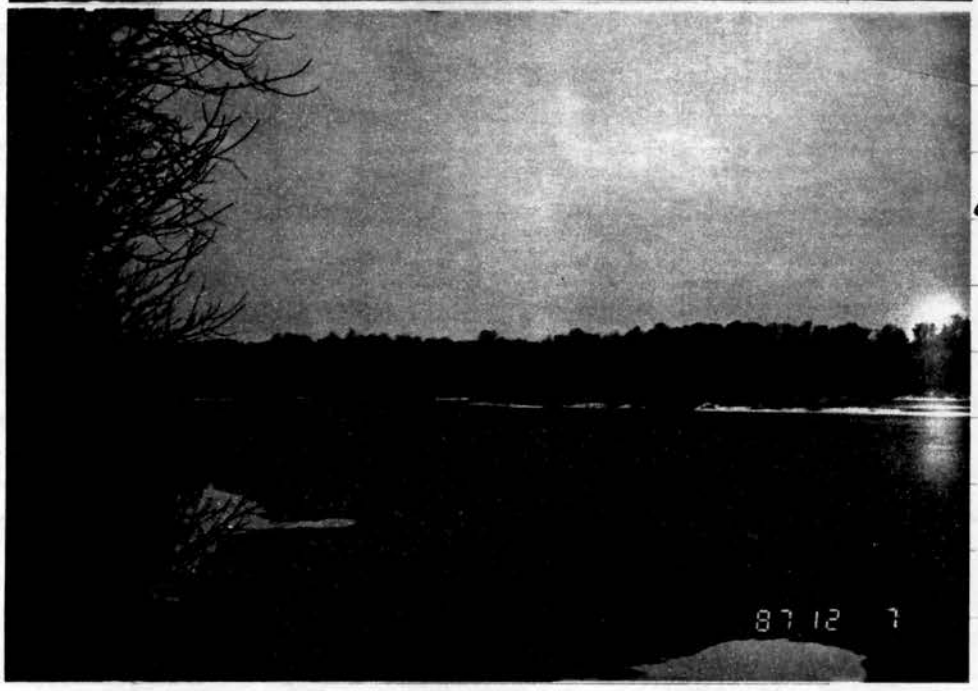
THEN, Note: Ag. use of property at present is marginal, at best.

c. Submit this completed worksheet for initiation of agency consideration for adoption (amendment) of a state rule without a public hearing.

12-7-87
D. Homuth



← Looking at upstream end of 'Travel Plaza' property from Island across River & Looking SW.

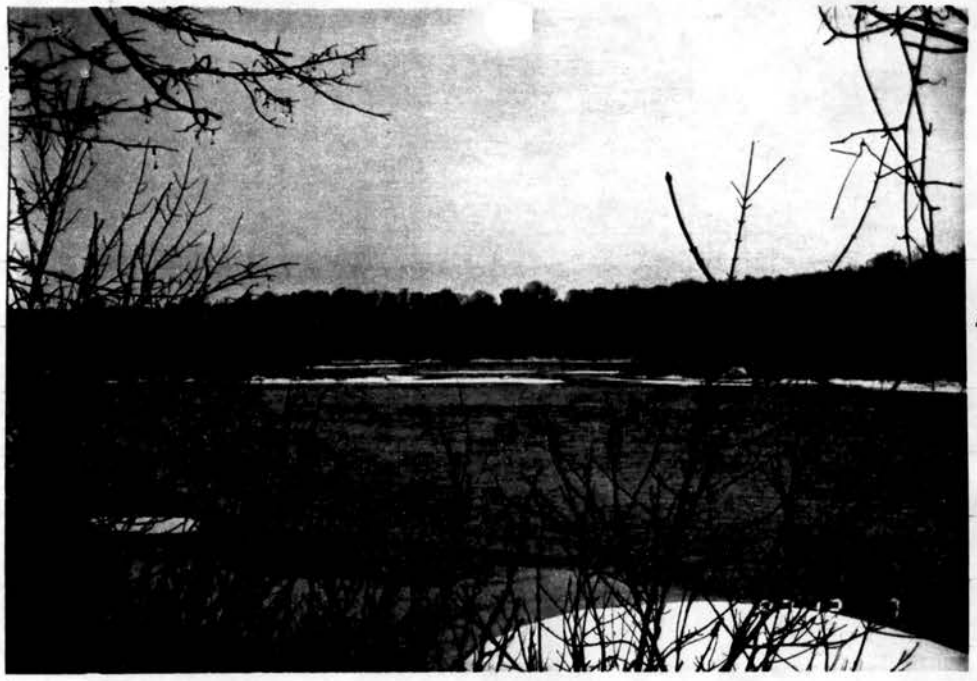


← looking at Downstream end of 'Travel Plaza' property from Island across river looking South



← looking at middle of 'Travel Plaza' property from Island across River. Looking SW

12-7-87
D. Homuth



← looking at Center of Travel Plaza Property Taken from across River looking to SW

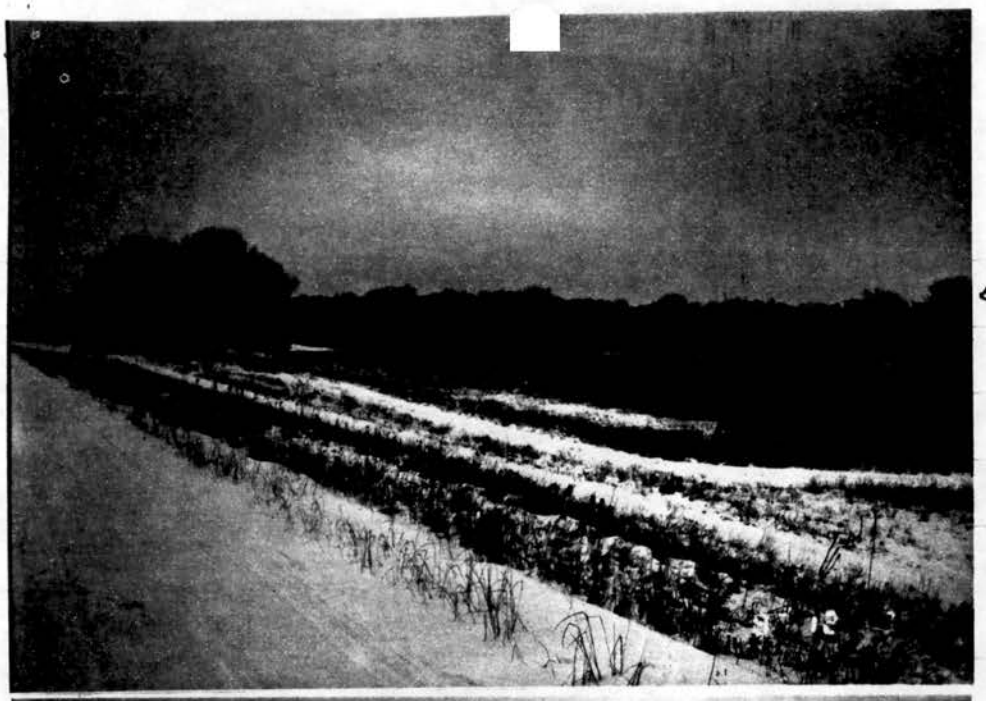


← looking at River bank JUST upstream (within 1000') of North end of Travel Plaza Property. Taken from Island located in Shelburne Co. looking To W.

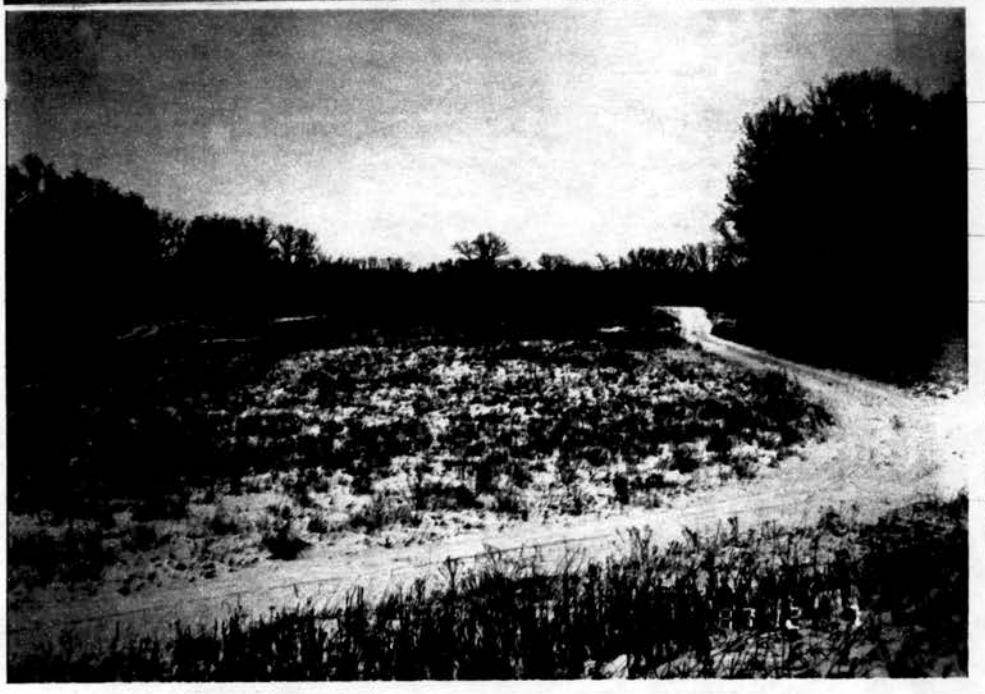


← Typical View of River from point where RR grade comes closest To River on 'Travel Plaza' property looking to NE

12-7-87
D. Homuth



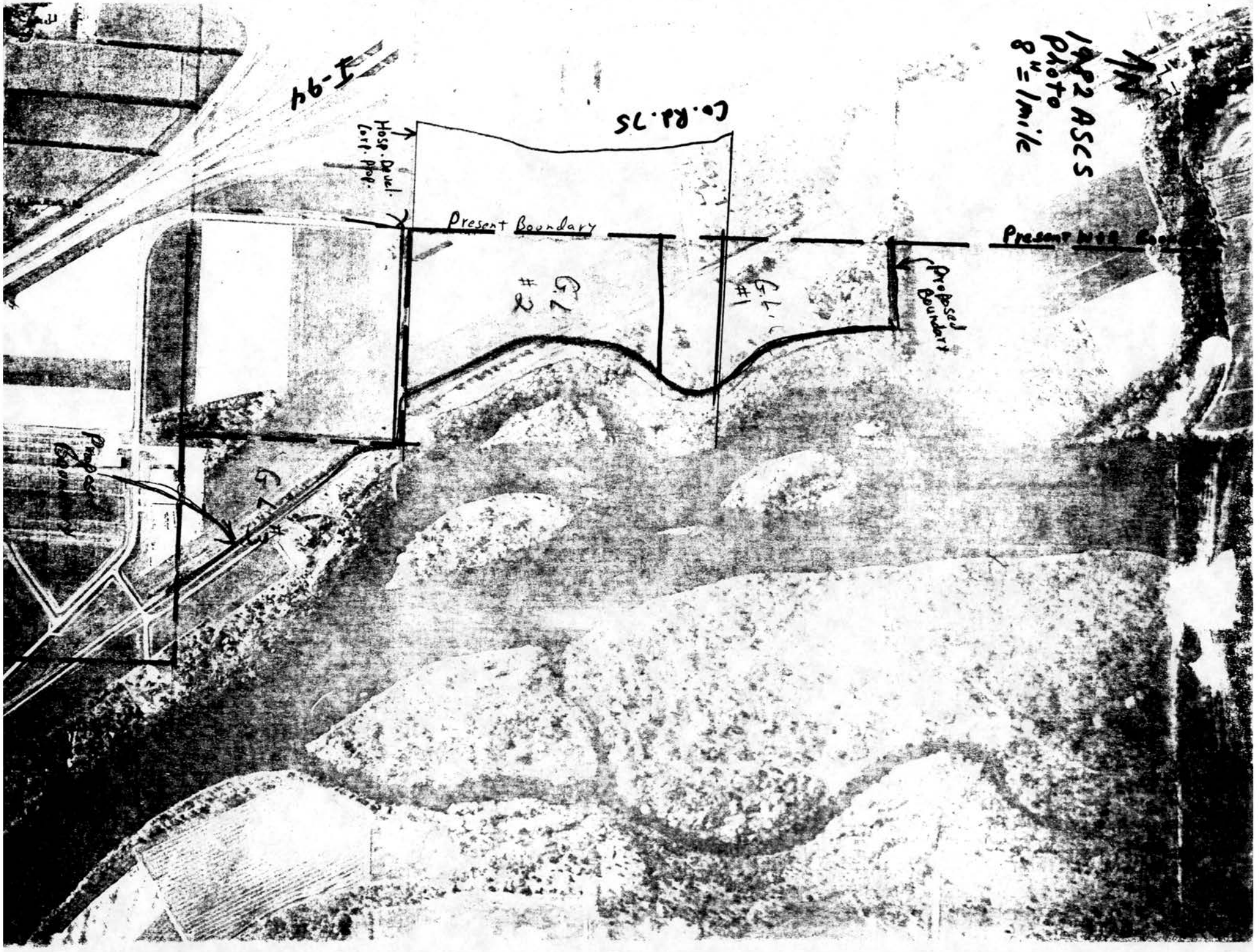
← looking To NE from RR Grade in SW corner of G.L. #1



← looking towards River (East) along line between G.L. 1+2.

Looking SE along RR Grade from center of G.L. 2





1982 ASCS
Photo
8" = 1 mile
I-94
Co. Rd. 75
Hosp. Devel. Corp. Prop.
Present Boundary
Present W+R Boundary
Proposed Boundary
G.L. #2
G.L. #1
G.L. #3
Proposed Boundary



MANAGEMENT

- FEE TITLE
- SCENIC EASEMENT
- ZONING

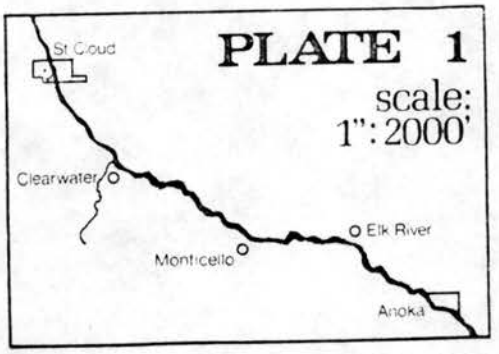
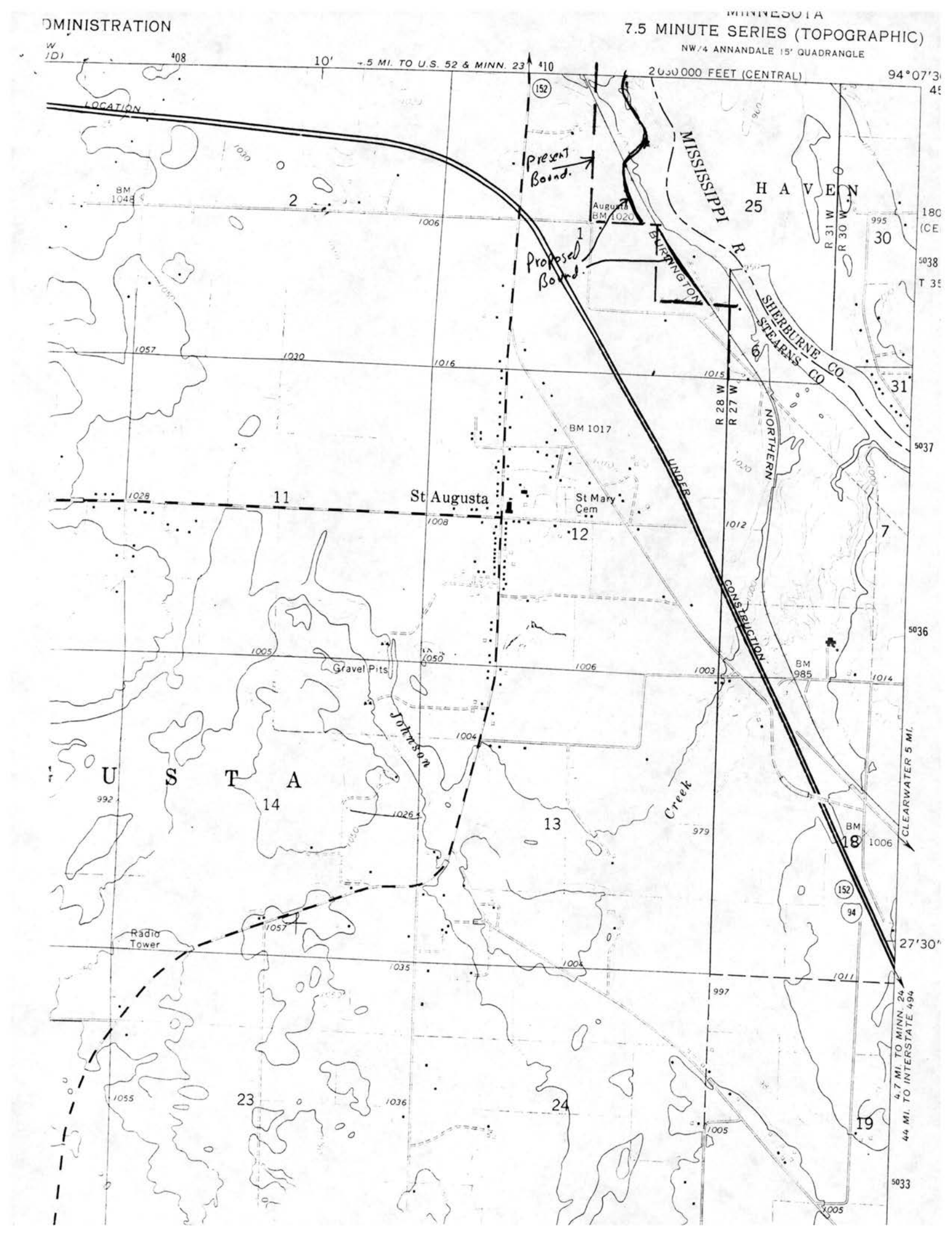


PLATE 1

scale:
1": 2000'



DMINISTRATION
MINNESOTA
7.5 MINUTE SERIES (TOPOGRAPHIC)
NW/4 ANNANDALE 15' QUADRANGLE
10'
.5 MI. TO U.S. 52 & MINN. 23
2 030 000 FEET (CENTRAL)
94°07'3
LOCATION
Present Bound.
Proposed Bound.
MISSISSIPPI R
H A V E N
Augusta BM 1020
BURLINGTON
SHERBURNE CO
STEARNS CO
R 31 W
R 30 W
R 28 W
R 27 W
NORTHERN
UNDER CONSTRUCTION
BM 1048
BM 1017
St Augusta
St Mary Cem
Gravel Pits
Johnson
Creek
U S T A
Radio Tower
BM 985
BM 1006
CLEARWATER 5 MI.
4.7 MI. TO MINN. 24
44 MI. TO INTERSTATE 494
27'30"

LAND USE DISTRICT - ACREAGE IN STEARNS COUNTY

T 124 N - R 28 W

Section 13 -	Government	Lot 3	3.88	acres	
	"	Lot 4	20.12	"	
Section 24 -	Government	Lot 1	57.58	acres	
	"	Lot 2	29.32	"	
	"	Lot 3	22.92	"	
	"	Lot 4	23.65	"	
Section 25 -	Government	Lot 1	17.15	acres	East
	"	Lot 2	19.82	"	"
	E1/2 NW1/4	SW1/4	20.00	"	
	Government	Lot 3	49.38	"	
	"	Lot 4	22.85	"	
	"	Lot 5	48.98	"	
Section 36 -	Government	Lot 1	44.66	acres	
	"	Lot 2	26.15	"	
	"	Lot 3	29.20	"	
	"	Lot 4	27.96	"	

T 123 N - R 28 W

Section 1 -	Government	Lot 1	10.50 ~~31.26~~	acres	within 300' of river only
	"	Lot 2	10.00 ~~32.74~~	"	within 300' of river only
	"	Lot 3	21.10 ~~35.07~~	"	North and East of RR only

T 123 N - R 27 W

Section 6 -	Government	Lot 1	29.10	acres
Section 7 -	Government	Lot 3	30.08	acres
	SE1/4	NW1/4	40.00	"
	Government	Lot 2	40.00	"
	"	Lot 1	20.62	"
	NE1/4	SE1/4	40.00	"
Section 8 -	Government	Lot 2	36.34	acres
	"	Lot 1	25.82	"
	E1/2 SW1/4	SW1/4	20.00	"
Section 17 -	Government	Lot 4	40.52	acres
	"	Lot 3	39.35	"
	"	Lot 2	34.65	"
	"	Lot 1	25.10	"
Section 20 -	Government	Lot 2	26.43	acres
	N1/2 SW1/4	NE1/4	20.00	"
	Government	Lot 1	25.18	"
	N1/2 NE1/4	SE1/4	20.00	"
Section 21 -	Government	Lot 3	41.92	acres
	"	Lot 2	37.96	"
	"	Lot 1	48.10	"

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of Amending Rules Relating to the Mississippi Wild and Scenic River

DECLARATION OF COUNSEL

I have examined the above-captioned rule and the supporting rule-making record. I conclude that the Administrative Procedure Act and Minnesota Rules chapter 2100 have been followed.

For docket purposes, the client code is 0592.

Dated: ~~May 13~~ June 7, 1988.

HUBERT H. HUMPHREY, III
Attorney General
State of Minnesota

A. W. Clapp III

A. W. CLAPP III
Special Assistant
Attorney General
Atty. Reg. No. 17036

Suite 200
520 Lafayette Road
St. Paul, Minnesota 55155
Telephone: (612) 296-0686

Counsel for the Minnesota
Department of Natural Resources

Department of Natural Resources

Proposed Permanent Rules Relating to Mississippi River Land Use Acreages

Rules as Proposed

6105.0900 LAND MANAGEMENT TOTALS.

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Approved by Revisor PER

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6105.0910 LAND USE DISTRICT ACREAGES.

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Government Lot 2 ~~32.74~~ 10.00 acres (within 300 feet of river)
Government Lot 3 ~~35.07~~ 21.10 acres (all east of railroad right of way)

Subp. 15. to 25. [Unchanged.]

Subp. 26. **Total acreages.** The total land use district acreages for Sherburne, Anoka, Stearns, Wright, and Hennepin Counties are as follows:

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Stearns County Total	~~1,594.80~~	1,537.33
Wright County Total		4,675.23
Hennepin County Total		964.25
West of River Total	~~7,234.28~~	7,215.61
East of River Total		7,734.11
Grand Total	~~14,968.39~~	14,949.72

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Mississippi River Land Use Acreages

AGENCY: Department of Natural Resources

MINNESOTA RULES: Chapter 6105

The attached rules are approved for publication in the State Register

Paul E. Rohde

Paul E. Rohde
Senior Assistant Revisor

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES

Hospitality Development Corporation,
a Minnesota Corporation, and
First American National Bank
as Trustee of the
Frank Laudenbach Trust,

Petitioners.

PETITION

Hospitality Development Corporation, a Minnesota Corporation (HDC) and The First American National Bank as Trustee of the Frank Laudenbach Trust (Trustee) hereby petition the Commissioner of Natural Resources as follows:

WHEREAS, Hospitality Development Corporation is purchasing property (the "subject property") from the Trustee described as follows, to wit:

(i) Parcel 1: That part of the southeast Quarter of the Northwest Quarter (SE 1/4 of NW 1/4), Section One (1), Township One Hundred Twenty-three (123) North, Range Twenty-eight (28) West, Stearns County, Minnesota, described as follows:

Commencing at the Southeast corner of said Southeast Quarter of the Northwest Quarter (SE 1/4 of NW 1/4); thence North 89 degrees 05 minutes 19 seconds West on an assumed bearing along the south line of said Southeast Quarter of the Northwest Quarter (SE 1/4 of NW 1/4) 49.18 feet to its intersection with the right-of-way line drawn from monument B8 to monument B9 of State Highway Right of Way Plat No. 73.31, according to the recorded plat thereof for the point of beginning of the land to be described; thence continuing North 89 degrees 05 minutes 19 seconds West, along said south line 530.79 feet, more or less to its intersection with the right-of-way line drawn from monument B12 to monument B13 of said plat; thence North 29 degrees 17 minutes 19 seconds West, along said right-of-way line 87.98 feet, more or less to said monument B12; thence North 13 degrees 40 minutes 12 seconds East, along said right-of-way line 573.02 feet to its intersection with the southeasterly line of Parcel 49 of said plat; thence North 63 degrees 18 minutes 41 seconds East, along said southeasterly line 109.03 feet to the most easterly corner of said Parcel 49; thence North 26 degrees 41 minutes 19 seconds West, along the northeasterly line of said Parcel 49, a distance of 65.01 feet, more or less to its intersection with the

right-of-way line drawn from monument B11 to monument B10 of said plat; thence North 68 degrees 52 minutes 20 seconds East, along said right-of-way line 59.93 feet, more or less to said monument B10; thence southeasterly and southerly 765.58 feet, along said right-of-way line and along a nontangential curve concave to the southwest, having a radius of 768.51 feet and a central angle of 57 degrees 04 minutes 38 seconds, the chord of said curve bears South 25 degrees 47 minutes 26 seconds East, to monument B9 of said plat; thence South 02 degrees 44 minutes 53 seconds West 109.58 feet to the point of beginning. Subject to easements of record. Containing 7.30 acres (317,943 square feet); and

(ii) Parcel 2: That part of the Northeast Quarter of the Northwest Quarter (NE 1/4 of NW 1/4) and the Southeast Quarter of the Northwest Quarter (SE 1/4 of NW 1/4) and of Government Lot One (1) and of Government Lot Two (2), Section One (1), Township One Hundred Twenty-three (123) North, Range Twenty-eight (28) West, Stearns County, Minnesota, described as follows:

Commencing at the north quarter corner of said Section One (1); thence North 88 degrees 59 minutes 12 seconds West on an assumed bearing along the north line of said Northeast Quarter of the Northwest Quarter (NE 1/4 of NW 1/4) 1131.72 feet to the northeast corner of Parcel 257 of State Highway Right of Way Plat No. 73-31, according to the recorded plat thereof; thence South 25 degrees 41 minutes 03 seconds East, along the easterly right-of-way line of said State Highway Right of Way Plat No. 73-31; a distance of 1015.13 feet to the point of beginning of the land to be described; thence continue South 25 degrees 41 minutes 03 seconds East, along said easterly right-of-way line 42.00 feet to monument B1 of said plat; thence South 12 degrees 30 minutes 22 seconds East, along said easterly right-of-way line 381.25 feet to monument B2 of said plat; thence South 03 degrees 12 minutes 14 seconds East, along said easterly right-of-way line 523.07 feet to monument B3 of said plat; thence southeasterly and southerly 1003.14 feet, along said easterly right-of-way line and along a non-tangential curve concave to the southwest, having a radius of 868.51 feet and a central angle of 66 degrees 10 minutes 38 seconds, the chord of said curve bears South 30 degrees 20 minutes 26 seconds East, to monument B5 of said plat; thence South 02 degrees 44 minutes 53 seconds West, along said easterly right-of-way line 91.37 feet to its intersection with a line 15.00 feet North of as measured at a right angle to and parallel with the south line of said Government Lot Two (2); thence east, along said parallel line to its intersection with the east line of said Government Lot Two (2); thence North,

along the east line of said Government Lot Two (2) to the shoreline of the Mississippi River; thence northwesterly, northerly, northeasterly, northerly, and northwesterly, along said shoreline to its intersection with a line bearing South 89 degrees 05 minutes 19 seconds East from the point of beginning; thence North 89 degrees 05 minutes 19 seconds West 1743 feet, more or less to the point of beginning. Subject to easements of record. Containing 60.0 acres, more or less, and

WHEREAS, HDC proposes to construct a Planned Unit Development (P.U.D.) upon the subject property; and

WHEREAS, since approximately March of 1987 Hospitality Development Corporation and the Trustee have engaged in lengthy and substantial negotiations with the Township of St. Augusta and the City of St. Cloud regarding the proposed P.U.D. - which negotiations have resulted in the fully executed Joint Powers Agreement attached hereto as Exhibit A; and

WHEREAS, in November of 1987 the Department of Natural Resources (DNR) through its Area Hydrologist, Dale E. Holmuth, advised the City of St. Cloud Planning Department that the subject property was governed by Chapter 6105 of the Department of Natural Resources - Wild, Scenic and Recreational Rivers Regulations; and

WHEREAS, the Department of Natural Resources, through Dale E. Holmuth, proposed that the Petitioner petition the DNR for an Amendment to Chapter 6105.0910 which Amendment would change the jurisdictional boundary lines of the Wild, Scenic and Recreational Rivers Regulations on the subject property; and

WHEREAS, Hospitality Development Corporation and First American National Bank as Trustee of the Frank Laudenbach Trust need to obtain this boundary change in order to continue with the proposed Planned Unit Development; and

WHEREAS, Dale E. Holmuth, the Area Hydrologist, has indicated that he personally will support a boundary change that would delete the subject property from the jurisdiction of Chapter 6105 of the Wild, Scenic and Recreational Rivers Regulations except for that portion of the subject property located within 300 feet of the high water mark along the shoreline of the Mississippi River bordering the subject property - Exhibit B; and

WHEREAS, a Resolution from the City of St. Cloud Council supporting the proposed boundary change will be addressed by the City Council on December 21, 1987; and

WHEREAS, a Resolution from the Township of St. Augusta supporting the proposed boundary change will be addressed by the Town Board on January 5, 1988.

NOW THEREFORE, Hospitality Development Corporation and First American National Bank as Trustee of the Frank Laudenbach Trust hereby petition the Department of Natural Resources for an Amendment to Chapter 6105.0910 Subp. 14 - Department of Natural Resources - Wild, Scenic and Recreational Rivers Regulations deleting the following description found on page 5164 of Volume 6 of the Minnesota Rules 1987:

> Subp. 14. T123 N - R 28 W. The land use district acreage for T 123 N - R 28 W in Stearns County are as follows:
>
> Section 1
> Government Lot 1 31.26 acres
> Government Lot 2 32.74 acres
> Government Lot 3 35.07 acres

And substituting the following:

> Subp. 14. T 123 N - R 28 W. The land use district acreage for T 123 N - R 28 W in Stearns County are as follows:
>
> Section 1
> Government Lot 1 Within 300 feet of Mississippi River only.
> Government Lot 2 Within 300 feet of Mississippi River only.
> Government Lot 3 35.07 acres.

Attached is Exhibit B for your use in understanding this Petition.

Respectfully submitted,

HOSPITALITY DEVELOPMENT CORPORATION

By: Nancy Johnson

Its: V.P./C.O.O.

FIRST AMERICAN NATIONAL BANK
AS TRUSTEE OF THE FRANK LAUDENBACH TRUST

By: John D. Cofell

Its: Trust Officer

Exhibit A

JOINT POWERS AGREEMENT

This Agreement is made and entered into as of the 30th day of October, 1987, by and between the CITY OF ST. CLOUD, a Municipal Corporation organized and existing pursuant to the laws of the State of Minnesota ("City"), and the TOWN OF ST. AUGUSTA, an organized township organized and existing pursuant to the laws of the State of Minnesota ("Town").

RECITALS:

A. The City and Town are public bodies, corporate and politic, organized and existing pursuant to the laws of the State of Minnesota which are authorized pursuant to Minnesota Statutes Section 471.59 to enter into joint powers agreements for the purposes of cooperating in the undertaking of certain activities which promote the general welfare of their respective jurisdictions;

B. First American National Bank as Trustee of the Frank Laudenbach Trust and Hospitality Development Corporation, a Minnesota Business Corporation ("hereinafter collectively referred to as "HDC") has approached the Town and City concerning the annexation of the following described property ("Subject Property") into the City:

(i) Parcel 1: That part of the Southeast Quarter of the Northwest Quarter (SE¼ of NW¼), Section One (1), Township One Hundred Twenty-three (123) North, Range Twenty-eight (28) West, Stearns County, Minnesota, described as follows:

Commencing at the southeast corner of said Southeast Quarter of the Northwest Quarter (SE¼ of NW¼); thence North 89 degrees 05 minutes 19 seconds West on an assumed bearing along the south line of said Southeast Quarter of the Northwest Quarter (SW¼ of NW¼) 49.18 feet to its intersection with the right-of-way line drawn from monument B8 to monument B9 of State Highway Right of Way Plat No. 73-31, according to the recorded plat thereof for the point of beginning of the land to be described; thence continuing North 89 degrees 05 minutes 19 seconds West, along said south line 530.79 feet, more

or less to its intersection with the right-of-way line drawn from monument B12 to monument B13 of said plat; thence North 29 degrees 17 minutes 19 seconds West, along said right-of-way line 87.98 feet, more or less to said monument B12; thence North 13 degrees 40 minutes 12 seconds East, along said right-of-way line 573.02 feet to its intersection with the southeasterly line of Parcel 49 of said plat; thence North 63 degrees 18 minutes 41 seconds East, along said southeasterly line 109.03 feet to the most easterly corner of said Parcel 49; thence North 26 degrees 41 minutes 19 seconds West, along the northeasterly line of said Parcel 49, a distance of 65.01 feet, more or less to its intersection with the right-of-way line drawn from monument B11 to monument B10 of said plat; thence North 68 degrees 52 minutes 20 seconds East, along said right-of-way line 59.93 feet, more or less to said monument B10; thence southeasterly and southerly 765.58 feet, along said right-of-way line and along a non-tangential curve concave to the southwest, having a radius of 768.51 feet and a central angle of 57 degrees 04 minutes 38 seconds, the chord of said curve bears South 25 degrees 47 minutes 26 seconds East, to monument B9 of said plat; thence South 02 degrees 44 minutes 53 seconds West 109.58 feet to the point of beginning. Subject to easements of record. Containing 7.30 acres (317,943 square feet); and

(ii) Parcel 2: That part of the Northeast Quarter of the Northwest Quarter (NE¼ of NW¼) and of the Southeast Quarter of the Northwest Quarter (SE¼ of NW¼) and of Government Lot One (1) and of Government Lot Two (2), Section One (1), Township One Hundred Twenty-three (123) North, Range Twenty-eight (28) West, Stearns County, Minnesota, described as follows:

Commencing at the north quarter corner of said Section One (1); thence North 88 degrees 59 minutes 12 seconds West on an assumed bearing along the north line of said Northeast Quarter of the Northwest Quarter (NE¼ of NW¼) 1131.72 feet to the northeast corner of Parcel 257 of State Highway Right of Way Plat No. 73-31, according to the recorded plat thereof; thence South 25 degrees 41 minutes 03 seconds East, along the easterly right-of-way line of said State Highway Right of Way Plat No. 73-31, a distance of 1015.13 feet to the point of beginning of the land to be described; thence continue South 25 degrees 41 minutes 03 seconds East, along said easterly right-of-way line 42.00 feet to monument B1 of said plat; thence South 12 degrees 30 minutes 22 seconds East, along said easterly right-of-way line 381.25 feet to monument B2 of said plat; thence South 03 degrees 12 minutes 14 seconds East, along said easterly right-of-way line 523.07 feet to monument B3 of said plat; thence southeasterly and southerly 1003.14 feet, along said easterly right-of-way line and along a non-tangential curve concave to the southwest, having a radius of 868.51 feet and a central angle of 66 degrees 10 minutes 38 seconds, the chord of said curve bears South

30 degrees 20 minutes 26 seconds East, to monument B5 of said plat; thence South 02 degrees 44 minutes 53 seconds West, along said easterly right-of-way line 91.37 feet to its intersection with a line 15.00 feet North of as measured at a right angle to and parallel with the south line of said Government Lot Two (2); thence east, along said parallel line to its intersection with the east line of said Government Lot Two (2); thence North, along the east line of said Government Lot Two (2) to the shoreline of the Mississippi River; thence northwesterly, northerly, northeasterly, northerly, and northwesterly, along said shoreline to its intersection with a line bearing South 89 degrees 05 minutes 19 seconds East from the point of beginning; thence North 89 degrees 05 minutes 19 seconds West 1743 feet, more or less to the point of beginning. Subject to easements of record. Containing 60.0 acres, more or less;

C. The Subject Property is included in an area governed by an Orderly Annexation Resolution between the City and the Town dated August 19, 1974, ("Orderly Annexation Resolution") which limits annexation of certain areas of the Town including the Subject Property prior to August 19, 1994;

D. The Subject Property is about to become urban or suburban in character and the Town and the City are capable of providing municipal services thereto.

E. The City and Town have determined that it will enhance and promote the general welfare of the Town and the City if the Subject Property is annexed to the City on the terms and conditions contained herein.

In consideration of the mutual covenants herein set forth, the City and Town agree as follows:

1. Purpose. The purpose of this Agreement is to provide for the public health, safety, and general welfare through cooperation in the annexation of the Subject Property to the City in a manner which provides for adequate provision of municipal services to the area while

protecting the residents of the Town residing in or near the Subject Property.

2. Annexation. Subject to the conditions precedent hereinafter provided, the Town agrees that it shall waive all opposition it may have to the annexation of the Subject Property by the City and shall allow the City to annex the Subject Property to the City by amendment to the Orderly Annexation Resolution. In the event the Joint Resolution of the City and Town amending the Orderly Annexation Resolution is not filed with Minnesota Municipal Board due to failure of any contingency contained therein, this Agreement shall be null, void, and of no further effect.

3. Zoning. The City agrees that it shall adopt an ordinance, effective as of the date the Minnesota Municipal Board orders the annexation, zoning the Subject Property as a planned unit development ("PUD") with commercial zoning classification. The City also agrees to adopt, effective as of the date the Minnesota Municipal Board orders the annexation, a final plat for the Subject Property. During the review of the general development plan for the PUD and the proposed plat, the City shall cooperate with the Town in the review and shall allow the Town such input into the review process as to assure that the general development plan and proposed plat address Town concerns which shall include but not be limited to, (i) providing a drainage plan for the Subject Property, when developed, which will not increase the quantity or velocity of storm water drainage from the Subject Property onto adjoining areas of the Town and, (ii) providing that the setback and screening requirements imposed by the Town Zoning Ordinance be

incorporated into the general development plan and plat where the Subject Property abuts the Town.

4. Municipal Services. Prior to December 31, 1996, the Town shall provide to the Subject Property those municipal services which it customarily provides Town residents. These services shall include road maintenance and repair, police protection, and fire protection. It is understood that the level of these services shall be that level normally and customarily provided by the Town to its residents unless prior arrangements have been made between the Town, City and HDC. It is specifically understood by and between the parties, that in the event the Town is unable to provide fire protection to the Subject Property for any reason, this service will be provided by the City.

5. Reimbursement. During the period that the Town provides municipal services to the Subject Property, the City agrees to pay to the Town annually a sum equal to sixty-two and twenty-five one hundreths (62.25%) percent of the total tax receipts received by the City from taxes levied by the City against the Subject Property. In the event the Town is unable to provide fire protection to the City, the amount paid annually shall be reduced to an amount equal to fifty-five (55%) percent of the total tax revenues received by the City from taxes levied by the City against the Subject Property. Payments shall be due and payable to the Town each year on June 30, of the year in which the tax revenues are received by the City.

6. Shortfalls. It is understood by the City and the Town that development on the Subject Property will be undertaken at a rate which may require municipal services to be provided to the Subject Property prior to the time in which tax revenues will be generated to cover the

costs incurred by the Town in provided these services. The City and Town agree that prior to the date when the reimbursements provided above are sufficient to cover the actual costs of the services provided, the Town shall be reimbursed by HDC for the difference between actual costs incurred to provide the municipal services and the amount received from the City. In order to facilitate payment of these costs, the Town may make such arrangements with HDC as it deems appropriate and may, at its discretion, request HDC to provide such financial guarantees as the Town deems necessary to secure payment. During period when HDC is reimbursing the Town for its actual expenses, the Town agrees to work with HDC to establish the level of services which HDC requires for the Subject Property during the various stages of development. By its approval of this Agreement, HDC accepts the terms of this paragraph.

7. Future Annexation. In the area designated in the Orderly Annexation Resolution, after August 19, 1994, and prior to January 1, 2010, the City shall not initiate any annexation of Town land without having first provided the Town with a minimum of two (2) years notice of the City's intention to initiate such annexation. This shall not affect the right of individual property owners to petition for annexation in accordance with the terms of the Orderly Annexation Resolution and, thereafter, in accordance with Minnesota law.

8. Future Sewer Connection. On November 19, 1984, the City adopted Resolution No. 1984-11-193 establishing a policy on providing City services outside the corporate limits of the City. The policy presently prohibits extension of services including sewer to unincorporated areas outside of the corporate limits of the City. Should the

policy be changed so as to permit towns to enter into agreements for the provision of sewer service by the City without prior annexation of the area to be served, the City agrees to negotiate any sewer use agreement with the Town under terms similar to those negotiated under then existing agreements between the City and other municipalities.

9. Term. This Agreement shall take effect upon execution and shall remain in full force and effect until all the conditions contained herein and agreements made by the parties have been fulfilled.

10. Liability. In all activities under this Agreement, the City and Town shall be deemed to be exercising their governmental functions so that each shall not be liable to any other person, firm, partnership, or other entity for any negligence of its officers, employees, or agents.

11. Default. In the event either the City or Town is in default under the terms of this Agreement, in addition to any other remedies available to it at law or equity, the non-defaulting party may bring an action for specific performance to compel the performance of this Agreement in accordance with its terms. In the event the party bringing an action to enforce any provision of this Agreement prevails, it shall be entitled to all its costs, disbursements, expenses, and attorneys' fees incurred as a result of such action.

12. Modification of Agreement. This Agreement may be modified or amended at any time by written agreement of the parties approved and executed in the same manner provided for adoption of this Agreement. No amendment or modification of this Agreement shall be effective as to HDC, however, unless express written approval of such modification or

amendment has been given by HDC, which is and shall remain a third party beneficiary to this Agreement between the City and Town.

13. Severability. In the event any portion of this Agreement is found to be void, unenforceable, or unconstitutional, or any combination of these, by a court of competent jurisdiction, the remaining portions of this Agreement shall remain in full force and effect.

14. Statutory Authority. This Agreement is made between the City and Town pursuant to the powers of each under the Joint Exercise of Powers Act as codified in Minn. Stat. § 471.59.

15. Adoption of Agreement. This Agreement shall not be binding upon either party until the City Council for the City and the Town Board of Supervisors for the Town shall have regularly adopted this Agreement by resolution, shall have entered such resolution in its records and procedures, and shall have certified a true copy to the Town Clerk or City Clerk, whichever the case may be.

The Town and City have set their hands to this Agreement as of the day and year first above written.

Attested:

By _____
City Clerk

CITY OF ST. CLOUD, Stearns County, Minnesota

By _____
Its Mayor

Approved as to form:

By _____
City Attorney

Attested:

By _____
Town Clerk

TOWN OF ST. AUGUSTA, Stearns County, Minnesota

By _____
Its Chairman

Approved as to form:

By _____
Town Attorney

APPROVAL

Hospitality Development Corporation, a Minnesota corporation, and First American National Bank, a national banking association, as Trustee of the Frank A. Laudenbach Trust, do hereby accept the terms contained in this Agreement and consent to said terms as if it were a party hereto.

FIRST AMERICAN NATIONAL BANK AS TRUSTEE OF THE FRANK A. LAUDENBACH TRUST

By _____
Douglas A. Holzkamp

By _____
Jerome H. Johnson

HOSPITALITY DEVELOPMENT CORPORATION

By _____
Its _____

STATE OF MINNESOTA)
) ss.
COUNTY OF STEARNS)

The foregoing instrument was acknowledged before me this 13TH day of OCTOBER, 1987, by ALBERT J. KEPPERS and LE ROY RHINACHER, the Chairman and Clerk of the TOWN OF ST. AUGUSTA, Minnesota, on behalf of the Town.

_____
Notary Public

Stanley J. Weinberger, Jr.
Notary Public-Minnesota
Stearns County
My Comm. Exp. 12-21-88

STATE OF MINNESOTA)
) ss.
COUNTY OF STEARNS)

The foregoing instrument was acknowledged before me this 30th day of October, 1987, by R.J. Huston and R.M. Grasslin, the Mayor and Clerk of the CITY OF ST. CLOUD, Minnesota, on behalf of the City.

Diane L. Palmersheim
Notary Public—Minnesota
Stearns County
My Comm. Exp. 3-15-91

Diane Palmersheim
Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

On this 10th day of November, 1987, before me, a Notary Public within and for said County, personally appeared Eric A. Thomas, to me known, who, being by me duly sworn, each did say that he is respectively the President/CEO of HOSPITALITY DEVELOPMENT CORPORATION, the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and said Eric A. Thomas acknowledged said instrument to be the free act and deed of said corporation.

JONI L. JOHNSON
NOTARY PUBLIC - MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES 10-12-92

Joni L. Johnson
Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF Steaens)

On this 9th day of November, 1987, before me, a Notary Public within and for said County, personally appeared DOUGLAS A. HOLZKAMP and JEROME H. JOHNSON, to me known, who, being by me duly sworn, each did say that he is respectively the Vice Pres. & Trust Officer and Ass't Vice Pres & Trust Officer of FIRST AMERICAN NATIONAL BANK AS TRUSTEE OF THE FRANK A. LAUDENBACH TRUST, the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and said Douglas A. Holz Kamp and Jerome H. Johnson acknowledged said instrument to be the free act and deed of said corporation.

LINDA K. GUGGENBERGER
NOTARY PUBLIC - MINNESOTA
SHERBURNE COUNTY
My Commission Expires June 14, 1991

Linda K. Guggenberger
Notary Public

THIS INSTRUMENT DRAFTED BY:

HALL, BYERS, HANSON, STEIL & WEINBERGER, P.A.
By: Stanley J. Weinberger, Jr.
921 First Street North
P.O. Box 966
St. Cloud, MN 56302
(612) 252-4414

HOSPITALITY DEVELOPMENT CORPORATION

Announces a New Office Location
at:

Address: Opus Center
9900 Bren Road East
Suite 540
Minnetonka, Minnesota 55343

Directions: Just North of Hwy 62 on Hwy 18 & West at Bren Rd Exit

New Phone #: 612/932-7130

LAND USE DISTRICT - ACREAGE IN STEARNS COUNTY

T 124 N - R 28 W

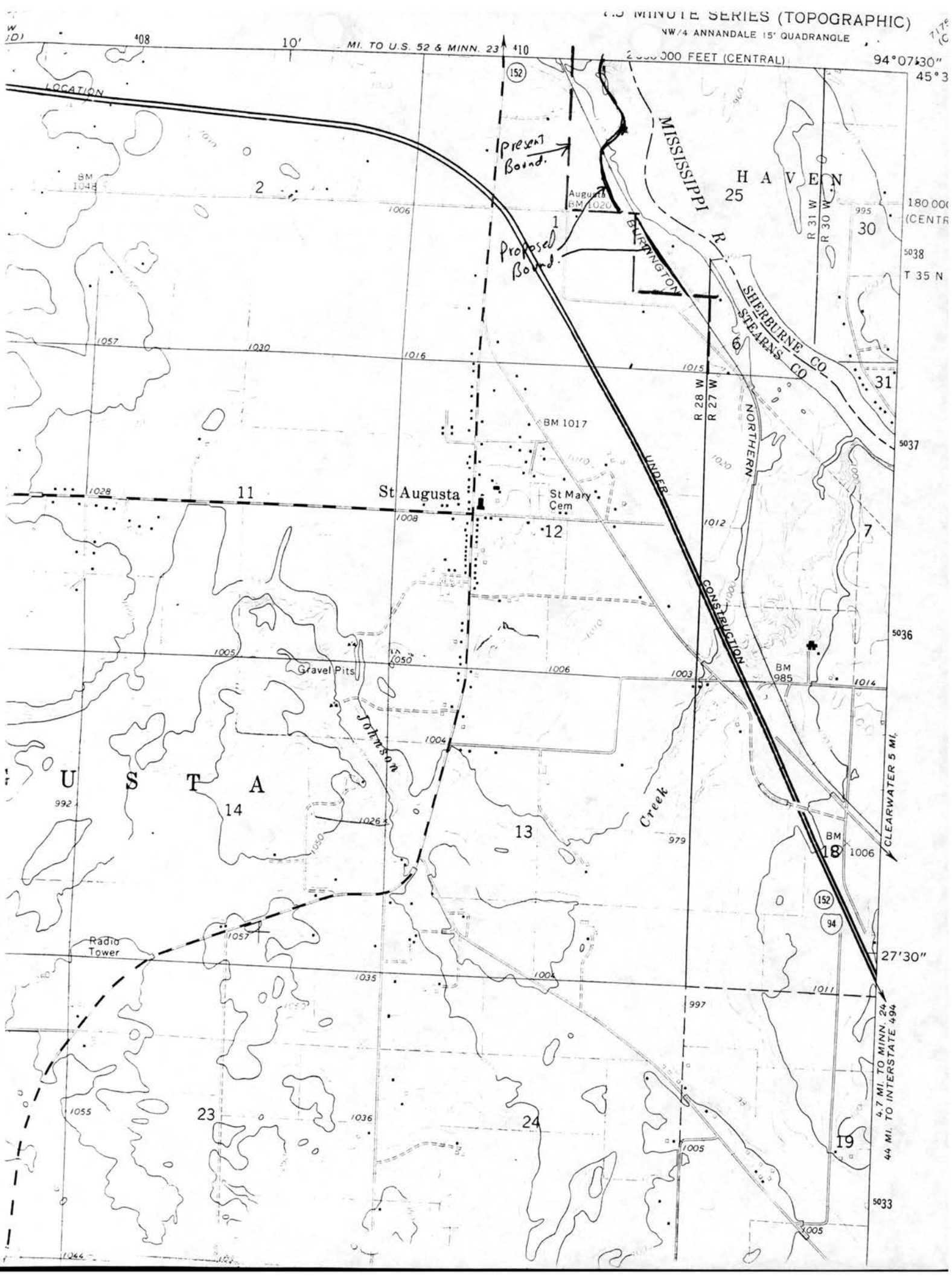
Section 13 -	Government	Lot 3	3.88	acres	
	"	Lot 4	20.12	"	
Section 24 -	Government	Lot 1	57.58	acres	
	"	Lot 2	29.32	"	
	"	Lot 3	22.92	"	
	"	Lot 4	23.65	"	
Section 25 -	Government	Lot 1	17.15	acres	East
	"	Lot 2	19.82	"	"
	E1/2 NW1/4	SW1/4	20.00	"	
	Government	Lot 3	49.38	"	
	"	Lot 4	22.85	"	
	"	Lot 5	48.98	"	
Section 36 -	Government	Lot 1	44.66	acres	
	"	Lot 2	26.15	"	
	"	Lot 3	29.20	"	
	"	Lot 4	27.96	"	

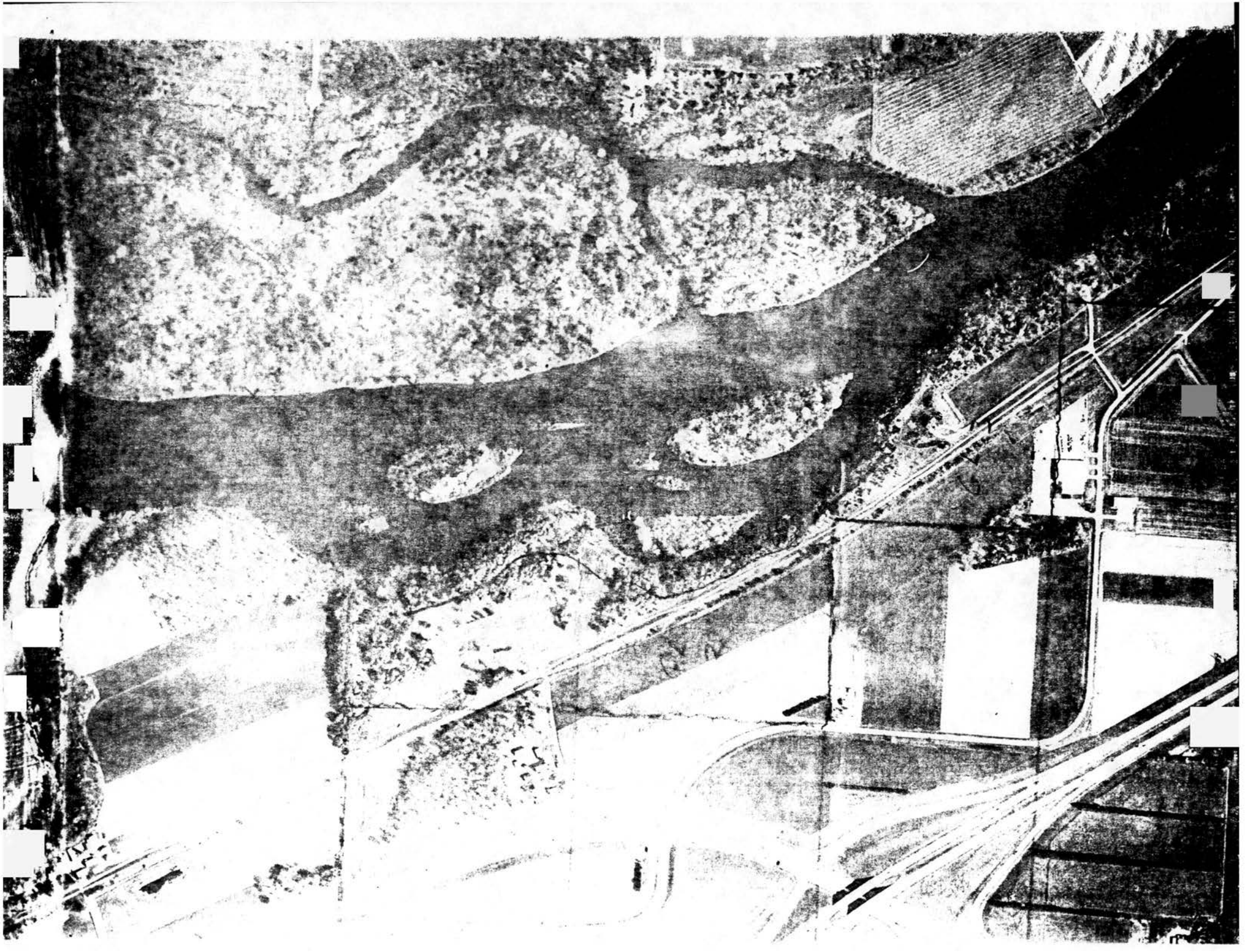
T 123 N - R 28 W

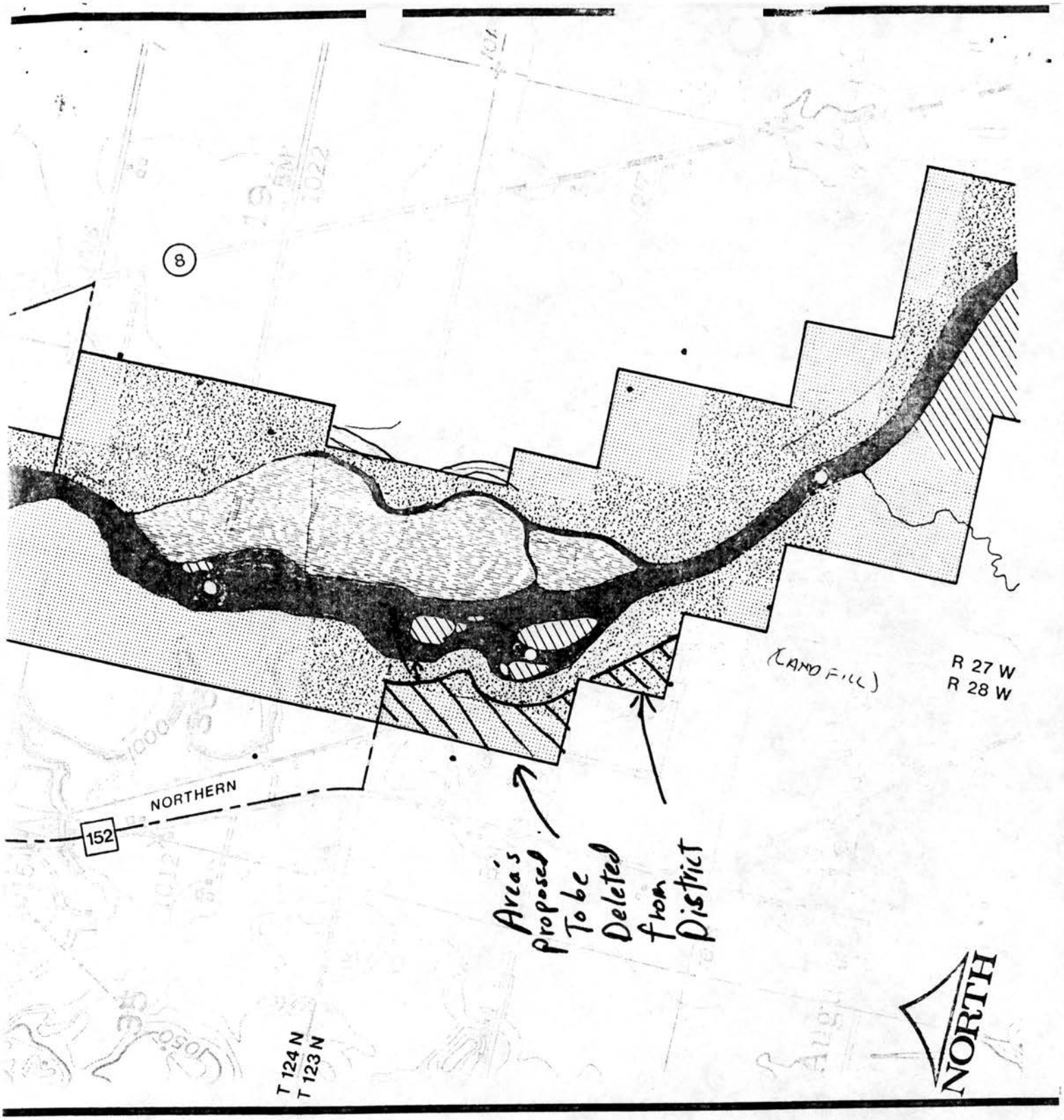
Section 1 -	Government	Lot 1	10.50 ~~31.26~~	acres	within 300' of river only
	"	Lot 2	10.00 ~~32.74~~	"	within 300' of river only
	"	Lot 3	21.10 ~~35.07~~	"	North and East of RR only

T 123 N - R 27 W

Section 6 -	Government	Lot 1	29.10	acres
Section 7 -	Government	Lot 3	30.08	acres
	SE1/4	NW1/4	40.00	"
	Government	Lot 2	40.00	"
	"	Lot 1	20.62	"
	NE1/4	SE1/4	40.00	"
Section 8 -	Government	Lot 2	36.34	acres
	"	Lot 1	25.82	"
	E1/2 SW1/4	SW1/4	20.00	"
Section 17 -	Government	Lot 4	40.52	acres
	"	Lot 3	39.35	"
	"	Lot 2	34.65	"
	"	Lot 1	25.10	"
Section 20 -	Government	Lot 2	26.43	acres
	N1/2 SW1/4	NE1/4	20.00	"
	Government	Lot 1	25.18	"
	N1/2 NE1/4	SE1/4	20.00	"
Section 21 -	Government	Lot 3	41.92	acres
	"	Lot 2	37.96	"
	"	Lot 1	48.10	"


7.5 MINUTE SERIES (TOPOGRAPHIC)
NW/4 ANNANDALE 15' QUADRANGLE
MI. TO U.S. 52 & MINN. 23
FEET (CENTRAL)
94°07'30"
45°3
LOCATION
Present Bound.
Proposed Bound.
MISSISSIPPI R.
H A V E N
Augusta BM 1020
BM 1048
BURRINGTON
SHERBURNE CO.
STEARNS CO.
R 31 W
R 30 W
R 28 W
R 27 W
T 35 N
NORTHERN
UNDER CONSTRUCTION
St Augusta
St Mary Cem
BM 1017
Gravel Pits
Johnson Creek
BM 985
BM 1006
CLEARWATER 5 MI.
U S T A
Radio Tower
27'30"
4.7 MI. TO MINN. 24
44 MI. TO INTERSTATE 494
11
12
13
14
18
19
23
24
25
30
31
6
7
2
1





MANAGEMENT

FEE TITLE

SCENIC EASEMENT

ZONING

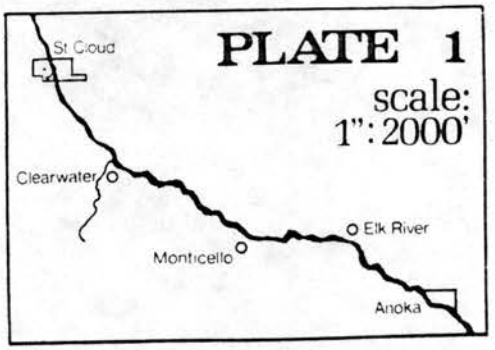
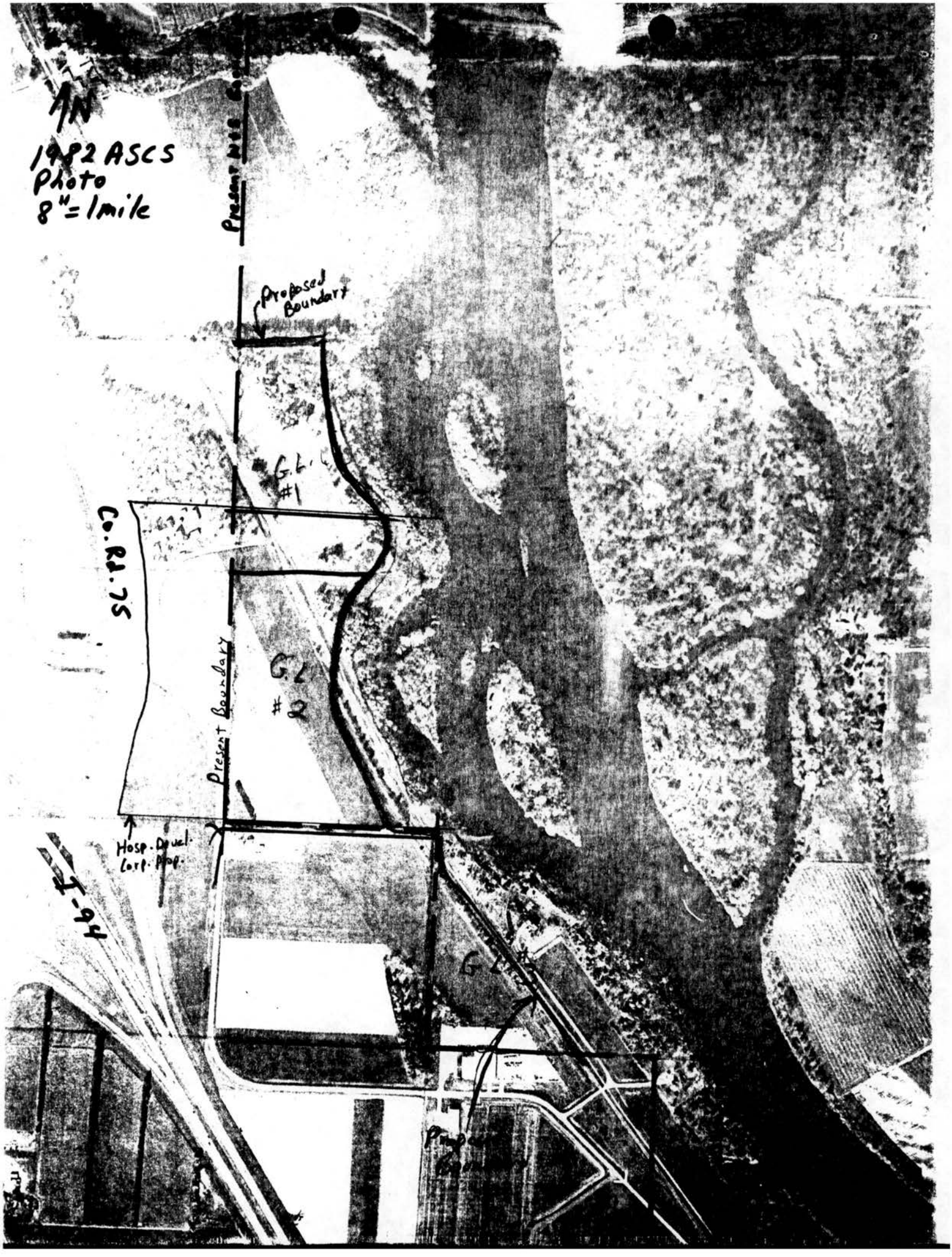


PLATE 1

scale:
1": 2000'



N
1982 ASCS
Photo
8" = 1 mile
Present N&S
Proposed Boundary
G.L. #1
Co. Rd. 75
G.L. #2
Present Boundary
Hosp. Devel. Corp. Prop.
I-94
G.L.

12-7-87
D. Homuth



← looking To NE from RR Grade in SW corner of G.L. #1

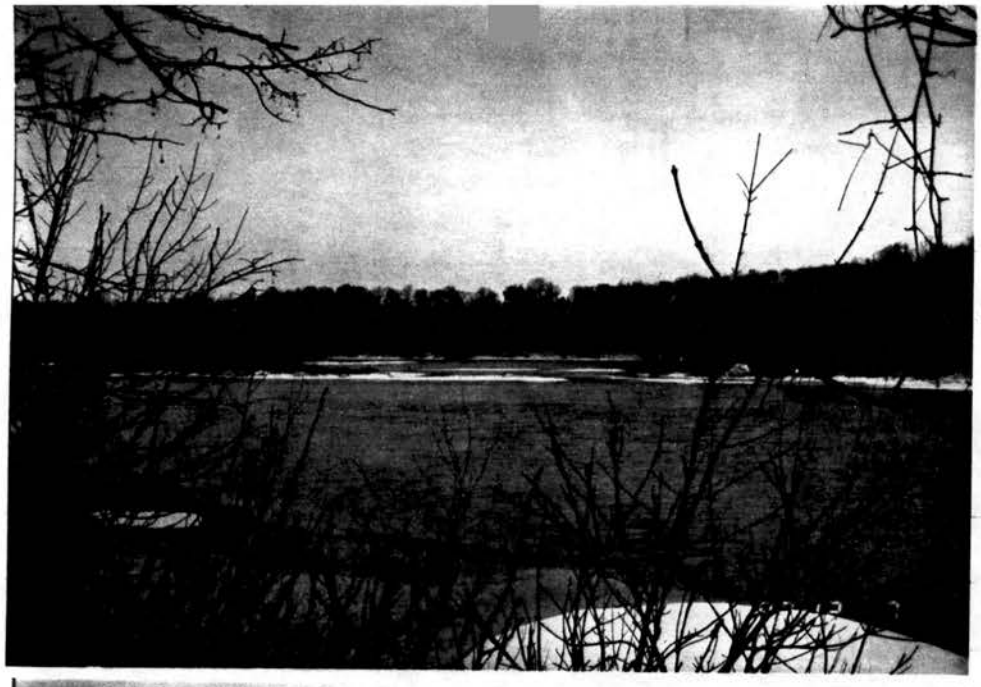


← looking towards River (East) along line between G.L. 1 + 2.

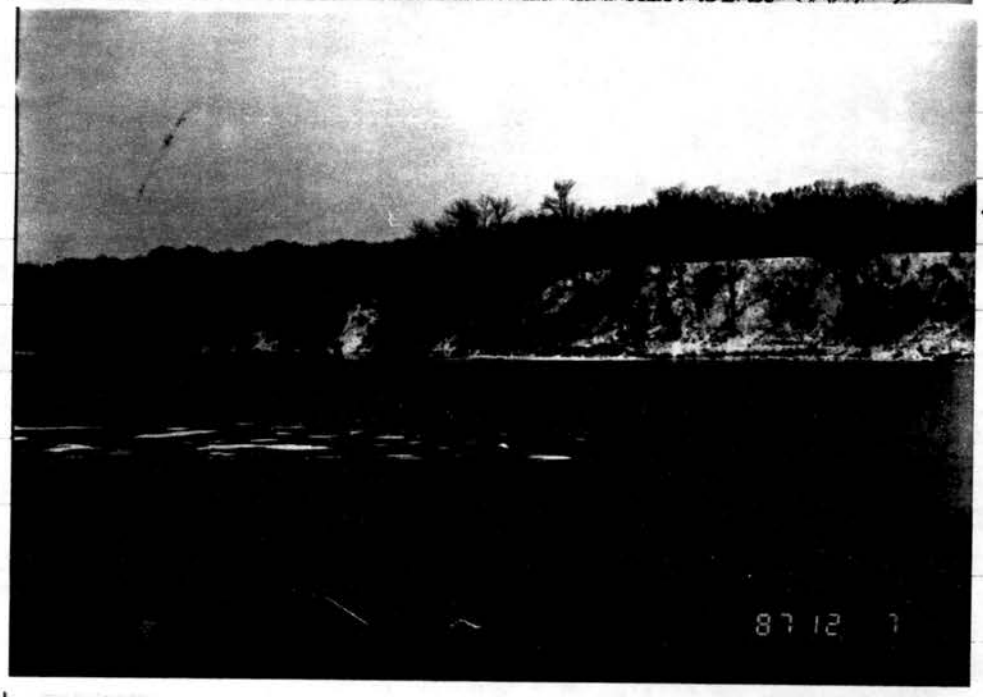
← Looking SE along RR Grade from center of G.L. 2



12-7-87
D. Homuth



← looking at Center of Travel Plaza Property Taken from across River looking to SW



← looking at River bank just upstream (within 1000') of North end of Travel Plaza Property. Taken from Island located in Shelburne Co. looking To W.

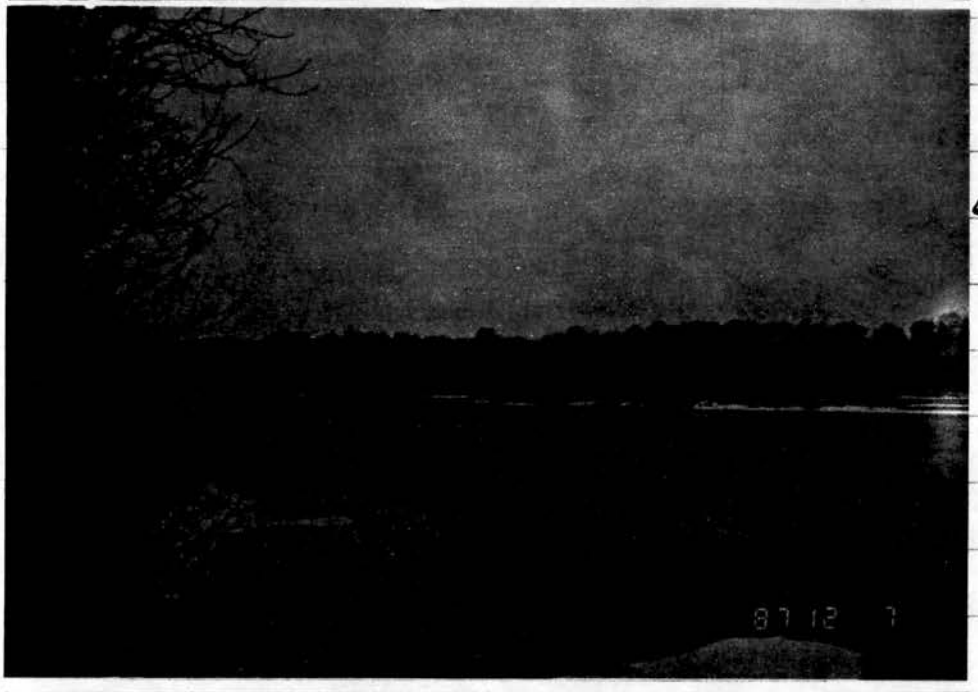


← Typical View of River from point where RR grade comes closest To River on 'Travel Plaza' property looking to NE

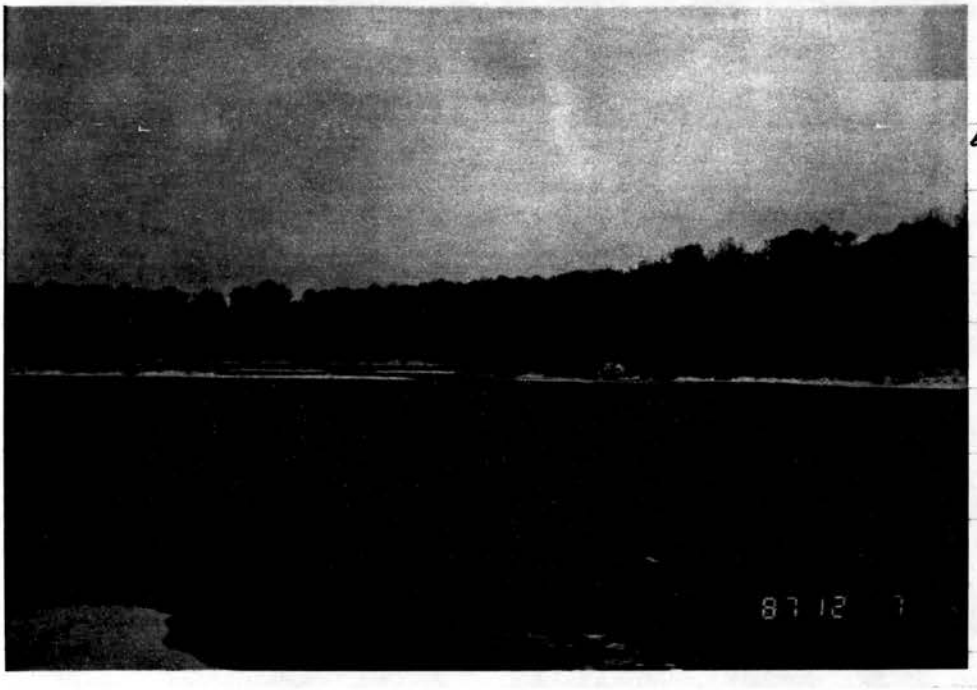
12-7-87
D. Homuth



← Looking at upstream end of 'Travel Plaza' property from Island across River & Looking SW.



← looking at Downstream end of 'Travel Plaza' property from Island across river looking South



← looking at middle of 'Travel Plaza' property from Island across River. Looking SW

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT NATURAL RESOURCES - WATERS

Office Memorandum

TO : Bill Zachmann, W & S Rivers Hydrologist DATE: 1/27/88



FROM : Dale Homuth, Area Hydrologist PHONE: 255-4278

SUBJECT: PROPOSED MISSISSIPPI W & S RIVER BOUNDARY AMENDMENT, STEARNS COUNTY

As we discussed on the phone today, attached are all materials relating to the proposal of Hospitality Development Corp. to Amend the W & S River Boundaries along the Mississippi River in Section 1, T123N-R28W (St. Augusta Twp.). The following materials are attached for your review and consideration:

1. Petition of Hospitality Devel. Corp asking for the Rule Amendment.
2. Resolution of the City of St. Cloud supporting the amendment.
3. Resolution of St. Augusta Twp. supporting the amendment.
4. Resolution of the Stearns County Board supporting the amendment.
5. A completed W & S Boundary Amendment Worksheet, as per Oper. Manual.
6. Photographs of the site.
7. Various maps and air photos on which I have illustrated the existing and proposed boundaries.
8. Preliminary development plans for the site.
9. Various correspondence concerning this matter.

In general, I support this proposed boundary amendment. I have also recommended two additional minor amendments for the areas immediately north and south of Hospitality Devel. Corps' property. One would simply make the boundary more logical and the other would remove a Northwestern Bell Building from the District that was accidentally built on the boundary line.

The only remaining concerns I have about this proposal relate to the City's future handling of this property. My analysis of the property proposed to be dropped shows that no development will be visible from the river unless it is over 40 feet in height. Proposed city zoning for this area contains no restriction on height. Also, the City has not as yet adopted any zoning for this area including the 300 feet that would remain in the District. I feel we need some assurances that St. Cloud will willingly amend their Ordinance upon approval of the annexation to meet or exceed all State W & S River Standards. Finally, there has been some discussion about the City possibly requiring the developer to put the 300 ft. area in a scenic easement or protective covenant and to allow the City Parks people to develop a trail along the old Railroad right of way. Perhaps we should obtain some written assurances that these things will be done before we approve the amendment.

Contact me if you have any questions about this matter or if you need further materials. You should expect the developer to be contacting you to discuss the timing of the possible amendment.

c: David Hills, Reg. Hydrologist/attachments

Attachments

NANCY JOHNSON
HOC 932-38

I. BACKGROUND INFORMATION

a. Has the local unit of government passed a resolution endorsing an amendment to the land use district boundary?

✓ Yes (Provide a copy of resolution)
All 3 involved units Have passed resolutions.

___ No (STOP; No rule amendments lacking local County Board/City Council/Town Board endorsement.)

b. The amendment proposed is in a: ___ Wild; ✓ Scenic; ___ Recreational District.

c. Land is proposed to be: ✓ Remove from; ___ Added to; the District.

d. The number of acres involved is:

	Present	Proposed
Gov. lot #1 =	31.26	→ 10.5
" " #2 =	32.74	→ 10.0
" " #3 =	35.07	→ 21.1
	99.07	41.6

52.5 Acres (to nearest 0.01 acre)

e. Is any of the area in a Floodway No (yes/no); Flood Fringe No? (List acres)

f. Under the community's present zoning ordinance for the amendment area, list the required information in Column X of Table 1.

Table 1. Zoning Standards Comparisons

	Column X Existing Standards	Column Y Proposed Standards
i) Minimum lot sizes [sq. ft. or acres]	4 acres	no minimum Area*
		40 ft min Frontage
ii) Applicable structure setbacks*		
- River (OHW)	150'	NA
- Bluff	30'	NA
- Sewage (OHW)	100'	NA
- Other (list)		
iii) Max building height	35'	none *

*If the area is beyond the 1st development tier, has no bluff areas, etc. enter "N/A" as appropriate.

	Column X	Column Y
iv) Allowable Uses - Permitted	Standard Wtrs River Uses	All Commercial Uses such as retail, medical, office, etc.
- Conditionally Permitted	"	Shopping Centers over 100,000 ft^2.
v) Prohibited Uses	"	Single & 2 family ~~residential~~, ~~Industrial~~, Manufacturing, etc.

g. Are there any DNR natural heritage elements known to be within or near the amendment area? If yes, will an amendment to the district adversely affect them? (Explain) no

double check

h. Are there any wetland types 2-8 (U.S. F.W.S. Circ. 39) within the area proposed for amendment? ___ Yes X No

If yes, list:

Type(s) _____
Total size _____ (acres)
Acres within amendment area _____
PWI # _____ (if type 3-5)
Permit history, if any, for wetland(s). _____

_____

i. Please attach a scaled map of the local land use district, showing the river, significant vegetative and topographic features, the area proposed for amendment, road alignments, current and proposed adjacent zoning district delineations, and any other items appropriate on the map (U.S.G.S. topo map copies acceptable).

j. Photos of the area in question as viewed from the river and surrounding area, plus aerial photos, if available, should accompany this worksheet. ATTACH AT BACK.

II. JUSTIFICATION FOR AMENDMENT

a. Describe why this amendment is needed?
Public sewer is available to this property and it is in the process of being annexed into the City. Current W+S boundaries are based only on the 320 acres per river mile rule, with little thought given as to what property it covers or whether it's visible from the river. Amendment is needed to allow City to use this site located at a major intersection of I-94 as a commercial site.

b. Based on the map in Item 1. i., does the proposed amendment result in a "spot zoning" appearance? (If yes, either the amendment as proposed must be resubmitted to eliminate spot zoning and be re-evaluated or be denied at this time.) Yes to some degree, but mainly because it's proposed to use a 300' boundary instead of a Gov. lot line boundary. This is consistant with other W+S River Boundaryies.

c. Have other possibilities or methods to resolve existing land use conflicts been explored that would preclude a rule amendment?

X Yes (explain) ___ No (why not?)

City's original intent was to apply their W+S Ordinance provisions to the property. This would have allowed structures to be setback 50' from river, and I am opposed to such an amendment.

d. Go back to Table 1 in Part I. f. of the worksheet and fill in Column Y according to the zoning standards that would apply under the proposed amendment.

e. Generally, from Table 1, would an amendment as proposed result in More Restrictive or Less Restrictive zoning standards than those now in effect? (Briefly explain)
Less Restrictive. City proposes to zone area as a C 5- Hwy Commercial District.

f. Explain how the proposed amendment either conflicts with or is consistent with and compliments the community's comprehensive land use plan for the area? (Be detailed in responding to this question).
City is in the process of developing amendments to its plan and Ordinance to cover this new area.

Need these before process begins.

g. Are there other similar land use conflicts or zoning issues in other parts of the land use district and in the jurisdiction of the community?

___ Yes; how many and type _____ X* No (go to Part III.b)

i) If yes, what is the community's plan of action to resolve these conflicts or issues?

* I have discussed this with both Co. & City Staff. These appear to be only changes needed. I did make it clear that no such changes would be again made in Stearns Co. for a long time.

ii) Would additional land use district boundary amendments be one alternative to resolving these conflicts or issues? (Explain)

III. SUMMARY FOR ACTION ON THIS PROPOSAL

a. If the answer to item II. g. ii) (above) is 'yes', and the local unit of government has not reviewed the entire land use district subject to their jurisdiction for additional, justifiable land use district rule amendments prior to endorsing the proposed amendment herein, this amendment must be tabled until a more complete and thorough review of the program in the community is conducted.

b. If the answer to item II. g. is 'no', and the amendment being proposed addresses a unique land use conflict in the community that a rule change could resolve, and

	TRUE	FALSE
i) The proposed amendment does not appear to be detrimental to or conflict with the river land use district and community long range planning;	✓	
ii) Zoning provisions will not be substantially less restrictive by allowing a higher density of use;		✓
iii) Those uses that would be allowed by the amendment that aren't presently allowed would be handled as conditionally permitted uses;		✓
iv) The amendment will not result in a 'spot' zoning appearance to the community's zoning map; and	✓	
v) The amendment will not adversely affect existing small businesses or agriculture.	✓	

THEN, Note: Ag. use of property at present is marginal, at best.

c. Submit this completed worksheet for initiation of agency consideration for adoption (amendment) of a state rule without a public hearing.

DEPARTMENT OF NATURAL RESOURCES

PROPOSED RULE AMENDMENT RELATING TO THE MISSISSIPPI SCENIC RIVER AND RECREATIONAL LAND USE DISTRICT

Notice of Intent to Adopt Rule Amendment Without a Hearing

Notice of hereby given that the State Department of Natural Resources is proposing to adopt the entitled amendment to Minn. Rules 6105.0900 and 6105.0910 without a public hearing. The Commissioner of Natural Resources has elected to follow procedures set forth in Minnesota Stat. §§ 14.22-14.28 (1983 Supp. amended by 1984 Minn. Laws Ch. 640).

The proposed amendments concern the deletion of 57.5 acres of non-riparian land from the designated land use district in Stearns County. A sufficient land base is being retained in the district to manage lands adjacent to the river.

This land is being removed because it is not necessary to retain it in the district for purposes of managing the natural resources of the Mississippi River. The area is served by municipal sewer services and adjacent to an interstate and county highway interchange. These factors existed or were already planned at the time of designation but were not adequately taken into account during the initial land use district designation planning process.

Persons interested shall have 30 days to submit comment on the proposed amendment. The proposed amendment may be modified prior to final adoption if modifications are supported by the data and view submitted to the Department of Natural Resources and do not result in a substantial change in the proposed language. Unless 25 or more persons submit written requests for a public hearing on the proposed amendment within the 30-day comment period, a public

hearing will not be held. The written request must specify why a hearing is desired. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. §§ 14.14-14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a copy of this notice and/or a copy of proposed amendment, should address their correspondence to:

William Zachmann
Department of Natural Resources
500 Lafayette Rd., Box 32
St. Paul, MN 55155-4032

The Department's authority to adopt rules is contained in Minn. Stat. §§ 104.34 and 104.35. A statement that describes the need for and reasonableness of the proposed amendment is available from the Department of Natural Resources upon request.

Upon adoption of the final amendment without a public hearing, the proposed amendment, this notice, the statement of need and reasonableness, all written comments received, and the final amendments as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. 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 final amendment as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. Minn. Stat. § 10A.01, subdivision 11 defines a lobbyist as any individual; a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his or her own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or b) who spends more than $250, not including his or her own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statutes provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, MN. 55155-4032, Telephone (612) 296-5616.

Dated: March 15, 1988

Joseph N. Alexander

JOSEPH N. ALEXANDER, Commissioner
Department of Natural Resources

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the matter of the proposed
rule amendments to the
Mississippi Scenic and
Recreational River

AFFIDAVIT OF MAILING

WILLIAM R. ZACHMANN deposes and says:

That on the 30 day of March, 1988 at the City of Saint Paul, County of Ramsey, State of Minnesota, he served the attached NOTICE OF PROPOSAL TO ADOPT AMENDMENTS WITHOUT A PUBLIC HEARING by depositing in the United States Mail, at said City of Saint Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the address listed on the attached Certificate of the Commissioner of Natural Resources.

William R. Zachmann

Subscribed and sworn to before me
this 30 day of March, 1988

Jeanne Matczynski

JEANNE M. MATCZYNSKI
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
My Comm. Expires Dec. 29, 1992

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the matter of the proposed rule amendments to the Mississippi Scenic and Recreational River.

CERTIFICATION

I hereby certify that the attached 79 labels and 4 sheets constitute the complete list of persons, associations, and other interested groups who as of 8 o'clock A.M. this 30 day of MARCH, 1988 have requested pursuant to Minnesota Statutes, 1982, Section 14.14, Subdivision 1, that their names be placed on file with the Department of Natural Resources for the purpose of receiving notice of public hearings on proposed rules on the subject captioned above.

Joseph N. Alexander

Commissioner

By: Cindy Brewer

John M. Broeker
2650 Metro Drive
Suite 800
Mpls., MN 55420

City of Brooklyn Center
Brad Hoffman
6301 Shingle Creek Parkway
Brooklyn Center, MN 55430

Henry Holte
Grygla, MN 56727

[redacted]
Minnesota Woodlands
Boise Cascade Corporation
International Falls,MN 56649

Frundt, Frundt & Johnson
117 West 5th Street
Blue Earth, MN 56013

[redacted]

[redacted]

[redacted]

[redacted]

Winthrop Weinstine & Sexton
1800 Conwed Tower
444 Cedar St.
St. Paul, MN 55101

Timothy Foss
RR 1 Box 12B
Grygla, MN 56727

Steven Foss
RR 1 Box 12 A
Grygla, MN56727

Gordon Foss
RR 1 Box 12
Grygla, MN 56727

Marcella Gonsorowski
Marshall County
Newfolden, MN 56738

Delray Larson
Box 111
Gatzke,MN 56724

RolandKlamar
RR 2 Box 75
Gatzke, MN 56724

County Auditor -Box 10
Bagley, MN 56621

Clearwater Co.
Land and Forestry Office
Courthouse
Bagley, MN 56621

Roseau Co. Auditor
Roseau, MN 56751

Roseau Co. Board Chairman
Roseau, MN 56751

Doran Horner
Warroad,MN 56763

Otto Jourdan
Northome, MN 56661

Donald Sanbeck
Rt. 8
International Falls, MN 56649

Karl Kjemperud
Littlefork, MN 56653

Innis Nesbitt
109 Park Av.
International Falls, MN 56649

Board Clerk
Courthouse
International Falls, MN 56649

Albert Boomgoardner
Rt. 1
Pitt, MN 56665

Charles Gosen
Box 576
Baudette, MN 56623

JANET C. GREEN
10550 OLD NORTH SHORE RD
DULUTH, MINNESOTA 55804

25

A. M. Twitley
Env. Control & Energy Dept.
Ford Motor Company
Automotive Assembly Division
17000 Oakwood Blvd.
Allen Park, Mich. 48121

Harold H. Haugh
Jones, Haugh & Smith Inc.
515 So. Washington
Albert Lea, MN 56007

[redacted]

[redacted]

Robert A. Silvagni, Env. Eng.
U of M-Physical Plant Dept.
200 Shops Building
319 15th Ave. SE
Minneapolis, MN 55455

Gertrude M. James
Anoka Co. Community Health &
Social Services Dept.
Courthouse, 4th Floor
Anoka, MN 55303

(24)

[redacted]

(27)

[redacted]

Executive Director
Association of Minn. Counties
555 Park St., Suite 300
St. Paul, MN 55103

[redacted]

Robert Bollant
City of Winona
City Hall
4th & Lafayette St.
Winona, MN 55987

Wayne H. Olson, Esq.
Olson, Gunn & Seran, Ltd.
315 Peavey Bldg.
730 Second Ave. So.
Mpls., MN 55402

[redacted]

~~Charles Schaffer~~
~~Dept. of Economic Development~~
~~480 Cedar St.~~
~~St. Paul, MN 55101~~

Sam Ruhle
Office of Adminis. Hearings
400 Summit Bank Building
310 South Fourth Avenue
Minneapolis, MN 55415

Bruce T. Rowe, Administrator
Community Health Services Board
325 Lake Ave. So., Suite 604
Duluth, MN 55802

Marylee Fithian
Director
Development Disabilities Plann
200 Capitol Square Bldg.
INTEROFFICE

Robert S. Burk
4344 IDS Center
Minneapolis, MN 55402

Mr. Reynold S. Rahko, Mgr.
Projects Coordinating Division
United Power Association
Elk River, MN 55330

G. Robert Johnson
4344 IDS Center
Minneapolis, MN 55402

[redacted]

George C. Mastor
General Counsel
MN Gas Company, Legal Division
701 2nd Avenue South
Mpls., MN 55402

Frank Mixa
Executive Director
Lake Mtka. Conservation Distri
402 E. Lake St.
Wayzata, MN 55391

Jean Dawson, Editor
The Minnesota Government Report
B-12, Press Room
StateCapitol Bldg.
INTEROFFICE

G. V. Welk, Manager
Regulatory Compliance & Services
Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401

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

T. J. Manthey
Pickands Mather & Co.
1100 Superior Ave. NE
Cleveland, Ohio 44114

Philip D. Brick
Pickands Mather & Co.
Suite 811-200 W Superior St.
Duluth, MN 55802

Bob Franklin, City Editor
Minneapolis Tribune
425 Portland Ave.
Minneapolis, MN 55488

Craig Waldron

Region Nine Dev. Commission
410 So. 5th St., P.O. Box 3367
Mankato, MN 56001

Environmental Law Society
William Mitchell College of Law
875 Summit Ave.
St. Paul, MN 55105

Dr. Rollin Dennistoun, Dep. Com
MN Dept. of Agriculture
90 W. Plato
St. Paul, MN 55107
INTEROFFICE

Antitrust Division
MN Attorney General's Office
2nd Floor, Ford Bldg.
117 University Ave.
St. Paul, MN 55155

Broeker, Hartfeldt, Hedges & Grant
Suite 800
2850 Metro Drive
Bloomington, MN 55420

~~MN Izaak Walton League~~
~~3255 Hennepin Ave~~
~~Suite 109~~
~~Minneapolis, MN 55408~~

Professor Robert Synder
248 Classroom-Office Bldg.
University of Minnesota
St. Paul, MN 55108

Conrad M. Fredin
811 First Nat'l. Bank Bldg.
Duluth, MN 55802

Maryann S. Marino, Ph. D.
Koppers Company, Inc.
1201 Koppers Bldg.
Pittsburgh, PA 15219

[redacted]

John H. Herman
Suite 930
Ten South Fifth St.
Mpls., MN 55401

R. J. Barto
Midland Glass Company, Inc.
P.O. Box 69
Shakopee, MN 55379

Thomas M. Polt
McCarthy Bldg.
Eyota, MN 55934

Anoka Co. Community Health & Social Services Dept.
c/o Robert M. Hutchison
Courthouse-4th Floor
Anoka, MN 55303

Phillips Legislative Service, I
459 Rice Street
St. Paul, MN 55103

President
Interstate Power Co.
1000 Main St.
Dubuque, IA 52001

Donald B. Crassweller
1000 Alworth Bldg.
Duluth, MN 55802

[redacted]

Harriet Lykken
4600 Emerson Ave. So.
Mpls., MN 55409

Richard Kramer
1471 Barclay
St. Paul, MN 55106

W. J. Licke, General Counsel
Blandin Paper Co.
115 1st St. SW
Grand Rapids, MN 55744

Kenneth Peterson, Exec. Director
MPIRG
2412 University Ave. SE
Mpls., MN 55414

James Miller, Sr. Attorney
MPIRG
2412 University Ave. SE
Mpls., MN 55414

~~Associated Builders & Contract~~
~~Suite 109~~
~~6300 Walker St.~~
~~Mpls., MN 55416~~

[redacted]

Steve Chadwick
2904 W. 3rd St.
Duluth, MN 55806

[redacted]

[redacted]

~~* Retype to LAST PAGE *~~
~~Badger Safe Energy Alliance~~
~~Box 68~~ P.O. Box 239
~~Durand, Wis. 54736~~
~~* Ellsworth 54011 *~~

Public Interest Advocacy Clini
Hamline University Law School
St. Paul, MN 55104

[redacted]

~~Steve O'Neil~~
~~475 Huff St.~~
~~Winona, MN 55987~~

Rodney Watkins
105 University Rd.
Cloquet, MN 55720

ERNEST N. WENTWORTH
ROUTE #2, BOX 285
HINES, MINN.

DARLENE OLSEN
KOOCHICHING COUNTY COURTHOUSE
INT'NAT'L FALLS, MINN. 56649

(23)

[redacted]

Richard Larson
R.R. 2, Box 182
Mahnomen, MN 56557

Roger Howard
Land Commissioner
Aitkin County Court House
Aitkin, MN 56431

Darlene Olson
c/o Courthouse
International Falls, MN 56649

John Brooks, Jr.
R.R. 1, Box 115
Gonvick, MN 56644

Mel Johnson
Rt. 1, Box 67
Tamarack, MN 55787

Otto L. Jourdan
Northome, MN 56661

Doran Korner
Star Route
Warroad, MN 56763

Richard Larson
R.R. 2, Box 182
Mahnomen, MN 56557

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Northome, MN 56661

Doran Korner
Star Route
Warroad, MN 56763

Badger Safe Energy Alliance
P.O. Box 239
Ellsworth, WI 54011

(7) +1

Department of Natural Resources

Proposed Permanent Rules Relating to Mississippi River Land Use Acreages

Notice of Intent to Adopt Rule Amendment Without a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Natural Resources is proposing to adopt the entitled amendment *Minnesota Rules* 6105.0900 and 6105.0910 without a hearing. The Commissioner of Natural Resources has elected to follow procedures set forth in *Minnesota Statutes* §§ 14.22-14.28 (1983 Supp. amended by *1984 Minnesota Laws* Ch. 640).

The proposed amendments concern the deletion of 57.5 acres of non-riparian land from the designated land use district in Stearns County. A sufficient land base is being retained in the district to manage lands adjacent to the river.

This land is being removed because it is not necessary to retain it in the district for purposes of managing the natural resources of the Mississippi River. The area is served by municipal sewer services and adjacent to an interstate and county highway interchange. These factors existed or were already planned at the time of designation but were not adequately taken into account during the initial land use district designation planning process.

Persons interested shall have 30 days to submit comment on the proposed amendment. The proposed amendment may be modified prior to final adoption if modifications are supported by the data and view submitted to the Department of Natural Resources and do not result in a substantial change in the proposed language. Unless 25 or more persons submit written requests for a public hearing on the proposed amendment within the 30-day comment period, a public hearing will not be held. The written request must specify why a hearing is desired. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. In the event a public hearing is required, the department will proceed according to the provisions of *Minnesota Statutes* §§ 14.14-14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a copy of this notice and/or a copy of proposed amendment, should address their correspondence to:

William Zachmann
Department of Natural Resources
500 Lafayette Rd., Box 32
St. Paul, MN 55155-4032

The Department's authority to adopt rules is contained in *Minnesota Statutes* §§ 104.34 and 104.35. A statement that describes the need for and reasonableness of the proposed amendment is available from the Department of Natural Resources upon request.

Upon adoption of the final amendment without a public hearing, the proposed amendment, this notice, the statement of need and reasonableness, all written comments received, and the final amendments as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. 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 final amendment as proposed for adoption, should submit a written request to the above address.

Please be advised that *Minnesota Statutes* Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. *Minnesota Statutes* § 10A.01, subdivision 11 defines a lobbyist as any individual; a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his or her own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or b) who spends more than $250, not including his or her own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statutes provide certain exceptions. Questions should be directed to the Ethical Practices Board, 41 ~~State Office Building,~~ St. Paul, MN. ~~55155-4037~~ 55101-2520, Telephone (612) 296-5616.

Dated: 15 March 1988

625 N. Robert

Joseph N. Alexander, Commissioner
Department of Natural Resources

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.

Rules as Proposed

6105.0900 LAND MANAGEMENT TOTALS.

Subpart 1. **Land use district acreages.** Land use district acreages are as follows:

A. East Bank:

Sherburne County	7,103.57
Anoka County	630.54
Total	7,734.11

B. West Bank:

Stearns County	~~1,594.80~~	1,537.33
Wright County	4,714.03	
Hennepin County	964.25	
Total	~~7,273.08~~	7,215.61
Grand Total	~~15,007.19~~	14,949.72

Subp. 2. **Scenic easement acreages.** Scenic easement acreages are as follows:

A. East Bank:

Sherburne County	3,114.07
Anoka County	200.95
Total	3,315.02

B. West Bank:

Stearns County	603.49
Wright County	1,111.12
Hennepin County	274.26
Total	1,988.87
Grand Total	5,303.89

Subp. 3. **Fee title acreages.** Fee title acreages are as follows:

A. East Bank:

Sherburne County	460.50
Anoka County	9.16
Total	469.66

B. West Bank:

Stearns County	51.45
Wright County	121.48
Hennepin County	149.96
Total	322.89
Grand Total	792.55

6105.0910 LAND USE DISTRICT ACREAGES.

Subpart 1. to 13. [Unchanged.]

Subp. 14. **T 123 N - R 28 W.** The land use district acreage for T 123 N - R 28 W in Stearns County ~~are~~ is as follows:

Section 1

Government Lot 1 ~~31.26~~ 10.60 acres (within 300 feet of river)
Government Lot 2 ~~32.74~~ 10.00 acres (within 300 feet of river)
Government Lot 3 ~~35.07~~ 21.10 acres (all east of railroad right of way)

Subp. 15. to 25. [Unchanged.]

Subp. 26. **Total acreages.** The total land use district acreages for Sherburne, Anoka, Stearns, Wright, and Hennepin Counties are as follows:

Sherburne County Total		7,103.57
Anoka County Total		630.54
Stearns County Total	~~1,594.80~~	1,537.33
Wright County Total		4,675.23
Hennepin County Total		964.25
West of River Total	~~7,234.28~~	7,215.61
East of River Total		7,734.11
Grand Total	~~14,968.39~~	14,949.72

Pollution Control Agency

Proposed Permanent Rules Relating to Hazardous Waste; Tanks

Notice of Intent to Adopt Rule Amendments Without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1986). The MPCA's authority to adopt the rule amendments is set forth in *Minnesota Statutes* § 116.07, subd. 4 (1986).

All persons have until 4:30 p.m. on May 4, 1988 to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rule amendments addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the 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 his or her name and address, and is encouraged to identify the portion of the proposed rule amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the MPCA will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986).

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

Carol Nankivel
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155

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

The proposed rule amendments, if adopted, will include definitions applicable to the regulation of tanks used to treat, store or accumulate hazardous waste. The proposed rule amendments also include a schedule for providing secondary containment for tanks and for conducting an assessment of hazardous waste tank suitability.

The proposed rule amendments follow this notice. One free copy of the proposed rule amendments is available upon request from Carol Nankivel at 612/296-7260 or at the address stated above.

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

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1986), "small business considerations in rulemaking," that the proposed rule amendments will have a minimal impact on small businesses. The effect of the proposed rule amendments will be to provide the owners and operators of certain tanks that contain hazardous waste with additional time to install secondary containment

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.

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of Amending
Rules Relating to the Mississippi
Wild and Scenic River

FINDINGS OF FACT
CONCLUSIONS, AND
ADOPTING RULES

Notice of the Commissioner's intent to adopt the above-entitled rule amendments without hearing was published in the State Register on April 4, 1988, and was mailed to all persons on the Department's mailing list maintained per Minn. Stat. § 14.14, subd. 1(a) on March 30, 1988.

The statement of need and reasonableness was available before and during the 30-day comment period.

No comments on the rule amendments or requests for public hearing were received.

I find that the proposed amendments are needed and reasonable.

NOW THEREFORE IT IS ORDERED, pursuant to my authority under Minn. Stat. § 104.35, that the amendments as proposed are adopted.

Dated: May 27, 1988.

JOSEPH N. ALEXANDER
Commissioner, Department of
Natural Resources

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of Amending
Rules Relating to the Mississippi
Wild and Scenic River

DECLARATION
OF COUNSEL

I have examined the above-captioned rule and the supporting rule-making record. I conclude that the Administrative Procedure Act and Minnesota Rules chapter 2100 have been followed.

For docket purposes, the client code is 0592.

Dated: May 27, 1988.

HUBERT H. HUMPHREY, III
Attorney General
State of Minnesota

_____

A. W. CLAPP III
Special Assistant
Attorney General
Atty. Reg. No. 17036

Suite 200
520 Lafayette Road
St. Paul, Minnesota 55155
Telephone: (612) 296-0686

Counsel for the Minnesota
Department of Natural Resources

STATE OF MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Proposed Adoption of Amendments to the Rules for the Mississippi Scenic and Recreational River, Minn. Rules 6105.0900 and 6105.0910

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

WHEREAS, it has been determined that the proposed amendments should be adopted without a public hearing.

NOW, THEREFORE, it is ordered that a notice of intent to adopt rules without a public hearing, be published in the State Register and mailed to all persons who have registered their names with the Department to receive a notice of rulemaking.

Dated: March 15, 1988

JOSEPH N. ALEXANDER, Commissioner
Department of Natural Resources